

SSS 1 SECOND TERM LESSON NOTE

PRESIDENTIAL SYSTEM OF GOVERNMENT

MONARCHY, REPUBLICAN AND MILITARY FORMS OF GOVERNMENT

CONSTITUTION AND CONSTITUTIONALISM

STRUCTURE AND ORGANIZATION OF GOVERNMENT

BASIC PRINCIPLES OF GOVERNMENT

REPRESENTATIVE GOVERNMENT

Week 1&2

Topic: PRESIDENTIAL SYSTEM OF GOVERNMENT

Presidential System of Government

A presidential system of government is a single executive system whereby a man or woman is both the head of state and the head of government. Examples of countries with presidential constitutions are: USA, Spain, Phillipines and Nigeria.

Characteristics of Presidential System of Government

1. All executive power is vested in the president.
2. There is a clear cut separation of power.
3. The system of checks and balances are pronounced.
4. The president and ministers are not members of the legislature.
5. The president can appoint some of his minister outside the party.
6. The president can be removed through impeachment.
7. The party discipline is weak.
8. It is not compulsory for the president to come from the party which has majority in the legislature.

Merits of Presidential System of Government

1. The president is the symbol of unity since the whole country is his constituency.
2. Presidential system of government facilitates quick decision making and provides effective leadership.

3. The president receives praises and blames for the activities of his administration.
4. It allows the president to make use of the needed experts outside the party system.
5. The principle of separation of power can prevent the government from becoming a dictator.
6. Individual ministers are accountable for their deeds and misdeeds.

Parliamentary System of Government

It is a system of government whereby the head of state is separated from the head of government in terms of personalities and functions. It is also called cabinet system. The head of state may be called queen, Emperor, General or President while the head of government is tagged Prime minister. Examples of countries operating this system are; Britain, Kenya, Zambia, Zimbabwe, etc.

Functions of cabinet in a parliamentary System of Government

The functions of a cabinet are varied: in some countries it is a collegial decision-making body with collective responsibility, while in others it may function either as a purely advisory body or an assisting institution to a decision making head of state or head of government. In some countries, the cabinet is called “Council of Ministers” or “Government Council” or lesser known names such as “Federal Council” (in Switzerland), “Inner Council” or “High Council”. These countries may differ in the way that the cabinet is used or established.

In some countries, particularly those that use a parliamentary system (e.g., the UK), the Cabinet collectively decides the government’s direction, especially in regard to legislation passed by the parliament. In countries with a presidential system, such as the United States, the Cabinet does not function as a collective legislative influence; rather, their primary role is as an official advisory council to the head of government. In this way, the President gets opinions and advice in upcoming decisions.

Collective Responsibility

Cabinet collective responsibility, also known as collective ministerial responsibility,[1] is a constitutional convention in governments using the Westminster System that members of the cabinet must publicly support all governmental decisions made in Cabinet, even if they do not privately agree with them. This support includes voting for the government in the legislature. Some Communist political parties apply a similar convention of democratic centralism to their central committee. If a member of the cabinet does wish to openly object to a cabinet decision then they are obliged to resign from their position in the cabinet.

Cabinet collective responsibility is related to the fact that, if a vote of no confidence is passed in parliament, the government is responsible collectively, and thus the entire government resigns. The consequence will be that a new government will be formed, or parliament will dissolve and a general election will be called. Cabinet collective responsibility is not the same as individual ministerial responsibility, which states that ministers are responsible and therefore culpable for the running of their departments.

Features of a Parliamentary System

1. All ministers are chosen from the legislature.
2. Prime minister and key ministers are directly responsible to the legislature for any policy initiated by them.
3. The party that has majority in the legislature forms the government.
4. There is the principle of collective responsibility.
5. There is a strong party discipline.
6. There is fusion of powers.

Merits of Parliamentary System of Government

1. It encourages a great working relationship between the legislature and the executive.
2. Cabinet system makes the executive indirectly responsible to the people through the legislation.
3. It encourages team spirit among the cabinet ministers.
4. The official opposition serves as effective watchdog on the government.
5. Party discipline facilitates quick decision making.

Demerits of Parliamentary System of Government

1. Parliamentary system is often unstable when a coalition government is formed.
2. The principle of collective responsibility makes it difficult to allocate praises and blames on a particular minister.
3. The fusion of power may lead to dictatorship.
4. Party discipline kills individual initiative of the ministers and the legislature.

The Difference between Parliamentary and Presidential System of Government

The major difference between these two systems is that in a Presidential system, the executive leader, the President, is directly voted upon by the people (Or via a body elected specifically for the purpose of electing the president, and no other purpose), and the executive leader of the Parliamentary system, the Prime Minister, is elected from the legislative branch directly.

In the Presidential System, it is more difficult to enact legislation, especially in the event that the President has different beliefs than the legislative body. The President only responds to the people, the legislative branch can't really do anything to threaten the President. As a result, he can make it more difficult for the legislative body to do anything.

