G.C.E (Advanced Level)

Political Science

Grade 13

Teachers' Guide

Department of Social Sciences
Faculty of Languages, Humanities and Social Sciences
National Institute of Education
Maharagama, Sri Lanka
Website : www.nie.lk

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(To be implemented from 2018)

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Director General's Message

With the primary objective of realizing the National Educational Goals recommended by the National Education Commission, the then prevalent content based curriculum was modernized, and the first phase of the new competency based curriculum was introduced to the eight year curriculum cycle of the primary and secondary education in Sri Lanka in the year 2007.

The second phase of the curriculum cycle thus initiated was introduced to the education system in the year 2015 as a result of a curriculum rationalization process based on research findings and various proposals made by stake holders.

Within this rationalization process the concepts of vertical and horizontal integration have been employed in order to build up competencies of students, from foundation level to higher levels, and to avoid repetition of subject content in various subjects respectively and furthermore, to develop a curriculum that is implementable and student friendly.

The new Teachers' Guides have been introduced with the aim of providing the teachers with necessary guidance for planning lessons, engaging students effectively in the learning teaching process, and to make Teachers' Guides will help teachers to be more effective within the classroom. Further, the present Teachers' Guides have given the necessary freedom for the teachers to select quality inputs and activities in order to improve student competencies. Since the Teachers' Guides do not place greater emphasis on the subject content prescribed for the relevant grades, it is very much necessary to use these guides along with the text books compiled by the Educational Publications Department if, Guides are to be made more effective.

The primary objective of this rationalized new curriculum, the new Teachers' Guides, and the new prescribed texts is to transform the student population into a human resource replete with the skills and competencies required for the world of work, through embarking upon a pattern of education which is more student centered and activity based.

I wish to make use of this opportunity to thank and express my appreciation to the members of the Council and the Academic Affairs Board of the NIE the resource persons who contributed to the compiling of these Teachers' Guides and other parties for their dedication in this matter.

Dr. (Mrs.) Jayanthi Gunasekara
Director General
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Message from Ven. Deputy Director General

Learning expands into a wider scope. It makes life enormous and extremely simple. The human being is naturally excellent in the skill of learning. A country when human development is considered the main focus uses learning as a tool to do away with malpractices identified with intellect and to create a better world through good practices.

It is essential to create valuable things for learning and learning methods and facilities within the adhere of education. That is how the curriculum, syllabi, teachers' guides and facilitators join the learning system.

Modern Sri Lanka has possessed a self–directed education system which is a blend of global trends as well as ancient heritage.

It is necessary to maintain the consistency of the objectives of the subject at the national level. However, facilitators are free to modify or adapt learning teaching strategies creatively to achieve the learning outcomes, competency and competency level via the subject content prescribed in the Syllabus. Therefore, this Teachers' Guide has been prepared to promote the teachers' role and to support the students as well as the parents.

Furthermore, at the end of a lesson, the facilitators of the learning- teaching process along with the students should come to a verification of the achievement level on par with ones expected exam by a national level examiner, who evaluates the achievement levels of subjects expected. I sincerely wish to create such a self-progressive, motivational culture in the learning- teaching process. Blended with that verification, this Teachers' Guide would definitely be a canoe or a raft in this endeavor.

Ven. Dr. Mabulgoda Sumanarathana Thero
Deputy Director General
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Content

9. Democratic Governance

Competency : Demonstrate the understanding of democratic governance

(40 periods)

Competency Levels :

9.1 Identify the theoretical foundation of democratic governance

9.2 Observe analytically the practicality of democratic governance.

Learning Outcomes :

- Identify and describes the features of democratic governance analytically
- Describe critically the democratic and undemocratic features of the governing system in Sri Lanka
- Shows why democratic governance is suitable for Sri Lanka

NOTE: Discussions we have already had on 'Liberal Democratic State' and 'Liberalism' in Lesson 3, and on 'Ideology of Liberalism' in Lesson 5 of the Teachers' Guide for Year 12 are relevant to this Lesson too.

Introduction: Modern democratic governance does not have a long history. It first emerged in Britain during the latter part of the 17th century as an alternative to the autocratic rule under the monarchy. Later, the idea of democracy spread to Europe and America.

This lesson enables students to acquire a basic understanding about liberal democracy, which combined liberalism and democracy, and representative democracy, which was based on the idea of popular government. This will also provide an opportunity for students to be familiar with concepts such as constitutionalism, human rights, limited government, free and fair elections and accountability. Students will also learn that these concepts are also qualities that make democratic governance meaningful.

Students will also get an opportunity to discuss and appreciate why these qualities of democratic governance are relevant to Sri Lanka.

A Guideline to clarify the Subject Matter:

9.1 Democratic Governance: Conceptual Foundations

We will discuss liberal democracy and representative democracy as foundational concepts of democratic governance.

I. Liberal Democracy

- Some Western scholars consider liberal democracy as the only meaningful and authentic form of democracy. Liberal democracy is also the dominant form of modern democracy. There has also been the expectation that it should be the form of government throughout the world – in the industrial West, former communist countries and the developing world. This is not an entirely correct view. Liberal democracy is only one form of democracy.
- As Andrew Heywood (1994) observes, democracy is not only a form of government, but also a concept of life. It emerged as an alternative form of government in place of the autocratic monarchy. As a conception of life, democracy offered a vision of social and individual freedom against feudal oppression.
- The concept of liberal democracy combined the two ideas of 'liberalism' and 'democracy' that had been developed in Europe during the 17th and 18th centuries. The idea 'liberal' meant freedom from government control. Democracy meant government representing the people's will. Individual freedom is a core principle of liberal democracy.
- Liberal democracy as a political concept includes the principles and practices of constitutionalism, protection of private property, protection of fundamental rights, competition in political and economic spheres, freedom of choice in the market and elections, independent judiciary, networks of checks and balances, and the separation of public and private spheres. These are pre-conditions of democracy. They do not exist for democracy.
- According to the liberal perspective, the power of government is always liable to be abused in an oppressive manner, resulting in the loss of freedom to citizens. Therefore, **governmental power needs to be checked** in order to prevent it from becoming an instrument for oppression and tyranny. Liberals employ such constitutionalist mechanisms as Bill of Rights, checks and balances, independent judiciary and the guarantee of a free media.

- Democracy also rests on the principle of '**consent of the people'** or 'popular consent.' It means that the rulers have the authority to rule only when people give them their consent and approval. Free and fair elections are the mechanism through which people authorize their rulers to rule. Thus, elections are the moment when the popular will is expressed. Liberal democracy functions through free and fair elections and democratic elections are guided by the principle of equality. That is why free and fair elections are rooted in the notion of one-person-one-vote. Similarly, each vote is counted as having an equal value with other votes.

- The concept of '**universal franchise'** means all citizens are entitled to the right to vote without any discrimination. Holding of elections regularly in an atmosphere of openness and competition is crucial to ensure the democratic essence of universal franchise.

- The core idea of the democratic process is the principle that rulers are representatives of the people. The doctrine of "**accountability to the people'** emanates from this principle.

- The **open competition** among political parties and movements gives expression to the liberal democratic principle of 'political pluralism.'

- Liberal democracy, along with representative democracy, also emphasizes the idea of '**limited government**.' A limited government is one which does not have a mandate to be tyrannical and oppressive, and the powers of which are limited by the principle of accountability to the people.

- In a democratic system, the constitution provides the legal framework for political competition. It lays down the framework for the limited government. It also provides for an **independent judiciary** that is entrusted with the task of protecting the freedoms and liberties of citizens.

- Liberal democracy is committed to **protecting the minority** from the arbitrary power of the majority. The principles of individual freedom, rule of law and constitutionalism seek to ensure minority rights against political as well as social oppression.

- Liberal democracy also provides a system of '**rule by law'** to ensure that the government acts according to the established law. People's representatives should act within the boundaries of the law and the constitution. The principle of 'equality before the law' seeks to ensure this liberal commitment.

- A democratic government is also subjected to **constitutional limits**. That enables the citizens to seek redress from the national as well as international courts of justice whenever their rights and liberties are violated.

- The discussion above also shows that a liberal democracy attempts to combine government's authority with citizens' rights and freedoms. Therefore, it is a compromise between imposing limits to government's powers and government's authority to govern.

Liberal Democracy's Historical Trajectory

- In many modern democratic countries, liberalism preceded democracy. They became 'liberal' before they became fully 'democratic.' Fore example, by the 19th century, many countries had developed constitutional governments, guided by liberal principles. But, in all those countries, franchise was not universal. The right to vote remained confined to property-owning, wealthy, educated and adult men. People were given franchise rights many years later, during the early decades of the twentieth century and even later.

  i. Britain granted universal franchise to its people only during the early twentieth century, finally in 1928. The struggle by the working class led to that democratic victory.

  ii. In America, universal franchise was a slow and gradual process. Only in 1966 that voting restrictions on ethnic minorities were removed.

  iii. In Switzerland, women got full voting rights only in 1971.

  iv. In Sri Lanka, although the Colebrook-Cameron reforms in 1833 liberalized the economy, universal franchise was granted only in 1931.

- In the contemporary world, all liberal democratic governments have the twin principles of representative democracy and limited government. However, the application of these principles varies from country to country. In America, there has been greater emphasis on liberalism than democracy. In Britain the emphasis has been on representative democracy.

- Meanwhile, in the context of the global was against terrorism, both liberal and democratic principles of governance have suffered setbacks in the United States and European countries. In these countries, national security has been given priority over individual freedom. New illiberal laws have been

introduced curtailing certain fundamental rights of citizens. The state of emergency, that suspends, rights and liberties if citizens, has also become normal.

- We must not ignore the close relationship between capitalism and liberalism. Liberalism historically emerged in Europe as the ideology of capitalism. Liberal democracy is capitalism's political form. Economic and social inequalities are a major feature in capitalist societies. Liberal democracy does not propose solutions to economic and social inequalities. This has been a major criticism of liberal democracy.

- The emergence of the welfare state in Western capitalist societies during the first half of the last century was an attempt to address the question of social inequalities under capitalism. The objective of social welfare policies was to re-distribute wealth among poor social classes through government intervention. Taxation on the rich, subsidies on food and essential services such as health, education, housing, and transport, and government initiatives to provide employment have been key elements of welfare policies under capitalism. However, the rise of neo-liberalism after the 1980s, first in the UK and the USA, and its subsequent spread throughout the world, has led to the dismantling of the welfare policies under capitalism. Thus, the old liberal argument that the market forces can ensure effective distribution of wealth among all social classes, with minimum government intervention, is now back in most of the liberal democracies of the world.

2. Representative Democracy

- Representative democracy too does not have a long history. It was first established in Europe and America during the 17^{th} and 18^{th} centuries. Historically it emerged as an alternative to the feudal system of government.
- The form of democracy that existed before representative democracy was the Greek direct democracy practiced in the city-state of Athens. The Greek tradition of direct democracy enable all citizens to participate in government. However, citizenship was restricted to property-owning men. Women, children and migrant workers had no citizenship or political rights under direct democracy. Since all citizens took part in the process of government there was no distinction between the government an civil society.
- Thus, there is a sharp distinction between direct democracy and representative democracy. Under the latter, people do not directly take part in government. Their participation is through their elected representatives. MPs are those public representatives citizen elect under representative democracy.

- Modern democracy sometimes employs such instruments of direct democracy as referendum, initiation, and recall. Yet, modern representatives do not come close to direct democracy.

- Representative democracy historically emerged due to the inability to practice direct democracy in large and complex societies.

- Under representative democracy, people participate in government indirectly, through their elected representatives. This to some extent curtails the people's voice. The power to make decisions n behalf of the people is given to a small class of professional politicians. Thus, representative democracy can be described as a limited and indirect form of democracy.

- Therefore, it is difficult to describe representative democracy as "a government by the people.' However, it is more 'a government for the people.'

- Since representative democracy bases itself on elections, it is also called '**electoral democracy**.'

- Since elections are crucial to democracy, it is important to ensure meaningful citizens' participation in elections. Therefore, there are certain criteria to ensure popular participation and accountability in the electoral process. They are:

  Meaningfulness:
  For the elections to be meaningful, the elected offices should be ones that have significant political authority in the government. They should be offices directly responsible for law making and government.

  Competitiveness:
  There should be genuine competition for the offices fir which elections are held. Laws or practices should not curtail competition.

  Freedom:
  Voters should have the freedom to express theory choices through voting. They should not be subjected to any constrain or intimidation by government authorities or outsiders.

  Confidentiality:
  Free and fair elections should also secure the confidentiality of the choices made by voters in secret. This is the meaning of the idea of 'secret vote.'

Fairness:
The processes of selecting candidates, holding elections and counting of vote should be open and fair, without favouring or discriminating against any party.

Regular elections:
Elections should be held at least once on four or five years. Regularity of elections more opportunities to voters to make their choices.

Inclusivity:
All citizens above a certain age limit (usually 18 years) should be entitled to the right to vote.

Equality:
The principle of one-person-one-vote ensures equality in franchise.

- In representative democracy, it is representatives who make decisions on behalf of the people. Therefore, representative democracy is a minimalist form of popular sovereignty. The mechanism of one-person-one-vote is the only form of people's participation in government.

- Under representative democracy, the only major form of accountability is elections. At elections, citizens as voters get an opportunity to declare their assessment of their representatives and their performance.

9. 2 Democratic Governance: Characteristics

As we have already seen, key features of democratic government are constitutionalism, people's sovereignty, separation of powers, checks and balances, Rule of Law, Human Rights, free and fair elections, and accountability to people. We will now discuss each of these topics in some detail.

- **Constitutionalism**

I. Constitutionalism is a major principle and value in liberal democracy. It aims at maintaining the rule of law in order to prevent government from becoming oppressive. Thus, constitutionalism values the supremacy of law.

II. In a narrow sense, constitutionalism is the principle in which a democratic government functions in accordance with a constitution. However, a mere presence of a constitution does not ensure constitutionalism. Constitutionalism calls for a constitutional government where the powers of the government are subjected to

limitations. In fact, real constitutionalism requires the subjection of governmental power to legal limits and checks and balances.

III. Thus, in a broad sense, constitutionalism refers to a set of political values and expectations that prevents the concentration of state power through a network of checks and balances, with a commitment to protecting individual freedom. The mechanisms that subject governmental power to limitations include the presence of a codified, or written, constitution, a Bill of rights, separation of powers, bi-cameral legislature, and federalism or devolution of power.

- **Sovereignty of the People/Popular Sovereignty**

  - The principle of popular sovereignty views the people as the source of state power. Accordingly, institutions of government that make, execute and adjudicate laws derive their authority and legitimacy from the people. Thus, there is no other authority superior to the people. Thus, the idea that people are the ultimate authority is a foundational principle of concept of popular sovereignty.

  - Popular sovereignty is the key component of classical democratic theory. Rousseau was its main theorist. Rousseau's theory of General Will embodies this idea. General Will is the collective political will of all citizens in society and it is expressed as sovereignty. According to Rousseau, the ideal form of government that embodies popular sovereignty is a Republic.

  - A new tendency in the world is for governments with parliamentary sovereignty to move towards forms of popular sovereignty. For example, the British government has recently incorporated referendum to consult the people directly on the question of Scottish independence and also created new representative assemblies outside the parliament in Scotland, Wales and Northern Ireland. It has also introduced a Bill of Rights through legislation. These are elements similar to the republican idea of popular sovereignty.

- **Separation of Powers**

  - It was Montesquieu, a French philosopher who lived before the French revolution of 1789, who advocated the theory of separation of powers. His intention was to propose a system of government, alternative to the French autocratic monarchy, that would not become a tyranny. His model was the system of government in England.

  - A key premise in Montesquieu's analysis is that when the powers of government are concentrated in one institution or individual, there is no room for the freedom of citizens. In contrast, when powers are not concentrated, the freedom of citizens is not violated. Thus, Montesquieu's theory of separation of power is about the relationship

between how the state power is organized and freedom of citizens secured.

- Montesquieu's theory has two key elements. First, the powers of the government should be divided into three branches, legislative, executive and judicial. Second, these powers should not be concentrated in the hands of one individual or institution.

- Montesquieu also suggested that power of one institution could also be misused if it is not checked. Thus, the concept of checks and balances, which was later developed in the American constitution, also originated with Montesquieu.

- This theory of separation of powers has been subjected to many criticisms. Critics have disagreed that government's powers could be institutionally separated as suggested by Montesquieu. For example, legislature sometimes has executive and judicial powers. Some even argue that even voting in parliament is similar to a judicial act.

- Another criticism is that in modern governance, the main branches of government cannot function in isolation from each other. Instead, critics argue, there should be coordination and cooperation among them.

- However, the practical value of the theory of separation of powers for democracy has not diminished. Within fifty years, Americans incorporated it in their constitution. Founding fathers of the American constitution were looking for a constitutional model that guarantees freedom of citizens and they found Montesquieu's theory useful. While applying it in their constitution, they also further developed Montesquieu's idea of checks and balances and established n elaborate constitutional scheme around those two principles. Variations of separation of powers have been adopted in many democratic constitutions.

Checks and Balances

- It was liberal thinkers who conceived the idea of checks and balances on the powers of the government because they believed that political power had a natural tendency to be abused in a tyrannical manner (Heywood 2011). Therefore, the aim of checks and balances is to limit the powers of government. The theory of checks and balances assumes that in a situation where one branch of government can exercise some control over another, the latter's capacity to be oppressive can be checked. Thus, Montesquieu advocated that there should be a system of checks and balances for the legislative, executive and judicial braches of government.

- The principle of 'balance' means that there should be equilibrium, or balance, of powers and status between the legislative, executive and judicial branches of government. 'Checks' means if one branch of government exceeds its authority, the other branches can act as a check on it.

- For a system of checks and balances to work, there should be division of government's power into legislative, executive and judicial branches. It also ensures cooperation between these branches when hey perform their specifically allocated functions. Thus, each branch of government cannot perform its functions in total isolation from other branches. Therefore, the principle of checks and balances promotes cooperation as well as watchfulness among branches that are divided by the principle of separation of powers. These are mechanisms that prevent any branch of government exercising its powers arbitrarily.

  American Example

  The American government is the classic example of separation of powers and checks and balances. Although the Congress has powers to make federal laws, the laws enacted by the Congress become effective only with the assent of the President who is the head of the Executive. President also has veto power over laws passed by the Congress. If any law passed by the Congress violates the Constitution, the Supreme Court has the power to invalidate it. A Bill becomes law only when it is approved by both Houses of the Congress. Even when the president uses his veto power over a Bill, the Congress can still pass it into law by a two-thirds majority.

- The system of checks and balances applies to the Executive branch of American government as well. As the head of the Executive, President has powers to make appointments to key positions of the government and also to enter into agreements with foreign governments. However, if the President's appointments and agreements with foreign governments to be effective, they should be approved by the Senate. The Senate can even reject President's nominations and agreements. Although the President is the Commander in Chief of the armed forces, he does have not have the sole authority to declare war. President needs the approval of the Congress. Congress can also remove the President from office by passing an impeachment motion. An impeachment inquiry against President has to be headed by the Chief Justice.

- With regard to the judiciary, Congress can change the powers of the courts. Congress can also make decisions of the Supreme Court ineffective by bringing new legislation. The congress also can remove federal judges by means of impeachment.

- **Rule of Law**

  - Rule of Law, along with constitutionalism and limited government, is a core principle of liberal democratic government. The simple meaning of Rule of Law is the idea that law should apply equally to all, to the rulers as well as the ruled.

  - In continental Europe, the concept of Rule of Law is derived from the doctrine of 'lawful state' or 'state of law' (*Rechtsstaat*). It is a German legal concept.

  - In America, the concept of Rule of Law emerges from the Constitution which is the supreme law of the country. Rule of law is also a part of the American common law tradition. The saying, 'Rule by law, not by men,' captures this American tradition.

The doctrine of rule of law, as famously defined by Dicey in his book, *Law of the Constitution,* embodies the predominance of law over discretionary authority of the government or its officials, equality before the law, and adherence to the law of the constitution all aimed at protecting individual rights.

- The principle of Rule of Law has the following components:

  i. All officials of the government, including the highest authority, are not above the law. Rather, they are subjected to the law of the land.
  ii. The government's power to make and enforce law should be subjected to constitutional limits designed to protect individual liberty.
  iii. The state should refrain from violating the fundamental rights of citizens though such acts as arbitrary arrest, torture and wrongful punishment.
  iv. The limits of state authority should be clearly stated by the constitution and judicial decisions.
  v. An independent judiciary free from interference by the executive or the legislature.

- If the Rule of Law is not protected, democracy cannot be protected either. That requires regular vigilance to ensure that the Rule of Law is not violated.

- The principle of Rule of Law has certain normative values too. Freedom, equality, human dignity, and tolerance are such normative values.

- **Human Rights**

  - Human rights are moral entitlements that human beings should enjoy in order to enable all human beings to lead a complete life, full development of personality and enjoyment of social justice. Human beings are born with those moral rights. The right to life, food, conscience, and personal dignity are those they inherit at birth.

  - According to liberal thinkers, human rights are as important for social existence of human beings as oxygen is for their biological existence. Human rights are universal rights. Human beings are entitled to them because they are human beings. Therefore, human rights are inseparable from human beings. All human beings are entitled to them without any discrimination. They are also equal to all. Violation of human rights causes a grave injustice.

  - Human rights are not invented by anyone. They are actually discovered, because they were already there, hidden and suppressed.

  - The history of the modern theory of human rights does not go back beyond the 17th century. They were first discovered during the 17th century. In pre-modern societies without free labour and dominated by systems of slavery, caste suppression as well arbitrary authority of the monarchy, human rights remained suppressed. However, with the emergence of free labour, secular education and the development of literacy and printing, conditions also developed to enable the spread of the idea that human beings had rights. This change first occurred in England where society was making a transition from feudalism to capitalism. Intellectual challenges to the feudal political and social power too began to develop. New questions such as the following began to be asked: Should the king have power over people's life and property? Shouldn't that power be restricted? It is against this backdrop that the idea of common rights of the people began to develop. John Locke named the common rights 'natural rights.' He considered these rights as intrinsic to human nature. That is how the idea of 'human rights' developed. Locke, however, limited these rights to life, liberty and property.

  - The concept of human rights later developed through liberal and socialist political thoughts. Contemporary conception of human rights consists of civil, political and social rights.

- **Limited Government**

  - The concept of limited government is a major premise in democratic governance. Its basic meaning is that the government, or the rulers, is not entitled to unlimited powers and that their power is in fact limited. The aim of 'limited government' is the protection of the liberal principle of individual freedom. The theoretical basis of the concept of

limited government, as developed in the liberal political philosophy, is the following: Since the state power has an inherent capacity to be arbitrarily abused in such a way as to deny people their rights and liberties, the only way to protect the people's rights and liberty is the imposition of limits on the powers of the government.

- The concept of limited government enables Rule of Law, checks and balances and constitutional limits on the powers of the government institutions as well as personnel who represent government authority.

- John Locke and Montesquieu are the two major political philosophers who developed the liberal democratic concept of 'limited government.' At the same time, the old principle of 'government of laws, not of men' captures the essence of the doctrine of limited government.

- As we learned in the Lessons on liberalism in Grade 12, it was John Locke who first elaborated the doctrine of 'limited government.' To recall that discussion, Locke wanted to develop a system of parliamentary government as an alternative to the arbitrary rule of the King under the monarchy. While doing so, he reinterpreted the myth of a Social Contract. In Locke's model of parliamentary government, legislature was the key institution of government representing the sovereignty of the people. However, legislature's powers are limited by the conditions of the social contract between the rulers and the people. The main objective of the social contract was the protection of life, liberty and property of the people. Thus, the government has no authority to violate that fundamental commitment. If it does, people have a right to recall the government and elect a new one.

- Later, in the further evolution of the theory and practice of democratic governance, the doctrine of limited government developed the following key components:

  Delegated authority: Authority of the government is derived from the people. The power of the government is only a 'delegated power.' It means that the people at free and fair elections authorize power of the government.

  Trusteeship and Conditionality: Powers of the rulers are 'conditional,' that is, conditional to the 'trust' the people have expressed when they elected them. The core principle of that trust is that political power would not be used arbitrarily to deny the people their rights and liberties. Rulers are expected to behave within the limits of that trust.

  Limited Term: Governments are elected to a limited period of office, usually for a term of four or five years. No government has legal or moral right to exceed that term limit without renewing its mandate

from the people. This also prevents rulers beginning to think that they are not only the government, but also the state. Thus, term limits on elected government ensures the democratic principle of separating government from the state.

Rule of Law: Rule of law defines the legal limits within which the government exercises its authority.

Separation of Powers: This doctrine seeks to prevent concentration of state power in the hands of any branch of government, legislative, executive or judicial.

Checks and Balances: The aim of checks and balances is the prevention of one branch of government from monopolizing powers in an arbitrary manner.

