



The State and Justice System

Guy Snider

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Chapter 1

Introduction

The State in a Global Context

The Western United States, commonly referred to as the American West or simply “the West,” traditionally refers to the region comprising the westernmost states of the United States. Because the U.S. expanded westward after its founding, the meaning of the West has evolved over time. Prior to about 1800, the crest of the Appalachian Mountains was seen as the western frontier. Since then, the frontier moved further west and the Mississippi River was referenced as the easternmost possible boundary of the West. In the 21st century, the states which include the Rocky Mountains and the Great Basin to the West Coast are generally considered to comprise the American West. Besides being a purely geographical designation, “The West” also has anthropological connotations. While this region has its own internal diversity, there is arguably an overall shared history, culture, mind set or world view and closely interrelated dialects of English. As with any region of such geographically large extent and varied cultural histories, many subregions of The American West possess distinguishing and idiosyncratic qualities. The “West” had played an important part in American history; the Old West is embedded in America’s folklore.

In its most extensive definition, the western U.S. is the largest region, covering more than half the land area of the United States. It is also the most geographically diverse, incorporating geographic regions such as the Pacific Coast, the temperate rainforests of the Northwest, the Rocky Mountains, the Great Plains, most of the tall-grass prairie eastward to Western Wisconsin, Illinois, the western Ozark Plateau, the western portions of the southern forests, the Gulf Coast, and all of the desert areas located in the United States. The states from the Rockies westward have something of a dual nature of semiarid steppes and arid deserts in the lowlands and plateaus, and mountains and coniferous forests in the uplands and coastal regions. The region encompasses some of the Louisiana Purchase, most of the land ceded by Britain in 1818, some of the land acquired when the Republic of Texas joined the U.S., all of the land ceded by Britain in 1846, all of the land ceded by Mexico in 1848, and all of the Gadsden Purchase.

Arizona, New Mexico, Nevada, Colorado, and Utah are typically considered to be part of the southwest, and Texas and Oklahoma are frequently considered part of the Southwest as well. Idaho, Montana, Oregon, Washington, and Wyoming can be considered part of the Northwest, and the addition of the Canadian province of British Columbia comprise the Pacific Northwest. There is also another region of both southwest and northwest states called the Mountain West, which is Arizona, New Mexico, Colorado, Utah, Nevada, Montana, Idaho, and Wyoming.

The West can be divided into the Pacific States; Alaska, California, Hawaii, Oregon, and Washington, with the term West Coast usually restricted to just California, Oregon, and Washington, and the Mountain States, always Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming. Alaska and Hawaii, being detached from the other western states, have few similarities with them, but are usually also classified as part of the West.

Western Texas in the Chihuahuan Desert is also traditionally considered part of the Western U.S, though from a climatological perspective the West might be said to begin just west of Austin, TX where annual rainfall drops off significantly from what is typically experienced in the East, with a concurrent change in plant and animal species. Some western states are grouped into regions with eastern states. Kansas, Nebraska, South Dakota and North Dakota are often included in the Midwest, which also includes states like Iowa, Illinois and Wisconsin. Arkansas, Louisiana, Oklahoma, and Texas are also considered part of the South.

It is rare for any state east of the Mississippi River to be considered part of the modern west. Historically, however, the Northwest Territory was an important early territory of the U.S., comprising the modern states of Ohio, Indiana, Illinois, Michigan and Wisconsin, as well as the northeastern part of Minnesota. Also, American sports leagues with a "Western" conference or division often have members east of the Mississippi for various reasons such as not enough true

Western teams, not strictly adhering to geographic regions, etc. For example, the NBA and NHL each have a Western Conference with a member in Tennessee.

Demographics

The 2000 Census, the West's population was:

- 68.5% White
- 12.1% of Some other race
- 7.9% Asian
- 4.9% Black or African American
- 4.3% Two or more races
- 1.8% American Indian and Alaska Native
- 0.5% Native Hawaiian and Pacific Islander
- 24.3% were Hispanic or Latino

As defined by the United States Census Bureau, the Western region of the United States includes 13 states and is split into two smaller units, or divisions:

- *The Mountain States:* Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, and Nevada
- *The Pacific States:* Washington, Oregon, California, Alaska and Hawaii

However, the United States Census Bureau uses only one definition of the West in its reporting system, which may not coincide with what may be historically or culturally considered the West. For example, in the 2000 Census, the Census Bureau included the state with the second largest Hispanic population,

Texas, in the South, included the state with the second largest American Indian population, Oklahoma, also in the South, and included the Dakotas, with their large populations of Plains Indians, in with the Midwest. However, it should be noted that the western half of Oklahoma and far West Texas, are usually neither culturally, geographically or socioeconomically identified with the South.

Statistics from the 2000 United States Census, adjusted to include the second tier of States west of the Mississippi, show that, under that definition, the West would have a population of 91,457,662, including 1,611,447 Indians, or 1.8% of the total, and 22,377,288 Hispanics or 24.5% of the total. Indians comprise 0.9% of all Americans, and Hispanics, 12.5%.

Asians, important from the very beginning in the history of the West, totaled 5,161,446, or 5.6%, with most living in the Far West. African-Americans, totaled 5,929,968, or 6.5%—lower than the national proportion. The highest concentrations of black residents in the West are found in Texas—which is also considered a Southern state—and in California.

The West is still one of the most sparsely settled areas in the United States with 49.5 inhabitants per square mile (19/km²). Only Texas with 78.0 inhabitants/sq mi. (30/km²), Washington with 86.0 inhabitants/sq mi. (33/km²), and California with 213.4 inhabitants/sq mi. (82/km²) exceed the national average of 77.98 inhabitants/sq mi. (30/km²).

The entire Western region has also been strongly influenced by European, Hispanic, Asian, and Native Americans; it contains the largest number of minorities in the U.S. and encompasses the only four American states where all racial groups including Caucasians are a minority. While most of the studies of racial dynamics in America such as riots in Los Angeles have been written about European and African Americans, in many cities in the West and California, European and African Americans together are less than half the population because of the preference for the region by Hispanics and Asians. African and European Americans, however, continue to wield a stronger political influence because of the lower rates of citizenship and voting among Asians and Hispanics. The Western United States has a higher sex ratio than any other region in the United States.

Because the tide of development had not yet reached most of the West when conservation became a national issue, agencies of the federal government own and manage vast areas of land. National parks are reserved for recreational activities such as fishing, camping, hiking, and boating, but other government lands also allow commercial activities like ranching, logging and mining. In recent years, some local residents who earn their livelihoods on federal land have come into conflict with the land's managers, who are required to keep land use within environmentally acceptable limits.

The largest city in the region is Los Angeles, located on the West Coast. Other West Coast cities include San Diego, San

Bernardino, San Jose, San Francisco, Oakland, Sacramento, Seattle, Tacoma and Portland. Prominent cities in the Mountain States include Denver, Colorado Springs, Phoenix, Tucson, Albuquerque, Las Vegas, Salt Lake City, Boise, El Paso and Cheyenne.

Natural Geography

Along the Pacific Ocean coast lie the Coast Ranges, which, while not approaching the scale of the Rocky Mountains, are formidable nevertheless. They collect a large part of the airborne moisture moving in from the ocean. East of the Coast Ranges lie several cultivated fertile valleys, notably the San Joaquin Valley of California and the Willamette Valley of Oregon.

Beyond the valleys lie the Sierra Nevada in the south and the Cascade Range in the north. Mount Whitney, at 14,505 feet the tallest peak in the contiguous 48 states, is in the Sierra Nevada. The Cascades are also volcanic. Mount Rainier, a volcano in Washington, is also over 14,000 feet. Mount St. Helens, a volcano in the Cascades erupted explosively in 1980. A major volcanic eruption at Mount Mazama around 4860 BCE formed Crater Lake. These mountain ranges see heavy precipitation, capturing most of the moisture that remains after the Coast Ranges, and creating a rain shadow to the east forming vast stretches of arid land. These dry areas encompass much of Nevada, Utah and Arizona. The Mojave Desert and Sonoran Desert along with other deserts are found here.

Beyond the deserts lie the Rocky Mountains. In the north, they run almost immediately east of the Cascade Range, so that the desert region is only a few miles wide by the time one reaches the Canadian border. The Rockies are hundreds of miles wide, and run uninterrupted from New Mexico to Alaska. The Rocky Mountain Region is the highest overall area of the United States, with an average elevation of above 4,000 feet. The tallest peaks of the Rockies, 54 of which are over 14,000 feet are found in central and western Colorado.

The West has several long rivers that empty into the Pacific Ocean, while the eastern rivers run into the Gulf of Mexico. The Mississippi River forms the easternmost possible boundary for the West today. The Missouri River, a tributary of the Mississippi, flows from its headwaters in the Rocky Mountains eastward across the Great Plains, a vast grassy plateau, before sloping gradually down to the forests and hence to the Mississippi.

The Colorado River snakes through the Mountain states, at one point forming the Grand Canyon. The Colorado is a major source of water in the Southwest and many dams, such as the Hoover Dam, form reservoirs along it. So much water is drawn for drinking water throughout the West and irrigation in California that in some years, water from the Colorado no longer reaches the Gulf of California.

The Columbia River, the largest river in volume flowing into the Pacific Ocean from North America, and its tributary, the

Snake River, water the Pacific Northwest. The Platte runs through Nebraska and was known for being a mile wide but only a half-inch deep. The Rio Grande forms the border between Texas and Mexico before turning due north and splitting New Mexico in half.

The United States Coast Guard, "The Western Rivers System consists of the Mississippi, Ohio, Missouri, Illinois, Tennessee, Cumberland, Arkansas and White Rivers and their tributaries, and certain other rivers that flow towards the Gulf of Mexico."

Climate and Agriculture

As a generalization, the climate of the West can be described as overall semiarid; however, parts of the West get extremely high amounts of rain and/or snow, and still other parts are true desert and get less than 10 inches of rain per year. Also, the climate of the West is quite unstable, and areas that are normally wet can be very dry for years and vice versa.

The seasonal temperatures vary greatly throughout the West. Low elevations on the West Coast have warm to very hot summers and get little to no snow. The Desert Southwest has very hot summers and mild winters. While the mountains in the southwest receive generally large amounts of snow. The Inland Northwest has a continental climate of warm to hot summers and cold to bitter cold winters.

Annual rainfall is greater in the eastern portions, gradually tapering off until reaching the Pacific Coast where it again

increases. In fact, the greatest annual rainfall in the United States falls in the coastal regions of the Pacific Northwest. Drought is much more common in the West than the rest of the United States. The driest place recorded in the U.S. is Death Valley, California.

Violent thunderstorms occur east of the Rockies. Tornadoes occur every spring on the southern plains, with the most common and most destructive centered on Tornado Alley, which covers eastern portions of the West, and all states in between and to the east.

Agriculture varies depending on rainfall, irrigation, soil, elevation, and temperature extremes. The arid regions generally support only livestock grazing, chiefly beef cattle. The *wheat belt* extends from Texas through the Dakotas, producing most of the wheat and soybeans in the U.S. and exporting more to the rest of the world. Irrigation in the Southwest allows the growing of great quantities of fruits, nuts, and vegetables as well as grain, hay, and flowers. Texas is a major cattle and sheep raising area, as well as the nation's largest producer of cotton. Washington is famous for its apples, and Idaho for its potatoes. California and Arizona are major producers of citrus crops, although growing metropolitan sprawl is absorbing much of this land.

Local state and Government officials started to understand, after several surveys made during the latter part of the 19th century, that only action by the federal government could

provide water resources needed to support the development of the West. Starting in 1902, Congress passed a series of acts authorizing the establishment of the United States Bureau of Reclamation to oversee water development projects in seventeen western states.

During the first half of the 20th century, dams and irrigation projects provided water for rapid agricultural growth throughout the West and brought prosperity for several states, where agriculture had previously only been subsistence level. Following World War II, the West's cities experienced an economic and population boom.

The population growth, mostly in the Southwest states of New Mexico, Utah, Colorado, Arizona, and Nevada, has strained water and power resources, with water diverted from agricultural uses to major population centers, such as Las Vegas and Los Angeles.

Geology

Plains make up most of the eastern half of the West, underlain with sedimentary rock from the Upper Paleozoic, Mesozoic, and Cenozoic eras. The Rocky Mountains expose igneous and metamorphic rock both from the Precambrian and from the Phanerozoic eon. The Inter-mountain States and Pacific Northwest have huge expanses of volcanic rock from the Cenozoic era. Salt flats and salt lakes reveal a time when the great inland seas covered much of what is now the West.

The Pacific states are the most geologically active areas in the United States. Earthquakes cause major damage every few years in California. While the Pacific states are the most volcanically active areas, extinct volcanoes and lava flows are found throughout most of the western half of the West. Facing both the Pacific Ocean and the Mexican border, the West has been shaped by a variety of ethnic groups. Hawaii is the only state in the union in which Asian Americans outnumber white American residents. Asians from many countries have settled in California and other coastal states in several waves of immigration since the 19th century, contributing to the Gold Rush, the building of the transcontinental railroad, agriculture, and more recently, high technology.

The border states—California, Arizona, New Mexico, and Texas—all have large Hispanic populations, and the many Spanish place names attest to their history as former Spanish and Mexican territories.

Other southwestern states such as Colorado, Utah, and Nevada have large Hispanic populations as well, with many names places also attest to the history of former Mexican territories. Mexican-Americans have also had a growing population in Northwestern states of Oregon and Washington, as well as the southern state of Oklahoma.

The West also contains much of the Native American population in the U.S., particularly in the large reservations in the mountain and desert states.

The largest concentrations for black Americans in the West can be found in Los Angeles, Oakland, Sacramento, San Francisco, Las Vegas, Denver, Colorado Springs and parts of Arizona.

Alaska—the northernmost state in the Union—is a vast land of few people, many of them native, and of great stretches of wilderness, protected in national parks and wildlife refuges. Hawaii's location makes it a major gateway between the U.S. and Asia, as well as a center for tourism.

In the Pacific Coast states, the wide areas filled with small towns, farms, and forests are supplemented by a few big port cities which have evolved into world centers for the media and technology industries. Now the second largest city in the nation, Los Angeles is best known as the home of the Hollywood film industry; the area around Los Angeles also was a major center for the aerospace industry by World War II, though Boeing, located in Washington state would lead the aerospace industry.

Fueled by the growth of Los Angeles—as well as the San Francisco Bay area, including Silicon Valley—the center of America's high tech industry-California has become the most populous of all the states. Oregon and Washington have also seen rapid growth with the rise of Boeing and Microsoft along with agriculture and resource based industries. The desert and mountain states have relatively low population densities, and developed as ranching and mining areas which are only recently becoming urbanized. Most of them have highly

individualistic cultures, and have worked to balance the interests of urban development, recreation, and the environment.

Culturally distinctive points include the large Mormon population in the Mormon Corridor, including southeastern Idaho, Utah, Northern Arizona and Nevada; the extravagant casino resort towns of Las Vegas and Reno, Nevada; and, of course, the many Native American tribal reservations.

American Old West

Major settlement of the western territories by migrants from the states in the east developed rapidly in the 1840s, largely through the Oregon Trail and the California Gold Rush of 1849; California experienced such a rapid growth in a few short months that it was admitted to statehood in 1850 without the normal transitory phase of becoming an official territory. The largest migration in American history occurred in the 1840s as the Latter Day Saints left the Midwest for the safety of the West. Both Omaha, Nebraska and St. Louis, Missouri laid claim to the title, "Gateway to the West" during this period. Omaha, home to the Union Pacific Railroad and the Mormon Trail, made its fortunes on outfitting settlers; St. Louis built itself upon the vast fur trade in the West before its settlement.

The 1850s were marked by political controversies which were part of the national issues leading to the Civil War, though

California had been established as a non-slave state in the Compromise of 1850; California played little role in the war itself due to its geographic distance from major campaigns. In the aftermath of the Civil War, many former Confederate partisans migrated to California during the end of the Reconstruction period.

The history of the American West in the late 19th and early 20th centuries has acquired a cultural mythos in the literature and cinema of the United States. The image of the cowboy, the homesteader and westward expansion took real events and transmuted them into a myth of the west which has influenced American culture since at least the 1920s.

Writers as diverse as Bret Harte and Zane Grey celebrated or derided cowboy culture, while artists such as Frederic Remington created western art as a method of recording the expansion into the west. The American cinema, in particular, created the genre of the western movie, which, in many cases, use the West as a metaphor for the virtue of self-reliance and an American ethos. The contrast between the romanticism of culture about the West and the actuality of the history of the westward expansion has been a theme of late 20th and early 21st century scholarship about the West. Cowboy culture has become embedded in the American experience as a common cultural touchstone, and modern forms as diverse as country and western music and the works of artist Georgia O'Keeffe have celebrated the supposed sense of isolation and

independence of spirit inspired by the unpopulated and relatively harsh climate of the region.

As a result of the various periods of rapid growth, many new residents were immigrants who were seeking to make a new start after previous histories of either personal failure or hostilities developed in their previous communities. With these and other migrants who harbored more commercial goals in the opening country, the area developed a strong ethos of self-determinism and individual freedom, as communities were created whose residents shared no prior connection or common set of ideals and allegiances. The open land of the region allowed residents to live at a much greater distance from neighbors than had been possible in eastern cities, and an ethic of tolerance for the different values and goals of other residents developed. California's state constitutions were largely drafted by groups which sought a strong emphasis on individual property rights and personal freedom, arguably at the expense of ideals tending towards civic community.

The 20th Century

By 1890, the frontier was gone. The advent of the automobile enabled the average American to tour the West. Western businessmen promoted U.S. Route 66 as a means to bring tourism and industry to the West. In the 1950s, representatives from all the western states built the Cowboy Hall of Fame and Western Heritage Center to showcase western culture and greet travellers from the East. During the latter

half of the 20th century, several transcontinental interstate highways crossed the West bringing more trade and tourists from the East. In the news, reports spoke of oil boom towns in Texas and Oklahoma rivaling the old mining camps for their lawlessness, of the Dust Bowl forcing children of the original homesteaders even further west. The movies replaced the dime novel as the chief entertainment source featuring western fiction, later the community of Hollywood, Los Angeles became the headquarters of the mass media such as radio and television production.

California has emerged as the most populous state and one of the top 10 economies in the world. Massive late 19th-20th century population and settlement booms created two megalopolis areas of the Greater Los Angeles/Southern California and the San Francisco Bay Area/Northern California regions, one of the USA's largest metropolitan areas and in the top 25 largest urban areas in the world. Three more metro areas of Denver, Phoenix and Seattle have over a million residents, while the three fastest growing metro areas were Salt Lake City, Las Vegas, Nevada and Portland, Oregon.

Although there has been segregation, along with accusations of racial profiling and police brutality towards minorities due to issues such as illegal immigration and a racial shift in neighborhood demographics, sometimes leading to racially based riots, the West has a continuing reputation for being open-minded and for being one of the most racially progressive areas in the United States. Los Angeles is said to have the

largest Mexican population outside of Mexico, while San Francisco has the largest Chinese community in North America and also has a large Gay/GLBT community, and Oakland, California has a large percentage of residents being African-American, as well Long Beach, California has a large Black community.

The state of Utah has a Mormon majority, while some cities like Albuquerque, New Mexico, Spokane, Washington and Tucson, Arizona faces Indian Reservations of Native American tribes, and there are Alaskan Natives and Native Hawaiians to bring forth a great deal of racial diversity.

Politics

The region's distance from historical centers of power in the East, and the celebrated "frontier spirit" of its settlers offer two clichés for explaining the region's independent, heterogeneous politics. Historically, the West was the first region to see widespread women's suffrage.

California birthed both the property rights and conservation movements, and spawned such phenomena as the Taxpayer Revolt and the Berkeley Free Speech Movement. It has also produced three presidents: Herbert Hoover, Richard Nixon and Ronald Reagan.

The prevalence of libertarian political attitudes is widespread. For example, the majority of Western states have legalized medicinal marijuana and some forms of gambling; Oregon and

Washington have legalized physician-assisted suicide; Most rural counties in Nevada allow licensed brothels. There is less resistance to the legal recognition of same-sex unions: California, Hawaii, Nevada, Oregon, and Washington recognize them.

The West Coast leans towards the Democratic Party. San Francisco's two main political parties are the Green Party and the Democratic Party. Seattle has historically been a center of radical left-wing politics. Both the Democratic leaders of the Congress are from the region: House Minority Leader Nancy Pelosi of California and Senate Majority Leader Harry Reid of Nevada. Interior areas are more Republican, with Alaska, Arizona, Idaho, Montana, Utah, and Wyoming being Republican strongholds, and Colorado, Nevada, and New Mexico being swing states. The state of Arizona has been won by the Republican presidential candidate in every election except one since 1948, while the states of Idaho, Utah, and Wyoming have been won by the Republican presidential candidate in every election since 1964.

As the fastest-growing demographic group, Latinos are hotly contested by both parties. Immigration is an important political issue for this group. Backlash against illegal immigration led to the passage of California Proposition 187 in 1994, a ballot initiative which would have denied many public services to illegal immigrants. Association of this proposal with the California Republicans, especially incumbent governor Pete Wilson, drove many Hispanic voters to the Democrats.

post-colonial state

The new nation-states that emerged out of the process of decolonization in the post-Second World War period. Also sometimes called the 'developmental state'. The post-colonial state has exhibited many features of the colonial state in its political formation. The British parliamentary model, for example, has been adopted by many ex-British colonies like India.

The post-colonial state has been characterized in two different ways—in terms of its political and economic agenda, and in terms of its 'infrastructural capacity'. Most post-colonial states have started from an interventionist standpoint. However, the capacity of these states to implement their programmes has been affected crucially by the political system that has evolved in these states. The post-colonial state has been characterized as 'strong' or 'weak' on the basis of its capacity to implement political decisions—whether the political infrastructure is in place and functioning well or not. This would distinguish a 'strong' state from a merely 'despotic' one. State capacity is, of course, linked to the economic resources available to the state but also to the evolving relations between the political executive and the bureaucracy on the one hand and state and civil society on the other. The 'embeddedness' of the state in society has been regarded by some as a feature of a 'strong' state in the context of cooperation of important state and societal interest groups, and by others as characterizing a 'weak' state where the state is penetrated by civil society and

interest groups that are too strong for it to control. The weak capacity of the post-colonial state is also linked to levels of political violence, in that the governability of a society is dependent upon the political infrastructure of the state, in the absence of which the state increasingly relies upon the use of violence and sets up a pattern of counter-violence in societies. Governability is thus a continuing and growing concern for post-colonial states. Under globalization, the post-colonial state is facing new challenges. On the one hand, it has been argued that all states are 'hollowing out' and losing their pre-eminent position on the political landscape, while on the other, states are seen as repositioning themselves to take advantage of globalization. Post-colonial states have, in this context, also been called 'competition states'—competing to attract global capital. It has also been suggested that these states are facing a new form of imperialism—economic imperialism—as they 'race to the bottom' and become increasingly vulnerable and dependent upon global capitalism.

