DIRECTORATE OF LEGAL STUDIES
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I - Semester

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Compiled by:

Dr. N. Kayalvizhi M. L., Ph.D.,

Asst. Professor,

Dr. Ambedkar Govt. Law College, Chennai - 600 104

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For Your Information :

The Registrar,

THE TAMIL NADU Dr. AMBEDKAR LAW UNIVERSITY
"Poompozhil",
5, Dr. D.G.S. Dinakaran Salai,
Chennai - 600 028.
Telephone : (044) 2464 1212, 2464 1919,
Tele - Fax : (044) 2461 7996
Email : registrar.tndalu@gmail.com
: registrar@tndalu.ac.in
Website : http://www.tndalu.ac.in

THE DIRECTORATE OF LEGAL STUDIES,
Kilpauk, Chennai - 600 010.
Telephone : (044) 2532 1394
Email : dirlegal@tn.gov.in
Website : www.tndls.ac.in

Dr. AMBEDKAR GOVERNMENT LAW COLLEGE, CHENNAI -600 104.
Telephone : (044) 2534 0907
Email : draglc104@yahoo.com
Website : www.draglc.ac.in

GOVERNMENT LAW COLLEGE, MADURAI - 625 020.
Telephone : (0452) 253 39 96
Email : glcmadurai@gmail.com
Website : www.glcmadurai.ac.in

GOVERNMENT LAW COLLEGE, TIRUCHIRAPALLI - 620 023.
Telephone : (0431) 242 0324
Email : glctry@gmail.com
Website : www.glctry.ac.in

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Telephone : (0422) 242 2454
Email : glccbe@yahoo.com
Website : www.glccbe.ac.in

GOVERNMENT LAW COLLEGE, TIRUNELVELI - 627 011.
Telephone : (0462) 257 8382
Email : glctvl.2010@gmail.com
Website : www.glctvl.ac.in

GOVERNMENT LAW COLLEGE, CHENGALPATTU - 603 001.
Telephone : (044) 2742 9798
Email : Chengalpattulawcollege@gmail.com
Website : www.glccgl.ac.in

GOVERNMENT LAW COLLEGE, VELLORE - 632 006.
Telephone : (01416) 224 1744
Email : law.college.vellore@gmail.com
Website : www.glcvellore.ac.in

Printed at : Abna Traders, Chennai - 45, Cell : 98400 16816.
Email : abnatraders@gmail.com

1. ENGLISH - I

THE LANGUAGE OF THE LAW

- Urban A. Lavery

Urban A. Lavery, in his essay "The Language of the Law" deals with the trifling niceties of a lawyer's language. The ability of the lawyer to confuse others has been the subject of proverbs. Nevertheless, the author says that it is not the purpose of this paper to praise the linguistic brilliance of the lawyer, but to consider some of his defects.

The author throws light on the general decline in the standards of legal writing. A lawyer who speaks the Kings English better than other seems to lose his mastery when it comes to writing. It is a difficult task to teach others the art of writing. There are books on writing subjects like poetry, prose, scientific English, but none on writing legal English.

Laws are so abundant and common that they must be understood and obeyed by all sections of the people. Ignorance of law excuses no man. Therefore laws must be drafted in such a way that the language is simple and easily understandable to layman as well as lawyers.

The sentence is the basic unit expression. As a general rule sentences should be short because short sentences are more quickly and easily understood than long sentences. A sentence, containing not more than fifteen words is called a short sentence. It is sad to note that lawyers seldom look into grammar or composition books. They do not consider the use of proper adverbs, prepositions, conjunctions etc., and the author even criticizes Jeremy Bentham the greatest law reformer in England whose later writing's became difficult to read.

Another chief defect in the writing of lawyers is the fact that they use circumlocution rather than straight blunt speech. They prefer to go round a subject with their words rather than straight to it. Considering the complexities of the subject, it may be admitted that the lawyer's problem in writing is a difficult one. But the fact remains that they do not give due attention to the art of writing. What is well spoken may not look nice when put into writing. It is just the difference between oral and written words which makes that dictated brief horrible. Such a document fails to realize the technique which lies in the art of writing legal English. It is a technique which can only be acquired by persistent effort and it does not come with the profession as many lawyers think.

IN THE COURT

- Anton Chekhov

"In the court" is a very vivid description of the trial of a peasant named Nikolay Harlamov, charged with the murder of his wife. The author Anton Chekhov, at the outset, gives a picture of the circuit court at the district town where the Justices of the peace, the Rural Board, the Liquor Board, the Military Board and many others sat by turns. The building is a very old one and it bears a dismal appearance without any kind of comfort.

The sitting of the circuit court began between nine and ten. The cases came on one after the other and ended quickly like a church service without a choir. At precisely two o' clock the presiding officer announced that the case of Nikolay Harlamov could next be heard. Harlamov, the prisioner, tall, thick-set peasant of about fifty five years was brought in. The presiding officer, the assistant prosecutor, the counsel for the defence and all the officials of the court wore a monotonous look in their routine work. No one seemed to have any special interest in his particular case.

At this stage the author reveals the mental make-up of the prisoner who for the first time got into the clutches of law. He looked with dull-witted respectfulness at the judges uniforms and blinked calmly. The charge of murder hung over him and yet here he met with neither threatening faces nor indignant looks. He did not understand that the men in the court were accustomed to the dramas and tragedies of life.

In the meantime, after the customary questions to the prisoner, the charge against the prisoner was read. The charge was that he murdered his wife on the evening of ninth June. The presiding officer asked him whether he pleaded guilty. When the prisoner denied the charge, the trial began. The court proceeded with the examination of witnesses. Two peasant women, five men and the village policeman, who had made the inquiry, were examined. All of them testified that Harlamov lived well with his wife. On the particular day the body of the woman was found in the porch with her skull broken. An axe also lay beside her in a pool of blood. Harlamov had disappeared and came to the police station after two days.

When asked by the president Harlamov told that he was wandering about the fields on those two days as he was afraid that he might be judged guilty. The district doctor was also examined. When the defence counsel tried to get an answer to his question from the doctor, .regarding the mental condition of the criminal, he could not get it. Then the material evidences like the cloth, axe etc., were examined. Harlamov denied that he had an axe and also he gave different reason for the blood stain in his coat. Harlamov was irritated that he was not properly heard. The trail came to a close and the prisoner was escorted back and it was a painful moment. The author ends the description without giving the judgment pronounced.

This write-up is an attempt to bring out the boredom and indifference peculiar to criminal trials. The attitude of a poor villager charged with a grave offence is well described.

EDUCATING LAWYERS FOR A CHANGING WORLD

- Erwin.N.Griswold

Erwin N. Griswold in his essay "Educating Lawyers for a changing world" underlines the need for change in the legal education to keep pace with the changes in the society. He says stress on research in law as in other subjects of study.

Legal education in our country is only about eighty years old. During this period there have been many changes and developments in the law schools and law teaching. These changes reflect not merely growth and development in our law and society, but also, a marked change in the legal profession. In the recent decades, the traditional role of a lawyer has changed and his functional area has considerably expanded to business counselling, public service labour law, administrative law, taxation etc. As a result of this, effective teaching in these subjects is necessary to equip the lawyers to meet the challenges of the profession.

Much of our legislation is piecemeal and for the most part drafted by part time legislators with little or very limited opportunities for detailed discussion 'The re-examination and analysis of these laws has been a major task which practising lawyers cannot effectively do. This is an area where the law schools can make a major contribution.

The challenge put to the law schools in our times is that in addition to being effective teaching agencies, they must become centres for carrying on research into the law, its development and its application to the solution of current problems. Much of the legal research of the past has become inadequate in view of the modern development in law. Therefore, serious attempts must be made in the field of legal research. The research activities contribute directly to the teaching. The findings of the research become available for teaching. The students can often engage directly, in the research activities.

The importance given to research in subjects like medicine, engineering etc. is not given to law. Natural science deals with phenomena that are measurable with accuracy. Experiments are simple and can be conducted in a short interval of time, whereas, the problems of the social science the adjustment of human relations in society are more complex. Yet the problems are more important to mankind than anything related to natural science. The basic problem confronting the society is whether it will be able to control the forces that science has developed. This involves baffling questions relating to human nature, Psychology, economics, political science law and other fields also. We have begun to explore these areas, but the results are not encouraging. Still in certain areas we have made progress.

We cannot predict the manner in which developments may take place in the future. We must be prepared to face the challenges thrown by them. We cannot make progress in the field of adjusting human relations unless we work at it intensively.

Mr. HAVLENA'S VERDICT

- Karel Capek

Mr. Havlena's 'Verdict is an interesting account of an imaginary criminal case which got wide publicity. The author highlights the general trend of reporting sensational criminal case in newspaper almost every day in order to attract the reading public. Police news reporters used to hatch out novel cases for themselves and could find a regular market for them. Mr. Havlena the person who supplied the case in the essay was a law student who discontinued his studies. Still he was well-versed in legal matters, especially criminal cases. He used to supply cases for police reporters. His cases were well received by the readers and he was paid in terms of cigar and beer.

One day Havlena imagined a case. It was the case of an old bachelor who had a quarrel with a widow who lived opposite to him. So he got a parrot and trained it well so that wherever the lady appeared on her balcony it screeched out at the top of its voice "You slut" which means "dirty woman" The widow brought an action against him for defamation of character. The district courts sentenced him to fourteen days imprisonment.

This case appeared in about six newspapers under various headlines such as "Far from the Madding Crowd "Landlord and Poor Widow" "Accusation against parrot" etc. The ministry of Justice decided to file an appeal against the order of the district court and asked for the particulars of the case from the newspaper. When this was taken to the knowledge of Havlena, he got angry, drew up a detailed statement to vindicate the Verdict and sent it to the Ministry of Justice. It was not taken notice of by Ministry and Havlena stopped giving judgments afterwards.

However, Havlena was not prepared to take this disgrace lying down. Soon he was back in business. He got a parrot, trained it up and made it utter the words 'You slut' at the old woman living opposite to his house. Contrary to his expectation the woman was not offended by the words uttered by the parrot. Havlena tried his best to persuade her to bring an action against him and at last succeeded in his attempt. She brought an action for defamation of character.

When the case came up for trial, Havlena gave a long speech admitting all the allegations against him. But the magistrate wanted to hear the parrot and adjourned the case. At the next hearing the parrot was brought to the court. The parrot uttered the words 'you slut' towards all persons irrespective of sex. Therefore, it became clear that the words were not intended to defame the woman. Havlena strongly argued, that it was his intention to defame her. However the court found no reason in it and acquitted Havlena. Havlena went out of the court in anger, saying that he would file an appeal in the High Court. The appeal was also dismissed and thereafter Havlena was found loitering about the street like a lost soul. -

Karel Capek's attempt to bring to light the tendency among the reading public to go after interesting police reports is commendable

THE FIVE FUNCTIONS OF THE LAWYER

- Arthur T. Vanderbilt

Lawyers in the modern society have multifarious roles to play According to Arthur T. Vanderbilt, there are five important functions assigned to a great lawyer. They are 1. Counselling 2. Skill in advocacy 3. Improving the profession 4. Leading public opinion and 5. Accepting public office when called for.

First of all a truly great lawyer is a wise counsellor to men in their crises. A lawyer must possess a sound knowledge of the principles of law to render effective counselling. A lawyer must also have a wide and deep knowledge of human nature and of modern society.

Secondly a lawyer must be skilled in the art of advocacy and Well-trained in defending the legal rights of his clients both in the trial courts and on appeal. A lawyer must be well-experienced so that he can defend the cause of his client and help the court in setting the course of law. Advocacy is not the gift of god It involves general distinct arts which must be studied and mastered. Constant reading and assimilation of facts and modern trends in the field of law will go a long way helping a lawyer to develop the skill of advocacy.

The third task of a lawyer is to improve his profession individually and as a member of the organized Bar. Every man is under an obligation to build up the profession to which he belongs. Indeed, this obligation is exactly what distinguishes a profession from business. The advances in natural science and technology and the changes in business and in social life are so startling that a lawyer must improve his profession to keep pace with them. The law schools also must come forward to perform their task in equipping the young lawyers to face the challenges of the profession.

The fourth function of a lawyer is to act an intelligent and Unselfish leader of public opinion. Sound public opinion is so indispensable that it can even change the course of history. The author cities an example from Charles Lindbergh's warning about the war planes in Germany, over six months before the outbreak of wood war II. If the news of Charles Lindbergh had been supported by strong public opinion, the course of history would have been different

In view of the deteriorating standards in public life the author makes very strong plea for the lawyers to take up public office whenever there is a call. The professional thoughts and brilliance of a lawyer should not end in his own private clients. A lawyer with his profound knowledge in human relations and social conditions, can easily solve many of the problems of the day.

These are the five important functions of a great lawyer. Education in these five functions of the lawyer is partly the province of the college, partly the duty of the law school, but in large measure it is the responsibility if the individual lawyer. The institutions imparting legal education have realized their responsibilities and started planning the curriculum accordingly.

COMPARATIVE LAW

- Rene David and John E.C. Brierley

The emergence of comparative law as an important subject of study is relatively recent. Only from the second half of the 19th Century comparative law became a important branch of study. The need for comparing laws slowly became more and more apparent. Hearing, a German jurist proclaimed that it was the method of future jurist.

In many countries of the world, especially in France, the importance of comparative Law came to be stressed in the early part of the 19th century. Comparative law under the modest title of comparative legislation appeared at this time. France, which was following Napoleonic codes for a Long time began to accept suggestions for improvement in legislation. An "Office of Foreign legislation" to inform judges about foreign laws were created in the year 1869.This simplified the comparison of laws by publishing translations of foreign codes. This first international congress of comparative law was held in Paris in 1900. The principle idea that emerged from the discussion was the creation of a droit common legislative, (Common Law) the law of the 20th century shared by all civilized humanity The legislations of the different nations acting together by means of international treaties were to promulgate the common law and make it the positive law of their countries

During, the period between 1918 and 1945 some attempts were made to promulgate common law of all countries. But the growth in this area was hampered to some extent by the international political climate prevailing then. However, a new thrust was given to the development of comparative law after World War II. Technical discoveries profoundly changed the conditions of life. Distances disappeared and national boundaries to a great extent ceased to have any meaning. The economic and social developments and the impact of globalization and liberalization in the present context has necessitated a fresh look at law and legislation at the international level. The jurist cannot be blind to the new balance of power which has been established in world polities & economics. The result is that the study of law in the contemporary world has become international.

The uses of comparative law

1. Unification of Laws

The idea of world unification of law through legislative agreements has become relevant and very useful in new area such as space law atomic law, television law, maritime law etc., where there is no rooted tradition. However, in other fields such as commercial law also, uniformity is desired in the context of the different regional agreements throughout the world, juristic efforts are on to verify the laws by means of legislation.

2. International understanding

Comparative law promotes international understanding of the basic principles of law and the legislation. This ensures harmonious co -existence which is the condition precedent for the preservation and progress of any nation. The world today is different from what it was a century ago. The position of Western Europe and the thinking of the jurist's Roman tradition are not fully endorsed. International political and commercial relation must take into account these new circumstances .

3. Better knowledge of national law:

Apart from unification and the other uses, comparative law has a new function. It helps us to know; to understand and to probe our own legal system. It also helps us to show how some questions can be more relevantly asked and how certain parts of our taw are not properly drafted. Judicial nationalism is provincialism and irreconcilable with the development and even the application of a national law.

Thus, it has become imperative that Legal education must have its focus, on foreign thought and experience so as broaden the outlook of the jurists

THE HYPOTHESES OF FAILURE

- O-Henry

The hypotheses of failure' deals with the way a lawyer handles clients with conflicting interests. Lawyer Gooch a leading practitioner mainly on matrimonial disputes was fond of comparing his suite of office rooms with the bottom of a ship. Just as the water tight compartments in the bottom of a ship, there were separate rooms for clients in his office. When he was occupied with a client, if another client with a conflicting interest called on him, he would be accommodated in another room with the help of the office boy. Both the clients would not be allowed to meet each other. This way lawyer Gooch, a man of humour used to settle disputes and to get huge amount as fees.

One day, in the ninth of June, when Gooch was sitting in his office almost idle, a man called on him. He looked a bit arrogant and did introduce himself. He started asking many questions about Gooch and wanted to state a hypothetical case. The case was that a fine-looking woman, wife of Thomas R. Billings ran away with Henry K. Jessup; a licentious man. He asked Gooch whether a married woman, well educated in science and culture can take the man she likes, when the matrimonial home becomes incompatible. Gooch answered in the affirmative and agreed to get her divorce and the man agreed to pay fees of five hundred dollars.

While the conversation was still on, a lady client called on Gooch and she was led into a separate room. Gooch kept his first client waiting and entertained client number two, a tall lady with wealthy appearance. She also wanted to state a hypothetical case and get divorce for the woman. The facts of the case were the same as already stated by the first client.

At this stage the third client, a gentleman called on Gooch and he was also kept in a separate room He looked nervous and much worried He also narrated a hypothetical case the pathetic plight of a husband whose wife ran after another man, wrecking a matrimonial home. The facts were the same but he did not want divorce for the woman, instead he pleaded with Gooch to act as a mediator and reunite the estranged husband and wife. He promised one thousand dollars as fee for the settlement.

Lawyer Gooch knew very well that the three individuals sitting in separate rooms were the real parties in the hypothetical case, though they were not conscious of one another's presence within his reach. Gooch kept me third client waiting and went back to his first client and demanded one thousand and five hundred dollars as fee for getting divorce. When he refused to pay the amount he was shown the way out. Gooch is now hopeful of bringing about a settlement between the husband and wife with the third party out of the scene. Gooch tried to bring them

together, but he could not succeed. The third client Mr Billings, on seeing his wife Mrs Billings ran down the building through the open window without even stopping to take his bag and hat. Mr Billings also left the office in anger.

Thus the tricks of lawyer Gooch misfired and the good ship of his business wrecked.

THE MIND AND FAITH OF JUSTICE HOLMES

Justice Holmes analyses the different theories of punishment and concludes that the 'Retributive Theory of punishment is still relevant despite the emergence of the other modern theories. Satisfaction of the desire for vengeance continues to be one of the objects of punishment. Where compensation to the victim is not possible, by reason of the impossibility of estimating the worth of the suffering in terms of money is to the property of the Criminal it may be said that one of its objects is to gratify the desire for vengeance. The prisoner pays with his body. Sir James Stephen says "The Criminal law stands to the passion of revenge in much the same relation as marriage to the sexual appetite".

However, the retributive -theory has been criticized on the ground that it does not attach any purpose to punishment. According to the theory, punishment is an end in itself. The theory does not care for the Criminal and so has no social content.

Justice Holmes has taken into account the merits of the other theories, such as the preventive theory and the Reformative theory. The Preventive theory says that punishment should be a means to an end. Therefore, prevention of Crime must be the end in punishing a criminal Hegel, one of the exponents of this theory says that punishment must be equal in the sense that it must be proportionate to the crime, because its only purpose is to prevent it. It is objected that, the preventive theory is immoral because it does not furnish any measure of punishment except the law giver's subjective opinion in regard to the sufficiency of the amount of punishment. Inspite of all this, the preventive theory is accepted as a modern theory

The Reformative theory of punishment is considered as the most modern one. According to this theory, the purpose of punishment is to reform the criminal. This theory advocates human approach towards the criminal to, reform him and to make him conform to the social pattern. But Justice Holmes does not agree with this theory. He says that according to this theory no criminal can be punished.

Justice Holmes maintains that there is an affirmative argument in favour of the theory of retribution. The fitness of punishment following wrong doing is recognised by the exponents of all theories .The feelings of fitness is in fact vengeance in disguise .Therefore vengeance is an element though not the chief element of punishment. Neither of these theories can be strictly applied in certain cases. For Example, self- Preference or the right of private defence is recognized by criminal law administration in general. In this case a man cannot be punished for talking the life of another man. On the other hand there is a doctrine which says that Ignorance of law is no excuse for breaking it. Here, one can be punished for doing an act without learning that it was violation of law.

Therefore, it follows that any theory of punishment must be based on a perfect balancing of the competing and conflicting interests in the society, which lies in the people interest and the public interest.

A PLEA FOR THE SEVEREST PENALTY UPON HIS CONVICTION FOR SEDITION

- Gandhi

Mahatma Gandhi was tried ‘or several political offences in India. In 1922 he was arrested and charged with sedition for three of his articles in his magazine ‘Young India’. At the conclusion of the trail Gandhiji was asked by the judge if he wished to make statement before receiving sentence Gandhiji expressed his willingness to make a statement entirely endorsing the learned Advocate General’s remarks. He said that it had become a passion with him to preach disaffection towards the existing system of government. He added that it was his painful duty to admit before the court that it started much earlier than his connection with ‘Young India’. He knew that he was playing with fire, still he reiterated that he would do the same thing if he was set free.

Gandhiji had a very strong faith in Nonviolence. To quote him, “I wanted to avoid violence, Nonviolence is the first article of my faith. It is also the last article of my creed” . He admitted that the people sometimes had gone mad and turned violent, but he felt sorry for it and submitted himself to the highest penalty provided by law.

Gandhiji read out his statement which described the circumstances that turned him an uncompromising disaffectionist and non-co-operator. Gandhiji’s public began in 1893 in South Africa in troubled weather. Soon he realized that he had no rights as a man because he was an Indian. Yet he did not wish the destruction of the system of the government. He extended his full co-operation whenever the existence of the empire was threatened. When the world war broke out in 1914, he stood by one British empire and was acknowledged as a true loyalist. In all his services to the Empire, he was actuated by the belief that it was possible to gain status of full equality in the Empire for the Indian’s.

All his hopes were shattered by the Rowlatt Act of 1919, a law designed to rob the people of all freedom. Gandhiji led a series of agitations against it. Then it was followed by the Punjab horrors beginning with the massacre at Jalianwala Bagh. The British administration became oppressive and the Indian’s were, subjected to public flogging and humiliations of all sorts.

The British administration, through various measures fully exploited the masses. With the result, India became poor and helpless with little power of resisting famines. In ninety-nine cases out a hundred, justice was denied to Indians as against Europeans in the courts of India. Section 124-A of the Indian penal code was designed to suppress the liberty of the citizen. Gandhiji told that he has no disaffection or ill-will against any single administrator or against the king’s persons. But he was justified in being disaffected towards a government which had done more harm to India than any previous system.

For the reasons stated above Gandhiji was of the opinion that non co-operation with evil is as much a duty as co-operation with good. He admitted all the charges against him and submitted cheerfully to the highest penalty that could be inflicted upon him by a law. The statement of Mahatma Gandhi is one of the greatest treatises related to the chequered history of the Indian freedom movement.

ON THE ENTIRELY REASONABLE MURDER OF A POLICE CONSTABLE

- George Bernad Shaw

George Bernard Shaw was asked to give his opinion on capital punishment with reference to the murder of a police constable named Gutteridge. The murder was so sensational that it was described as brutal and callous. The murder was committed in a scientific manner. The Criminal in an encounter with the constable shot him dead. Knowing that the last picture that was focussed on the constable eye was that of him destroyed the two eyes with two more shots. The criminal was a habitual offender. He was also sensitive and imaginative because only such people risk hanging to avoid penal servitude. The murder gave no clue to him.

Bernard Shaw calls this the most reasonable murder and says that such crimes are very dangerous. He says that such criminals threaten not only the police force but the whole body of citizens whose only means is to call the police when confronted with the criminal.

The peculiarity of these murders has also' an important bearing on the question of the death penalty. According to Bernard Shaw the only excuse for capital punishment is that the criminal gives more trouble to the community than he is worth. The state is justified in taking away the life of a criminal only when the crime is so heinous that the repetition of which cannot be even imagined of. The theories of retaliate punishment and expiatory punishment are out-dated. If such theories are strictly applied we should spare some murders and kill quite a number of intolerable nuisances whom we suffer in silence.

A criminal who shoots to escape detection as a matter of business is like a solider. The remedy in his case is to give up our cruel punishments and to give him a better chance for the honest employment of his talents than what our present system offers. Shaw says that the deterrent theory of punishment is only the judicial theory. He gives two objections to it. The first is that no severity of punishment deters when detection is uncertain, as it must always be. When pickpockets were hanged, pockets were picked under the gallows. Now that the penalty is comparatively less severe, pockets are still picked, but never when a police man is looking on. The second is that the deterrence theory leads to the conclusion that somebody must be punished for every crime to deter others from committing it. Whether that somebody has committed the crime or not is of no consequence. An innocent person also may be punished.

For the reasons stated above Bernad Shaw pleads for a much liberal approach towards criminals and punishment with a purpose and a human touch.

6. GRAMMAR AND COMPOSITION

1. Common Errors:

(a) *He like coffee* (error)
He likes coffee (correct)
Here the verb is to be in agreement with the subject.
- like - when the subject is in the first or the second person (I!You)
- likes - when the subject is in the third person.

(b) One of my friends have gone to America (error)
One of my friends has gone to America (correct)
Likewise one, each, everybody, neither either - If these are used as subject - always singular.

(c) He and I were at Oxford.
Oil and water do not mix.
Two singular nouns connected by "and" are normally followed by a plural verb.

(d) Slow and steady wins the race
Two singular nouns connected with "and" expressing one idea, are followed by singular verb.

(e) My Uncle and my Guardian - plural (may be two persons)
My Uncle and Guardian - singular (one person)

(f) Neither the Principal nor the Lecturers were present.
When subjects connected by 'nor' or 'or' of different numbers, the plural subject should be written last followed by plural.