Free and Fair Elections

Free and fair elections are a key mechanism embedded in the theory and practice of representative government. It emphasizes the importance of not only the elections , but also 'free and fair' elections in democracies.

In political science, the emphasis on the 'free and fair' dimension of elections is a recent development. It is a response to the un-free and unfair nature of elections, as experienced in many countries, including Sri Lanka. Violence, intimidation of voters and candidates, corruption, abuse of public resources, and malpractices at voting, vote counting and declaration of results have been variedly practiced in many of such instances. Such practices distort the democratic processes, and undermine the legitimacy of elections, and even lead to people's loss of confidence in the political system. That is why in contemporary discussions among political scientists on 'franchise' there is now focus not only on the right to vote, but also on the right to exercise the right to vote freely and fairly.

In democratic theory, the principle of free and fair elections is rooted in several doctrines. They are:

- **Popular Sovereignty:** Elections are the most important mechanism for the sovereign people to express their political will. Therefore, citizens' right to exercise their sovereignty should be protected, and not denied or disturbed.

- **Right to Choose:** The essence of representative democracy is the peoples' right to make their choices among political parties and candidates, without fear and external constraint.

- **Popular Accountability**: Elections are also the most important moment in a democracy where people exercise their right to hold their rulers to accountability. Therefore, this crucial process of democratic accountability should not be disrupted.

- **Consent and Legitimacy**: Democratic government rests on the principle of popular consent, that is, the willingness of the people to be governed by the rulers they voluntarily elect. It also gives legality and moral right, or legitimacy, to rulers to rule. That is also why people, even ordinary citizens, consider elections 'sacred.' Free and fair elections are the best mechanism to ensure legitimacy to governments and rulers. Without legitimacy, governments tend to lose the legal as well as moral right to rule.

- **Accountability to People**

  - Accountability to people is the practical face of democracy. The basic meaning of democratic accountability is the principle that any person holding public office is answerable to people, because people are the source of authority.

    Thus, democratic governance makes accountability to people mandatory.

    There are two dimension of government accountability:
    - ★ Government is answerable to people.
    - ★ People expect accountable behaviour from the government.

- **Mechanisms for accountability to People**

  - Many democratic countries use the following mechanisms for accountability:

    - ★ At elections, people to evaluate and judge the performance of government.

    - ★ Public opinion surveys.

    - ★ Establishment of disciplinary and ethical rules to ensure accountable behavior of officials.

  - In order to ensure that government and official behavior is legal, proper and ethical, some countries have adopted laws for the people's right to information.

  - Some governments have also adopted modern systems of auditing (such as environmental auditing, gender balance auditing) and policy analysis.

Democratic Governance and Sri Lankan Experience

Sri Lanka's record of democratic governance has been a mixed one. It is one of achievements, setbacks and revival.

Sri Lanka's transition to modern democracy occurred under the British colonial role. A very limited measure of the principle of representation had been introduced

during the 19th century. Economic and social liberalization had been inaugurated under the Colebrook reforms of 1833. The Dounoughmore reforms of 1931 marked a major turning point in Sri Lanka's democratization process. Donoughmore reforms introduced to Sri Lanka universal adult franchise and an elected legislature.

There was also political awakening among citizens along with an active civil society. Nationalist and trade union movements were key components of the active civil society, which was an important aspect of the democratization process. Thus, democratization was not only about constitutional reforms and establishment of new institutions. It is also about citizens' active participation in the political process.

The Soulbury constitution of 1947 established a basically liberal democratic system of government. It continued with the system of representative democracy, and introduced a new a bi-cameral legislature, a cabinet government accountable to the legislature, the system of rule of law, independent judiciary, minority safeguards, and a limited government. However, the Soulbury Constitution did not have a Bill of Rights.

Until about the 1970s, Sri Lanka's democratic system appeared to work smoothly, despite the rise of Sinhalese-Tamil ethnic tension during the 1950s. There were regular parliamentary elections. Governments were changed peacefully by means of regular elections. People's participation in the election process increased. A two-party system, along with a number of small parties, developed soon after independence. Social welfare policies that were introduced during the 1930s also continued, ensuring social peace through redistribution of wealth.

This situation changed after the early 1970s. Social and political tension that remained hidden began to express itself openly, first in the form a youth insurgency in 1971. The Tamil nationalist movement for autonomy that began in the 1950s developed itself into a separatist movement during the late 1970s. Then, it further developed into a civil war during the early 1980s. The war led to a continuing state of emergency, suspension of the rule of law, and militarization of the state and society. Thus, the period after the 1980s marked a major setback to Sri Lanka's democratic governance.

The 1978 Constitution also contributed to the weakening Sri Lanka's democratic governance. It changed Sri Lanka's constitutional governance, moving away from the Westminster model of parliamentary government and establishing a mixed constitutional system with a French-style presidential framework. The new presidential system also brought the legislature under the executive. The president eventually controlled both the legislature and the judiciary. The office of the president was the central institution of state power, subjected to no checks and balances. However, amidst these setbacks to democratic governance, an important feature of the 1978 Constitution was its chapter on Fundamental Rights enabling citizens to seek judicial redress to protect their rights and freedoms.

Mick Moore, a British political scientist, has described this period as one of 'retreat from democracy' (Moore, 1992). Neil DeVotta, a Sri Lankan political scientist, has seen in Sri Lanka's politics after the 1980s a process of 'political decay' and

'democratic regression' (DeVotta, 2014). "Constitutional authoritarianism' is also concept used by scholars to describe Sri Lanka's system of governance after 1978 Constitution.

However, one important feature of Sri Lanka's politics during the period of 'democracy's setbacks' is what is described in political science literature as the 'resilience of democracy.' Amidst constitutional authoritarianism, civil war, political violence, and militarization, Sri Lanka's democracy did not disappear. However weakened, democratic institutions survived, and the people had their faith in democracy. Elections were held regularly, although they were marked by violence and malpractices. Governments were changed relatively peacefully amidst the civil war. Expressing their continuing trust in the institutions, values and processes of democracy, people's participation at elections continued to remain high. And eventually, a strong argument for democratic political reforms emerged in society. Reforming the 1978 constitution and its presidential system and replacing it with a parliamentary government has been the main point in this democratization movement.

Democratic and Undemocratic Features of Sri Lanka's System of Government

Against this background, we can identify both democratic and undemocratic features of Sri Lanka's system of government since independence.

Democratic Features

Although with periodic setbacks, retreats and variations, Sri Lanka's system of democratic governance has had the following features:

- Representative democracy along with universal adult franchise
- Elected legislature
- Cabinet government accountable to parliament
- Regular elections
- High level of voter participation at elections
- Relatively independent judiciary
- Two-party system with multiple small parties
- Rule of Law as the main constitutional principle
- Fundamental rights guaranteed through a Bill of Rights
- Devolution of power
- Active civil society and social movements
- Survival of parliamentary democracy amidst civil war, political violence and setbacks
- People's continuing faith in democracy as the most preferred form of government.

Undemocratic Features

- Executive presidential system and the excessive centralization of political power in the executive

- Bringing the legislature and the judiciary under the influence of the Executive
- Political violence and civil war
- Violation of the principle of free and fair elections
- Militarization of state and civil society
- Emergency laws and the suspension of normal law and fundamental rights
- Violation and denial of human rights
- Corruption and abuse of power in governance

Sri Lanka and Democracy's Relevance

Democracy is not the only form of government available in the contemporary world. There are several non-democratic forms of government, such as authoritarian governments, one party governments, military governments, and governments by religious leaders. Democratic governments also have variations. Some are liberal democracies. Some others combine democracy with illiberal and authoritarian features. There are also weak democratic and strong democratic models.

We can identify several reasons why democracy is the best - suited government for Sri Lanka.

- Sri Lanka has a strong democratic tradition, starting with early twentieth century. Universal franchise, representative democracy, parliamentary democracy, and change of government by vote are strong and continuing features of Sri Lanka's politics and political culture.

- Sri Lanka is a multi-ethnic and multi-religious society. Democracy is the best form of government that views such diversity as a source of strength. It also provides for political pluralism necessary for an ethnically diverse society.

- Sri Lanka's people have demonstrated their continuing faith in democratic governance amidst political violence, political crises and civil war. The high level of participation at elections is the best measure of people's faith in democratic governance.

- Sri Lankan people have also rejected non-democratic political alternatives as well as parties with extremist agendas. Non-democratic parties and movements do not enjoy much popular support.

- Sri Lanka's high literacy rate and high level of political awareness among citizens also make the democracy the best political model, because Sri Lankan citizens are politically vigilant and alert. Democracy also ensures greater political participation of citizens.

Teachers can discuss in the class how the principles and practices of democratic governance are relevant to lives of citizens within family and in society. Teachers can also show how they ensure democratic ways of life, contributing to the quality of citizens' social and public life. Teachers can also highlight the following themes:

- Tolerance of other people's views as well as different views
- Respect for other faiths and religions
- Active listening and respect for other people's beliefs and views
- Accepting the views of the majority and at the same time not suppressing minority views.
- Collective decision making and being able to be critical as well.

Students should also be encouraged to adopt democratic ways life within the family, in school, work place and society.

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10. Different Constitutional Models of Government

Competency : Act as an individual with a comparative understanding of different government models in the contemporary world

(40 periods)

Competency Levels :

10.1 Discuss differences and specifications (identity) of unitary and federal models of government in the contemporary world

10.2 Study comparatively the theoretical foundations and practical aspects of different models of government.

Learning Outcomes :

- Identify and describe the federal models of government in contemporary world
- Show the transformation of unitary states through the examples of Britain and Sri Lanka
- Explain with examples the unitary and centralized models of government.
- Obtain the skill necessary to propose the fundamentals of a suitable government model for Sri Lanka

Introduction :

This lesson examines different constitutional models of government in the world. The countries studied are America, India, Switzerland, Great Britain, Sri Lanka and France. These six countries can be studied under three categories:

Federal Model : America
India
Switzerland

Reformed Unitary Model : Great Britain
Sri Lanka

Unitary and Centralized Model: France

The study of constitutions and models of government has been a major theme in political science since the classical Greek days. Both Plato and Aristotle studied, classified and analyzed constitutions in Greek city-states. During the 19th and early

29th centuries, study of comparative constitutions became a major branch in Western political science. In Sri Lanka's political science too, the study of the country's constitutional evolution and how the constitution models shaped the nature and institutions of government is a prominent area of inquiry.

Approach

In this lesson, our approach is to look constitutions as constitutional models of government through a comparative prism. Government structures are usually designed in accordance with constitutional models. There is no single constitutional model. We can identify three basic models: unitary, federal and mixed, or hybrid. In these systems, there are no pure models. In the modern world, even federal systems have acquired unitary and centralizing features, while unitary models have hybrid features.

The American constitutional model has unique federal features. The constitution has divided powers between the federal–central–government and the state governments.

The Indian constitutional system of government is federal in structure, yet the constitution does not call it federal.

Switzerland is a confederation, which is a special form of federalism. It also combines confederal and federal features.

Britain is the example we discuss in detail of a unitary constitutional model which is also moving away from traditional unitarism. In unitary systems, a single central government covers the political life of the entire state. Britain has deviated from this tradition by giving devolution to Northern Ireland, Scotland and Wales. Sri Lanka, which followed the British unitary model has also deviated from it with the 13th Amendment to the 1978 constitution.

The French model of government provides a classical example of the unitary and centralized model. France has an extensive system of decentralization of administration within a unitary constitution.

The comparative knowledge students acquire in this lesson on different model of government is expected to enable them to think about most suitable constitutional arrangements for Sri Lanka.

In this lesson, students will learn about systems of government designed according to different constitutional models and how they have also been changed in practice.

Thus, while studying unitary and federal constitutional models, students will also learn that in actual practice there are no pure models. Unitary constitutions have federal features, and federal constitutions have unitary features. Thus what actually exist in most instances now are hybrid systems. Therefore, in this lesson, we (a) identify the basic features of the particular model of each country's constitutional

government, and (b) also discuss how new features have also emerged through the functioning of the constitution.

In teaching this lesson, teachers should pay special attention to this aspect.

A Guideline to clarify the subject matter:

What are Constitutions?

A constitutions is defined as the basic, or supreme, law of a country. It is the basic law, because the country's other laws, which are called 'normal laws,' are derived from the constitution. It is the supreme law, because the validity and legitimacy of every other normal law is derived from the constitution. When a validity of a normal law is tested, it is usually done against the principles and clauses of the constitution.

Some definitions of constitutions by leading political and legal scholars are as follows:

- The classical definition of constitution comes from Aristotle. According to Aristotle, a constitution is "the way of life the state has chosen for itself."

- Lord Bryce in his book *Modern Democracies* (1928) defined constitution as "the aggregate of laws and customs under which the life of the state goes on.''

- According to Professor K, C. Wheare, a constitution, as defined in his book *Modern Constitutions*, is " the whole system of government of a country, the collection of rules which establish and regulate or govern the government." [1966, p.1].

- C.F Strong in *Modern Political Constitutions* provides another useful definition: "A Constitution may be said to be a collection of principles according to which the powers of the government, the rights of the governed and relation between the two are adjusted".

What are Constitutional Models of Government?

Governments are normally designed according to a constitution. A major task of a constitution is to lay down how the country's system of government organized and institutionalized. Three are several ways of constitutions defining the nature of political institutions of a country.

i. If defines whether the government is organized according to the unitary, federal or mixed model.

ii. It defines the nature of the state whether it is a monarchy, a democracy, a republic or a religious state.

iii. It also states whether the government is presidential, parliamentary or mixed in nature.

iv. A constitution also lays down how the legislature, executive and judicial branches of government are organized and what the nature of their institutional relationships is. It provides a framework for the divisions of powers and functions among different organs of the government.

v. A constitution also defines the framework of state-citizen relations, by having or not having a fundamental rights chapter.

Thus, by looking at constitutions, we can identify the constitutional model of government of each country.

FEDERAL MODEL

Under the federal model of constitutions, we will learn about three systems of government, the American, Indian and Swiss. The American model comes closer to the classical federal constitutional model, while the Swiss model is closer to the classical confederal model. The Indian model is a federal constitution with unitary features. Thus, these three are variations of federal constitutions.

1. The American System of Government

- In the American federal system, the Constitution divides powers between the central and state governments. An ordinary law enacted by the central government or by a state government cannot alter this fundamental law of the constitution.

- How does the Constitution divide powers between the federal government (American use the term 'federal government' to refer to the central or national government) and state governments?

    i. The American constitution lists only the powers of the central, or federal, government. Powers of the state governments are powers that are not given to the federal government.

    ii. The National, or central/federal, government has powers enumerated in the constitution. The federal government is the supreme authority in its sphere of powers.

    iii. The powers of the state governments are not listed in the Constitution. The powers include those that are not enumerated for the federal government in the Constitution, and also the powers that are not prohibited in the constitutions of state governments.

iv. Some powers are prohibited for the federal as well as state governments, in order to protect the federal spirit.

General Features of the American System of Government

- America has a **written constitution**. A written constitution is a necessary feature of modern governments, particularly of federal systems. The American constitution is a relatively brief document. It has been enriched by laws enacted by the Congress, traditions as well as judicial decisions.

- **Traditions and Practices:** The founders have given the constitution only the general structure. It has been given flesh and blood by traditions and constitutional practices.

- **Rigidity**: The American Constitution is a relatively rigid constitution which is difficult to alter or abolish. Constitutional amendments require the completion of a difficult process. Any amendment requires two-thirds majority support of both Houses of the Congress and the approval by two-thirds of stat governments.

- **Federalism:** The American federal state was formed by 13 independent governments which had earlier formed a lose confederation. Now it has 50 states.

- **Supremacy of Constitution**: The constitution is supreme in America. It is an essential feature of the federal system.

- **Separation of Powers**: The American Constitution ahs also adopted the theory of separation of powers. It also has a system of checks and balances. Prevention of arbitrary government is the objective of both these constitutional mechanisms.

- **Bill of Rights**: The American Constitution also has a Bill of Rights. Protection of the citizens' fundamental rights, freedom and property within the Rule of Law is the objective of Bill of Rights.

- **Judicial Review**: The American judiciary has obtained this power by means of interpreting the Constitution. The American Supreme court declared in its famous case Marbury Vs. Madison that although the Constitution had not explicitly granted the courts to review laws passed by the Congress, that power was implicit in the Constitution.

- **Popular Sovereignty**: The American constitution is also based on the Republican principle of popular sovereignty. It means that the government derives its authority from the sovereign people.

- **Republicanism**: America is a republic. Its head of state is a President directly elected by the people. The Constitution derives its powers from

the people ('We, the People…'). The federating states also have constitutions designed according to the republican model.

- The American government is a **presidential** system of government.

- **Dual Citizenship**: American citizens have citizenship in the central government (United States of America) as well as in a state government.

Powers of the American Central/Federal Government

- The Constitution explicitly enumerates the legislative, executive and judicial powers of the federal government. There are some implied powers as well to the government. For example, the power to establish banks.

- Although powers of the central and state governments are separate and clear in the Constitution, the central government's powers over state governments depend on four factors.

    i. Supremacy of federal laws (laws enacted by the legislature of the central government).
    ii. Powers over war.
    iii. Provisions regarding inter-state and international trade and commerce.
    iv. Power to raise taxes and spend them.

Because of these powers of the federal government, some state governments complain that their power to look after their own affairs has been curtailed.

A feature emerged in the evolution of the American constitutional system is the gradual strengthening of the central/federal government. The XIV Constitutional Amendment, enacted in 1868, has also contributed to this tendency. This Amendment restricted the powers of state legislatures to pass laws limiting citizens' rights, liberty, and equality before the law.

(**NOTE**: Students need only simple understanding of the powers of the central government in the American system. The four points listed above can be explained to students using the information given below).

i. **Provisions relating to supremacy of federal laws**: Article VI is an important provision in the American Constitution. It prevents the state governments or local government from enacting laws that are not in conformity with the laws passed by the central government.

    Article VI of the Constitution states: "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every

State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding."

ii. **War related powers**: The responsibility of protecting the United states from an foreign aggression or international terrorism is with the federal government.

- This power of national security includes the power to declare war.
- Under these powers, the federal government has powers to acquire airports of state governments as well as declare the air space of any state a no-fly zone.

iii. **Regulating inter-state and international trade**: Federal government has powers to regulate inter-state trade and commerce as well as international trade. This allows the federal governments to control the economic life of the state governments.

iv. **Powers of Taxation and Spending**: The federal legislature has no direct authority to pass laws for general welfare or in relation to agriculture and education. These are state powers. However, the federal government can control them by allocating funds.

Similarly, when the federal government gives grants to the state governments, (for example for education, agriculture, transport) it can add conditions as to how the money should be spent. This is another way of exercising control over state governments.

The federal government can also add conditions to grants given to state governments. For example it can say that money given should not be used in a manner that is discriminatory on the grounds of race, gender, colour, physical disabilities, and ethnic origins etc.

Powers of State Governments

The American Constitution does not enumerate powers of state governments. In other words, there is no state list in the American constitution. Instead, what the Constitution does is to state that powers that are not enumerated for the central government are powers of the state governments, subject to the limitations given in the Constitution or constitutional limitations.

For example, the state governments can establish schools and local government bodies, as along as they do not clash with the laws enacted by the federal government.

There are also powers that are concurrently exercised by the federal and state governments. Powers for taxation and the regulation of commerce within the state are examples. These are called 'concurrent powers.'

States cannot interfere with inter-state trade.

States have powers of taxation on certain items on which the federal government also has taxation power. Example is taxation on liquor or petroleum products. However, that power should not restrict inter-state trade or interfere with the functions of the federal government.

Constitutional Limitations of Powers of States

In order to ensure proper functioning of federalism, the American constitution has imposed certain limits on the powers of the states. For example, the states have no authority to:

1. Enter into agreements with foreign governments.
2. Authorize citizens of foreign states in trade relations with those states.
3. Coining and printing money.
4. Issuing of Bills of Credit.
5. Export and import taxation.
6. Levying taxes from foreign ships.
7. Station armed militia or warships in peace times except the National Guard.
8. Engaging in war.

In order to ensure the proper functioning of federalism, there are limitations on the powers of the central government as well.

i. The federal government should not exercise its powers in such a way as to limit the powers and responsibilities of the states.

ii. The federal government does not have unlimited powers on inter-state commerce.

iii. There are some judicial decisions preventing the federal governments from giving orders to state governments on the pretext of making the implementation of federal laws effective.

Despite these safeguards, powers of the federal government over state governments have increased in recent times due to a variety of reasons. Some of them are:

i. On some matters, state governments have to depend on the federal government.

ii. Because of the rise of American nationalism, the American national identity has grown in importance than state identities.

iii. There have also been judicial decisions favouring the federal government over the states.

iv. Despite judicial decisions restricting powers of the federal government over state governments, the federal government has been able to win over state governments through federal grans.

Inter-State Relations

Inter-state relations in America are regulated by the federal provisions of the constitution. The Article IV defines inter-state relations as follows:

i. Only the Federal Congress has the power to admit new states to the Union.

ii. No state government can favour or discriminate against a citizen of any state on his/her fundamental rights.

iii. States should guarantee the same rights and privileges its citizens enjoy to citizens of other states as well. These privileges are the protection of the law, right to lawful employment and the right to judicial protection.

iv. According to Article IV of the Constitution, no state should provide protection to criminals of other states.

v. The state should function on the principle of 'complete trust.' It means that every state trusts the laws and enactments of every other state.

Inter-State Cooperation

A key feature of American federalism is not only the division of powers between the federal and state governments, but also the cooperation between state governments.

The Constitution provides for the states to resolve their disputes peacefully. A state can go to the Supreme Court on a dispute with another state. There are inter-state agencies to facilitate the resolution of inter-state disputes through discussion and negotiation. Once the Congress approves such agreements, the states are bound by law to honour the agreements. They can be imposed through courts as well.

Such agreements occur usually in areas such as environmental protection, crime control, water rights and educational exchanges.

National Courts and Federalism

The sharing of power between the central/national government and the state governments is decided in the political process. However, courts also have a role to play in resolving problems in relation to federal relations.

The American Supreme Court began to exercise this power in 1819 as a result of the judgment in the case McCulloch vs. Maryland. In this case, the Supreme Court had to rule on the division of powers between the centre and the state governments. One argument presented in this case was that where there was a conflict between federal laws and the laws of the state, federal laws should be

valid. The Supreme Court accepted this argument. After this case, the powers of the national government have increased significantly.

To understand American federalism, it is useful to know the role of national courts in inter-state relations.

i. Judges of the national courts can review the state and local government institutions. This gives powers to the national government over state governments.

ii. Any state or local government law can be challenged before a judge of a national court on the ground that it is against the national law.

iii. National laws stand valid over state or local government laws.

iv. Not only laws of the national government, but also its policies stand valid over local and state policies.

As we noted earlier, there is an increasing tendency within American federalism for the strengthening of the national government over state governments. There are reasons other than what we have noted, for this tendency. For example:

i. What was earlier considered as state level problems have now become national level problems and therefore they require national solutions.

ii. Because of the rapid economic development there is now greater demand for national roads, national banks, and national institutions.

iii. Changes of people's attitudes to prefer a strong national government.

Constitutional Amendment Procedure in America

One instance that protects federalism in America is the process of constitutional amendment. According to Article V, Constitutional amendment has two processes.

- After two-thirds support from both Houses of the Congress, the amendment should be passed by a two-thirds of state legislatures. This approval can be obtained either by individual state legislatures meeting separately or at a common constitutional convention.
- States can also initiate a constitutional amendment process. If a two-thirds of state legislatures ask the congress to amend the Constitution, the Congress can call a Constitutional Convention. Subsequently, the amendments should be passed by ¾ of states.

II. THE INDIAN MODEL

INDIAN FEDERALISM

The Indian Constitution was adopted on 16th of January 1950. It is a long document with 395 Articles and nine chapters.

India is a Union of States. It has a central government, 29 state governments, and seven Union Territories.

There is an important difference between the states and union territories. States have autonomy granted by the Constitution and that autonomy is similar to federalism. They have Legislative Assemblies, directly elected by the people and councils of ministers. Although the Governor represents the central government, the powers of the governor over the state's executive functions are limited.

The union territories, in contrast., are generally administered under the central government. Five of India's seven union territories are directly administered by the central government. Only two –Delhi and Puducherry – have elected Legislative Assemblies and Councils of Ministers chosen from among the members of the Legislative Assembly. The representative of the central government is called Lieutenant Governor.

Special Features of Indian Federalism

We can identify the following special features of the Indian federal system.