The State of the Global Economy

The Global Economy

We begin the story by distinguishing:

- *The system state:* where the economy is now
- *The trajectory of the system over time,:* that is the series of system states from now into the future.

The System State of the Global Economy

The world is recovering from a global financial crisis the costs of which globally are somewhere between \$60 trillion and \$120. The emerging markets are recovering more quickly than the developed markets. But the recovery only took place at all because of huge bailouts by western banks of their distressed financial systems accompanied by a fiscal stimulus and easy monetary policy plus an enormous fiscal stimulus in China amounting to 25% of Chinese GDP.

The costs of the recent financial crisis arise as unemployment, lost output, default and income transfers to lucky members of the financial sector from the rest of the world.

Globally there is potential deficient demand and excess supply. Actual demand and supply has been kept high to avoid a Great Depression like the 1930's: instead of a Great Depression we have had a Great Recession.

Deficient demand results from the slow recovery of the USA, dirty floats of exchange rates in China and Russia because they want to keep their export prices competitive, and generally the need for the household, government and financial sectors in the west to deleverage.

The most recent financial crisis occurred because of over leveraging especially in the financial sectors, leading to over leveraging in household sectors due to asset price bubbles and lately government deleveraging. the need for governments to

deleverage in the USA and the UK primarily because of the costs of their bailouts of their financial sectors and in other countries because of Ponzi government spending.

Excess supply in the world is also partly the result of bailouts and fiscal rescue packages which keep interest rates low and fiscal spending on investment in china and tax holidays and corporate bailouts. Another reason for excess supply is the attempt by the BRICS to maintain export led growth by keeping their exchange rates undervalued.

In the EU surplus countries especially Germany have undervalued currencies in real terms against other Euro countries; undervalued in real terms because unit labour costs in Germany are relatively low.

This leads us to another aspect of the need to deleverage; trade and current account surpluses in some countries and corresponding deficits in others. China Russia and in the EU Germany have trade surpluses and the USA, the UK and Japan for example have corresponding deficits. Essentially the USA needs to save more and consume less: and China needs to save less and consume more. It should be clear that trade surpluses and deficits must net out to zero. For the thirty years or more the world has relied on the US economy to boost world demand. Currently there is not country or region able to replace the USA in this respect. This problem is compounded by huge consumer and government debt in the US which restricts spending and the need for China to have export led

growth to avoid social disruption. Pressure in the USA exists to cut government debt and government financial deficit at time when unemployment in the USA is rising and growth is slow.

So the world economy faces dilemmas. The solution to one set of problems makes other problems worse. To a lesser extent the same issues face the UK as face the USA but relatively the UK is a minor economy.

As a framework for describing the system states I will use the meta model. but it should be remembered that the system state refers to a stat at a moment in time. The meta model consists of the underlying dynamics at q moment in time; inner and outer dynamics, layoffs, and orgrammar. Trajectory describes the path of a system over time: the series of system states over time as the dynamics change over time. So trajectory is in time and system states describe moments in time.

It is important to distinguish system states from equilibria or equilibrium. A system must be in some state or other, but it is rarely if ever in equilibrium: things are always changing. Perhaps we have periods of tranquillity and that is what we mean by equilibrium. Trajectories over time may be gradual and continuous with little change in system states over short intervals over time: maybe change is sudden and dramatic. Normal curve thinking leads us to concentrate on averages and to believe that deviations from the average are unusual. In fact, black swans, or extreme events occur much more frequently than normal curve thinking leads us to believe. For

example there has been more than 100 financial crises In the world over the last 30 years and typically senior management is concerned with managing extreme, unexpected events, sudden crises. A recent prime minister of the UK was asked what he worried about most: “events dear boy” he replied. Many managers would sympathise with this reply I think.

Let us think about possible trajectories for the global economy: possible scenarios, is probably a better phrase since we can't know the future. Almost certainly the Eurozone as it is now, will break up. The size of the breakup depends on events and policies. If PIIIGS debt is rescheduled, and somehow underwritten; if the euro crisis does not spread to Spain, Italy and further Greece, Ireland, Iceland many of the Baltic States and perhaps Portugal countries; if a blind eye is turned to bigger of these economies and the USA defaulting; in the latter case if the the dollar is allowed to depreciate; if the ECB allowed to take over the fiscal policy of the PIIIGS states, including perhaps Spain; if Saudi Arabia remains willing to act as a swing oil producer to prevent the price of oil rocketing; if financial institutions in the west ar willing to accept more regulation; even than any government dares to propose at the moment; if states are willing to cooperate rather than compete; if corporates drop the search for complete advantage; if governments drop the discourse of competitive advantage; if e all become less greedy; if the rich become less greedy; if there are not too many natural disasters, wars or terrorist strikes; if some of these ifs don't hqppen, then things will be OK. One real source for optimism is informations ism, a cliché perhaps

in one way, but not in all. The information revolution will certainly have as big an effect on the world as the print revolution did in Europe in the sixteenth century. Just as the effects of the print revolution, were at the time, unpredictable, so we cannot know the impact of the information revolution on trajectories in the future. One effect may be to hasten new economy thinking, recognising interdependence: both in terms of feedback and domino effects and in terms of responsibilities of one organisation, one country, or region or individual to another.

Why should this happen? I don't know; it is a possibility. But one aspect of informationalism is that it is becoming clear that machines can perform many of the tasks we took to be exclusively human better than humans can. So questions may arise as to what humans are really about, including perhaps aspects that we call soul, or care, or humanity.

Interdependence: Some Case Examples

Interdependence is a theme underlying much of the session. It can take a system state form; that is synergies the idea that a system as a whole can be more than the sum of its parts. It can also take a dynamic or trajectory form; that is feedbacks from one entity to another over time.

Interdependence in the global economy is discussed under a number of headings; blowbacks, domino effects, network effects, percolation, viruses, complexity catastrophe,

externalities, synergies, the too big to fail problem and the Great Recession that began in 2007 and is still with us.

A problem that we find time and time again in telecoms and also in large organizations as varied as pharmaceuticals, beer and automobiles is that globalisation and informationalism have shortened product cycles and changed the nature of competition and the structure of costs. To compete, innovating firms have to incur high sunk costs which have to be paid back out of future revenues. But product cycles have got shorter meaning that there is less time to do so. Furthermore information travels fast and innovations can easily be copied: and firms who copy can do so at lower costs, undercutting the innovators. One of the features of the new economy is that the ratio of fixed costs to variable costs has risen, meaning that marginal costs are often very low and pricing at variable costs plus contribution leads to the commodification of many products and services. The same problems, in a slightly different form, occur in medium and small businesses. Perfectly good businesses small, medium and global, find themselves underperforming. The second example of interdependence is the Great Recession that began in the mortgage markets of the USA and Europe with the failure of Lehman Brothers and bankruptcy of 6 of the major finance companies in the USA Northern Rock and most of the big banks in the UK. Many were too big to fail: so governments had to bail them out by nationalisation or guaranteeing their toxic assets.

The crisis spread throughout Europe. It affected the entire world, through loss of output, unemployment and insecurity, resulting in a cost to the world of somewhere between \$60 and \$120 trillion. As result of bailouts and the size of Banks relative to the size of the economies in which they were owned, national governments, first Iceland, followed by Greece, Ireland, Portugal and perhaps Spain had to seek bailouts which in threaten the existence of the Eurozone. So the problem of bank insolvency has led to the insolvency of nations. Spanish debt for example is held by international banks, who have securitized it and passed it on through CDS and CDO's to other institutions who have.....and so on.

The third example relating to interdependence are natural catastrophes, man-made catastrophes and terrorism. These things are often independent with respect to causation. But, in their impact globally they are interdependent: they require, as do the first two examples, the same policy responses, new ways of thinking and co-operation rather than just seeking competitive advantage by nations or by firms.

Chapter 2

State Politics and Government

Politics

The word *politics* comes from the Greek word *politika*, modeled on Aristotle's "affairs of the city", the name of his book on governing and governments, which was rendered in English mid-15 century as Latinized "Polettiques". Thus it became "politics" in Middle English c. 1520s. The singular *politic* first attested in English 1430 and comes from Middle French *politique*, in turn from Latin *politicus*, which is the latinisation of the Greek *politikos*, meaning amongst others "of, for, or relating to citizens", "civil", "civic", "belonging to the state", in turn from *polites*, "citizen" and that from *polis*, "city". The history of politics is reflected in the origin and development, and economics of the institutions of government.

Native Americans

Lewis H. Morgan, author of *Ancient Society*, considers the American Indians to be the link between the primitive and patriarchal state of society.

Patriarchal Societies

All patriarchal societies are known by certain characteristic features:

- Male kinship is prevalent. Men are counted as kin because they are descended from the same male ancestor.
- Marriage is permanent. It is not until one woman is married to one man that certainty of fatherhood appears in society but it is not a general rule of patriarchal society for polygamy does exist in the earlier stages of social development.
- Paternal authority is the ruling principle of the social order. In ancient Rome, the *patria potestas* extended to all descendants of one living male ancestor; it comprised control and punishment, not to mention questions of life and death.

These features of the development of the patriarchal state of society are as common among the Jews as among the Arabs, among the Aryans as among the Dravidians and even among the Germanic and Celtic peoples.

The patriarchal state of society consists of two stages, tribe and clan. The tribe is a large group of hundreds of members who descend from one common male ancestor, sometimes from a fictitious character satisfying the etiquette that descent from the male is the only basis of society. The clan, on the other hand, is a smaller group reaching back into the past for only four generations or so to a common well-known male ancestor.

The clan always breaks down into smaller units when its limit is reached. The tribe or larger unit is the oldest. When the tribe breaks down, clans are formed. When the clan system breaks down, it leaves the households or families as

independent units. Finally, with the withering away of patriarchal society, the family is dissolved and the individual comes into existence.

The State

The origin of the state is to be found in the development of the art of warfare. Historically speaking, all political communities of the modern type owe their existence to successful warfare. As a result the new states are forced to organize on military principles. The life of the new community is military allegiance. The military by nature is competitive.

Of the institutions by which the state is ruled, that of kingship stands foremost until the French Revolution put an end to the "divine right of kings". Nevertheless, kingship is perhaps the most successful institution of politics. However, the first kings were not institutions but individuals. The earliest kings were successful militarily. They were men not only of great military genius but also great administrators. Kingship becomes an institution through heredity. The king rules his kingdom with the aid of his Council; without it he could not hold his territories. The Council is the king's master mind. The Council is the germ of constitutional government.

Long before the council became a bulwark of democracy, it rendered invaluable aid to the institution of kingship by:

- Preserving the institution of kingship through heredity.

- Preserving the traditions of the social order.
- Being able to withstand criticism as an impersonal authority.
- Being able to manage a greater deal of knowledge and action than a single individual such as the king.

The greatest of the king's subordinates, the earls in England and Scotland, the dukes and counts in the Continent, always sat as a right on the Council. A conqueror wages war upon the vanquished for vengeance or for plunder but an established kingdom exacts tribute. One of the functions of the Council is to keep the coffers of the king full. Another is the satisfaction of military service and the establishment of lordships by the king to satisfy the task of collecting taxes and soldiers.

The State and Property

Property is the right vested on the individual or a group of people to enjoy the benefits of an object be it material or intellectual. A right is a power enforced by public trust. Sometimes it happens that the exercise of a right is opposed to public trust. Nevertheless, a right is really the creation of public trust, past, present or future. The growth of knowledge is the key to the history of property as an institution. The more man becomes knowledgeable of an object be it physical or intellectual, the more it is appropriated. The appearance of the State brought about the final stage in the evolution of property from wildlife to husbandry. In the presence of the State, man can hold landed property.

The State began granting lordships and ended up conferring property and with it came inheritance. With landed property came rent and in the exchange of goods, profit, so that in modern times, the “lord of the land” of long ago becomes the landlord. If it is wrongly assumed that the value of land is always the same, then there is of course no evolution of property whatever. However, the price of land goes up with every increase in population benefitting the landlord. The landlordism of large land owners has been the most rewarded of all political services. In industry, the position of the landlord is less important but in towns which have grown out of an industry, the fortunate landlord has reaped an enormous profit.

Towards the latter part of the Middle Ages in Europe, both the State - the State would use the instrument of confiscation for the first time to satisfy a debt - and the Church - the Church succeeded in acquiring immense quantities of land - were allied against the village community to displace the small landlord and they were successful to the extent that today, the village has become the ideal of the individualist, a place in which every man “does what he wills with his own.” The State has been the most important factor in the evolution of the institution of property be it public or private.

The State and the Justice System

As a military institution, the State is concerned with the allegiance of its subjects as disloyalty is a risk to its national

security. Thus arises the law of treason. Criminal acts in general, breaking the peace and treason make up the whole of criminal law enforced by the State as distinguished from the law enforced by private individuals. State justice has taken the place of clan, feudal, merchant and ecclesiastical justice due to its strength, skill and simplicity. One very striking evidence of the superiority of the royal courts over the feudal and popular courts in the matter of official skill is the fact that, until comparatively late in history, the royal courts alone kept written records of their proceedings. The trial by jury was adopted by the Royal Courts, securing its popularity and making it a bulwark of liberty. By the time of the Protestant Reformation, with the separation of Church and State, in the most progressive countries, the State succeeded in dealing with the business of administering justice.

The State

The making of laws was unknown to primitive societies. That most persistent of all patriarchal societies, the Jewish, retains to a certain extent its tribal law in the Gentile cities of the West. This tribal law is the rudimentary idea of law as it presented itself to people in the patriarchal stage of society, it was custom or observance sanctioned by the approval and practice of ancestors.

The state of affairs which existed in the 10th century, when every town had its own laws and nations like France, Germany, Spain and other countries had no national law until the end of

the 18th century, was brought to an end by three great agencies that helped to create the modern system of law and legislation:

- *Records:* From the early Middle Ages in Europe there come what are called folk-laws and they appear exactly at the time when the patriarchal is becoming the State. They are due almost universally to one cause: the desire of the king to know the custom of his subjects. These are not legislation in the sense of law-making but statements or declarations of custom. They are drawn from a knowledge of the custom of the people. Unwritten custom changes imperceptibly but not the written. It is always possible to point to the exact text and show what it says. Nevertheless, the written text can change by addition with every new edition.
- *Law Courts:* By taking some general rule which seemed to be common to all the communities and ignoring the differences, English common law was modeled after such a practice so that the law became common in all the districts of the kingdom. The reason why in the rest of Europe, there was no common law till centuries later is because the State in those countries did not get hold of the administration of justice when England did. One of the shrewdest moves by which the English judges pushed their plan of making a common law was by limiting the verdict of the jury in every case to questions of fact. At first the jury used to give answers both on law and fact; and being a purely local body, they followed local custom. A famous

division came to pass: the province of the judge and the province of the jury.

- *Fictions*: Records and Law Courts were valuable in helping the people adapt to law-making but like Fictions, they were slow and imperfect. Though slowly, Fictions work because it is a well known fact that people will accept a change in the form of a fiction while they would resist it to the end if the fact is out in the open.

Finally there is the enactment of laws or legislation. When progress and development is rapid, the faster method of political representation is adopted. This method does not originate in primitive society but in the State need for money and its use of an assembly to raise the same. From the town assembly, a national assembly and the progress of commerce sprang Parliament all over Europe around the end of the 12th century but not entirely representative or homogeneous for the nobility and the clergy.

The clergy had amassed a fortune in land, about one-fifth of all Christendom but at the time, in the 12th and 13th centuries, the Church was following a policy of isolation; they adopted the rule of celibacy and cut themselves from domestic life; they refused to plead in a secular court; they refused to pay taxes to the State on the grounds that they had already paid it to the Pope. Since the main object of the king in holding a national assembly was to collect money, the Church could not be left out and so they came to Parliament. The Church did not like it but in most cases they had to come.

The medieval Parliament was complete when it represented all the states in the realm: nobles, clergy, peasants and craftsmen but it was not a popular institution mainly because it meant taxation. Only by the strongest pressure of the Crown were Parliaments maintained during the first century of their existence and the best proof of this assertion lies in the fact that in those countries where the Crown was weak, Parliament ceased to exist. The notion that parliaments were the result of a democratic movement cannot be supported by historical facts. Originally, the representative side of Parliament was solely concerned with money; representation in Parliament was a liability rather than a privilege. It is not uncommon that an institution created for one purpose begins to serve another. People who were asked to contribute with large sums of money began to petition. Pretty soon, sessions in Parliament would turn into bargaining tables, the king granting petitions in exchange for money. However, there were two kinds of petitions, one private and the other public and it was from this last that laws were adopted or legislation originated. The king as head of State could give orders to preserve territorial integrity but not until these royal enactments were combined with public petition that successful legislation ever took place. Even to the present day, this has always been the basis of all successful legislation: public custom is adopted and enforced by the State.

In the early days of political representation, the majority did not necessarily carry the day and there was very little need for contested elections but by the beginning of the 15th century, a

seat in Parliament was something to be cherished. Historically speaking, the dogma of the equality of man is the result of the adoption of the purely practical machinery of the majority but the adoption of the majority principle is also responsible for another institution of modern times: the party system. The party system is an elaborate piece of machinery that pits at least two political candidates against each other for the vote of an electorate; its advantage being equal representation interesting a large number of people in politics; it provides effective criticism of the government in power and it affords an outlet for the ambition of a large number of wealthy and educated people guaranteeing a consistent policy in government.

These three institutions: political representation, majority rule and the party system are the basic components of modern political machinery; they are applicable to both central and local governments and are becoming by their adaptability ends in themselves rather than a machinery to achieve some purpose.

The State and the Executive System

The administration is one of the most difficult aspects of government. In the enactment and enforcement of laws, the victory of the State is complete but not so in regards to administration the reason being that it is easy to see the advantage of the enactment and enforcement of laws but not

the administration of domestic, religious and business affairs which should be kept to a minimum by government.

Originally, the state was a military organization. For many years, it was just a territory ruled by a king who was surrounded by a small elite group of warriors and court officials and it was basically rule by force over a larger mass of people. Slowly, however, the people gained political representation for none can really be said to be a member of the State without the right of having a voice in the direction of policy making. One of the basic functions of the State in regards to administration is maintaining peace and internal order; it has no other excuse for interfering in the lives of its citizens.

To maintain law and order the State develops means of communication. Historically, the "king's highway" was laid down and maintained for the convenience of the royal armies not as an incentive to commerce. In almost all countries, the State maintains the control of the means of communication and special freedoms such as those delineated in the First Amendment to the United States Constitution are rather limited. The State's original function of maintaining law and order within its borders gave rise to police administration which is a branch of the dispensation of Justice but on its preventive side, police jurisdiction has a special character of its own, which distinguishes it from ordinary judicial work. In the curfew, the State shows early in history the importance of preventing disorder. In early days, next to maintaining law and

order, the State was concerned with the raising of revenue. It was then useful to the State to establish a standard of weights and measures so that value could be generally accepted and finally the State acquired a monopoly of coinage. The regulation of labour by the State as one of its functions dates from the 15th century, when the Black Plague killed around half of the European population.

The invariable policy of the State has always being to break down all intermediate authorities and to deal directly with the individual. This was the policy until Adam Smith's *The Wealth of Nations* was published promoting a strong public reaction against State interference. By its own action, the State raised the issue of the poor or the State relief of the indigent. The State, of course, did not create poverty but by destroying the chief agencies which dealt with it such as the village, the church and the guilds, it practically assumed full responsibility for the poor without exercising any power over it. The Great Poor Law Report of 1834 showed that communism ran rampant in the rural areas of England. In newly developed countries such as the colonies of the British Empire, the State has refused to take responsibility for the poor and the relief of poverty, although the poor classes lean heavily towards State socialism.

Recognizing the great power of the State, it is only natural that in times of great crisis such as an overwhelming calamity the people should invoke general State aid. Political representation has helped to shape State administration. When the voice of

the individual can be heard, the danger of arbitrary interference by the State is greatly reduced. To that extent is the increase of State activity popular. There are no hard and fast rules to limit State administration but it is a fallacy to believe that the State is the nation and what the State does is necessarily for the good of the nation.

In the first place, even in modern times, the State and the nation are never identical. Even where “universal suffrage” prevails, the fact remains that an extension of State administration means an increased interference of some by others, limiting freedom of action. Even if it is admitted that State and nation are one and the same, it is sometimes difficult to admit that State administration is necessarily good.

Finally, the modern indiscriminate advocacy of State administration conceals the fallacy that State officials must necessarily prove more effective in their action than private enterprise. Herein lies the basic difference between Public and Business Administration; the first deals with the public weal while the second deals basically in profit but both require a great deal of education and ethical conduct to avoid the mishaps inherent in the relationship not only of business and labour but also the State and the Administration.

The Varieties of Political Experience

States are classified into monarchies, aristocracies, timocracies, democracies, oligarchies, and tyrannies. Due to an

increase in knowledge of the history of politics, this classification has been abandoned. Generally speaking, no form of government could be considered the best if the best is considered to be the one that is most appropriate under the circumstances. All States are varieties of a single type, the sovereign State. All the Great Powers of the modern world rule on the principle of sovereignty. Sovereign power may be vested on an individual as in an autocratic government or it may be vested on a group as in a constitutional government. Constitutions are written documents that specify and limit the powers of the different branches of government. Although a Constitution is a written document, there is also an unwritten Constitution. The unwritten constitution is continually being written by the Legislative branch of government; this is just one of those cases in which the nature of the circumstances determines the form of government that is most appropriate. Nevertheless, the written constitution is essential. England did set the fashion of written constitutions during the Civil War but after the Restoration abandoned them to be taken up later by the American Colonies after their emancipation and then France after the Revolution and the rest of Europe including the European colonies.