In the Parliamentary system, if the Parliament doesn't like the Prime Minister, they can cast a vote of no confidence and replace him. This tends to make the executive leader subservient to the Parliament.

Bottom line is, if you believe that government should have more checks and balances, then a Presidential system will give you that. If you believe that it should have the power to enact laws quickly, then you should go for a Parliamentary system.

Exercises

1. Explain Presidential system of government.
2. What are the main features of Presidential system of government that differentiate it from the Parliamentary system?
3. Discuss the functions of the cabinet in a parliamentary system of government.
4. What are the merits and demerits of the Parliamentary system?
5. Outline the collective responsibility of the cabinet in the Parliamentary system.

Week 3&4

Topic: Monarchy, Republican and Military Forms of Government

Monarchy is a form of government in which a group, usually a family called the dynasty, embodies the country's national identity and one of its members, called the monarch, exercises a role of sovereignty. The actual power of the monarch may vary from purely symbolic (crowned republic), to partial and restricted (constitutional monarchy), to completely autocratic (absolute monarchy).

Forms of Monarchy

Dependent monarchies;

In some cases monarchs are dependent on other powers (see vassals, suzerainty, puppet state, hegemony). In the British colonial era indirect rule under a paramount power existed, such as the princely states under the British Raj.

In Botswana, South Africa, Ghana and Uganda, the ancient kingdoms and chiefdoms that were met by the colonialists when they first arrived on the continent are now constitutionally protected as regional and/or sectional entities. Furthermore, in Nigeria, though the dozens of sub-regional polities that exist there are not provided for in the current constitution, they are nevertheless legally recognised aspects of the structure of governance that operates in the nation. In addition to these five countries, peculiar monarchies of varied sizes and complexities exist in various other parts of Africa.

Succession

The rules for selection of monarchs varies from country to country. In constitutional

monarchies the rule of succession is generally embodied in a law passed by a representative body, such as a parliament.

Hereditary Monarchies

In a hereditary monarchy, the position of monarch is inherited according to a statutory or customary order of succession, usually within one royal family tracing its origin through a historical dynasty or bloodline. This usually means that the heir to the throne is known well in advance of becoming monarch to ensure a smooth succession.

Elective Monarchies

In an elective monarchy, monarchs are elected, or appointed by some body (an electoral college) for life or a defined period, but otherwise serve as any other monarch. There is no popular vote involved in elective monarchies, as the elective body usually consists of a small number of eligible people. Historical examples of elective monarchy include the Holy Roman Emperors (chosen by prince-electors, but often coming from the same dynasty), and the free election of kings of the Polish–Lithuanian Commonwealth. For example, Pepin the Short (father of Charlemagne) was elected King of the Franks by an assembly of Frankish leading men; Stanisław August Poniatowski of Poland was an elected king, as was Frederick I of Denmark. Germanic peoples had elective monarchies.

Merits of Monarchy

- 1. It brings about a solid government.**
Monarchy's singularity of power provides people with a symbolic and focused area for group loyalty and identity. There will only be one individual who will make the decisions, so they will be made quickly, and there will be fewer arguments with regards to new policies going to be imposed.
- 2. It can lead to leadership stability.**
A monarch has life tenure and is not subject to national elections, unlike other heads of state under other political systems.
- 3. It offers more savings for the government with the absence of elections.**
This form of government reduces the huge amounts of expenditure of the country from the elections, as there is no need to elect the next leader. The existing monarch will be the one to choose who his or her successor.
- 4. It allows for a non-partisan leadership.**
Monarchs are born to rule without the obligation to answer to anyone. On the other hand, politicians need to win the elections and reach out to the people to try to win their votes, which is something that monarchs do not really experience.
- 5. It encourages respect for the ruler.**
The masses will have greater respect for their monarch than an elected president, as the latter can rule for only a certain term.
- 6. It lessens cases of corrupt practices.**
Nations that are being ruled by monarchs experience less corruption. Also, these rulers know that they are not ruling for a term, so they most probably have no lust for money. They do not intend to misuse their authority for corrupt practices.
- 7. It looks into family as a state model.**
A monarch is considered as the country's father and the subjects are his children. This form of government is an organic kind of human organization that everyone can easily relate to.
- 8. It does not share blames.**
A monarch would not share the blame or pass it to others once he makes a bad decision in the same way that politicians do. However, it is just him while politicians are hundreds.

9. It encourages leadership suitability.

An heir to the throne will be taught the proper ways to rule as early as his/her childhood years, while traditional politicians only learn about these things when they are already grown up.

10. It is useful for civilized and undeveloped societies.

In the beginning of time, man was barbarous and uncivilized—he was not at all disciplined. During such a time, monarchy was the only form of government that made man disciplined and law-abiding.

Demerits of Monarchy

1. It might lead to a poor leadership.

Monarchy requires a single person ruling the entire country as long as he or she lives. This means that the masses do not have the power to remove him or her from leadership even if he is not functioning accordingly.