- The federal features of the Indian constitution are implicit in the constitution since it does not directly say it is federal.
- Although the constitution does not say explicitly whether the system is federal not, in its structure it is a federal constitution. The constitution divides the government's structure between centre and states and provides for the division of powers between the central and state governments.
- The constitution also has unitary features. The central government's powers over the state governments and especially the power to dissolve them are examples. This has led some commentators to say that the Indian system is 'semi-federal.'
- However, in recent decades, the Indian system has acquired more federal features due to several reasons. Some of them are:

    (a) State governments run by political parties other than those who control the central government have consistently demanded and fought for greater autonomy for the states.

    (b) In Indian politics, many regional parties have come into power in state governments. They are more committed to regional autonomy than the Congress or the BJP.

    (c) An important recent development is the willingness of the Indian Supreme Court to interpret the Indian constitution to favor greater state autonomy, away from the interference by the central government. The Indian Supreme Court has in a number

of instances prevented the central government from dissolving state governments, run by regional or opposition parties, using the emergency powers under Article 352. Also in disputes between the central government and the state governments on center-state relations, the courts have interpreted constitutional provisions in favour of the states. This has led to strengthening the federal features of the Indian system.

- "Asymmetrical power-sharing" is another special feature of Indian federalism. What it means that all federal units do not have same levels of powers and competencies. Some have more powers than the others due to special reasons. For example, states such as Jammu and Kashmir, Punjab, Goa, Assam, Nagaland, Mizoram, Manipur and Sikkim have more powers than other states. The purpose is to give more self-rule rights to these states where there have been ethno-nationalist movements and ethnic insurgencies for separation.
- India has been able to create new states relatively peacefully, despite protests. Chhattisgarh and Uttarakhand were created in 2004. The state of Telangana was created in 2004 dividing the existing state of Hyderabad. Thus, the ability to India to alter the boundaries of existing states and the creation of new ones without much violence shows the flexibility of Indian federalism.
- We can also observe that the Indian federal system is in a process of evolution in which the state governments are acquiring more regional autonomy than originally envisaged.
- One major reason for strengthening federal features of the Indian system is the general recognition by the people that the constitution and the political system should reflect India's diversity and pluralism. It has become a part of the Indian political culture and the people's political consciousness.

Foundations on Indian Federal System

The foundations of Indian federal system can be discussed under the following six headings:

- Strong centre
- Flexibility
- Law-making powers
- Financial relations
- Administrative relations
- Inter-state conflicts

I. Strong Central Government

Because of the territorial vastness of India, a unitary and centralized model of government does not suit India. Federalism was thus seen as the best

alternative. At the same time there were reasons for a strong central government. They are:

- International experiences of having a strong centre (The US, Australia, and Canada) in federalism.
- The fear of India's territorial disintegration in the light of the partition of India at the time of independence.
- The emphasis on national security because of the dispute and wars with Pakistan.
- Continuation of the centralized administrative system established by the British colonial rulers.

The relative strength of India's central government depends on (a) its legislative and financial powers, (b) emergency powers, and (c) the ability to enact legislation for the states under certain circumstances.

Because of the strong centre, the Indian federalism is often called a semi-federal system.

II. Flexibility

The flexibility of Indian federalism arises from the fact that when required, the central government can override state governments. It does not require constitutional amendments. Even when a constitutional amendment required, the process is not too rigid. It requires only a special majority in both Houses of parliament and the consent of half of the state governments.

The centre can also decide the number of states of the Union. Initially, there were only 17states based on linguistic identity. Now, there are 29 states, many of which were created after the constitution was adopted to reflect the ethnic, religious, and regional diversities. A key conceptual feature of the Indian political culture is that the constitution and the system of government should accommodate India's ethnic, linguistic, religious and cultural diversities.

III. Law-making Powers

A key feature of any federal system is the division of legislative power between the centre and the states. India has three lists that enumerate the division of legislative powers. They are:

(a) Central list with 97 subjects that details powers of the central legislature.
(b) State list with 66 subjects.
(c) Concurrent list with 47 subjects, detailing shared law-making powers between the central and state legislatures.

Legislative powers of the centre include defence, foreign affairs, communication, finance, taxation, foreign and inter-state trade, registration of companies,

banking and insurance, petroleum, mines, certain educational institutions, and health.

The concurrent list includes social welfare, labour, trade monopolies, control of essential goods and social and economic matters. When there is a conflict between the centre and the states on the legislative powers under the concurrent list, the laws of the centre will prevail.

Law-making powers of state legislatures are not extensive. However, their powers are closely linked to the everyday life of the people. Maintenance of law and order, agriculture and irrigation are most important powers. The state subject list also includes education, health, roads and transport, irrigation networks, and trade and commerce. The states can also make laws relating subjects in the concurrent list. However, if there is a conflict between the central and state laws on any subject in the concurrent list, the central law is considered valid.

In a normal federal system, the division of powers between the centre and states/provinces is not flexible. One unit cannot intrude into the competence of the other. The constitutional amendment process is also rigid. However, in the Indian system, there is flexibility. The fairly long concurrent list of powers is one reason for this flexibility. With President's approval, state laws can be valid even when they clash with central laws.

Emergency powers under Article 352 enables the centre to enact laws for the state governments. Similarly the centre can pass legislation under subjects allocated for the states in the State List, if such legislation is approved by in the Rajya Sabha (Upper House) with a two-thirds majority. Such laws could be valid only for a period of one year. However, they can be extended every year for another year with the approval of the Rajya Sabha. An example is the Supplies of Goods and Pricing Act of 1950.

The national parliament can also control the powers of states to some extent. If a state government acquires private property and returns the ownership of property, such actions require the approval of the President. In some instances the state governor can reserve the laws passed by the state legislature for the approval of the President.

IV. Center-State Financial Relations

For a federal system to succeed, both the central government and state/provincial governments should have adequate finances and financial resources. The Indian constitution clearly provides for central and state finances.

- When a tax basis covers two or more states, the central government has power for taxation.
- When there is uniform taxation throughout the country, powers over such taxation are with the centre.

- State governments also have taxation powers on subjects as specified in the constitution.

Taxation power of the central government include: non-agricultural taxes, customs duties, excise duties, company duties, capital levy, property taxes, taxation on interstate trade, death duties, stamp duties, tax on buying and selling of goods, newspaper tax, and tax on the share market and money market.

State governments have the following taxation powers: land tax, tax from income from land, property tax, agricultural tax, tax from agricultural property and tax on marijuana and similar drugs.

Because of the clear division of taxation powers, there is no conflict between the central and state governments over taxation. However, there is a problem. Often, state governments have less tax income.

In order to resolve this problem, tax income is shared between the centre and the states. There is also the system of financial grants from the central governments to state governments to fill the income shortfalls.

This process is facilitated by an independent Finance Commission. Its main task is making recommendations for the sharing of tax income and making grants to state governments.

V. Centre-State Administrative Relations

The Indian system of administration is organized in such a way that the central government can implement its powers throughout the country. If necessary, the central government can ask state governments to implement its policies. State governments also have their own institutions of public administration. When the need arises, the state government can ask the centre to implement their policies through the central bureaucracy. This particularly applies to subjects in the concurrent list.

The central government also has authority to guide the public administration in the state governments. Central government uses this authority specifically on national policy matters.

VI. Inter-government Disputes

The Supreme Court's role is crucial for the resolution of disputes and conflicts among states as well as between the centre and the states. It has constitutionally sanctioned powers to do so. The President can also seek the opinion of the Supreme Court on any inter-governmental dispute.

It is the responsibility of the central government to resolve inter-state conflict on water resources.

The Inter-State Council is another body with the responsibility of resolving inter-state conflicts. The Council is appointed by the President. The Council's task is to inquire into inter-state conflicts, find out causes of the conflict and make recommendations for their resolution.

VII. Unitarist Features

There are also instances when the Indian federal system comes closer to the unitary system. They are:

I. **Emergency Powers:** The emergency powers under Articles 352 to 360 enable the central government to act like a unitary government. According to these emergency regulations, the President can declare a state of emergency in situations of internal or external emergency. If the two Houses of Parliament do not approve the emergency, it ends within two months. When the emergency is in operation, the central government can pass laws on any state subject.

   This situation has led to many criticisms within India, because the central government has used emergency powers to dissolve state governments run by opposing political parties. The Supreme Court has invalidated such dissolution of state governments a number of times.

II. **Financial Emergencies**: These powers can be exercised by the central government when the country faces economic or financial emergency.

III. **Collapse of Constitutional Process**: When the central government decides that the constitutional mechanisms have collapsed in any state, the central government can declare a state of emergency and bring the state under the central government.

3. SWITZERLAND'S MODEL OF FEDERATION/FEDERALISM

Switzerland has a federal system, but it is a specific form of federalism called the confederal model, or confederation.

- The basic character of a confederation is that a group of independent political units or states come together to form a union with specific objectives in mind. Security and economic unity are the most common such objectives.
- The key feature of a confederation is the relative independence the units/states enjoy in relation to the central government, and the inability of the central government to override the units. States of a confederation have more autonomy and powers than the states in a federal system. Thus, a confederation is an advanced form of federalism.

- Switzerland has 26 provinces which are called Cantons and 2222 small municipalities, as of 2017.
- Although Switzerland is an advanced form of federalism as a confederation, it is a small country, with a territory of 15940 square miles.

Fundamental Features of Swiss Federation

- Although it is called a federation in the constitution, the Swiss system functions in practice as a federal government.
- The confederation became a federal system in response to invasions from France and pressures of modernization.
- Through the constitutions and constitutional amendments of 1848, 1874, and 1999, there have been features of centralization introduced to the Swiss system. The main feature of this is the tendency to create a homogenous Swiss nation.
- The main constitutional principle of the Swiss system is a combination of two doctrines, shared rule and self-rule. Cantons can function independently as provided for by the Constitution. At the same time, Cantons can take part in the affairs of the central government.

Constitutional Provisions

- According to Article 1 of the Constitution, Switzerland has 26 Cantons and 6 semi-Cantons. Cantons are small units of self-rule specific to Switzerland. They are the Swiss equivalent of the American states or provinces in Canada.
- The semi-Cantons have equal status with Cantons. However, they have less representation in the shared rule than the Cantons. Thus, cantons have two representatives in the National Assembly and the semi-Cantons one.
- All Swiss Cantons have their own constitutions.
- As defined in the 1999 Constitutions, cantons have autonomy, unless the constitution limits it. According to the principle of 'sovereignty of the Cantons', each Canton enjoys self-rule within its territory.
- The central government respects Canton sovereignty. However, this is not full political sovereignty.
- The following are the limits imposed on the Cantons by the Swiss Constitution.

    (a) The Constitutions ensures fundamental rights to the Swiss citizens. The Swiss authorities closely protect the citizen's fundamental rights. The federal judiciary has the right to review canton laws to ensure that they do not violate the citizens' rights.

    (b) The Centre's executive and law-making powers also limit canton sovereignty.

- The way in which the Constitution divides powers between the federal government and the canton government is by enumerating the Centre's power in the Constitution. Cantons have the residual powers, or powers on subjects other than the ones given to the federal government.
- Cantons are automatically entitled make laws with regard to areas that are not given in the Constitution to the federal government.
- The power to amend the constitution is with the federal government. The federal government decides how powers should be shared between the Centre and the Cantons. However, this power of the Centre is constrained by the principle of shared rule.
- A guiding principle of Swiss federalism is the notion that the federal government allocated for itself powers regarding matters that have uniform application throughout the country. Cantons are allowed to exercise responsibilities for that they are best suited. This ensures the principle of subsidiarity, that is, empowering the lowest levels of government on subjects which they are more competent to handle.

Self -Rule Powers of the Cantons

Swiss Cantons have the following self-rule powers:

- **Canton Constitutions**: Cantons can draft their own Canton constitutions. Thus, they can decide their political systems.
- **Local Government units**: Cantons determine the powers of their local government units. However, those powers cannot violate fundamental rights of the citizens. The federal judiciary protects the fundamental rights of citizens.
- **Education**: Education has been a traditional responsibility of the Cantons and it continues even now. Cantons have the power over curriculum, appointments and academic staff.
- **Public Order**: It is the responsibility of Cantons to maintain law and order during peace times.
- **Culture**: Cantons have power to support cultural activities, and to protect cultural heritage, subject to certain exceptions.
- **Infrastructure**: Cantons have the responsibility to build roads, and supply electricity and water.
- **Direct Taxation**: Cantons have power to levy direct taxes.

Role and Significance of Cantons

In the implementation of laws of the central government, Cantons are also given powers to do so. This is based on the principle of subsidiarity whereby the lowest possible tiers of the government are empowered to do what they can do best. This has also raised the importance of Cantons.

There are also established practices to enable the Cantons to influence federal-level decision making. For example, when electing new laws, the federal government should inform the Cantons.

The federal legislature has two Houses, National Council and Council of States. Cantons have equal representation in the Council of States. The two Councils have similar powers.

However, the Cantons have limited influence on the Council of States, because Cantons cannot influence the decisions of their representatives in the Council. However, they can influence the National Council indirectly through the electoral process. This is particularly so because the representatives need the support of the voters of the cantons for re-election.

Referendum and Cantons

Referendum also enables Cantons to participate in the affairs of the federal government.

According to the Swiss constitution, constitutional amendments need people's approval at a referendum. If there is a request for a referendum, federal laws also needs people's approval at a referendum.

There are two types of referenda in Switzerland:

(a) Referendum is necessary for a normal federal law only when a request is made by 50, 000 citizens and eight Cantons. If the majority of the people approve it, it becomes law.
(b) Constitutional amendments and international agreements require referendum.

This is how Cantons are important in the referendum. A referendum requires a dual majority, a majority of the people, and a majority of the Cantons. Approval of the majority of the people alone is not enough.

Consensus Democracy and Cantons

In addition to the system of shared rule, there are other mechanisms to enables Cantons to join the national level policy making process. The system of 'Consensus Democracy' is such a major mechanism. What it means is that the process of law making in Switzerland is one that goes through a process of negotiations, discussions and eventually consensus among political parties, pressure groups, Cantons and local government. The system of direct democracy has also facilitated this process of Consensus democracy.

The Executive in Switzerland is another good example of its consensus democracy. It has seven members elected from the two legislative houses, National Council and Council of States. They head different Ministries and therefore are like a council of ministers. It has a president who is in office only

for a year. President has no special powers, and there s/he is only the temporary first among the equals. Thus, the executive decisions are made through consensus.

Judiciary and the Cantons

The judicial system has also helped to consolidate the Canton system in Switzerland. The Swiss judiciary is different from other federal systems.

Unlike in other federal systems, the Swiss system does not have federal or provincial courts. It has only courts established by the Cantons. The Canton courts can interpret as well as implement federal and canton laws.

There is a federal supreme court. But its responsibilities are limited to appeals from Canton courts and adjudicating disputes with regard to the subjects of the federal government.

The federal court does not have powers to adjudicate the constitutionality of federal laws. That power is with Canton courts.

Local Government and Federalism in Switzerland

Local government units in Switzerland are diverse in the geographical and population size. Like the Cantons, the local government also have constitutional protection. Their existence is derived from the Constitution, and not from an ordinary law. Similarly, the local government bodies have the freedom to work in collaboration with each other. Cantons laws cannot alter the local government system. Thus, the local government has a certain measure of independence from the Cantons.

How Swiss Federalism differ from other Federal Systems

The Swiss federal system has three levels of government: Central, Canton and Communes, or Local Government.

- The powers among these three level are built in a bottom up structure and in a framework of shared rule. All three levels of government have vertical and horizontal cooperation. We can get a picture of this by looking at how the powers are divided:
- The local government units, which are called Communes, have autonomy at the local level and they look after local affairs affecting the daily life of the people. They enjoy self-rule. Among their responsibilities are building and supervision of local roads, supply of gas and water, drainage, building schools, and appointing teachers.
- Cantons have powers and responsibilities in relation to the identity of the Canton. Their powers include subjects in relation to culture, language, education religion, social policy, health and social services.

- Central government has powers and responsibilities on matters relating to national sovereignty and national concerns. They are matters relating to the military, financial policy, external relations, social security, environment, energy, and infrastructure facilities.
- A special feature of the Swiss federal system is that each level of government can secure finances from its own sources in order to carry out its responsibilities.

The following table presents the powers of each level of government in Switzerland:

Federal Government Powers **(Federal Constitution)**	**Canton Government Powers** **(Canton Constitution)**	**Powers of Communes (Local Government)** **(Canton Laws)**
- Federal institutions - Foreign Affairs - Military and civil defence - National highways - Nuclear energy - Post and telecommunication -Finance policy -Social security and pensions -Civil and criminal law -Civil and criminal procedure -Education, universities -Energy policy -Environment protection -Citizenship -Federal taxation	-Canton institutions -Canton anthem and flag -inter-Canton cooperation -Police -Culture -Public health -Canton roads -Forests, water and natural resources -Secondary education -Schools and universities -Environmental protection -Protection of nature -Citizenship -Taxation specific to Cantons	-Education (pre-school and primary) -Garbage management -Canton schools -Local infrastructure -Local police -Local citizenship -Municipal tax

Conclusion

- Theoretically, the Swiss constitution is a confederation, because it provides for a strong cantons and local units with a relatively weak federal centre.
- However, our discussion shows that the Swiss system of government does not belong exclusively to a confederal or federal model. From the perspective of how power is distributed, it is a system that falls between confederal and federal constitutional models.

02- CHANGING UNITARY MODELS –GREAT BRITAIN AND SRI LANKA

Under this heading we will discuss the British and Sri Lankan systems of government. Both had the classical unitary constitutional models. In fact, the Sri Lanka's first post-independence constitution was designed according to the British unitary constitutional model and it continued unchanged till 1987. However, as we will see later, in both Britain and Sri Lanka, a system of power sharing called 'devolution' has been introduced to the unitary constitution. Thus, the British and Sri Lankan systems of government no longer represent the classical unitary model in its pure form.

I. Great Britain

Theoretically, the British government is based on a unitary constitution. Britain has an unwritten constitution and therefore, the government system is based mostly on constitutional traditions. However, the British unitarism is now changing.

The key feature of the unitary model is having one authority – the central or national government –as the sole and overarching governmental power to (a) make laws, and (b) implement the throughout the country in a uniform manner.

In order to understand the changes and transformations in the British constitutional government, let us begin by understanding its basic characteristics.

British Constitution: Nature and Basic Features

- Britain does not have a written constitution and this is unique feature. When there is a written constitution, all the other laws are subordinate to the constitution.

- Although there is no written constitution, the British political system has a body of rules to govern the use of public power, and guide guide state-citizen relations. Longstanding traditions and conventions are also a part of the British constitution.
- Some of such conventions have been given legal recognition. Examples are (a) Parliament Act of 1911 which limited the term of office of MPs to five years, and (b) Queens ministers are answerable to parliament.
- The institutional composition of British government includes (a) Parliament, (b) government led by the Cabinet, (c) courts, (d) Crown, (e) civil service, and (f). Devolved institutions of power in Scotland, Wales and Northern Ireland.
- The British Government is also guided by several important principles. They are (a) Rule of Law, (b) Parliamentary sovereignty, and (c) collective responsibility of the Cabinet.
- There are also laws and traditions that regulate the functioning of British government institutions. They are (a) normal laws, (b) constitutional principles, and (c) traditions derived from common law.

Background –The Unitary Model

Britain is also known as the United Kingdom. It consists of four historically evolved separate kingdoms, England, Scotland, Wales, and Ireland.

- The Great Britain, as we know it today, came into being in 1707 when the Kingdom of England, which included the Wales, and the Kingdom of Scotland, became politically united. Ireland became a part of Britain in 1800. After Ireland became independent in 1921 and formed the Republic of Ireland, the northern part of Ireland called Northern Ireland remained with the United Kingdom.

- Traditionally, Britain was considered a unitary state. In a unitary state, the legal authority flows from one, single source. Political power is centralized in the national government.
- Lower levels of government derive their authority from the central government and not from the constitution, as in federal systems.
- In a unitary system, there is local government. But, the local government institutions function subordinate to the national government, as an agency of the national government. Central government can take back powers given to local government.
- Unitary models are generally suited to societies without ethnic, linguistic, cultural or geographical diversities ad divisions. Thus, the unitary state structure does not reflect diversity and heterogeneity in society. It assumes society to be homogenous.

- If we take UK and France as examples of European unitary states, we can see significant differences of the two. In Britain, ethnic identities and differences are stronger than in France. Ethnic diversity is a part of the historical legacy of Britain. Because of these ethnic and regional identities, Britain has been a multi-ethic nation from the beginning. British citizens have Irish, English, Welsh and Scottish ethnic identities as well. France in contrast is ethnically homogenous.
- Laws passed by British parliament covers the entire United Kingdom. However, sometimes, it has passed laws that were not meant for Scotland, Wales and Northern Ireland.

The Great Britain, also called the United Kingdom, has not been so united historically. Northern Ireland had a separatist movement until the 1990s. Scotland now has a strong independence movement. Wales has an ethnic nationalist movement. Thus, the United Kingdom's unitary state model had to deal with ethnic politics. That explains why it has moved away from the unitary model by incorporating regional autonomy through devolution.

Scotland

Scotland has a population over 5. 1 million and 1/3 of the territory of Britain. England and Scotland came under the English crown in 1603.

- England and Scotland became united in 1707, marking the establishment of the United Kingdom of Great Britain. Under the Treaty of 1707, the Scottish parliament was abolished and absorbed into the British parliament.
- When uniting with the United Kingdom, the Scotts agreed to accept the laws passed by the British parliament. But they wanted to keep their Presbyterian Church and religious identity separate. Thus, Scotland maintained its separate cultural identity within the United Kingdom.
- The Scotts also wanted to maintain their judicial system and courts intact within the United Kingdom.
- Scotland, even under the United Kingdom, had a strong nationalist movement seeing autonomy from England and within the United Kingdom. In 1998, the British government agreed to grant Scotland autonomy through devolution. As a part of the new devolution arrangement, the Scotland Act of 1998 created the Scottish Parliament.
- Devolution in Scotland notwithstanding, the Scottish nationalist movement for separation continues. The separatist Scottish Nationalist Party (SNP), won the majority of Scottish parliament at the 2011 election and intensified the separatist effort by calling for a referendum in 2014. However, 55% of Scottish voters opposed separation and Scotland remains within the United Kingdom with a strong nationalist movement.

Wales

Wales is the smallest political unit of Great Britain with a 1/12 of its territory and 5% of the population.

- Wales came under the English Crown during the 13th century. It became a part of Great Britain in 1707.
- The British government of London administered Wales through the Department of Wales. There was a minister in charge Wales. Wales was also represented in British parliament.
- Wales too had a nationalist movement seeking local autonomy since the 19th century.
- The British government granted devolution to Wales in 1998 through Government of Wales Act. Under devolution, Wales has its own regional government called the Wales Assembly Government. The legislative functions are devolved to the Wales Assembly.

Northern Ireland

Northern Ireland's territory is 50, 000 square miles and the population is 1.7 million, which about 2.5% of the total British population.

- Northern Ireland has been under the English Crown since the 16th Century. The entire Ireland became a part of Britain in 1800.
- Ireland had a long tradition of nationalist politics. Ireland gained independence from Britain and became an independent Republic in 1922. Out of 32 counties of Irish people, 26 joined the Republic. The remaining six stayed with Britain as Northern Ireland. The campaign for 'home rule' continued in Northern Ireland.
- A separate parliament was formed for Northern Ireland in 1920. It existed till 1970. It had paved the way for a system of devolution with a bi-cameral legislature.
- Northern Ireland population was divided between Christian protestants and Catholics. While Protestants wanted to remain with Great Britain through a Union, Catholics wanted independence from Britain. This later developed into a conflict between Catholics and Protestants in Northern Ireland.
- Many unsuccessful attempts were made to resolve the conflict between Catholic and Protestant populations in Northern Ireland.
- The peace process in Northern Ireland began during the 1980s and led to the Good Friday Peace Agreement of 1998.
- With the Northern Ireland Act of 1998, the Northern Ireland Assembly became Northern Ireland Parliament.

Factors that Led to Devolution in the UK

The rise of regional ethnic nationalisms in Wales, Scotland ad Northern Ireland, seeking self-rue, is the main reason for devolution in the UK.

Theoretically, the meaning of devolution is the sharing of power by the central government with the political units in the periphery. As a constitutional principle, devolution as a framework of power-sharing is less than federalism in its scope and extent.

At the Parliamentary election of 1974, six MPs from the Scottish National Party were elected. It posed a challenge to the traditional support base of the Labour Party in Scotland. This marked the intensification of the campaign for devolution for Scotland.

The Labour Party argued since the 1990s that the only way to ensure that Scotland remained with the UK was granting Scotland devolution.

The failure of British policies towards Scotland, Wales and Northern Ireland was also a major reason. People in the three Provinces began to feel that they would be better off with devolution.

Thus, the Scottish Act of 1998 was enacted and the Scottish parliament was established in 1999.