There are two forms of government, one a strong central government as in France and the other a local government such as the ancient divisions in England that is comparatively weaker but less bureaucratic. These two forms helped to shape the federal government, first in Switzerland, then in the United States in 1776, in Canada in 1867 and in Germany in 1870

and in the 20th century, Australia. The Federal States introduced the new principle of agreement or contract. Compared to a federation, a confederation's singular weakness is that it lacks judicial power. In the American Civil War, the contention of the Confederate States that a State could secede from the Union was untenable because of the power enjoyed by the Federal government in the executive, legislative and judiciary branches.

A. V. Dicey in An Introduction to the Study of the Law of the Constitution, the essential features of a federal constitution are:

- A written supreme constitution in order to prevent disputes between the jurisdictions of the Federal and State authorities;
- A distribution of power between the Federal and State governments and
- A Supreme Court vested with the power to interpret the Constitution and enforce the law of the land remaining independent of both the executive and legislative branches.

Political Party

A political party is a political organization that typically seeks to attain and maintain political power within government, usually by participating in electoral campaigns, educational outreach or protest actions. Parties often espouse an expressed ideology or vision bolstered by a written platform with specific goals, forming a coalition among disparate interests.

As an Academic Discipline

Political science, the study of politics, examines the acquisition and application of power. Political scientist Harold Lasswell defined politics as “who gets what, when, and how”. Related areas of study include political philosophy, which seeks a rationale for politics and an ethic of public behaviour, political economy, which attempts to develop understandings of the relationships between politics and the economy and the governance of the two, and public administration, which examines the practices of governance. The philosopher Charles Blattberg, who has defined politics as “responding to conflict with dialogue,” offers an account which distinguishes political philosophies from political ideologies. The first academic chair devoted to politics in the United States was the chair of history and political science at Columbia University, first occupied by Prussian émigré Francis Lieber in 1857.

Spectra

Left-Right Politics

Recently in history, political analysts and politicians divide politics into left wing and right wing politics, often also using the idea of center politics as a middle path of policy between the right and left. This classification is comparatively recent and dates from the French Revolution era, when those members of the National Assembly who supported the republic,

the common people and a secular society sat on the left and supporters of the monarchy, aristocratic privilege and the Church sat on the right.

The meanings behind the labels have become more complicated over the years. A particularly influential event was the publication of the Communist Manifesto by Karl Marx and Frederick Engels in 1848. The *Manifesto* suggested a course of action for a proletarian revolution to overthrow the bourgeois society and abolish private property, in the belief that this would lead to a classless and stateless society.

The meaning of left-wing and right-wing varies considerably between different countries and at different times, but generally speaking, it can be said that the right wing often values tradition and social stratification while the left wing often values reform and egalitarianism, with the center seeking a balance between the two such as with social democracy or regulated capitalism.

Norberto Bobbio, one of the major exponents of this distinction, the Left believes in attempting to eradicate social inequality, while the Right regards most social inequality as the result of ineradicable natural inequalities, and sees attempts to enforce social equality as utopian or authoritarian.

Some ideologies, notably Christian Democracy, claim to combine left and right wing politics; Geoffrey K. Roberts and Patricia Hogwood, "In terms of ideology, Christian Democracy

has incorporated many of the views held by liberals, conservatives and socialists within a wider framework of moral and Christian principles.” Movements which claim or formerly claimed to be the left-right divide include Fascist Terza Posizione economic politics in Italy, Gaullism in France, Peronism in Argentina, and National Action Politics in Mexico.

Authoritarian-Libertarian Politics

Authoritarianism and libertarianism refer to the amount of individual freedom each person possesses in that society relative to the state. One author describes authoritarian political systems as those where “individual rights and goals are subjugated to group goals, expectations and conformities”, while libertarians generally oppose the state and hold the individual and his property as sovereign. In their purest form, libertarians are anarchists, who argue for the total abolition of the state, while the purest authoritarians are totalitarians who support state control over all aspects of society. For instance, classical liberalism is a doctrine stressing individual freedom and limited government. This includes the importance of human rationality, individual property rights, free markets, natural rights, the protection of civil liberties, constitutional limitation of government, and individual freedom from restraint as exemplified in the writings of John Locke, Adam Smith, David Hume, David Ricardo, Voltaire, Montesquieu and others. The libertarian Institute for Humane Studies, “the libertarian, or ‘classical liberal,’ perspective is that individual well-being,

prosperity, and social harmony are fostered by 'as much liberty as possible' and 'as little government as necessary.'"

World Politics

The 20th century witnessed the outcome of two world wars and not only the rise and fall of the Third Reich but also the rise and fall of communism. The development of the Atomic bomb gave the United States a more rapid end to its conflict in Japan in World War II. Later, the development of the Hydrogen bomb became the ultimate weapon of mass destruction. The United Nations has served as a forum for peace in a world threatened by nuclear war. "The invention of nuclear and space weapons has made war unacceptable as an instrument for achieving political ends." Although an all-out final nuclear holocaust is out of the question for man, "nuclear blackmail" comes into question not only on the issue of world peace but also on the issue of national sovereignty. On a Sunday in 1962, the world stood still at the brink of nuclear war during the October Cuban missile crisis from the implementation of U.S. vs U.S.S.R. nuclear blackmail policy.

Political Corruption

Political corruption is the use of legislated powers by government officials for illegitimate private gain. Misuse of government power for other purposes, such as repression of political opponents and general police brutality, is not considered political corruption. Neither are illegal acts by

private persons or corporations not directly involved with the government. An illegal act by an officeholder constitutes political corruption only if the act is directly related to their official duties. Forms of corruption vary, but include bribery, extortion, cronyism, nepotism, patronage, graft, and embezzlement. While corruption may facilitate criminal enterprise such as drug trafficking, money laundering, and trafficking, it is not restricted to these activities. The activities that constitute illegal corruption differ depending on the country or jurisdiction. For instance, certain political funding practices that are legal in one place may be illegal in another. In some cases, government officials have broad or poorly defined powers, which make it difficult to distinguish between legal and illegal actions.

Worldwide, bribery alone is estimated to involve over 1 trillion US dollars annually. A state of unrestrained political corruption is known as a kleptocracy, literally meaning “rule by thieves”.

- “Favoritism is the only use of power.” Richard L Kempe “Politics is the art of creating situations involving the threat of loss.” Richard L Kempe Government refers to the legislators, administrators, and arbitrators in the administrative bureaucracy who control a state at a given time, and to the system of government by which they are organized. Government is the means by which state policy is enforced, as well as the mechanism for determining the policy of the state.

The word government is derived from the Latin verb *gubernare*, an infinitive meaning “to govern” or “to manage”.

States are served by a continuous succession of different governments. Each successive government is composed of a body of individuals who control and decide for the state. Their function is to enforce laws, legislate new ones, and arbitrate conflicts. In some societies, this group is often a self-perpetuating or hereditary class. In other societies, such as democracies, the political roles remain, but there is frequent turnover of the people actually filling the positions.

In most Western societies, there is a clear distinction between a government and the state. Public disapproval of a particular government does not necessarily represent disapproval of the state itself. However, in some totalitarian regimes, there is not a clear distinction between the regime and the state. In fact, leaders in such regimes often attempt to deliberately blur the lines between the two, in order to conflate their interests with those of the polity.

Types of Governments

- *Authoritarian:* Authoritarian governments are characterized by an emphasis on the authority of the state in a republic or union. It is a political system controlled by unelected rulers who usually permit some degree of individual freedom.
- *Constitutional monarchy:* A government that has a monarch, but one whose powers are limited by law or

by a formal constitution, such as the United Kingdom

- *Constitutional republic*: A government whose powers are limited by law or a formal constitution, and chosen by a vote amongst at least some parts of the populace. Republics which exclude parts of the populace from participation will typically claim to represent all citizens.
- *Democracy*: Rule by a government chosen by election where most of the populace are enfranchised. The key distinction between a democracy and other forms of constitutional government is usually taken to be that the right to vote is not limited by a person's wealth or race. A Democratic government is, therefore, one supported by a majority of the populace. A "majority" may be defined in different ways. There are many "power-sharing" or "electoral-college" or "constituency" systems where the government is not chosen by a simple one-vote-per-person headcount.
- *Dictatorship*: Rule by an individual who has full power over the country. The term may refer to a system where the dictator came to power, and holds it, purely by force - but it also includes systems where the dictator first came to power legitimately but then was able to amend the constitution so as to, in effect, gather all power for themselves.
- *Monarchy*: Rule by an individual who has inherited the role and expects to bequeath it to their heir.
- *Oligarchy*: Rule by a small group of people who share similar interests or family relations.

- *Plutocracy*: A government composed of the wealthy class. Any of the forms of government listed here can be plutocracy. For instance, if all of the voted representatives in a republic are wealthy, then it is a republic and a plutocracy.
- *Theocracy*: Rule by a religious elite.
- *Totalitarian*: Totalitarian governments regulate nearly every aspect of public and private life.

Governance is the act of governing. It relates to decisions that define *expectations*, grant power, or verify performance. It consists of either a separate process or part of management or leadership processes. These processes and systems are typically administered by a government. In the case of a business or of a non-profit organisation, governance relates to consistent management, cohesive policies, guidance, processes and decision-rights for a given area of responsibility. For example, managing at a corporate level might involve evolving policies on privacy, on internal investment, and on the use of data.

To distinguish the term *governance* from *government*: “governance” is what a “government” does. It might be a geo-political government, a corporate government, a socio-political government or any number of different kinds of government, but governance is the physical exercise of management power and policy, while government is the instrument that does it. The term government is also used more abstractly as a synonym for governance, as in the Canadian motto, “Peace, Order and *Good Government*”.

The word *governance* derives from the Greek verb *kubernáo* which means *to steer* and was used for the first time in a metaphorical sense by Plato. It then passed on to Latin and then on to many languages.

Processes and Governance

As a process, governance may operate in an organization of any size: from a single human being to all of humanity; and it may function for any purpose, good or evil, for profit or not. A reasonable or rational purpose of governance might aim to assure, that an organization produces a worthwhile pattern of good results while avoiding an undesirable pattern of bad circumstances. Perhaps the moral and natural purpose of governance consists of assuring, on behalf of those governed, a worthy pattern of good while avoiding an undesirable pattern of bad.

The ideal purpose, obviously, would assure a perfect pattern of good with no bad. A government, comprises a set of inter-related positions that govern and that use or exercise power, particularly coercive power.

A good government, following this line of thought, could consist of a set of inter-related positions exercising coercive power that assures, on behalf of those governed, a worthwhile pattern of good results while avoiding an undesirable pattern of bad circumstances, by making decisions that define expectations, grant power, and verify performance.

Politics provides a means by which the governance process operates. For example, people may choose expectations by way of political activity; they may grant power through political action, and they may judge performance through political behaviour.

Conceiving of governance in this way, one can apply the concept to states, to corporations, to non-profits, to NGOs, to partnerships and other associations, to project-teams, and to any number of humans engaged in some purposeful activity.

Different Definitions

The World Bank defines governance as:

- The exercise of political authority and the use of institutional resources to manage society's problems and affairs.

The Worldwide Governance Indicators project of the World Bank defines governance as:

- The traditions and institutions by which authority in a country is exercised.

This considers the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies and the respect of citizens and the state of the institutions that govern economic and social interactions among them.

An alternate definition sees governance as:

- The use of institutions, structures of authority and even collaboration to allocate resources and coordinate or control activity in society or the economy.

The United Nations Development Programme's Regional Project on Local Governance for Latin America:

- Governance has been defined as the rules of the political system to solve conflicts between actors and adopt decision. It has also been used to describe the "proper functioning of institutions and their acceptance by the public". And it has been used to invoke the efficacy of government and the achievement of consensus by democratic means.

The State and Politics

Some suggest making a clear distinction between the concepts of governance and of politics.

Politics involves processes by which a group of people with initially divergent opinions or interests reach collective decisions generally regarded as binding on the group, and enforced as common policy.

Governance, on the other hand, conveys the administrative and process-oriented elements of governing rather than its antagonistic ones. Such an argument continues to assume the

possibility of the traditional separation between “politics” and “administration”. Contemporary governance practice and theory sometimes questions this distinction, premising that both “governance” and “politics” involve aspects of power.

In general terms, governance occurs in three broad ways:

- Through networks involving public-private partnerships or with the collaboration of community organisations;
- Through the use of market mechanisms whereby market principles of competition serve to allocate resources while operating under government regulation;
- Through top-down methods that primarily involve governments and the state bureaucracy.

These modes of governance often appear in terms of hierarchy, markets, and networks - but also in democracies. For instance, the tripartite governance of the United States consists of three branches of power.

Corporate Organizations

Corporate organizations often use the word governance to describe both:

- The laws and customs applying to that direction
- The manner in which boards or their like direct a corporation.

Fair Governance

A fair governance implies that mechanisms function in a way that allows the executives to respect the rights and interests of the stakeholders in a spirit of democracy.

In contrast to the traditional meaning of “governance”, some authors like James Rosenau have used the term “global governance” to denote the regulation of interdependent relations in the absence of an overarching political authority. The best example of this in the international system or relationships between independent states. The term can however apply wherever a group of free equals need to form a regular relationship.

Corporate Governance

Corporate governance consists of the set of processes, customs, policies, laws and institutions affecting the way people direct, administer or control a corporation. Corporate governance also includes the relationships among the many players involved and the corporate goals.

The principal players include the shareholders, management, and the board of directors. Other stakeholders include employees, suppliers, customers, banks and other lenders, regulators, the environment and the community at large.

The first documented use of the word “corporate governance” is by Richard Eells to denote “the structure and functioning of

the corporate polity”. The “corporate government” concept itself is older and was already used in finance textbooks at the beginning of the 20th century. These origins support a multiple constituency definition of corporate governance.

Project Governance

The term *governance* as used in industry describes the processes that need to exist for a successful project.

Information Technology Governance

IT Governance primarily deals with connections between business focus and IT management. The goal of clear governance is to assure the investment in IT generate business value and mitigate the risks that are associated with IT projects.

Participatory Governance

Participatory Governance focuses on deepening democratic engagement through the participation of citizens in the processes of governance with the state.

The idea is that citizens should play a more direct roles in public decision-making or at least engage more deeply with political issues. Government officials should also be responsive to this kind of engagement. In practice, Participatory Governance can supplement the roles of citizens as voters or as watchdogs through more direct forms of involvement.

Non-Profit Governance

Non-profit governance focuses primarily on the fiduciary responsibility that a board of trustees has with respect to the exercise of authority over the explicit public trust that is understood to exist between the mission of an organization and those whom the organization serves.

Measuring Governance

Over the last decade, several efforts have been conducted in the research and international development community in order to assess and measure the quality of governance of countries all around the world.

Measuring governance is inherently a controversial and political exercise. A distinction is therefore made between external assessments, peer assessments and self-assessments. Examples of external assessments may be donor assessments or comparative indices produced by international non-governmental organisations. An example of a peer assessment may be the African Peer Review Mechanism. Examples of self-assessments may be country-led assessments that can be led by Government, civil society, researchers and/or other stakeholders at the national level.

One of these efforts to create an internationally comparable measure of governance and an example of an external assessment is the Worldwide Governance Indicators project,

developed by members of the World Bank and the World Bank Institute. The project reports aggregate and individual indicators for more than 200 countries for six dimensions of governance: voice and accountability, political stability and lack of violence, government effectiveness, regulatory quality, rule of law, control of corruption. To complement the macro-level cross-country Worldwide Governance Indicators, the World Bank Institute developed the World Bank Governance Surveys, which are a country level governance assessment tools that operate at the micro or sub-national level and use information gathered from a country's own citizens, business people and public sector workers to diagnose governance vulnerabilities and suggest concrete approaches for fighting corruption. A new World Governance Index has been developed and is open for improvement through public participation. The following domains, in the form of indicators and composite indexes, were selected to achieve the development of the WGI: Peace and Security, Rule of Law, Human Rights and Participation, Sustainable Development, and Human Development.

Additionally, in 2009 the Bertelsmann Foundation published the Sustainable Governance Indicators, which systematically measure the need for reform and the capacity for reform within the Organisation for Economic Co-operation and Development countries. The project examines to what extent governments can identify, formulate and implement effective reforms that render a society well-equipped to meet future challenges, and ensure their future viability.

Examples of country-led assessments include the Indonesian Democracy Index, monitoring of the Millennium Development Goal 9 on Human Rights and Democratic Governance in Mongolia and the Gross National Happiness Index in Bhutan.

Seat of Government

The seat of government is defined by Brewer's Politics as "the building, complex of buildings or city from which a government exercises its authority". The seat of government is usually located in the capital. In some countries the seat of government differs from the capital, *e.g.* in the Netherlands where The Hague is the seat of government and Amsterdam is the Capital of the Netherlands. In most it is the same city, for example Ankara as the capital and seat of government of Turkey. In the United Kingdom, the seat of government is Westminster, a city within London, the capital.

The State and Sovereignty

A sovereign state is a state with a defined territory on which it exercises internal and external sovereignty, a permanent population, a government, and the capacity to enter into relations with other sovereign states. It is also normally understood to be a state which is neither dependent on nor subject to any other power or state. While in abstract terms a sovereign state can exist without being recognised by other sovereign states, unrecognised states will often find it hard to exercise full treaty-making powers and engage in diplomatic

relations with other sovereign states. The word “country” is often used to refer to sovereign states, although it means, originally, a geographic region. The first known states were created in ancient times in Egypt, Mesopotamia, India, China, Mexico, Peru and others, but it is only in relatively modern times that states have almost completely displaced alternative “stateless” forms of political organization of societies all over the planet. Roving bands of hunter-gatherers and even fairly sizable and complex tribal societies based on herding or agriculture have existed without any full-time specialized state organization, and these “stateless” forms of political organization have in fact prevailed for all of the prehistory and much of the history of the human species and civilization.

Initially states emerged over territories built by conquest in which one culture, one set of ideals and one set of laws have been imposed by force or threat over diverse nations by a civilian and military bureaucracy. Currently, that is not always the case and there are multinational states, federated states and autonomous areas within states. Additionally multiculturalism is currently adopted in many unitary and nation states following different processes of human migration such as population transfer, political migration, immigration and emigration.

Since the late 19th century, virtually the entirety of the world’s inhabitable land has been parcelled up into areas with more or less definite borders claimed by various states. Earlier, quite large land areas had been either unclaimed or uninhabited, or

inhabited by nomadic peoples who were not organised as states. However, even within present-day states there are vast areas of wilderness, like the Amazon Rainforest, which are uninhabited or inhabited solely or mostly by indigenous people. Also, there are states which do not hold *de facto* control over all of their claimed territory or where this control is challenged.

Currently the international community comprises around 200 sovereign states, the vast majority of which are represented in the United Nations. These states form what international relations theorists call a system, where each state takes into account the behaviour of other states when making their own calculations. From that point of view, states embedded in an international system face internal and external security and legitimation dilemmas. Recently the notion of an international community has been developed to refer to a group of states who have established rules, procedures, and institutions for the conduct of their relations. In this way the foundation has been laid for international law, diplomacy, formal regimes, and organizations.

Sovereignty is a term that is frequently misused. Up until the 19th century, the radicalised concept of a “standard of civilization” was routinely deployed to determine that certain peoples in the world were “uncivilised”, and lacking organised societies. That position was reflected and constituted in the notion that their “sovereignty” was either completely lacking, or at least of an inferior character when compared to that of

“civilised” peoples.” Lassa Oppenheim said “There exists perhaps no conception the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this conception, from the moment when it was introduced into political science until the present day, has never had a meaning which was universally agreed upon.” In the opinion of Justice Evatt of the High Court of Australia “sovereignty is neither a question of fact, nor a question of law, but a question that does not arise at all.”

Sovereignty has taken on a different meaning with the development of the principle of self-determination and the prohibition against the threat or use of force as *jus cogens* norms of modern international law. The UN Charter, the Declaration on Rights and Duties of States, and the charters of regional international organisations express the view that all states are juridically equal and enjoy the same rights and duties based upon the mere fact of their existence as persons under international law.

The right of nations to determine their own political status and exercise permanent sovereignty within the limits of their territorial jurisdictions is widely recognised.

In political science, sovereignty is usually defined as the most essential attribute of the state in the form of its complete self-sufficiency in the frames of a certain territory, that is its supremacy in the domestic policy and independence in the foreign one.

In casual usage, the terms “country”, “nation”, and “state” are often used as if they were synonymous; but in a more strict usage they can be distinguished:

- *Nation* denotes a people who are believed to or deemed to share common customs, religion, language, origins, ancestry or history. However, the adjectives *national* and *international* are frequently used to refer to matters pertaining to what are strictly *sovereign states*, as in *national capital*, *international law*.
- *State* refers to the set of governing and supportive institutions that have sovereignty over a definite territory and population.

Recognition

State recognition signifies the decision of a sovereign state to treat another entity as also being a sovereign state. Recognition can be either express or implied and is usually retroactive in its effects. It doesn't necessarily signify a desire to establish or maintain diplomatic relations.

There is no definition that is binding on all the members of the community of nations on the criteria for statehood. In actual practice, the criteria are mainly political, not legal. L.C. Green cited the recognition of the unborn Polish and Czech states in World War I and explained that “since recognition of statehood is a matter of discretion, it is open to any existing State to accept as a state any entity it wishes, regardless of the

existence of territory or of an established government.” In international law, however, there are several theories of when a state should be recognized as sovereign.

Constitutive Theory

The constitutive theory of statehood defines a state as a person of international law if, and only if, it is recognized as sovereign by other states. This theory of recognition was developed in the 19th century. Under it, a state was sovereign if another sovereign state recognized it as such. Because of this, new states could not immediately become part of the international community or be bound by international law, and recognized nations did not have to respect international law in their dealings with them.

In 1815 at the Congress of Vienna the Final Act only recognised 39 sovereign states in the European diplomatic system, and as a result it was firmly established that in future new states would have to be recognized by other states, and that meant in practice recognition by one or more of the great powers.

One of the major criticisms of this law is the confusion caused when some states recognize a new entity, but other states do not. Hersch Lauterpacht, one of the theory’s main proponents, suggested that it is a state’s duty to grant recognition as a possible solution. However, a state may use any criteria when judging if they should give recognition and they have no

obligation to use such criteria. Many states may only recognize another state if it is to their advantage.

In 1912, L. F. L. Oppenheim had the following to say on constitutive theory:

- International Law does not say that a State is not in existence as long as it is not recognised, but it takes no notice of it before its recognition. Through recognition only and exclusively a State becomes an International Person and a subject of International Law.