(g) Neither he nor I have money
When subjects connected by 'nor' or 'or' are of different persons the verb should agree in persons with subject nearest to it. (Arrangement of subjects in this case must be second person, third person and first person)

(h) The news is too good to be true.
The wages of sin is death.
Some nouns are plural inform and singular in meaning. They should be followed by singular verb.

2. Direct and Indirect speech:

(i) From direct to indirect:

(a) Statements:
He said to me, "I will kill you"
He told me that he would kill me

(b) Questions:
He said to me, "who are you?"
He asked me who I was.

(c) Imperatives:
He said, "Get out"

He ordered to go out.

(d) Exclamation:

He said, “What a wonderful picture it is!”

He explained that it was a wonderful picture.

(ii) From indirect to direct:

(a) Statements:

Rama told me that I was good

Rama said to me, “You are good”.

(b) Questions:

He asked me what I was!

He said to me, “What are you?”

(c) Imperatives:

The master asked the girl to bring him a cup of water

The master said to the girl, “Bring me a cup of water”

(d) Exclamation:

He exclaimed that it was a beautiful sight

He said, “What a beautiful sight it is!”

3. Degrees of Comparison:

(i) Everest is the highest peak in the world. (Superlative degree)
Everest is higher than any other peak in the world. (Comparative degree)
No other peak in the world is as high as Everest. (Positive degree)

(ii) The Nile is one of the longest rivers in the world. (Superlative degree)
The Nile is longer than any other rivers in the world. (Comparative degree)
Only a few other rivers in the world are as long as the Nile. (Positive degree)

4. Adding Question Tag:

Positive

(i) He is a good boy, isn’t he?

(ii) He likes me well, doesn’t he?

(iii) They are good people, aren’t they?

(iv) I am a good student, aren’t I?

Negative

(i) He is a not good boy, is he?

(ii) He does not like me, does he?

(iii) They are not good people, are they?

5. Analysis of Sentences:

Rama is good looking man. He was so good that many poets have written poems on him and he was a great warrior. The student has to analyze the sentence into

- Subject and predicate.
- Different kinds of subject.
- Different kinds of verbs and subjects.
- Subjects and object compliments.

- Clauses - their kinds.

Rama - subject - noun - proper noun
is a good looking man - predicate
is - verb
a - article
good looking man - compliment
good character - objective of manner
man - object - noun

6. Active Voice and Passive Voice

Rama killed a snake (Active)
A snake was killed by Rama (passive)
In passive object becomes the subject and the tense on passive form is the same.
(see the table in grammar book for tense changes in passive form)

7. Prefixes and Suffixes:

Prefixes:
Un - Unable, Unimaginative
Under - Understand - Underwriting
Ex - Exservicemen, Ex-communication, Export.
Suffixes:
Ise - gaivanise, brutalise, humanise.
ism - capitalism, communism
en - darken, hasten, liken

8. Idioms and Phrases:

Try to use simple sentences:
close down - The office has been closed down
come across - We come across a gypsy
to smell a rat - The Officer could smell a rat
off and on - it is raining off and on

9. Letter Writing:

Office Letter

From,
XXX
10, T. H. Road,
Tamil Nadu

To
The Health Officer,
Everest Panchayat, Salem.

Sir,

Sub: **Stray dogs - requisition to take immediate action - Reg.**

In my village there are many stray dogs. The people are suffering due to this. Many people are hospitalized. If it continues then there will be further suffering.

Kindly take action.
Thanking you.
Salem
12.1.2012
Yours faithfully,
xxx

10. General Essay:

1. The essay shall be written in paragraphs.
2. The paragraphs shall be arranged.
3. Write at least three paragraph in a page.
4. Sub headings can be given.
5. Introduction and conclusion shall be written.
6. At least two pages must be written.
7. Leave margins.
8. Avoid spelling mistakes.
9. Use simple sentences.

7. STRUCTURE OF SENTENCES

Sentences has the following structural parts:

1. Words (consisting of syllables)
2. Phrase (group of words without a verb or complete meaning)
3. Clause (can stand on its own as sentence it can convey complete meaning)
   Main clause - meaning is complete.
   Subordinate clauses - meaning is dependent on another clause.

A. Transformation of Sentences:

According to the meaning and word order sentences can be divided into four kinds:

1. Assertive sentence
2. Interrogative sentence

3. Imperative sentence
4. Exclamatory sentence

But according to their structure, sentences can be divided into three kinds:

1. Simple sentence
2. Complex sentence
3. Compound sentence

1. Simple Sentences:

Any sentence having one main clause and a phrase is a simple sentences

The sky is blue

The sky is blue completely in a summer day One main clause

or

On main clause plus a phrase

2. Complex Sentences:

I shall do as I like

I shall do - principal clause - "as I like" - dependant - a subordinate clause. Subordinate clause will start with subordinating conjunction like, as, though, even though, although, when, where etc. Main clauses will start with co-ordinating conjunctions like and, or, but.

One main clause plus one subordinate clause - Complex sentence.

3. Compound Sentences:

Ram went to the station and he boarding the train To Main clauses.

Here in this sentence, there is combination of two parts.

1. Ram went to the Station
2. Ram boarded the Train

The Two sentences are joined by the co-ordinating conjunction "and"

Both can stand on their own as sentences.

1. <u>From Complex to Simple:</u>

   Change the subordinate clause into phrase (i.e. without verb)

   Though he is poor, he is honest

   Sub ordinate Main clause

   Change this into phrase

   "In spite of his poverty"

   In spite of his poverty, he is honest - Simple sentence

2. <u>From Simple to Complex:</u>

   Change the phrase into subordinate clause.

   He liked my suggestion

   He liked what I suggested

   Find out his residence

   Find out what he lives

   I don't know the time of his arrival

   Phrase

   I don't know when he will arrive

   Subordinate clause

The same sentence in three forms:

1. He was too weak to work (simple)
2. He was so weak that he could not work (complex)
3. He was weak and he could not walk (compound)

B. Verb Patterns and Structure:

Here the student is asked to analyze the sentence in order to bring out the different parts forming the sentence pattern i.e. in to

Subject - S
Verb - V
Object - direct or indirect - O - IO, DO
Compliment - C
Adjunct-adverbial - A

He	*is*	*good*
S	*V*	*C*
He	*went to the garden*	
S	*V*	*A*
He	*ate*	*oranges*
S	*V*	*O*

Techniques to find out the difference between object and adjunct.

After verb if you ask a question - what, whom, which - and the answer would be object.

After verb if you ask the questions when, where, how - the answer would be adjunct to adverbial.

He ate (what?)	apples
	Object
He went (when) in the	morning
	adjunct
He went (where) to the	garden
	adjunct

The students are requested to write the sentences in the question paper and the mark the S V 0 A in each part of the sentence.

He	like	her	very much
S	V	O	A

c. Filling up the blanks with suitable words:

In the examination question are asked mostly from the popular sayings, proverbs etc. The students are required to put the appropriate word.

Blood is thicken than (water)

The students have to fill the blank with the word “water”

All the glitters are not (gold)

Slow and steady wins the (race)

These questions are asked to find out the reading comprehension and reading exercise by the students to find out their efforts to acquire the language skills.

2. GENERAL PRINCIPLES OF POLITICAL SCIENCE

Political theory is all about politics. It is an overview of what the political order is about. It is a symbolic representation of what is "political". In its nature, it is a formal, logical and systematic analysis of process and consequences of political activity. It is, in its method, analytical, expository, and explanatory. It is, in its objective, an attempt to give order, coherence and meaning to what may be referred to as "political".

Political theory is 'a body of knowledge related to the phenomenon of the state'. While 'theory' refers to 'a systematic knowledge', 'political' refers to 'matters of public concern'. According to David Held, political theory is a 'network of concepts and generalizations about political life involving ideas, assumptions and statements about the nature, purpose and key features of government, state and society, and about the political capabilities of human beings'. Andrew Hacker defines it as 'a combination of a disinterested search for the principles of good state and good society on the one hand, and a disinterested search for knowledge of political and social reality on the other'

According to W.C. Coker, 'When political government and its forms and activities are studied not simply as facts to be described and compared or judged in reference to their immediate and temporary effects, but as facts to be understood and appraised in relation to the constant needs, desires and opinions of men, then we have political theory

We can sum up the meaning of political theory by referring to the comprehensive definition given by Gould and Kolb who say that it is 'a sub-field of political science which includes:

i) political philosophy-a moral theory of politics and a historical study of political ideas,

ii) a scientific criterior;

iii) a linguistic analysis of political ideas; and

iv) the discovery and systematic development of generalizations about political.

On the basis of the above definitions, we can conclude that political theory is concerned with the study of the phenomena of the state both in philosophical as well as empirical terms. It not only involves explanation, description and prescription regarding the state and political institutions but also evaluation of their moral philosophical purpose. It is not only concerned with what the state is but also what it ought to be.

The are certain similar terms are also used such as political thought, political philosophy, and political science. Although all of them are concerned with explaining the political phenomena, yet political theory is distinct from them.

As a discipline, political science is much more comprehensive and includes different forms of speculation in politics such as political thought, political theory, political philosophy, political ideology, institutional or structural framework, comparative politics, public administration, international law and organizations etc. With the rise of political science as a separate discipline, political theory was made one of its sub-fields. However, when used specifically with emphasis on 'science' as distinct from 'theory', political science refers to the study of politics by the use

of scientific methods in contrast to political philosophy, which is free to follow intuition. 'Political theory when opposed to political philosophy is political science'. Political science is concerned with describing and explaining the realities of political behaviour, generalizations about man and political institutions on empirical evidence, and the role of power in the society. Political theory, on the other hand, is not only concerned about the behavioural study of the political phenomena from empirical point of view but also prescribing the goals which states, governments, societies and citizens ought to pursue. Political theory also aims to generalize about the right conduct in the political life and about the legitimate use of power.

Thus political theory is neither pure thought, nor philosophy, nor science. While it draws heavily from all of them, yet it is distinct from them. Contemporary political theory is trying to attempt a synthesis between political philosophy and political science.

Significance

The significance of political theory can be derived from the purpose it serves or supposed to serve and the task performed by it. Political theory is a form of all embracing system of values which a society adopts as its ideal with a view to understand the political reality and, if necessary, to change it. It involves speculation at higher level about the nature of good life, the political institutions appropriate for its realization, to what end the state is directed and how it should be constituted to achieve those ends. The significance of political theory lies in providing the moral criteria that ought to be used to judge the ethical worth of a political state and to propose alternative political arrangements and practices likely to meet the moral standards.

The importance of political theory lies in providing -

i) a description of the political phenomena;

ii) a non-scientific (based upon philosophy or religion) or a scientific (based upon empirical studies) explanation;

iii) proposals for the selection of political goals and political action; and

iv) moral judgement.

Examples of such a political theory can be found in Plato's Republic, or Rawls' A Theory of Justice or Nozic's Anarchy, State and Utopia. As mentioned earlier, the fundamental question facing human beings has been 'how to live together'. Politics is an activity engaged with the management of the collective affairs of society. The significance of theory lies in evolving various doctrines and approaches regarding the nature and purpose of the state, the basis of political authority, vision of an ideal state, best form of government, relations between the state and the individual and basic issues such as rights, liberty, equality, property, justice etc.

Again what has become important in our times is to explain the inter-relation between one concept and another such as the relationship between liberty and equality, equality and property, justice and property. This is as important as peace, order, harmony-stability and unity in the society. In fact peace and harmony in the society very much depends upon how we interpret and implement the values of liberty, equality and justice etc. Contemporary states face a number of problems such as poverty, over-population, corruption, racial and ethnic tensions, environment pollution etc., conflicts among individuals, groups as well as nations. The task of political theory is to study and analyse more profoundly than others, the immediate and potential problems of political life of the society and to supply the practical politician with an alternative course of action, the consequences of which have been fully thought of. According to David Held, the task of political theorist is really demanding because in the absence of systematic study, there is a

danger that politics will be left to the ignorant and self-seeking people who only want to pursue it as 'power.

In short, the significance of political theory lies in the fact that it provides systematic thinking about the nature and purpose of state and government. It helps us to establish a correlation between ideals and the socio-political phenomena. It makes the individual aware of his rights and duties in the society. It helps us to understand the nature or' the socio-economic system and its problems like poverty, violence, corruption, ethnicity etc. Since the task of political theory is not only to understand and explain the social reality but also to change it, political theory helps us to evolve ways and means to change society either through reform or revolution. When political theory performs its function well, it is one of the most important weapons of struggle for the advancement of humanity. To imbibe people with correct theories may make them choose their goals and means correctly so as to avoid the roads that end in disappointment.

Major schools of political theory

As mentioned above, there is considerable diversity in political theory. Political theory in the western world is a continuous dialogue extended over time. Broadly speaking, although there is more or less a continuity regarding the subject matter of political theory, yet the approaches to its study have been changing during the past 2000 years. We shall now consider some major schools, which have helped in the development of certain key concepts of political theory. These are:

i. Classical Political Theory
ii. Liberal Political Theory
iii. Marxist Political Theory
iv. Empirical-Scientific Political Theory
v. Contemporary Political Theory

Classical political theory

Classical political theory starts from 6th century B.C. and covers the political ideas of a large number of Greek, Roman and Christian thinkers and philosophers. Plato and Aristotle are the two great giants of the classical period who had enormous influence in their own times and on later thinking. Classical political theory included i) politics, ii) the idea of theory, and iii) the practice of philosophy. Politics referred to participation in the public affairs, theory referred to the systematic knowledge gained through observation, and philosophy referred to the quest for reliable knowledge - knowledge which would enable men to become wiser in the conduct of collective life. Thus political theory was a 'systematic inquiry to acquire reliable knowledge about matters concerning public affairs'.

Liberal political theory

The long spell of Plato, Aristotle, S. Augustine, Cicero and other thinkers of classical age was broken in a variety of ways after the twin revolutions of Renaissance and Reformation in Europe from 15th century onwards, coupled with the industrial revolution later on. Renaissance produced a new intellectual climate, which gave birth to modern science and modern philosophy and a new political theory known as liberalism. This new political theory found classical expression in the writings of Grotius, Hobbes, Locke, Thomas Jefferson, Thomas Paine, Jeremy Bentham, J.S. Mill, Herbert Spencer and a host of other writers. Whereas classical political theory considered the moral development of individual and the evolution of the community as co-terminus, the liberal political theory developed the concept of sovereign individual. The central theme of this political

theory was Individualism. It started with the belief in the absolute value of human personality and spiritual equality of all individuals and in the autonomy of individual will.

Secondly, it believed in individual freedom in all spheres of life - political, economic, social, intellectual, religious etc. Freedom meant as freedom from all authority that is capable of acting arbitrarily and freedom to act in accordance with the dictates of 'right reason'.

Thirdly, it brought in the concept of individual rights - that man is 'endowed by his creator with certain inalienable rights' commonly known as the natural rights of 'life, liberty and property'. Since man and his rights exist prior to the establishment of state, these cannot be bargained away when the state is established.

Fourthly, the new theory declared that state is not a natural institution but comes into existence by mutual consent for the sole purpose of preserving and protecting the individual rights, The relation between state and the individual is contractual and when the terms of the contract are violated, individuals not only the right but the responsibility to revolt and establish a new government. The state was not a natural institution as claimed by classical political theory but a machine devised by men for certain specific purposes such as law, order, protection, justice, and preservation of individual rights. The state is useful to man but he is the master. Social control is best secured by law rather than by command - the law which was conceived as being the product of individual will and the embodiment of reason.

Fifthly, the new political theory dismissed the idea of common good and an organic community. Instead it gave the idea that 'government that governs' the least is the best' and the only genuine entity is the Individual. Political theory during this period was not searching for an Ideal State or a Utopia but was preoccupied with freeing the individual from the social and economic restraints and from the tyrannical and non-representative governments. In this context, it redefined the concept of state, relations between the individual and the state, and developed the concepts of rights liberty, equality, property, justice and democracy for the individual'

Marxist political theory

Liberal-individualistic political theory was challenged by Marx, Engles and their subsequent followers in the later half nineteenth century by their 'scientific socialism'. While socialism extends back far beyond Marx's time, it was he who brought together many ideas about the evil of society and gave them a great sense of urgency and relevancy. No political theory can ignore the study of Marxist history, politics, society and economics. The knowledge of Marxism has put us in a better position to analyse the socio, economic developments. Marxism introduced a new concept of philosophy conceived as a way to the liberation of mankind.

Empirical-scientific political theory

There is another kind of political theory developed in America popularly known as the Empirical-Scientific political theory. The study of political theory through scientific method (instead of philosophical) and based upon facts (rather than on values) has long history but the credit for making significant developments in this connection goes to the American social scientists. In the early twentieth century, Max Weber, Graham Wallas and Bentley gave an empirical dimension to the study of political theory and advocated that its study should be based upon 'facts' only. Another writer George Catlin emphasized that the study of political theory should be integrated with other social sciences such as sociology, psychology, anthropology etc. However, it was during the inter-war period and after the second world war that a new theory was developed by the political scientists of Chicago University (known as the Chicago School) such as Charles Merrium, Harold Lasswell, Gosnell, and others like David Easton, Stuart Rice, V.O. Key and

David Apter. The new political theory shifted emphasis from the study of political ideals, values and institutions to the examination of politics in the context of individual and group behaviour.

Contemporary political theory

Since 1970s, there has been a revival of interest in political theory in USA, Europe and other parts of the world. At the heart of this renaissance has been the emerging clash of values on the one hand and the changes in the humanities and social sciences, on the other. Moreover, the passing away of the shadows of second world war, reemergence of Europe, and crisis in the ideologies of socialism and Marxism brought about a new fluidity in political ideologies.

Whether it is Marxism or socialism, liberalism or democracy - all stand challenged and new powerful social movements are seeking to redraw the issues in political theory. During the era of domination of behaviouralism, political theory was overpowered by political science. Theory was denied the status of a legitimate form of knowledge and inquiry. Though the hold of empiricism did not last long, yet it left an enduring legacy in the development of political and social sciences particularly in North America in the form of 'scienticism'. The encouragement for the regeneration of political theory came from many sources. While a number of thinkers (such as Thomas Kuhn) challenged the whole model of what is science, there were others who felt that there are distinctive problems of understanding the social sciences and social issues, which could not be grasped by the model of a unified science. This is because of two factors: Firstly, the object of social sciences is the self-interpreting social being and different thinkers interpret the social issues differently. Secondly, political theory cannot be limited to a systematic account of politics; it must also perform its critical role, i.e., its capacity to offer an account of politics which transcends those of lay men. As a result of the great debates, a number of important innovations in the study of political theory followed.

Power and Authority

Power and authority are very important topics in understanding organisations and management, the more so because they tend to be ignored by economic accounts. A standard definition of power is that given by Dahl. The basic idea is that we have power over someone else to the extent that we can get that person to do something that otherwise they would not want to do. That is, we can get someone to act in a way that they consider to be contrary to their interests. The most obvious source of power is control over some thing of value to someone else. For example, an important source of power for some managers is control over bonus, influence over promotion decisions, and so on. This is the root of what is sometimes called "dependency theory:" A has power over B if A controls something valued by B which B cannot obtain from another source. This emphasises the relational nature of power: we can usually only speak of someone being more or less powerful than someone else, rather than of some absolute level of power. When we describe someone as being powerful, what we mean is that he or she has power over many people.

The dependency model also points to possibility that power might be balanced. A's control over something of value to B will not confer power if B also controls something that A wants. Normally, both parties will control something of value to the other. If B didn't have something of value to A, why would A be trying to get B to act in a particular way? It might be some skill, knowledge, or simply time that A needs. So B is not totally without power. The question then

becomes the relative value of the resources controlled. This is summed up in the phrase "everyone has his price." This implies that if A has control over sufficiently valuable resources, he will be able to get B to do what he wants. However, this phrase also implies that there are

"prices" below which B will refuse to accede to A's demands - most people would have limits beyond which they would not go even at the cost of loosing a bonus, promotion or even their job. Furthermore, there is no guarantee that A will be willing to pay the price that B requires to accede to A's demands.

This argument implies that there is no one in an organization who has no power, unless he or she is truly "redundant." Power is not the exclusive preserve of managers. It is not difficult to think of factors that might affect the power of other employees. For example, the more rare a skill, the more power the possessor of the skill will have. Employees would be expected to have more power when unemployment is low, since labour will be in shorter supply. Dahl's definition of power implies that there is some conflict of interest involved in power use. So, power is more likely to be used when there is disagreement about goals. This is important, as one important management function that is increasingly stressed is to generate a sense of common interest among all the employees of an organization. Even Fayol pointed to the importance of "esprit de corps", while Barnard argued that the most important function of the executive was to make employees believe that there interests were aligned with those of the corporation for which they worked. More recently, the interest in corporate culture also recognises the importance of people identifying with their employer. One of the reasons this is important is that it makes conflict less likely, and therefore power in the traditional sense becomes less important. It is less necessary to exercise tight control over employees, and there is more scope for delegation.

Some, however, have argued that this is really power use in a more subtle form. Managers, by manipulating an organisation's culture are effectively influencing people's attitudes and beliefs, in the same way that politicians might use "propaganda" to influence people. Managers are clearly much more able to achieve this than anyone else in the organization. In so doing they may be able to get people to do the same things they could by using more overt power - the "carrot and stick approach," - but without any overt conflict. So, the ability to influence people in this way could be seen as a very effective form of power, even though it does not fit easily into the standard definition.

Another very important concept is authority. **Authority** is a special form of power, special in the sense that it implies voluntary acquiescence on the part of subordinates who recognise the legitimate right of their superior to give orders. It is important to know Weber's contribution to our understanding of authority. Weber identified three forms of authority:

1. Traditional
2. Charismatic
3. Rational/legal

Traditional and charismatic authorities are vested in particular individuals. Rational/legal authority is vested in an office (or the person occupying it for the time being). Traditional authority is vested in someone by virtue of tradition and custom. The most obvious examples are royalty. They are considered to be able to give orders (and have them obeyed) purely by virtue of their "station in life," and not as a result of any abilities they might have.

Charismatic authority is vested in someone by virtue of their personality. A religious leader, for example, might generate strong feelings of loyalty and commitment among his or her followers. To some extent, this is based on followers' assessment of the person's abilities, so it might be thought to be more "rational" than traditional authority. The authority rests purely with the individual concerned.

Rational/legal authority is that which Weber associated with bureaucratic organisations.

It is vested in the holder of an office. An important source of the legitimacy of the authority comes from the way in which a person is selected for office. For example, the legitimacy of the Prime Minister derives from the democratic process by which he or she is selected. The legitimacy of an official comes from the belief that he or she was selected in a fair competition: the job was advertised publicly so anyone could apply, reasonable criteria were used in deciding who would be suitable, and fair methods were used to determine which of the applicants best met these criteria. The authority of a politician is undermined if he or she is thought to have lost the confidence of the electorate, as reflected by the fact that a government that looses a "vote of confidence" in the House of Commons must resign. The authority of an official would be undermined if it was felt that a fair process was not followed - for example, that personal connections were more important than qualifications.

Where someone has authority, however, it is clearly a particularly useful form of power since you can expect your orders to be carried out without the implicit bargaining that is involved in the dependency model. Nevertheless, there are limits even to authority. If people make demands that are seen as unreasonable, this will eventually undermine their authority. If people give subordinates reason to believe they are not in fact well qualified for the job, their authority will be undermined. Authority is rarely, if ever, granted unconditionally.

It is important not to confuse this formal definition of authority with "being in a position of authority," meaning only that someone occupies an elevated position in an organisation's hierarchy. We would normally expect such a person to have authority, but we can easily think of examples where senior managers do not in fact have the authority we would associate with their formal position. Manager's authority can be undermined if they are seen to be ineffectual, to lack expertise, or generally to be under serving of "respect". Control It's also worth briefly mentioning the issue of control. Control is also sometimes used in a more general sense, as in the expression "co-ordination and control", to mean general ability to direct and organise the efforts of the workforce. Different types of control have been identified:

1. Simple control
2. Technical control
3. Bureaucratic control

Simple control refers to control by straightforward direct supervision. It is the sort of control you might expect to find in a small factory. It is often associated with the first factories of the industrial revolution, and the ability to exercise such control is thought by many to be a big advantage of the factory system. Such control obviously implies the use of power by supervisors.

Technical control refers to control that is imposed by the technology used in a factory. For example, the pace at which people must work on a production line is determined in part by the speed at which the line runs. The use of power here is more subtle, but is nevertheless clearly in the hands of the managers that control the technology.

Bureaucratic control refers to control by means of formal rules and regulations. Bureaucratic organisations typically have large books of rules which specify things like hours of work, entitlement to time off under various circumstances (e.g., annual leave, compassionate leave, maternity leave, etc.), grievance procedures, and so on. There are also rules or "standard operating procedures" that people must follow in the course of their work. This form of control involves a still more subtle form of power. One might almost think of the rules as having a sort of authority, legitimated by people's understanding about the way in which the rules were derived -

typically assumed to be some sort of "rational" process. Further legitimacy might be obtained by the involvement of employer representatives in writing the rules.

State: Origins and Development

The origin and the development of the state have attracted a great deal of attention of practically all the important political thinkers. Like the other concepts in political theory, important changes are reflected in the understanding of the nature of the state with the changes in political order and the advancement in other areas of human knowledge. The social contract theory in the seventeenth century introduced a radical departure in analyzing the relationship between the ruler and the ruled challenging the traditional divine right theory, by arguing that the ruler and ruled are two parties of the agreement and as such essentially equal. The evolutionary theory provided a more plausible account of the gradual consolidation of the state in its present form.