Devolution was granted to Wales as well in 1998. When we compare the Scottish devolution with Wales, we can see that Scotland has greater devolution. While the Welsh legislature is called 'Assembly,' the Scottish legislature is called 'Parliament.'

Thus, devolution in Scotland, Northern Ireland and Wales is done according to a system of 'asymmetrical power-sharing.' It means that the degree of devolution the three provinces have are not similar.

Critics point out that devolution has eroded the traditional centralized and unitary state in Britain.

Extent of Devolution

The powers given to Scotland, Northern Ireland and Wales under devolution are as follows:

Scotland

- Extensive powers in the following subjects: criminal law, education, environment, health, judicial appointments, local government, police, and transport.
- Scottish Parliament has power to increase or reduce income tax by 3 pennies per sterling pound.
- Westminster Parliament has retained certain powers such as defense and foreign policy.

Wales

- The National Assembly of Wales had initially been granted powers to enact only subordinate laws. That meant that it could pass laws only to implement policies already decided by the parliament in London. This was a reduced level of powers, compared with Scotland.
- There has been a demand for more powers for the Welsh Assembly to pass its own laws. In 2011, more powers were given so that Welsh Assembly can pass legislation on devolved subjects without consulting the Westminster parliament. This followed a referendum held in 2010 on powers of the Welsh Assembly.
- Welsh Assembly has legislative power over 20 subjects that include, agriculture, fisheries, education, environment, health, transport and highways, local government, and social welfare.
- Welsh Assembly also has full powers over money allocated for Wales.

Northern Ireland

- The degree of power of Northern Ireland falls between the powers devolved to Scotland and Wales. Northern Ireland legislature is called Northern Ireland Assembly while in Scotland it is called 'Parliament.'
- It has full powers to make laws on subjects such as health, economic development, environment, education agriculture, social services, housing, local government, transport, culture and sports, judiciary and police.

Overview

- Overall, we can say that the evolving constitutional government in Britain has moved away from the traditional unitary framework. But it is not a federal model. It is a hybrid model in which a unitary state adopts some features of federalism in order to give the peripheral units certain self-government powers. This system is called devolution.
- We can also see that in Britain devolution provides asymmetrical system of power sharing.
- Britain has also allowed regional ethnic identities along with the national identity.
- Finally, Britain is becoming a hybrid constitutional system with features of both unitary and semi-federal models.

Sri Lanka

Sri Lanka also provides an example of a unitary state that has incorporated devolution within is constitutional structure. This change began with the 13th Amendment introduced to the 1978 Constitution in 1987.

- The structural foundations for Sri Lanka's modern centralized state were laid during the British colonial rule. The first step towards the island's political unification was the unification of the areas under the Kandyan Kingdom with the rest of the country through the Declaration of 1818. The Colebrook-Cameron reforms of 1833 unified the island administratively and judicially.
- Donoughmore reforms of 1931 and the Soulbury Constitution of 1947 further consolidated the unitary foundations of the modern Sri Lankan state.
- The Soulbury Constitution did not characterize the Sri Lankan state as a unitary state. However, the structure of the state it laid down was unitary and centralized. It closely followed the British model of a unitary constitution.
- The first constitutional characterization of the Sri Lankan state as a unitary one was made in 1972 in the First Republican Constitution of Sri Lanka. Article 2 of the 1972 Constitution reads: "The Republic of Sri Lanka is a Unitary State." The 1978 Constitution also continued this clause.
- The 13th Amendment to the 1978 Constitution, enacted in 1987, introduced a change to this unitary and centralized character of Sri Lanka's constitutional model. The change was effected within a framework of devolution.

Devolution is not federalism. As a framework of power-sharing between the central government and the provinces, it offers a less powers than in the federal alternative. The autonomy it offers to provinces is more than in a unitary model and less than in a federal model. Therefor, unitary constitutions with devolution can be characterized as hybrid constitutions.

In Sri Lanka, too, it was the ethnic problem that provided the context for the unitary constitution to be altered to accommodate devolution. Sri Lanka's ethnic problem has evolved through three stages.

(a) During the mid1930s. Sri Lanka's Tamil political leadership demanded for the minorities what was called 'balanced representation' in the State Council. The argument advanced by the Tamil leadership was that in order to avoid the political dominance of the Sinhalese politicians under the system of universal franchise, the majority Sinhalese community on one hand and all the ethnic minorities on the other hand should have balanced, or equal, representation in the State Council. This was also called 'fifty-fifty demand.' This was the phase of representational demands.

(b) The second phase was the period of federal demand which began in the early 1950s and continued till the late 1970s. It was at the 1952 parliamentary election that the federal party of Sri Lankan Tamil started campaigning for a federal constitution.

- The argument advanced by the Tamil leaders was that since the Tamil-speaking citizens suffered discrimination in the independent Sri Lanka's the Northern and Eastern provinces – which were the majority provinces of the Tamil-speaking people – they should be given regional autonomy through a federal constitution. (Regional autonomy is self-rule to regions).

- Although not implemented, the Bandaranaike-Chelvanayakam Pact of 1957 and Senanayake-Chelvanayakam Pact of 1965 marked two important signposts of Sri Lanka's journey towards altering its unitary state structure. In both occasions, the Sinhalese and Tamil leaders agreed to establish a system of power sharing, which was less than federalism. The proposed regional units of power-sharing were to be called 'Regional Councils' and they were to be set up in the Northern and Eastern provinces. These two proposals were withdrawn due to opposition.

(c) The third phase of ethnic civil war after 1983. It lasted till 2009. It was during this period that steps were taken to reform Sri Lanka's unitary state. The Indo-Lanka Accord signed by Sri Lanka's President and India's Prime Minister in July 1987 was an important landmark in this process. The accord laid down the following principles to reform the Sri Lankan state.

- Recognition that Sri Lanka is a multi-ethnic society.
- Acknowledgement that the Northern and Eastern provinces as the traditional homeland of the Tamil-speaking people.
- Setting up of a Provincial Council for the two provinces after merging them.

- Under the 13th Amendment, these provisions of the Accord were introduced to the 1978 Constitution. It created a constitutional arrangement for devolution in Sri Lanka. The 13th Amendment established devolution and provincial councils not only for the North and East, but also for the other provinces as well.
- The extent of devolution introduced by the 13th Amendment is less than a federal framework. However, it was an important landmark in the process of constitutional evolution in modern Sri Lanka.

Provincial Councils and Devolution

The 13th Amendment has recognized three tears of government for Sri Lanka – central, provincial and local. Constitutional recognition of local government is an indirect outcome of the 13th Amendment.

- Provincial Councils are the new institutional tier between the central government and local government. Provincial Councils belong to the category called 'devolution.' The constitution makes provincial councils a part of the overall structure of government. However, the composition and procedures of provincial councils are defined by normal law, that is, the Provincial Councils act No. 42 of 1987.
- It means that changing the provincial council system requires a constitutional amendment with a two-thirds majority in parliament. However, the working of the provincial council system can be altered by normal law, passed by parliament with a simple majority.

- After the introduction of devolution, there is a controversy about whether Sri Lanka is unitary or federal. Since the unitary clause of the constitution has not been altered, the legal foundation of the constitution's unitary basis has not been changed. It is not a federal constitution since it does not have all the federal features. It is still a unitary constitution with certain federal features. That is why the concept 'a hybrid unitary constitution' provides a better description.

How Power is Devolved

Devolution and Decentralization

It is important for us to know at this point the difference between devolution and decentralization. Sri Lanka has had decentralization much before devolution. Decentralization refers to bringing administrative system away from the centre to the regions and outside provinces as well as districts. It decentralizes only the administrative powers whereas devolution decentralizes political power. Political power includes legislative, executive and judicial powers.

Examples of administrative decentralization are the system of district secretariats and divisional secretariats. Local government is also a form of decentralization of administration. Decentralized institutions are mere implementing agencies of policies made by the central government. In contrast, provincial councils have powers to make policies and enact laws on certain subjects to be implemented within the province.

The 13th Amendment elaborates Sri Lanka's devolution under three lists of powers, which are called:

- Provincial Council list
- Reserved or Central list, and
- Concurrent List.

This method of three lists is similar to the Indian constitution.

I. **Provincial Council List of Powers**: This list includes powers over

   - Police and public order
   - Provincial planning
   - Local government
   - Housing and Construction within the province (except projects under National Housing Development Authority).
   - Roads, bridges and ports within the province
   - Social services and rehabilitation
   - Transport within the province
   - Agriculture and agrarian services
   - Rural development and health
   - Indigenous medicine

- Rest Houses maintained by local government bodies
- Markets and fairs
- Supply and distribution of food within the province
- Cooperatives
- Land and irrigation
- Animal husbandry
- Development and planning
- Youth Correctional Centres
- Liquor
- Cemeteries
- Mines and mineral development
- Libraries and Museums
- Historical and archeological sites
- Theatre, cinema, entertainments etc., within the province
- Sports and Sports development
- Betting and gambling
- Generation and promotion of electricity and energy

This is a fairly extensive list of devolved powers to provincial councils. Although Provincial Councils have powers over the police and law and order, that power does not include the subjects of national security, or deployment of national military units.

In maintaining law and order within the province, the provincial police should function under the direction and supervision of the national Inspector General of Police. The provincial police is headed by a Deputy Inspector General of Police, who is seconded to the province from the national police service.

Although the provinces have power to establish provincial Police Commissions, as a part of devolution, this provision has not yet been implemented. Thus, the devolution of police powers is largely limited to the constitution.

On the question of land doo, there is continuing dispute over the land powers of provincial councils. According to the Constitution, land belonging to the republic belongs to the central government. However, the Clause 1.2 of the Schedule II of the 13th Amendment says that the utilization of government land by the central government and the provincial councils should utilize land on an agreement between the two entities. According to clause 1.2 of the Schedule II, it is the responsibility of the central government to provide land to the provincial councils for development projects. If any land within the jurisdiction of the provincial council is given to an individual or an organization, that requires the consent of the provincial council.

Provincial Councils also have important powers over education. They have the power to monitor and manage schools other than those of the central government, or 'national schools.' Personnel management in the education sector should be done in accordance with the limitations of the national system of personnel management.

II. Reserved List

The following is the list of subjects reserved for the central government. It includes:

- Defence and national security
- Foreign Affairs
- Post and telecommunication
- Radio and television
- Justice
- Finance, monetary policy and external resources
- Foreign and inter-provincial trade and commerce
- Harbours and ports
- Aviation and airports
- National transport
- State land, minerals and mines
- Immigration, emigration and citizenship
- Elections
- Census and statistics
- Professional occupations and training
- Archives, Archeology and archeological sites

These are subjects of national importance. Any subject that has not been specifically mentioned in any of the three lists will also be a subject in the Reserved List.

III. Concurrent List

Concurrent List is the subjects over which both the central government and **provincial councils have joint powers for making laws and implementation. There** are 36 such subjects in the Concurrent List of the 13th Amendment. However, if there is a conflict between laws enacted by the central government and a provincial council on any subject, the central laws will prevail.

The following are the main subjects in the Concurrent List:

- Planning
- Higher education, education and educations services
- National Housing construction
- Acquisition and requisitioning of property
- Health Social services and rehabilitation
- Agriculture and agrarian services
- Registration births, marriages and deaths
- Renaming of towns and villages
- Environment protection
- Cooperatives
- Cooperative banks
- Irrigation

- Fisheries
- Animal husbandry
- Festivals and exhibitions
- Tourism
- Employment
- Printing of newspapers, books, and periodicals and printing presses
- Charities and charitable institutions
- Drugs and poisons

Legislature and the Executive of the Provincial Council

The 13th Amendment does not give provincial councils powers to make 'laws.' They have powers to make 'statutes.' Statutes have the same effects of laws, but the difference is that they are valid only within the relevant province.

This statute making power of the provincial council is exercised through the Council elected by the voters within the province. The legislature of a province is uni-cameral. Members of the Council are elected for a term of five years. The umber of members for a particular Council is decided by the national parliament, taking into consideration the population and the territorial size of the province.

According to the 13th Amendment, the executive of a Provincial Council consists of (a) Provincial Governor, and (b) Chief Minister and the five-member Council of Ministers.

The Governor of a Provincial Council is the representative of the President. He/she is the head of the Provincial Executive. He/she acts on the advise of the Council of Ministers. Governor has power other than ceremonial powers.

Among the powers of the Governor are:

- Returning the Provincial Statutes to the Council for reconsideration.
- Referring the Provincial Statutes to the Supreme court to determine their constitutionality.
- Reserving the Statutes for the opinion of the President.

Provincial councils have very little power over the Governor. The only control is passing a no-confidence motion against the Governor, by a two-thirds majority of members of the council, including those who are not present.

The actual executive authority of the council is with the chief minister and the council of Ministers.

Chief Minister is the member of the Council who enjoys the confidence of the majority of council members. But what happens actually is that the political party, which has the majority of members in the Council, decides who should be the Chief Minister and the other members follow that decision.

Members of the Council of Ministers are appointed on the advise of the Chief Minister. Here too, what happens in reality is that the political party decides who should be the ministers.

Overview

The 13th Amendment shows hat Sri Lanka's constitutional structure has moved away from its unitary model. However, the unitary clause of the constitution remains unchanged. Similarly, the Supreme Court has re-affirmed that the constitution remains unitary. If the Provincial Councils are given full powers over police and land, Sri Lanka's system of devolution can come somewhat closer to the Indian model of power sharing.

03 – UNITARY AND CENTRALIZED MODEL –FRANCE

There is a special reason for us in Sri Lanka to learn about the French Constitutional model. The Fifth Republican Constitution of France, adopted in 1958, has provided a model for Sri Lanka's executive presidential system under the 1978 Constitution.

France was also the first democratic republic in the modern world. After the fall of the Monarchy in 1789, it became a democratic republic, with liberty, equality and fraternity as its motto. Republic is a form of government based on the principles of human freedom and equality. It is also a government in which the head of state is directly elected by the people for a limited period in office.

The French constitution and the system of government also enable us to understand the nature of unitary and centralized system of constitutional government. France is a highly centralized unitary state. The main feature of a unitary state is that the country is governed by a single central authority.

But, France also has a unique feature. It has an extensive system of local government and administrative decentralization. However, they are agencies of the central government to implement its decisions.

It is usually accepted that the unitary constitutions work better in societies with ethnic and cultural homogeneity. It also requires a strong feeling of patriotism shared by all citizens.

There is also a popular belief that unitary systems are better suited for small nation-states. France is an example where a big state has also successfully adopted a unitary and highly centralized system.

Before we examine the specific features of the French constitution and government, let us understand its historical evolution.

France before the Contemporary Unitary and Centralized State

France became a Republic after the collapse of the monarchical form of state with the revolution of 1789. The Republic is a democratic form of state with an elected President as head of state. The Head of state in a Republic can be elected directly by the people, or their representatives. The latter is called electoral college.

After the Revolution of 1789, there have been five constitutional systems in France. These constitutional changes have also been violent transitions of power. Each constitutional system in France is called a Republic (First Republic, Second Republic and so forth)

The First Republic was established in 1792, four years after the French Revolution that marked the fall of King Louis XVI. It ended in 1804 when Napoleon Bonaparte became the Emperor of France. After 1804, there were several temporary monarchical regimes with the decline of Napoleon's power. The year 1848 marked the final end of the phase of the First Republic.

The Second Republic came into being in 1848. Louis Napoleon was elected its President. However, in 1852, Louis Napoleon declared himself the Emperor of the Second French Empire. That marked the end of the Second French Republic. The Second French Empire of Louis Napoleon III collapsed in 1870 when France was defeated by Prussia in its disastrous war of expansion.

The Third Republic was established in 1870 and lasted till 1940. The Third republic also failed to introduce any degree of political stability to France. During the ten period between 1929 and 1939, there were ten different governments in France, with no political continuity and stability. The Third Republic collapsed in 1940 when Nazi Germany invaded France in 1940.

Frances Fourth Republic was formed in 1946 at the end of World War II. There was no political stability in France under the Fourth Republic either. The period after World War II also saw a world -wide movement towards decolonization. In that context, the French overseas empire also collapsed. The ensuing political confusion and uncertainty in France weakened the Fourth Republic.

During the Fourth republic, the French economy recovered, with postwar reconstruction boom. However, the independent anti0colonial struggles in the colonies, particularly in Indi-China and Africa, created political crisis in the domestic politics on France. Algeria's war of independence further intensified the French political crisis and the instability of the Fourth Republic.

This provided the background for the Fifth French Republic of 1958. It came forward as a solution to the crisis-ridden France under the Fourth Republic.

Amidst the crisis, the legislature was dissolved in France. The constitution of the fourth republic was no longer relevant or effective. General Charles de Gaulle came forward as the savior of France and proposed the Constitution of the Fifth

republic in 1958. The new Constitution was passed on 28th September 1958 and the first republic was declared on 4th October 1958.

The Fifth Republic created a strong presidency with sharing of governmental power between parliament and the President.

General de Gaulle, the founder of the Fifth republic believed that France needed a strong and centralized state under a strong Presidency. The Constitution of the Fifth republic reflected this personal belief de Gaulle who became the first President of the Fifth Republic under the new Constitution. The following background factors influenced this centralized constitutional system:

- The economic, intellectual and cultural dominance exercise by Paris, Frances capita city.
- Paris was also the centre of Frances political life.
- Centralization was felt needed to ensure the security f France as s ate, amidst hostile foreign powers and internal 'enemies.'

Thus, the Fifth republican constitution made France into a indivisible, centralized and unitary state.

Main Features of the Gaullist System In France

President

The Fifth Republican Constitution is also known as Gaullist system. It is thus known, because it was created by and for General Charles de Gaulle. It created a complete Presidential system of government, replacing the parliamentary system existed earlier.

It sought to rectify the weaknesses of the Third and Fourth Republics. Political instability, weak executive, and the lose organization of political parties were their main weakness.

A President with executive powers was viewed as necessary to be the symbol of unity and political stability of the Republic. The all - powerful President was the main creation of the new Constitution. It n fact replaced the parliamentary system with a sting presidential system.

Initially, it was proposed to elect the President by an electoral college, in order to avoid the instability that can be created by a system of direct election. However, at the referendum of 1962, it was decided to elect the President directly by the entire nation.

Thus, the French President is elected on the basis of a two-stage voting system. If no candidate gets a majority over 50 percent of votes at the first election, a second election is held within two weeks. The candidates at the second election are those two candidates two have polled the highest number of votes at the first election. President is elected for a term of five years.

Powers granted to the President under the constitution of the Fifth republic reflect the centralizing tendency of the French system. Among those presidential powers are:

(a) Traditional powers, entitled to the President as Head of State.

(b) New powers granted to the President: President is to function as the symbol of national unity. He is also supposed to stand above internal political divisions of the country and party politics. The role of President de Gaulle during the Algerian crisis and President Giscard De'staing during the economic and financial crisis of 1976 are examples.

President is also above parliament. He heads the Executive which is more powerful than the parliament. Prime Minister and Ministers are appointed by the President. However, ministers cannot be members of parliament at the same time. If a member of parliament is appointed to the cabinet, s/he should resign from parliament. Thus, there is separation of powers between the executive and the legislature.

(c). Emergency Powers: President has the powers to declare a state of emergency when there is a threat to the republic, national independence, territorial integrity, or the fulfillment of international obligation under a treaty or the institutions of public authority are under threat, President can declare a state of emergency.

II. Prime Minister and the Cabinet

The French Prime Minister and the Cabinet are relatively independent of legislature which has two houses, National Assembly and the Senate.

President appoints the Prime Minister. President also appoints ministers on the recommendation of the Prime Minister. The Prime Minister by tradition is a member of the National Assembly, but it is not a strict constitutional requirement. President can appoint even a non-member of parliament as PM.

Once appointed by the President, PM does not have to get a vote of confidence passed at the legislature. Nor can the legislature remove a PM or a minister by a parliamentary vote of non-confidence. Ministers are no members of the legislature either. If a member is appointed to the Cabinet by the President, s/he has to resign from the relevant Assembly.

III. Parliament

The French parliament has two Houses, National Assembly and the Senate.

The National Assembly has 577 members and the Senate 32 members.

The French parliament is not as strong legislatures in other countries. President has the right to dissolve parliament in situations of crisis.

IV. Judiciary and President

According to Article 64 of the Constitution, President is the guarantor of the independence of the French judiciary.

Decentralization of Administrative Power in France

France does not have devolution of political power. It has an extensive system of decentralization of administrative power. Devolution involves decentralization of legislative executive and judicial power to elected political units in the periphery, which re called provincial or state governments. The French constitution does not recognize such as system. In that sense, the French political system is unitary.

Decentralization involves only administrative powers of the government. It is a system identified with the unitary constitutions. In order for the central government to carry out its administration efficiently, it creates administrative structures and units in the periphery.

France has a system of political centralization and administrative decentralization. President is the institution around which the political power is centralized.

Structures of Administrative Decentralization

France has a strongly centralized government structure. It has three tiers of sub-national government. They are:

- Regions –Similar to provinces
- Departments –Small local units within regions
- Communes –Local community units.

France has 22 Regions and 96 departments. They are divided into 320 sub-units called *Arrondissements* and 3530 Cantons. There are 36, 383 Communes in France.

In the above three tiers, there are four institutions that make decisions at the local level. Thus, the local decision - making is done by a combination of people's representatives, state bureaucracy and the local civil society. They are:

- Elected Representative bodies –elected representatives to Councils
- Prefect – Executive officer
- Offices of the Central government
- Trade Unions and Pressure Groups

Elected Representative Bodies: All Regions, Departments and Communes have elected representative bodies to make decisions. They are the deliberative agencies of the local government. In Regions, there are Regional Councils and Social and Econ0mic committees which are elected. Departments have Departmental Councils. Communes have Municipal Councils.

Members of Regional Councils are elected. Prefect is the non-elected executive officer of a Region. Regional Council has three groups of representatives. They are: (a) members of the two Houses of National Legislature elected from the Region, (b) representatives of Department Councils, and (c) representatives of Commune Councils.

The main task of the Regional Council is preparing and approving the budget. The task of the Economic and social committee is advisory. It has representations from trade unions and interest groups.

Departments have their own Department Councils which have elected members. The head of the executive of each department is Prefect. Departments function as agencies of the central government. Their subjects of responsibility include roads, schools, welfare, and service delivery.

Commune members are elected. Municipalities function within the Communes. The word 'Commune' is used in France to refer to al municipalities, irrespective of their size. There are about 37. 000 Communes in France. The main function of Commune is to carry out responsibilities given by the central government. This includes the provision of services as well as charging fees for such services.

Prefect

Prefect is the representative of the central government in Regions, Departments and Communes. He also coordinates the functions of the central government at the local level. There are different grades of Prefect authorities such as Regional Prefect, Department Prefect and Sub-Prefect.

Criticisms of Decentralization in the French Centralized State

The French system of decentralization is carried out within a centralized system, therefore, it has been subjected to criticism as well. Some of the man criticisms are:

- Addressing local needs requires authorization of the central government.
- Decentralization regulations are complex, leading to escalation of administrative costs and delays.
- This system is insensitive to local needs.
- It is not responsive to local initiatives made to resolve local problems.
- It is not a democratic system. It is a highly bureaucratic system.

Because of these criticisms, the unitary and centralized state in France has been subjected to new reforms. We need to aware of them too.

Suggested Teaching and Learning Activities

Do some research and prepare a report of the constitutional models of the following countries: USA, Switzerland, India, France, Great Britain and Sri Lanka.

The report can be organized on the following sub-themes:

(a) Beginnings and evolution of the Constitution
(b) Nature and characteristics of the system of government
(c) Lessons for us
(d) Current trends.

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11 Making Public Policy

Competency : Display the understanding that public policy making is a product of the political process.

(20 periods)

Competency Levels :

11.1 Describe the process which combines politics and public policy.

11.2 Examine the role of political parties and civil society in relation to public policy making.

11.3 Explain the role of bureaucracy in the process of policy implementation

Learning Outcomes :

- Define public policy
- Explain the importance of the study of public policy.
- Clarifies the relationship between public policy and political process.
- Explains the role of civil society and political parties with regard to public policy
- Show the co- relationship between public policy and bureaucracy

Introduction

There are several definitions of what 'public policy' is. By looking at some of such definitions, we can arrive at a fairly good understanding about public policy.

- First of all, pubic policy is a political process. It is concerns with issues relevant to all.
- Public policy is a process. Not a single policy document or event as such.
- It is political authorities that make, implement and evaluate public policies.
- The common issues that are addressed by public policy can be real ones, and even imaginary ones.
- Therefore, the form, content and implementing process of a public policy can change in accordance with the information available to policy-making authorities.

A guideline to clarify the subject matter:

Public Policy- A Few Definitions

- Pubic policy is about what the governments do, why do they do it, and what differences it makes. - Thomas R. Dye.

Background to the Study of Public Policy

- The academic study of public policy began in the USA.