Declarative Theory

By contrast, the “declarative” theory defines a state as a person in international law if it meets the following criteria:

- A defined territory;
- A permanent population;
- A government and
- A capacity to enter into relations with other states.

Declarative theory, an entity’s statehood is independent of its recognition by other states. The declarative model was most famously expressed in the 1933 Montevideo Convention.

Article 3 of the Convention declares that statehood is independent of recognition by other states. In contrast, recognition is considered a requirement for statehood by the constitutive theory of statehood.

A similar opinion about “the conditions on which an entity constitutes a state” is expressed by the European Economic Community *Opinions of the Badinter Arbitration Committee*. The Badinter Arbitration Committee found that a state was defined by having a territory, a population, and a political authority.

State Practice

State practice relating the recognition states typically falls somewhere between the declaratory and constitutive approaches. International law does not require a state to recognise other states. Recognition is often withheld when a new state is seen as illegitimate or has come about in breach of international law. Almost universal non-recognition by the international community of Rhodesia and Northern Cyprus are good examples of this.

In the former case, recognition was widely withheld when the white minority seized power and attempted to form a state along the lines of Apartheid South Africa, a move that the United Nations Security Council described as the creation of an “illegal racist minority régime”. In the latter case, recognition was widely withheld from a state created in Northern Cyprus on land illegally invaded by Turkey in 1974.

De Facto and De Jure States

Most sovereign states are states *de jure* and *de facto*. However, sometimes states exist only as *de jure* states in that an

organisation is recognised as having sovereignty over and being the legitimate government of a territory over which they have no actual control. Many continental European states maintained governments-in-exile during the Second World War which continued to enjoy diplomatic relations with the Allies, notwithstanding that their countries were under Nazi occupation.

A present day example is the State of Palestine, which is recognized by multiple states, but doesn't have control over any of its claimed territory in Palestine and possess only extraterritorial areas. Other states may have sovereignty over a territory but lack international recognition; these are considered by the international community to be only *de facto* states. Somaliland is commonly considered to be such a state. For a list of entities that wish to be universally recognized as sovereign states, but do not have complete worldwide diplomatic recognition. *Nations and Nationalism* is an interdisciplinary academic journal covering nationalism and related issues. It is published quarterly on behalf of the Association for the Study of Ethnicity and Nationalism by Wiley-Blackwell. The journal is edited by Anthony D. Smith. The first issue of *Nations and Nationalism* was published in March 1995. In their editorial for that issue, Anthony D. Smith, Obi Igwara, Athena Leoussi, and Terry Mulhall described the need for a journal devoted to the study of nations and nationalism, and identified the three basic aims of the journal as:

- To be the vehicle of new research, both theoretical and empirical, and act as a forum for the exchange of views in the field;
- To identify and develop a separate subject-area as a field of study in its own right, and unify the body of scholars in the field;
- To bring to the attention of the wider scholarly community, and the public, the need to treat the subject-area as a well-defined field of interdisciplinary study, which requires the collaboration of scholars from a variety of intellectual backgrounds. In this part, you will explore the nature of the state system and right to self-determination, as well as different methods of accommodating nations or other groups within a state structure through regional governments, federalism, and other arrangements. Also, you will find links to information about several states around the world.

Nation State and political systems

The nation state is a state that self-identifies as deriving its political legitimacy from serving as a sovereign entity for a nation as a sovereign territorial unit. The state is a political and geopolitical entity; the nation is a cultural and/or ethnic entity. The term “nation state” implies that the two geographically coincide, which distinguishes the nation state from the other types of state, which historically preceded it. The concept of a nation state is sometimes contrasted with city state.

History and Origins

The origins and early history of nation states are disputed. A major theoretical issue is: “Which came first, the nation or the nation state?” For nationalists, the answer is that the nation existed first, nationalist movements arose to present its legitimate demand for sovereignty, and the nation state met that demand. Some “modernization theories” of nationalism see the national identity largely as a product of government policy to unify and modernize an already existing state. Most theories see the nation state as an 1800s European phenomenon, facilitated by developments such as mass literacy and the early mass media. However, historians also note the early emergence of a relatively unified state, and a sense of common identity, in Portugal and the Dutch Republic. In France, Eric Hobsbawm argues the French state preceded the formation of the French people. Hobsbawm considers that the state made the French nation, not French nationalism, which emerged at the end of the 19th century, the time of the Dreyfus Affair. At the time of the 1789 French Revolution, only half of the French people spoke some French, and 12-13% spoke it “fairly”—Hobsbawm.

During the Italian unification, the number of people speaking the Italian language was even lower. The French state promoted the unification of various dialects and languages into the French language. The introduction of conscription and the Third Republic’s 1880s laws on public instruction, facilitated the creation of a national identity, under this theory.

The theorist Benedict Anderson argues that nations are “imagined communities” and that the main causes of nationalism and the creation of an imagined community are the reduction of privileged access to particular script languages, the movement to abolish the ideas of divine rule and monarchy, as well as the emergence of the printing press under a system of capitalism. The “state-driven” theories of the origin of nation states tend to emphasize a few specific states, such as England and its rival France. These states expanded from core regions, and developed a national consciousness and sense of national identity.

Both assimilated peripheral nations; these areas experienced a revival of interest in the national culture in the 19th century, leading to the creation of autonomist movements in the 20th century.

Some nation states, such as Germany or Italy, came into existence at least partly as a result of political campaigns by nationalists, during the 19th century. In both cases, the territory was previously divided among other states, some of them very small.

The sense of common identity was at first a cultural movement, such as in the *Völkisch movement* in German-speaking states, which rapidly acquired a political significance. In these cases, the nationalist sentiment and the nationalist movement clearly precede the unification of the German and Italian nation states.

Historians Hans Kohn, Liah Greenfeld, Philip White and others have classified nations such as Germany or Italy, where cultural unification preceded state unification, as *ethnic nations* or *ethnic nationalities*. Whereas ‘state-driven’ national unification’s, such as in France, England or China, are more likely to flourish in multiethnic societies, producing a traditional national heritage of *civic nations*, or *territory-based nationalities*.

The idea of a nation state is associated with the rise of the modern system of states, often called the “Westphalian system” in reference to the Treaty of Westphalia. The balance of power, which characterizes that system, depends for its effectiveness upon clearly defined, centrally controlled, independent entities, whether empires or nation states, which recognize each others sovereignty and territory. The Westphalian system did not create the nation state, but the nation state meets the criteria for its component states.

The nation state received a philosophical underpinning in the era of Romanticism, at first as the ‘natural’ expression of the individual peoples. The increasing emphasis during the 19th century on the ethnic and racial origins of the nation, led to a redefinition of the nation state in these terms. Racism, which in Boulainvilliers’s theories was inherently antipatriotic and antinationalist, joined itself with colonialist imperialism and “continental imperialism”, most notably in pan-Germanic and pan-Slavic movements.

The relation between racism and ethnic nationalism reached its height in the 1900s fascism and Nazism. The specific combination of 'nation' and 'state' expressed in such terms as the *Völkische Staat* and implemented in laws such as the 1935 Nuremberg laws made fascist states such as early Nazi Germany qualitatively different from non-fascist nation states. Obviously, minorities, who are not part of the *Volk*, have no authentic or legitimate role in such a state. In Germany, neither Jews nor the Roma were considered part of the *Volk*, and were specifically targeted for persecution. However German nationality law defined 'German' on the basis of German ancestry, excluding *all* non-Germans from the 'Volk'. In recent years, the nation state's claim to absolute sovereignty within its borders has been much criticized. A global political system based on international agreements and supra-national blocs characterized the post-war era. Non-state actors, such as international corporations and non-governmental organizations, are widely seen as eroding the economic and political power of nation states, potentially leading to their eventual disappearance.

Before Nation States

In Europe, in the 18th century, the classic non-national states were the *multiethnic* empires, and smaller states at what would now be called sub-national level. The multi-ethnic empire was a monarchy ruled by a king, emperor or sultan. The population belonged to many ethnic groups, and they spoke many languages. The empire was dominated by one ethnic group, and

their language was usually the language of public administration. The ruling dynasty was usually, but not always, from that group.

This type of state is not specifically European: such empires existed on all continents, excepting Australia and Antarctica. Some of the smaller European states were not so ethnically diverse, but were also dynastic states, ruled by a royal house. Their territory could expand by royal intermarriage or merge with another state when the dynasty merged. In some parts of Europe, notably Germany, very small territorial units existed. They were recognised by their neighbours as independent, and had their own government and laws. Some were ruled by princes or other hereditary rulers, some were governed by bishops or abbots. Because they were so small, however, they had no separate language or culture: the inhabitants shared the language of the surrounding region.

In some cases these states were simply overthrown by nationalist uprisings in the 19th century. Liberal ideas of free trade played a role in German unification, which was preceded by a customs union, the Zollverein. However, the Austro-Prussian War, and the German alliances in the Franco-Prussian War, were decisive in the unification. The Austro-Hungarian Empire and the Ottoman Empire broke up after the First World War and the Russian Empire became the Soviet Union, after the Russian Civil War. A few of the smaller states survived: the independent principalities of Liechtenstein, Andorra, Monaco, and the republic of San Marino.

Characteristics of the Nation State

Nation states have their own characteristics, differing from those of the pre-national states. For a start, they have a different attitude to their territory, compared to the dynastic monarchies: it is semisacred, and nontransferable. No nation would swap territory with other states simply, for example, because the king's daughter got married. They have a different type of border, in principle defined only by the area of settlement of the national group, although many nation states also sought natural borders. The most noticeable characteristic is the degree to which nation states use the state as an instrument of national unity, in economic, social and cultural life.

The nation state promoted economic unity, by abolishing internal customs and tolls. In Germany, that process, the creation of the Zollverein, preceded formal national unity. Nation states typically have a policy to create and maintain a national transportation infrastructure, facilitating trade and travel.

In 19th-century Europe, the expansion of the rail transport networks was at first largely a matter for private railway companies, but gradually came under control of the national governments. The French rail network, with its main lines radiating from Paris to all corners of France, is often seen as a reflection of the centralised French nation state, which directed its construction. Nation states continue to build, for

instance, specifically national motorway networks. Specifically, transnational infrastructure programmes, such as the Trans-European Networks, are a recent innovation. The nation states typically had a more centralised and uniform public administration than its imperial predecessors: they were smaller, and the population less diverse. After the 19th-century triumph of the nation state in Europe, regional identity was subordinate to national identity, in regions such as Alsace-Lorraine, Catalonia, Brittany, Sicily, Sardinia and Corsica. In many cases, the regional administration was also subordinated to central government. This process was partially reversed from the 1970s onward, with the introduction of various forms of regional autonomy, in formerly centralised states such as France.

The most obvious impact of the nation state, as compared to its non-national predecessors, is the creation of a uniform national culture, through state policy. The model of the nation state implies that its population constitutes a nation, united by a common descent, a common language and many forms of shared culture. When the implied unity was absent, the nation state often tried to create it. It promoted a uniform national language, through language policy. The creation of national systems of compulsory primary education and a relatively uniform curriculum in secondary schools, was the most effective instrument in the spread of the national languages. The schools also taught the national history, often in a propagandistic and mythologised version, and some nation states still teach this kind of history.

Language and cultural policy was sometimes negative, aimed at the suppression of non-national elements. Language prohibitions were sometimes used to accelerate the adoption of national languages, and the decline of minority languages.

In some cases, these policies triggered bitter conflicts and further ethnic separatism. But where it worked, the cultural uniformity and homogeneity of the population increased. Conversely, the cultural divergence at the border became sharper: in theory, a uniform French identity extends from the Atlantic coast to the Rhine, and on the other bank of the Rhine, a uniform German identity begins. To enforce that model, both sides have divergent language policy and educational systems, although the linguistic boundary is in fact well inside France, and the Alsace region changed hands four times between 1870 and 1945.

The Nation State in Practice

In some cases, the geographic boundaries of an ethnic population and a political state largely coincide. In these cases, there is little immigration or emigration, few members of ethnic minorities, and few members of the “home” ethnicity living in other countries.

Clear examples of nation states include the following:

- *Albania:* The vast majority of the population is ethnically Albanian at about 98.6% of the

population, with the remainder consisting of a few small ethnic minorities.

- *Armenia*: The vast majority of Armenia's population consists of ethnic Armenians at about 98% of the population, with the remainder consisting of a few small ethnic minorities.
- *Bangladesh*: The vast majority ethnic group of Bangladesh are the Bengali people, comprising 98% of the population, with the remainder consisting of mostly Bihari migrants and indigenous tribal groups. Therefore, Bangladeshi society is to a great extent linguistically and culturally homogeneous, with very small populations of foreign expatriates and workers, although there is a substantial number of Bengali workers living abroad.
- *Egypt*: The vast majority of Egypt's population consists of ethnic Egyptians at about 99% of the population, with the remainder consisting of a few small ethnic minorities, as well as refugees or asylum seekers. Modern Egyptian identity is closely tied to the geography of Egypt and its long history, its development over the centuries saw overlapping or conflicting ideologies. Though today an Arabic-speaking people, that aspect constitutes for Egyptians a cultural dimension of their identity, not a necessary attribute of or prop for their national political being. Today most Egyptians see themselves, their history, culture and language as specifically Egyptian and not "Arab."
- *Hungary*: The Hungarians or the Magyar people consist of about 95% of the population, with a small Roma and German minority.

- *Iceland*: Although the inhabitants are ethnically related to other Scandinavian groups, the national culture and language are found only in Iceland. There are no cross-border minorities, the nearest land is too far away
- *Japan*: Japan is also traditionally seen as an example of a nation state and also the largest of the nation states, with population in excess of 120 million. It should be noted that Japan has a small number of minorities such as Ryûkyû peoples, Koreans and Chinese, and on the northern island of Hokkaidô, the indigenous Ainu minority. However, they are either numerically insignificant, their difference is not as pronounced or well assimilated.
- *Lebanon*: The Arabic-speaking Lebanese consist at about 95% of the population, with the remainder consisting of a few small ethnic minorities, as well as refugees or asylum seekers. Modern Lebanese identity is closely tied to the geography of Lebanon and its history. Although they are now an Arabic-speaking people and ethnically homogeneous, its identity oversees overlapping or conflicting ideologies between its Phoenician heritage and Arab heritage. While many Lebanese regard themselves as Arab, other Lebanese regard themselves, their history, and their culture as Phoenician and not Arab, while still other Lebanese regard themselves as both.
- *Lesotho*: Lesotho's ethno-linguistic structure consists almost entirely of the Basotho, a Bantu-speaking people; about 99.7% of the population are Basotho.

- *Maldives*: The vast majority of the population is ethnically Dhivehi at about 98% of the population, with the remainder consisting of foreign workers; there are no indigenous ethnic minorities.
- *Malta*: The vast majority of the population is ethnically Maltese at about 95.3% of the population, with the remainder consisting of a few small ethnic minorities.
- *Mongolia*: The vast majority of the population is ethnically Mongol at about 95.0% of the population, with the remainder consisting of a few ethnic minorities included in Kazakhs.
- North and South Korea, are one of the most ethnically and linguistically homogeneous in the world. Particularly in reclusive North Korea, there are very few ethnic minority groups and expatriate foreigners.
- *Poland*: After World War II, with the extermination of the Jews by the invading German Nazis during the Holocaust, the Expulsion of Germans after World War II and the loss of eastern territories, 96.7% of the people of Poland claim Polish nationality, and 97.8% declare that they speak Polish at home.
- Several Polynesian countries such as Tonga, Samoa, Tuvalu, etc.
- *Portugal*: Although surrounded by other lands and people, the Portuguese nation has occupied the same territory since the romanization or latinization of the native population during the Roman era. The modern Portuguese nation is a very old amalgam of formerly distinct historical populations that passed through and settled in the territory of modern Portugal:

native Iberian peoples, Celts, ancient Mediterraneans, invading Germanic peoples like the Suebi and the Visigoths, and Muslim Arabs and Berbers. Most Berber/Arab people and the Jews were expelled from the Iberian Peninsula during the Reconquista and the repopulation by Christians.

- *San Marino*: The Sammarinese make up about 97% of the population and all speak Italian and are ethnically and linguistically identical to Italians. San Marino is a landlocked enclave, completely surrounded by Italy. The state has a population of approximately 30,000, including 1,000 foreigners, most of whom are Italians.
- *Swaziland*: The vast majority of the population is ethnically Swazi at about 98.6% of the population, with the remainder consisting of a few small ethnic minorities.

The notion of a unifying “national identity” also extends to countries that host multiple ethnic or language groups, such as India and China. For example, Switzerland is constitutionally a confederation of cantons, and has four official languages, but it has also a ‘Swiss’ national identity, a national history and a classic national hero, Wilhelm Tell.

Innumerable conflicts have arisen where political boundaries did not correspond with ethnic or cultural boundaries. For one example, the Hatay Province was transferred to Turkey from Syria after the majority-Turkish population complained of mistreatment. The traditional homeland of the Kurdish people extends between northern Iraq, southeastern Turkey, and

western Iran. Some of its inhabitants call for the creation of an independent Kurdistan, citing mistreatment by the Turkish and Iraqi governments. An armed conflict between the terrorist Kurdistan Workers Party and the Turkish government over this issue has been ongoing since 1984.

After WWII in the Tito era, nationalism was appealed to for uniting South Slav peoples. Later in the 20th century, after the break-up of the Soviet Union, leaders appealed to ancient ethnic feuds or tensions that ignited conflict between the Serbs, Croats and Slovenes, as well Bosnians,

Montenegrins and Macedonians, eventually breaking up the long collaboration of peoples and ethnic cleansing was carried out in the Balkans, resulting in the destruction of the formerly communist republic and produced the civil wars in Bosnia and Herzegovina in 1992–95, resulted in mass population displacements and segregation that radically altered what was once a highly diverse and intermixed ethnic makeup of the region.

These conflicts were largely about creating a new political framework of states, each of which would be ethnically and politically homogeneous. Serbians, Croatians and Bosnians insisted they were ethnically distinct although many communities had a long history of intermarriage.

All could speak the common Serbo-Croatian Language. Presently Slovenia (89% Slovene), Croatia (88% Croat) and

Serbia (83% Serb) could be classified as nation states per se, whereas Macedonia (66% Macedonian), Montenegro (42% Montenegrin) and Bosnia and Herzegovina (47% Bosniak) are multinational states.

Belgium is a classic example of an artificial state that is not a nation state. The state was formed by secession from the United Kingdom of the Netherlands in 1830, whose neutrality and integrity was protected by the Treaty of London 1839; thus it served as a buffer state between the European powers France, Prussia, the United Kingdom and the Kingdom of the Netherlands until World War I. Belgium is divided between the Flemings, the French-speaking and the German-speaking. The Flemish population in the north speaks Dutch, the Walloon population in the south speaks French and/or German]. The Brussels population speaks French and/or Flemish.

The Flemish identity is also ethnic and cultural, and there is a strong separatist movement espoused by the political parties, Vlaams Belang and the Nieuw-Vlaamse Alliantie. The Francophone Walloon identity of Belgium is linguistically distinct and regionalist. There is also a unitary Belgian nationalism, several versions of a Greater Netherlands ideal, and a German-speaking community of Belgium annexed from Prussia in 1920, and re-annexed by Germany in 1940–1944. However these ideologies are all very marginal and politically insignificant during elections. China covers a large geographic area and uses the concept of “Zhonghua minzu” or Chinese nationality, in the sense of ethnic groups, but it also officially

recognizes the majority Han ethnic group, and no fewer than 55 ethnic national minorities.

The United Kingdom

The United Kingdom is a complex example of a nation state, due to its “countries within a country” status. The UK is a unitary state formed initially by the merger of two independent kingdoms, the Kingdom of England and the Kingdom of Scotland, but the Treaty of Union that set out the agreed terms has ensured the continuation of distinct features of each state, including separate legal systems and separate national churches.

In 2003, the British Government described the United Kingdom as “countries within a country”. While the Office for National Statistics and others describe the United Kingdom as a “nation state”, others, including a then Prime Minister, describe it as a “multinational state”, and the term Home Nations is used to describe the four national teams that represent the four nations of the United Kingdom.

Estonia

Although Estonia is a country with very diverse demographic situation with over 100 different ethnic groups whereas only 68.7% are Estonians and the biggest minority group being Russians, the constitution defines as one of the main reasons of the Estonian independence the goal to preserve the Estonian

language, nation and culture, therefore Estonia could be still seen as a nation state despite the demographic situation.

The constitution reads:

- [The Estonian state] which shall guarantee the preservation of the Estonian nation, language and culture through the ages.

Israel

Israel's definition of a nation state differs from other countries as its concept of a nation state is based on the Ethnoreligious group rather than solely on ethnicity, while the ancient mother language of the Jews, Hebrew, was revived as a unifying bond between them as a national and official language.

Israel was founded as a Jewish state in 1948, and the country's Basic Laws describe it as both a Jewish and a democratic state. The Israel Central Bureau of Statistics, 75.7% of Israel's population is Jewish. Large numbers of Jews continue to emigrate to Israel. Arabs, who make up 20.4% of the population, are the largest ethnic minority in Israel. Israel also has very small communities of Armenians, Circassians, Assyrians, Samaritans, and persons of some Jewish heritage. There are also some non-Jewish spouses of Israeli Jews. However, these communities are very small, and usually number only in the hundreds or thousands.

Minorities

The most obvious deviation from the ideal of 'one nation, one state', is the presence of minorities, especially ethnic minorities, which are clearly not members of the majority nation. An ethnic nationalist definition of a nation is necessarily exclusive: ethnic nations typically do not have open membership. In most cases, there is a clear idea that surrounding nations are different, and that includes members of those nations who live on the 'wrong side' of the border. Historical examples of groups, who have been specifically singled out as *outsiders*, are the Roma and Jews in Europe.

Negative responses to minorities within the nation state have ranged from cultural assimilation enforced by the state, to expulsion, persecution, violence, and extermination. The assimilation policies are usually enforced by the state, but violence against minorities is not always state initiated: it can occur in the form of mob violence such as lynching or pogroms. Nation states are responsible for some of the worst historical examples of violence against minorities: minorities not considered part of the nation.