Social contract theory

The distinction that the Greeks made between nature and convention was considered by many as the source of the social contract theory. One can find in the writings of the Sophists Antiphon, Hippias, Thrasymachus and Glaucon, the idea of an agreement as the beginning of the origin and organization of political society. Socrates (469-399 BC) in the Crito, illustrated the idea that implied contract and its concomitant obligations between the citizen and the state. Having remained and enjoyed the benefits of Athens as an adult he had thereby implicitly entered into an agreement with the state to abide by with its laws and thereby accept its authority over him in exchange for those benefits. The ancient Chinese did not look upon political authority as supernatural and the Emperor as divine. They justified and defended revolution. Government for Confucius (K'sung Fu Tzu, 551-479 BC) was not a divine institution but a product of human reason and sound virtue. Mencius (Meng Tzu, 372-289 BC) even declared that a ruler who departed from reason and virtue could be executed. A ruler was responsible for the quality of governance and was accountable to his subordinates. Throughout Chinese thought runs an ideal of a ruler who has to ensure the safety and the prosperity of his people. For the Hebrews, themonarch was both an agent of God and a symbol of the people, implying that besides divine sanction the monarch needed the support of his people. Hebrew thinkers repudiated the idea that the same person exercised both priestly and kingly functions. They advocated separation, so that the priest checked and criticized the king, if and whenever necessary.

The idea of voluntarism, a crucial idea in the social contract tradition comes to western social thought with Augustine who borrows Cicero and Seneca, L. Annaeus'(c. 4 BC-65 AD) bona voluntas and broadens it into a pivotal moral concept. Though not a voluntarist or a contractarian, Augustine stresses on a strong nexus between consent and will, thus paving the way for the social contract theory. An Alsatian Monk, Manegold of Lautenbach, wrote in 1080 that 'if in any way the king transgresses the contract by virtue of which he is chosen, he absolves the people from the obligation of submission'. For Manegold, political authority exists for meeting certain needs of the people. Aquinas in whose writings the 'theory of Contract is finally hatched' (Barker 1960: viii) also speaks of artificial relationships, such as agreements among a group of individuals to certain legal, economic and political standards. He explains the origin of the state as being a 'kind of pact between king and people'. Marsilius argues that people constitute the only legitimate source of all political authority and make laws either by themselves or through elected represent depose the government, an idea that Locke subsequently develops elegantly and cogently. Engelbert of Volersdorf (1250-1311) was the first to state the idea of what came to be referred to as an original contract or pactum subjections, that implies the existence of a pre-

political phase in human history. William of Ockham (1280/5-1349) and Nicholas of Cusa (1401-64) explicitly highlight the fact that a legitimate political authority depends on the free consent of subjects. Later writers refer to this as the state of nature. Salamonio in De Principatu (1511-13) like Manegold uses contractarian arguments to place limits on the power of princes. He claims that God and nature create all individuals as equals and the latter finds it necessary to establish kingdoms by an agreement between persons. Salamonio's importance lay in his conception of the political community or state {civitas) in Roman law which he terms as a civilis societas to mean a partnership made by free contract among individuals. The civil society is a partnership among individual citizens made possible by a contract between them. He considers political society and its laws prior to the creation of the prince. The original contract is between the individual citizens and not between the ruler and people. George Buchanan (1506-82), during the Reformation, endorses the idea of the contract. Franciso Suarez (1548-1617) argues that free will and consent are the cause of the state; that people will form one political body only on common consent that is voluntary.

Contract Doctrine in Modern Times

Hugo Grotius (1583-1654), Hobbes, Samuel Pufendorf (1632-94), Locke, Rousseau and Immanuel Kant (1724-1804) in the seventeenth and eighteenth centuries, used the idea of the social contract to explain the origins and nature of the state and search for philosophical basis to moral and political obligation. Some like Kant used the idea of contract to characterise a form of political association and regard it as a rational criterion of the just polity. The crux of the social contract theory is the idea that legitimate government is artificially and voluntarily agreed upon by free moral agents and it rejects the argument that there is something like natural political. The noteworthy features of Kant's theory of the social contract are: first, he does not accept the supposition that the citizens of a particular state have actually concluded a social contract; it is an idea that should influence a person's motives and intentions in acting rather than one which arises in observing the world. Second, it is connected with a programme of political reform that the ruler and ruled of a state try to implement. Third, he tries to work out the idea at an international level, the relations among states as well as relations among individuals. Fourth, the notion of a social contract is in moral terms constructive of civil society because a civil society comes into being for Kant only in so far as we act as moral (or rational) agents (Williams 1994: 132-46). authority. Wayper calls it the 'Will and the Artifice Tradition'. Hobbes, Locke and Rousseau, the classical exponents of the doctrine of the social contract produce political prescriptions that are profoundly at variance with one another. Hobbes places premium on order and through the contract justifies an all-powerful absolute state. Locke considers consent as the basis of a legitimate political authority and defends a minimal constitutional state. Rousseau regards freedom as supreme, which is possible in community based on common interest and, thus he advances the notion of a moral state. However, common to their perceptions is the idea that an a agreement made by all individuals who compose a state is the true foundation of the body politic. It is not a pact between ruled and rulers but one that establishes rule explained with reference to a transition from the state of nature to a civil state.

The idea of the social contract advances the notion of human equality as a result of the Protestant Reformation, the civil wars that raged in Europe between 1560 and 1660 and the rapid expansion of the commercial economy and market relations. This idea of equality implies that all rule just and legitimate are constituted by the ruled who are free and equal thereby rejecting the notion of rule by right of birth, by divine right, by charisma, and by physical force. Most importantly it rejects the contention, which can be traced back to Plato, that only certain people are qualified to

rule over the rest because they have an access to 'truth' whether religious revelation or scientific truth of ideology. Through an agreement between or by a multitude of individuals embedded in the notion of the social contract, isolated individuals voluntarily incorporate themselves into an acting unity, by creating a permanent union between the present contractors and with the successors of the original contractors (Forsyth 1994: 37-39). The classic contractualists also contrast the pre-political the state of nature from the political order, to explain the rationale for political society.

The contract theory in the seventeenth century criticized and provided a democratic alternative challenging absolutism and traditional dictatorship, part of the then dominant theory Divine Right of Kings. This theory accepted the proposition that the sovereign rules by divine ordinance or that he was divinity himself. Augustus consciously promoted the idea to the government of Rome to legitimize his newfound absolutism. In 1610 in a speech that James I the British monarch, delivered, he argued that 'Kings are not only God's lieutenants upon earth and sit upon God's throne, but even by God himself they are called gods' adding that kings, 'exercise a manner or resemblance of divine power on earth'. Since the authority of the monarchs had been ordained by God himself for the benefit of humankind, the ruler had unlimited and indivisible sovereignty, though they were morally .The freedom to comply voluntarily has been the part of the Christian doctrine but the Reformation reinforced the idea of individual choice and responsibility. This perception naturally came into politics and became the intellectual basis for the social contract theory. All the classic social contract exponents were Protestants.

They bound to follow the divine law. The theory became popular during the English Civil War. Filmer defended and modified its arguments. Grotius stresses that the contract that establishes civil society constitutes a legal community compatible with individual's natural sociability and conformed to mutual recognition and protection of his moral rights. He believes that the contract actually takes place prior to the state in every community governed by law. Like Grotius, Hobbes considers self-preservation as a basic right. Through the state of nature, he portrays the dismal human existence since it prohibits the possibilities of commodious living that makes life meaningful and worthwhile. In the absence of a common power to keep individuals in awe there are no legal or moral rules, no notions of right and wrong, justice and injustice. There is no property and each can take whatever he can get and so long as he can keep it. This state of nature is a state of war, 'a war of every man against every man'. Natural freedom and natural equality of individuals in the state of nature are the reasons for this intolerable and insecure life.

It such condition there is no place for Industry, ... no culture of the Earth; no navigation, nor use of the commodities that may be imported by Sea; no commodious building; no instruments of moving such things as require much force, no knowledge of the face of the earth; no account of time, no arts; no letters, no society; and which is worst of all, continual feare, and danger of violent death; And the life of man, solitary, poor, nasty, brutish and short (Hobbes 1991: 89).

The contract between one individual and the others enables them to come out of the state of nature, which is made possible due to the presence of natural laws. These natural laws are nineteen in all. Of these nineteen three are most important. There is just one contract that creates both the civil society and an absolute political authority. The sovereign power, the third party is a consequence and not a party to the contract. The contract was perpetual and irrevocable. There is no question of individuals first contracting amongst themselves and then with the ruler thereby circumscribing his powers. Hobbes considers it the power of the sovereign to enforce contracts and make them binding.

Pufendorf criticizes Hobbes and goes back to the older notions of 'two contracts' for he argues that individuals established a sovereign without obtaining in return a promise of protection. Therefore, there must first be a contract to establish a political community, followed by a second one, between the community and its ruler. Interestingly, he does not concede the right of resistance, sharing Hobbes' perception that the pre-political state of nature is intolerable and the supreme political authority is by definition not accountable to or punishable by any person. The social contract creates the 'person of the state', demanding almost complete obedience. The state has a personality that is distinct from the people who institute it. The state is a moral person with a will and capacity to bear rights and duties that none of the individual comprising it could claim in their own right. The aim of the state was to ensure the security of its citizens.

Locke developed Pufendorf's arguments convincingly. He restored the traditional role of the contract theory as a justification of resistance to government. However, he did not follow Pufendorf's multiple contracts and his tasks were twofold: first, to refute Filmer's criticisms of contractual ism and second, to explain the origins of legitimate political authority.

From the ancient times to the present day, the focal subject of political thinking has been state. In the view of Aristotle, the individual can be considered as a part of the state. He has said that the man living outside the state is either a beast or a god. That is why, he considered the state as natural institution and made it the focal point of his study. Gettell has called Political Science as "The Science of state", and according of Garner, "The state begins and ends with the state". Though, in the present era, according to some behaviouralists the concept of state is limited and inadequate to understand the procedure of politics, therefore, they think political system more appropriate in the place of state. But the reality is, that the word state has been opposed by some behaviouralists the concept of state is limited and inadequate to understand the procedure of politics. Therefore, they think political system more appropriate in the place of state. But the reality is, that the word state has been opposed by some liberals of the U.S.A. The word state has been sufficiently used even in the Marxist political theory. The Marxist writers have discussed the various forms of the state, e.g. pre-state society, stateless society, capitalist state and socialist state etc.

What is meant by State? In Politics, state is a word having scientific meaning. A common man, sometimes, used the word 'state' for government, society, association or nation etc., but those words have their separate and clear meanings. Use of state for government is a moral mistake. In fact, government is an element of the state which may be called a body for the fulfilment of the aims of the state. The Government changes but the state goes on. During world war II there was Churchill's Conservative Government, but after the war, there was Attlce's Government of Labour Party. Whereas, we use the word state for the U.S.A. U.K .. Japan etc., this is, sometimes, also used for the units of a federation, e.g., in India and In the U.S.A. But the use of this word in U.S.A. and India for their units, is not scientific. In fact, the meaning of this word in common language and as a term in Politics differs very fundamentally. In ancient Greece, word 'Polis' was used for state, which, actually, meant a city-state. The form of those small city-states of Greece was not exactly what the nation.

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In ancient Greece, word 'Polis' was used for state, which, actually, meant a city-state. The form of those small city-states of Greece was not exactly what the national state now are. Therefore, both of them cannot be favourably compared. Later on, the Romans used the word state for big geographical area, but, Dr. Finer has rightly said that the existence of the modern concept of state is not available in the Greek and Roman ideas. The modern view of the state came into existence in the beginning of the 16th century and, it was Machiavelli who used this word rightly from the modern point of view. In his book' 'The Prince", he says, that "The Power which has authority over men" is the state.

These days, the state keeps our lives in order and maintains peace. Whereas, it gives assurance of security in life, it also creates the atmosphere of social co-operation, which has made the development of various cultures and civilizations possible. Thus, state is, totally, in accordance with the nature of man, it is extremely essential for him and it is permanent also. The state is natural because it is a result of our natural instincts. Plato has said that no man is perfect. He has to accept the social bonds for the satisfaction of his physical and mental necessities. First, the family is organised. Many families form a village and some villages develop into cities. Thus, ultimately, a state comes into being, which is, in accordance with the nature of man. State is extremely essential because most of the necessities of the man can be fulfilled only with the help of the state. Today, we can not imagine the all-round development of the man without the state. In fact, the form of society, without the state, will lose all order and peace. Aristotle has rightly said "That the state comes into existence originating in the bare needs of the life and continuing in existence for the sake of good life."

State

The political scientists have defined the state from their own point of view. The well known German writer, Schulze comments that so many interpretations of the state have been given that it is difficult to count them. In spite of it, there are similar elements in all those definitions. To understand the points of view of ancient and modern writers, it is necessary to study the definitions given by them.

Ancient writers. Aristotle, the father of political science, has imagined the organisation of many human associations before the origin of the state. Man lived in families. Then clans came into being and the villages were formed out of clans. Man, in isolation can neither be happy, nor can he develop himself. Man develops his qualities only in the society. Because of this nature of man, Aristotle calls him "a social animal". The need of controlling the various associations was also felt. This need of the man was fulfilled by the' organisation named state, which is the best association. Clans and villages are included in it. Defining the state on this very basis, Aristotle says, "The state is a union of families and villages having for its end a perfect and self-sufficient life."

The well known writer of Roman Empire, Cicero says that the state, which is organised as an association by men, who are equal partners in the rights and advantages, which they can not get, out of the state, anywhere else because no other association can influence such a wide field. In fact, the individual has received many advantages, because of the origin of the state, which he had never received before. Defining the state on this very basis, he says. "The state is a numerous society united by a common sense of right and mutual participation in advantages."

In the medieval Europe, the influence of Roman thought seems to be clear. The ideas of the political scientists of this period are influenced by the Roman philosopher, Cicero. According the Grotius, the state is such an independent association of men who are united, by mutual cooperation for the general thinking of rights and advantages.

Above given discussion makes it clear that, according to the ancient writers, there are two characteristics of the state, (1) The state is higher than the other associations, and (2) all the people, collectively, get those advantages, which they can receive from the state.

Modern Writers. The idea of medieval state is not acceptable to the modern writers. Now, it is universally accepted, that there are four elements of the state (1) Population, (2) Territory, (3) Government, and (4) Sovereignty.

Describing the state, Hall have considered it essential, in addition to the other elements, that group of persons should be free from foreign control. It should have free capacity of starting war and negotiating peace with the other states, and should have the right to have relations with the other such groups. According to Hall, "The marks of an independent state are that the community constituting it is permanently established for a political end and that it possesses a definite territory and that it is independent of external control."

Thus, according to Hall, the four elements, essential for a state, are (1) population, (2) government, (3) territory and with them all, (4) independence of that group of persons, from outside control. In fact, freedom from foreign control means sovereignty. Prof. Laski calls the state as claiming supremacy over all the other associations. He says, "The state is a territorial society, divided into government and subjects, claiming, within its allotted physical area, a supremacy over all other institutions."

"The state," according to Garner, "as a concept of Political Science and Public Law, is a community of persons more or less numerous, permanently occupying a definite portion of territory, independent, or nearly so, of external control, and possessing an organized government to which the great body of inhabitants render habitual obedience."

The above given definitions make it clear that there are four inevitable elements of the state.

1. Population;
2. Fixed Territory;
3. Government; and
4. Sovereignty.

The word 'sovereignty' is a derivative from Latin word 'superannus', which means the highest a authority. Thus, sovereignty means the supreme power of the state. This power separates the state from the other associations and individuals residing in it, and bestows the state with the coercive authority over them. According to Laski, "It is by possession of sovereignty that the state is distinguished from all other forms of human associations."

The concept of sovereignty is as old as the state itself. With the change in the form of the state, the point of view regarding sovereignty also went on changing. Because, there has been

difference of opinion among the political scientists regarding the origin and aims of the state, therefore, they have not been unanimous about the sovereignty. Lord Bryce has said that this is the most controversial subject in the history of Politics. In fact, sovereignty is mainly a legal concept and it indicates the supremacy of the state from the legal point of view. By interpreting sovereignty it has been said that this is such a special quality of the state that no limit can be put legally on it except by its own will, nor can any other authority limit its authority. Thus, because of sovereignty the state has become the supreme association, and, on the other hand, no other foreign authority has any power to issue order to it nor to limit its authority. This is the legal aspect of sovereignty. When various philosophers discussed political, moral and popular sovereignty, the main controversy rose about it. In fact, these days, there can be any institution like the king, president or parliament for using the sovereign authority which has the supreme authority for making the laws, issuing the orders and taking political decisions. These orders, laws and decisions are applicable to all citizens and associations. Not only this, if these are disobeyed the sovereign has the unlimited power to punishment.

Though, from legal point of view, sovereignty implies a supreme power, which is used by the sovereign in an unlimited, undivided or unrestricted manner, yet it does not mean that it can be used arbitrarily. In the modern era, no sovereign can use it without reason, against the feeling of justice or against the traditions and customs well established in society. The history is a witness that the sovereigns who used it arbitrarily, there were struggles against them and efforts were made to take it away from them. Thus, when it is called unlimited and unrestrained authority, the implication is its legal aspect, according to which a sovereign, while taking a decision, issuing an order or awarding punishment, cannot be forced to consult or constitution. He has the power to take decisions according to his will or discretion which all persons and institutions have to obey.

Different writers of politics have defined sovereignty in different words, but all agree on one point that sovereignty is the supreme power of the state. This is the highest authority. Everybody has invariably to obey the orders. Where there is lack of sovereignty, it cannot really be called a state. According to Bodin "Sovereignty is the supreme power of the state over citizens and subjects unrestrained by the laws."

Two aspects of Sovereignty

The definitions of sovereignty given above have laid emphasis on two aspects of it. Internally, it is above all other persons and associations and, from external point of view, it is free from the control of any other state. Both the aspects of sovereignty have been discussed below:

(1) Internal Sovereignty.

(2) External Sovereignty.

(1) Internal Sovereignty

Every individual and association, within the state, has to accept the sovereign power of the state. The human society should obey, by nature, every order of the state. Even the greatest one has no right to claim superiority over the state. Similarly, no association, religious, political, social or economic has any authority to work against the orders of the state. The power to work within their jurisdiction is given by the state of these associations. Sovereignty itself accepts no restrictions from any corner. Discussing the internal aspect of sovereignty Laski says, "It issues orders to all men and all associations within its area. It receives orders from none of them. Its will is subject to no legal limitations of any kind."

(2) External Sovereignty

External aspect of sovereignty implies that it is free from every outside control. If the policy of a country is framed because of pressure from any other country, that country cannot be called a state. The questions like as to what should be their foreign policy and the policy regarding war, peace, trade agreements etc., are the questions of the country concerned decision regarding which is taken by itself, keeping its own interest in view. A country doing like that can be called a state. It does not mean that the obedience of international law is a limitation on sovereignty, because on the one hand, it obeys those laws according to its own will, on the other hand, these laws are, similarly, obeyed by all the other countries of the world also. Therefore, to strengthen universal brotherhood these limitations have been accepted by all the countries of their own accord. So, none restrains others.

The Concept of Legal Sovereignty

The first thinker to explain a sovereign state was Machiavelli (1469-1527), an Italian. He supported such a sovereign state whose king, being above morality, was arbitary in the physical world. Though he did not explain the concept of sovereignty directly, yet he indirectly developed the idea of legal sovereignty in his book "Prince." His idea of state as an independent unit and to produce as a powerful organisation and the centre of authority, proves it that he, indirectly, accepted such a supreme authority which was higher than all the centres of authority present in the state.

Different forms of Sovereignty

Though sovereignty is mainly a legal concept, yet various writers have used it in different ways.

(1) Nominal or Titular and Real Sovereignty.

In the modern states, the sovereignty resides somewhere else and seems to be somewhere else. The nominal or titular sovereignty is with the man who is said to be having sovereignty but can not make use of it. But that sovereignty is used by some one else in his name. It will be clear from the example of England. These days, in England, constitutional monarchy prevails. There the king or queen is powerless. She has got nominal sovereignty. She cannot use this sovereignty according to her own will, though all work is done in her name. Meaning thereby that the sovereignty with her is nominal or ornamental. Even today the government of England is called Her Majesty's government. Every law is made in her name. In fact, she is a rubber stamp in the hands of the cabinet, which is used by the cabinet according to its will. This sovereignty is used by the cabinet and the Parliament of England. So, the queen of England is a nominal sovereign. Whereas, the cabinet and Parliament, these are real sovereign. This division of sovereignty is available in those countries where the parliamentary government prevails. In India also, the President is the nominal head and the cabinet and the Parliament are the real sovereign.

(2) Legal and Political Sovereignty.

In country, the legal sovereignty lies with the person or institution who has the full power of framing laws. It can make laws and can give final form of it. The lawyers admit only this sovereignty. In dictatorship, this power is with the dictator, because he himself exercises the power of making laws. Instead of one man, this legal sovereignty may be with a group of persons. These days, in the democratic countries, this legal sovereignty is with the parliaments. The parliament is authorised to make laws with queen in England and with the President in India. So, they are

the legal sovereign. According to Garner, "The legal sovereignty is, therefore, that determinate authority which is able to express in legal form the highest commands of the state, that power which can override the prescriptions of divine law, the principles of morality, the mandates of public opinion." Thus, it can be said that in every politically organised society, there is sovereignty which is nures trained, unlimited, indivisible, original and not-transferable. The command of this sovereign is law which is necessarily obeyed by all men and associations. This command may be even against the moral principles, divine laws or public opinion. This sovereignty is the legal sovereignty of that society.

The following are characteristics of that sovereignty:

- This sovereignty is determinate and it lies in any person or group of persons.
- It is organised and definite and it is accepted by law.
- Legally it can announce the will of the state.
- It gives rights to the people, but they have no right against it. Its disobedience is a punishable crime.
- It is above divine laws, moral principles and public opinion. The lawyers and law courts accept its orders.

In addition to this legal sovereignty, there is sovereignty in the state, and that is political sovereignty. Though this authority does not make laws itself, nor can amend laws, yet the legal sovereign has to bow before it. It has always this political sovereignty in mind.

Dicey says, "Behind the sovereign which the lawyer recognises, there is another sovereign to whom the legal sovereign must bow that body is legally sovereign, the will of which is ultimately obeyed by the citizens of the state."

Popular Sovereignty

Popular sovereignty means that the final authority lies with the people In fact, it is originated as a result of the struggle of the people against the kings. Ancient Indian political scientists" also were not ignorant about popular sovereignty. The authorities of the Roman Empire also got their power from the people. In the 16th century, popular sovereignty came into being to oppose dictatorship. Rousseau, through his theory of General Will, established that the supreme power lies with the people. This was the basis of French Revolution also. Later on, this theory was accepted in the U.S.A. also. On the basis of this popular sovereignty, democratic governments were established. When all the adult persons of a country vote in the elections or make the laws themselves, the popular sovereignty is said to be present there. According to Ritchi, during the elections, people use their supreme power directly. According to Dr. Ashirvatham, "In actual practice popular sovereignty seems to mean nothing more than public opinion in time of peace and the might of revolution in the case of conflict.

Citizenship

Since the primary concern of the state is with the people, the first issue of politics is to select the principle that governs this relationship. Citizenship has been a persistent social human need. It is as old as settled human community. It defines those who are and those who are not members of a common society. It is more than a label. According to Heater, he who has no sense of civic bond with his fellows or of some responsibility for civic welfare is not a true citizen, whatever his legal status. The social and political ties which hold an individual in community with

his fellows is the essence of citizenship. A citizen needs to understand that his role entails status, a sense of loyalty, the discharge certain duties and the enjoyment of rights not at individual level but in relation to the state as well.

During the last 2500 years, the concept of citizenship has been invented and defined, reinvented and redefined in distinct contexts such as Greek city states, Roman Republics and modern nation-state. The nature of citizenship, wrote Aristotle long back, ... is a question which is often disputed, there is no general agreement on a single definition. But still the term is very common throughout the world and it is a central concept of everyday political discourse. Formally, it is a relationship between an individual and the state by which the former owes allegiance and the latter owes protection. This relationship is determined by law and recognized by international law. The citizen is a citizen only through the state. According to Blackwell Encyclopaedia of Political Institutions, citizenship means a full and responsible membership of the state, In social sciences, it has been used to denote the status of individual in the development of the modern state.According to D.W. Brogan, Citizenship has two aspects: i) that every citizen has the right to be consulted in the conduct of political society and the duty to contribute something to the general consultation, and ii) the reverse: the citizen who has a right to be consulted, is bound by the results of that consultation. According to Barbalet, Citizenship is in the nature of a political bond. Upon it depends how fast the bond is. According to T.H. Marshal, citizenship is a status attached to full membership of a community, and those who possess this status are equal with respect to the rights and duties associated with it. However, since different societies attach different rights and duties to the status of citizen, there is no universal principle which determines necessary rights and duties of citizenship in general.

Following the line of Marshal, Bryan S. Turner in his book Equality has conceptualized modern citizenship in terms of three major dimensions. They are

i) **Civil citizenship** i.e. equality before law, personal liberty, the right to own property and freedom of speech,

ii) **Political citizenship** i.e. political rights and access to popular institutions of political control, and

iii) **Social citizenship** which involves a guarantee of basic level of economic and social welfare.