- The traditional understanding was that making public policy was the job of the politician, and implementing the policy is the task of the administrator. Therefore, policy implementation was viewed as a technical exercise. It led to the belief that politicians and citizens should not get involved in, or influence, public administration.

- However, it is clear that public policies have not always been successful in resolving public issues. Unemployment problem is an example.

- Thus, political scientists during the 1960s made an attempt to recover the missing link between policy - making process, which is a political task, and the policy implementation, which is a technical exercise.

- As a result, Public Policy Studies emerged as a sub-field of Political Science.

- There are two ways of studying Public policy."

  (a) Study 'of' policy: This involves studying the questions such as: What are the conditions that make a pubic policy success or failure? Hoe do they enter the political agenda?

  (b) Study 'in' Policy: The focus here is on how to implement a policy successfully.

  In the study of public policy, these two aspects are in fact closely related.

Why Should we Study Public Policy?

1. If we look at it from a scientific point of view, by studying public policy we can understand the factors that impact on policy, their consequences. That will in turn enable us to make recommendations for better and more effective governance.

2. Looking at it from a political point of view, we can see which level of government –national, provincial or local – which has succeeded in resolving problems of the public.

3. If we look at it from a practical perspective, citizens have a right and duty to get involved in resolving public issues. Citizens should have understanding of the public policy process. Otherwise, people cannot understand the nature of policies implemented and their negative or positive outcomes.

Public Policy: Concepts

Lets us now identify three key concepts in the field of public policy.

- **Policy Analysis** refers to the description and analysis of the factors that lead to the activities of government and their outcomes. The task of policy analysis is undertaking new studies by building and testing hypotheses about policymaking and implementation.

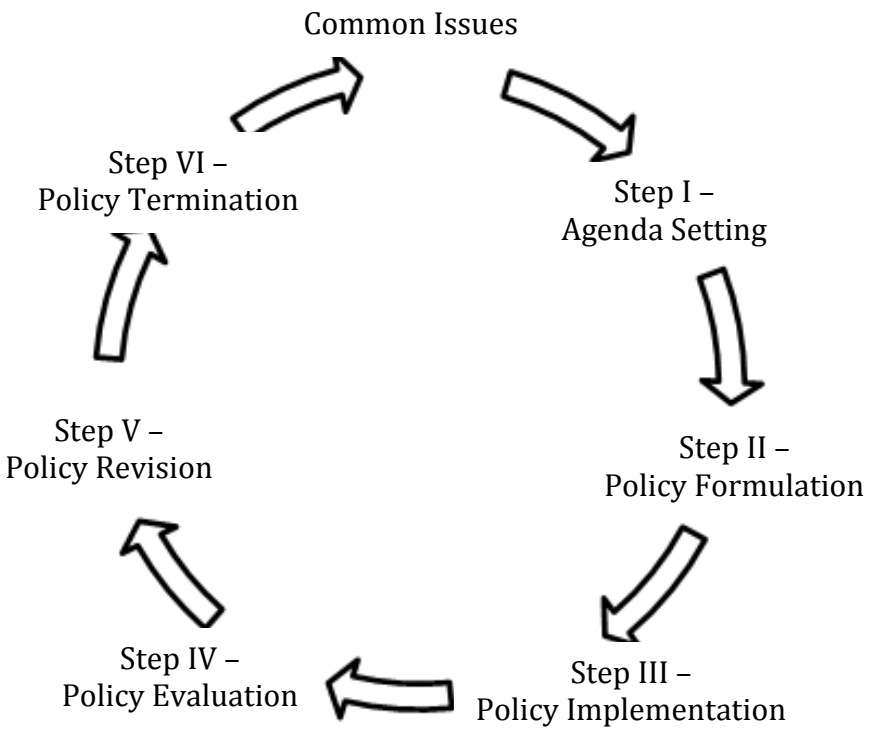
- **Policy Advise** is a political activity. This activity involves recommendation of new government action to change a prevailing situation and directing government authorities for such action by means of brining pressure on the government through networking. Politicians, administrators, the media, civil society and professional groups, and political parties are usually involved in such activities.

- **Policy Leadership:** Policy leadership emerges when an individual or a group of individual bring to government attention some public issue of the people. It is through policy leadership that a public issue can enter government policy agenda.

Policy Process

Policy Process emerges when the government responds to current policy issues in the light of past experiences. Attempts to resolve problems at present are also a futuristic exercise because they create better conditions for the future. Policy process is a 'Policy Cycle' with several phases. Implementing a policy through a government institution, evaluation of the policy outcome, revision of the policy and termination are stages of the policy cycle.

POLCY CYCLE



Source: *James Lester, Joseph Stewart. JR.2000 P.5*

Policy agenda is the list of subjects or issues that officials are working on.

Policy - making is making laws to resolve an existing problem or prevent an unfavourable situation in the future.

Policy evaluation is drawing attention to consequences of policy. It considers possible outcomes of a policy and whether the outcomes have been reached or not.

Policy revision is change of policy after policy evaluation.

Policy termination is abandoning outdated policies, or ones that cannot be revise.

11.2 Public Policy and Political Authority

A political authority can be defined as

There are three such public authorities involved in resolving public issues: the Legislature, the Executive and the Judiciary.

Role of Legislature in Public Policy

Legislature enacts laws by combining (a) the authority which the people's representatives posses through people's sovereignty to resolve problems of the people, (b) with the authority derived from the sovereignty of the state.

People's representatives initiate government action on public issues or social demands through the legislative process.

The legislature has the power to allocate public funds necessary for the implementation of policy initiative to respond to public demands.

At present, powers and authority of the legislature with regard to public policy is diminishing due to several reasons. Some of them are:

(a) Spread of the political party system: Because of the party system, voters vote for political parties to make specific policy choices. Legislature usually comes under the influence of the political party with majority of seats which has its own policy priorities.

(b) Because of the increasing complexity of social problems, the capacity of the legislature to shape public policies is also declining. Its role is being taken over by policy specialists. The legislature has become a rubber stamp which approves policies formulated by specialists and the bureaucracy.

(c) Policy makers of the legislature can only indicate the b road directions of policy. What becomes policy is what is implemented at the end.

Thus, empirical studies show that the bureaucracy, which implements policy in detail, has a greater say in determining the nature of policy.

Public Policy and the Executive

According to political theory, the political executive – the Cabinet of Ministers --is the ultimate authority which implements public policy.

The political executive is answerable to people through the legislature. This is the practice in parliamentary democracies.

Even in a presidential system, the political executive has to give leadership to the policy implementation process. The political executive has to depend on the civil service in the task of policy implementation.

However, in many countries, the political executive also decides policy. In parliamentary democracies this has now become the general practice, because it is the political executive – the Cabinet of Ministers – which decides the legislative agenda.

Therefore, there is now the dominance of the political executive over the legislature in public policy making.

Pubic Policy and the Judiciary

The role of the judiciary in the public policy process is usually not acknowledged. However, the judiciary has an important role to play in the policy process.

When there are legal issues regarding public policies, it is the judiciary which interpret their legality and constitutionality. The judiciary can resolve public disputes among different social groups on policy issues. It can even invalidate some aspects of policies on the grounds of constitutionality.

If the courts decide that a particular law is invalid because of its unconstitutionality, the policy relating to that law too comes to an end. Courts can exercise this power only when there is judicial review of legislation. In some countries, the judiciary has an advisory roe to play on policy when a law is still at the Bill stage. Sri Lanka is an example. After the law is passed, ere are other judicial remedies such as writ orders to correct adverse consequences of policy.

Pubic Policy and the Permanent Executive

The permanent executive is created in the modern world as an institution of the state to implement policies. It is a permanent body of personnel called 'officials.' It is also called the 'bureaucracy.'

The permanent executive is viewed as a-political entity of specialists. When the government changes, the permanent executive does not change.

The main function of the permanent executive is the implementation of government policy. It functions independently under the leadership of the Political Executive.

According to the traditional theory of public administration, the permanent executive does not have a policy-making role. However, there is now a belief that officials are emerging above politicians in public policy because of the complexity of policy, the knowledge and expertise that officials possess, and also because of their access to information.

Some even say that the real policy-makers today are the administrative officers. They call this bureaucratization of politics.

In the contemporary world, devolution of power is viewed as an effective approach to resolving people's problems through public policy. In federal

systems, there are provincial governments with legislative, executive and judicial powers. They have a better capacity to address public needs through policy-making and implementation suited to the local needs.

Local government institutions are the local and community level authorities that can also effectively address public needs through policy implementation.

11.3 Public Policy and Political Parties

Political parties are important at every stage of public policy. They play an important role in setting political and policy agendas.

Setting the political agenda means creating discussions and discourses in the public sphere on issues that warrant the attention of the government and building political support for their implementation.

Setting policy agenda involves the drawing of government attention to the need of resolving public issues that are in the public domain.

In democracies, it is the political parties that formulate public issues as policy issues that require government attention.

What political parties do is to attempt to capture political power by mobilizing public opinion on policy issues by building solidarity and support around them. Once in power, they bring about legislation and formulate policies. Political parties also educate the people on the positive and negative aspects of existing policies. It in turn enriches the political agenda. Thus, in modern complex societies, political parties have become the main vehicle that facilitates people's participation in the policy process.

11. 4 Public Policy and Civil Society

As citizens, our life functions in three spheres, public sphere, private sphere and civil sphere.

i. **Public sphere** is where the state and the government operate in providing common goods and services. Its main feature is that it is common, that is, it belongs to all, and open.

ii. **Private sphere** is where we function as individuals and maintain individual relations. It is limited and private, that is, not open to the public. Its domain is limited to family and friends. Market is the place where these individuals meet to satisfy their personal consumer needs.

iii. **Civil sphere,** as contemporary social and political theorists say, is in between the public and private spheres. It combines characteristics of both the public and private spheres. This is where individuals commit themselves to common and public goals.

Civic organizations constitute the sphere in which citizens meet each other, discuss common problems and find solutions to them. Citizen's organizations active in this sphere are called civic organizations. They are also called civil society organisations.

These civic organizations are an important actor in the public policy process. They participate in every stage of the policy cycle.

Role of Civic Society Organizations in Public Policy Process

i. Bringing people's problems to the attention of political and policy agendas.
ii. Facilitating meetings between stakeholders and relevant individuals and institutions to resolve those problems.
iii. Building understanding and agreements among alternative approaches for action.
iv. Maintaining effectiveness and dynamism in policy implementation.

The above role of civil society or civic organizations also tell us that their role is limited to policy advocacy, facilitation and review.

However, during the past few decades, civil society organizations have gone beyond this limited role and become agencies for policy implementation.

Today, governments even authorize Non-Governmental Organizations (NGOs) to implement their policies. The government-civil society cooperation can be seen in such areas as poverty alleviation.

It is through civil society that social groups, who are socially and politically excluded are given recognition in the public sphere. Women, marginalized caste groups, and the poor communities are examples.

Civil society organizations can also take up global policy issues that governments cannot address, and mobilize people across countries.

11.5 Public Policy and Bureaucracy

The English word bureaucracy is made of the combination of two words, *Bureau* and *Krutos*. The meaning of '*bureau*' is 'official.' *Krutos* is 'rule.' Thus, the literary meaning of the word bureaucracy is 'rule by officials.'

In its wider sense, bureaucracy is the class of officials whose task is the implementation of policy.

Max Weber (1864-1920), a German sociologist, has presented the classical social science theory about bureaucracy. Weber was also a founder of

modern social theory. Weber developed a theory of 'Ideal Type' about bureaucracy.

Weber's theory of bureaucracy is linked to his theory of authority. A question he investigated was why people accept power. His answer is that people accept power because power has 'authority', and therefore they view accepting, and submission to power as something that is right, legitimate and the correct thing to do. Then he divided authority into three types, traditional, charismatic, and rational-legal.

In traditional authority, people accept power and submit themselves to power, because it comes with the tradition.

Charismatic authority is the power some individuals have because of the special persona qualities they possess. Some religious and political leaders possess that power.

Rational-legal authority is specific to modern, capitalist and industrial societies. There, power exists as something impersonal. It comes from laws, regulations, and impersonal organization of power. People accept power because it is legal and rational.

Weber says that the modern bureaucracy is the most important manifestation of this modern authority. Officials, or bureaucrats, derive their power from the authority of the law, regulations and the institutional structure of the modern state. The laws, regulations, and institutional cultures also determine their behavior and values.

Weber's 'ideal type' of bureaucracy is a theoretical model of the nature of modern bureaucracy and how it works. An ideal bureaucracy has the following characteristics:

i. **Hierarchy**: In a hierarchy, authority flows from the higher to lower levels. Bureaucracy has such an authority system. Thus, personnel at the lower levels of hierarchy are subjected to the orders and supervision of those at higher levels of authority. Thus, every position of a bureaucratic organization is subjected to control and supervision.

ii. **Division of labour**: Functions in a bureaucratic organization are divided. This functional division of labor is based on specialization. Division of labour creates specific spheres of responsibilities within the organization. A person who holds a specific office or position within the organization is responsible for the functions allocated for that position. That also gives authority to that person to perform the functions allocated for the position s/he holds. In a big organization, there is a class of managers. Their function is coordination of the work of different officials.

The staff of a bureaucratic organization gets a salary. The laws and regulations of the organization determine their terms of office. They are recruited to the organization on the basis of their education, qualification and skills.

The organization does not belong to an individual. It is an impersonal organization. The relationship between officials is also impersonal. They have written instructions about their duties.

Bureaucratic officials usually have loyalty to the political authority.

These are the characteristics of an ideal type of a modern bureaucratic organizational model. Weber's aim was to build such a model in order to capture the basic features of the modern bureaucratic system.

Thus, the modern bureaucracy, which is an actor in the public policy making and implementation, has the following characteristics.

- A system of officeholders or bureaucratic with power and authority to perform certain functions.
- Distribution of functions among officials on the bases of division of labour.
- Organization of a hierarchy in which authority is distributed from higher to lower levels of officials.
- Each level of officials has power and authority given by law to perform its functions and responsibilities.
- The relationship among officials is impersonal and therefore formal and official.
- The bureaucratic system is loyal to the political authority and at the same time politically neutral.

Proposed Teaching and Learning Activities

i. Prepare a report on how public policy is made.

ii. Select one or several pubic policies made recently in Sri Lanka. Prepare a report showing their welfarist goals as well as positive and negative aspects.

iii. Show in a chart how the bureaucratic system is organized in an office which is responsible for implementing government policy.

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12. Second Republican Constitution of 1978

Competency : Identifyandexplainthestructuralfeatures, institutionalcompositionandbalanceofpowerinthesystemo fgovernmentestablishedby1978constitution.

(70 periods)

Level of Competency :

12.1. Studythestructure, centralizationofpowerand institutionalcompositionofthesystemofgovernmente stablishedby1978 constitution.

12.2. Identifiesthebackgroundtoconstitutionalame ndmentswhichmadestructuralchangestothe1978 constitution.

12.3. Recognizesthechangestothestructureofthec onstitutionof1978caused bythe 13th,17th,18thand19thamendments

Learning outcomes :

- Clarifythenatureandpowersoftheexecutiveof constitutionof1978.
- Explainthenature,powersfunctionsofthelegislature
- Explaintherelationshipbetweentheexecutiveandthelegislatur e
- Examinethetheoryandpracticeofindependenceofthejudiciar y
- CommentontherelationshipbetweentheexecutiveandPublic ServiceanditsimpactonthePublicServiceanditsimpactonthe PublicService
- Explain how power has been centralized around the executive and its consequences.
- Describe the constitutional provisions relating to the Ombudsman, Fundamental Human Rights and the judiciary.

- Describe comparatively the different electoral systems and public responses.
- Explains the changes introduced by constitutional amendments

Introduction

A Constitution is the supreme body of laws that govern the affairs of a country. That is why a constitution is called the supreme or basic law of the land. It means two basic things. Firstly, the Constitution is superior to the ordinary law. Secondly, the ordinary law derives its legality and validity from the Constitution.

The Constitution is also the basic legal document that defines the nature, character and structural as well as institutional composition of the state. It lays down the principles that govern inter-institutional relations of the state as well the nature of relationship between the state and citizens. For the latter, the guarantee of fundamental rights is crucially important.

The objective of this unit is to make students of political science as future citizens aware of the main features of the 1978Constitution.

This unit will enable students to study (a) structural features and characteristics as well as composition of governing institutions, and (b) mechanisms of checks and balances under the Constitution of 1978. It is also expected that this unit would prepare the students to study the executiveandlegislative branches of the state and their inter - relationships; the judiciary and its independence;fundamental rights; the executive and the public service;and the executive and the concentration of powers in the office of the President as well as its changes.

In this unit, students will study three novel elements introduced under the 1978 constitution, i.e. theneweleсtoralsystem of Proportional Representation,theOmbudsman, and the referendum. Students are also expected to learn about four important constitutional amendments so far introduced since 1978 (13th,17th, 18th, and 19thAmendments) and background to their introduction and resulting structural changes.
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A guideline to clarify the subject matter:

Basic Structural Features of the 1978 Constitution

This unit will first explore the basic structural features of the 1978 constitution,. Accordingly, followings topics will be discussed:

- The Executive
- The Legislature

- Relationship between the Executive and the Legislature
- Judiciary
- Theory and Practice of the independence of judiciary
- The Executive and the public service,
- Concentration of powers in the executive
- Fundamental rights
- Ombudsman
- Electoral system, and
- Referendum

The next step of this unit is to discuss the significant constitutional amendments to the present constitution with special reference to the 13th, 17th, 18th and 19thAmendments. Students will also explore the background of such amendments and their impact on structural changes of the constitution and the system of government.

1. Executive (Prior to 19th Amendment)

It needs to be noted here that the nature of the executive as well as the structure of government, initially established by the 1978 Constitution, have gone through some changes under the 17th, 18th, and 19th Amendments. Therefore, teachers are expected to explain to students this background factor at the beginning of this theme.

- The executive introduced under this constitution had incorporated elements of both Presidential and Cabinet forms of government. Consequently, it had created a political executive which has acquired the character of a dual executive.

- The political executive is composed of a President who is directly elected by the people in a separate election, and a CabinetofMinisters with a Prime Minister who have been chosen from among the party or group who win the consent of the majority of the Members of Parliament. The President, and not the Prime Minister, is the head of the political executive. The President is elected by the entire country as a single electorate for a six year term. This enables the president to obtain a mandate directly from the people. Initially, the presidential term was limited two terms, each extending to a period of six-years. This presidential term limit was removed in 2010 under the 18th Amendment, and brought back in 2015under the 19th Amendment.

- Article 30 of the Constitution provides that the President is the Head ofState, Head of the Executive, Head of Government, and Commander Chief of the

armed forces. Thus, President is the Head of both the political executive and the permanent executive.

- The central authority that shoulders the responsibility of national policy making and implementation is the Cabinet of Ministers headed by the President. President is not only the head of the Cabinet, but also a member of the Cabinet. As the head of the Cabinet, the President appoints the Prime Minister andotherministers. He/Sheenjoyeddiscretionary power to appoint a member of parliament as the Prime Minister when the political party headed by the President commands a majority inparliament. It is also the President who decided the number of ministers of the Cabinet, and the subjects and functions to be allocated to different ministers. It is clear that, compared with the provisions of the Soulbury Constitution of 1947 and First Republican Constitution of 1972 for the Head of State, the 1978 Constitution (before the 19th Amendment) granted the President a considerable freedom and discretion in appointing ministers to the Cabinet.

- Thus, under the 1978 Constitution, Executive Presidency is the central institution of state power, and the person holding that position is the most powerful political personality of the government. The fact that the President is also the leader of the ruling party, or the coalition, gives added power and authority to his/her position.

- According to provisions of the 1978Constitution, the Cabinet of Ministers as the political branch of the executive, is responsible and answerable to Parliament. However, the President is only responsible to parliament, but not answerable even though he is the head of the Cabinet of Ministers. Even when a no confidence motion is moved in the legislature against the Cabinet of Ministers, it does not affect the President at all, despite the fact that he is the Head of the Cabinet. Further, the President remains in office on occasions when the budget and the annual policy statement of the governmentaredefeated in parliament. In other words, the President's position is largely insulated from what happens in the legislature. In its institutional relationship with the legislature, the 1978 Constitution has placed the office of the President far above parliament.

Prime Minister

- The office of the Prime Minister originally created by the 1978Constitution was very different from the Prime Minister under the 1947 and 1972 Constitutions. Under both Constitutions, following the Westminster model, the Prime Minister was the central figure in the structure of government. The 1978

Constitution fundamentally altered this tradition. Under it (before the 19th Amendment), the Prime ministerhad no authority to direct, supervise and order his colleagues of the Cabinet. That authority was vested with thePresident.Consequently, the Prime Minister was merely a colleague among other members of the Cabinet.

- There are four special referencesto the Prime Minister in the Constitution. They are as follows:

  i. The Article 43 states that if the President is of the opinion that majority of the members of parliament have vested confidence in any member of the Parliament, he/she shall be appointed as the Prime Minister.

  ii. The President may seek the advice of the Prime Minister in deciding the composition, appointment of members and powers and functions of members of the Cabinet.According to articles 44,45 and 46 of the Constitution, President consults the Prime Minister only when he/she deems such consultation is necessary. So, under the 1978 Constitution, it was not compulsory for the President to consult the Prime Minister on matters regarding the Cabinet.

  iii. According to Article 49(1) of the Constitution, the Cabinet is dissolved on occasions of removal, resignation or vacation of the post of Prime Minister.

  iv. There were no provisions for the Prime Minister to discharge duties and responsibilities of the President on any particular occasion. The President is empowered to temporally appoint the Prime Minister to discharge his duties and responsibilities if President is abroad or ill for the said period.

- However, it must be noted that the status of the Prime Minister may vary where themajority of the members ofParliamenthappen to belong to an opposition party. In such a situation, the status of the Prime Minister may increase within the political executive as it happened in 2001-2003 when the then main opposition party, i.e. United National Party, won the general election and formed a government with its own Prime Minister. Or a Prime Minister with a strong personality might, despite the limitations in the Constitution, try to establish his own unique status within the government, as it happened during 1978-1988, when Mr. R. Premadasa was the Prime Minister.

2. The Legislature

- The legislature under the 1978 Constitution is named Parliament, whereas in 1972, Parliament was called the National State Assembly. It comprises of 225 members. It is a unicameral legislature. The duration of the term of office ofParliament is six years, which is an increase by one of year of the usual term of parliament under the Westminster system of parliamentary government.

- After a general election,Parliament needs to elect a Speaker, Deputy Speaker and Chairman of the Committees. The Speaker chairs the sessions of Parliament.

- The President summons, terminates the secessions, and dissolves the Parliament. The President is required to summonParliament at least once a year. The quorum for meetings of Parliament is 20 of its members.

Nature of the Legislative Powers of Parliament

- Parliament is not the sole organ of exercising sovereignty of the people. The constitution had provided that legislative power of the people can be exercised by parliament, which is composed of the elected representatives of the people, as well as directly by the people at a referendum.

LegislativePower of Parliament

According to Article 75, Parliament has powers to enact (a) laws, including retrospective laws (that is, laws applicable to the past), (b) laws to repeal and amend any provision of the Constitution, and (c) laws to add new provisions to the Constitution.

However, Parliament cannot enact laws that cause the suspension of the Constitution in part or in full. Neither canitenact laws to abrogate the constitution without enacting a new constitution.

On the issue of the position of parliament in relation to the state structure, there is a difference between the 1972 and 1978 Constitutions. The 1972 Constitution, in Article 5, had enacted that the National State Assembly (Parliament) was the 'supreme institution of state power of the Republic" embodying the legislative, executive and judicial powers of the people." Under the 1978 Constitution, executive powers of the people is exercised by the President, and not vested in Parliament. Similarly, parliament is not given the constitutional status of the 'supreme institution of state power of the Republic." It is because of the centrality of the office of the President in the state structure created by the 1978 Constitution.

Every Bill that is proposed to be included in parliamentary agenda needs to be published in the gazette for the public to know about it. When aBill is approved by MPs after the voting, the Speaker is required to issue a certificate that the law has been dully passed by Parliament. In case of laws that require special majority of the members of Parliament, the Speaker is obliged to certify that the required majority has given the consent to the Bill.

The Bills passed by parliament becomeActs or law only after the certification issued by the Speaker by signing the certificate. After the Speaker's certification, law's validity cannot be questioned. According to Article 80 (3), "no court or tribunal shall inquire into, pronounce upon or in any manner call in question, the validity of such Act on any ground what so ever." This clause represents the principle of 'legislative sovereignty of parliament' first incorporated into the first Republican Constitution of 1972. It also effectively excludes the principle of judicial review of legislation from Sri Lanka's constitutional doctrine.