However, many nation states accept specific minorities as being part of the nation, and the term *national minority* is often used in this sense. The Sorbs in Germany are an example: for centuries they have lived in German-speaking states, surrounded by a much larger ethnic German population, and they have no other historical territory. They are now generally

considered to be part of the German nation and are accepted as such by the Federal Republic of Germany, which constitutionally guarantees their cultural rights. Of the thousands of ethnic and cultural minorities in nation states across the world, only a few have this level of acceptance and protection.

Multiculturalism is an official policy in many states, establishing the ideal of peaceful existence among multiple ethnic, cultural, and linguistic groups. Many nations have laws protecting minority rights.

When national boundaries that do not match ethnic boundaries are drawn, such as in the Balkans and Central Asia, ethnic tension, massacres and even genocide, sometimes has occurred historically.

Irredentism

Ideally, the border of a nation state extends far enough to include all the members of the nation, and all of the national homeland. Again, in practice some of them always live on the 'wrong side' of the border. Part of the national homeland may be there too, and it may be governed by the 'wrong' nation. The response to the non-inclusion of territory and population may take the form of irredentism: demands to annex *unredeemed* territory and incorporate it into the nation state.

Irredentist claims are usually based on the fact that an identifiable part of the national group lives across the border.

However, they can include claims to territory where no members of that nation live at present, because they lived there in the past, the national language is spoken in that region, the national culture has influenced it, geographical unity with the existing territory, or a wide variety of other reasons. Past grievances are usually involved and can cause revanchism.

It is sometimes difficult to distinguish irredentism from pan-nationalism, since both claim that all members of an ethnic and cultural nation belong in one specific state. Pan-nationalism is less likely to specify the nation ethnically. For instance, variants of Pan-Germanism have different ideas about what constituted Greater Germany, including the confusing term *Grossdeutschland*, which, in fact, implied the inclusion of huge Slavic minorities from the Austro-Hungarian Empire.

Typically, irredentist demands are at first made by members of non-state nationalist movements. When they are adopted by a state, they typically result in tensions, and actual attempts at annexation are always considered a *casus belli*, a cause for war. In many cases, such claims result in long-term hostile relations between neighbouring states. Irredentist movements, typically circulate maps of the claimed national territory, the *greater* nation state. That territory, which is often much larger than the existing state, plays a central role in their propaganda.

Irredentism should not be confused with claims to overseas colonies, which are not generally considered part of the national homeland. Some French overseas colonies would be an exception: French rule in Algeria unsuccessfully treated the colony as a *département* of France.

Future

It has been speculated by both proponents of globalization and various science fiction writers that the concept of a nation state may disappear with the ever-increasingly interconnected nature of the world. Such ideas are sometimes expressed around concepts of a world government. Another possibility is a societal collapse and move into communal anarchy or zero world government, in which nation states no longer exist and government is done on the local level based on a global ethic of human rights.

This falls into line with the concept of internationalism, which states that sovereignty is an outdated concept and a barrier to achieving peace and harmony in the world, thus also stating that nation states are also a similar outdated concept. If the nation state begins to disappear, it may well be the direct or indirect result of globalization and internationalism. The two concepts state that sovereignty is an outdated concept and, as the concept and existence of a nation state depends on 'untouchable' sovereignty, it is therefore reasonable to assume that. Globalization especially has helped to bring about the discussion about the disappearance of nation states, as global

trade and the rise of the concepts of a 'global citizen' and a common identity have helped to reduce differences and 'distances' between individual nation states, especially with regards to the internet.

Clash of Civilizations

In direct contrast to cosmopolitan theories about an ever more connected world that no longer requires nation states, is the Clash of Civilizations theory. The proposal by political scientist Samuel P. Huntington is that people's cultural and religious identities will be the primary source of conflict in the post-Cold War world.

The theory was originally formulated in a 1992 lecture at the American Enterprise Institute, which was then developed in a 1993 *Foreign Affairs* article titled "The Clash of Civilizations?", in response to Francis Fukuyama's 1992 book, *The End of History and the Last Man*. Huntington later expanded his thesis in a 1996 book *The Clash of Civilizations and the Remaking of World Order*.

Huntington began his thinking by surveying the diverse theories about the nature of global politics in the post-Cold War period. Some theorists and writers argued that human rights, liberal democracy and capitalist free market economics had become the only remaining ideological alternative for nations in the post-Cold War world. Specifically, Francis Fukuyama argued that the world had reached the 'end of

history' in a Hegelian sense. Huntington believed that while the age of ideology had ended, the world had reverted only to a normal state of affairs characterized by cultural conflict. In his thesis, he argued that the primary axis of conflict in the future will be along cultural and religious lines. As an extension, he posits that the concept of different civilizations, as the highest rank of cultural identity, will become increasingly useful in analysing the potential for conflict. *In the 1993 Foreign Affairs article, Huntington writes:*

- It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilizations. The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of the future.

Scholar Sandra Joireman suggests that Huntington may be characterised as a neo-primordialist since while he sees people as having strong ties to their ethnicity, he does not believe that these ties have always existed.

Power

Political power is a type of power held by a group in a society which allows administration of some or all of public resources,

including labour, and wealth. There are many ways to obtain possession of such power. At the nation-state level political legitimacy for political power is held by the representatives of national sovereignty. Political powers are not limited to heads of states, however the extent to which a person or group such as an insurgency, terrorist group, or multinational corporation possesses such power is related to the amount of societal influence they can wield, formally or informally. In many cases this influence is not contained within a single state and it refers to international power. Political scientists have frequently defined power as “*the ability to influence the behaviour of others*” with or without resistance.

For analytical reasons, I.C. MacMillan separates the concepts power:

- Power is the capacity to restructure actual situations.—I.C. Macmillan
- Influence is the capacity to control and modify the perceptions of others.—I.C. Macmillan

One of the most famous references to power comes from the Chinese communist leader Mao Zedong:

- Political power grows from the barrel of a gun.— Mao Zedong

This quote has been widely misinterpreted, however. Mao explained further that, “Our principle is that the Party commands the gun, and the gun must never be allowed to

command the Party.” *In contrast to Mao Zedong, Hannah Arendt claims that power and violence are opposites and that power is:*

- “The human ability...to act in concert.”

Political Power and the Question of Good and Evil

Some opinions representative of Enlightenment, 19th century, modern, and post-modern views on the relationship between political power and concepts of justice, good and evil:

- [J]udicial power, that sure criterion of the goodness of a Government...is, in a word, a necessary evil. — Jean-Louis de Lolme
- The power to rule is a necessary evil, and by this same token, alas, it can be called a good.— Émile Chartier
- Constituted power is concentrated power. — Giorgio Agamben
- [Constituted power] is the product of a grey, incessant alchemy in which good and evil and, along with them, all the metals of traditional ethics reach their point of fusion. It thus becomes a question of irresponsibility and “impotentia iudicandi” [the inability to judge]...though one that is situated not beyond good and evil, but rather before. — Giorgio Agamben

Separation of Powers

Charles de Secondat, baron de Montesquieu claimed that without following a principle of containing and balancing

power, the world is constantly at risk. Separation of power must be in such grade, that any of the branches can operate without excessive limitations from the others; but interdependency between them must also be in such grade, that one single branch cannot rule out the other's decisions. This is the separation of powers principle.

Division of Power

A similar concept, termed "division of power", also consists of differentiated legislative, executive, and judicial powers. However, while separation of powers prohibits one branch from interfering with another, division of power permits such interference.

For example, in Indonesia, the President can introduce a new bill, but the People's Consultative Assembly chooses to either legalize or reject the bill.

The model here is the Checks and balances system introduced in the United States Constitution.

Power Projection

This ability is a crucial element of a state's power in international relations. Any state able to direct its military forces outside the limited bounds of its territory might be said to have *some* level of power projection capability, but the term itself is used most frequently in reference to militaries with a worldwide reach.

Even states with sizable hard power assets may only be able to exert limited regional influence so long as they lack the means of effectively projecting their power on a global scale. Generally, only a select few states are able to overcome the logistical difficulties inherent in the deployment and direction of a modern, mechanized military force. While traditional measures of power projection typically focus on hard power assets, the developing theory of soft power notes that power projection does not necessarily have to involve the active use of military forces in combat.

Assets for power projection can often serve dual uses, as the deployment of various countries' militaries during the humanitarian response to the 2004 Indian Ocean earthquake illustrates. The ability of a state to project its forces into an area may serve as an effective diplomatic lever, influencing the decision-making process and acting as a potential deterrent on other states' behaviour.

Political Science Perspectives

Within normative political analysis, there are also various levels of power as described by academics that add depth into the understanding of the notion of power and its political implications. Robert Dahl, a prominent American political scientist, first ascribed to political power the trait of decision-making as the source and main indicator of power. Later, two other political scientists, Peter Bachrach and Morton Baratz, decided that simply ascribing decision-making as the basis of

power was too simplistic and they added what they termed a second dimension of power, agenda-setting by elites who worked in the backrooms and away from public scrutiny in order to exert their power upon society. Lastly, British academic Steven Lukes added a third dimension of power, preference-shaping, which he claimed was another important aspect of normative power in politics which entails theoretical views similar to notions of cultural hegemony. These three dimensions of power are today often considered defining aspects of political power by political researchers.

A radical alternative view of the source of political power follows the formula: information plus authority permits the exercise of power. Political power is intimately related to information. Sir Francis Bacon's statement: "Nam et ipsa scientia potentia est" for knowledge itself is power, assumed authority as given.

Hannah Arendt begins by commenting that political theorists from right to left all seem to agree that violence is "the most flagrant manifestation of power." Arendt says that violence and power are opposites and defines power as the ability of citizens to act in concert. "Power is never the property of an individual; it belongs to the group and remains in existence only so long as the group keeps together. When we say of somebody that he "is in power" we actually refer to his being empowered by a certain number of people to act in their name." From her perspective that power and violence are opposites, Arendt correctly judged that the invasion of Czechoslovakia in 1968

was a sign of the diminishing power of the Soviet Union and not a sign of power.

Authority

The word Authority is derived mainly from the Latin word *auctoritas*, meaning invention, advice, opinion, influence, or command. In English, the word 'authority' can be used to mean power given by the state or by academic knowledge of an area.

Weber on Authority

Max Weber, in his sociological and philosophical work, identified and distinguished three types of legitimate domination, that have sometimes been rendered in English translation as types of authority, because domination isn't seen as a political concept in the first place. Weber defined domination as the chance of commands being obeyed by a specifiable group of people. Legitimate authority is that which is recognized as legitimate and justified by both the ruler and the ruled.

Weber divided legitimate authority into three types:

- The first type discussed by Weber is *Rational-legal authority*. It is that form of authority which depends for its legitimacy on formal rules and established laws of the state, which are usually written down and are often very complex. The power of the rational legal authority is mentioned in the constitution.

Modern societies depend on legal-rational authority. Government officials are the best example of this form of authority, which is prevalent all over the world.

- The second type of authority is *Traditional authority*, which derives from long-established customs, habits and social structures. When power passes from one generation to another, then it is known as traditional authority. The right of hereditary monarchs to rule furnishes an obvious example. The Tudor dynasty in England and the ruling families of Mewar, in Rajasthan are some examples of traditional authority.
- The third form of authority is *Charismatic authority*. Here, the charisma of the individual or the leader plays an important role. Charismatic authority is that authority which is derived from “the gift of grace” or when the leader claims that his authority is derived from a “higher power” or “inspiration”, that is superior to both the validity of traditional and rational-legal authority and followers accept this and are willing to follow this higher or inspired authority, in the place of the authority that they have hitherto been following. Examples in this regard can be NT Rama Rao, a matinee idol, who went on to become one of the most powerful Chief Ministers of Andhra Pradesh.

History has witnessed several social movements or revolutions, against a system of traditional or legal-rational authority, which are usually started by Charismatic authorities. Weber states that what distinguishes authority, from coercion, force

and power on the one hand and leadership, persuasion and influence on the other hand, is legitimacy. Superiors, he states, feel that they have a right to issue commands; subordinates perceive an obligation to obey. Social scientists agree that authority is but one of several resources available to incumbents in formal positions.

For example, a Head of State is dependent upon a similar nesting of authority. His legitimacy must be acknowledged, not just by citizens, but by those who control other valued resources: his immediate staff, his cabinet, military leaders and in the long run, the administration and political apparatus of the entire society.

Authority in a Liberal Democratic State

Every state has a number of institutions which exercise authority based on longstanding practices. Apart from this, every state sets up agencies which are competent in dealing with one particular matter.

All this is set up within its charter. One example would be a port authority like the Port of London. They are usually created by special legislation and are run by a board of directors. Several agencies and institutions are created along the same lines and they exercise authority in certain matters.

They are usually required to be self-supporting through property taxes or other forms of collection or fees for services.

Chapter 3

Political Executive and Bureaucracy in States

Bureaucracy

The working of government rests on two pillars—political and permanent executive. The smooth working of this system depends on the harmonious relationship between the two. In recent years, however, the administrative and political environment has changed which has produced tensions in the mutual relationship of the two groups. So, let us first understand the meaning and role of bureaucracy and then analyse the relationship between the political executive and bureaucracy and finally identify the recommendations of Administrative Reforms Commission for streamlining the relationship between the minister and the civil servants and reflect upon the present scenario in India in this respect.

The term 'Bureaucracy' lacks a definition that is universally accepted. Bureaucracy is sometimes used in a disparaging manner to mean unimaginative, rigid and inefficient government administrators. It is associated with red-tapism, delay and wastefulness. Many social scientists however, describe bureaucracy in a neutral way to mean a specific form of social organisation involved in administrative efforts. It is a machine, which is needed to run the government of the day. It

is the only tool available to any modern government to administer. We no longer live in simple Greek city-states or tiny Indian republics. Society has become more complex today. The government has become a huge complicated machinery which can be serviced and run only by a distinct group of officials known as bureaucracy. Some scholars have even given bureaucracy the status of “the fourth organ of the government”. Therefore, bureaucracy cannot be wished away.

Max Weber, the German social scientist who was the first to make a systematic study of bureaucracy, described it as rational and the most efficient form of organisation.

He described an ideal-type of bureaucracy as one characterized by:

- Officials organised in fixed jurisdictional areas,
- A hierarchical arrangement of offices,
- Written documents that contain rules to be applied in every case,
- Anonymity,
- Impersonality in applying rules uniformly.
- Political neutrality

Bureaucracy with such formal characteristics is considered essential for running any large organisation. To quote Max Weber “the decisive reason for the advance of bureaucratic organisation has always been its purely technical superiority over any other form of organisation...precision, speed, unambiguity, reduction of friction and of material and personal

costs—these are raised to the optimum level in the structurally bureaucratic administration”.

Role of Bureaucracy in Development

Bureaucracy has become a universal phenomenon. It is a pre requisite of modernization of every society. Most developing countries are engaged in the process of nation building and bringing about rapid socio-economic development, *i.e.*, providing social services such as health, education, infrastructure like roads, electricity, productive activities in agriculture, industry etc. The complex of such formidable activities connected with the development enterprise is essentially government's responsibility. Here, public administration becomes the key agency of development. Bureaucracy can immensely contribute to development by serving as an adviser, as an inventor, and a decision-maker. It can vitalize administration by building up a social environment emphasizing responsibility by creating incentives, by encouraging healthy competition and self-development, by organizing institutional management under competent and progressive leadership and by delegating authority to lower levels for maximizing development.

Bureaucracy constitutes the apparatus and mechanism through which the state realises its purposes. It has been rightly said that a country's life is largely shaped by the quality of administration. A plan can succeed only if its administrative implications have been worked out in detail.

Hence, a high degree of bureaucratic competence is essential to push through speedy development measures. In most developing countries, the problem is not the inability of the governments to devise rational programmes for development, but their incapacity to carry them out.

Bureaucracy and Politics

Politics/Administration Dichotomy

The conventional view of public administration is based upon the dichotomy of politics and administration *i.e.* administration and politics should be kept separate. Politics or policy making is the proper activity of the legislative bodies and administration is the proper activity of administrators who carry out policies. It is opposed to any political role of the civil servants. It visualizes the relationship between the administrator and the politician in terms of a neat division of labour—the politician formulates the policy and the administrator executes it.

The bureaucrat acts as pure adviser to his political master, presents facts of the case, suggests lines of action and implications of alternative policies. It is the prerogative of the political master to decide the policy. The bureaucrat is expected to implement the policy faithfully, whatever the decision. He is to be anonymous and neutral in the discharge of his duty. He is expected to render impartial advice without fear or favour. The doctrine of neutrality and anonymity has

been one of the fundamental tenets of the Weberian model of bureaucracy. It insulates the bureaucrat from any politicization and makes him professional in his outlook. The planners in India too subscribed to the Weberian ideal of neutral civil service. In our country, the Civil Service Conduct Rules prohibit the government employees from active participation in political activities. Except for the limited right of voting in secret, a government employee cannot participate in any way in any political movement or activity including election campaigns. He cannot join a political party even as an inactive member or contribute financially to its funds; he cannot express any opinion on political issues; and he cannot stand for election to any legislature.

An impersonal, strictly rule-bound, neutral bureaucracy was expected not only to provide the necessary administrative objectivity but also enhance the democratic principle of equality and provide protection from arbitrary rule.

Decline of Neutrality Concept

The traditional concept of neutrality, however, has been challenged on many grounds. The earlier concept of separation of politics and administration in watertight compartments is considered no more valid. The role of the Civil Service has been changing from being a mere agent of the political executive to that of collaboration with it. The involvement of bureaucracy in political arena is now widely prevalent.

The breakdown of the theory of neutrality has come about because of a number of reasons. Firstly, the processes of policy making are no longer confined to the political executive. The truth is that the bureaucrats play an important role in policy formulation, perceived to be the exclusive preserve of elected politicians. This has happened because the statutes passed by the parliament are not clear enough. The legislative behaviour follows no consistent pattern. Whereas, some measures are too detailed, some only identify the problem. The minister is rarely an expert in the work of his department or the techniques of public administration. He merely has general ideas in line with the political ideology of his party, but he often is not sure what is the best solution to a particular problem. He is therefore, forced to rely on his permanent staff for facts and advice. In effect then, it is the administrator who has a major role in framing the policy. Secondly, the decline of neutrality can be attributed to the demands and pressures of coalition politics.

In coalition governments, ministers are busy in the power game and maneuvering for their survival, and have neither time nor inclination to guide, direct and control their department or bureaucracy. Also at times, the legislative process is so stormy and full of diverse views that a statute passed incorporates a number of a contradictory policy guidelines. The necessity of reaching a compromise solution to hold the coalition together leads the legislators to use vague language and the administrator has to use his own judgement to interpret the policy. Therefore, bureaucracy has clearly made inroads in

policy making and despite the regulations governing the civil servants they have been politicized considerably.

Thirdly, the classical theory of civil service neutrality presupposes agreement on principles fundamental to democracy. In other words, neutral, value-free bureaucracy is possible only in a society where consensus exists on values; but in transitional societies like India, where dissent and conflict exist, it is too much to expect anyone to be neutral.

For a developing country like India where speedy socio-economic development has to be steadily pushed through, the nature and character of bureaucracy assume special significance.

The involvement of civil servants in numerous decisions be it the location of a steel plant or a school building in a village, makes them partners in development along with the politicians. Their value preferences get inextricably mixed up with technical advice. In the context of large-scale welfare programmes therefore, neutrality is not possible.

In fact a certain commitment to the goals and objectives of the state on the part of bureaucracy is inescapable. Neutrality cannot be allowed to degenerate into disinterestedness. The successful carrying out of developmental tasks requires on the part of administrators not only qualities of initiative and leadership but also a sense of emotional integration with the policies and programmes and identification with the interests

of the common man. The idea of bureaucracy as a neutral instrument in the conduct of public affairs thus stands refuted.

Committed Bureaucracy

Weber's model of bureaucracy was found inappropriate to effect the social transformation in many developing countries. In India, it received a good amount of criticism for its failure to meet the growing demands of social legislation. After two decades of independence, Mrs. Indira Gandhi, the then Prime Minister, advocated the concept of committed bureaucracy. Not only did she express her dissatisfaction with the performance of bureaucracy, she expressed doubt about the relevance of the basic assumptions underlying the Indian bureaucracy that of neutrality, impartiality, anonymity etc. and she alleged that the bureaucrats lacked commitment. She disgustingly referred to the administrative machinery as 'the stumbling block in the country's progress' and reiterated the necessity of creating an administrative cadre committed to national objectives and responsive to Indian social needs. She found in 'committed bureaucracy' the answer to the ills of neutrality that crippled the development process in India. She had an earnest belief that only a committed bureaucracy can bring about the desired change.

The concept of 'committed bureaucracy' was much contested in the political and administrative circles. It was alleged that it would permanently damage the fabric of the services. It would

create a breed of pliable civil servants who would always say “Yes Minister” and would be ready to crawl when asked to bend by their political masters. It was also alleged that in the name of commitment the ruling party was seeking bureaucracy’s alignment with the party’s ideology in order to perpetuate its rule. However, it was later clarified by the government that commitment did not mean attachment to the ideology of the party in power, but a commitment to the development of the country and personal involvement of bureaucracy in the tasks as opposed to ostrich like withdrawal and isolation from politics. Thus, if committed bureaucracy stands for a non-partisan, socially sensitive civil service, which can empathize with the politician who is genuinely, interested in progress and development of the country, then a committed civil service is more appropriate for a developing nation than having an insensitive neutral one.

Sources of Stress

In practice however commitment has assumed the perverted form of politicization and sycophancy. Commitment to social objectives is one thing and dancing to the tune of a political party is another. Very often it is seen that bureaucracy simply acts just as to the dictates of the political executive without any independent examination of issues. This trend can be attributed to the ever-growing political interference in the affairs of administration. Political interference and impartial administration cannot co-exist.

While the administrators do not perceive their role in policy making as subservient to the political leaders because of their knowledge and expertise, yet they have to conform to the prerequisites of representative politics. The political leaders claim to be the true representatives of the people and know what is good for them and because of their superior position succeed in dictating the terms to the bureaucrats. The bureaucrats who are not obliging enough soon find themselves in trouble. The political masters have many means of coercion—both overt and covert. Political interference in all matters including those where the statutory power is vested in the civil servants is a constant phenomenon. There are numerous instances of use of transfer, promotion, supercession and compulsory retirement from service by elected politicians as tools to silence the voice of dissent and expression of difference of opinion.