2. It does not allow democratic legitimacy.

A monarch is not elected or chosen by the people, unlike politicians.

3. It might lead to having a leader who might not be as serious as needed.

A person who knows that he or she will rule the country for the rest of his or her life might not take the responsibility to serve for the betterment of the people seriously. He is aware that he or she does not answer to anyone, which can lead to economic disruption.

4. It lacks democratic accountability and liability.

If a monarch has become an inefficient and bad leader, he cannot be held liable by the people.

5. It invests much power and fame to a single individual.

A monarch is recognized as a supreme legislator, judicator and executor. Though he is helped by personal advisors, he still has the final say, and no other person is allowed to break this.

6. Its structure is very difficult to change internally.

In the event that monarchs become irresponsible and ineffective, it can be quite difficult for the people to force these leaders out or replace them with those they think are more effective.

7. Its hereditary office for its leader is not justifiable.

The post of monarchs is the highest, and only a competent person should hold it. If a head of state's office is hereditary, the leader shall hold it irrespective of his capability, which might create problems for the administration.

8. It can degenerate into tyranny.

Power can corrupt anyone, and after sometime, a king or his successors might degrade themselves and exploit the people, bringing into the administration tyranny.

9. It can lead to inequality of wealth.

In a monarchy type of government, the leader, his ministers and the ruling class would amass wealth, but the common people's plight would remain miserable. Neither the public would get higher positions nor enjoy any kind of special right.

Republican Form of Government

The republican system of government is that system in which the sovereignty of the state resides in the people. It can be described as a system in which people elect officials to represent them and take political decisions on their behalf. In this system, the Head of State is elected. Examples republican countries are the United States, France and Ghana.

Features of Republican

Fixed Term of Office

In a republican system of government, the constitution prescribes a fixed term of office for the president, usually, four years, but in some cases five or even seven years. The mandate of the president can be renewed only once, after which the president can no longer be constitutionally be elected. Another person must offer him or herself to be elected.

Periodic Elections

In a republic system of government, elections are conducted periodically and all political positions are contested for by individuals. For example Ghana and the United States, among other republican countries organize general elections every four years.

Universal Adult Suffrage

In a republican system of government, elections are held on the basis of universal adult suffrage. This means all qualified adult voters are allowed to cast their ballots.

Supremacy of the Constitution

In a republican system of government, the constitution is the supreme law of the land. Any other law found to be inconsistent with any provision of the constitution can be challenged in the court of law. If proven, such law is declared null and void.

Rule of Law

A republican government practices the rule of law is upheld. In other words, a republican government respects all the tenets of the rule of law which include supremacy of the law, equality before the law and the principle of liberty.

Fundamental Human Rights

In a republican system, the fundamental human rights of all citizens are guaranteed under a constitution. The clauses that talk about these fundamental rights are also mostly entrenched in the constitution so that it could prevent the government of the day from tampering with it.

Military Government

A government that is established during or after military occupation by the victorious country in an armed conflict.

Difference Between Republicanism and Monarchy

The major difference between a republic and a monarchy is the fact that a monarchy is ruled by a monarch, i.e. a king or a queen, whereas in a republic, the people choose who they want to rule them.

Both the republic and the monarchy are old forms of government. There is no known start date to monarchy, it exists back to a time when humans started settling down and started making civilizations. The modern republic system however dates back to the Roman civilization, which is credited with having the first practicing republic that directly led to the republics of the modern world.

Within the monarchy, the role of the leader, i.e. a king or a queen is passed through generations, from parent to child, and so on. Monarchies believe in the Divine Right of Kings, which basically states that a king has been selected by God to rule the people.

Republics, on the other hand, stand for the power of the people, which basically means that in a republic people are allowed to vote for a leader. The person with the most votes is elected as leader. The idea behind a republic is 'we the people', basically that the people would have the right to govern themselves.

Exercises

1. Describe the different ways by which monarchies can be formed.
2. What are the main features of a hereditary monarchy?
3. Why is there no popular vote in an elective monarchy?
4. Differentiate between a monarchy and a republican system of government
5. Outline five (5) features of a republican form of government.

Week 5&6

Topic: Constitution and Constitutionalism

Constitution:

Constitution can be referred to as a book or document which contains the rules and principle by which a state is governed. It is the fundamental laws and principle that prescribes the nature, functions and the limits of a Government.

Constitutionalism;

The doctrine or system of government in which the governing power is limited by enforceable rules of law, and concentration of power is limited by various checks and balances so that the basic rights of individuals and groups are protected.

A commitment to limitations on ordinary political power; it revolves around a political process, one that overlaps with democracy in seeking to balance state power and individual and collective rights; it draws on particular cultural and historical contexts from which it emanates; and it resides in public consciousness.