If any Act or any provision of anAct requires the consent of the people at Referendum, the Speaker must mention it in his certificate. In such occasions, the Act becomes law only after the certificate given by the President that the relevantAct has been approved by the people of the country at a Referendum.

3. The President, Law Making and Parliament

The President, who is the Head of the Executive, is not a member of Parliament. However, the 1978 Constitution gives the President legislative powers as well. This is a departure from the 1972 Constitution.

- The President participates in the preparation of legislative bills which are to be deliberated and approved in Parliament. He/She does so in his/her capacity as both the Head of the Cabinet and alsoamember of it. It is the President who initiatesBills. It is also the President who seeks the opinion of the Supreme Court on the constitutionality of proposed Bills. Further, President hasthepower to take part in the debates in Parliament.

- It is also the Presidentwho has the sole power to call aReferendum for the approval of any bill passed by the 2/3 majority, if it requires the approval of the people. Accordingly, President can call for Referendum on

    (a) ABill that requires the approval of the people at a Referendum besides the 2/3 majority in parliament.

    (b) Bills that do not seek to amend the Constitution and yet rejected by Parliament.

(c) Any matter of national interest, as deemed bythe President.

- Consequently, the President can strategically bypass Parliament and directly seek the approval of the people for his/her policies. This situation results in enhancing the legislative power of the President and conversely weakening of the authority of Parliament.

  - The1978 Constitution has provided for the President to sit in, send messages and addressParliament whenever he/she deems it appropriate. In such occasions, the President enjoys the powers, privileges and immunities entitled to a member of parliament,except the voting right.

  - Further, it is the President who presents the policy statement of the government at each annual session of Parliament. It is he/she who chairs the Parliament's inaugural session. The President can summon Parliament from time to time and dissolve it with certain limitations and constrainsaslaid down in the Constitution.

  - The power given to the President to appoint Ministers from among the Members of Parliament without the Prime Minister's recommendationenhances the strength of the President while weakening the power of the legislature vis a vis the executive. It is evident from the past experiences that the appointment of ministers by the President at his/her will has been a ploy to secure his /her political strength, and not the quality of constitutional governance.

  - It is evident that under the 1978 Constitution, President has had the power to control the Parliament while Parliament has no control over the President.

  - The only constitutional procedure for Parliament to have some control over the President is the power to remove the President through an impeachment motion. Although this can be seen as a mechanism of checks and balances over the President, it has limited value because of the cumbersome procedures to be followed in impeaching a President.

  - Thus the relationship between the President and Parliament, or the Executive and the Legislature, under the 1978 Constitution has been conceptualized in such a way as to place the office of the President more powerful than, and institutionally superior to, Parliament.

4. Independence of the Judiciary: Theory and Practice

In a democracy, there must be constitutional provisions to protect the independence of the judiciary,in order to maintain public trust on the impartiality of the judiciary and while ensuring the rule of law.

The independence of judiciary is a multi-faceted concept. There are certain conditions for ensuring independence of the judiciary. Among them, following are important.

- The method and procedure of appointing judges
- Security of tenure
- Non interferencein judicial matters by the executive,
- Judicial responsibility for impartiality and independence
- Public trust and confidence in the impartiality, political neutrality and integrity of judges, judiciary as an institution, and the judicial process.

Thus, independence of the judiciary is a three-cornered process involving (a) the government and politicians, (b)thejudiciary and the judges, and (c) the public and the citizens.

Democratic constitutions usually lay down principles for securing and guaranteeing independence of the judiciary. However, constitutional principles alone can hardly ensure an independent judiciary.

The record of the independence of the judiciary under the 1978 Constitution has been a complex one. There has been much criticism of occasions when political interference and intimidation had compromised Sri Lankan judiciary's traditional reputation of being an independent institution committed to its institutional integrity. Amidst setbacks, the judiciary has also been able to regain its institutional independence whenever there was strong backing from the government and the public.

Let us now examine how the above conditions for the independence of the judiciary in Sri Lanka is secured or not when the Second Republican Constitution came into effect in 1978.

- **Method of Appointment**: The manner adopted at the commencement of the 1978 constitution in appointing judges to the courts also raised questions about the government's adherence to the principle of independence of the judiciary through security of tenure. The tenure of the judges of the higher courts was terminated and only some of them were re-appointed as judges to the new Court of Appeal and Supreme Court. This raised serious questions about the method of appointing judges.

- **Security of Tenure:**Articles 163 and 164 of the Constitution aretransitional provisions applicable to the judiciary when the new Constitution came into effect in 1978. Article 163 stipulated that all judges of the Supreme Court and the High Courts in operation under the previous Constitution ceased office on the commencement of the new Constitution. This is not a clause that guaranteed security of tenure to judges.

  According to the Constitution, judges can be removed from office only on account of proven misconduct and physical inability to perform duties. It is stipulated that a motion with the aim of removing a judge must be forwarded to the Speaker withalltherelevant information. At least one third of the Members of Parliament must have signed such a motion and passed by a majority of MPs. The decision of parliament should then be forwarded to the President.

  Under the 1978 Constitution, there have been three occasions when the security of the tenure of the judges was challenged. The occasions were:

  i. Appointment of Mr. ParindaRanasinghe from the private bar to the position of Chief Justice in 1988, instead of Justice R. S. Wanasundera who was the senior most judge of the Supreme Court.

  ii. The appointment of Mr. Sarath N. Silva, who was the Attorney General, to the post of Chief Justice in 1999 instead of Justice Mark Fernando, who was the senior most judge of the Supreme Court.

  iii. The impeachment of Justice ShiraniBandaranayakain 2013 and the appointment of Mr. Mohan Peiris, who was the Attorney General at the time, as the Chief Justice.

In instances like these, it becomes a complex responsibility for judges to maintain the independence and prestige of the judiciary.

The question of security of tenure of judges continued to be raised even in 2015.

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The Judicial Service Commission is vested with the responsibility of maintaining disciplinary control of judges of the lower courts. It was composed of senior judges but the tradition had ended in 1994. The functioning of the Judicial Service Commission and its independence have been a subject of critical public discussion in recent years.

Judicial independence also requires that judges maintain a relationship of distance and neutrality with government leaders. There have even instances when people began to have doubts about the impartiality of Chief Justices.

One key precondition necessary to ensure the independence of the judiciary is for the Executive to refrain from making statements or performs acts that may harm the judiciary's prestige, neutrality and dignity. However, in Sri Lanka, this principle has been violated several times after the 1978 Constitution came into being. The displeasure of the Executive publicly expressed about verdicts in politically sensitive and human rights cases have had particularly harmful impact on the integrity of the judiciary as an institution and the public confidence as well.

(**NOTE:**Teachers can explain the provisions of the Constitution that are meant for the independence of the judiciary. Teachers can also point out that, as Sri Lanka's own experience shows, constitutional provisions alone are not sufficient to ensure the independence of the judiciary).

5. Executive and the Public Service

- The appointment, transfer, removal and disciplinary control of the public servantswas vested in the political executive, i.e. the Cabinet of Ministers subjected to the limitations as laid down in the Constitution.

  The Constitution has vested with the Cabinet of Ministers powers tomake regulations formaking appointments to the public service, rules of conduct for the public servants, and procedures to be followed in promotion and transfer of public servants in the cabinet of ministers.

  According to the provisions of the Constitution, the power toappoint, transfer, remove from office and disciplinary control of Heads of Department can be discharged only by the Cabinet of Ministers.However,that power can be delegated to the Public Service Commission established under the Constitution.

  The Public Service Commission, established under the 1978 constitution was not an independent institution like Public Service Commission that was established under the Soulbury Constitution. The latter had the authority over the appointment, transfer, dismissal and disciplinary control of public officers. Article 56 of the Soulbury Constitution also protected the Commission from political interference. The Public Service Commission under the 1978 constitution has been an institution subordinate to the Cabinet of Ministers, that is, to political authority.

  Bringing public service under the Cabinet/political control began with the First Republican Constitution of 1972. The 1978 Constitution continued it. Under both constitutions, there has been much public criticism of the political control of public service. Therefore, there has emerged a strong argument for an independent public service free of political control.

6. The Executive and the Concentration of Powers

- The Second Republican Constitution (before the 19th Amendment) had made provisions to facilitate the concentration of all executive powers in the office of the President, without checks and balances.
- The Constitution also made the President to be totally independent of the legislature and even to stand above it.
- The constitution has also made the President the Head of State, head of the executive, head of the government and Commanding Officer of the armed forces. There were no institutional constraints on the discharge of those powers and functions by the President.
- The Constitution had made provisions for parliament to be subordinate to the President. For instance, whenever there wasanuncooperative parliament that did not pass laws as the President wishes, the President had the power to bypass the legislature and make laws through Referendum by appealing directly to the people.
- The cumulative effect of the aboveprovisionshas been the emergence of the office of the President the most powerful centre in the governance structure created under the 1978 constitution.

7. Fundamental Rights, Judiciary, and the Ombudsman

The constitution had recognized the fundamental rightsasoneaspect of sovereignty of the people. This is stated in Article 3 of the Constitution "In the Republic of Sri Lanka sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights, and the franchise." This was an important advance made by the 1978 Constitution.

On fundamental rights, the 1978 Constitution marked an important landmark in the development of human rights policies and practices in Sri Lanka. It recognized that citizens could seek judicial redress, without legal hindrance, in securing their fundamental rights. The 1972 Constitution had a fundamental rights chapter, but the legal scope for citizens to ensure them through the judiciary was severely limited.

- Articles 10-16 of the Chapter 3 of the 1978 Constitution lays down the fundamental rights.
- Article 10 entitles every person the right to freedom of thought, conscience and religion.

- According to Article 11, no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 12 bestowed the right of equality before the law and the right to equal protection of the law.
- Article 13 entitles every person the right to be free from arbitrary arrest and custody without following the due process of law. It also prohibits the enactment of retrospective laws.
- Article 14 secures the citizens the right of freedom of speech and expression, peaceful assembly,association, forming and joining trade unions, religion and worship, culture and language, occupation and profession, movement and to live anywhere in the country and return to the country.
- Rights contained in articles, 10,11, 12(1), 12 (3) and 13 are applicable to all individual persons.
- Articles 12 (2) and 14are applicable only to the citizens. Further the rights contained in Articles 10 and 11 are absolute rights.Consequently, those rights cannot be constrained or confined to any limitations.
- The rights contained in the 1978 Constitution are broader than the ones included in the 1972 Constitution.There are provisions to seek remedies in case of violation of those rights.

Fundamental Rights and the Judiciary

- The specificity of fundamental rights in the 1978 constitution is the provision for remedies through a judicial process. According to provisions in the Article 126, the Supreme Court is the sole and primary court that can decide the cases of fundamental rights violations. There is no provision to petitioning to any other court to seek remedies and redress in instances of fundamental rights violation. Thus, the Supreme Court is the protector and guarantor of fundamental rights.

- Any individual has the right to petition the Supreme Court when his/her rights have been violated by an executive or administrative action or is in imminent danger of being violated, seeking remedies and compensation.

Procedure

- Articles 17 and 126 are aimed at providing immediate and actual remedies for the violation of fundamental rights. Accordingly, an individual has to submit a written petition within one month from the date of violation of the right to the Supreme Court. A bench comprising of two Supreme Court Judges has to decide whether to allow the petition to proceed or not. If the petition is allowed to proceed, the Supreme Court is required to give its decision within two months after completion of hearing the case. According to Article 126 of the Constitution, the Supreme

Court needs to decide whether the right is violated or not or the petitioner's right are at risk of being violated.

7. Ombudsman

- The position of Ombudsman, or the Parliamentary Commissioner for Administration was also a part of the fundamental rights protection mechanism introduced under the 1978 Constitution.
- The Ombudsman is appointed by the President.
- The major task of the Ombudsman is to report,after investigating the complaints,on the petitions received regardingthe violation of fundamental rights by public officers, officers of the government enterprises, local government and any other public organizations.
- If the Ombudsman is satisfied that there is a prima facie case of rights violation in the petition received by him, he has to initiate an investigation and report to the Parliamentary Committee on Public Petitions.
- On the receipt of a petition of fundamental rights violation, the Ombudsmanis required to inform the head of the relevant institution, stating of his intention of initiating a formal investigation.
- The Ombudsman is required to report his decision to the head of the institution, minister in charge of the subject and PublicPetitionsCommittee of Parliament together with reasons for the decision. If the Ombudsman is convinced of the allegations in the petition, he can make appropriate recommendations through his report.

The Ombudsman can recommend for:

i. Reconsider the matter,
ii. Rectify the negligence,
iii. Change or revoke the decision,
iv. Change the fact or facts that prompted the decision, recommendation, action or non-action, and
v. Show the reasons for the decision, recommendation or non-action.

If the head of the institution had not taken action to implement his recommendation during the time given by him, the Ombudsman can forward a report to the President and Parliament over the matter.

The importance of the office of the Ombudsman is that it provides a low-cost institutional mechanism for citizens to seek justice on matters of fundamental rights violations.

8. Electoral System

The 1978 Constitution introduced a new electoral system. It replaced the first-past-the-post (FPTP) system that had been in operation under the Soulbury and the First Republican Constitutions.

According to the 1978 Constitution, the President andParliament have to be elected in two separate elections.

In the case of electing the members of parliament, one variety of proportional representation had been adopted in Sri Lanka drawing from electoral systems of Italy, Austria, and Belgium.

Parliamentary Elections

The system of Proportional Representation applicable to parliamentary elections has been subjected to minor changes by the 14th and 15th Constitutional Amendments.

Under this system, MPs are not elected on the basis of 'electorates' or 'constituencies' as exited under the previous system. Rather, they are elected for 'multi-member Electoral Districts'. The responsibility of demarcating Electoral Districts is with the Delimitation Commission. The Delimitation Commission established in 1978 has created 22 electoral districts for Sri Lanka.

Each electoral district is usually based on the existing system of administrative districts.For electing MPs, the country is divided into 22 multi member electoral districts. The Vanni electoral district is the only exception. It is established after integrating Mannar, Vavuniya, and Mullaitivu administrative districts of the Northern Province.

According to the original provisions of 1978 Constitution, the total number of seats in Parliament was to be limited to 196 seats. However, the14th amendment to the constitution had provided for a parliament that comprised of 225 members. 196 members were to be elected on district basis while 29 'national seats' were to be allocated among the political parties and groups on the basis of total number of votes received nationwide.

According to the provisions laid down in the Constitution, each voter is entitled to one vote. That means, even if a voter is registered in more than one electoral district, he/she can vote only in one electoral district.

Voting at a parliamentary election involves two stages. Voting for a political party is the first. The second is preferential voting for three candidates in the list of candidates of that party or the independent group. This is a novel feature under the PR system.

Under this electoral arrangement, the election of members to Parliament is decided by a step -by -step process. The process is as follows:

i. First, a bonus seat allocated for the party or independent group that received the highest number of votes within the electoral district.

ii. Then, the parties or independent groups that are unable to receive less than 1/20 (or 5%) of the votes cast in the electorate are removed from the counting process.Thus, parties orindependentgroups that do not satisfy the minimum number of votes are not entitled to obtain MPs for the district.

iii. Then, the total number of votes obtained by the disqualified parties and groups is deducted from the total number of votes polled within the district.Thisnumber is called the "Relevant Number" It is this relevant number that would be used to allocate seats among the qualified parties and groups.

iv. The finding of the "Resulting Number" is the next step. It is arrived by dividing the "Relevant Number of Votes" by the number of seats of the electoral district minusthebonus seat.

v. The seats are allocated among the parties and groups by dividing the votes cast for them by the Resulting Number. In case of non - filling of all the seats for the district after the original allocation of seats among the parties and groups is made, the remaining seats are allocated on the basis of the biggest share of votes of each party or the group.

vi. Individual MPs for each party or the independent group is determined by the number of preferential votes polled by the candidates in the party or group lists.

Election of the President

- The President is elected directly by the people. It is clear that this system of election belongs to the system called "the supplementary vote majority system" of election. It combines preferential voting, with a counting process in which when no candidate polls 50% at the first count, the second and third preferences are also counted in choosing the winner.

- This electoral system functions as follows.

i. It is designed according to the principle of electing a single member from a single member constituency. The voter is given the right of choosing the preferred candidate from a listofcandidates at the election. The voter is given the right of casting preferences to at least three candidates according to his/her first, second and third preference. In the counting process, if a candidate received an absolute majority atthe first count, he/she is declared elected.

ii. If no candidate receives the absolute majority (50% plus) in the first round of counting, candidates, except the first and the second who had received most number of votes, are removed from the counting processand effectively from the contest. The second and third preferences of those removed candidates are counted as votes cast for the first and second candidates. The candidate who receives highest votes is declared elected president after this process.This is the 'supplementary vote system' in the majority system of voting.'

- This system of election was first used in the QueenslandState of Australia, and in the Alabama State during 1925-1931 in the USA. Further, this system is used to elect the mayors of some countries including the Mayor of London.

In the present use of this system to elect the president of Sri Lanka, a slight change has been made to the system of the supplementary vote (SV). According to the original system of SV, a voter can cast preferences only for two candidates, but in Sri Lanka a voter can cast 3 preferences when more than three candidates are contesting the election.Incase where no candidate receives the absolute majority of the votes cast, the preferences i.e. second and third preference given to the first and second candidate is counted as valid votes given to a candidate.

When introducing this system of voting at presidential elections, the framers of the 1978 Constitution had two objectives:

i. An absolute majority of votes is required for the elected president.

ii. The expectation that the minorities of the country shall have a meaningful role in the election of the president.

Consequently, it is assured that the President shall have the majority support of the voters. Additionally, this system encourages the candidates to look beyond their own parties and their ethnic groups, since this system requires the support of minority candidates to obtain the second and third preferences. Sri Lanka has had seven

presidential elections so far in 1982, 1994, 1999, 2005, 2010 and 2015. There has been no necessity of counting second and third preferences.Sincethe elected presidential candidates have been able to receive the absolute majority in the first round itself in all the above occasions.

9. Referendum

- The Referendum was first introduced to Sri Lanka by the Second Republican Constitution.

- As stipulated in the Article 83 of the Constitution, to amend certain provisions of the constitution,the support of a 2/3 majority in parliament as well as the approval of the majority of the people at a Referendum is required. Those provisions are included in Articles 1, 2, 3, 6, 7,8, 9, 11, 30 (2) and 60 (2).

- In addition to the above provisions, the approval by the people at a Referendum is required in the following instances.

    i. A Bill or any provision of a Bill for which the cabinet had decided to seek the approval of the people.

    ii. A Bill or any provision of a Bill that the Supreme Court had decided that the approval of the people at a Referendum was required.

- Besides the above instances, the President can call for a referendum on thefollowing instances at his discretion:

    i. A Bill rejected by parliament that would not amount to an amendment, repeal or addition to the Constitution.

    ii. Any other matter that the President thinks appropriate and of national significance. If such matters are approved by the people at a Referendum by the absolute member who cast votes, they are deemed to be dully approved by the people, and thus become law.

    iii. However, in instances where the total number of votes cast is less than 2/3 of the registered votes, it is sufficient to receive 1/3 of the registered voters supporting the matter to be declared as dully approved by the people.

    iv.

10. Constitutional Amendments
13th,17th, 18th and 19th Amendments to the Constitution and Resulting Constitutional Structural Changes and their impacts

Thirteenth Amendment

- The Thirteenth Amendment to the Constitution was introduced as a direct result of Indo-Sri Lanka Peace Accord of 1987.

- The objectives of the Amendment have been to address the twofold grievances of the Tamil minority of Sri Lanka. The first was to assure equal language rights. The second was to introduce a system of widespread scheme of devolution of powers.

- Accordingly, Tamil was made an official language of the state and a scheme ofdevolutionof power, named as Provincial Council System, was introduced. It was similar to the Indian Federal system.

- The introduction of the above system was a deviation from both the unitary model as well as the system of administrative decentralization. Therefore, some parties vieweddevolution as violation of the unitary state clause of Article 2 and sovereignty clause of Article 3 of the Constitution. As a result, the 13th Amendment has been subjected to legal and political challenges.

- When the Bill for the 13th Amendment was legally challenged, the petitions and the amendingBill were heard before a full bench of the Supreme Court of nine judges. The verdict of the Court was a divided one. Five judges decided that the proposed Amendment did not compromise the unitary character of the state. The remaining four judges expressed the opinion that the proposed Amendment would violatetheunitarycharacter of the State.

- Further, the minority Bench was also of the opinion that the proposed Amendment compromised the status bestowed upon Buddhism in the Constitution. The minority Bench alsoheld the view that the proposed Amendment required the approval of the people at a Referendum besides the two third majority in parliament. The majority of the Bench decided that the proposed Amendment would not compromise the unitary character of the state and the status of Buddhism and therefore did not require the approval of the people at a Referendum.

- The above debate on the 13th Amendmenttouched on the question of the constitutional identity of the state, namely, the impact of the proposed amendment on the unitarist identity of the Sri Lankan state. The majority of the Bench had decided that the Provincial Councils were well within the contours of the unitary state and the 13 Amendment did not impinge upon the character of the unitary state. Their reasoning was thatthe provincial councils did not enjoy sovereign power and that they were subordinate to Parliament, having only subsidiary legislative powers. Further, they had observed that the 13 Amendment would not result in alienation, delegation, or division of legislative powers of Parliament.

- The majority decisionseems to have meant by the term 'unitary state'a constitutional system in which parliament of the central government isthesupreme legislative authority and that there were no secondary sovereign agencies. Thus, the Supreme Court, in its majority decision on the 13h Amendment, has reaffirmed the unitary character of Sri Lankan state.

- However, another way of looking at the 13tth Amendment and its impact is that it has created a hybrid constitutional model in Sri Lanka in which a unitary constitution has incorporated within it some federal features.

Salient Features of the 13 Amendment

- The basic feature of the 13 Amendment had been the laying down of constitutional and legal provisions to establish the provincial council system within the framework of a constitutional system of devolution.

  The 13th Amendment has laid down the constitutional and legal provisions for the establishment a provincial council for each province of the country, with the exception that the Northern and Eastern provinces were temporarily merged into a single provincial council.

  - Provincial Councilsaresub-national politico-administrative entities. Each Council comprises of an assembly elected by the people and aBoard of Ministers headed by the Chief Minister. The provincial Governor represents the President and the Central government.
  - Those provincial entities are governing structures empowered with legislative and executive powers.
  - The 13 Amendment elaborates how powers are distributed and divided between the central government and the provincial councils as stipulated in the Annexure

9 of the Constitution.There are three lists of powers: (a) provincial council powers, (b) reserved powers, and (c) concurrent, or shared, powers.

List 1 –Provincial Council Powers

- The first listelaborates the powers and functions devolved to the provincial councils.It includes the subjectssuch as law and order, provincial planning, local government, housing schemes at provinces and buildings, agriculture and agricultural extension services, rural development, indigenous medicine, cooperatives, and irrigation etc.

- According to the article 154 F (1) of the Constitution, a provincial council can enact laws, known as statutes, on any subject in the provincial council list.

- The consent of the Governor of the province is required for any statute enacted by the provincial council. Parliament cannot enact laws over any subject in the provincial council list unless all the provincial councils agree.

List 2 –Reserved List

- The second list, i.e.,thereserved list, deals with the powers of the central government. It includes the powers of security of the state and protection, foreign affairs, post and telecommunication, broadcasting and television, harbours and ports, aviation and services, judiciary, foreign trade and commerce, matters related to national income, financial policy and foreign reserves, airports and ports, national transport, inter provinces irrigation, immigration and emigration and citizenship and elections etc.

- The law making power over the subjects in the reserved list is confined to the national parliament.It enjoys absolute power over the reserved list denying any power to the provinces over any subject in this list.

List 3 – Concurrent List

- The third list, i.e. concurrent list, includes the powers that the central government as well as the Provincial Councils can jointly exercise in making laws or policies. These powers are also called ‘shared powers.’

- The list of concurrent powers includessubjectssuchaseducation and educational services, higher education, housingschemes, social services and rehabilitation, agriculture and agricultural extension services, etc.

- However, in making policies over the matters in the concurrent list, each authority has to seek the opinion of the other. This indicates that according to the devolution arrangement introduced under the thirteenth amendment, the Provincial Council enjoys the absolute power over the subjects in the provincial list while its power over the concurrent list is constrained by the requirement of seeking the consent of the central government.

- It must be noted that the power of enacting statutes by the provincial councils had been subjected to certain limitations and constrains.A statue enacted by a Provincial Council can be challenged in the Supreme Court over its constitutionality.The effect of any statute is limited within the jurisdiction of the concerned Provincial Council.

- If a Provincial Council or a number of councils through a resolution passed in the council requests Parliament, then Parliament can enact laws over the subjects of the Provincial Council with a simple majority inParliament. However, those lawsareapplicable only to the provincial councils that requested Parliament to enact laws. However, laws that are passed by parliament with 2/3 majority are applicable to all provincial councils.