Well, politicization works the other way round also. Many administrators use political influence or forge alliance with the politician to brighten their own career prospects. They take advantage of the amateur politician; exploit his weakness particularly in times of a fluid political situation and turn out to be autonomous and irresponsible. This is an equally grim scenario.

What emerges out of the analysis is that whether there is collision or collusion between the political executive and the bureaucracy, in both cases it leads to organizational imbalance and ultimately the governance suffers. Expressing concern over

the deteriorating administrative standards, the government appointed the Administrative Reforms Commission in 1966 to conduct a comprehensive study of the administrative system and suggest remedies.

The two most important areas touched upon by the ARC in its reports were:

- Minister–Civil Servants relationship, wherein the ARC emphasized the need for the de-politicization of the services, and
- The creation of a climate and culture of administration that would help assert the growth of unhealthy personal relationship between Civil Servants and Minister.

The ARC took cognizance of the fact that proper relationship between the political executive and bureaucracy is a matter of highest importance to the administrative performance of government. It observed that the existing pattern of relationship was different from what was envisaged. More and more cases of deviation were coming to notice. For instance the extent of bureaucratic involvement in politics was exceptionally high, there was frequent use of transfers and postings to manipulate bureaucracy, there was unholy nexus between politicians and bureaucracy etc. which was taking its toll on administrative efficiency.

Therefore, corrective measures were required to restore the health of the system. The ARC stressed the urgency to prevent

bureaucracy's aggressive role in politics and also a need to check arbitrary interference of politicians in administrative affairs. It believed that both Minister and Civil Servants must appreciate rather than belittle each other's work and attempt maximum accommodation of one another's views. *On the part of the political executive there should be, in the words of the ARC,:*

- A proper understanding of the administrative functions and recognition of its professional nature.
- As little interference as possible in service matters, *e.g.* postings, transfers, promotions etc.
- No requests for departures from declared and approved policies to suit individual cases.
- *Similarly, on the part of the civil service it asserts:*
- There must be a sincere and honest attempt to find out what the political head wants and make the necessary adjustment in policies and procedures to suit his wishes.
- Readiness to fall in line with his political chief in all matters, unless strong grounds indicate a different course.

In other words, it means an emotional and mental acceptance by the bureaucracy of the ideology of the government policy to be executed by it.

Recent Developments

In spite of the valuable recommendations made by the ARC to streamline the relationship between the minister and the civil servants, nothing much seems to have changed because of

political and administrative apathy. Making the matters worse is the growth in recent times of a nexus between the politicians, criminals, police and the civil servants rooted in the considerations of “mutuality of benefit”. An increasing use of money and muscle power by political parties in winning elections is common knowledge. Since the muscle power is mostly provided by the mafia and the criminals, a close nexus has come to prevail between the politicians and the criminals resulting in “criminalization of politics”. This has been the main conclusion of the Vohra Committee Report of 1993 submitted by the then Home Secretary, Mr. N.N. Vohra which was set up to look into the criminalization of politics. The report observed that the mafia and the criminals enjoyed the patronage of politicians and the protection of government functionaries. It pointed out how the nexus was virtually running a parallel government, pushing the state apparatus into irrelevance. Here the two elites—political and administrative, join hands and become not only thick friends but also grand thieves. Such a nexus is detrimental to public interest.

Therefore, it was felt that corrective steps must be taken to ensure that this evil nexus is curbed. With this objective in mind, the Prime Minister inaugurated a Conference of Chief Secretaries in November 1996 on ‘An Agenda for an Effective and Responsive Administration. The Conference emphasized the need for bringing about transformation in public services so as to make them more effective, clean, accountable and citizen friendly. The Conference also highlighted the necessity

of adopting the code of ethics for public services which not only regulates the role of the civil servants but also specifies the relationship between the employees in public services and politicians, so that the basic commitment of the civil servants towards the welfare of the public and the principles enshrined in the Constitution is reiterated. We only hope that the implementation of the proposed Action Plan will be effective.

To conclude, a developing nation cannot afford contradictory ethos between the political executive and bureaucracy because it strikes at the root of a progressive administrative culture. The roles of political and administrative elite are complimentary and in the interest of public welfare they must work in harmony with each other.

Chapter 4

Judiciary System of India

Jurisdiction and Seat of High Courts of India

In the law, the **judiciary** or **judicial system** is the system of courts which administer justice in the name of the sovereign or state, a mechanism for the resolution of disputes. The term is also used to refer collectively to the judges, magistrates and other adjudicators who form the core of a judiciary, as well as the support personnel who keep the system running smoothly.

Under the doctrine of the separation of powers, the judiciary is the branch of government primarily responsible for interpreting the law.

- In common law jurisdictions, case law is created by the courts' interpretations as a result of the principle of *stare decisis*;
- In civil law jurisdictions, courts interpret the law, but are, at least in theory, prohibited from *creating* law, and thus, still in theory, do not issue rulings more general than the actual case to be judged; in practice, jurisprudence plays the same role as case law;
- In socialist law, the primary responsibility for interpreting the law belongs to the legislature.

This difference can be seen by comparing India, United States, France and the People's Republic of China:

- In Indian democracy, courts have the final say until the constitution itself is amended although a supreme court judgement in 1970's ruled that Parliament doesn't have the authority to change the basic structure of Indian constitution.
- in the United States government, the Supreme Court is the final authority on the interpretation of the federal Constitution and all statutes and regulations created pursuant to it;
- in France, the final authority on the interpretation of the law is the *Conseil d'État* for administrative cases, and the Court of Cassation for civil and criminal cases;
- and in the PRC, the final authority on the interpretation of the law is the National People's Congress.
- Other countries such as Argentina have mixed systems that include lower courts, appeals courts, a cassation court (for criminal law) and a Supreme Court. In this system the Supreme Court is always the final authority but criminal cases have four stages, one more than civil law.

The idea found in civil and socialist law that the judiciary does not interpret the law in creative ways has its origins in Roman law. It is said that the famed Byzantine Emperor Justinian had the *Corpus Juris Civilis* compiled and all other decisions by

jurists burned to create certainty in the law. Again in the 19th century, French legal scholars at the time of the development of the Code Napoleon advocated the same kind of approach — it was believed that since the law was being written down precisely, it should not need interpretation; and if it did need interpretation, it could be referred to those who wrote the code.

Napoleon, who was an advocate of this approach felt that the task of interpreting the law should be left with the elected legislature, not with unelected judges. This contrasted with the pre-revolutionary situation in France, where unelected 'parlements' defending the interests of the high bourgeoisie would often slow the enforcement of royal decisions, including much needed reforms.

However, this idea was found difficult to implement in practice. In France, along with other countries that Napoleon had conquered, or where there was a reception of the Civil Code approach, judges once again assumed an important role, like their English counterparts.

In civil law jurisdictions at present, judges interpret the law to about the same extent as in common law jurisdictions – though it may be acknowledged in theory in a different manner than in the common law tradition which directly recognizes the limited power of judges to make law. For instance, in France, the *jurisprudence constante* of the Cour de cassation or the Conseil d'État is equivalent in practice with case law.

In theory, in the French civil law tradition, a judge does not make new law; he or she merely interprets the intents of "the Legislator." The role of interpretation is traditionally approached more conservatively in civil law jurisdictions than in common law jurisdictions. When the law fails to deal with a situation, doctrinal writers and not judges call for legislative reform, though these legal scholars sometimes influence judicial decisionmaking.

Civil law judges also refer to the interpretation of codal provisions and they look for an underlying rationale not only in the particular text, but its relationship to the whole structure of the code as an organizing structure that reflects order in a civil society. Socialist law adopted the status of civil law, but added to it a new line of thought derived from Communism — the interpretation of the law is ultimately political, and should serve the purposes of Communism, and hence should not be left to a non-political organ (even though in practice.

Judiciary of India as of today is the continuation of the British Legal system established by the English in the mid-19th century. Before the arrival of the Europeans in India, she was governed by laws based on The Arthashastra, dating from the 400 BC, and the Manusmriti from 100 AD. They were influential treatises in India, texts that were considered authoritative legal guidance.

Manu's central philosophy was tolerance and pluralism. The Judiciary, the Executive, and the Legislature were the same

person the King or the Ruler of the Land. But the villages had considerable independence, and had their own panchayth system to resolve disputes among its members. Only a bigger feud merited a trans village council.

This tradition in India continued beyond the Islamic conquest of India, and through to the Middle Ages. Islamic law "The Sharia" was applied only to the Muslims of the country. But this tradition, along with Islamic law, was supplanted by the common law when India became part of the British Empire. The history of Modern Judicial System in India starts from there.

Name	Year of Establishment	Jurisdiction	Seats
Allahabad	1866	Uttar Pradesh	Allahabad(Bench at Lucknow)
Andhra Pradesh	1956	Andhra Pradesh	Hydrabad
Bombay	1862	Maharashtra, Goa, Dadra and Nagar Haveli	Bombay(Benches at Nagpur, Panaji and

		and Daman and Diu	Aurangabad)
Calcutta	1862	West Bengal	Calcutta(Circuit Bench at Port Blair)
Chhattisgarh	2000	Chhattisgarh	Bilaspur
Delhi	1966	Delhi	Delhi
Guwahati	1948	Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh	Guwahati(Benches at Kohima, Aizwal & Imphal. Circuit Bench at Agartala & Shillong)
Gujarat	1960	Gujarat	Ahmedabad
Himachal Pradesh	1971	Himachal Pradesh	Shimla

Jammu & Kashmir	1928	Jammu & Kashmir	Srinagar & Jammu
Jharkhand	2000	Jharkhand	Ranchi
Karnataka	1884	Karnataka	Bangalore
Kerala	1958	Kerala & Lakshadweep	Ernakulam
Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Benches at Gwalior and Indore)
Madras	1862	Tamil Nadu & Pondicherry	Chennai
Orissa	1948	Orissa	Cuttack
Patna	1916	Bihar	Patna (Benches at Ranchi)

Punjab & Haryana	1975	Punjab, Haryana & Chandigarh	Chandigarh
Rajasthan	1949	Rajasthan	Jodhpur (Bench at Jaipur)
Sikkim	1975	Sikkim	Gangtok
Uttarakhand	2000	Uttarakhand	Nainital

Separation of powers is a term coined by French political Enlightenment thinker Baron de Montesquieu, is a model for the governance of democratic states. The model is also known as **Trias Politica**. Under this model, the state is divided into branches, and each branch of the state has separate and independent powers and areas of responsibility. The normal division of branches is into the **Executive**, the **Legislative**, and the **Judicial**.

Proponents of separation of powers believe that it protects democracy and forestalls tyranny; opponents of separation of powers, such as Professor Charles M. Hardin, have pointed out that, regardless of whether it accomplishes this end, it also slows down the process of governing, promotes executive dictatorship and unaccountability, and tends to marginalize

the legislature. No democratic system exists with an absolute separation of powers or an *absolute* lack of separation of powers. Nonetheless, some systems are clearly founded on the principle of separation of powers, while others are clearly based on a mingling of powers.

Tripartite system

Montesquieu described division of political power among an executive, a legislature, and a judiciary. He based this model on the British constitutional system, in which he perceived a separation of powers among the monarch, Parliament, and the courts of law. Subsequent writers have noted that this was misleading, since Great Britain had a very closely connected legislature and executive, with further links to the judiciary (though combined with judicial independence). But in Montesquieu's time, the political connection between Britain's Parliament and the monarch's Ministry was not as close as it would later become.

Montesquieu did specify that "the independence of the judiciary has to be real, and not apparent merely". "The judiciary was generally seen as the most important of powers, independent and unchecked", and also considered the least dangerous. Some politicians decry judicial action against them as a "criminalization" of their behavior, but such "criminalization" may be seen as a response to corruption, collusion, or abuse of power by these politicians.

In democratic systems of governance, a continuum exists between "Presidential government" and "Parliamentary government". "Separation of powers" is a feature more inherent to presidential systems, whereas "fusion of powers" is characteristic of parliamentary ones. "Mixed systems" fall somewhere in between, usually near the midpoint; the most notable example of a mixed system is France's (current) Fifth Republic.

In fusion of powers, one branch (invariably the elected legislature) is supreme, and the other branches are subservient to it. In separation of powers, each branch is largely (although not necessarily entirely) independent of the other branches. *Independent* in this context means either that selection of each branch happens independently of the other branches or at least that each branch is not beholden to any of the others for its continued existence.

Accordingly, in a fusion of powers system such as that of the United Kingdom, first described as such by Walter Bagehot, the people elect the legislature, which in turn "creates" the executive. As Professor Cheryl Saunders writes, "the intermixture of institutions [in the UK] is such that it is almost impossible to describe it as a separation of powers." In a separation of powers, the national legislature does not select the person or persons of the executive; instead, the executive is chosen by other means (direct popular election, Electoral College selection, etc.)

In a parliamentary system, when the term of the legislature ends, so too may the tenure of the executive selected by that legislature. Although in a presidential system the executive's term may or may not coincide with the legislature's, her selection is technically independent of the legislature. However, when the executive's party controls the legislature, the executive often reaps the benefits of what is, in effect, a "fusion of powers". Such situations may thwart the constitutional goal or normal popular perception that the legislature is the more democratic branch or the one "closer to the people", reducing it to a virtual "consultative assembly", politically or procedurally unable—or unwilling—to hold the executive accountable in the event of blatant, even boldly admitted, "high crimes and misdemeanors."

Auditory

With the title Comptroller General, Auditor General or Comptroller and Auditor General, the European Union's Court of Auditors and Taiwan's Control Yuan are individual or bodies of independent ombudsmen. They are often independent of the other branches of government. Their purpose is to audit government expenditure and general activity.

Civil examination

Sun Yat Sen proposed a branch of government based on the Imperial examination system used in China. The "Examination Yuan", as it is called in Taiwan, is in charge of validating the

qualification of civil servants. This structure has been implemented in the Republic of China.

Electoral

Costa Rica's Supreme Elections Tribunal is a branch of government that manages elections. Similar independent institutions exist in many other democratic countries, however they are not seen as a branch of government. In many countries, these are known as Electoral Commissions.

The people

Many philosophers and political scientists believe that democratic governments are created and constitutions exist to serve the people. The people have their own system of checks and balances by electing the legislative and executive branches. The government also draws its power directly from the people. Without the people, there is no government, just as without the legislative branch, there can be no judicial branch.

In the Constitution of Venezuela, the "citizen's power" is a formal branch of government, though it acts like auditors' branches in other jurisdictions.

Independent executive agencies

The federal executive of the United States is a very large bureaucracy, and due to civil service rules, most middle- and low-level government workers do not change when a new

President is elected. (New high-level officials are usually appointed and must be confirmed by the Senate.) Moreover, semi-independent agencies (such as the Federal Reserve or the Federal Communications Commission) may be created within the executive by the legislature.

These agencies exercise legally defined regulatory powers. High-level regulators are appointed by the President and confirmed by the legislature; they must follow the law and certain lawful executive orders. But they often sit for long, fixed terms and enjoy reasonable independence from other policy makers. Because of its importance to modern governance, the regulatory bureaucracy of the executive is sometimes referred to as a "fourth" branch of government. This separation is even more pronounced in the United Kingdom. The separation was a prominent element of the *Yes Minister* comedy television series.

The press

The press has been described as a "fourth power" because of its considerable influence over public opinion (which in turn affects the outcome of elections), as well as its indirect influence in the branches of government by, for example, its support or criticism of pending legislation or policy changes. It has never, however, been a formal branch of government; nor have political philosophers suggested that it become one.

The press is also sometimes referred to as the Fourth Estate, a term of French origin, which is not related to the modern three-branch system of government.

Originally, the First Amendment of the United States Constitution explicitly guaranteed freedom of the press only against interference by the federal government. Later this right was extended by the United States Supreme Court in the Incorporation Cases to cover state and local governments.

Traditionally, the press has been the "voice of the people", keeping government somewhat in check. Examples of this were the Watergate scandal, where two Washington Post reporters exposed corruption and coverup at the highest levels of government, or the Adscam (Sponsorship scandal) which was uncovered by the press in Canada. This exposure caused the resignation, firing, or prosecution of many officials.

There exist situations where the press can affect public opinion in ways that are contrary to the spirit of separation of powers. One of the most compelling of these situations is when the state controls the content and distribution of the information disseminated by the press.

However, even if the press is immune to censorship and compulsion from the government, the controlling entity of a press association or media outlet must almost always edit, and may editorialize, providing opportunities to affect public opinion in ways that may contradict public interest. In all

cases, the "voice of the people" (as perceived by some) is modified by the opinions of those producing the stories.

Freedom of the reporting media is generally considered to be essential for the perpetuation of democratic governments, and it is found in all strong democracies, regardless of the organizational principle of the "branches" of government. Many governments financially support public broadcasting in some way, but in strong democracies these media outlets can enjoy wide editorial latitude.

An independent press acts as a powerful *check* on all forms of government by providing information about governmental activities to the public. There are weighty arguments to suggest that the press is the external 4th branch which continuously scrutinises a government's operations, with David Blunkett's two resignations as both Home Secretary(2004) and Secretary of State for Work and Pensions (2005) as particular examples.

Constitutions with a high degree of separation of powers are found worldwide. The UK system is distinguished by a particular entwining of powers. India's democratic system also offers a clear separation of power under Lok Sabha (lower house of parliament), Rajya Sabha (upper house of Parliament), and the President of India, who overlooks independent governing branches such as the Election commission and the Judiciary. Under the Indian constitution, just as in the British system, the Prime Minister is a head of the governing party and functions through a selected group of ministers.

In Italy the powers are completely separated, even if Council of Ministers need the vote of confidence from both chambers of Parliament, that's however formed by a wide number of members (almost 1,000). Countries with little separation of power include New Zealand and Canada. Canada makes limited use of separation of powers in practice, although in theory it distinguishes between branches of government.

Complete separation-of-powers systems are almost always presidential, although theoretically this need not be the case. There are a few historical exceptions, such as the Directoire system of revolutionary France. Switzerland offers an example of non-Presidential separation of powers today: It is run by a seven-man executive branch, the Federal Council. However, some might argue that Switzerland does not have a strong separation of powers system, as the Federal Council is appointed by parliament (but not dependent on parliament), and the judiciary has no power of review.

After eight years of social conflict, the question of who would lead Costa Rica and which transformationist model the State would use was decided by who killed the president. A constituent assembly followed and drew up a new constitution, approved in 1949. This document was an edit of the constitution of 1871, as the constituent assembly rejected more radical corporativist ideas proposed by the ruling junta. Nonetheless, the new constitution increased centralization of power at the expense of municipalities and eliminated provincial government altogether.

It established the three supreme powers as the **legislature**, **executive**, and **judicial** branches, but also created two other autonomous state organs that have equivalent power but not equivalent rank. The first is the Supreme Elections Tribunal (**electoral** branch) which controls elections and makes unique, unappealable decisions on their outcomes.

The second is the office of the Comptroller General (**auditory** branch), an autonomous and independent organ nominally subordinate to the unicameral legislative assembly.

All budgets of ministries and municipalities must pass through this agency, including the execution of budget items such as contracting for routine operations.

The Comptroller also provides financial vigilance over government offices and office holders, and routinely brings actions to remove mayors for malfeasance, firmly establishing this organization as the fifth branch of the Republic.

European Union: four branches

The five institutions (in four branches) of the European Union are:

- European Commission - executive
- European Parliament & Council of the European Union - legislative
- European Court of Justice - judicial
- European Court of Auditors - auditory

Germany: six branches

The six main bodies enshrined in the Basic Law for the Federal Republic of Germany are:

- Federal **President** (*Bundespräsident*)
- Federal Cabinet (*Bundesregierung*) - **executive**
- Federal Diet (*Bundestag*) & Federal Council (*Bundesrat*) - **legislative**
- Federal Assembly (*Bundesversammlung*) - **presidential electoral college**
- Federal **Constitutional Court** (*Bundesverfassungsgericht*)

There is also a **judicial** branch made up of five supreme courts, state (*Länder / Bundesländer*) based courts beneath them, and a rarely used senate of the supreme courts.

Taiwan: five branches

Some countries take the doctrine further than the three-branch system. The politics of Taiwan, for example, has five branches: the **Executive Yuan**, **Legislative Yuan**, **Judicial Yuan**, Control Yuan (**auditory** branch), and **Examination Yuan**.

Due in part to the Republic's youth, the relationship between its executive and legislative branches are poorly defined. An example of the problems this causes is the near complete political paralysis that results when the president, who has

neither the power to veto nor the ability to dissolve the legislature and call new elections, cannot negotiate with the legislature when his party is in the minority.

In parliamentary systems, a separation of powers is either unclear or even nearly non-existent. For example, in the United Kingdom, the executive forms a subset of the legislature, as does—to a lesser extent—the judiciary. The Prime Minister, the chief executive, must by convention be a Member of the House of Commons and can effectively be removed from office by a simple majority vote.

Furthermore, while the courts in Britain are undoubtedly amongst the most independent in the world, the Law Lords, who are the final arbiters of judicial disputes in the UK, sit simultaneously in the House of Lords, the upper house of the legislature, although this arrangement will cease in 2009 when the Supreme Court of the United Kingdom comes into existence. Furthermore, because of the existence of Parliamentary sovereignty, while the theory of separation of powers may be studied in Britain, a system such as that of the UK is more accurately described as a "fusion of powers."

The development of the British constitution, which is not written down in one document, is based on this fusion in the person of the Monarch, who has a formal role to play in the legislature (Parliament, which is where legal and political sovereignty lies, is the Crown-in-Parliament, and is summoned and dissolved by the Queen who must give her Royal Assent to

all Bills so that they become Acts), the executive (the Queen appoints all ministers of Her Majesty's Government, who govern in the name of the Crown) and the judiciary (the Queen, as the fount of justice, appoints all senior judges, and all public prosecutions are brought in her name).

The British legal code is based on common law a tradition which requires:

- Police or regulators cannot initiate complaints under criminal law but can only investigate, which prevents selective enforcement, e.g. the 'fishing expedition' which is often specifically forbidden
- Prosecutors cannot withhold evidence from attorneys for the defendant, to do so results in mistrial or dismissal, accordingly their relation to police is no advantage
- Defendants convicted can appeal, but no new evidence can usually be introduced, restricting the power of the court of appeal to the process of law applied

United Nations: five branches

The United Nations has five principle organs. These are:

- General Assembly - legislative
- Security Council
- Economic and Social Council
- International Court of Justice - judicial
- Secretariat - executive

The members of the councils are either or both elected by the General Assembly and determined by the UN Charter.