In brief, the crux of citizenship is participation in the political community. However, any theory of political and social participation and rights must acknowledge that the role of the state in the development of citizenship is crucial because the conditions of citizen are determined within each state depending upon the legal provisions.

Theories of Citizenship

Some of the most influential theories of citizenship in its long history of development are the following.

Greek theories of Citizenship

Different types of political communities give rise to different forms of citizenship. The idea and practice of citizenship was first thoroughly explored by Greeks philosophers, for whom participation in public life was crucial to the full and proper development of human personality. The concept was developed by Aristotle in his book Politics. He held the view that man is a political

animal, that he could reach the full potential of his life and personality only by participation in the affairs of the polish. Hence the question was who could participate and who could not. For Arsitotle, citizen is a man who enjoys the right of sharing in deliberative or judicial office. Citizens are all who share in the civic life of ruling and being ruled in turn, those who must possess the knowledge and the capacity requisite for ruling as well as for being ruled, and the excellence of a citizen may be defined as consisting in a knowledge of rule over freemen from both points of view. This, according to Arsitotle, calls for special abilities of character and intellect not found in all people. Some human beings he classifies as slaves by nature. Others he considers by reason of their occupation, incapable of leading a life of virtue. Hence the conclusion was that one need not class all a exclusive group.

In brief citizenship contained three elements:

i) A citizen is a person who performs certain functions,

ii) one such function is to participate actively in the exercise of authority,

iii) the number of persons competent to share in this is limited.

Citizenship was a bond forged by the intimacy of participation of these limited number of men in public affairs. The bond was a relationship which was guarded with some jealousy by those privileged to enjoy it. It was neither a right to be claimed nor a status to be conferred on anybody outside the established ranks of the class. Indeed, Greek citizenship depended less on rights which could be claimed and more on responsibilities which had to be shouldered with pride. It was a privilege and a status which was inherited. Resident foreigners, women, slaves and the peasantry of the rural environment of the city were all excluded. Only citizens were allowed to own freehold property, and they were expected to fulfill the functions of politicians, administrators, judges, jurors and soldiers. For Aristotle, citizenship was the privileged status of the ruling group of the city-state and was confined to the effective participants in the deliberation and exercise of power.

Citizenship and Rights

The concept of citizenship involves the concept of rights. Citizenship is both a status and a set of rights. As American Chief Justice Earl Warren declared. Citizenship is mans basic right for it is nothing less than the right to have rights. A citizen is someone who possesses rights, which are denied to non-citizens and to resident aliens and foreigners. Similarly, according to Rawls, The position of equal citizenship is defined by the rights and liberties required by the principle of equal liberty and the principle of fair equality of opportunity. When the two principles are satisfied, all are equal citizens. However, all rights are not citizenship rights. Citizenship is a status bestowed on those who are full members of a national community and citizenship rights are those, which derive from and facilitate participation in this common possession. They are rights of a person in the community of a nation-state, which are ultimately secured by the state. These rights in a way impose certain limitations upon the states sovereign authority, and entail certain duties from other persons. According to Marshal, the growth of citizenship has been stimulated by both the struggle to win (those) rights and by their enjoyment when won. Examining the concept of citizenship in the context of social classes, Marshal pointed out that its unique element can be defined in terms of specific set of rights and the social institutions through which these rights are exercised. Tracing the development of the institutions of modern citizenship, Marshal writes that while capitalism created inequalities, citizenship created a status through which members shared equal rights and duties.

The three elements of citizenship rights identified by Marshal are: Civil, political, and social. The civil element of citizenship is composed of rights necessary for individual freedom and institutions most directly associated with it are the rule of law and a system of courts. They include right to properly, contract, freedom of speech, religious practice, assembly and association. Moreover, they can be used to create groups, associations, corporations and movements of every kind. They are a kind of power against the state. The political aspect consists of a set of political rights such as right to take part in the elections and right to serve in bodies endowed with political authority. Such rights are associated with the parliamentary institutions. The social component of rights subsumes the right to share the social heritage. Citizenship in the twentieth century has been associated more with the development of the idea of social rights. After the second world war, the belief that the stale has a duty to ensure social justice and an adequate level of welfare for all its citizens has rapidly gained ground. The guiding principle of the policies commonly implemented has been that the state should raise funds through taxing the rich and these funds should be used for educational and health services and protecting the citizens from illness, unemployment and old age etc. If by citizenship we mean the recognition of reciprocal rights and responsibilities, then the state has an obligation to provide basic welfare to its citizens. The rich have an obligation to contribute funds for social welfare and the beneficiaries of the welfare state have an obligation not to abuse these rights and services. In this sense, the provisions for welfare are unrelated to the specific status of citizenship. Heater has called this aspect of citizenship as social citizenship. This is a belief that since all citizens are assumed to be fundamentally equal in status and dignity, none should be so depressed in economic and social conditions as to make a mockery of this assumption. Therefore, in return for the loyalty and virtuous civic conduct displayed by the citizens, the state has an obligation to smooth out any gross inequalities by a guarantee of basic standard of living in terms of income, shelter, health and education.

Thus the modern idea of citizenship includes not only civil and political dimensions but also a social component. However, it would be imprudent to assume that the different component of rights of modern citizenship are equally guaranteed by the state. Not only are the civil and social rights founded on different principles and basis, there may exist some tension with each other. The social rights are always under a threat to be eliminated by the civil rights.

In recent years, the debate over citizenship rights has broadened to include recognition to a variety of groups such as groups struggling for the rights of women and ethnic minorities, rights of children, the poor of the third world, and even rights of animals and plants. Some writers have interpreted these new social movements as shifting and widening the definition of social and political membership to encompass previously excluded and oppressed social groups.

Liberty has several different, although related, meanings. The most common of those meanings is the idea that one who possesses liberty has the “quality or state of being free (leading to) the freedom of choice.” Liberty can also be defined as having “immunity ... (or) permission ... to go freely.” Liberty is also seen as a “basic political, social and economic right” that is afforded to people within a country.

The different kinds of Liberty are

1. Natural Liberty
2. Moral Liberty
3. Civil Liberty

4. Economic Liberty
5. Political Liberty

The concept of **equality** is relative and it can be understood only in a concrete context. Equality is not identity of treatment or reward. There can be no ultimate identity of treatment so long as men are different in wants, capacities and needs. As Laski wrote, 'the purpose of society would be frustrated at the outset if the nature of a mathematician met with identical response with that of a bricklayer'. Also inequalities gifted by nature are an inescapable fact and it has to be accepted in society.

Injustice arises as much from treating un equals equally as from treating equals unequally And most importantly, apart from the natural inequalities, there are inequalities created by the society - inequalities based upon birth, wealth, knowledge, religion, etc. Claims for equality have always been negative denying the propriety of certain existing socio-economic inequalities. When liberalism urged that all men are equal by birth, it meant to challenge the property owning franchise.

The Declaration of the Rights of man explicitly recognised that superior talent and qualities of character are a proper ground for distinction of wealth, honour and power. During the twentieth century, we have been dismantling an educational and social system in which opportunities for advancement depended on the family means and replacing it with one that makes skill in examination one of the principal criteria. Thus, what we have to keep in mind is that out of context, equality is an empty framework for a social ideal. It is concrete only when particularised.

The movement of history is not towards greater equality because as fast we eliminate one inequality, we create another one: the difference being that the one we discard is unjustifiable while the one we create seems reasonable. Social, political educational and other equalities are always in need of re-enforcement and reinterpretation by each new generation. Thus, the idea of equality constantly erodes the foundations of every status quo.

Like liberty, equality can also be understood in its negative and positive aspects. Ever since the rise of the idea of equality, it has been engaged in dismantling certain privileges whether they were feudal, social, economic, etc. Thus negatively, equality was associated with 'the end of such privileges'. Positively, it meant 'the availability of opportunity' so that everybody "could have equal chance to develop his personality. Explaining the meaning of equality in this context, Laski writes that equality means:

- Absence of special privileges. It means that the will of one is equal to the will of any other. It means equality of rights.
- That adequate opportunities are laid open to all. It depends upon the training that is offered to the citizens. For the power that ultimately counts in society is the power to utilise knowledge; that disparities of education result above all in disparities in the ability to use that power. Opportunity should be given to everyone to realise the implications of his personality.
- All must have access to social benefits and no one should be restricted on any ground. The inequalities by birth or because of parentage and hereditary causes are unreasonable.
- Absence of economic and social exploitation.

Similarly, Barker writes that the idea of equality is a derivative value - derivative from the supreme value of the development of personality- in each alike and equally, but in each along its own different line and of its own separate motion. According to him, 'The principle of equality,

accordingly means that whatever conditions are guaranteed to me in the form of rights shall also and in the same measure be guaranteed to others and that whatever rights are given to others shall also be given to me'.

According to Raphael, 'The right to equality proper., is a right to the equal satisfaction of basic human needs,' including the need to develop and use capacities which are specifically human'. According to E.F. Carritt, 'Equality is just to treat men as equal until some reason other than preference such as need, capacity or desert has been shown to the contrary'. Recently, Bryan Turner in his book Equality has given a comprehensive meaning of equality relevant to the contemporary world. According to him, the concept of equality should include the following:

1. Fundamental equality of persons
2. Equality of opportunity
3. Equality of conditions where there is an attempt to make the conditions of life equal
4. Equality of outcome of results

The first kind of equality i.e., equality of persons, is common to cultural, religious and moral traditions typically expressed in statements such as 'all are equal in the eyes of God'. This is concerned with the equality of men as men; something called 'human nature', 'human dignity', 'personality' or 'soul' by virtue of which they must be treated as fundamentally equal. A modern notion of this form of equality is found in Marxism when it talks about the 'human essence'.

In the Marxist tradition, it is claimed that all human beings are defined by praxis, that is all human beings are knowledgeable, conscious and practical agents. It asserts that 'man is by his essence a universal free being who forms himself through his own self activity in the direction of an ever widening mastery of nature and an ever more universal intercourse, autonomy and consciousness'. Also, writers like R.H. Tawney often combined socialism and Christianity to provide a religious foundation for a commitment to social equality. However, this form of equality is not given importance in the contemporary welfare state based upon the notion of socio-economic equality.

The second meaning of equality is associated with the most common argument for equality as 'equality of opportunity'. This means that the access to important social institutions should be open to all on universalistic grounds, especially by achievement and talent. The debate about equality of opportunity has been especially important in the development of modern educational institutions where promotion and attainment are in theory based upon intelligence, skill and talent regardless of parental and class background. This type of equality believes in meritocracy where the occupational structure of a society is filled on the basis of merit in terms of universal criteria of achievement and not on the basis of age, sex, wealth, caste, religion, etc.

Thirdly, the concept of equality of opportunity is closely related to and somewhat inseparable from the notion of *equality of conditions*. Equality of opportunity regards those who have ability and who are prepared to exercise their skills in the interest of personal achievement in a competitive situation. However, where parents can pass on advantage to their children, then the starting point for achievement is unequal, since, for example, working class children will start with disadvantages which they have inherited from their parents. In order for equality of opportunity to have any significant content, it is essential to guarantee equality of condition, that is, all competitors in the race should start at the same point with appropriate handicaps.

Fourthly, the most radical notion of equality is equality of results or outcome. In short, it means that through legislation and other political means, equalities of results are achieved regardless of the starting point or natural ability. A programme of equality of results would seek to transform inequalities at the beginning into social equalities as a conclusion. Social programmes of positive discrimination in favour of the disadvantaged (i.e. scheduled castes, scheduled tribes, women children, handicapped etc.) are meant to compensate for a significant inequality of conditions in order to bring about a meaningful equality of opportunity to secure equality of results.

Thus, in order to understand the meaning of equality, we have to keep the different notions of equality in mind. Historically, while the liberal democratic tradition has favoured the idea of equality of opportunity and conditions, the equality of outcome has been a part of the platform of socialist policies aimed at redressing the inequalities generated by competition and the market place.

In the words of Oscar Wilde, "**Democracy** means simply the bludgeoning of the people by the people for the people". True, democracy is a form of government wherein the supreme power is in the hands of the people. The word 'democracy' hails from the Greek word meaning 'popular government'. Let us look at the definition of democracy and its advantages and disadvantages.

Definition of Democracy

Democracy, by definition, is a political system in which the supreme power lies in a body of citizens who can elect people to represent them. It can also be defined as the political orientation of those who favor government by the people or by their elected representatives. What are the advantages and disadvantages of democracy? Let us find out.

Advantages of Democracy

Democracy can provide for changes in government without violence. In a democracy, power can be transferred from one party to another by means of elections. The jurisdiction of the citizens of a nation determines its ruling authority.

Moreover, any government is bound by an election term after which it has to compete against other parties to regain authority. This system prevents monopoly of the ruling authority. The ruling party has to make sure it works for its people for it cannot remain being the authority after completing its term unless re-elected by the people.

This brings in a feeling of obligation towards the citizens. The ruling authorities owe their success in the elections to the citizens of the nation. This results in a feeling of greatefulness towards the people. It can serve as their motivation to work for the people for it is the common masses that have complete power over choosing their government.

Another important advantage of democracy is that the people gain a sense of participation in the process of choosing their government. They get the opportunity to voice their opinions by means of electoral votes. This gives rise to a feeling of belonging ness in the minds of the people towards their society.

Disadvantages of Democracy

In a democratic nation, it is the citizens who hold the right to elect their representatives and their governing authorities. According to a common observation, not all the citizens are fully aware of the political scenario in their country. The common masses may not be aware of the political issues in society. This may result in people making the wrong choices during election.

As the government is subject to change after every election term, the authorities may work with a short-term focus. As they have to face an election after the completion of each term, they may lose focus on working for the people and rather focus on winning elections.

Another disadvantage of democracy is that mobs can influence people. Citizens may vote in favor of a party under the influence of the majority. Compelled or influenced by the philosophies of those around, a person may not voice his/her true opinion.

Every form of government is bound to have some shortfalls. Different people have different views about the various political systems. The advantages and disadvantages of any political system have to be weighed carefully in order to arrive at any conclusion.

A **welfare state** is a government that provides for the welfare, or the well-being, of its citizens completely. Such a government is involved in citizens' lives at every level. It provides for physical, material, and social needs rather than the people providing for their own. The purpose of the welfare state is to create economic equality or to assure equitable standards of living for all. The welfare state provides education, housing, sustenance, healthcare, pensions, unemployment insurance, sick leave or time off due to injury, supplemental income in some cases, and equal wages through price and wage controls. It also provides for public transportation, childcare, social amenities such as public parks and libraries, as well as many other goods and services. Some of these items are paid for via government insurance programs while others are paid for by taxes.

Causes for increase in functions of the state are:

1. Defects of Individualism
2. Planned Economy
3. International Competition
4. Competition between Communistic and Democratic countries

Social change refers to an alteration in the social structure of a social group or society, ie. a change in the nature, social institutions, social behaviours or social relations of a society. Social change is a very basic term and must be assigned further context. It may refer to the notion of social progress or sociocultural evolution; the philosophical idea that society moves forward by dialectical or evolutionary means. It may refer to a paradigmatic change in the socio-economic structure, for instance a shift away from feudalism and towards capitalism. Accordingly it may also refer to social revolution, such as the Communist revolution presented in Marxism, or to other social movements, such as Women's suffrage or the Civil rights movement. Social change may be driven by cultural, religious, economic, scientific or technological forces.

The following are among the dominant theories of social change:-

Evolutionary theory purports that human societies evolve from simple to complex structures in a progression of definitive stages. Cyclical theory suggests that cultures follow a predictable cycle of growth and decline. Dialectical theory observes that cultural "activities might be set in motion by aims of one sort and then kept going by aims of another sort". Thus the new social structure that evolves may not mirror its predecessor.

Despite their differences, many of the social change theories are concerned with the behaviour of people trying to meet their needs. Functionalist theory makes this point explicit. Functionalist theorists Pareto, Schumpeter, and Parsons uphold the concept that humans have basic needs and societies constantly adapt themselves to meet these needs. The adaptations may show increasing differentiation, as societies become more complex, but the needs they serve remain constant. Thus, despite interferences from external forces, societies constantly

seek to preserve or re-establish their social institutions. Within society, adaptations often result from conflicts between groups whose needs differ. Conflict theory, supported by Marx and Dahrendorf, observes that conflicts often arise between those who have power and those who do not. Marx relates such conflict to the struggle over control of the means of production, and both theorists see conflict as “pervasive and normal in a society”.

Weber extends the reasons for conflict to include intellectual aspects. Nevertheless, a fundamental premise is that the resolution of one conflict usually leads to a new structure in which opposed interests once again find cause for disagreement.

In explaining the process of urban social change, Castel Is uses a conflict model in which the city is created out of the tensions between dominant actors’ interests and resistance to these interests by the dominated actors. Society, can be described as a “structural, conflictive reality” in which different actors “oppose each other over the basic rules of social organisation” . Since

space is fundamental to the organisation of social life, the conflict over the assignment of certain goals to certain spatial forms (becomes) one of the fundamental mechanisms of domination and counter-domination in the social structure It should be noted, however, that these different actors could also work cooperatively if such cooperation turned out to be in the best interest of both groups.

Because the political system tends, over time, to institutionalize dominant values, change usually comes from outside of the political, governance system. Social movements, therefore, are “the sources of social innovation,” while political, governance systems provide the “instruments of social bargaining” through which the institutionalized norms of the state may be challenged. Thus, through the process of conflict and cooperation, a city evolves.

The main factors for social change are:

1. Biological factors
2. Psychological factors
3. Physical or Geographical factors
4. Population factors
5. Technology factors
6. Cultural factors

3. GENERAL PRINCIPLES OF ECONOMICS

Introduction:

Economics is the science that deals with human wants and their satisfaction. It studies about man's efforts to make a living first, and then a better living. The study of economics has its starting point in human wants. If we do not have any wants at all, or if we have reached a stage of wantlessness, then there is no need for economics. Further, if all the goods and services are available in plenty and without cost, there is no need for economics. But, in the practical world, goods and services are available only at a price as they have to be produced. Moreover, the resources to produce these goods and services are limited, i.e., scarce. These resources are not only scarce, but are capable of producing alternative goods.

UNIT-1

ECONOMICS AS A SCIENCE, AND ITS RELEVANCE TO LAW

Science is a systematized body of knowledge. According to Lionel Robbins, Walras, Cournot, Antoine and Senior, Nassau William considered economics as a science. Ascience is a systematic and comprehensive study of facts which explain the cause and effect relationship. A science must have the following features:

1. A science is a systematized study of a subject.
2. Science establishes cause and effect relationship of a fact.
3. Laws of science are universal.

According to Lionel Robbins, economics is the science which studies human behaviour as a relationship between ends and scarce means which have alternative uses. Economics includes both positive and normative science. Robbins tells that an economist as an economist has no business to pronounce judgements on the ethical aspects of economic question. He feels that if normative considerations are taken into account economics cannot be an exact science. But many economists differ from this view. They believe that as economics as a social science has to promote human welfare, we have to consider ethical issue in economics.

Law consists of rules made by authority for the proper regulation of community or society.

According to Austin, "Law is a rule laid down for the guidance of a being by an intelligent being having power over him".

The purpose of Law's to regulate society in such a way as to provide among other thing economic benefit, while the best way to accomplish this is as debatable as on the questions of who should benefit, economy does not have a substantial effect on law. These effect and their implication are covered in Law and economics. Moreover, economics is covered like antitrust banking, finance, securities, taxation, tort law, etc.

Law is enacted to regulate the social and economic actions of individuals. The ultimate

end of the law is the social and economic welfare and prosperity. To be judicious, every legal person should have the knowledge of social sciences, especially the knowledge of economics (Economic welfare and Law, Economic inequalities and Law, Consumer Protection and Law, Economic growth and Law, Economic crimes and Law).

UNIT - 2

METHODS, NATURE AND SCOPE, THOUGHTS OF ECONOMICS

Several definitions or theories of economics have been given. For the sake of convenience let us classify the various definitions into four groups.

1. Wealth Definition - Adam Smith
2. Welfare Definition - Alfred Marshall
3. Scarcity Definition - Lionel Robbins
4. Growth Definition - Paul A. Samuelson

Adamsmith, the classical economist defines “economics as science of wealth”, in his book “An enquiry into the nature and causes of the wealth of nation”, during the period of 1776.

Alfred Marshall said that, “Economics is a study of mankind in the ordinary business of life. It examines that part of individual and social action which is most closely connected with the attainment and with the use of the material requisites of well-being”. Thus, it on the one side a study of wealth and on the other and more important side a part of the study of the man.

According to Lionel Rabbins, Economics is the science which studies human behaviour as a relationship between ends and scarce means which have alternative uses. He wrote a book on “An essay on the nature and significance of economic science” - 1932.

Paul A. Samuelson explains that, “Economics is the study of how men and society choose, with or without the use of money, to employ scarce productive resources which could have alternative uses, to produce various commodities overtime and distribute them for consumption now and in the future amongst various people and groups of society”.

Nature and scope of economics describe that features of positive and normative science. Positive economics deals only with facts - what happened, what is happening. A positive science may be defined as a body of systematized knowledge concerning what is.

Normative economics deals with facts plus value judgements - what things should be like (or) what out to be. Normative science is the determination of ideas.

The scope of economics means the limits of its subject-matter. From the definition we can understand the scope of economics. Economic theory can be broadly divided into micro economics and macro economics. The term Micro means small and Macro means large.

Micro economics deals with a study of small segment of the economy (or) it study about problems such as the output of a single firm or industry, price of a single commodity, wage rate, per capita income, etc. Macro economics deals with study of economy as a whole (or) it deals with aggregate such as total output, total expenditure on consumer goods, investment, total price level, national income, general employment, etc.

In economics, there are two methods of deriving generalizations or laws. These are Deductive method and Inductive method.

Deductive methods moves from the general assumption to the specific application. The Inductive method moves from specific observations to generalization.

There are several theories explaining the means of production, distribution, consumption, exchange and public finance. These are expressed as sub-division of economics.

UNIT - 3

FREE ENTERPRISES, PLANNED ECONOMY AND MIXED ECONOMY

Free Enterprises:

Free enterprises is a form of economic system in which all the material means of production are owned by the private individuals and all economic activities are directed towards maximization of profits. Free enterprise system is also called “Capitalism”. It is the oldest and most important economic system in the world.

According to Locks, “Capitalism is a system of economic organization featured by the private ownership and use for private profit of man-made and nature-made capital”.

A.C. Pigou defines: Capitalism is the system in which the material instruments of production are owned and hired by private persons and are operated at their orders with a view to selling at a profit, the goods or services that they help to produce”.

The essential characteristics of free enterprises are: Right to private property, Freedom of occupation, Profit motive, Price mechanism, Low level of Government intervention, Consumer behaviourism, Maximum utilization of human and natural resources, Consumer is sovereign, Market forces.

Planned Economy:

A socialist economy is a planned economy. It defined as an economy in which the basic functions of resource allocation are carried out by a centralized administrative machinery, as opposed to simply by price mechanism. Decisions on the total output of all goods the economy are taken by an administrative body, and these decisions may reflect in varying degrees on the wishes of consumers.

Features of Planned Economy are: Control by the State, No property right, Equal distribution of wealth, No competition, Price fixation, Social welfare, Elimination of exploitation, Economic planning.

Advantages: Economic stability, Rational allocation of resources, Equality of income, Maximum utilization of resources, End of social parasitism, Elimination of class struggle, Social welfare.

Disadvantages: Loss of consumer sovereignty, Lack of initiative, Loss of efficiency of productivity, Concentration of economic power, Misallocation of resources, Iron laws.

Mixed Economy:

Mixed economic system may be defined as a system in which the public and the private sector are allotted their respective roles simultaneously in promoting the economic welfare of the community.

In mixed economy the State owns the means of production, distribution and consumption in

certain important fields and leaves the remaining fields to the private individuals and to business organization.

Objectives of mixed economy are: Equal distribution of wealth, Social welfare, To develop infrastructure, Better services.

The basic features of mixed economy are follows: (1) Existence of public and private sector, (2) Economic planning (3) Economic welfare (4) Support to agriculture (5) Nationalization (6) Development of backwardness (7) To achieve self-reliance (8) Labour development.

UNIT-4

GENERAL PRINCIPLES OF ECONOMICS

Demand

In economics, demand for a commodity refers to the desire backed by the necessary purchasing power. (desire, decision, purchasing power of party).

Marshall defined the law of demand thus, "the greater amount to be sold, the smaller must be the price at which it is offered in order that it may find purchasers".

The inverse relationship between price and quantity demanded, when the price level increases at the same time the quantity of demanded also decreases. If the price level fall at the same time the quantity of demand also raise. If other thing remaining same.

Functions of Demand:

Dx = *f* (Px,Ps,Y,T,W,Pp,Ve,We,)

Here,

Dx = Demand for commodityx

F = Function

Px = Price of commodityx

Ps = Price of substitute goods

Y = Income

T = Taste and preference

W = Wealth

Pp = Population

Ve = Veblen effect

We = Weather conditions

Elasticity of demand refers to the degree of responsiveness of change in quantity demanded and change in price.

(i) Price elasticity (ii) Income elasticity (iii) Cross elasticity

(i) Supply:

Supply is defined as how much of goods will be offered for sale at a given time and give price level.

There is positive relationship between price and quantity of supply.