- The subjects that were not included either in the provincial list or concurrent list are powers of the central government.

- This special status is given to the central government, because of the fact that the central government decides national policy. It also has power over residual powers (powers not given in any of the lists).

- According to the original constitution of 1978, the executive power of the Republic was vested in the President and the Cabinet of Ministers. However, after the 13 Amendment, this situation has changed because under devolution, executive power is distributed between the central government and the Provincial Councils. The executive powers devolved to Provincial Councils are discharged either directly by the Governor, or together with Board of Ministers and officers of the Provincial Councils. It was laid down that the Governor shall discharge his/her powers and functions upon the advice of the Board of Ministers except the powers that can be used at his/her discretion.

- The 13thAmendment has also devolved the subjects of local government and supervisory powers over local government bodies to Provincial Councils.

- The 13th Amendment has also provided for the establishment of a National Finance Commission to decide central government's financial allocations and

financial resources on equal basis among the Provincial Councils. Governor of the Central Bank and Secretary of the Treasury are ex-officio members of the Commission. There are three other members who are appointed by the President. In appointing them, the ethnic composition needs to be taken into account, but not the representation of the provinces.

17th Amendment (2001)

Lack of public confidence in the Public Service due to excessive politicization and political control and overall decline of its standards had become a serious political issue in Sri Lanka. Political interference and control has also led to the lack of independence, efficiency, accountability, and impartiality in the public service. In the context of demands made by civil society organizations and political parties to make the public service independent, free of control by ruling parties, and impartial, the government in 2001 took steps to amend the Constitution for the 17th time.

The proposal for the Amendment was approved by the Cabinet in September 2001. Then the draft Billwas sent to the Supreme Court to give its opinion on the constitutionality of the proposed Amendment. The Supreme Court decided that the 2/3 majority vote in Parliament was sufficient to pass the Bill. Then, Parliament passed the amendment on 3rd of September 2001.The Amendment received 208 votes and the backing of almost all parties in Parliament. After the certification of the Amendment by the Speaker of Parliament,the 17th Amendment became a part of the fundamental law of the country.

The objectives of the Amendment were the curtailment of the power of the President to appoint members to several key posts of the governing structure and the establishment of independent commissions. This Amendment can be described as a progressive and democratic reform measuresince it made provisions to widen the accountability mechanisms and consultative governance.

Constitutional Council

- The Constitutional Council was the centerpiece of the 17th Amendment. It was the key institution established to facilitate the appointments for the key posts of governing institutions of the country through a consultative process among all political parties in Parliament. It was intended to be a check on the powers of appointment which the President used to enjoy at his discretion.

- The Constitutional Council was composed of the following personnel.
    i. Prime Minister,
    ii. Speaker of Parliament,

iii. A member appointed by the President,
iv. Five members appointed by the President on the joint nomination made by Prime Minister and the Leader of Opposition,
v. A member appointed by the President on the nomination made by small parties and other groups.
vi. The Speaker was the Chairman of the Constitutional Council.

The 17th Amendment gave the Constitutional Council two types of powers, in key public sector appointments (a) power of recommendation, and (b) power of approval.

The Council's *recommendation* was required in making appointments t

i. The Election Commission
ii. The Public Service Commission
iii. The National Police Commission
iv. The Human Rights Commission
v. The Permanent Commission to Investigate Bribery and Corruption
vi. The Finance Commission, and
vii. The Delimitation Commission.

The Council's *approval* was required for the following appointments:

i. Chief Justice and Judges of the Supreme Court
ii. President and Judges of the Court of Appeal
iii. Members of the Judicial Service Commission and its Members
iv. Attorney General
v. Auditor General
vi. Inspector General of Police
vii. Ombudsman
viii. Secretary General of Parliament

Although the 17th Amendment had cross-party support because of its democratic potential, there was later criticism that it undermined the authority and powers of the President. That criticism paved the way for the 18th Amendment, which actually abolished the 17th Amendment.

18th Amendment (2010)

The overall objective of this constitutional amendment, enacted in 2010, had been to remove the two term limit for the President,repeal of the powers and functions of the Constitutional Council, and the establishment of a Parliamentary Council inits place.

Those who promoted thisamendment argued that since rapid economic growth was an urgent need of the hour, it required political stability. Political stability in turn required more powers in the hands of the President to ensure effective decision - making.

The proposed Amendment bill was sent to the Supreme Court as an urgent matter of national importance. The Supreme Court had informed that there was no necessity of calling a referendum as the proposed amendingBill was in conformity with the Constitution. Consequently,on 8th September 2010, the 18th Amendment was passed in Parliament by a 2/3 majority.

Following were the changes introduced under the 18th Amendment:

- **Removal of the two terms limit for the President: The** major change introduced under this Amendment was the removal of two terms limit for persons who hold the office of presidency and allowing a person to contest and get elected for any number of terms as President.

Establishment of Parliamentary Council instead of Constitutional Council:
The 18thAmendment abolished the Constitutional Council established under the17th Amendment and replaced it with a new institution called Parliamentary Council. The new Parliamentary Council was composed of the following members.

i. Prime Minister,
ii. Speaker,
iii. Leader of the Opposition,
iv. One parliamentarian nominated by the Prime Minister, and
v. One parliamentarian nominated by the Leader of Opposition.

The Parliamentary Council was small in terms of its composition when compared with the Constitutional Council. Further, the latter was composed only of parliamentarians. It was expected that the President would seek the opinion of the Parliamentary Council in making appointmentsto key posts of the government. However, if the Council failed to provide its opinion within one week,the President could act at his will. Compared with the Constitutional Council, the Parliamentary Council had no authority to disagree with the choices of the President

Powers and Functions of Parliamentary Council

The Council established under the 18thAmendment was empowered to provide its observations on proposed persons to be appointed by the President to key government posts. Further President was not bound to act according to its observations and recommendations. The Council had no powers to make recommendations on appointments, but merely to

furnish its observations on proposed individuals within one week. In case the Council fails to give its observations within one week, thePresident could make appointments at his/her will. Further, the President could even ignore them and make the appointments.

Thus, the Parliamentary Council under the 18th Amendment served no real purpose in terms of ensuring executive accountability. It was not a check on vast presidential powers either.

Subordination of Independent Commissions to the President

The 18th amendment also resulted in the reduction of powers of the independent commissions such as the National Police Commission, Public Service Commission, and the Election Commission. For instance, President could make appointment to the Public Service Commission at his will. The situation under the 17th amendment was the reverse, becausePresident had to act according to the recommendations made by the Constitutional Council. However, the 18th amendment removed those.Accordingly,President could make appointment to the Public Service Commission at his discretion.

Allowing President to Attend the Parliament once in Three Months

The Amendment had made provisions for the President to attend the sessions of parliament once in every three months while enjoying the powers, privileges and immunities entitled to a member of parliament. However, the President could not be charged of violations of privileges enjoyed by a parliamentarian.

The overall outcome of the 18th Amendment was that its provisions led to further strengthening the position, powers, and authority of the President. This was achieved by removing thepresidentialterm limit and allowing the President to make appointments to the independent commissions free of the system of checks and balancesexisted under the 17thAmendment**.**Thus, the office of the President under the 18th Amendment became more powerful than the presidency under the original 1978 Constitution, as created by its founder, former President J. R. Jayewardene.

19 Amendment (2015)

This amendment is considered the most democratic and progressive amendment introduced to the 1978 constitution so far. The original expectations of the Amendment has been the repeal of the 18 Amendment, reduction of the powers of the President, strengthening of the position of the Prime Minister, establishment of a Council of State as a second chamber of parliament, regeneration of the independent commissions that were introduced under the 17th amendment. All these expectations had the broad objective of making drastic changes to the existing constitutional structure.

However, at the end, a diluted version of the Amendment was passed by Parliament due to the opinion expressed by the Supreme Court and also because the government had to make compromises to secure 2/3 majority support for the Amendment in Parliament.

Consequently, there was no return to the parliamentary system of government by doing away with the presidential system in its entirety. Instead, the Amendment resulted in a divided system of government between the President and the Prime Minister. Hence, this system can be described as a 'dual executive system'or'a semi presidential system' of government.

The resulting reforms under the above Amendment can be summarized as follows.

- The reduction of the tenure of the President from six years to five years while reversing the President's tenure to original two terms from unlimited terms under the 18 Amendment. These two measures of reduction of tenure of the President and the limiting of the Presidential terms to a maximum of two terms aremajor deviations from the 18th Amendment.

- Before this Amendment, the President enjoyed considerable power in appointing ministers. This Amendment has laid down a limit on appointing Ministers and State Ministers. The President cannot appoint more than 30 ministers of the cabinet rank and not more than 40 State and Deputy Ministers.

- The advice of the Prime Minister is required in appointing and removing minsters from the post. Further, the power of the President to remove the Prime Minister from the post at his discretion has been removed.

- Before the 19th Amendment, the President could dissolve the elected parliament after one year of the first session. However, under the 19thAmendment, President can dissolve the parliament only after 4 and ½ years of its term.

- The official duties of the President are now subjected to powers of the Supreme Court's original jurisdiction of fundamental rights. The 19thAmendment has also limited the immunity of the President to civil and criminal matters.

- The 19thAmendment had added a few more powers to the President besides the powers and functions given by the original constitution. They are as follows:

    i. Ensure that the constitution is being followed
    ii. Ensure national solidarity and reconciliation
    iii. Facilitate independence of the Constitutional Council and other Commissions

iv. Create suitable and conducive environment to hold fair and free elections and referendum upon the advice of the Election Commission

- The 19 Amendment provides that the President is the symbol of national unity. This amendment hasalso retained the earlier principle that the President is head of the Cabinet of Ministers.

- Under this amendment, the President appointsMinisters upon the advice of the Prime Minister.

- The President has the power to change the composition of the Cabinet and change the portfolios assigned to ministers.

- In case of forming a national government, it is Parliament that decides the number of Ministers of the Cabinet, other Ministers and Deputy Ministers.

- According to the original scheme under the 1978 Constitution, the tenure of Parliament had been six years. However, the tenure ofParliament has been reduced to five years under the 19thAmendment.

- The 19th Amendment has also reintroduced the Constitutional Council. The new Constitutional Councilcomprises of the following personnel:

    - Prime Minister
    - Speaker
    - Leader of Opposition
    - One Member of Parliament appointed by the President,
    - Five members jointly nominated by the Prime Minister and the Leader of the Opposition and appointed by the President. Two out of them must be members of parliament, and
    - One Member appointed by the President on the agreement of parties and groups other than the parties of the Prime Minister and Leader of Opposition.
    - Chairman of the Council is the Speaker of the House.Members hold office for three years from the date of first appointment.

- The function of recommending names of suitable persons to be appointed to Commission of Elections, National Police Commission, Auditing Service Commission, Sri Lanka Human Rights Commission, Commission to Investigate Bribe and Corruption, Finance Commission, Delimitation Commission, National Procurement Commission, and their Chairmen.

- The Constitutional Council shall recommend three persons whereby the President can appoint one of them.

- There are several posts that the President makes appointments subjected to the approval of the Constitutional Council. They are:

    - Chief Justice and other Judges of the Supreme Court
    - Chairman and other judges of the AppealsCourt,
    - Members of the Judicial Service Commission other than the Chairman
    - Attorney General
    - Auditor General,
    - Inspector General of Police,
    - Ombudsman, and
    - Secretary General of Parliament.

Major Criticisms of the 1978 Constitution

The Constitution of 1976had been subjected to serious criticisms since its very inception. Most criticisms have been revolving around its un-democratic constitutional structure.

- There was a widespread belief among political parties, civil society and general public that the country had to abolish or reform the1978constitution in order to restore democratic governance and politics. These criticisms were particularly directed to its undemocratic structures and content.
- The major criticisms had highlighted:
    - The concentration of power in a single individual, i.e. the President, leading to the undermining of democratic institutions and practices.
    - Weakening of the position of parliamentvis a vis the Executive, and
    - The negative impact of the system ofProportionalRepresentation on representative democracy.

- Besides those, there were also criticisms and arguments against the 13 and 18 Amendments too. The Provincial Council system introduced under the 13 Amendment was subjected to serious criticism by the Sri Lanka Freedom Party and *JanathaVimukthiPeramuna* even though it was supported by Left political parties and ethnic minority parties and groups. The main criticism was that the provincial council system undermined the unitary character of the Sri Lankan state and thereby encouraged separatism. However, these criticisms gradually became mild.

- The major criticism against the 18 amendment was that it had enhanced the dictatorial and anti-democratic tendencies which were the inherent features of the 1978 constitution. The 19th Amendment was a response to such criticisms.

- There were attempts to introduce a new constitution since 1994, but they have failed. There was a parliamentary select committee to reform the system of proportional representation, but failed in 2001 due to major disagreements among political parties.

  (Teachers can further explain themes of this unit to students with brief introductionsto the executive presidential system, proportional representation, and critical responses they generated, and the alternatives proposed).

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13 Political Parties and the Party System in Sri Lanka

Competency : Show the nature and trends of the political `party system in Sri Lanka through their activities

(30 periods)

Competency Level :

13.1 Present information on the origin and evolution of the political party system in Sri Lanka.

13.2 Analyze the features and trends of the political party system.

Learning Outcomes :

- Explains the origin and evolution of political party system in Sri Lanka.
- Points out their features and trends.
- Identify and comment on dominant two party system
- Find information on Left and minor parties
- Identify and explain the parties based on ethnicity.
- Explore the way political party system paved the way for the formation of coalition governments.
- Show the nature of the relationship between political party system and party leadership.
- Acquire the ability to identify the strengths and flaws/ weaknesses of the political party system of Sri Lanka and make proposals for a better system.

Introduction

For a study of political parties on Sri Lanka, it is useful to begin with a definition of what political parties and party systems are. Then we will identify the key features of Sri Lanka's 'party system.' That will be followed by an account of how political parties originated during the pre-independent period and grew after independence. The Lesson will also discuss the trends in the Left and ethnic-identity based political parties. The relationship between political parties and coalition politics will be the last theme to be discussed.

Thus, in this Lesson, students will also get an opportunity to understand why political parties are important as institutions of democracy.

A guideline to clarify the subject matter:

Political Parties

The history of political parties is not very long. They emerged in the 18th century Europe with the development of representative government. The modern form of political parties also evolved initially in the United States and Europe during the nineteenth century.

Political parties are a key institutional dimension of democracy. For modern representative democracy to function properly, political parties play a major role. They are the **main vehicle for political competition,** which is a defining feature of democracy. They politically educate, organize and mobilize citizens. Parties also give expression to people's interests and demands in an organized manner, by advancing party programmes and agendas. Parties form governments, formulate public policy and sustain political ideologies and debates. They also bring to government's attention different needs of the citizens. Thus, political parties are the **most important institutional link between the government and citizen**s.

Definitions

There are many definitions of political parties. One of the oldest definitions is the one advanced by Edmund Burke, a British political thinker of the 19th century:

> "Party is a body of men united for promoting, by their joint endeavours, the national interest upon some particular principle in which they all agreed."

This definition tells us that a political party is an organization of people who have the shared interest in shaping national agenda. The people who are organized in the party also have a shared understanding about what they want to achieve.

More contemporary definitions add the goal of coming to power through winning elections. The following are three of such definitions:

- "A party is a group whose members propose to act in concert in the competitive struggle for political power." (Joseph A. Schumpeter in *Capitalism, Socialism and Democracy* (1942).

- "A party is any political group identified by an official label, that presents at elections and is capable of placing candidates for public office through elections" Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis*, (1976).

- "Any group, however loosely organized, seeking to elect governmental office-holders under any label" (Leon D. Epstein, *Political Parties in Western Democracies (1967)*).

- "A political party is a formal organization whose self-conscious, primary purpose is to place and maintain in office persons who will control, alone or in coalition, the machinery of government (Joseph LaPalombara in *Politics within Nations* (1974)).

The above four definitions are given by four leading political scientists who have studied political parties and whose work is influential in contemporary political science theorizing on political parties.

Using the insights gained by above definitions, we can understand a political to be a group of people with shared interest in organizing themselves to gain governmental power. Political parties are also a very important institutional means for the effective functioning of modern representative democracy.

Political parties are also the key medium through which people express their political will and participate in the political process.

'**Party system'** is a theoretical concept used in comparative political science to identify special features of the overall nature of political parties in each country. It assumes that the nature, functioning and dynamics of political parties vary from country to country. Political scientists identify party systems as one-party system, two-party system, and multi-party system, etc.

(Teachers should refer to Lesson ..... in Grade 12 for more theoretical aspects of political parties.)

Political Party System in Sri Lanka

We can identify the following features of Sri Lanka's contemporary political party system:

- Sri Lanka has **a multi-party system**, with two major parties and a large number of small parties. All small parties are not represented in parliament, although they might or might not contest elections. In 2005, there were 64 registered political parties. Many of them remain inactive.

- In terms the way political parties have been functioning, Sri Lanka has developed **a dominant two-party system**. The United National party (UNP) and Sri Lanka Freedom Party (SLFP) are the two parties. They usually poll the highest percentage of votes at elections and also secure the largest share of seats in the elected bodies. These are the two parties that continue to form governments or lead the governing coalitions.

- Reflecting the society's multi-ethnic character, Sri Lanka also has **ethnic parties**.

Origin and Growth of Political Parties in Sri Lanka

The origin of Sri Lanka's political parties is rooted in the pre-independence British colonial period.

The British introduced the basic features of political representation through the Colebrooke-Cameron reforms of 1833. Accordingly, two fresh political institutions were established. They were the Executive Council and the Legislative Council. They were introduced in order to facilitate the administrative process where the colonial Governor was the chief political executive.

Initially, the Legislative Council consisted mainly of British nationals. They were appointed, and not elected, members. Much later, in 1910, Sri Lankans got an opportunity to be elected to the Legislative Council, but on a limited franchise.

The Ceylon National Congress, formed in 1919, was the first organized political body of Sri Lankans. There was also the Ceylon Reform League under the leadership of Sir Ponnambalam Arunachalam. They were not political parties, but lose organizations with limited membership, formed as associations for political mobilization. They can be considered as the forerunners of Sri Lanka's modern political parties.

In 1928, the Ceylon Labour Party was formed by A. E. Gunasinghe. It lasted till 1956 and then declined and disappeared.

The emergence of political parties is a response to the expansion of political representation and franchise. The introduction of Universal Franchise and the expansion of the legislature in 1931 under Donoughmore reforms was a powerful stimulus for the subsequent emergence of political parties in Sri Lanka.

However, the State Council elections of 1931 and 1935 were not based on political parties. Candidates contested the elections as individuals, promoting personal political agendas.

The first modern political party, which has a history of continuity, was formed on December 18, 1935. It was Lanka Sama Samaja Party (LSSP), a Left-wing party. Then, the second party, Ceylon Communist Party was formed in 1943. Its founders were a break away section of the LSSP. The LSSP's split was due to ideological differences.

The 1930s were also the period of communalization of electoral politics. Until 1931, Sri Lanka had communal representation to the Legislative Council. Donoughmore Commission abolished communal representation and introduced instead territorial representation. The

system of territorial representation led to dissatisfaction among ethnic minorities. They demanded 'balanced representation' in the state Council. The absence of political parties also promoted communal politics during this period. The emergence of Sinhala Maha Sabha, All Ceylon Tamil Congress and the All Ceylon Muslim League occurred during this period.

The formation of United National Party (UNP) in 1946 was the next important event in the evolution of political parties in Sri Lanka. It was formed in anticipation of political independence and the enactment of the Soulbury Constitution. The Soulbury Constitution envisaged a parliament which required party-based territorial representation. That was the immediate reason for the formation of the United National Party.

As its name suggests, the UNP was formed as a multi-ethnic party and also as a party of national unity. It brought under its umbrella Sinhalese, Tamil and Muslim groups. It in fact amalgamated Ceylon National Congress, Sinhala Maha Sabha, the All Ceylon Muslim League.

When the UNP was formed, the two Left parties –LSSP and the CP -- were its main rivals. The UNP won the majority of seats at first parliamentary election held in 1947 and then formed a coalition government, with the support of two small parties – the Labour Party and the ACTC – and a number of independent MPs. Ideologically, the UNP was a Right-wing party.

At the 1947 parliamentary elections, nine parties contested.

The UNP, which was the dominant single party at the time, split in 1951. S. W. R. D. Bandaranaike, a member of the UNP Cabinet, left the UNP and formed the Sri Lanka Freedom Party (SLFP) in 1951.

The formation of the SLFP was an important development in the evolution of the post-independence political party system in Sri Lanka. With the SLFP and the UNP as main parties, Sri Lanka became a two-party system. These two parties later evolved into a **'dominant two-party system.'**

Dominant Two-Party System

The main feature of Sri Lanka's party system is that it is a dominant two-party system with multiple small parties. The UNP and the SLFP are the two dominant parties. They are dominant in the sense that there is no third political party that can effectively challenge the electoral strength of either the UNP or the SLFP. Those two parties have also functioned as alternative ruling parties. The small parties continue to remain small, unable to challenge the hegemony of either of the two main parties.

Therefore the Sri Lankan party system can also be characterized as a multi-party system with a two-party dominance.

Since independence, no other party except the SLFP or UNP through coalitions has succeeded in capturing governmental power. The small parties can become members of a ruling coalition only in alliance either with the UNP or the SLFP.

The UNP has ruled the country, on its own or in coalition with small parties in 1947-52, 1952-1956, 1965-70, 1977-94, 2001-2003, and in 2015. The SLFP or SLFP-led coalitions have ruled the country in 1956-60, 1960-65, 1970-77, 1994-2001, and 2004-2015. In 2015, it became a member of an UNP-led coalition government.

Ideologically, the UNP has been oriented towards a conservative form of liberalism. The SLFP's ideology is a combination of nationalism and a third-world type of socialism.

Left Parties

Sri Lanka's Left parties, although small in size and in parliamentary membership, have been an important segment in Sri Lanka's political party system. They are the oldest of the country's functioning political parties. As we mentioned earlier, although the Labour Party formed in 1928 was older, it ceased to function after 1956.

Left parties can also be described as 'ideological parties,' because of the fact that they are strongly motivated by an ideology, the ideology of socialism.

The Left parties are also known for their coalitions and electoral alliances with the SLFP. In 1956, a breakaway faction of the LSSP, led by Philip Gunawardena, joined with the SLFP to form the Mahajana Eksath Peramuna (People's United Front) coalition and eventually the coalition government. In 1964, both the LSSP and CP joined with the SLFP to form a ruling coalition. Then during 1970-77, 1994-2001, 2004-2014, the LSSP and CP were in SLFP-led coalition governments.

The Left parties have been in the forefront of the campaigns for Sri Lanka's social welfare, free education, nationalization of foreign-owned companies, land reform policies, socio-economic right of the poor people, workers' rights, the language rights of the Tamil - speaking people, and social justice. They also had a strong trade union foundation.

After the mid-1960s, Sri Lanka's Left movement began to develop two strands – the 'Old Left' and the 'New Left.' The original LSSP and the CP were identified with the Old Left. Two factors defined the Old Left. First, the LSSP and CP accepted the strategy of coalition governments with the SLFP, which the Left considered to be a' 'capitalist party.' Second, these two parties gave up the idea of a 'working class revolution' and adopted the strategy of 'parliamentary path to socialism.'

The "New Left' continued to believe in and advocate working class revolution and refused to accept parliamentary path to socialism. It also ruled out any alliance with the SLFP or any 'capitalist' parties.

Among the Left parties of the 'New Left' have been LSSP (Revolutionary) CP (Peking Wing), Nava Sama Samaja Party and the Janatha Vimukthi Peramuna.

The JVP represents a special case of political parties in Sri Lanka. It was first a 'revolutionary party', more radical than all other Left parties, both Old and New. The JVP is the only Left party in Sri Lanka to have attempted to capture state power through rebellion. There were two such rebellions led by the JVP, in 1971 and 1987-89. However, in the 1990s, the JVP shifted its strategy as well as identity to become a parliamentary party. At present, the JVP is a moderately radical parliamentary party.

Ethnic Parties

Ethnic parties are defined in contemporary political theory as political parties that appeal to the voters as "champions of the interests of one ethnic category or set of categories to the exclusion of others" (Kanchan Chandra, 2005). In the contemporary world where ethnic identity has become politically important, there has been a new tendency for ethnic parties to develop in multi-ethnic societies.

A special feature of Sri Lanka's political party system is the presence of several ethnic parties. The role of ethnic identity in political mobilization is not a new development in Sri Lanka. It is a political tendency began during the 1930s and found greater expression after independence. This tendency continued when political parties began to be formed since the early 1950s. It became more prominent after the 1980s in the context of the ethnic conflict.

The Federal Party and the Tamil Congress were the first ethnic parties that represented the interests of the 'Tamil-speaking people', including both Tamil and Muslim communities. Then the SLFP emerged as a party appealing specifically to the Sinhalese voters, but not excluding voters of other communities.