Constitutionalism recognizes the need for government with powers but at the same time insists that limitation be placed on those powers. It envisages checks and balances by restraining the powers of governmental organs by not making them uncontrolled and arbitrary.

Features of Constitution:

- (1) Organisation and powers of the government;
- (2) Principles and rules governing the political process;
- (3) Relations between the people and their government; and
- (4) Rights and duties of the people.

Sources of Constitution;

1. Convention
2. Judicial decisions
3. The common law
4. constitutional conferences
5. Historical records and artifacts

Types of Constitution:

1. Written Constitution:

A written constitution means a constitution written in the form of a book or a series of documents combined in the form of a book. It is a consciously framed and enacted constitution. It is formulated and adopted by a constituent assembly or a council or a legislature.

Garner writes, “A written constitution is a consciously planned constitution, formulated and adopted by deliberate actions of a constituent assembly or a convention.” It provides for a definite design of government institutions, their organisations, powers, functions and inter-relationships.

It embodies the constitutional law of the state. It enjoys the place of supremacy. The government is fully bound by its provisions and works strictly in accordance with its provisions. A written constitution can be amended only in accordance with a settled process of amendment written in the constitution itself. It is a duly passed and enacted Constitution. The Constitutions of India, the USA, Germany, Japan, Canada, France, Switzerland and several other states, are written constitutions.

1. Unwritten Constitution:

An unwritten constitution is one which is neither drafted nor enacted by a Constituent Assembly and nor even written in the form of a book. It is found in several historical charters, laws and conventions. It is a product of slow and gradual evolution. The government is organised and it functions in accordance with several well settled, but not wholly written rules and conventions. The people know their Constitution. They accept and obey it, but do not possess it in a written form. An unwritten constitution cannot be produced in the form of a book.

However, an unwritten constitution is not totally unwritten. Some of its parts are available in written forms but these do not stand codified in the form of a legal

document or a code or a book. According to Garner, “an unwritten constitution is one in which most and not all, rules are unwritten and these are not found in any one charter or document.”

The Constitution of the United Kingdom is an unwritten constitution.

Difference between Written and Unwritten Constitutions:

(1) A written constitution is written in the form of a book or document, whereas an unwritten constitution is not written in such a form.

(2) A written constitution is made and enacted by a constituent assembly of the people. An unwritten constitution is the result of a gradual process of constitutional evolution. It is never written by any assembly.

(3) A written constitution is usually less flexible than an unwritten constitution. An unwritten constitution depends mostly on unwritten rules or conventions which do not require any formal amendment.

(4) A written constitution is definite. Its provisions can be quoted in support or against any power exercised by the government. An unwritten constitution cannot be produced in evidence. It has to be proved by quoting its sources and practices.

However, the difference between written and unwritten constitutions is not organic. A written constitution has written parts in majority. Along with these, it also has some unwritten parts in the form of conventions. In an unwritten constitution, most of the parts are unwritten and are not written in the form of a book. However some of its parts are also found written in some charters and other documents.

1. Flexible Constitution:

A Flexible Constitution is one which can be easily amended. Several political scientists advocate the view that a flexible constitution is one in which the constitutional law can be amended in the same way as an ordinary law. Constitutional amendments are passed in the same manner by which an ordinary law is passed.

British Constitution presents a classic example of a most flexible constitution. The British Parliament is a sovereign parliament which can make or amend any law or constitutional law by a simple majority. Laws aiming to affect changes in a constitutional law or in any ordinary law are passed through the same legislative procedure i.e., by a simple majority of votes in the legislature. Similarly, a Constitution is flexible when the procedure of amending it is simple and the changes can be made easily.

(A) Merits of a Flexible Constitution:

(i) First, a major merit of the flexible constitution is its ability to change easily in accordance with the changes in the social and political environment of the society and state.

(ii) Secondly, it is very helpful in meeting emergencies because it can be easily amended.

(iii) Thirdly, because of its dynamic nature, there are less opportunities for revolt. The constitution has the ability to keep pace with the changing times. The people do not feel the need for revolutionary changes.

(iv) Finally, since the flexible constitution keeps on developing with times, it always continues to be popular and remains up-to-date.

(B) Demerits of a Flexible Constitution:

(i) First, a flexible constitution is often, a source of instability. Flexibility enables the government in power to give it a desired dress and content.

(ii) Secondly, it is not suitable for a federation. In a federation, a flexible constitution can lead to undesirable changes in the constitution by the federal government or by the governments of federating units.

1. Rigid Constitution:

The Rigid Constitution is one which cannot be easily amended. Its method of amendment is difficult. For amending it, the legislature has to pass an amendment bill by a specific, usually big, majority of 2/3rd or 3/4th. For passing or amending an ordinary law, the legislature usually passes the law by a simple majority of its members.

A rigid constitution is considered to be the most fundamental law of the land. It is regarded as the basic will of the sovereign people. That is why it can be amended only by a special procedure requiring the passing of the amendment proposal by a big majority of votes which is often followed by ratification by the people in a referendum.