Sx = :F (Px, Ps, I, e, W, Gx, We, Te,)

Here,

Sx = Supply of commodity

F = Function

Px = Price of commodity

Ps = Price of substitute goods

I = Investment

e = Rate of interest

Gx = Government taxation

We = Weather conditions

Te = Technology

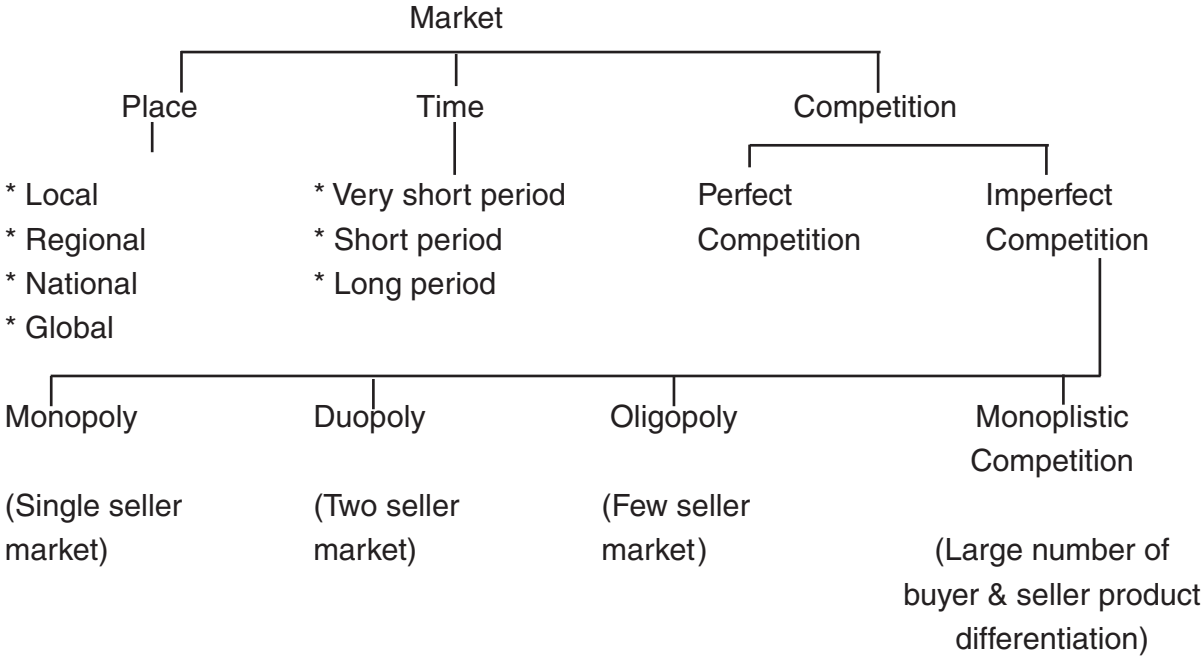
(ii) Price determination of different organization

Market forces - Demand and supply

Conditions of Firms equilibrium,

(i) MC = MR

(ii) MC curve must cut MR curve from the below



(iii) Labour and Wages:

Alfred Marshall defines labour as "The use or exertion of body or mind, partially or wholly, with a vient to secure an income apart from the pleasure derived from the work".

Features of labourers are: Perishable, Not homogenous, Active factors of production, Not separated from the labour to labourer, Labour is mobile, Individual labour is limited bargaining power.

Division of labour was introduced by Adam Smith.

Wages:

Wages are simply to the reward for labour. The term "wage" includes salary, allowances, compensation etc., Labour lawyers defined "wage" under the Section 2(vi) of the Payment of Wages Act, 1936 (Act No. IV of 1936) of India.

There are two kinds of wages (1) Money wages (2) Real wages.

Theories of wages are (1) The subsistence theories of wages; (2) The standard of living theory (3) The wage fund theory (4) The residual claimant theory (5) Marginal productivity theory of wages (6) The market theory of wages (7) The bargaining theory of wages.

The Supreme Court of India classified "wages" into three categories. They are:

1. The Living Wages - Article 43
2. The Fair Wage; and
3. The Minimum Wage - 1948 Section 2(h)

(iv) Capital and Money:

Capital refers to all man-made goods that help in further production of goods.

People use the term capital in the sense of money, though money may be used as capital, capital does not necessarily mean money. Capital consists machinery, tools, factory, buildings, and all kinds of industrial plant, raw materials and partly finished goods. All these things are collectively called Physical Capital. Human capital refers to the skills and knowledge that people acquire through investment in education, on the job training, health and migration. Investment in man is regarded today as important as investment in machines.

Money:

According to Geoffery Crowther, "Money is anything that is generally acceptable as a means of exchange, i.e., as a means of setting debts and that at the same time acts as a measure and as a store of value".

Prof. Walker said that, "Money is what money does"

Functions of Money: (1) Medium of exchange (2) Measure of value (3) Store of value (4) Standard of deferred payments.

(v) Saving consumption and Investment:

Consumption means using up of goods and services (or) destruction of utility, it is called consumption. The concepts of consumption, saving and investment are mainly determined by income, output and employment.

The term consumption function explains the relationship between income and consumption.

C =:T(y) C = Consumption :T = Function y= Income

Keykes has defined fundamental psychological law of consumption are, “Men are disposed as a rule on the average to increase their consumption as their income increases, but not by as much as the increase in their income.

The consumption law is based on the following assumptions:

1. Consumption depends on income alone. So other factors will not influence consumption.
2. The consumption habits of the people will not change.
3. The Government need not control consumption.

Propositions:

1. When income increases, consumption also increase but not in the same proportion.
2. When income increases, the extra income is divided between consumption and saving.
3. When income increases both consumption and saving increase.

Factors determining consumption function:

There are two types of factors determining consumption other than income.

1. Subjective factor: Motives of precaution, foresight, calculation, improvement, independence, enterprise.

2. Objective factors: Money income, real income, distribution of income, fiscal policy, financial policy of corporations, liquid assets, rate of interest, expectation of future charges, windfall gain and huge losses.

Savings: Saving is that part of income not used in consumption and it is the excess of income over consumption expenditure. There are different types of savings. (a) Personal savings (b) Business savings (3) Government savings

Investment: Investment are classified into two types. (1) Induced investment and (2) Autonomous investment.

I	=	F(re) Here
I	=	Investment
y	=	Function
r e	=	Rate of interest

Induced investments are income elastic while autonomous investment are inelastic.

UNIT- 5

INTERNATIONAL COMPARISONS OF DEVELOPMENT STRATEGIES AND EXPERIENCES

Theories of Economic Growth and Problems of Development

The theory of comparative cost also known as the theory of comparative advantage is the major contribution of David Richardo to the theory of international trade. In simple terms the theory states, under competitive conditions a country trends to specialize in those commodities in the production of which it has the comparative advantage - Silverman.

After examining the merits and demerits of the theory of comparative cost advantage and absolute cost advantage, they should study in outline - Hickscher & Ohlin.

According to Heckscher & Ohlin, Modern trade result from the fact that different countries have different factor endowments. This model is based on two factors, labour and capital, whereas the Richardian theory is based on one factor labour and its productivity.

Hicksher & Ohlin theory says that countries that are rich in capital will export capital intensive goods and countries that have an abundant supply of labour will export labour - intensive goods.

Balance of Trade and Balance of Payments

The balance of trade of a country is the difference between the value of exports over a period and the value of imports.

"The balance of payments of a country is a record of its monetary transactions over a period with the rest of the world". It includes besides the balance of trade, certain other item and payment known collectively as "invisible items" while considering balance of trade we take into

account only visible item, that is import and export of goods. But balance of payments includes visible as well as invisible item. Balance of payments is also called balance of accounts.

Theories of Economic Growth

According to Kindleberger, Economic growth means more output.

Economic growth takes place when there is either an increase in the national income of a country or in the country's productive capacity. This productive capacity is the country's ability to generate national income. Economists explain economic growth with the help of a theoretical tool known as a production possibility curve.

Rostow's stages of economic growth: Roastow distinguishes five stages of economic growth mentioned in chronological order viz., (1) The traditional society, (2) The pre-conditions for take-off (3) The take-off (4) The drive to maturity, and (5) The age of high mass consumption.

Balance Growth Theory

Balanced growth requires balances between different consumer goods industries and between consumer goods and capital goods industries. Balanced growth implies growth in every kind of capital stock. (or) Balanced growth refers to full employment a high level of investment over all growth in productive capacity equilibrium.

Unbalanced Growth Theory

According to Hirschman, "If the economy is to be kept moving ahead, the task of development policy is to maintain tension, disproportion, and disequilibrium. Therefore the sequence that 'leads away from equilibrium' is precisely an ideal pattern of development from our point of view for each move in the sequence is induced by a previous disequilibrium and in turn creates a new disequilibrium that requires a further move".

Big Push Theory or a large comprehensive programme highlights the need for tremendous efforts which are required to take the under developed economics out of stagnation and vicious circles of poverty. The development process is a series of discontinuities, jumps, and growth activities are full of lumps and discontinuities.

Three kinds of invisibilities and external economics: (1) Invisibility of production function (ii) Invisibility of demand; and (iii) Invisibility in the supply of savings.

The determinants of growth are (1) Population (2) Rate of capital formation (3) Capital - out put ratio (4) Investment (5) Machinery, Technology (6) Climatic conditions and Natural resources.

Problems of Development: Population pressure, Unemployment, Regional disparity, Low rate of capital formation, Mal-distribution of assets, Low level of technology, Deficit finance, Under utilization of natural resources, Illiteracy.

UNIT- 6

CONTROL OF MONOPOLIES AND PREVENTION OF ECONOMIC CONCENTRATION

The monopoly market having disparities of income are highly. Such monopoly and concentration of money in few rich. Under such circumstances the State can formulate policies in the form of breaking such industries or prohibiting its expansion by legislation. However the Indian Parliament enacted the Monopolies Restrictive Trade Practices Act, 1969, Chapter-III of this Act containing Section 20 to 30 clearly narrates the provisions to check the concentration of economic power.

The Indian Government has been controlling the prices of certain important goods and services by Acts Rules and Regulations, etc. Drugs (Price control) Order 1987, Fertilizer (Control) Order 1965, Gold Control Act, 1968. The Prevention of Corruption of Act, 1988; Benami Transaction (Prohibition) Act, 1988; Prevention of Food Adulteration Act, Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980, and Tax Laws.

UNIT-7

BANKING AND FISCAL POLICY

Fiscal Policy: Fiscal policy is a powerful instrument of stabilization. "By fiscal policy we refer to Government actions affecting its receipts and expenditures which we ordinarily takes as measured by the Government's net receipts, its surplus or deficit".

Arthur Smithies defines fiscal policy as "a policy under which the Government uses its expenditure and revenue programmes to produce desirable effects and avoid undesirable effects on the national income, production of employment".

Objectives of fiscal policy in an economy are as follows:

1. To mobilize resources for financing the development programmes in the public sector.
2. To promote development in the private sector.
3. To bring about an optimum utilization of resources.
4. To restrain inflationary pressures in the economy to ensure economic stability.
5. To improve distribution of income and wealth in the community for lessening economic inequalities.
6. To obtain full employment and economic growth.
7. Capital formation.

(i) Mobilization resources:

Public finance is divided into public revenue and public expenditure, State receives public revenue through many sources, it is called Mobilization of resources. There are mainly four sources: (i) Taxes (ii) Fees (iii) Special assessment (iv) Commercial sources.

Besides these resources the State can procure in other ways, like, Borrowing (internal and external), Deficit financing.

Taxation:

According to Seligman, "Tax is a compulsory contribution from a person to the Government to detray the expenses incurred in the common interest of all, without reference to special benefitness conferred".

Types of Taxes:

(i) Direct Taxes - Income Tax, Wealth Tax, Gift Tax etc.

(ii) Indirect Taxes - Sales Tax, Central Sales Tax, Customs Duty etc.

Other different kind of taxation:

(i) Proportional, (ii) Progressive (iii) Regressive and (iv) Digressive.

Fee:

Court fee, Roads tax, Registration fee, Registration form fee, Licences, Arms and Explosives, Mines tax, Certified copies.

Special Assessment:

(1) Betterment charges (Particular new colony - construction of road, drainage, electricity)

(2) Irrigation projects

Commercial Sources of Revenue:

Insurance, Postal, Telephones, Railways, Electricity Board. (ii) The Role of Credit and Banking System:

"Credit" it derived from Latin "Credo". In means that "I believe".

According to Prof. Cole, "Credit is purchasing power not derived from income but created by financial institution either as an offset to idle income held by depositers in the banks or as a net addition to the total amount of purchasing power.

Role of Credit:

(i) It provides a convenient and economic means of exchange, (ii) It facilitates production and exchange (iii) It increase in consumption and raises standard of living (iv) It encourage capital formation (v) It facilitates development of large enterprise and industry (vi) It makes possible the optimum utilization of capital (vii) It influence output and employment.

Banking System:

According to Kent who defines a bank as "an organization whose principals operation is concerned with the accumulation of the temporarily idle money of the general public for the purpose of advancing to others for expenditure".

There are different banks in existence in India and other countries. In India, the banks may be classified into four forms:

(i) Commercial Banks (ii) Co-operative Banks (iii) Specialized Banks (iv) Central Bank.

Function of Commercial Banks:

(1) Receiving deposits from the public (2) Granting loans (3) Discounting bills of exchange (4) Balancing payments (5) Financing of foreign trade (6) Agency services (7) General utility services.

Reserve Bank of India:

The central bank is being called as Reserve Bank of India. The Government of India set up the RBI in April 1935 with a paid up capital of Rs.5 crores. The bank was nationalized in 1949.

Functions of R. B. I.

(i) Issue of currency.
(ii) Banker to Government
(iii) Bankers Bank and Lender of the last resort
(iv) Controller of Credit

(A) Quantitative Credit Control

(i) Bank Rate Policy (ii) Cash Reserve Ratio (iii) Open Market Operation.
(b) Qualitative Credit Control

Rural Money Markets:

There are two main sources of rural credit institutional and private. Non-institutional sources include money lenders, traders and commission agents, landlords and relatives. Institutional sources consist of Government and co-operatives, commercial banks including the Regional Rural Banks (RRBs), Co-operative Agricultural and Rural Development Banks (ARDBs). The private rural money (credit) market is by and large exploitative in nature, where as the institutional sources try to help the farmers with credit at low rates of interest with the widening of the role of bank credit from "agricultural development" to "rural development" at the apex level, the Government setup a National Bank for Agriculture and Rural Development (NABARD) to take over the agricultural credit functions of RBI on the one hand and the refinances functions of Agricultural Refinance Development Corporation (ARDC).

Nowadays, micro finance concepts has become popular for banking with the poor, self-help groups and Non-Governmental Organization (NGO), play on important role in promoting micro finance.

(iii) International Financial Institutions:

The Bretton Woods Conference unanimously proposed for the setting of the following three international institutions for solving the international economics problems. They are:

(1) The International Bank for Reconstruction and Development (IBRD) :

IBRD and its associate institutions as a group are known as the World Bank. The second World War damaged economies of the most of the countries particularly of those who were directly involved in the War. IBRD was established in December 1945 with the IMF of the basis of the recommendation of the Bretteon Wood Conference. That is the reason why IMF and IBRD was called "Bretton Wood Twins". IBRD started functioning in June 1946. World Bank and IMF are complementary institutions.

The International Bank for Reconstructions and Development (EBRD) aims to reduce poverty in middle-income and credit worthy poorer countries by promoting sustainable development through loans, guarantees, risk management products, and analytical and advisory services. IBRD is structured like a co-operative that is owned and operated for the benefit of its 186 member countries.

The Government of India utilizes IBRD loans primarily for infrastructure products. India has borrowed around US$83.12 billion from the World Bank so far July 2010.

India is a member of four constituents of World Bank Group i.e., IBRD, IDA, IFC and MIGA.

(2) The International Monetary Fund (IMF) :

The International Monetary Fund (IMF) was established along with the International Bank for Reconstruction and Development (also known as World Bank) at the conference of 44 nations

held at Bretton Woods, New Hampshire, USA in July 1944. The Articles of Agreement of IMF came into force on December 27, 1945. IMF is the Principal International Monetary Institution established to promote the co-operative and stable global monetary framework. At present 187 nations are members of the IMF.

Objectives of IMF:

(i) To promote international monetary co-operation;

(ii) To ensure balanced international trade;

(iii) To ensure exchange rate stability;

(iv) To eliminate or to minimize exchange restriction by promoting the system of multilateral payments;

(v) To grant economic assistance to member countries for eliminating of adverse imbalance in balance of payments; and

(vi) To minimize imbalances in quantum and duration of international trade.

India has been placed at 11th (2.44) place in IMF's General quota. USA remains the biggest quota-holder despite its quota share coming down to 17.09.

(3) World Trade Organization:

The General Agreement on Tariffs and Trade (GATT) came into force on January 1 st, 1948. Initially GATT was established in the form of a temporary arrangement but later on it took the shape of a permanent agreement. GATT's headquarter was in Geneva. On December 12, 1994, GATT was abolished are replaced by World Trade Organization (WTO) which came into existence on January 1, 1995.

The present strength of WTO membership is 153 (As status on April, 2009). This includes China & Nepal whose accession was approved by the WTO ministerial conferences held in Doha & Cancan in November 2001 and September 2003 respectively. There are presently 30 countries in the process of accession to the WTO.

Objectives of WTO:

(i) To improve standard of living of people in the member countries;

(ii) To ensure full employment and broad increase of effective demand;

(iii) To enlarge production and trade of goods;

(iv) To enlarge production and trade of services;

(v) To ensure optimum utilization of world resources;

(vi) To accept the concept of sustainable development; and

(vii) To protect environment.

(iv) Technology and Economic Growth:

Technology means the science (or) study of the arts in industry. Technology a major environmental force refers to inventions or innovations from applied science (or) engineering research.

4. GENERAL PRINCIPLES OF SOCIOLOGY

UNIT -1

FUNDAMENTALS OF SOCIOLOGY

The term Sociology - from the Latin Societas (society) and the Greek logos (study or science) - is of comparatively recent use and was coined in the first half of the last century by the French Philosopher and sociologist Auguste Comte (1798-1857). He is rightly called the "Father of Sociology", who defined sociology as "the science of social phenomena subject to natural and invariable laws, the discovery of which is the object of investigation".

1. Sociology as a science:

In the context of these above views relevant problem which has cropped up is whether Sociology is a 'pure science' like physics and chemistry or it is only 'applied science' or both. There are two schools of thought which have quite divergent opinions and view points which may briefly be concluded that Sociology contains the elements and characteristics as well as qualities of both 'pure' and 'applied' science and it can be safely said that it is partly a pure and partly as applied science. It is thus neither perfectly pure not completely applied science but is half-way between the two.

2. Scope of Sociology:

Since sociology is so elastic a science, it is difficult to determine just where its boundaries begin and end. There are two main schools of thought regarding the scope of Sociology. The Specialistic or Formalistic school advocates that sociology has a limited scope by confining itself to the study of certain aspects of human relations only. The synthetic school conceives of sociology as a synthesis of the social sciences by making it encyclopaedic in character.

3. Branches of Sociology:

Sociology is a fast growing discipline. Sociologists are at work to bring into its range of study almost all aspects of man's social life. Sociology has a tendency to break down into endless lists of specialties. Historical Sociology, Rural Sociology, Urban Sociology, Social Demography, Social Stratification, Political Sociology, Educational Sociology, Industrial Sociology, Social Pathology, Social Control, Social change and Sociology of Law are the important branches of sociology.

4. Methods of Sociology:

Sociology has been trying to develop its own method of study. As man's social life is complex and multi-faceted, it is highly challenging task for sociologists to collect, analyse, synthesise and finally generalize social data which are too numerous, complex and illusive. They are seeking out all the avenues of collecting and interpreting social data. They employ the Comparative method, Historical method, Statistical method, Scientific method, Interview method, Questionnaire method, Social Survey method, Case Study method, Ideal type method and Public Opinion Poll method.

5. Relation with other Social Sciences:

Though Social Science deals with social phenomena in general, they deal with different aspects of the social life of a man. However, they are very much inter-related. It is not a simple task to know in what respect Sociology differs from other social sciences, and in what ways it is related to them. Some of the relationships between Sociology and other Social Sciences have been matters of controversy. In recent times, interdisciplinary approach is gaining more importance. Understanding of one social science requires some amount of understanding of the other. Further, Sociology as a young science, has borrowed many things from other Social Sciences. In return, it has enriched other social sciences by its highly useful sociological knowledge. In this context, it becomes essential for us to know the interrelation between Sociology and History, Economics, Political Science, Anthropology, Psychology and Law.

UNIT - 2

BASIC CONCEPTS IN SOCIOLOGY

1. Structure and function:

In every society there is a social set up and structure, which has been established after great difficulty. In this system each and every individual, group and institution as well as association is required to perform certain specified functions. In every society there are functional problems as well as levels of social structure.

The functions have their own significance and place and in social structure. Different kinds of functions in the society are important and have their due place and position and nobody can under-estimate them in any way.

2. Social Institutions:

Man is a social animal both by need and necessity. As long as he lived in a primitive society and was normal with no permanent settlement and did not accept social bonds, there were practically no institutions. But as the time passed and the people began to live in society and also began to realize the importance of permanent settlement, the institutions began to develop and grow. Today we have many institutions including those of family, marriage, state, work, religion, culture, etc.

Bogardus defined institutions by saying that “A social institution is a structure of society that is organized to meet the needs of people chiefly through well established procedures”.

3. Status and Role:

Status: Status may be defined as a place of individual in society and indicates his position within social relationship. It is indicative of his integrated personality and wordly achievements. It is closely linked with the performance of his role in the society and also on his social evaluations. Standard of living and way of life of individual also help in deciding his social status. It may however be mentioned that each individual in society has different status. He may have high status in one field and low in the other.

Ogburn and Nimkoff who say that, “A person’s status is his group standing or ranking in relation to other”.

Role: Our society is getting complicated day by day in which integrating and disintegrating groups are playing their own role. In these groups there are people who have different Capacities and Capabilities. They have different occupations and jobs to perform. Since all cannot do all

jobs therefore, there is division of labour in our society. Thus each individual has some specific role to play in the society.

Lundburg says that, “A social Role is pattern of behaviour expected of an individual in certain group or situation”.

4. Norms and Values:

Norms: There can be no social group in which social norms do not exist. These norms are very useful for observing social controls. Without social norms no society will possibly exist or work harmoniously. Briefly speaking, norms may be defined as standards of behaviour. In the words of Brown and Selynick, “The Norms are blue prints for behaviour, setting limits within which individuals may seek alternate ways to achieve their goals”.

Values: A value is a belief that something is good and desirable. It satisfies the followers as important, worthwhile and worth to stick on. Values provide more general guidelines. Values, like norms, differ from group to group. What is important in one group may not be given much importance in another group. For example, in western society, much value is given to individual achievements and material possession, whereas in traditional Hindu society much value is given to family, etiquette and aesthetic life of an individual.

5. Cultural and Socialization:

Man is not only social but also cultural. It is the culture that provides opportunities for man to develop the personality. Development of personality is not an automatic process. Every society prescribes its own ways and means of giving social training to its new born members so that they develop their own personality. This social training is called Socialization.

The process of socialization is conditioned by culture. Since every society has its own culture, the ways of the process of socialization also differ from society to society. The mutual interplay of culture and socialization in conditioning human personality forms the basis of this topic.

6. Social Group:

Society consists of groups of innumerable kinds and variety. No man exists without a Society and no society exists without groups. Out of necessity and inevitability human beings are made to live in groups. The nature and character of social relationships underlie different forms of social groups such as primary and secondary groups, in-groups and out-groups, organized and unorganized groups, formal and informal groups and so on.

7. Social Process:

Society is a system of social relationships which manifest different kind of interactions.

These interactions are called Social Process. They are the fundamental ways in which men socially interact and establish relationships. Social processes are co-operation, competition, conflict, accommodation, assimilation, etc.

UNIT - 3
SOCIOLOGICAL THEORIES

The term social thought refers to the thought concerning the social life and activities of man. It is basically a thought regarding societal issues or matters. In this unit, the major sociological thoughts of the founding fathers of sociology namely Auguste Comte, Herbert Spencer, Emile Durkheim, Max Weber, Karl Marx, etc., are examined.

Auguste Comte:

Auguste Comte provided for the first time an organized foundation for the field of social thought. Formulation of Law of Three Stages, Classification of Sciences and Religion of Humanity are the significant contribution of Auguste Comte. In Law of Three Stages, he describes that the human society and human knowledge passes through three stages, namely (i) Theological Stage, (ii) Metaphysical Stage and (iii) Positive Stage. Auguste Comte realized that a society which was built upon scientific principles needed a "Religion of Humanity" which is based on harmony, justice, equity and rectitude.

Herbert Spencer:

The "Law of Evolution" and "Organic Analogy" are the important contributions of Herbert Spencer. According to him, social evolution is a set of stages through which all societies moved from the simple to the complex and from homogeneous to the heterogeneous leading to progress. He also established that the society is like a biological organism subject to evolution process.

Emile Durkheim:

Durkheim's contribution in sociology is "Division of Labour in Society" in which he established the relations between individuals and society. It is indeed a classic study of social solidarity. He made comparisons between the primitive and the civilized societies in terms of this concept of Solidarity. According to him, the primitive society is characterized by "Mechanical Solidarity" based upon the "Conscience Collective"; and the advanced society is characterized by "Organic Solidarity" based upon the "division of labour".