United States: three branches

Each branch is able to place specified restraints on the powers exerted by the other branches. The federal government refers to the branches as "branches of government", while some systems use "government" to describe the executive.

To prevent one branch from becoming supreme, and to induce the branches to cooperate, governance systems employing a separation of powers typically are created with a system of "**checks and balances**", a term which, like separation of powers itself, is generally credited to Montesquieu. Checks and balances refers to the various procedural rules that allow one branch to limit another, such as the authority of the president to veto legislation passed by Congress, or the power of Congress to alter the composition and jurisdiction of the federal courts.

Legislative	Executive (government)	Judicial
<ul style="list-style-type: none">• Writes and enacts laws• Enacts taxes, authorizes borrowing,	<ul style="list-style-type: none">• May veto laws• May refuse to spend money	<ul style="list-style-type: none">• Determines which laws apply to any given case• Determines whether a law is

<p>and sets the budget</p> <ul style="list-style-type: none"> • Usually has sole power to declare war • May start investigations, especially against the executive branch • Often appoints the heads of the executive branch • Sometimes appoints judges • Ratifies treaties 	<p>allocated for certain purposes</p> <ul style="list-style-type: none"> • Wages war (has operational command of the military) • Makes decrees or declarations (for example, declaring a state of emergency) and promulgates lawful regulations and executive orders • Often appoints judges • Has power to grant pardons to convicted criminals 	<p>unconstitutional</p> <ul style="list-style-type: none"> • Has sole power to interpret the law and to apply it to particular disputes • May nullify laws that conflict with a more important law or constitution • Determines the disposition of prisoners • Has power to compel testimony and the production of evidence • Enforces uniform policies in a top-down fashion via the appeals process, but gives discretion in individual cases to low-level judges. (The amount of discretion depends upon the standard of
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		<p>review, determined by the type of case in question.)</p> <ul style="list-style-type: none"> • Polices its own members • Is frequently immune to arbitrary dismissal by other branches
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The theoretical independence of the executive and legislative branches is partly maintained by the fact that they are separately elected and are held directly accountable to the public. There are also judicial prohibitions against certain types of interference in each others' affairs. Judicial independence is maintained by life appointments of judges, with voluntary retirement, and a high threshold for removal by the legislature.

In recent years, there have been accusations that the power to interpret the law is being misused (judicial activism) by some judges in the US. In the checks and balances system, the judicial branch has the right to say that something is unconstitutional, like a law or a bill.

The legal mechanisms constraining the powers of the three branches depend a great deal on the sentiment of the people. A common perception is that popular support establishes

legitimacy and makes possible the actual implementation of legal authority. National crises (such as the Civil War, the Great Depression, pre-Pearl Harbor World War II, the Vietnam War) have been the times at which the principle of separation of powers has been most endangered, either through official "misbehavior" or through the willingness of the public to sacrifice such principles if more pressing problems are solved.

The system of checks and balances is also self-reinforcing. Potential abuse of power may be deterred, and the legitimacy and sustainability of any power grab is hindered by the ability of the other two branches to take corrective action; though they still must actually do so, therefore accountability is not automatic. This is intended to reduce opportunities for tyranny sometimes.

However, as James Madison wrote in Federalist No. 51 regarding the ability of each branch to defend itself from actions by the others, "But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates."

Bicameralism was, in part, intended to reduce the relative power of the legislature by turning it against itself, by having "different modes of election a different principles of action." But when the legislature is unified, it can obtain dominance over the other branches.

The American states mirror the executive/legislative/judicial division of the federal government. Major cities tend to do so as well, but the arrangements of local and regional governments vary widely. Because the judicial branch is often a part of a state or county government, the geographic jurisdiction of local judges is often not coterminous with municipal boundaries.

In many American states and local governments, executive authority and law enforcement authority are separated by allowing citizens to directly elect public prosecutors (district attorneys and state attorneys-general). In some states, judges are also directly elected.

Many localities also separate special powers from their executive and legislative branches through the direct election of sheriffs, school boards, transit agency boards, park commissioners, etc.

Juries (groups of randomly selected citizens) also have an important role in the checks-and-balances system. They have the sole authority to not only determine the facts in most criminal and civil cases, but to judge the law, acting as a powerful buffer against arbitrary enforcement by the executive and judicial branches.

In many jurisdictions they are also used to determine whether or not a trial is warranted, and in some places Grand Juries

have independent investigative powers with regard to government operations.

Venezuela: five branches

Under reforms to the constitution promoted by President Hugo Chávez and accepted in a referendum, the government of Venezuela has five branches: the **executive**, the **legislature**, the **judiciary**, an **electoral** branch, and a citizen's branch that acts as an **auditor**.

However, the representatives of this new "Citizen power" are not elected, but put by organized human groups. There's no clear wording into how this representatives will be "put" in their jobs, but the reform is very clear in saying that won't be by elections. Since those organized human groups won't be able to vote for representatives, the assumption is that these representatives will be put by some bureaucrat from the socialist party and their credibility as unbiased auditors is very low.

It can be argued that there is no natural distinction between executive and legislative forms of government: legislation that is passed must always be executed, and much executive action requires new laws. As such, the division can be said to be an artificial one. This is borne out by the fact that there is currently no constitutional system which has a complete separation of powers where there is a distribution of the three functions among three independent organs with no overlapping

or cross-coordination. Some of the early American States and the French Constitution of 1791 tried to enforce this doctrine strictly, but they failed. Instead, most constitutions give slightly overlapping powers to each branch, such as the US president's ability to veto legislation, or the power of judicial appointment.

Some observers believe that no obvious case exists in which such instability was prevented by the separation of powers. In parliamentary systems such as the United Kingdom the three "powers" are not separated (although the judiciary is independent). However, this has not threatened British stability, because the strong tradition of parliamentary sovereignty serves the purpose of limiting executive power.

In contrast, many countries which have adopted separation of powers (especially in Latin America) have suffered from instability (coups d'etat, military dictatorships, civil war and unrest, etc). If the separated executive is granted strong powers, it may well encourage instability, because it is less consensus-oriented than a parliamentary system, and because it inures the population and political elite to the influence of a dominant leader.

In times of instability, competing political groups can become obsessed with controlling the executive office, and it is often the loss of a presidential election which triggers greater instability. In a presidential system, there can only be one winning party, and all others fail entirely to gain power. In

contrast, a parliamentary system can allow all political groups to have some share in control of the executive by participating in a coalition.

Alternatively, if the executive branch is granted few powers, there is the danger of political gridlock. When the executive cannot control or cannot operate alongside the legislature, then government action to solve society's problems can be limited. This can hamper efforts to deal with short-term crises (such as the French government's finding it difficult to pass laws to deal with a faltering economy) as well as with long-term problems (like the failure of the US government to provide universal healthcare, despite numerous bills and perennial public support for such a system).

Political scientists have also noted the tendency for separation-of-power systems, especially those with strong executives, to develop into two-party systems. As the executive is as a "winner-take-all" position, voters and lobby groups tend to adopt a strategy of supporting their preferred choice from the two leading candidates, the perception being that a vote or donation to a third-party candidate is a waste. As the executive is usually considered the most important position in government, members of the legislature will coalesce into groups supporting the two dominant executive candidates.

The categories of the functions and corresponding powers of government are inclined to become blurred when it is attempted to apply them to the details of a particular

constitution. Some hold that the true distinction lies not in the nature of the powers themselves, but rather in the procedure by which they are exercised.

Sometimes systems with clearly defined separation of powers are difficult for the average person to understand, resulting in a nebulous political process and leading to a lack of engagement. Proponents of parliamentary systems claim that they make it easier to understand how "politics is done" by providing a clearer view of who does what, who is responsible for what, and who is to blame.

This is important when it comes to engaging the people in political debate and increasing citizens' interest and participation in politics. However, for a parliamentary system to work effectively, institutional arrangements such as fair electoral laws, freedom of the press, independent courts, due process, and the independence of the Houses of Parliament must be so designed as to prevent executive supremacy over the legislative and judicial branches while also encouraging a culture of public debate, open government, accountable office holders, and policy contestability and compromise, rather than a culture of "winner takes all" political domination.

The Supreme Court of India

The **Supreme Court of India** is the highest court of the land as established of the Constitution of India. According to the Constitution of India, the role of the Supreme Court is that of

a federal court, guardian of the Constitution and the highest court of appeal.

Articles 124 to 147 of the Constitution of India lay down the composition and jurisdiction of the Supreme Court of India. Primarily, it is an appellate court which takes up appeals against judgments of the provincial High Courts. But it also takes writ petitions in cases of serious human rights violations or if a case involves a serious issue that needs immediate resolution. The Supreme Court of India had its inaugural sitting on January 28, 1950, and since then has delivered more than 24,000 reported judgments.

Constitution of the court

On January 28, 1950, two days after India became a sovereign democratic republic, the Supreme Court came into being. The inauguration took place in the Chamber of Princes in the Parliament building. The Chamber of Princes had earlier been the seat of the Federal Court of India for 12 years, between 1937 and 1950, and was the seat of the Supreme Court until the Supreme Court acquired its present premises in 1958.

After its inauguration on January 28, 1950, the Supreme Court commenced its sittings in the Chamber of Princes in the Parliament House. The Court moved into the present building in 1958. The Supreme Court Bar Association is the bar of the highest court. The current president of the SCBA is Mr. M.N. Krishnamani.

The Court moved into the present building in 1958. The building is shaped to project the image of scales of justice with the Central Wing of the building corresponding to the centre beam of the Scales. In 1979, two New Wings—the East Wing and the West Wing—were added to the complex. In all there are 15 Court Rooms in the various wings of the building. The Chief Justice's Court is the largest of the Courts located in the centre of the Central Wing.

Composition

The original Constitution of India (1950) provisioned for a Supreme Court with a Chief Justice and 7 lower-ranking Judges—leaving it to Parliament to increase this number. In the early years, a full bench of the Supreme Court sat together to hear the cases presented before them. As the work of the Court increased and cases began to accumulate, Parliament increased the number of Judges from 8 in 1950 to 11 in 1956, 14 in 1960, 18 in 1978 and 26 in 1986. As the number of the Judges has increased, they sit in smaller Benches of two and three (referred to as a *Division Bench*)—coming together in larger Benches of 5 and more only when required (referred to as a *Constitutional Bench*) to do so or to settle a difference of opinion or controversy.

Any bench may refer the case up to a larger bench if the need to do so arises. The Supreme Court of India comprises the Chief Justice of India and not more than 25 other Judges appointed by the President of India. However, the President

must appoint judges in consultation with the Supreme Court and appointments are generally made on the basis of seniority and not political preference. Supreme Court Judges retire upon attaining the age of 65 years.

In order to be appointed as a Judge of the Supreme Court, a person must be a citizen of India and must have been, for at least five years, a Judge of a High Court or of two or more such Courts in succession, or an Advocate of a High Court or of two or more such Courts in succession for at least 10 years, or the person must be, in the opinion of the President, a distinguished jurist. Provisions exist for the appointment of a Judge of a High Court as an ad-hoc Judge of the Supreme Court and for retired Judges of the Supreme Court or High Courts to sit and act as Judges of that Court.

The Supreme Court has always maintained a wide regional representation. It also has had a good share of Judges belonging to religious and ethnic minorities. The first woman to be appointed to the Supreme Court was Justice Fatima Beevi in 1987. She was later followed by Justices Sujata Manohar and Ruma Pal.

Justice K. G. Balakrishnan in 2000 became the first judge from the *dalit* community. In 2007 he also became the first *dalit* Chief Justice of India. Justice B.P.Jeevan Reddy was the only judge to be elevated to be the Chairman of the Law Commission of India even though he was not the chief justice of India.

Jurisdiction

The Supreme Court has original, appellate and advisory jurisdiction. It has exclusive original jurisdiction over any dispute between the Government of India and one or more States or between the Government of India and any State or States on one side and one or more States on the other or between two or more States, if and insofar as the dispute involves any question (whether of law or of fact) on which the existence or extent of a legal right depends. In addition, Article 32 of the Constitution grants an extensive original jurisdiction to the Supreme Court in regard to enforcement of Fundamental Rights. It is empowered to issue directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari* to enforce them.

Appellate jurisdiction

The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned under Articles 132(1), 133(1) or 134 of the Constitution in respect of any judgement, decree or final order of a High Court in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution.

The Supreme Court can also grant special leave to appeal from a judgement or order of any non-military Indian court. Parliament has the power to enlarge the appellate jurisdiction of the Supreme Court and has exercised this power in case of

criminal appeals by enacting the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970.

Appeals also lie to the Supreme Court in **civil matters** if the High Court concerned certifies: (a) that the case involves a substantial question of law of general importance, and (b) that, in the opinion of the High Court, the said question needs to be decided by the Supreme Court. In **criminal cases**, an appeal lies to the Supreme Court if the High Court (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or (b) has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or (c) certified that the case is a fit one for appeal to the Supreme Court.

Parliament is authorised to confer on the Supreme Court any further powers to entertain and hear appeals from any judgement, final order or sentence in a criminal proceeding of a High Court.

Advisory jurisdiction

The Supreme Court has special advisory jurisdiction in matters which may specifically be referred to it by the President of India under Article 143 of the Constitution.

Judicial independence

The Constitution seeks to ensure the independence of Supreme Court Judges in various ways. Judges are generally appointed on the basis of seniority and not on political preference.

A Judge of the Supreme Court cannot be removed from office except by an order of the President passed after an address in each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of members present and voting, and presented to the President in the same Session for such removal on the ground of proved misbehaviour or incapacity.

The salary and allowances of a judge of the Supreme Court cannot be reduced after appointment. A person who has been a Judge of the Supreme Court is debarred from practising in any court of law or before any other authority in India.

Powers to punish contempt

Under Articles 129 and 142 of the Constitution the Supreme Court has been vested with power to punish anyone for contempt of any law court in India including itself. The Supreme Court performed an unprecedented action when it directed a sitting Minister of the state of Maharashtra to be jailed for 1 month on a charge of contempt of court on May 12 2006. This was the first time that a serving Minister was ever jailed.

Land reform (early confrontation)

After some of the courts overturned state laws redistributing land from zamindar (landlord) estates on the grounds that the laws violated the zamindars' fundamental rights, the Parliament of India passed the First Amendment to the Constitution in 1951 followed by the Fourth Amendment in 1955 to protect its authority to implement land redistribution. The Supreme Court countered these amendments in 1967 when it ruled in *Golaknath v. State of Punjab* that Parliament did not have the power to abrogate the fundamental rights, including the provisions on private property.

Other laws deemed unconstitutional by the Supreme Court

- On February 1, 1970, the Supreme Court invalidated the government-sponsored Bank Nationalization Bill that had been passed by Parliament in August 1969.
- The Supreme Court also rejected as unconstitutional a presidential order of September 7, 1970, that abolished the titles, privileges, and privy purses of the former rulers of India's old princely states.

Response from the Parliament of India

- In reaction to the decisions of the Supreme Court, in 1971 the Parliament of India passed an amendment empowering itself to amend any provision of the constitution, including the fundamental rights.

- The Parliament of India passed the 25th amendment, making legislative decisions concerning proper land compensation non-justiciable.
- The Parliament of India passed an amendment to the Constitution of India, which added a constitutional article abolishing princely privileges and privy purses.

Counter-response from the Supreme Court

The Court ruled that the Basic Structure of the Constitution cannot be altered for convenience. On April 24, 1973, the Supreme Court responded to the parliamentary offensive by ruling in the *Kesavananda Bharati v. the State of Kerala* case that although these amendments were constitutional, the court still reserved for itself the discretion to reject any constitutional amendments passed by Parliament by declaring that the amendments cannot change the constitution's "basic structure", a decision piloted through by Chief Justice V. R. Krishna Iyer.

Emergency and the Habeas Corpus Case

However, the newfound independence of the judiciary was seriously undermined, and the constitution considerably weakened in what has been called the darkest hour of Indian democracy. This was during the Indian Emergency (1975-1977) of Indira Gandhi. In an atmosphere where a number of High courts had agreed with the rights of detainees under the restrictive Maintenance of Internal Security Act, the case of

Additional District Magistrate of Jabalpur v. Shiv Kant Shukla, popularly known as the *Habeas Corpus case*, came up for hearing in front of the Supreme Court. A bench with five of its seniormost judges decided for unrestricted powers of detention during emergency. Justices A.N. Ray, P. N. Bhagwati, Y. V. Chandrachud, and M.H. Beg, stated in the majority decision:

(under the declaration of emergency) no person has any locus to move any writ petition under Art. 226 before a High Court for habeas corpus or any other writ or order or direction to challenge the legality of an order of detention.

The only dissenting opinion was from Justice H. R. Khanna, who stated:

detention without trial is an anathema to all those who love personal liberty. A dissent is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possible correct the error into which the dissenting Judge believes the court to have been betrayed.

Before delivering his dissenting opinion, Justice Khanna had mentioned to his sister: "I have prepared my judgment, which is going to cost me the Chief Justice-ship of India." True to his apprehensions, he was superseded for the post of Chief Justice in January 1977, despite being the most senior judge at the time. In fact, it was felt that the other judges may have gone along for this very reason. Justice Khanna remains a legendary figure among the legal fraternity in India for this decision.

The New York Times, wrote of this opinion: "The submission of an independent judiciary to absolutist government is virtually the last step in the destruction of a democratic society; and the Indian Supreme Court's decision appears close to utter surrender."

During the emergency period, the government also passed the 39th amendment, which sought to limit judicial review for the election of the Prime Minister; only a body constituted by Parliament could review this election. The court tamely agreed with this curtailment (1975), despite the earlier Keshavanand decision. Subsequently, the parliament, with most opposition members in jail during the emergency, passed the 42nd Amendment which prevented any court from reviewing any amendment to the constitution with the exception of procedural issues concerning ratification.

A few years after the emergency, however, the Supreme court rejected the absoluteness of the 42nd amendment and reaffirmed its power of judicial review in the *Minerva Mills* case (1980). As a final act during the emergency, in what Justice V. R. Krishna Iyer has called "a stab on the independence of the High Court", judges were moved helter-skelter across the country, in concurrence with Chief Justice Beg.

An Assertive Supreme Court

Fortunately for Indian jurisprudence, the "brooding spirit of the law" referred to by Justice Khanna was to correct the

excesses of the emergency soon enough. After Indira Gandhi lost elections in 1977, the new government of Morarji Desai, and especially law minister Shanti Bhushan (who had earlier argued for the detainees in the Habeas Corpus case), introduced a number of amendments making it more difficult to declare and sustain an emergency, and reinstated much of the power to the Supreme Court. It is said that the Basic Structure doctrine, created in *Kesavananda*, was strengthened in *Indira Gandhi's* case and set in stone in *Minerva Mills*.

The Supreme Court's creative and expansive interpretations of Article 21 (Life and Personal Liberty), primarily after the Emergency period, have given rise to a new jurisprudence of public interest litigation that has vigorously promoted many important economic and social rights (constitutionally protected but not enforceable) including, but not restricted to, the rights to free education, livelihood, a clean environment, food and many others.

Civil and political rights (traditionally protected in the Fundamental Rights chapter of the Indian Constitution) have also been expanded and more fiercely protected. These new interpretations have opened the avenue for litigation on a number of important issues. It is interesting to note that the pioneer of the expanded interpretation of Article 21, Chief Justice P N Bhagwati, was also one of the judges who heard the ADM Jabalpur case, and held that the Right to Life could not be claimed in Emergency situations.

Chief Justice of India

The **Chief Justice of India** is the highest position obtainable by a judge in India. The chief justice of the Supreme Court is appointed on the basis of seniority by the President of India. The nominees for chief justice of the supreme court must have an experience of being judge of highcourt for at least 5 years, or be a lawyer for 10 years in the high court. Appointments of other judges to the Supreme Court are made by the President in consultation with the Chief Justice.

The Chief Justice occupies courtroom no 1 of the Supreme Court of India. Amongst his/her responsibilities are the fixing of benches. Justice K G Balakrishnan is the current Chief Justice of India from January 14, 2007, he succeeded Yogesh Kumar Sabharwal.

High Courts of India

India's judicial system is made up of the Supreme Court of India at the apex of the hierarchy for the entire country and twenty-one **High Courts** at the top of the hierarchy in each State. These courts have jurisdiction over a state, a union territory or a group of states and union territories. Below the High Courts are a hierarchy of subordinate courts such as the civil courts, family courts, criminal courts and various other district courts. High Courts are established under Part VI, Chapter V, Article 214 of the Indian Constitution.

The High Courts are the principal civil courts of original jurisdiction in the state, and can try all offences including those punishable with death. However, the bulk of the work of most High Courts consists of Appeals from lower courts and writ petitions in terms of Article 226 of the Constitution of India.

The precise jurisdiction of each High Court varies. Each state is divided into judicial districts presided over by a 'District and Sessions Judge'.

He is known as a District Judge when he presides over a civil case, and a Sessions Judge when he presides over a criminal case. He is the highest judicial authority below a High Court judge. Below him, there are courts of civil jurisdiction, known by different names in different states. Judges in a High Court are appointed by the President of India in consultation with the Chief Justice of India and the governor of the state. High Courts are headed by a Chief Justice.

The Chief Justices are ranked #14 (in their state) and #17 (outside their state) in the Indian order of precedence. The number of judges in a court is decided by dividing the average institution of main cases during the last five years by the national average, or the average rate of disposal of main cases per judge per year in that High Court, whichever is higher.

The Calcutta High Court is the oldest High Court in the country, established on 1862-07-02. High courts which handle

a large number of cases of a particular region, have permanent benches (or a branch of the court) established there. Benches are also present in states which come under the jurisdiction of a court outside its territorial limits. Smaller states with few cases may have circuit benches established. Circuit benches (known as circuit courts in some parts of the world) are temporary courts which hold proceedings for a few selected months in a year. Thus cases built up during this interim period are judged when the circuit court is in session.

High Courts

The following are the twenty-one High Courts sorted by name, year established, Act by which it was established, jurisdiction, seat of governance (headquarters), benches (branches), and the maximum number of judges sanctioned.