The Constitution of United States of America is a very rigid constitution.

(A) Merits of a Rigid Constitution:

(i) First, a rigid constitution is a source of stability in administration.

(ii) Secondly, it maintains continuity in administration.

(iii) Thirdly, it cannot become a tool in the hands of the party exercising the power of the state at a particular time.

(iv) Fourthly it prevents autocratic exercise of the powers by the government.

(v) Finally a rigid constitution is ideal for a federation.

(B) Demerits of a Rigid Constitution:

- (i) First, the chief demerit of a rigid constitution is that it fails to keep pace with fast changing social environment.
- (ii) Secondly, because of its inability to change easily, at times, it hinders the process of social development.
- (iii) Thirdly, it can be a source of hindrance during emergencies.
- (iv) Fourthly, its inability to easily change can lead to revolts against the government.
- (v) Fifthly, a rigid constitution can be a source of conservatism. It can grow becomes old very soon because it cannot Keep pace with times.

Thus, there are both merits and demerits of Flexible and Rigid Constitutions. The decision whether a state should have a flexible or a rigid constitution, should be taken on the basis of the needs and wishes of society. No hard and fast rule can be laid down as to whether a state should have a flexible or a rigid constitution.

In fact, a constitution must have both a certain degree of rigidity as well as an ability to change for keeping pace with the changing times. An excessive rigidity or excessive flexibility should be avoided. The Constitution of India is partly rigid and partly flexible. In several respects, it is a rigid constitution but in practice it has mostly worked as a flexible constitution.

Purpose of Constitution:

1. To promote public general welfare
2. To establish justice
3. To ensure domestic tranquility
4. To provide common defense

Exercises

1. Define constitution.
2. How does the constitution ensure that the basic rights of individuals and groups are protected?
3. (a) What are the features of constitution (b) Name the sources of constitutions you know.
4. List the different types of constitution.
5. Differentiate between a written and an unwritten constitution.

Week 4

Topic: STRUCTURE AND ORGANIZATION OF GOVERNMENT

THE LEGISLATURE

As the second arm of government, the legislature is responsible for the enactment of laws which not only give backing to the government policies but also guide interactions between the government and the governed. The legislature is made up of elected legislative like members of the house of representative, senate and house of assembly.

FUNCTIONS OF LEGISLATURE

The primary function of the legislature is to make law for the good government of the country

Approval of policies of the executive organ e.g. treaties and declaration of law

Control of public funds and expenditure are under the legislature control as well as government spending and taxation

Monitoring and evaluation of government activities i.e. it checks the activities of government agencies

It has the power to amend the constitution

The legislature educates members of the public through debate issues

It has power to impeach an head of state if he commits a very serious offence

TYPES OF LEGISLATURE

There are two types of legislature:

Bicameral legislature: This refers to a two chamber legislature. There is the lower house and the upper house. Membership of the lower house is by popular election in some countries e.g Nigeria and USA, also members of the upper is also done by election. In some countries such as Britain, membership of the other house is not by election.

Unicameral legislature: This the existence of one legislature chamber in a country. This is the type of legislature of the state level in Nigeria. Examples of unicameral legislatures are Ghana, Sierra Leone, Gambia, Kenya e.t.c

THE JUDICIARY

This is the law adjudicating (judging) section of government. This section has appointed people who have the authority to interpret Acts of Parliament and to decide if laws and previous decisions apply to a particular case. The judiciary also provides a mechanism for the resolution of disputes.

FUNCTIONS OF THE JUDICIARY

The Judiciary interprets the laws.

The judiciary punishes offenders who do contrary to the law

They ensure peace and orderliness in the society

The provincial judiciary operates in much the same way as the national judiciary. The judiciary is the branch of government that deals with the administration of justice.

The judiciary is responsible for ensuring that the law is upheld, interpreting the law, applying the law to specific cases, and that those citizens who have broken the laws are punished. The courts, the judges and the magistrates comprise the judiciary.

BILLS

A bill is not a law until it is signed into law by the executive in other words a bill is defined as a proposal of action discussed.

TYPES OF BILLS

Public bills: This has to do with the issue confronting the country and it is usually a bill proposed to the executive hands of government

Private member bills: This is a bill introduced by a parliamentarian or law maker

Money bills: This bill informs us on how government involves itself in raising and spending of money (Budgets). It is usually introduced by the executive arm of government

PROCEDURES AND HOW BILLS BECOME LAW:

When a senator or a representative introduces a bill, he or she sends it to the clerk of his house, who gives it a number and title. This is the *first reading*, and the bill is referred to the proper committee.

The committee may decide the bill is unwise or unnecessary and *table* it, thus killing it at once. Or it may decide the bill is worthwhile and hold hearings to listen to facts and opinions presented by experts and other interested persons. After members of the committee have debated the bill and perhaps offered amendments, a vote is taken; and if the vote is favorable, the bill is sent back to the floor of the house.