Max Weber:

Major contribution of Max Weber is "Sociology of Religion". He observed a close connection between religious and economic forces. His concept of religion is more ethical than theological. Religion is a vital influence in every day life. Weber examined its influence on the life of people. He explained economic behaviour in terms of religion. Weber's "Theory of Bureaucracy" is a significant contribution to the field of sociology. He established that the operation of modern large-scale enterprises in the political, administrative and economic fields would be impossible without bureaucracy. He maintained that bureaucratic co-ordination of activities is the distinctive mark of the modern era.

Karl Marx:

Marxian Sociology is often called "the Sociology of Class Conflict". According to him, class is the manifestation of economic differentiation. Classes emerge only when the productive capacity of society expands beyond the level required for subsistence. Private property and accumulating of surplus wealth form the basis for the development of all class societies. In particular, they provide the pre-conditions for the emergence of a class producer and a class non-producer. Some are able to acquire the forces of production and others are therefore obliged to work for them. The result is a class of non-producers which owns the forces of production and a class producer who owns only its labour power. The relationship between the major social classes is one of neutral dependence and conflict.

UNIT - 4
SOCIAL INSTITUTIONS

1. FAMILY AND KINSHIP:

Family is one of the oldest and controversial institutions of the world. Its origin is still hidden in obscurities. Today the very nature and character of the family is changing. Its function have also considerably changed. Family and marriages are however, universal institutions and their existence and utility unquestionable. Nimkoff defines a family as "a more or less durable association of husband and wife with or without children, or of a man or a woman alone, with children".

Nature of Family:

(a) Universality, (b) Emotional basis, (c) Limited size, (d) Formative influence, (e) Nuclear position, (f) Responsibility of the member, (g) Social regulation, (h) Permanent and temporary.

Functions of Family:

1. Essential Functions:

(a) Satisfaction of sex need, (b) Production and rearing of children, (c) Provision of home.

2. Non-essential Functions:

(a) Economic, (b) Religious, (c) Educational, (d) Health, (e) Recreation, (f) Civic, (g) Social.

Forms of Family:

(a) Patriarchal, (b) Matriarchal, (c) Nuclear, (d) Extended (or) Joint Family, (e) Matrilocal, (f) Patrilocal, (g) Monogamous, (h) Polygamous, (i) Polyandrous (j) Matrilineal, (k) Patrilineal, (I) Exogamous, (m) Endogamous, (n) Consanguineous, (0) Conjugal.

Kinship:

One of the most significant functions of marriage is that it results in kinship. After marriage the kinship develops and such kins as father, mother, son, daughter, uncle, brother and so on come to stay. The kins have love, affection and sympathy for each other. They share their joys and sorrows and also have sympathies for each other. They have blood relationship and in more than one way bound together. Sometimes there are quarrels among the kins as well, but these are solved and again the kins come together as one. Among the kins there is some sort of biological relationship.

Types of kinship:

(1) Affinal, (2) Consanguineous.

Degree of kinship:

(1) Primary kins, (2) Secondary kins, (3) Tertiary kins.

Kinship usages:

(1) Avoidance, (2) Joking relationship, (3) Teknonymy, (4) Amitate, (5) Arunculate.

2. MARRIAGE:

Marriage: Marriage is one of the oldest socially recognized institution and essential for

the procreation of children and satisfaction of sexual urges. According to Lowie, “Marriage is a relatively permanent bond between permissible mates”.

Different forms of Marriage: (1) Monogamy, (2) Polyandry, (3) Polygyny, (4) Group Marriage, (5) Experimental, (6) Compassionate, (7) Intercaste, (8) Endogamy, (9) Exogamy, (10) Hypergamy and Hypogamy, (11) Sorrate and Levirate.

3. RELIGION:

Religion in its fullest sense may be defined as a dynamic belief and submissive attitude to God or to God’s as super natural beings on whom man feels dependent. The role of religion in life manifests itself in the individual by giving him an integrated out look on life which is conducive even to keep his mental balance. Religion is not only one of the most influential forces of society; it is also considered by many as the Centre and origin of culture - “the impulse that makes civilization”. It also supplies a great stimulus to moral progress and social reform.

Ogburn defines as “Religion is attitude towards super human power”.

The basic Dimensions of religion:

(1) Belief Pattern, (2) Ritual Practices, (3) Ethical Codes, (4) Cultic Organisation.

Social functions of religion:

Religion gives relief from individual sufferings. Religion is the ultimate source of social cohesion. It binds particular religious people together. Religion is one the powerful agencies of socialization.

Philanthropic and social welfare activities are also carried out by religion. Religion is the guardian of traditional culture, literary and artistic. Religion plays a role of social control.

Forms of religion:

(1) Superstition, (2) Animism, (3) Magic, (4) Monotheism, (5) Polytheism, (6) Tetanism, (7) Fetishism, (8) Naturalism.

4. EDUCATION:

Education means the bringing up or developing in the pupil those habits and attitudes with which he may successfully force the future. Education in one way or another is a necessary and universal feature of society by which every generation transmits to the next its social heritage. It is basically an agency of social control. It is in itself one of the most faithful expressions of the ideals and ends of society.

Me Gee defines education as “the culturally standardized forms for deliberate instruction, the concept includes all organized types of learning”.

The functions of formal education:

(1) Socialization, (2) Social integration through cultural transmission, (3) Vocational sorting, (4) The achievement or denial of social mobility, (5) Social control, (6) Reformation of attitudes.

5. WORK:

Work is a universal phenomenon. Work is an essential part of man’s life. Since it is the

aspect of his life which gives him status and binds him to society. Further, work is a societial activity. The concise Oxford Dictionary defines work as an, "expenditure of energy, striving, application of effort to some purpose".

Economic Institutions: Economic needs and activities are fundamental in society. Modern men spend most of their working hours making a living. What kind of work we do, therefore, and for whom we work have much to do with our happiness and welfare. The nature of our working life is determined for us by our economic institution. Since economic pursuits are fundamental, it is not surprising that they should also be pervasive in their effects on social life.

The stages and development of economic institution:

(1) Hunting and food gathering, (2) Horticultural, (3) Agricultural, (4) Industrial, (5) Post-industrial.

Capitalism: In the early 19th century, the factory system gave birth to capitalism. Capitalism may be defined as the economic system of production in which capital goods are owned privately by individuals or corporations.

Division of Labour: The meaning of division of labour is an arrangement whereby people perform different functions at the same time. Division of labour is based on the principle of co-operation or interdependence.

Communist societies: In communist form of economic system, people have no effective means of control but a one-party dictatorship claims to rule on their behalf. All aspects of profits are retained by the government to be used as the government thinks best.

6. POWER:

Power is not something absolute, but only relative and used in relation to something else. If a person has power, it is essential that there should be people who are prepared to accept its use well. If there are no people to accept power it is Immaterial Power also depends on circumstances and position as well.

Social power is a universal aspect of social inters action. It plays an important part in shaping relations among the members of group. The distribution of power in society is closely related with the distribution of status and positions. M.C. Gee defines power as "the capacity of individuals or group to exercise their will despite resistance capacity to get one's way".

Characteristics of Power:

1) Presence of ability to influence the behaviour of others.
2) Power is a certain kind of human relationship.
3) Power depends on its use.
4) Power is situational.
5) Exercise of power must be for some purpose or goal.
6) Power is rational.
7) Power is relative.
8) Power has Potential.

Sources of Power:

(1) Knowledge, (2) Social status, (3) Economic status, (4) Religious status, (5) Size, (6) Faith, (7) Authority, (8) Skill, (9) Personality, (10) Mass Media.

Kinds of Power:

I. On the basis of Legal Point of View:-

1) Legitimate power (a) Constitutional, (b) Traditional, (c) Charismatic.

2) Illegitimate.

II. On the basis of influence:-

1) Force 2) Domination 3) Manipulation

III. According to Lendburg:-

1) Coercive 2) Utilitarian 3) Identitive

Political Institution

"Man is a social and political animal", Aristotle rightly said, "because a man who lives outside the society is either a god or a devil". All human beings live in a society by nature and necessity. And he who lives in society cannot remain unaffected by politics. Politics is all pervading and as old as human beings. Politics is one of the unavoidable facts of human existence. Everyone is involved in some fashion at some time in some kind of political system.

D.G. Hitchnev has rightly pointed out that "the world around us is clearly a political world.

All mankind has been drawn into some political association through which men engage in co-operation and conflict. Indeed, that the world is becoming even more political seems one of its most important aspects.

Catlin defines as "Politics is the study of organized human society and it deals primarily with the political aspects of the life of the community".

The study of politics is the study of the state or of governmental or related institution. Functions of Political Institution: (1) Protection of the society from the external threat, (2) Maintenance of internal order, (3) Planning and co-ordination for the general welfare.

UNIT - 5

SOCIAL INEQUALITY

Men are essentially equal, but differ from one another in any non-essential or accidental qualities which belong to the physical, moral or intellectual orders. In human life equality in Occidentals is as common as equality in essentials. Involved in social stratification is the extremely important point of social inequality. Some individuals and groups are rated higher than others, and with such differences in rating go differences in opportunities and privileges.

Murray defines, "social stratification is a horizontal division of society into higher and lower social units".

Different societies of the world are stratified based on the criteria of (1) Slavery, (2) Estates, (3) Caste, (4) Class.

1) Slavery: Slavery system represents an extreme from of inequality, in which certain groups

of individuals are entirely or almost entirely without rights. Many times a slave is considered as an animal or inhuman.

2) Estates: Estates represent a broad division of labour and functions. The top of the social system is occupied by the nobility of feudal lords. The bottom of the social system was given to 'Serfs'. The intermediate position was occupied by clergy group which consisted of soldiers, artisans, servants, etc.

3) Caste: The Indian caste system is unique among the system of social stratification.

The concept of caste refers to the permanent, very rigid form of social stratification.

4) Class: Social class system of stratification differs radically from those systems which we have seen previously. This system is indisputably based on economy. This system consists of three strata called upper class, working class and middle class.

UNIT - 6
SOCIAL CONTROL

Social Control: It is obvious that society in order to exist and progress exercises control over its members. This control has been termed by sociologists as social control. To Ogburn and Nimkoff "the pattern of pressure which society exerts to maintain order and established rules" is social control.

Social control has three features:

1) Social control is an influence.

2) The influence is exercised by society.

3) It promotes the welfare of the group as a whole.

Means of Social Control: The following are the two categories/means of social control (1) Informal, (2) Formal.

(1) Informal: Informal social controls are unconscious ways of controlling the behaviour of the individuals in society. Some of the important means of informal control are as follows:

(1) Beliefs, (2) Folkways, (3) Mores, (4) Customs, (5) Religions, (6) Public opinion, (7) Idealogy, (8) Social Suggestion.

(2) Formal: Formal means of social control are conscious activity. Such as: (1) Law, (2) Education, (3) Coercion.

Social Order: The social world at times appears to be chaotic, as when a mob riots, or when there is a hysterical rush from an impending crisis; but soon leaders may appear and movement is directed towards specific objects, in which case, crowds become organized. Indeed, order is the rule in the social world as truly as it is in the physical world. The sociologists call society the 'social order'.

The basic units of the functioning of social structure is the act. Thus we speak of social action and of social interaction. Acts of an actor involving another person are social acts. Among masses of people such social acts are repeated; and when the repetition is frequent enough, they

become customs, in the same way that individual acts, if repeated, become habits. Customs are social habits and through repetition become the basis of an order of social behaviour. When the customary behaviour is organized around the social position or status of individuals in groups, it is referred to as social roles.

Social stability: Norms are regulating the social relations to attain the social order and without which it would be haphazard, chaotic and dangerous. It is the norms which gives order, stability and predictability to social life. Norms are at the basis of social stability.

UNIT -7

SOCIAL CHANGE

Social change refers to the modifications which take place in life patterns of the people. It occurs because all societies are in a Constant state of disequilibrium. Social change asserts that there is some change in social behaviour, social structure and social cultural values. Change is law of nature. Society is not static but it is dynamic in nature.

Jones defines, “Social change is a term used to describe variations in, or modifications of any aspect of social processes, social patterns, social interaction or social organization”.

Theories of Social Change: (1) Theory of deterioration, (2) Cyclic theory, (3) Linear theory, (4) Deterministic theory.

Major factors of social change: (1) Biological factors, (2) Physical factors, (3) Cultural factors, (4) Technological factors.

5. LAW OF TORTS

Nature of Torts

Tort is a species of civil injury or wrong. The distinction between civil and criminal wrongs depends on the nature of the appropriate remedy provided by law. An action for damages is the essential mark of tort.

Liquidated and unliquidated damages.

Salmond's definition of tort. Winfield's criticism and definition.

Is there a general principle of liability?

The views of Salmond, Winfield and others.

General characteristics of tortious liability.

Forms of action and liability.

The meaning of intention, negligence, strict liability and vicarious liability. Is fault an essential condition of liability.

The standard of reasonable man and its relevance in the law of torts.

Essential of a Tort

1) Act or Omission
2) Legal Damage
    - Injuria Sine Damno
    - Darnnum Sine injuria

Malice in the sense of action determined by improper motive is generally irrelevant in the law of torts. Bradford (Mayor of) V. Pickles.

Assault and Battery

Nature and limits.

Cases:	Coward	Vs	Baddeley
	Kadar	Vs.	Alagarswamy
	Tuberville	Vs.	Savage
	Lunes	Vs.	Savage
	Stephens	Vs.	Myers

False imprisonment - Means complete deprivation of his liberty for any time without lawful cause.

Meaning of 'false' ways of committing the tort of false imprisonment. Can a man be imprisoned without knowing it?

Grainger	Vs	Hill
Meering	Vs	Graham white aviation company
Ram Pyare Lal	Vs	Om prakash

Restraint must be complete:

Bird Vs. Janes

Mee Vs. Cruikshank

Means of escape to be reasonable.

Improsition of reasonable conditions:

Robinson Vs. Balmain Ferry Co.

Herd Vs. Weardale etc., Ferry Co.

Remedies: Judicial and extra - judicial

i) self help, 2) Habeas Corpus 3) Action for damages

Nervous Shock

A form of personal injury far which damages may be recovered in certain circumstances.

Cases: Wilkinson Vs. Downton

Dulieu Vs. White-Contrasted with

Hambraok Vs. Stokes Brothers

King Vs. Philips

Bourhill Vs. Young

Dooley Vs. Cammeli Laid & Co.

Defamation

It consist in the publication of a false statement concerning the plaintiff which tends to lower him in the estimation of right thinking members of society or which tends to make them shun or avoid him.

Clay Vs Robert

1. *Libel:* Representation made in some permanent form (e.g.) writing, printing on pictures.
2. *Slander:* Publication of a defamatory statement in a transient form (e.g.) words or gestures.

Under Indian Law

South Indian Railway Co., Vs Ramakrishnan

Libel and slander.

Youssoupoff Vs M.G.M. Pictures Ltd.

Dunlop Rubber Co. Vs Dunlop

Byrene Vs Deane

Ingredients of defamation

Reference to the plaintiff :

Le Fanu Vs. Malcolmson

Innocence no defence:

Hulton & Co. Vs. Jones

Newstead Vs. London Express Newspapers Ltd.

Words to be defamtory.

Capital and Counties Bank	Vs.	Henty
Lews	Vs.	Daily Telegraph Ltd.

Innuendo, meaning of

1. Capital and Counties Bank Vs. Henty and sons.
2. Morrison Vs. Ritihie & Co.,
3. Newstead Vs. London Express Newspaper Ltd.
4. T.V. Ramasubha Iyer Vs. A.M.A. Mohindeen.

Defamation of a class of persons. Defamation of the deceased person.

Pullman Vs Hill.

Communication between Husband and Wife.

1. T.J. Ponner Vs. M.C. Verghese
2. Theaker Vs. Richardson.

Defences

1. Justification or Truth
2. Fair Comment
3. Privilege which may be either absolute or qualified

Rajinder Singh Vs. Durga Sahi

Tolley V.J.S. Fry & Sons Ltd., knowledge of the defendant is immaterial. Cassidy Vs. Daily Mirror Newspapers Ltd., Juxtaposition: Monson Vs. Tussauds Ltd.

Unintention defamation: Provisions of defamation Act. 1952 (of England)

Publication:

Theaker	Vs.	Richardson
Sadgrove	Vs.	Hole
Huth	Vs.	Huth
Emmens	Vs.	Pattie
Vzetelly	Vs.	Mudies select Library
Martin	Vs.	Trustees of British Museum

Defences: Justification literal truth unnecessary

Alexander	Vs.	North Eastern Railway Co.•

Fair Comment:

Dakhyl	Vs.	Labouchee
Kemsley	Vs.	Foot

Privilege, absolute and qualified, consent and apology.

Negligence

Negligence means either (1) a mode of committing certain other torts e.g. nuisance or trespass or (2) an independent wrong that is a breach of a legal duty to take care which results in damage, undesired by the defendant, to the plaintiff. Nature and extent of the duty to take care. Vaughan Vs. Menlove; Rule in Donoghue Vs. Stevenson; "You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions are called in question".

1. Donoghue Vs. Stevenson.
2. Rural Transport Service Vs. Bezlum
3. The Municipal Board Vs. Brahm Kishore.

No liability when injury not foreseeable

1. Cates Vs. Mongini Bros.
2. Ryan Vs Young.

Reasonable foreseeability does not means remote possibility

Cases:	In Fardon	Vs.	Harcourt - Rivington
	Home Office	Vs.	Dorset Yacht Co.
	Glasgow Corporation	Vs.	Muir
	Booker	Vs.	Wenborn
	Carmarthensive		
	Country Council	Vs.	Lewis
	Fardon	Vs.	Harcourt. Revington
	Bourhill	Vs.	Young
	Weller & Co.	Vs.	Foot and mouth Disease Research Institute
	Haley	Vs.	London Electricity Board

Impertia culpa adnumeratur. It is a negligent act to voluntarily do a thing which can be safely done only by a person with special skill. Dr. Laxman Barkrishna joshi Vs. Dr. Trimback Bapu Godhole.

Standard of Care:

Cases:	Bolton	Vs.	Stone
	Hilder	Vs.	Associated Portland Cement Manufacturers Ltd.,
	Paris	Vs.	Stepney Borough Council
	Weithers	Vs.	Perry Chain Co.,
	Watt	Vs.	Hertfordshire Country Council
	Latimer	Vs.	A.E.C. Ltd.,

The Magnitude of Risk

1.	In Nirmala	Vs.	Tamil Nadu Electricity Board
2.	Veeran	Vs.	Krishnamoorthy
3.	Pandian Roadways Corporation	Vs.	Karunanidhi.
4.	Glasgow Corporation	Vs.	Taylor.

Res Ipsa loquitur. The ancient speaks for itself. A rule of evidence and not of liability, Conditions for the operation of this principles as laid down in Scott. Vs. London and St. Catherine Docks Co.

Cases:	Gee	Vs.	Metropolitan Railway Co.
	Eassen	Vs.	L.N.E. Railway Co.
	Byrne	Vs.	Boadle.
	Words	Vs.	Duncan
	Municipal Corporation of Delhi	Vs	Subhagwanti
	Alka	Vs.	Union of India
	Karnataka State Road Transport Corporation	Vs.	Krishnan
	Gangaram	Vs	Kamlabai

POSITION AT COMMON LAW

Contributory Negligence : If the plaintiffs own negligence was the decisive cause of the accident or so closely implicated with the negligence of the defendant as to make it impossible to determine whose negligence was the decisive cause, the plaintiff cannot recover.

Butterfield	Vs.	Forrester
		Changes made by law reform (contributory Negligence) Act 1945
Davies	Vs.	Swan Motor Co. (Swansea) Ltd.
Davies	Vs.	Mann, “the last opportunity rule” British Columbia Electric Railway Vs. Loach fee constructive “Last opportunity rule”
Oliver	Vs.	Birmingham & Midland Motor Omni bus Ltd.
Stapley	Vs.	Gypsum Mines Ltd.
Yachuck	Vs.	Oliver Blais Co. Ltd.,
Rural Transport Service	Vs.	Bezlum Bibi
Yoginder Paul Chowdhury	Vs.	Durgadas

The Last Opportunity Rule: Radley Vs. L&N W.R. Railways

The occupier of land who brings and keeps upon it anything likely to do mischief if it escapes is bound at his peril to prevent its escape, and is liable for all the direct consequence, of its escape, even if he has been guilty of no negligence.

Rylands Vs. Fletcher

Escape necessary: Land must have been put to non-natural user. Exceptions to the rule.

Cases:	Read	Vs.	Lyons
	Hele	Vs.	Jennings Bros.
	Carstairs	Vs.	Taylor
	Box	Vs.	V.Jubb
	Northwestern Utilities	Vs.	London Guarantee and Accident Co.,
	Nichols	Vs.	Marsland
	Green	Vs.	Chelsea water works Co.,
	Charing Cross Electricity supply Co.	Vs.	Hydraulic Power Co.,
	Ponting	Vs.	Noakes.

Rules of Absolute Liability

(i)	Sochacki	Vs.	Sas
(ii)	Noble	Vs	Harrison
(iii)	Richards	Vs	Lothian
(iv)	Green	Vs.	Chelsea Water Works Co.,
(v)	M.C. Mehta	Vs.	Union of India

Dangerous Animals

1. Ordinary liability in tort 2. Cattle trespass 3. Liability under the scienter rule.

Two classes of animals: 1) Ferae nature 2) Mansuetae nature.

Nature of liability,

Defence:

1. Contributory negligence.
2. Act of God.
3. Plaintiff of trespasser.
4. Valenti non fit injuria
5. Fault of the plaintiff.

Cases:	Buckle	Vs.	Holmes
	Tirlett	Vs.	Holmes
	May	Vs.	Burdett
	Behrens	Vs.	Bertram Mills Circus Ltd.
	Mequaker	Vs.	Goddard
	Hudson	Vs.	Roberts
	Fitzgerald	Vs.	Cooke Bourne (Farms)
	Rands	Vs.	Mc Nell

In Animals Act, 1971 animals ferae nature become animals which belong to dangerous species and animals man suetae nature become animals not belonging to dangerous species provisions, of the Act.

TRESPASS TO GOODS AND CONVERSION

Trespass to goods consists in wrongful physical interference with possession of goods. Remedies: 1. Detinue 2. Replevin

Conversion: Wrong against ownership

Kinds of conversion. (a) Conversion by taking: Fouldes Vs. Willough by (b) Conversion by detention, (c) Conversion by wrongful destruction. (d) Miscellaneous forms of conversion. Defence (a) Lien (b) Right of stoppage in transit (c) jus tertii (d) goods taken under distress or under execution (e) Retaking good in wrongful possession of another.

Finders: If true owner is not discoverable finder has a better title than any person.

Armony	Vs.	Delamirie
Bridges	Vs.	Hawhesworth.
Hannah	Vs.	Peel Exception.
Kirk	Vs.	Gregory.

Conversion or Trover

(i) Richardson	Vs.	Atkinson
(ii) Rooplal	Vs.	Union of India

If the article found is attached to or lying under the surface of the landowner of the land is entitled to it in priority to its finder:

Cases:

Elwes	Vs.	Briggs Gm Co.
Southstaffordshire water works Co.,	Vs.	Sharman
London Corporation	Vs.	Appleyard

Interference with a Subsisting Contract:

(a) By direct persuasion: Lumley Vs. Gye. But no action will lie for inducement of a breach of contract which is void; ego wagering contract, contract in restraints of trade (b) direct interference; G.W.K. Ltd. Vs. Dunlop Rubber Co. (c) Indirect action J.T. Stratford & Sons Ltd Vs. Lindley.

Deceit :

This tort was first stated in pasley Vs. Freeman. If the defendant makes wilfully a false statement with the intention that the plaintiff shall act relying on it, with the result that he so acts and suffers harm as a consequence, he is guilty of wrong of deceit. Misrepresentation must be a false statement of fact & not a more broken promise.

If, at the time when defendant made the statement, he had no intention of fulfilling it, he is liable for deceit. Edington Vs. Fitmaurice.

Blundering but honest belief in an honest allegation cannot be deceit, Derry Vs. Peek.

False statement must be made with the intention that the statement shall be acted upon by plaintiff. Peek Vs. Gurney Exceptions to rule in Derry Vs. Peek.

Nocton Vs. Ashburton : Negligent Misstatement: Hedley Byrne & Co., Ltd. Vs. Heller & Partners Ltd.

Liability for Dangerous Premises:

Liability based on occupancy or control, and not on ownership: Four kinds of visitors under common law. 1) Contractor 2) Invitee 3) License and 4) Trespasser Duties to them. Changes made by the Occupiers Liability Act 1957.

Cases:	Francis	Vs.	Cockrell
	Indermaur	Vs.	Dames
	Fairman	Vs.	Perpetual Building Society
	Mumford	Vs.	Naylor
	Hardcastle	Vs.	South Yorkshire Railway Co.
	Bird	Vs.	Holbrook

Duty to children

Coote	Vs.	Midland Great Western Railway of Ireland
Lathan	Vs.	V.R. Johnson & Nephew Ltd.
Phillips	Vs.	Rochester Corporation
Moloney	Vs.	Lambeth Borough Councill

Trespass to Land

Ways of committing the wrong of trespass to land. Trespass to subsoil. Trespass on highway. Hickman V. Maisey, Trespass and Nuisance. Trespass by relation : immediate right to pass. Continuing trespass. Holmes V. Wilson Interference with air space. Wilson V. Imperial Tobacco Co. Trespass ab initio: Six carpenters case Elias Vs. Pasmore Defence: justification by law licence Remedies: 1. Re-entry 2. Ejectment 3. Jus tertii. 4. Action for Mesne profits cases

(i) Hemmings Vs. Stoke Pogs Golf Club

Distress Damage Pheasant

Nuisance is unlawful interference with a persons use or enjoyment of land or of some right over or in connection with it, public nuisance and private nuisance. Nuisance to incorporeal property. Right of support, Right to light and air: Right to water. Relevance of malice in nuisance: Who can sue for nuisance? Who can be sued for nuisance?