- Originally known established at Agra. Shifted to Allahabad in 1875.
- Lahore High Court established in 1919-03-21. Jurisdiction covered undivided Punjab and Delhi. In 1947-08-11 a separate High Court of Punjab was created with its seat at Simla under the Indian Independence Act, 1947 which had jurisdiction over Punjab, Delhi and present Himachal Pradesh and Haryana. In 1966 after the reorganisation of the State of Punjab, the High Court was designated as the High Court of Punjab and Haryana. The Delhi High Court was established on 1966-10-31 with its seat at Simla.

- Originally known as the High Court of Assam and Nagaland, renamed as Guwahati High Court in 1971 by the North East Areas (Reorganisation) Act, 1971.
- Srinagar is the summer capital, Jammu is the winter capital.
- Originally known as Mysore High Court, renamed as Karnataka High Court in 1973.
- The High Court of Travancore-Cochin was inaugurated at Ernakulam on 7 July 1949. The state of Kerala was formed by the States Reorganisation Act, 1956. That Act abolished the Travancore-Cochin High Court and created the Kerala High Court. The Act also extended the jurisdiction of the Kerala High Court to Lakshadweep.
- Under the Government of India Act, 1935 by Letters Patent dated 2-1-1936 a High Court was established at Nagpur for the Central Provinces. After the reorganisation of states, this High Court was shifted to Jabalpur in 1956.
- Originally known as Punjab High Court, renamed as Punjab & Haryana High Court in 1966

High Courts by state/ union territory

State or UT	Court	City
Andaman and Nicobar Islands	Calcutta High Court	Kolkata

Arunachal Pradesh	Guwahati High Court	Guwahati
Andhra Pradesh	Andhra Pradesh High Court	Hyderabad
Assam	Guwahati High Court	Guwahati
Bihar	Patna High Court	Patna
Chhattisgarh	Chhattisgarh High Court	Bilaspur
Chandigarh	Punjab and Haryana High Court	Chandigarh
Dadra and Nagar Haveli	Bombay High Court	Mumbai
Daman and Diu	Bombay High Court	Mumbai

	Court	
National capital territory of Delhi	Delhi High Court	New Delhi
Goa	Bombay High Court	Mumbai
Gujarat	Gujarat High Court	Ahmedabad
Haryana	Punjab and Haryana High Court	Chandigarh
Himachal Pradesh	Himachal Pradesh High Court	Shimla
Jammu and Kashmir	Jammu and Kashmir High Court	Srinagar/Jammu

Jharkhand	Jharkhand High Court	Ranchi
Karnataka	Karnataka High Court	Bangalore
Kerala	Kerala High Court	Kochi
Lakshadweep	Kerala High Court	Kochi
Madhya Pradesh	Madhya Pradesh High Court	Jabalpur
Maharashtra	Bombay High Court	Mumbai
Manipur	Guwahati High Court	Guwahati
Meghalaya	Guwahati High Court	Guwahati

	Court	
Mizoram	Guwahati High Court	Guwahati
Nagaland	Guwahati High Court	Guwahati
Orissa	Orissa High Court	Cuttack
Pondicherry	Madras High Court	Chennai
Punjab	Punjab and Haryana High Court	Chandigarh
Rajasthan	Rajasthan High Court	Jodhpur
Sikkim	Sikkim High Court	Gangtok

Tamil Nadu	Madras High Court	Chennai
Tripura	Guwahati High Court	Guwahati
Uttarakhand	Uttarakhand High Court	Nainital
Uttar Pradesh	Allahabad High Court	Allahabad
West Bengal	Calcutta High Court	Kolkata

District Courts of India

The **District Courts** of India are presided over by a judge. They administer justice in India at a district level. These courts are under administrative and judicial control of the High Court of the State to which the district concerned belongs.

The highest court in each district is that of the District and Sessions Judge. This is the principal court of civil jurisdiction. This is also a court of Sessions. Sessions-triable cases are

tried by the Sessions Court. It has the power to impose any sentence including capital punishment.

There are many other courts subordinate to the court of District and Sessions Judge. There is a three tier system of courts. On the civil side, at the lowest level is the court of Civil Judge (Junior Division). On criminal side the lowest court is that of the Judicial Magistrate. Civil Judge (Junior Division) decides civil cases of small pecuniary stake. Judicial Magistrates decide criminal cases which are punishable with imprisonment of up to five years.

At the middle of the hierarchy there is the Court of Civil Judge (Senior Division) on the civil side and the Court of the Chief Judicial Magistrate on the Criminal side. Civil Judge (senior division) can decide civil cases of any valuation. There are many additional courts of Additional Civil Judge (senior division). The Jurisdiction of these additional courts is the same as that of the principal court of Civil Judge (Senior Division).

The Chief Judicial Magistrate can try cases which are punishable with imprisonment for a term up to seven years. Usually there are many additional courts of Additional Chief Judicial Magistrates. At the top level there may be one or more courts of additional district and sessions judge with the same judicial power as that of the District and Sessions judge.

Judicial independence of each court is the characteristic feature of the district judiciary. In each district there is a

strong bar which ensures that courts decide cases according to law and without fear or favour. The greatest problem of district courts is that of huge backlog of cases leading to undue delay in deciding cases.

Panchayati Raj

The **Panchayat** is an Indian political system. 'Panchayat' literally means assembly (*yat*) of five (*panch*) wise and respected elders chosen and accepted by the village community. Traditionally, these assemblies settled disputes between individuals and villages. Modern Indian government has decentralised several administrative functions to the village level, empowering elected gram panchayats.

The term 'panchayat raj' is relatively new, having originated during the British administration. 'Raj' literally means governance or government. Mahatma Gandhi advocated *Panchayati Raj*, a decentralized form of Government where each village is responsible for its own affairs, as the foundation of India's political system. His term for such a vision was "Gram Swaraj" (Village Self-governance).

It was adopted by state governments during the 1950s and 60s as laws were passed to establish Panchayats in various states. It also found backing in the Indian Constitution, with the 73rd amendment in 1992 to accommodate the idea. The Amendment Act of 1992 contains provision for devolution of powers and responsibilities to the panchayats to both for preparation of

plans for economic development and social justice and for implementation in relation to twenty-nine subjects listed in the eleventh schedule of the constitution.

The panchayats receive funds from three sources – (i) local body grants, as recommended by the Central Finance Commission, (ii) funds for implementation of centrally-sponsored schemes, and (iii) funds released by the state governments on the recommendations of the State Finance Commissions.

In the history of Panchayati Raj in India, on April 24, 1993, the Constitutional (73rd Amendment) Act, 1992 came into force to provide constitutional status to the Panchayati Raj institutions. This Act was extended to Panchayats in the tribal areas of eight States, namely Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan from December 24, 1996.

The Act aims to provide 3-tier system of Panchayati Raj for all States having population of over 2 million, to hold Panchayat elections regularly every 5 years, to provide reservation of seats for Scheduled Castes, Scheduled Tribes and Women, to appoint State Finance Commission to make recommendations as regards the financial powers of the Panchayats and to constitute District Planning Committee to prepare draft development plan for the district.

Powers and responsibilities are delegated to Panchayats at the appropriate level:-

- Preparation of plan for economic development and social justice.
- Implementation of schemes for economic development and social justice in relation to 29 subjects given in Eleventh Schedule of the Constitution.
- To levy, collect and appropriate taxes, duties, tolls and fees.

Village level

Panchayati Raj is a system of governance in which gram panchayats are the basic units of administration. It has 3 levels: village, block and district. At the village level, it is called a Panchayat. It is a local body working for the good of the village. It can have its members ranging from 7 to 31. However, in exceptions, it can have members above 31 but not below 7.

The block-level institution is called the panchayat samiti. The district-level institution is called the zilla parishad.

Village councils

Panchayat also refers to a council of elected members taking decisions on issues key to a village's social, cultural and economic life: thus, a panchayat is also a village's body of elected representatives. The council leader is named *sarpanch*

in Hindi, and each member is a *panch*. The panchayat acts as a conduit between the local government and the people. Decisions are taken by a majority vote (Bahumat). It is said that in such a system, each villager can voice his opinion in the governance of his village.

Decisions are taken without lengthy legal procedures and the process remains for the most part transparent. Panchayat is an ancient Indian word that means means Five Persons (Headman). Since its inception, Panchayat has come a long way, it is currently included in the constitution of the Government of India.

Coalition politics in India

The breakdown of the national consensus on a parliamentary majority in India, a phenomenon which is characteristic of the function of parliamentary governments in the developing countries, has led to a dangerous trend, to identify the federal division of powers with sub-national pluralism. In an attempt to seek legitimacy for the coalition governments, which largely depend upon the support of several regional parties, a phenomenon specified to the Indian political system, many of the political parties, which claimed to have demolished one-party dominance of the Congress, have called for the identification of the federal division of powers with sub-national identities representing the pluralist content of the Indian society.

Indeed the proposals were aimed to evolve a centre of power in which the coalition constituents shared authority to sustain their power. The decentralisation of central authority on horizontal basis, it was contended would, end the quest for identity of the regionalised sub-national cultures in India, otherwise compartmentalised in artificial administrative divisions of the Indian federal organisation. The pluralisation of power at the federal centre in India and in the states, it came to be actively advocated, would dissolve the configuration of political power based upon the traditional one-party parliamentary majority which reflect the diversity of the Indian society.

With the replacement of the Dominant Party System of India, minority and/or coalition governments in New Delhi have become the order of the day. Except for the Congress Minority Government of P.V. Narsimha Rao and National Democratic Alliance Government of Atal Behari Vajpayee, all such governments since 1989 have been unstable. Yet instability apart, coalition governments have been effective in enhancing democratic legitimacy, representativeness and national unity.

Major policy shifts like neo-liberal economic reforms, federal decentring, and grass roots decentralization, in theory or practice, are largely attributable to the onset of federal coalitional governance. Coalition governments in states and at the centre have also facilitated gradual transition of the Marxist-left and the Hindu-right into the political establishment, and thus contributed to the integration of the

party system as well as the nation. The same major national parties which initially rejected the idea of coalition politics have today accepted it and are maturing into skilled and virtuoso performers at the game.

In a rather short span of over a decade, India has witnessed coalition governments of three major muted hues: (a) middle-of-the-road Centrist Congress Minority Government of P.V. Narsimha Rao, going against its Left Centre of reputation, initiated neo-liberal economic reforms in 1991; (b) three Left-of-centre governments formed by the Janata-Dal-led National/United Front; and (c) two Right-of-Centre coalition governments formed by the Bharatiya Janata Party-led National Democratic Alliance under Atal Behari Vajpayee, a votary of secular version of Hindu nationalism.

In the wake of the decline of Congress Dominance, the fragmentation of the National Party System and the emergence of party systems at the regional level have turned India into a chequered federal chessboard. The past and likely future patterns of coalition governments in New Delhi are suggestive of at least three models of power sharing: (a) coalition of more or less equal partners, e.g. the National Front and the United Front, (b) coalition of relatively smaller parties led by a major party, e.g. National Democratic Alliance; and (c) coalition of relatively smaller parties facilitated but not necessarily led by a prime minister from the major party, e.g. the coalition of parties formed in 2004 around the Indian National Congress, avowing secular Indian Nationalism.

Besides the theoretical proposition that all forms of federal organisation are based upon territorial division of political authority on administrative basis, not even remotely related to any social pluralities, the practical implications of seeking any identification of the federal division of powers with sub-national identities, would be disastrous for such a large country as India and would, sooner than anticipated, lead to the disintegration of the Indian federal structure. Federalisation is a political process which underlines a division of powers on territorial basis. Whenever the territorial division of powers was sought to be identified with sub-nationalism, the federal structures disintegrated.

The Indian federal polity grew out of two diametrically divergent processes, which underlined the devolution of authority to erstwhile provinces of what was known as the British India, before the independence and the integration of the Indian Princely States, which acceded to India in accordance with the instruments of Accession. The Instruments of Accession envisaged, the procedure by virtue of which the Indian States acceded to India.

The federal organisation of India, was, therefore, constituted of the erstwhile Indian provinces and the Indian Princely States, which were liberated from the British tutelage after the British colonial empire in India came to its end in 1947. The federating process in India underlined a combination of the devolution of authority to the provincial governments on the

one hand and the integration of the acceding states, on the other.

The Constituent Assembly favoured a conditional devolution of the powers to the provinces. The rulers of the states, on their part too, approved of a conditional transfer of their authority to the federation. The Constituent Assembly of India, however, proved to be a great leveler and forged the provinces and the states into an irreversible union in which the Central government assumed paramount authority over the provinces as well as the States.

The political boundaries of the Indian Provinces and the Princely States, as they evolved with the consolidation of the British Power in India, overspread ethnic, cultural, religious and linguistic diversities. The Indian social pluralism did not represent any political boundaries. The ethnic divisions, religious commitments, caste gradation and cultural diversities, cut across the political boundaries, the British described, creating many interlocking segments.

None of the interlocking segments presented any political uniformity and territorial contiguity. The Indian federal organisation envisaged by the Constitution of India does not represent the division of political authority on the basis of the division of powers between the federation and the sub-national identities. The founding fathers of the Indian Constitution, envisioned integration as well as autonomy in a concrete political system.

The Indian federal organisation was embedded in an environment, which was plural and diverse, but its boundaries were clearly defined. The federal division of powers evolved by the Constituent Assembly transcended the cultural, religious and linguistic pluralism of the Indian society. The autonomy, now claimed for sub-national identities as the basis of what is called 'cooperative federalism', is a prescription for the dissolution of the federal relationship evolved by the Constituency Assembly of India as a basis of the Indian Federal Organisation.

Any attempt, made, consciously or unconsciously, to change the territorial division of powers in the Indian federation will lead to its disintegration. There is an inherent conflict between subnational pluralism and political autonomy. Political autonomy is a residue of political authority and therefore, complementary to national integration. Subnational pluralism is basically a function of ethnic, cultural, religious and linguistic separatism and consequently irreconcilable to national integration and nation-building.

Coalition politics is not an attribute of parliamentary government. It is a dysfunctional feature of the cabinet system of government, which is essentially founded on an ideological and political consensus on a national level. Regional aspirations, autonomy and plural sociology, are an antithesis of a parliamentary consensus. Federalisation of power in India, is reconcilable to the national census in a parliamentary

government to the extent it underlines on a political division of powers, within the broad framework of a parliamentary order.

Coalitions are destructive of the parliamentary majority. If the trend to replace, parliamentary majorities continues, the whole parliamentary systems in India will not survive for long. Nor will the federal division of powers endure for many years, because its basis in India is underlined by a consensus on a parliamentary majority. The slogan 'struggle-unity-struggle' that the Bulgarian communist leader Georgi Dimitrov declared as essential for bringing together the communists and Left with the mass of the working people, was cited by Biman Basu as an example of the dynamics of coalition politics in Bengal.

Biman Basu stressed that the Left that must take the leadership in building up waves of democratic movements in the country. The Left must strengthen its base continuously and nationwide, by expanding the horizon and ambit of the democratic movements and struggles while carrying forth the class struggle, above the surface or at the subterranean level.

It was around this basic tenet that he weaved his arguments while addressing a packed gathering on the 'Future of coalition politics in India.' The venue was the Promode Dasgupta Bhavan in Kolkata. Biman Basu stressed repeatedly how the CPI(M) and the Left must go beyond Bengal to spread the democratic movement and to do this they must augment and expand their organisational base in a large way.

Based on the widening democratic movement, the Left must build up a coalition /front that would be a real alternative to the coalitions being set up by the forces of reaction led by the big bourgeois and the big landlords. The alternative coalition shall look to the interests of the common people just as the coalition of the forces of reaction and their lackeys serve the interests of the capitalists, the zamindars, the affluent, and the merchants.

Four Left parties, the Communist Party of India (Marxist), the Communist Party of India, the Forward Bloc, and the Revolutionary Socialist Party are already working at the national level through close coordination so that the Left can play a bigger and more significant role on the national plane, pointed out Biman Basu.

Turning to the political scene in Bengal where a ruling Left Front has been in office for the past three decades, Biman Basu said that all the constituent parties of the Left Front must abide by decisions and resolutions taken by the Bengal Left Front and by the cabinet of the Bengal Left Front government. A constituent partner of the Bengal LF may well have difference of opinion or view in a certain issue or issues. The difference of opinion should be amicably resolved through mutual discussion within the LF and not outside of it. It is observed nonetheless that some of the LF parties would not deign to follow uniformly the decisions arrived at some issue or the other at the LF meetings and at the LF cabinet of ministers.

The CPI(M) is never found involved with any effort to create hatred and animosity against any LF constituents. Those who are in the vanguard of the Left movement in India should scrupulously refrain from maligning one another, and try to fulfil the historical tasks before them. They should play a leading role in building up the Left forces in the country. This will crucially decide in which direction coalition politics in India shall move in the days to come, said Biman Basu.

Dwelling on the post-1977 coalition politics in India and Bengal Biman Basu pointed out that at present and in the future, coalition politics would dominate the political scenario.

There should be a line of clear distinction drawn, said the CPI(M) Polit Bureau member, between the coalition politics being put in motion in Bengal, Tripura, and Kerala on the one hand, and those in the rest of the states. In the other states, the ruling classes would like to see that their lackeys run the governments.

Additional ingredients of these state coalition governments are elements of clan and community. All this, however, has served to enhance the political domination of regional parties. In states like Chhatisgarh, there are even regional parties based on districts. The situation overall has prevented the big national parties from coming to office in a monolithic manner. Thus, coalition politics has started to dominate the politics of India as such.

Biman Basu also detailed out the nature of the Left Front in Bengal that had been formed before the elections of 1977. This made the front different from other fronts. He also said that the Left Front was a pro-people, especially pro-poor front. Biman Basu concluded by presenting a laudatory evaluation of the crucial leading role the late CPI(M) leader Promode Dasgupta had played in the formation of the Left Front and in nurturing its growth through difficult times.

Election Commission of India

The **Election Commission** of India is an autonomous, quasi-judiciary constitutional body created to conduct free and fair elections to representative bodies in India. It was established on January 25, 1950.

The commission presently consists of a Chief Election Commissioner and two Election Commissioners. Since inception, however, the commission had just one Chief Election commissioner. This arrangement continued till Oct, 1989 when 2 election commissioners were appointed but removed again in Jan, 1990. Subsequently in 1991, the parliament passed a law providing for the appointment of 2 election commissioners.

This law was amended and renamed in 1993 as Election Commission (Condition of Service of Election Commissioners and Transaction of Business) Act, 1991 Current Chief Election Commissioner is N. Gopalaswami the other two election commissioners are Navin Chawla and S.Y. Quereshi.

The Election Commission enjoys complete autonomy and is insulated from any kind of executive interference. The body also functions as a quasi-judiciary body in matters of electoral disputes and other matters involving the conduct of elections. Its recommendations and opinions are binding on the President of India. However, the decisions of the body are liable for independent judiciary reviews by courts acting on electoral petitions.

The Election Commission is responsible for planning and executing a whole gamut of complex operations that go into the conduct of elections. During the elections, the entire Central (Federal) and State government machinery including para-military forces and the Police is deemed to be on deputation to the Election Commission which takes effective control of personnel, movable and immovable Government Properties it deems necessary for successful completion of the electoral process.

Election Commission Declares Article 144 prohibiting 5 or more than 5 persons to gather or move together 18 hours before the scheduled polling time. The Elections to the Lok Sabha, India's lower house of the Parliament is one of the largest human operations wherein electorates of over 670 million vote to choose their representatives to the house. Thus the Election Commission of India enjoys the distinction of being one of the largest management organisations employing more than 5 million personnel during elections.

Apart from conducting elections to representative bodies, the Election Commission has been on many occasions, called upon by the Courts to oversee and execute elections to various governing bodies of other autonomous organisations, such as Syndicates of Universities, statutory professional bodies, etc.

Leveraging its experience and expertise in conducting elections, The Election Commission also assists many of its counterpart bodies in third world countries. As part of a pact with the UN, the Election Commission of India as part of the UN Electoral Assistance Division will provide logistics and consultancy assistance for elections in Iraq among other nations which are fledging democracies.

Chief Commissioners

- Sukumar Sen : 21 March 1950 to 19 December 1958
- KVK Sundaram : 20 December 1958 to 30 September 1967
- SP Sen Verma : 1 October 1967 to 30 September 1972
- Dr Nagendra Singh : 1 October 1972 to 6 February 1973
- T Swaminathan : 7 February 1973 to 17 June 1977
- S.L.Shakdhar : 18 June 1977 to 17 June 1982
- RK Trivedi : 18 June 1982 to 31 December 1985
- RVS Peri Sastri : 1 January 1986 to 25 November 1990
- Smt V. S. Ramadevi : 26 November 1990 to 11 December 1990

- T.N. Seshan : 12 December 1990 to 11 December 1996
- M. S. Gill : 12 December 1996 to 13 June 2001
- J. M. Lyngdoh : 14 June 2001 to 7 February 2004
- T S Krishna Murthy : 8 February 2004 to 15 May 2005
- B B Tandon : 16 May 2005 to 28 June 2006
- N Gopaldaswami: 29 June 2006 to present

Tenure of commissioners

The President appoints Chief Election Commissioner and Election Commissioners. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India. The Chief Election Commissioner can be removed from office only through impeachment by Parliament. The **Chief Election Commissioner** heads the Election Commission of India, a body constitutionally empowered to conduct free and fair elections to the national and state legislatures.

The President of India appoints the Chief Election Commissioner and two Election Commissioners. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same official status and receive salary and perks as available to Judges of the Supreme Court of India. The Chief Election Commissioner can be removed from office only through impeachment by Parliament. Despite the recent changes in the hierarchy, the system always had powers

to impose unambiguous RULES AND GUIDELINES that applied across the entire nation e.g. as to how the ballots will be cast and counted, what will be regarded as 'unqualified' vote (something whose importance became very evident during US presidential election in 2000).

India was probably one of the first countries in the World to go for a completely electronic ballot in the last elections. What made this remarkable was the fact that the Office of the Chief Election Commissioner had successfully implemented this across the entire diverse Indian population that also consisted of the rural illiterate people.

While the office has always been an important one in the machinery of the Indian political process, it gained significant public attention during the tenure of T.N. Seshan, from 1990-1996. Mr. Seshan is widely credited with undertaking a zealous effort to end corruption and manipulation in Indian elections. Though he made significant progress, several politicians attempted to derail these efforts. In particular, the expansion of the Election Commission to include the two Election Commissioners (in addition to the Chief Commissioner) was seen as a move to curtail the commission's ability to act aggressively.