The clerk reads the bill sentence by sentence to the house, and this is known as the *second reading*. Members may then debate the bill and offer amendments. In the House of Representatives, the time for debate is limited by a *cloture rule*, but there is no such restriction in the Senate for cloture, where 60 votes are required. This makes possible a *filibuster*, in which one or more opponents hold the floor to defeat the bill.

The *third reading* is by title only, and the bill is put to a vote, which may be by voice or roll call, depending on the circumstances and parliamentary rules. A member who

must be absent at the time of a vote may contract (or “pair”) with a member of the opposition to abstain, balancing each other out.

The bill then goes to the other house of Congress, where it may be defeated, or passed with or without amendments. If the bill is defeated, it dies. If it is passed with amendments, a joint congressional committee must be appointed by both houses to iron out the differences.

After its final passage by both houses, the bill is sent to the president. If he approves, he signs it, and the bill becomes a law. However, if he disapproves, he *veto*es the bill by refusing to sign it and sending it back to the house of origin with his reasons for the veto. The objections are read and debated, and a roll-call vote is taken. If the bill receives less than a two-thirds vote, it is defeated and goes no further. But if it receives a two-thirds vote or greater, it is sent to the other house for a vote. If that house also passes it by a two-thirds vote, the president’s veto is *overridden*, and the bill becomes a law.

Should the president desire neither to sign nor to veto the bill, he may retain it for ten days, Sundays excepted, after which time it automatically becomes a law without signature. However, if Congress has adjourned within those ten days, the bill is automatically killed, that process of indirect rejection being known as a *pocket veto*.

Exercises

1. What are the basic functions of the legislature in any state?
2. Differentiate between the two types of legislature with examples.
3. Define bills
4. Explain the process a bill pass through before becoming law.
5. Describe the Nigerian Judiciary and explain five (5) of its functions.

Week 9/10

Topic: Basic Principles of Government

Definition of Rule of Law

Rule of law is the law that states that the law is supreme over all the citizens and even those in governments, must be subject to and protected by the law.

Rule of law is the absolute supremacy of the law over everyone in a country. The law of the land supersedes all her citizens. It is the people cognizance of law and living below it.

Principles of the rule of law.

1. **Equality before the law:** This principle states that no one is above the law and the law has no respect for any person rather people should respect it. Occupation or position of authority does not make one different from another in the face of the law.
2. **Impartiality:** This principle states that the law is not partial. The law applies the same level of punishment for offenders no matter the person's status. No one is guilty of an offence unless such individual has been tried in the law court and pronounced guilty.
3. **Supremacy:** This states that the law is supreme over anybody no matter who you are.
4. **Fundamental human right:** This principle states that the citizens of the country should enjoy certain basic right and liberties under the law.

Limitations to Rule of Law

1. **Ignorance:** This did not allow most citizens of a country know their right.
2. **Poverty:** most citizens cannot fight because their poor especially when they are infringed upon.
3. **Illiteracy:** citizens who cannot read or write will not know their right and they will be infringed upon.
4. **Head of State immunity**
5. **Diplomatic immunity**

FACTORS THAT ENSURE THE OPERATION OF RULE OF LAW

1. Government powers are defined in the fundamental law
2. Government powers are effectively limited by the legislature
3. Government powers are effectively limited by the judiciary
4. Government powers are effectively limited by independent auditing and review
5. Government officials are sanctioned for misconduct
6. Government powers are subject to non-governmental checks
7. Transition of power is subject to the law

Meaning of Fundamental Human Rights

The fundamental right that humans have by the fact of being human, and that are neither created nor can be abrogated by any government.

Human rights is simply the natural right and privileges enjoyed by citizens of any given state which are usually outlined in the constitution of the state. It is the duty of a state to ensure that her citizens enjoy these rights.

These were the major reasons why the United Nations Organization (UNO) urged all member states and all governments of the entire world to incorporate the existence of human rights in their constitutions for easy and proper references.

Human Rights according to 1999 constitution are outlined as follows:

- The right to life
- Freedom from slavery act
- Right to acquire and own movable and immovable property

- Freedom of the press
- Right to fair hearing
- Right to dignity of human person
- Freedom of movement and freedom of expression
- Right to private and family life
- Freedom of unlawful detention and imprisonment

Classification of Human Rights

1. **Civic and political rights (known as first rights);**
they are as follows –

- Right to vote
- Right to seek redress
- Right to freedom of personal liberty
- Right to life
- Right to petition
- Freedom of joining and forming associations
- Right to freedom of conscience

1. **Economic and Social rights (known as second rights); they are as follows**

- Right to work
- Right to fair compensation
- Right to own property
- Right to petition
- Right to form and join trade unions
- Right to free choice of employment

1. **Environmental rights (known as third rights); they are as follows**

- Freedom of movement
- Right to social security
- Right to private and family life
- Freedom from slavery
- Right to security and protection from inhuman treatment

Limitations to Human Rights

Human rights abuse refers to the infringement on the rights of an individual resulting in the individual not being able to enjoy his or her fundamental rights. These abuses may result from the following:

1. A citizen is not likely to enjoy his rights when such rights are detrimental to other people's rights.
2. A citizen may be denied of his right in order to protect the security of the state.
3. During the period of emergency, a citizen may be denied his/her rights. For instance if a country is in a state of war, there may be restrictions which may invariably jeopardize the right of a citizen.
4. A citizen may be denied his right if it is in the interest of defence for his nation.
5. A citizen may be denied his right if it is in the interest of public order.