Nuisance Cases:

Dr. Ramraj Singh	Vs.	Babulal
Radhey Sham	Vs.	Guruprasad
Stone	Vs.	Bolton
St. Helen's Smelting Co.	Vs.	Tipping

Case Law:

Barber Vs. Penley

Nuisance on highway

Defences: Valid and invalid defence

Cases:	Rose	Vs.	Milles
	Health	Vs.	Mayor of Brighton
	Robinson	Vs.	Kilvert
	Coil	Vs.	Home & Colonial Service
	Christie	Vs.	Davey
	Hollywood Silver		
	Fox Form Ltd.	Vs.	Emmett
	Fay	Vs.	Pentice
	Fritiz	Vs.	Hobson
	Noble	Vs.	Harrison
	Tarry	Vs.	Ashton
	Bliss	Vs.	Hall
	Adams	Vs.	Ursell
	Sturges	Vs.	Bridgman

Dangerous Chattels:

There is really no category of dangerous things: there are only some things which require more and some which require less care. Liability to immediate transferee: Godley Vs. Perry:

Liability to ultimate transferee liable for fraudulent representation misleading the recipient into causing damage to the plaintiff.

Langridge Vs. Levy

Liability for negligence liable if he has been guilty of a breach of a duty of care owed to the plaintiff. Rule in Donoghue Vs. Stevenson a manufacturer of products, which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which he left him with no reasonable possibility of an intermediate examination and with the knowledge that the absence of care in the preparation or putting up of products will result in injury to the consumers life or property, owes a duty to the consumer to take that reasonable care.

Cases:	Brown	Vs.	Cotteril
	Andres	Vs.	Hopkinson
	Grant	Vs.	Australian knitting Mills Ltd.
	Evans	Vs.	Triplex Safety-Glaxo Co.
	Kubach	Vs.	Ho

Injurious Falsehood:

It consists in false statement made to other about the plaintiff as a result of which he suffers loss through the action of the others.

Ratcliffe	Vs.	Evans

Passing off: One trader represent in his goods or services as those of another. While Hudson & Co. Ltd. Vs. Asian organization Ltd.

Hendriks	Vs.	Mantaque
Reddaway	Vs.	Benhan
Fels	Vs.	Hedley & Co.
Benme & Co, Ltd	Vs.	Moore Ltd.
Jays Ltd.	Vs.	Jacobi
Parker-Knold Ltd	Vs.	Knoll international Ltd
Day	Vs.	Brownrigg

Conspiracy

It consists in agreement of two or more persons to do an unlawful act, or to do a lawful act by unlawful means.

The Moghul case

Allen	Vs.	Flood
Quinn	Vs.	Leatham
Moghul steamship Co.	Vs.	Mcgregor Gow & Co.
Crafter Hand Woven		
Harris Tweed Co. Ltd.	Vs.	Veitch.
Soreil	Vs.	Smith
Scala Ball room		
(oliver hampton) Ltd.	Vs.	Ratcliffe.

Malicious Prosecution:

It consists in instituting unsuccessful preceding maliciously and without reasonable and probable cause against a person which result in damage to him.

Abrath	Vs.	North-eastern Railway

Infringement of privacy, It is interference with another person's seclusion of himself, his family or his property from the public.

Williams	Vs.	Settle
Monson	Vs.	Tussand's Ltd.
Gokul Prasad	Vs.	Radho
Komathy	Vs.	Gurunanda

MINOR: A minor can sue for torts committed against him just like an adult. He is as much liable to be sued for torts as it and adult.

Gorley Vs. Codd

O'Brain Vs. McNamee

An action based on contract cannot be converted into an action of tort.

Leslie Vs. Sheil

Jennings Vs. Rundall

Branard Vs. Haggis

Batlet Vs. Mingay

Parents are not as such responsible for their children's torts

Newton Vs. Edgerley

Goriey Vs. Codd

INSANITY: It is not in itself a ground of exemption from liability for tort.

Morris Vs. Marsden

CORPORATION: A corporation can sue for torts committed against it. It is liable for torts committed by its agents or servants provided the tort is committed in the course of doing that act which is within the scope of the powers of the Corporation.

Poulton Vs. L.& N. W. Railway Company

Compbell Vs. Paddington Corporation.

JUDICIAL ACTS: If the judge acts within his jurisdiction no action lies for acts done or words spoken by him in exercise of his judicial office, although his motive is malicious and the acts or words are not done or spoken in the honest exercise of his office.

Judicial officer's Protection Act, 1850

Sailajanand Pande Vs. Suresh Chandra Goel, State of U.P. Vs. Tulasiram protection is only for judicial acts, and not for administrative or ministerial acts.

JOINT WRONGDOERS: Their respective shares in the Commission of the wrong are done in furtherance of the common design.

Brooke Vs. Bool

Liability is joint and several Nature of liability

Brinsmead Vs. Harrison

Provisions of Law Reform (Married Women And Tort Feasors) Act, 1935

Whether one wrongdoer, who had paid damages, has a right to claim compensation from other wrongdoers?

Merryweather Vs. Nixon

Adamson Vs. Jarvis

The law Reform (Married Women and Tort Feasors) Act, 1935 enables a wrongdoer to claim contribution from the other wrongdoers. Successive actions on the same facts of the case:

More than one action will not lie on the same cause of action.

Fritter Vs. Veal

If there are two distinct causes of action successive actions will be permitted.

GENERAL DEFENCES

VOLENTI NON FIT INJURIA - That to which consent is given cannot be complained of as an injury. It applies to intentional and negligent harm. The consent must be real.

Cases: Hall Vs. Brooklands Auto Racing Club.

LIMITATION

Rescue Cases :- Haynes Vs. Harwood

(1) Mere knowledge of the risk is not the same as consenting to the risk. The Maxim is volenti non fit injuria not scienti non fit injuria.

Smith Vs. Baker & Sons (1981) 60 L.J.Q.B. 683 (1981) A.C. 325.

Smith was employed by Baker & Sons in their stone Ouarry. He worked in a cutting operation. On his top a crane often jobbed (swing) heavy stones over his head while he was drilling the rock facing in the cutting. Both he and his employers knew that there was a risk of the stone falling, but no warning was given to him of the movement at which any particular jibbing was to commence. A stone from the Crane fell upon and injured him, HELD by a majority of the House of Lords that (1) Smith had not voluntarily undertaken the risk; (2) there was negligence on the part of his employers and therefore (3) the employers were liable.

In the case of Master and Servant the maximum should be applied with very great caution where a person undertakes to do work which is intrinsically dangerous, now withstanding that reasonable care has been taken to render it as little dangerous as possible, he no doubt voluntarily submits himself to the risk inevitably accompanying it; but in the case of ordinary occupations, mere knowledge of the risk does not necessarily amount to consenting to the risk). Imperial Chemical Industries V. Sharwell.

Dann Vs. Hamilton (1939) I.K.B. 509.

The plaintiff voluntarily chose to travel by motor car though she knew that the driver of the car was under the influence of drink and though she could have her journey by bus. She was injured in an accident caused by the driver's drunkenness.

HELD She could recover damages. Mere Knowledge of the risk is not the same as consenting to the risk.

Insurance Commissioners Vs. Joyce.

(2) The maxim has no application to 'Rescue cases'.

Haynes Vs. Harwood (1935) I.K.B. 146.

The defendant's servants had left his van and horses unattended in a crowded street. The horses bolted when a baby threw a stone at them. The plaintiff was a police constable who was on duty in a nearby police station. He saw that if nothing was done a woman and children were in grave danger, and with great personal risk he managed to stop the horses but in doing so he suffered serious injuries to rescue cases.

In an action against the defendants it was held that the plaintiff was entitled to recover damages. The maxim Volenti non fit injuria has no application to rescue cases.

M Vs. Aylen

The plaintiff was in the habit of accompanying a small child home from school. One day

when returning from school the child has stepped on to the road from the pavement when the plaintiff saw the defendant who was riding his motorcycle approaching at a rash speed. The child was in great danger of being knocked down, when the plaintiff rushed on to the road to try to save the child but in the process she herself was knocked down by the motor cyclist and injured.

It was held that she was entitled to recover damages from the motor cyclist as the maximum volenti non fit injuria has no application to rescue cases.

Cutlet	Vs.	United Diaries
Baker	Vs.	T.E. Hopkines & Sons Ltd.
Videan	Vs	V. British Transport Board.

INEVITABLE ACCIDENT

"An accident not avoidable by any such precaution as a reasonable man, doing such an act then are there, could be expected to take" - Polock.

The Nitro - Glycerine Case 15 Wall 524 (1872).

The defendants, a firm of carriers, received a wooden case at New York to be carried to California. 'There was nothing in its appearance calculated to awaken any suspicion as to its contents'. On arriving at San Franciseo it was found that the contents were leaking. The case was then, according to the regular course of business, taken to the defendant's office (which they had rented from the plaintiffs (or) examination. A servant of the defendants proceeded to open the case with mallet and chisel the contents being Nitro-Glycerine exploded, and all the persons present were killed and the plaintiffs building damaged. The action was brought by the plaintiff for damage to his building. It was found as a fact that the defendants had not, nor had any of the person concerned in handling the case, knowledge or means of knowledge of its dangerous character, and that the case had been dealt with in the same way that other cases of similar appearance were usually received and handled and the mode that men of prudence engaged in the same business would have handled cases having similar appearance in the ordinary course of business when ignorant of their contents.

HELD: Defendant was not liable as the damages was due to an inevitable accident.

(No one is responsible for injuries resulting from unavoidable accident whilst engaged in a lawful business.)

Brown Vs. Kendall 6. Cush. 292. 1850

The plaintiff's and defendant's dogs were fighting. The defendant was beating them with a stick in order to separate them while the plaintiff was looking on. The defendant retreated backwards from before the dogs, striking them as to be and as he approached the plaintiff, 'with his back towards' him, in raising his stick over his shoulder in order to strike the dog he accidentally hit the plaintiff in his eye thus causing him a severe injury.

In an action for trespass for assault and battery the Supreme Court of Massachusetts held that this act of defendant in itself was a lawful and proper act which he might do by proper and safe means; and that in doing this act, using due care and all proper precaution necessary to the exigencies of the case to avoid hurt to others, in raising his stick for the purpose, he accidentally, hit the plaintiff in the eye and wounded him, this was the result of pure accident, or was involuntary and unavoidable, and therefore the action would not

All that could be required of the defendant was the exercise of due care adopted to the exigency of the case.

Holmes Vs. Mather L. R. 10 Ex 44. (1875)

The defendant was out with a pair of horses driven by his groom. The horses ran away and the groom being unable to stop them, guided them as best as he could. But he failed to get them round the corner and they knocked down the plaintiff.

The jury found there was no negligence. It was argued on the authority of the old cases that a trespass has been committed. The court refused to take this view, but said nothing about inevitable accident in general.

"For the convenience of mankind in carrying on the affairs of life, people as they go along roads must expect, or put up with, such mischief as reasonable care on the part of other cannot avoid".

Stanley Vs. Powell (1898) I. Q. B. 86

The plaintiff and the defendant were members of a shooting party. The defendant fired his gun a peasant which rose, but not in the direction of the plaintiff, but a pellet from the cartridge glanced off the bough of a tree and destroyed the eye of the plaintiff who was employed in carrying cartridges for the shooting party.

The plaintiff sued the defendant who was held not liable for negligence because there was none, nor for trespass to the person because the harm was accidental in the same that there was no negligence or want of due caution in its occurrence. Denman J. based his decision on the ground that even if the action were in trespass, not case, the injury being accidental the defendant could not be liable.

MISTAKE: Mistake, of law, of fact, no excuse, Consolidated Co. Vs. Curtis.

ACT OF GOD

Not a general defence like inevitable Accident but restricted to caution based upon the rule in Rylands Vs. Fletcher and other instances of Strict or Absolute liability. It is due of operation of Natural forces in which there is no human agency involved.

Nichols Vs. Marsland (1876) 2 Ex. D.1.

The defendant had constructed several artificial ornamental lakes on her land and filled it with water by damming a natural stream. The embankment were well and carefully constructed and were adequate for all ordinary occasion. An extraordinary rainfall greater and more violent than any within human memory broke down the artificial embankment and the rush or escaping water carried away from country bridges belonging to the plaintiff, in respect of which the plaintiff sued the defendant.

Judgement was given for the defendant, the jury had found that she was not negligent and the court held that she ought not be liable for an extraordinary act of nature which they could not reasonably anticipate.

Greenock Corporation Vs. Caledonian Railway (1917) A. C. 556

The Corporation in laying out a park had constructed paddling pool for children in the bed of a stream and thereby altered its course and obstructed its natural flow.

Owing to rainfall of extraordinary violence the stream overflowed at the pond and a great volume of water, which would have been safely carried away by the stream in its natural course flooded the property of the Railway Company.

HELD by the House of Lords that this was not an Act of God and the corporation was liable. Flour of the law, Lords cast doubt upon the finding of the jury in Nichols Vs. Marsland and two of them distinguished his case on the ground that no one could say that such rainfall was unprecedented in Scotland where the case arose.

Necessity: If the defendant is acting under necessity to prevent a great evil he may not be liable even for damage done intentionally. Cope Vs. Sharpe.

STATUTORY AUTHORITY

May be of two kinds (i) Absolute Authority (i.e.) authority to do the act not withstanding the fact that if necessarily causes a nuisance or other injuries to third parties, Or (ii) ,Conditional Authority to do the act provided it can be done without causing a nuisance or other injurious consequence.

1) Green Vs. Chelsea Water Works Co.

2) Vaugham Vs. Taff Vale Railway (1806) 5 H.N.679

The defendant Railway Company has statutory authority to use steam engine for their trains. A spark escaped from one of their engines and set fire to the plaintiff's which was alongside the railway lines.

It was proved that the engines were constructed with all due care and skill and that it was impossible wholly to prevent the escape of sparks.

HELD: Defendants were not liable. They had absolute statutory, authority, Metropolitan Asylum District Vs. Hill (1881) 6. A. C. 193.

A local authority had been authorised by statute to erect a hospital for patients suffering from Smallpox and other infectious diseases. They constructed a hospital near the plaintiff's property. This constituted nuisance to the plaintiff and, he brought an action for an injunction to stop the defendant from using the building as a small pox hospital.

HELD the defendant could be restrained. The statutory authority was construed, not a absolute authority to erect a hospital where the defendants pleased and whether a nuisance was thereby created or not, but as a conditional authority to erect one if they could obtain a suitable site where no nuisance would result to others.

Private defence: Of person and property. Law permits a man to use reasonable degree of force for the protection of himself on others against unlawful use of force.

MOTIVE - MALICE

In general, motive is irrelevant in the law of Torts. An act which is not otherwise tortuous will not become wrongful because it is done with a malicious motive.

Mayor of Bradford Vs. Pickles (1895) 64 L. J. Ch. 759 (1895) A. C. 597

Pickles was annoyed at the refusal of the Bradford Corporation to purchase his land in connection with a water supply scheme. Therefore, animated by the most spiteful and revengeful motive, Pickles deliberately sank shafts on his land pumped out all the under ground penolating water as a result of which the corporations water supply became dry and polluted.

Held in action for an injunction to restrain the defendant that Pickles was not liable. The act, done by him was one which he was entitled to do. The mere fact that the act was done with an evil motive will not convert his otherwise lawful act into a wrongful one.

"No use of property which would be legal if due to a proper motive can become illegal because it is promoted by a motive which is improper or even malicious"

"It is the act, not the motive for the act, that must be regarded. If the act apart from the motive gives rise merely to damage without legal injury, the motive, however reprehensible it may be, will not supply that element".

CAPACITY OF PARTIES

1) Act of State
2) Corporations
3) Minor
4) Independent and Joint Tort feasors (composite Tort-feasors)
5) Husband and wife

1. THE STATE (a) England

The law in England on this matter has been greatly changed by the crown proceedings Act 1947, Section 2 (1) of the Act provides as follows:

Subject to the provisions of the Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity it would be subject.

(a) In respect of torts committed by its servants or agent;

(b) In respect of any breach of their duties which a person owes to his servants or agent in common law by reason of being employer; and

(c) In respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property.

The liability of the crown is of course conditional on the agent or servant being liable in tort for such conduct. There are several exceptions provided by the Act such as that no action will be against the kind in his personal capacity, no action possible in respect of act or omissions of its servants or agents in relation to a postal packer or telephonic communications or respect of an act or omission of a member of the Armed forces causing death or personal injury to another member of the Armed Forces etc.

(b) India

Article 300 of the constitution of India provides for suits against the Government.

A distinction is made between mercantile or private function of the Government on the one hand and Sovereign Act on the other. For acts done in former capacity Government can be sued, but not for acts done in sovereign capacity just as in the case of the East India Company provisions to 1858.

P & 0 Steam Navigation Company Vs. Secretary of State for India (1861) Born. H. C. R.

The plaintiff's horse was injured owing to the negligence of the servants employed in the Government's dockyard on the river Hoogly who had allowed a heavy piece of machinery on the horse while it was being led along the dockyard in a action brought in by the plaintiff against the Government.

HELD: Government would be liable, as the maintenance of the dockyard was an act done by the Government in its mercantile capacity.

Secretary of State for India Vs. Cockraft (1914) I.LR. 39 Mad. 351

The Government was maintaining a military road in Malabar. Owing to the negligence of servants employed by the Government a heap of gravel was left in the middle of the road on which the plaintiff's carriage dashed and capasized and the plaintiff was injured. In an action against the Government.

HELD: No action would lie as the maintenance of a military road was an act done by the Government in its sovereign capacity.

ETTI Vs. Secretary of State for India I. L. R. (1939) Mad. 843

The plaintiff has taken his infant son for treatment at the Government women and children's hospital in Egmore. He was asked to come back some days later to take away his child. When he went there he was informed that by mistake his child had been given away to some other person. For the negligence of the hospital staff the plaintiff brought an action against the Government.

HELD: That since the hospital was maintained by the Government out of a public Revenue and for the benefit of the Public, the Government was acting in the exercise of their sovereign functions and so no action would lie.

State of Rajasthan Vs. Vidhyawati A.I.R. 1962 / S.C. 1933

The driver of a jeep which was owned and maintained by the State of Rajasthan for the official use of the collector of a district; drove the Vehicle negligently while bringing it back from a workshop after repairs and knocked down a pedestrian who died subsequently. In an action by the widow against the state of Rajasthan ..

HELD: As the maintenance of the jeep for the Collector's use not an act done in the exercise of sovereign powers by the Government of the State of Rajasthan, it could be made liable for the negligent act of the driver.

Kasturi Lal Ralia Ram Jain Vs. State of U. P. :

The Supreme Court held that the State is not liable for the acts done by its servants in the exercise of statutory duties.

ACT OF STATE

"An act injurious to the person or to the property of some person who is not at the time of that act a subject of Her Majesty; which act is done by an representative of Her Majesty's authority, civil or military, and is either previously sanctioned or subsequently by Her Majesty" - Sir Fitzames Stephon.

For an act of State neither the State nor its representative is liable.

BURON Vs. DENMAN (1948) 2 EX. 167.

The plaintiff a Spaniard was a slave trader who owned some slaves and some buildings, housing the slaves in the West Coast of Africa. The defendant who was a captain the British Navy released the slaves and set fire to the plaintiff's property. He had no authority to do so but his act was ratified by the British Government who congratulating him on his "Spirited and able conduct" granted him a reward of $ 4,000.

It was held that Buron had no remedy for lies Paris as it was an act of State.

An Act of State can only be justified against foreigners.

JOHNSTONE Vs. PEDLAR (1921) 2A, C.262.

Pedlar, an Irishman, became a naturalised American citizen, returned to Ireland in 1916, took part in a rebellion there, and was deported. In 1917 he returned to Ireland and in 1918 was arrested there for illegal drilling. A sum of money found upon his was confiscated by the police, the action being ratified by the Chief Secretary for Ireland. Pediar sued the Chief Commissioner of Police for wrongful detention of the money are alternatively for damages for conversion of it. The defendant pleaded act of State.

The House of Lords; held the defence bad, as there cannot be an act of State between a Government and its own subjects. A friendly alien residing in Britain is in the same position as a British subject even if a resident alien flagrantly violates his allegiance to the Crown as Pediar had done.

MASTER AND SERVANT

The master is liable for any tort which the servant commits in the course of this employment.

The Servant is also liable.

WHO IS A SERVANT?

A servant is one whose work under the control of another. He must be distinguished from an independent contractor "who undertakes to produce a given result but so that in the actual execution of the work he is not under or control of the person for whom he does it and may use his own discretion in things not specified beforehand".

Performing Right Society Vs. Mitchell 1924, I. K. B. 762

The plaintiffs were the proprietors of the sole right of performing in public certain musical work.

They alleged that the defendants infringed their copyright in two musical works by allowing their band to play these musical items in public in a dance ball owned by them without getting the plaintiff's consent.

HELD: Mc Carida J. that the defendants were vicariously liable for the act done by the band who were servants of the defendants and not independent.

The agreement between the defendants and the band made the band the servants of the defendants ... "It provides for seven hours daily service". It mentions salary' .. it mentions pay'. It uses the word employ'. It provides for a period of employment. It provides that the band shall play at any place in London where the defendants may direct. It provides that the services shall be at the exclusive disposal of the defendants. It gives the defendants the right of immediate dismissal for the breach of any reasonable instruction or requirements. Above all it gives 1 think, to the defendants the right of continuous dominant and detailed control on every point including the music to be played. In my opinion this is not a case of an independent contractor agreement with some features of service agreement, it is a case rather of a service agreement with several peculiar features appropriates to the employment of a band ...

Hospital Cases

Hilleyer Vs. The Governors of St. Barthalomews Hospital (1909) 2 K. B. 820 (C. A.):

The plaintiff had gone for treatment at the defendant's hospital. He was taken to the operating theatre for examination and placed under an anaesthetic. When he recovered consciousness he found that his arm had been brushed by coming into contact with, hot water can, due to the negligence of the hospital staff. The staff concerned consisted of a consulting Surgeon, a house surgeon, an anesthetist and three nurses. The plaintiff claimed damages from the hospital authorities for the negligence of their staff.

It was held that hospital authorities were not liable as the members of their staff involved were not servants for the purpose of liability ..

Farwell L. J. .... The first question then is : Were any of the persons at the examination servants of defendants ?. It is impossible to contend that Mr. Lockwood the surgeon, or the acting assistant surgeon, or the acting house surgeon, or the administrator of anesthetics or any of them were servants in the proper sense of the world: they are all professional men employed by the defendants to exercise their profession to the best of their abilities according to their own discretion: But in exercising if they are in no way under the orders or bound to obey the direction of the defendant. .. It is true that the defendants have power to dismiss them, but it has this power not because they are its servants but because of its control of the hospital where their services are rendered. They would not recognise the right.. While retaining them, to stand on a somewhat different of patients. "The three nurses and the two carriers stand on a somewhat different footing, and I will assume that they are the servants of the defendants. But although they are such servants for general purposes, they are not so for the purposes of operations and examination by the medical officers. It and so long as they are bound to obey the orders of the defendants. It may be that they are their servants, but as soon as the door of the theatre or operating room has closed on them for the purposes of an operation (in which term (i) include examination by the surgeon) they cease to be under the orders of the defendants, and are the disposal and under the sole orders of the operating surgeon until the whole operation has been completely finished .. The nurses and carriers therefore, assisting at an operation cease for the time being to be the servants of the defendants, in as much as they take their orders during that period from the operating surgeon alone and not from the hospital authorities".

Gold Vs. Essex Country Council (1942) 2.K.8. 293 (C. A)

The plaintiff, a child of 5 was taken to the defendant's hospital for treatment for warts on her face. She was seen by the visiting dermatologist of the hospital who prescribed treatment by 1000 units Grenz rays and sent the plaintiff to the radiology department. The department was in charge of a radiologist, but the treatment was given to the plaintiff by a qualified and competent radiographer who was employed under a full time contract of service. In the course of the treatment the radiographer was admittedly negligent in that he covered the plaintiff's face only with a piece of lint while submitting her to the Grenz ray treatment. As a result the plaintiff's face permanently disfigured.

HELD that the hospital authorities were liable for the negligence of the radiographer even though he was a skilled professional man.

The Court of Appeal in this case repudiated the opinion expressed in Hiltyer Vs. St. Barthalomew's Hospital that a hospital was not responsible for the negligence of its professional staff (including trained nurses) in matters involving professional care and skill as distinct from matters of a purely administrative nature.]

Cassidy Vs. Ministry of Health (1951) 2 K. B. 343 (C. A.)

The plaintiff, a general labourer was suffering from a contraction of the third and fourth fingers of his left which was diagnosed as Dupuytren's conditions. He went to a hospital belonging to the defendants where an operation was performed by Dr. Fahrni, a highly qualified surgeon who was a whole time assistant medical officer of the hospital. After the operation the patient hand and lower arm was kept rigid in a splint for about 14 days although the patient had complained and his hand was to all intents and purpose useless. The post operative treatment was under the case of Dr. Fahrni, a house surgeon and the hospital's nursing staff.