6. A citizen may be denied his right to prevent trespasses.

SEPARATION OF POWER

Meaning; Separation of powers is a principle which enables each arm of government 'carry out its constitutional functions.

It denotes the practice of dividing the powers of a government among different branches thereof

Merits of Separation of Power:

- 1. Protection of Liberty and Rights:**

The theory of separation of powers protection to the liberty and rights of the individual, and protects him from different of despotism and oppression.

- 1. Increase in Government's Efficiency:**

As powers are distributed among the government departments, these departments gain deep knowledge of the matters they with, and become more efficient.

- 1. Limited Government:**

As powers are distributed among different depart these departments enjoy only limited powers. This prevents rise of dictatorship.

- 1. Prevents Abuse of Power:**

Separation of powers accompanied by check and balance is an effective check against abuse of power and arrogance of power.

Demerits Of Separation of Power:

This theory, though adopted by most countries, has not escaped criticism. It has criticized not only as impossible but also as undesirable. According to Sabine, "Montes was guilty of oversimplification. He united his theory to a hasty and superficial analysis the constitutional principles of liberty." Finer said that it was futile to rigidly apply the theory of separation of powers to modern condition.

The theory of separation of powers has been attacked on the following grounds.

- 1. Wrong Reading of British System:**

By the time Montesquieu developed his theory of separation of powers, there had come into being the Cabinet system of govern" There was not in Britain then separation of powers. On the contrary, there was 'concentration of responsibility.'

Having witnessed the British people enjoying liberty, Montesquieu wrongly concluded that in Britain there was separation of powers. He misread British politics.

1. Not Fully Possible:

This theory is not fully possible. The executive has some role in rule-making, and the legislature also performs some judicial functions. For example, impeachment which is judicial in nature is done by the legislature.

1. Administrative Complications:

Separation of powers results in administrative complications. It becomes difficult to forge cooperation, coordination and harmony among the organs of government. The smooth working of modern governments demands not so much separation of powers as 'co-ordination' of powers.

1. Confusion and Deadlock:

Separation of powers leads to jealousy, suspicion and friction among the organs of government. While producing disharmony and confusion, it may paralyse the administration. As a result, the administration often fails to take quick decisions even at a time of crisis.

According to Finer, the theory of separation of powers throws "governments into alternating conditions of coma and convulsion." Another scholar is of the view that "separation of powers means confusion of powers."

1. Inequality of Powers:

This theory is based on the principle of equality of powers, but this principle is flawed. In the parliamentary system, the legislature which represents the people is most powerful while the executive is most powerful in the presidential system.

1. Not the Sole Factor of Liberty:

Separation of powers may contribute to liberty, but it is not the only factor of liberty. Liberty also depends a lot on the psyche of people, their outlook, their political awareness, customs and traditions, fundamental rights, rule of law, independence of judiciary and economic equality.

1. Balance Disturbed:

The government, performing various important functions, has become increasingly powerful. Besides being the problem-solver and crisis-manager, it is also required to provide welfare to people. All this has made the executive very powerful, and disturbed the balance among the three organs of government. Planning, security and welfare demand not so much separation of powers as their 'fusion'.

1. A Misnomer:

This theory is a misnomer, because what it means is separation of function, not separation of powers.

HOW SEPARATION OF POWERS OPERATES IN A PRESIDENTIAL SYSTEM OF GOVERNMENT

The president or the executive

In a presidential system of government, the president is directly elected by the people in a general election. The constitution does not allow the president to appoint his ministers from parliament but rather from outside. All executive powers are vested in the president and he performs both the ceremonial duties and the governmental functions.

The legislature

The legislature is also elected directly by the people or in places where the second chamber operates, by use of other means. The members cannot ever become members of the executive. The constitution does not allow that. The legislature is responsible for the making of laws for the state.

The judiciary

The members of the judiciary are appointed by the president but this is based on the recommendations of the Judicial Service Council of the state. The main function of the judiciary is to interpret the laws of the land and to settle disputes that arise between one person and the other or between the state and an individual.

HOW SEPARATION OF POWERS OPERATES IN THE PARLIAMENTARY SYSTEM OF GOVERNMENT

Separation in institution

The three arms of government are separate in terms of institution. The judiciary, as an institution, is different from the executive and the legislature. They may even be housed in different locations or buildings.

Separation in personnel

The members of the executive are all members of the legislature. In fact, the head of the executive is the leader of the majority party in the legislature. Some of the members of the legislature are also members of the judiciary. For example, in Britain, the Lord Chancellor is a member of both the legislature and the executive in spite of the fact that he is the head of the judiciary.

Executive as initiator of bills

In the parliamentary system, it is the cabinet that initiates bills before the bills are sent into the legislature. By the time the bills get to the parliament, they may have been well thought through and therefore there is not much to do before the bills are passed. Even if it becomes difficult, the executive has majority in parliament so it can force the bill to go through.

Court of Appeal

In the past, the highest court of the land was the House of Lords. Though the House of Lords was the second chamber of the legislature, it was at the same time the Court of Appeal. This has since changed. Today, there is a Supreme Court separate from the House of Lords.

Collective responsibility

The members of the executive, that is the cabinet, are as a bloc responsible to the legislature for every action they take in the performance of their duties. The only way a cabinet member can absolve him or herself of blame is when a decision is made in cabinet is to resign. Once he or she does resign, he is bound by every decision that is made.

CHECK AND BALANCE:

Meaning: It's a system that makes it possible for some people or parts of an organization to control the others, so that no particular person or part has too much power or influence.

Merits:

1. All of the branches have equal power.
2. It guarantees individual liberty
3. It prevent leaders from becoming tyrants
4. It makes a government democratic and stable.

Demerits:

1. It takes long for laws to be made official

Exercises

1. Explore four (4) principles of the rule of law.
2. Why are there limitations to the rule of law?
3. Outline the factors that ensure the operation of the rule of law in any West African Country.
4. What is the meaning of fundamental human rights according to the 1999 constitution?
5. Explain the principle of separation of power.

Week 11

Topic: Representative Government

Meaning:

A Representative Government is the type of government in which the citizens or the electorate are allowed to elect their leaders i.e. representatives. It is an indirect form of democracy.

Features of Representative Government

1. **Political equality**(influence)
2. **Majority rule**;the candidate who gets 50% of the votes plus at least 1, wins. if the election is between more than 2 candidates, then it is narrowed down to the 2 with the highest percentage of votes and then the people vote between them.
3. **Political competition and choice**: voters must have more than one candidate to choose from
4. **Transparency in government**
5. **Political accountability**:the masses have a right to remove an incumbent from office if they are not abiding by the law and/or correctly doing their job

Conditions for its Establishment:

- First the assembly must be freely representative as it is possible to make it.
- Second, members must be free to discuss issues with complete frankness and to reach decision without hindrance
- Third, the assembly's decision must be binding and enforceable.

A truly representative parliament according to J.H. Price involves the following requirements: free elections, a proper register of electors, proper constituencies and real choice of candidates and programmes, a politically educated electorate, frequent elections.

For free elections, the voters should have the opportunity of choosing the people they wish to represent them. They must therefore have genuine freedom of choice. Any eligible candidate should be allowed to stand for election without hindrance and the voter must feel himself free to vote for him with no fear of unpleasant consequences. Voting must therefore be by secret ballot, in order that the individual voter's decision may never be known to anybody else.

Merits of Representative Government:

1. **Citizen Representation**
With this form of government, the people have the say in who is elected into any form of government office. These elected officials then make decisions based on what the people want, and in the best interest of majority of people. They represent the citizens in ways that they could not do for themselves.

2. A Place To Turn To

By having elected officials in all areas of the country, if someone has an issue that they think should be addressed or something that they feel should change, they can easily access their local official. These officials can then help them with their problems and guide them through the steps they need to take to get it to the next level of government.

3. High Participation

Knowing that they have a voice in the government urges people to be more educated and up to date on issues that are happening in the country as well as the world. Each year we see an increase in the amount of people showing up to vote for their officials.

Demerits of Representative Government

1. Misplaced Trust

Once the election process is over, the people's voice in government is virtually done. They have to put their faith and trust in the person that they elect to communicate and do things that they've promised to do. This is rarely the case. Many times these elected officials have ulterior agendas that are not in the best interest of the citizens.

2. The Majority Rules

The election process of representative government focuses solely on the majority. The minority groups, no matter how significant their issues may be, are rarely represented simply because they do not have the majority of the votes to get an official into office. This causes a feeling of separation with these groups as well as feeling like their issues are not as important.

3. No Accountability

Once elected, officials can do whatever they please, and this often includes breaking campaign promises that they made to be elected in the first place. When things go wrong, or not in favor of the people, there are no repercussions for these officials. The only possible consequence that could come is that they would not be reelected.

Exercises

1. Why is representative government an indirect form of democracy?
2. Highlight five (5) features of a representative government.
3. Explain the conditions necessary for the establishment of a representative government.
4. Give four (4) merits of a representative government.
5. Outline the demerits of a representative government.