The plaintiff claimed damages from the hospital authorities for their negligence on the part of the staff.

HELD that the hospital authority would be liable for the negligent post operational treatment afforded by the full time staff (assistant medical officer, house surgeon and nurses) each of whom were employed under a contract of service. The fact that these employees were exercising professional care and skill was held to be no defence.

LENDING OF A SERVANT

Where a servant is lent by his master to another person, and the servant commits a tort against a third person in the course of his work for that other person, the question as to which of his two masters will be responsible will depend on which of them had the right to control his work at the time he committed the tort in the sense that he is entitled to order the servant, not only what he is to do, but also how he is to do it.

Mersey Locks and Harbour Board Vs. Goggin and Graffiths Ltd., (1947) A. C. I.

The appellant Harbour owned a number of mobile cranes, each driven by a skilled workman (driver) engaged and paid by them for the purpose of letting out the cranes so driven, to applicants for unloading cargo from ships. There was a clause in the conditions of hiring. "The drivers so provided shall be the servants of the applicants. The Respondents Coggins and Griffiths Ltd. Were a firm of stevedore who had hired a mobile crane together with its driver from the Harbour board. While the crane driver was opening the crane for the hirers, he was negligent and a serious injury was caused to one Mc. Farlane who was trapped and struck by the cranes.

The question was whose servant was the crane driver at the time of the accident.

It was held that not withstanding the clause in the contract of hiring it was the permanent employers of the crane driver (i.e.) the Harbour Board who was vicariously liable because they had the control of the servant's work at the time of the accident.

Lord Porter in his judgement stated:

"Many factors have a bearing on the result. Who is a paymaster, who can dismiss, how long the alternative service lasts, what machinery is employed, have all be kept in mind ... But the ultimate question is not what specific orders, or whether any specific orders were given but who is entitled to give the orders as to how the work should be done. Where a man driving a mechanical device, such as a crane is sent to perform a task, it is easier to infer that the general

employer continues to control the method of performance since it is his crane and the driver remains responsible to him for its safe keeping .... '

Lord Ushwatt in the course of his judgement said:

" .....The manner in which the crane was to be operated was an remained exclusively the workman's affair as the servant of the appellant board. The workman (crane driver) in saying in his evidence "I take no orders from anybody" he asserted what was involved in the hiring out of the crane, committed to his charge by the appellant board, arid so far as the respondent Company (Coggins and Griffiths Ltd. was concerned gave an accurate legal picture of his relations to the respondent company. The respondent ,Company's part was to supply him with work; he would do that work, but he was going to do it for the appellant board as their servant in his own way....."

Casual delegation of Authority: 'A', while still retaining his right of control of his chattel allows 'B' to use it for a purpose in which 'A' has some interest and 'B' negligently injures 'C'. with it. 'A' is liable to 'C'.

Hull	Vs.	Lees
Ormrod	Vs.	Crosville Motor Service Ltd.,
Scarsbrook	Vs.	Mason
Britt	Vs.	Galmoye

COURSE OF EMPLOYMENT

Unless the servant has committed the wrong in the course of his employment the master will be liable. Cases

National Insurance Co. Kanpur Vs. Yogendra Nath

1) Mistake of Servant

A servant may be acting in the course of his employment even if he makes a mistake as to the scope of the authority conferred on him by his master

Baylay Vs. Manchester, Sheffield and Linconshire Rly. (1873) 42 L. J. C. P. 75

A porter employed by the defendant Railway Company asked plaintiff, a passenger who had taken his seat in a railway Carriage, where he was going. The plaintiff replied, "To Maccles field" and in fact that was there the train was going. But the porter mistakenly thinking that he was in the wrong train told him so and violently pulled him out of the train as it started moving off and the passenger fell on the platform and was injured.

The plaintiff sued the defendant Railway Company on the ground that the porter's tort was Committed in the course of his employment.

HELD that the Railway company was vicariously liable. It was part of the porter's duty to see that passenger's were travelling in the right trains. One of the rules of the Railway Company was that porters are to do all in their powers to promote the comfort of the passengers and the interests of the Company. No doubt the porter made a blunder, but he had authority to prevent passengers going by a wrong train. So since he was doing an authorised act but in an unauthorised manner., he was acting within the course of his employment and his master would be liable.

Poland Vs. Parr & Sons

(2) Negligence of Servant

Williams Vs. Jons (1896) 3 H and C. 602

A Carpenter employed by X to make a wooden sing board while working in Y's shed lit his pipe and carelessly threw away the lighted match which set fire to the wooden shavings and burned Y's shed,

HELD that the first was not caused in the course of the carpenter's employment and therefore X was not liable to Y.

Jafferson Vs. Derbyshire Farmers Ltd. (1921) 2 K. B. 281

The defendants were using the plaintiff's premises as a garage. A servant of the defendants while transferring motor spirit from a drum into some tins, lit a cigarette and threw the match on the floor. The spirit caught fire and the shed was burnt.

The defendants were held liable as the servant's act was a negligent performance of his work (i.e.) drawing motor spirits.

In one sense it may be said that the act of the boy in lighting and throwing away the match was not done in the course of his employment; " .... but that is not the way in which to approach the question. It was in the scope of his employment to fill the tin with motor spirit from the drum. The work required special precautions. The act which caused the damage was an act done while he was engaged in this dangerous operation, and it was an improper act in the circumstances. That is to say, the boy was doing the work of his employers in an improper way and without taking reasonable precautions; and in that case the employers are liable. Williams Vs. James 3.H. and C. 602 is dintinguishable, because the making of a sign-board is not in itself a dangerous operation demanding the exercise of any precautions. The act of the Carpenter in lighting his pipe had no connection with the work he was engaged to perform. The act was no breach of any duty to exercise due care and caution in the work on which he was engaged because the work on which he was engaged was not dangerous" Per. Warrington L.J.

Century Insurance Co. Ltd., Vs. Northern Ireland Road Transport Board (1942) A. C. 509 (House of Lords).

The driver of a petrol lorry, employed by the defendants, while transferring petrol from a lorry to an underground tank in the plaintiff's garage, struck a match to light a cigarette and threw it on the floor and caused a fire and an explosion which damaged the plaintiff's property.

The defendants were held liable, for the careless act of the driver was done in the course of his employment. Lord Wright pointed out that the act of the driver in lighting his cigarette was done for his own comfort and convenience was in itself both innocent and harmless. But the act could not be treated in abstraction from the circumstances as separate act; the negligence was to be found by considering the time when and circumstances in which the match was struck and thrown down, and this made it a negligent method of conducting his work.

Sitaram	Vs.	Santanuprasad
Station	Vs.	National Coal Bound
Storey	Vs.	Ashton

(3) Wilful Wrong of Servant

Limpus Vs. London General Omnibus Co. (1862) I. H. & C. 526

The driver of the defendant's bus had printed instruction not to race with or obstruct other vehicles. In disobedience to this order the driver obstructed a rival bus by driving across the road, and caused a collision which injured the plaintiff's bus.

The defendants were held liable because what the driver did was merely a wrongful, improper and unauthorised mode of doing an act which he was authorised to do namely to promote the defendant's passenger carrying business in competition with their rivals. The driver whose conduct was in question was engaged to drive and the act which did the mischief was a negligent mod¬of driving for which his employers must answer, irrespective of any authority or of any prohibition.

Twine Vs. Beans Express Ltd.)1946) 62 T. L. R. 155

The employers had expressly forbidden the driver of one of their vans from giving a lift to any unauthorised persons and had affixed a notice to this effect on the dash board of the van. Despite this the driver gave a lift to a person, who knew of the breach of instructions and was killed by reason of the driver's negligence. The Court of appeal held that the driver was acting outside the scope of his employment and so his employers were not liable.

"He was doing something that he had no right whatsoever to do, and qua the deceased man he was as much as a frolic of his own as if he had been driving somewhere on some amusement of his own quite unauthorised by his employers".

Giving a lift to an unauthorised person "was not merely a wrongful mode of performing the act of the class this driver and employed to perform but was the performance of an act of a class which he was not employed to perform at all.

It may be otherwise in the cases of "stray passengers, picked up by a driver to whom no contrary instruction had been given". Or if the plaintiff could show that the defendants had acquiesced in their servants branches of his instructions.

A master is liable if the tort is committed in the course of employment even though it was not committed for the benefit of the master.

Fraud of Servant

Lloyd Vs. Grace Smith & Co. (1912) A. C. 716 House of Lords

The plaintiff was a widow who owned some cottages. Being dissatisfied with the income which they produced, and from a mortgage on other property and wishing to find a more profitable investment, she went to the office of the defendant, Frederick Smith, who was then the sole member of Grace Smith & Co., a firm of solicitors. There she saw one Sandles whom she thought to be a partner, but who was the managing clerk who conducted all the conveyancing business of the defendants without supervisors. Acting on his advice she directed him to sell the cottages and call in the mortgage. Sandles then fraudulently induced her to sign certain documents, on the pretence that documents were necessary for the sale of the property. Actually there was a conveyance of the cottage to Sandles. He then dishonestly disposed of the property for his own benefit.

Smithon J. gave judgement 1 ; for the plaintiff. The Court of Appeal reversed this. But the House of Lords unanimously reversed the decision of the Court of Appeal and restored the judgement of smithon J.

It was held that the fraudulent act committed by the clerk was done in the course of his employment and the employers would be vicariously liable even though the tort was committed for the servant's own benefit and the master did not stand to give anything .

....'The general rule is, that the master is answerable for every such wrong of the servant or agent as if committed in the course of the service and for the master's benefit though no express command or privity of the master be proved ... But it is a very different proposition to say that the master is not answerable for the servant or agent committed in the course of the service, if it be not committed for the master's benefit.

... It would be absolutely shocking to my mind if Mr. Smith was not held liable for the fraud of his agent in the present case. When Mrs. Lloyd put herself in the hands of the firm, how was she to know that the exact position of Sandles was? Mr. Smith carries on business under a style of firm which implies that unnamed persons are, or may be, included in its members. Sandles speaks and cut as if he were on of the firm. He points to the deed boxed in the room and tells her that deeds are quite safe in "our" hands. Naturally enough she signs the documents he puts before her while trying to understand what they were. Who is to suffer for this man's fraud? The person who relied on Mr. Smith's accredited representative, or Mr. Smith who put this rogue in his place and cloth him with his authority. If Sandles had been a partner in fact. Mr. Smith would have been liable for the fraud of Sandles as his agent. It is a hardship to be liable for the fraud of your partner. But that is the law under the partnership Act. It is less a hardship for a principal to be held liable for the fraud of his agent or confidential servant. You can hardly ask your partner for a guarantee of his honesty. But there are such things as fidelity policies. You can assure the honesty of the person you employ in a confidential situation, or you can make your confidential agent to obtain a fidelity policy" Per Lord Macnaughten.

(4) Criminal offence of Servant

Warren Henlys 1948) 2 All E. R. 935

The defendants who were the owners of a service station employed a petrol pump attendant.

The attendant erroneously believing that the plaintiff who was a customer would drive away his car without paying money for petrol he had filled in his car and without surrendering the coupons, entered into a violent quarrel with him. The plaintiff after paying the bill and giving the coupons called in a policeman who tried to pacify the parties. Subsequently the plaintiff told the attendant assaulted him on his face.

HELD by Hilbery J. that the employers were not liable for this assault committed by the servant because the assault was an act of personal vengeance and not within the course of employment

Peterson Vs. Royal Oak Hotel Ltd. (1948) N. Z. L. R. 136

Court of Appeal of New Zealand.

The plaintiff was in the bar of Royal Oak Hotel when an elderly customer who had been refused a drink by the barman named Price. The customer resenting the refusal, threw an empty glass at the barman, who in his turn took a portion of the broken glass and hurled at back at the resentful customer. A fragment of the glass became detached from the main piece and struck the plaintiff who was standing nearby, in his eye.

(5) Negligent delegation of authority by the Servant

If a servant negligently delegates his authority and instead of himself carefully performing a duty allows it to be negligently performed by another person, the master will be liable for such negligence of the servant. Thus if a driver instead of himself driving the bus allows somebody else to drive the same it would amount to negligent mode of performance of the duty by the driver.

Case Laws:	1) Baldeo Raj	Vs.	Deowali
	2) Ilkiw	Vs	Samuels.
Cases :-	Baldeo Raj	Vs.	Deowali
	Indian Insurance Co.	Vs.	Radhabai
	Ilkiw	Vs	Samuel
	Ricketls	Vs.	Thomas Tilling Ltd.

It was argued that the employers were not liable for this act of the barman was not done in the course of his employment, as the barman threw the piece of glass not to ensure the troublesome customer leaving the hotel but owing to his personal resentment and anger against the customer.

HELD that the employers were liable at the act done by barman was done in the course of his employment. The barman had been authorised to maintain order in the hotel and his act in throwing the glass could be considered as a wrongful act through unusual method of maintaining order.

" ... In the Century case the smoking and lighting of the cigarette was for the servant's own pleasure, yet the master was liable because the servant's act was a wrongful mode of doing his work. In the present case even if it was because of resentment alone, the throwing of the glass was nevertheless a wrongful mode of keeping order, and liability is imposed on the employer"

Doctrine of Common Employment Position in England

1) Priestly Vs. Fowler

Under English common law, a master was not responsible for negligent harm done by one of his servant to fellow engaged' in a common employment with him.

This rule has now been abolished by the law reform (Personal Injuries) Act 1948. The rule is also no now applicable in India.

2) Radcliffe Vs. Ribble Motor Service Ltd. (1939) A. C. 515

'A' and 'B' Were motor drivers employed by the defendants to take parties by their buses from Liverpool to New Brighton .. B had been told to return to the defendant's garage to Bottle, the particular route of his return journey being left to his own discretion. On the return journey he stopped at a particular point for some unknown reason. 'A' happened to be returning by the same route and in pulling out to pass 'B's vehicle, he negligently knocked down and killed B who was standing by his own vehicle. B's personnel representatives sued the defendants under the Fatal Accidents Act 1846 and also under the Law Reform. (Miscellaneous). (Provisions) Act 1934.

The defendants pleaded common employment.

HELD that at the time of the accident, drivers A and B were not in common employment and so the employers were liable to pay damages.

Lord Wright: "The consideration that the risk of injury to one servant is the natural and necessary consequence of misconduct in the other implies that the skill and care of the one is of special importance to the other by reason of the relation between these services ... In my opinion the circumstances here, as found by the judge are such that having regard to the nature of the employment, there was no common work justifying the conclusion that the deceased man's contract of employment was subject to the fictitious implied term that he assumed the risk of his fellow servant's negligence while driving the employer's coach on the high way on a separate job. I think there was no such term. The two drivers concerned when they were on the road separately driving their motor coaches were engaged on independent piece of work. There was no common work. The deceased man was not exposed to the risk of the negligence of another employee of the respondent driving another of the company's coaches in any greater degree or in any different sense than he was exposed to the risk of any driver's negligence on the road. The risk was the general risk of the highway not the specific risk of the fellow servant's negligence.

Position in India

1) Secretary of State Vs. Rukminibai.

2) Governor General in Council Vs. Constance Zena Wells

REMOTENESS OF DAMAGE It means the defendant is liable only for those consequences which are not too remote from his conduct.

Cases: 1) Scott Vs. Shepherd

2) Lynch Vs. Nurdin.

Two tests have been applied to decide whether the damage is too remote

1. Test of reasonable foresight:

Consequence are too remote if a reasonable man would not have foreseen them.

1) Wagon Mound Case

2) Hughes Vs. Lord Advocate

3) Doughty Vs. Turner Manufacturing Co. Ltd.,

2. Test of Direct Consequence

If a reasonable man would have foreseen any damage as likely to result from his act, then he is liable for all direct consequences of it suffered by the plaintiff, whether a reasonable man would have foreseen them or not.

Reasonable foresight is relevant to the question "was there any legal duty owned by the defendant to the plaintiff to take care". It is irrelevant to the question. "If the defendant broke a legal duty, was the consequence of this breach too remote ?"

Smith Vs. London and South Western Rly. Co. 1870 A. R. 6

In a dry and hot summer, the defendants had cut the grass growing near the railway line and placed it in small heaps between the line and an edge. A spark from an engine of the defendants ignited the pole of grass and fanned by a strong wind carried across a field and burnt down the plaintiffs cottage which was at a distance of 200 years.

HELD: That the defendants were liable. Although no reasonable man would have foreseen

this consequence, once the defendants were aware that the heaps of grass were lying by the side of the line and that it was a hot season and therefore the heaps were likely to catch fire, they were bound to provide against all circumstances which might result from this and were responsible for all the natural consequences of it.

.... "I think then there was negligence in the defendants in not removing these trimmings and that they thus became responsible for all the consequence of their conduct, and that the mere fact of the distance of his cottages from the point where the fire broke out does not affect their liability".

Re Polemis Vs. Furness Withy & Co. Ltd., (1921) 3 K. B. 560

The owners of the steamship. Thrasy Voulos chartered the ship Furness Withy. The charter expected both the ship owner and the charters free from liability from fire. Among other cargo the charterers loaded a quantity of benzine and petrol in tins. Owing to leakage there was petrol vapour in the hold of the ship. At a port of call while some of the benzene tins were being shifted by the charter's servants a wooden plank was negligently allowed to fall in the hold of the ship. A fire resulted and the ship was totally destroyed. The Court of Appeal unanimously held the charters liable to the owners for the loss which amounted to nearly Rs. 2,00,000. For, to allow the plank to fall into the hold was in itself an act of negligence, in as much as it would not improbably cause some damage to the ship or cargo. The charters therefore being guilty of negligence were held liable for the direct consequence of that negligence though in nature and magnitude those consequence were such as not reasonable man would have anticipated.

Scruttion L. J. said "I cannot think it useful to say the damage must be that natural and probably result. .. To determine whether an act is negligent, it is relevant to determine whether any reasonable person would foresee that the act would cause damage; if he would not, the act is not negligent. But if the act would or might probably cause damage, the fact that the damage that is, in fact causes is not the exact kind of damage one would expect is immaterial, so long as the damage is in fact directly traceable to the negligent act, and not due to the operation of independent causes having no connection with the negligent act, except that they could not avoid its results. Once the act is negligent the fact that its exact operation was not foreseen is immaterial".

Liesbosch Dredger Vs. Edision S.S. (1933) A. C. 448

By negligent navigation, the ship Edison collided with and snak the dredger Liesbosch the owners of which were under a contract with a third party to complete a piece of work within a given time failure to do which would entail them with heavy penalties. Ordinarily the owners of the dredger would have brought a substitute dredger but owing to their poverty they were unable to do so and they were put to much greater expense in fulfilling this contract because they had to hire a dredger at an exorbitant rate. They sued the owners of the Edison for negligence. Among their claim for damages they also claimed this extra expense which they had incurred owing to their impeniosity.

The House of Lords held that they could recover as damages the mark price of a dredger comparable to the Liesbosch and compensation for loss in carrying out the contract between the sinking of the Liesbosch and the date on which substituted dredger could reasonably have been available for work, for the measure of damages in such case is the value of the ship to her owner as a going concern at the time and place of the loss, and in assessing that value, regard must be paid to her pending arrangement. But the claim for extra expenses due to poverty was rejected, because the plaintiff's lack of means was an extraneous matter which made this loss too remote.

The case of Re Polemis was distinguished on the ground that there the injuries suffered were "the immediate physical consequences" of the negligent act. Lord Wright stated ... " Nor is the appellant's financial disability to be compared with that physical delicacy or weakness which may aggravate the damage in the case of personal, injuries, or with the possibility that injured man in such a case may be either a poor labourer or a highly placed professional man. The former class of circumstances to the extend of actual physical damage and the later consideration goes to interference with profit earning capacity; whereas the appellant's want of means was as already stated extrinsic"..,

Overseas Tankship (UK) Ltd., Vs. Morts Dock & Engineering Co. Ltd., (The Wagon Mound)

Privy Council (1916) A. C. 388

'The appellants, the Overseas Tankship Ltd., were the charters of the 'Wagon Mound' an oil burning vessel which was moved as the Clatex Wharf in Sydney harbour for the purpose of taking on fuel oil. Owing to the carelessness of the Overseas Tankship Ltd.'s servants, a large quantity of fuel oil was split on to water and after a few hours this had spread to the Morts Dock Ltd.'s Wharf about 600 ft. Away whether another ship, the Corimal was under repair. Welding operations were being carried out on the Corimal, but when the Mort Dock Ltd.'s manager became aware of the presence of the oil he stopped the welding operation and enquired of the manager of the Caltex oil company whether they could safely continue their operations on the wharf or upon Corimal. The results of the enquiry coupled with his own belief as to the inflammability of furnace oil in the open, led him to think the respondents could safely carryon their operation. He gave instruction accordingly, but directed that all safety precaution should be taken to prevent inflammable material falling off the wharf into the oil. Two days later the oil caught fire and extensive damage was done to Morts Dock Ltd.'s wharf.

The case was dealt with on the footing that there was a breach of duty and direct damage, but that danger caused was unforeseeable.

The Privy Council reversing the decision of the Supreme Court of New South Wales held that the defendants were not liable as the damage was too remote as it was not reasonably foreseeable. They held that Re Polemis should no longer be regard as good law. "It is the foresight of the reasonable man which alone can determine responsibility. The Polemis rule by substituting direct' for reasonable foreseeable' consequences leads to a conclusion equally illogical and unjust".

Smith Vs. Leech Brian and Co. Ltd., (1961) 3 All E.R.1159

Smith was a workman employed by the defendants in their iron works: His work involved lowering articles into a containing of metallic Zinc and flux. The articles were lowered into the tank by means of an overheads crane from behind a position behind a sheet of corrugated iron. One day as he lowered the article into the tank he turned round to see and his head was outside the protective shield when a piece of molten lead struck him on the lip causing a burn. The burn was the promoting agent of cancer developed subsequently and the work man died about 3 years later. The cancer developed in tissues which had already a premalignant condition. But for the burn, the cancer may never have developed although there was a possibility that might have developed at a much later stage in life.

In an action by the widow claiming damages from the defendants under the Fatal Accident's Act and the Law Reform (Miscellaneous Provisions) Act 1934.

Lord Parker C. J., held the defendants liable.

"But for the Wagon Mound it seems to me perfectly clear, that assuming negligence proved, assuming that the burn caused in whole or in part the cancer and the death, this plaintiff would be entitled to recover" ..

... "For my own part, I am quite satisfied that the Judicial Committee in The Wagon Mound did not have what I may call loosely, "the thin skul " causes in mind. It has always been the law of this country that a tort feasor takes his victim as he finds him .....

It is necessary to do more refer to the short passage in the decision of Kennary J, In Dulien Vs. White ..... Where he said.

"If a man is negligently run over or otherwise negligently injured in his body, it is no answer to the sufferer's claim for damages that he would have suffered less injury, or no injury at all, if he had not had an unusually thin skull or an unusually heart."

... "The judicial Committee were, I think, disagreeing with the decision in re polemis that a man is no longer liable for this type of damage which he could not reasonably anticipate. The Judicial Committee were not. I think, saying that a man is only liable for the extent of damage which he could anticipate, always assuming the type of injury could have been anticipated" .....

.... "In those circumstances, it seems to me that this is plainly a case which comes within the old principle. The test is not whether these defendants could reasonably have foreseen that a burn would cause cancer and that Mr. Smith would die. The question is whether these defendants could reasonably foresee the type of injury which he suffered, namely, the burn. What in the particular case, is the amount of damage which he suffers as a result of the burn depends on the characteristics and constitution of the victim. Accordingly I find that the damages which the plaintiff claims are damages for which these defendants are liable".

Warren Vs. Scrutons Ltd. (1962) I Lloyd's Rep. 497

A stevedore sued his employers in respect of personal injuries he had suffered whilst he was helping to unload a cargo in the London docks. The employers were negligent in permitting the use of defective wire in a set of ropes, which had become frayed and dangerous to anyone holding it. The plaintiff scratched his finger on the frayed wire and it became poisoned and a

piece of the finger had to be cut off. Unfortunately, the infection spread to one of his eyes where an ulcer developed and his vision become blurred. It appeared that when he was a young man this eye had been injured and he had an ulcer on it and he had a predisposition to further ulcers if there came into his body some condition which caused a high temperature due to any infection.

It was argued on behalf of the defendants that according to the principle laid down in the Wagon Mound case, the wrong doer is only liable for reasonably foreseeable damage and as it was not reasonable for the employers to foresee that if a finger was picked, the eye may become infected and as it was not reasonable for them to know that the stevedore had this condition, they could not be held liable for the damage to the eye.

HELD by Paull J. that the defendants were liable even for the damage to the eye. The type of damage in the present case was a picked finger; and as this could have been reasonably anticipated, then any consequence which resulted because the particular individual had some peculiarity was a consequence for which the tort feasor was liable.

Novus actus intervenience. Liability when intervening act is foreseeable. No liability when it is not foreseeable.

Cases:	Cob.	Vs.	Great western Railway.
	Harnett	Vs.	Bond.
	S.S. Singletor Abbey	Vs.	S.S. Paludina.
	The Ororpesa case Stanstre	Vs.	Troman
	Mckew	Vs.	Holland and Hannan and Cubitts (Scotland) Ltd.