A shift of the nature of ethnic parties occurred during the 1980s. New ethnic parties with specific appeal to one ethnic community began to be formed to represent the voters of Sinhalese, Muslim, North and East Tamil, and Plantation Tamil communities. Sri Lanka Muslim Congress was formed in 1987 as a Muslim party. Ceylon Workers Congress has been functioning as the main political party of the Upcountry Plantation Tamil community. The Upcountry People's Front was also formed during this period. There were several Sinhalese ethnic parties too. Chief among them is Jathika Hela Urumaya.

A number of new Tamil political parties to represent the interests of the Tamil People of the Northern and Eastern provinces emerged during the 1980s. Many of them were initially militant groups involved in the armed struggle. They later became parliamentary parties. Eelam People's Democratic Party (EPDP) and Eelam People's Revolutionary Front (EPRLF) are still active as parliamentary Tamil ethnic parties in the North and East.

The Liberation Tigers of Tamil Eelam (LTTE) is a special instance among Tamil ethnic political entities. It is difficult to classify it as a political party as such, since it has functioned outside the legal and electoral politics. It was leading an armed rebellion for over two decades in the North and East. It did not follow the JVP's example of becoming a parliamentary party. Instead, it continued the armed struggle and ultimately was defeated in war in 2009.

Although the LTTE does not fall within the classificatory framework of political parties, the LTTE impact on politics and political parties in Sri Lanka's Tamil society is significant.

Party System and Coalition Politics in Sri Lanka

Coalition governments has been a major feature of government formation in Sri Lanka since 1947. A coalition government can be defined as a government of two or more political parties, formed with the intention of achieving common political objectives, based on a shared policy agenda. Usually, a coalition government may have one major party with a large number of parliamentary seats and one or more smaller parties with lesser numbers of parliamentary seats.

The main reason for forming a coalition government is the need for parliamentary majority to form a government. The need to win elections by pooling electoral support of voters paves the way for pre-election coalitions that may eventually lead to coalition governments.

There are close links between electoral systems, political party systems, and the conditions necessary for the formation of coalition governments. In Sri Lanka, coalition governments have been formed under both the First Past the Post system as well as the system of Proportional Representation. This has been largely due to the nature of the party system in Sri Lanka.

As we have seen at the beginning of this lesson, two features characterize Sri Lanka's party system: (a) it is a multi-party system, and (b) it is a multi-party system with a dominant two-party system. In a multi-party system, there are usually many small parties, along with one or more major parties.

Let us now see the relationship between these two features and the tendency for coalition governments in Sri Lanka.

- In a multi-party system, there is always the possibility for the parliamentary seats to be divided among many parties, with no major party emerging to command a majority needed to form a government. Such situations make it necessary for the party with the highest number of parliamentary seats to invite one or more small parties to join with it to ensure the majority of seats. The outcome is the formation of a coalition government. Sri Lanka has experienced this situation in 1947, 1965, and 1994.

- In a multi-party system, a major party might form a pre-election coalition with one or several small parties to make sure that it can pose a successful challenge to a strong adversarial party. In such situations, small parties can add to the electoral strength of a major party. After the election, they all would form a coalition government. This was the experience in Sri Lanka in 1956, 1970, 1994, 2001, 2005, and 2015.

- When there are two dominant parties, as it is the case in Sri Lanka, small parties always win small numbers of seats. They cannot form governments on their own. They do not want to remain in the opposition all he time either. The coalition system enables them to enter governments and even secure cabinet positions.

- Ethnic parties are a recurrent feature in Sri Lanka's party system.

Overview

Following are the main points from the discussion in this lesson:

- Sri Lanka has a developed political party system, with a history of eight decades.

- The party system is a two-party dominant multi-party system.

- The presence of small ethnic parties is a key feature in Sri Lanka's party system.

- The continuity of coalition governments is strongly linked to the dominant two-party system.

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14. International Politics

Competency 14 : Identify and comments on the nature and trends of International Politics.

(55 periods)

Competency Level :

14.1 Identify the differences between the national and international politics.

14.2 Comment on governmental and non-governmental actors in international politics.

14.3 Explain the nature of national power and national interests

14.4 Identify and explain the recent trends in international politics.

14.5 Describe the new trends in national, international politics identifying their relevance to Sri Lanka

Learning Outcomes :

- Identify and describe the difference between national and international politics.
- Recognize important institutions and activists in national and international politics.
- Define the concepts of national power and national interests.
- Explain the new trends in current world politics
- Explain the impact of new political trends in the world on Sri Lanka

Introduction :

In this unit, students will get an opportunity to understand the nature of national and international politics. by discussing the nature of state and non-state actors of international politics; how they behave in the internal system; and how the nation -states handle the national power and interests for their survival in international system.

Furthermore, the lesson will describe the operational process of the multi-polar world system, alternative international networks, new international social movements, and the impact of those phenomena on Sri Lanka.

A Guideline to clarify the subject matter:

14. International Politics

In simple terms, international politics means the politics among nations. Here the term 'nations' means the independent, sovereign nation - states and the international networks created by the human and physical entities of nation states.

14.1 Differences between National Politics and International Politics

Comparing national politics with international politics is the traditional way to grasp the nature of international politics. This national-international comparison has been described as the 'great divide in political science' (Ian Clark, 1999). The development of International Relations as a separate sub-discipline of Political Science reflects this divide.

National politics means the complex whole of the activities and institutions in the internal processes of a political system. Studying the institutional structure of the state and relationship between the state and the citizen is the key to understanding national politics. It is politics within a state.

International politics means the external behaviour and inter-relationships of the nation-states. Nation - states as the most active actor in international politics have developed a complex system of means and ways of having inter-state relations.

In a broad interpretation, several salient differences between national and international politics can be identified. Identifying the scope of international politics also is a major objective of this unit.

- Within the processes of the state, the government acts as the most crucial political entity.
  The existence of such a centralized authority cannot be seen in international politics. In order to discourage any possible anarchism in the international system, a number of means have been developed in international politics. Mutual cooperation between the states, agreements among them, and regional or international organizations are some of examples.
- Institutions, organization and networks as mentioned above are also crucial actors in international politics. However, the nation - state acts as an arbitrator of those additional actors in international politics.
- Theories of international relations provide important paradigms and structures to identify the complex network of international politics.

- In a globalized context, national economies are internationally connected. Therefore, international political economy has developed as one major aspect of the discipline of international politics.
- In the absence of a centralized authority that can control the interactions as well as individual actions of the actors, the context of international system is vulnerable for possible conflicts and fragile relations. Therefore, maintaining peace and security of the international system is one of the most important objectives of international relations. United Nations is the most formal and comprehensive collectivity in the international system and it addresses the global peace and security and its most important concerns.
- Globalization and the development of globalized relations among the actors are also some of the salient themes in international politics.

14.2 State and Non-state Actors in International Politics

Actors in international politics are of two types, (a) state, and (b) non-state**.**

Interactions and the behaviour of the actors of international politics are crucial factors in shaping the nature of international relations. In a broad sense, those actors are divided into two categories.

I. Nation – states and Inter-State organizations
II. Non-state actors

I. Nation – states

The modern world is composed of political units called nation-states. In other words, nation states are the units of the modern world system. Modern nation-states began to evolve in Europe during the mid - seventeenth century. The Treaties of Westphalia are considered as the landmark event in the evolution of the modern world system of nation-states. International politics is basically political, economic, military -strategic and cultural interactions among the nation states.

Thirty years war began in 1618 between the Catholic and Protestant states within the Holy Roman Empire in Central Europe. The war ended in 1648 with a series of peace agreements called the Peace Treaty of Westphalia. The Treaty was signed by the representatives of Span, France, Sweden, Holland and several small states that earlier belonged to the Holy Roman Empire.

The Westphalia Treaty demarcated the territorial boundaries of the signatory states and it therefore the initial point of recognizing the external sovereignty of

the states. These ideas nourished the development of the modern nation-states that are identified with (a) the modern territorial state, and (b) sovereignty recognized and honoured by other states.

This new principle in the political relations among states as independent and sovereign political units is called Westphalian Sovereignty. Since then, the nation states have become the most crucial and prominent actor to shape the nature of the international system.

Generally, the relations among nation states are identified as 'international relations'. Thus, international politics is organized as interactions among states. In the discipline of International Relations, the nation states are the basic unit of analysis

II. International Inter-governmental Organizations

In order to achieve collective prosperity and mutual cooperation, the states develop organizational structures among them. Those organizations are inter-governmental organizations (IGOs). The prime example for the IGOs is the United Nations.

Intergovernmental Organizations have been formed on various aspects of mutual cooperation among the nation-states. Examples are:

- Regional Organizations (SAARC, ASEAN, EU)
- Security Blocs (NATO)
- Organizations that promote economic, social and cultural cooperation (Bretton Woods system, G7, UNESCAP, UNESCO, UNICEF)

III. Non-State Actors

1 International Non-governmental Organizations (INGOs)

International non-governmental organizations do not possess the official status enjoyed by the nation - states in terms of their membership of the international community. They operate outside the formal organizations of the states. Nevertheless, they have become a powerful voice in international politics. Statistical evidence shows that the number of INGOs in the world today exceeds five thousand. Their activities cover a broad range of thematic areas such as human rights, women's rights, minority rights, labour rights, environment protection, world peace, and nuclear disarmament.

2. Multi-national/Trans-national corporations

Multinational or trans-national organizations are a kind of international corporations with trade or financial objectives. They are powerful companies engaged in business or industry at the global level, operating across countries and continents. Contemporary examples are Coca Cola, Microsoft, Apple Computers, Ali Baba, Nestle and private international banks and insurance companies. They have enormous capital and resources at their disposal.

Because of their size as well as international presence, they can also influence economic policies of individual countries as well as the world. These organizations, although they are private companies, can penetrate territorial borders of the states though investment and economic control.

These Trans-national corporations share a considerable measure of power that can even override the sovereign power of nation states in the globalized world.

IV. Eminent Persons

Eminent persons are important personalities who can influence regional or international politics and decision-making. Their source of strength is their personal power arising from immense popularity, intellectual or religious leadership, political clout, and moral authority etc. Often, they have mediated in conflicts and campaigned for such global issues as environment, refugee rights, disarmament, and peace.

Political leaders	-	US President, Secretary General of the UN, former heads of state.
Religion leaders	-	The Pope, Dalai Lama

V. Terrorist Groups

- Terrorism is widely recognized as one of the major challenges for peace and order as well as the status quo of the international system. After the cold war, terrorist groups have become a major threat to word peace.

- The proliferation of terrorist groups and the unconventional war, which some of them such as Taliban, Al Qaida, and ISIS have declared against the US and the Western governments, is the latest development to bring the question of terrorism to global political agenda.

- Terrorist groups, whose targets of attacks now include civilians, state institutions as well as cities, operate outside the law. Their actions are acts of war. They are also not

accountable to any authority, national or international. Therefore, governments usually respond to terrorism militarily.

Recent 'internationalization of terrorism' has led to the emergence of a 'global war against terrorism' led by the United States. As a result, the threat of terrorism to international peace, order, and security of civilian populations has now become a complex political issue globally. It is also an important theme in the field of political science and international relations.

New Trends

In addition to those actors, there are new issues that have also emerged to impact on the nature of international politics. New environmental challenges arising from global warming, water scarcity, drought and natural disasters, health problems and epidemics such as HIV/AIDS are examples.

Since the natural resources in the world are depleting, new inter-state organizations have emerged with the aim of developing new approaches to development and the exploitation of natural resources. The Indian Ocean Rim Association, and BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technological and Economic Cooperation) are examples.

14.3 National Power and National Interest

- National interests can be defined as long term motives and objectives that are dedicated for the goals of national security and prosperity of the nation states. These interests may represent, economic, social, political or cultural needs of a nation.
- Usually, the nature of national interests are based on the national power of a state. It is an unstated principle in international politics for the nations to develop national interest commensurate with their national power
- Several means have been established to achieve the goals of national interest by the states. The most accepted and established means is diplomacy.
- States maintain their mutual relations through foreign policy.
- Propaganda is an optional way to achieve a state's interests.
- Economic and strategic alliances are popular means of international economic relations. Inter-state economic agreements, loans, grants and other forms of economic assistance are instruments of economic strategies.

- States formally and officially enter into treaties and establish bonds through alliances, in order to ensure their peaceful survival in the international system. These alliances could be economic, security, political, or cultural.

14.4 Trends in Contemporary Global Politics

I Multi-polar Balance of Power System:

- At the end of the World War II, the USA and USSR emerged as the two dominant world powers while the former colonial powers of Europe had collapsed.

- However, the cold war relationship between the USA and the USSR denoted the establishment of a Bi-polar System of Balance of Power in the international society dividing the international system into two major rival blocs. The USA and the Europe represented the Western Bloc and Russia as well as the countries of the communist world represented the Communist, or Eastern, Bloc.

- The 1980's bore witness to a gradual collapse of the communist bloc. Some influential Western scholars saw the collapse of communism as the triumph of Western liberal democracy. Professors Samuel Huntington and Francis Fukuyama were leading advocates of this analysis. Fukuyama in his book *The End of History and the Last Man* (1992) saw it as marking the ultimate triumph of liberalism as "the end point of the mankind's ideological evolution" and "the final form of human government." Triumph of liberalism was thus seen as the end point of the political and economic evolution of human society.

- These developments also impacted on international political relations. The post-communist world initially appeared to be moving in the direction of the emergence of a 'Unipolar World,' that is, a world with one Super power, dominated by America and the capitalist West. Liberal democracy was also seen as the new global political ideology.

- However, that scholarly prediction did not materialize. Post-communist societies did not become liberal democratic. Many of them, including Russia, developed ethnic conflict, political uncertainty, and undemocratic forms of government. A 'Unipolar World System'' with one world super power, the USA, did not emerge. Liberal democracy did not triumph globally either.

- In the 1990's, an alternative system began to be established in the global society. East Asian countries emerged as economically strong nations. The European Union emerged as the expression of economic and political power of Europe. The BRICS (Brazil, Russia, India, China and South Africa) countries emerged as new dynamic alliance among emerging economic powers. Europe had already integrated as the European Union. The ASEAN is also a regional economic bloc. The international system began to develop several power blocs and this denotes the establishment of a new system of Multi-Polar Balance of Power.

II. Alternative International Networks

The modern world system has also witnessed an alternative network of people emerging in international society. It has now developed in to the stage of shaping the nature of international system. These networks do not employ formal means such as diplomacy and formal practices of foreign affairs.

Cyber space has emerged as an alternative national and international space to develop more soft and non-physical power relations in the international society. The 'Arab Spring' and many other international social movements as well as crucial events were established in the virtual international space. People now communicate across cities, countries and continents instantly, exchange ideas and analysis, and even engaged in organized action such as political protests without any forma organizational structures. This is an entirely new phenomenon of mobilization, solidarity and action in the contemporary globalized world. The protest movement called 'The Arab Spring' was a good example.

III New Social Movements

New-social movements have also emerged as an alternative force in mobilizing the *international* political and social action. Their goals and interests cover issues that were not in the agenda of classical social movements. They mobilize citizens across the world on issues of human rights, women's rights, environmental protection, rights of sexual minorities, reproductive rights of women.

Mobilization against globalization by networks of social activists and the global environmental movement are contemporary example of new social movements with global as well as local agendas, working independent of the state system.

14.5 Impact of the New World Political and Economic Trends on Sri Lanka

- In a globalized world no state can function in isolation. The internal policies of nation-states are not entirely shaped by their internal demands, national interests and local needs. They are also shaped by the dynamics of international environment. Powerful states might be more decisive in shaping internal affairs of other countries while small states are much more dependent on international political and economic realities.

- The impact of the world political and economic trends on Sri Lanka depends on multifaceted reasons and causes. Being a relatively small state with limited political and economic strength, Sri Lanka is severely affected by the international political and economic trends and power relations.

- **Economic Trends**: A contemporary example of such economic trends is globalization. Most of the economic policy changes which the Sri Lankan governments have implemented since the mid-1980s centered on economic liberalization. However, they have been not choices made by those governments on their own. Rather, they are choices which the policy-makers were compelled to make, sometimes going against their long-held ideological positions, because the global economic forces have not left them with other options. When a small country's economy is closely integrated with the world economy, global factors have a greater say in determining domestic economic and social policies. That is why some critics argue that in contemporary world, there is no room for 'economic sovereignty' in the conventional sense.

- As a small country with a economy, Sri Lanka is highly dependent on international economic and trade assistance. Flows of global capital always emphasize liberal democratic political order and an open competitive economic system. Loans and financial assistance to Sri Lanka from the West as well as from the international financial institutions have had the tendency to propose conditions emphasizing reforms to promote liberal democracy and human rights. Sometimes, this 'aid conditionality' in development assistance has come into conflict with national interests. It has also generated intense domestic political debates on foreign aid from the West. However, having limited economic capacities, Sri Lanka has only a very little chance to ignore these conditions. In fact, free-market economic reforms introduced in the 1980s and after were a direct outcome of aid conditionality.

- A recent example is the loss and the subsequent return of GSP Plus facility. Sri Lanka lost the tariff exemptions under the European Union's Generalized Scheme of

Preferences (EU GSP+) in 2010 due to multiple reasons claimed by the European Parliament. In order to regain the GSP+ facilities, Sri Lanka was advised to ratify and effectively implement 27 international conventions on human and labour rights, environmental protection, and good governance. To implement those conventions, Sri Lanka may have to revise the local legal infrastructure, such as the Penal Code, legal enactments such as the Prevention of Terrorism Act (PTA).

- **Political Trends**: An example of how new world political trends impact on national policies is the emergence of China as the second most powerful nation in the world after the Cold War. While the Western domination is declining globally, the world has also seen a multi-polar balance of power in the world. During the past two decades, many countries in the world have been adjusting to this new world situation. Sri Lanka's growing economic links with China is a reflection of this change.

Proposed Learning Activities

1. Seminar: Organize a seminar on "International Politics," with the participation of a panel of speakers The following topics can be discussed at the Seminar:
    - National and international politics and their differences
    - Role of state and non-state actors in world politics
    - Nation states, inter-state organizations, non-state organizations, multi-national corporations, and eminent persons as actors in international politics
    - National power and national interest
    - Political trends in the world today

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15. Sri Lanka and the World

Competency : Comment on the nature and consequences of the relations Sri Lanka maintains with the external world

(45 periods)

Competency Levels :

15.1 Explain the factors which influenced the conduct of foreign policy of post independent Sri Lanka.

15.2 Explain the features and trends of post independent foreign policy of Sri Lanka.

15.3 Examine contemporary trends of the Sri Lankan foreign policy

15.4 Express opinions on the problems and challenges faced by the present foreign polic

Learning Outcomes:

- Identify the factors that influence the foreign policy of Sri Lanka.
- Examine the features and new trends of the Sri Lankan foreign policy
- Identify Current trends of Sri Lankan foreign policy
- Explains the influences and advanced gained by Sri Lanka as a member of international organizations.
- Describe the relations and challenges between Sri Lanka and international non governmental organizations.
- Examine the effect of new trends in international politics on Sri Lankan

Introduction

This Lesson seeks to enable students to get a basic understanding of Sri Lanka's relations with the external world and their consequences. With that objective in mind, we will first discuss factors that have shaped Sri Lanka's foreign policy since independence.

Foreign policy is about what a state wants to achieve internationally and the strategies for the realization of those aims. Therefore, we will try to understand the features of Sri Lanka's post-independence foreign policy as well. Then we will focus on contemporary trends in Sri Lanka's foreign policy, the benefits Sri Lanka gains as a

result of being a member of international organizations, and also the pressures from international non-governmental organizations it negotiates. That will enable students to learn about the problems and challenges of the country's foreign relations today and also about how new trends in world politics impact on Sri Lanka's foreign policy.

15. 1 Foreign Policy of Sri Lanka

- Foreign policy can be defined as objectives that a country seeks to achieve internationally and the strategies designed to achieve those objectives.

- In the modern world, states employ the following strategies to pursue their foreign policy objectives:

  i. Diplomacy
  ii. Foreign Aid
  iii. Military Force.

Diplomacy

- Diplomatic relations are relations that countries build with other countries formally through talks and formal interactions.

- Some countries send signal to the international society by demonstrating their national power and interests on their own. These strategies are called 'unilateral diplomacy.'

- When a country works in partnership with other countries to demonstrate its international objectives and intentions, it is called 'multilateral diplomacy.'

- Thus, foreign policy becomes a way to express a country's national power and national interests.

- Sri Lanka, from early days of its civilization has maintained relations with other countries. History shows that because of the geographical proximity, Sri Lanka has had friendly as well as hostile relations with India.

- Thus, we can see how in the past Sri Lanka has maintained friendly relations with other countries and rulers as well as how the country became a target of invasion when some foreign powers pursued their national interests.

- At the same time, historical and archeological evidence shows that Sri Lanka has also maintained in the past cultural and trade relations with many countries.

- Sri Lanka's foreign policy became well organized and systematic after political independence.

- The nature of Sri Lanka's post-independence foreign policy has also been shaped by the ideologies and interests of different regimes in power, as well as Sri Lanka's strategic location and economic and security needs. Sri Lanka's identity as a member of the South Asian and Asian regions as well as relations with the global society has also shaped the country's foreign policy.

In the next section of the Lesson, we will discuss these topics in some detail.

15. 2 Factors that Determine Sri Lanka's Foreign Policy

I. Geo-political Location

- Sri Lanka is an island and is situated in a central location with geo-political significance. Therefore, the country is naturally open to the external world. This strategic location has been the reason for Sri Lanka's close interaction with India and several other Asian powers for centuries. Because of the strategic proximity to India, Sri Lanka's relations with India have been multi-faceted.

- Since Sri Lanka is located within the region of South Asia, it is quite natural for Sri Lanka to be a member of SAARC. Sri Lanka is also an island within the Indian Ocean region. Therefore, Sri Lanka is a member of multi-lateral organization connected with ocean economies. Examples are Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), Indian Ocean Rim Association (IORA). Sri Lanka is also cooperating closely with the Maritime Silk Root initiative.

II. Social and Cultural Factors

- Sri Lanka is a multi-cultural society with different world religions. Relations with India have a strong cultural dimension which has evolved through centuries. Buddhist legacy of Nepal, Japan, Thailand, and Burma has played a role in Sri Lanka's relations with those countries. Similarly, bi-lateral relations with Islamic countries in the Middle East as well as Pakistan and Bangladesh also have this cultural dimension. Sri Lanka's relations with Italy and Rome are fostered by the presence of Catholicism in Sri Lanka.

- A country's foreign policy cannot be separated from its internal social, political and economic factors. In fact, foreign policy can be considered as an extension of domestic policy. Therefore, shifts in domestic socio-political dynamics also impact on foreign policy.

III. **Political Economy**

- Economic policies of regimes in power also impact on the foreign policy. After economic liberalization in 1977, there was a marked shift in Sri Lanka's foreign policy for closer cooperation with Western as well as South East Asian countries. Similarly, a country's visions for economic growth and development also impact on its foreign relations.

IV. **Political Agenda of the Regime**

- Policies and agenda's of the ruling party or coalition have a direct impact on a country's foreign policy. This enables us to understand how the foreign policy of governments of United National Party has been different from those of the governments of Sri Lanka Freedom Party.

V. R**egional and International Balance of Power**

- A country's foreign policy cannot be isolated from the dynamics of regional and international politics. They in fact have a decisive influence. For example, balance of power within the South Asian region, the global balance of power under conditions of uni-polarity, bi-polarity and multi-polarity are important factors that shape foreign policy of Sri Lanka.

VI. **People's Expectations and Ideologies**

- Views of the people in society as well as hegemonic ideologies also impact on the foreign policy. Discourses as pro-Chinese, pro-Indian, nonaligned, pro-Western, and nationalist are built on ideologies prevalent in society. Foreign policy makers pay attention to such discourses.

15. 3 Special Features of Sri Lanka's Foreign Policy

- In many studies on Sri Lanka's foreign policy, its characteristics have been identified within a chronological framework. A better approach is

to analyze foreign policy from the perspective of regime intentions and orientations.

- Sri Lanka's post-independence foreign policy has been determined by two political parties in power, (a) the United National Party (UNP) and its coalition governments, and (b) the Sri Lanka Freedom Party (SLFP) and its coalition governments.

- Foreign Policy under the UNP has been responsive not only to domestic opinions and ideologies, but also to the hegemonic powers in the world.

- The SLFP-led governments have maintained a foreign policy closer to the Soviet Union and China, as well as a policy of non-alignment and 'positive neutralism.'

15. 4 Current Trends in Sri Lanka's Foreign Policy

- There is a noticeable change in Sri Lanka's foreign policy after 2015. Its main feature is the emphasis on economic diplomacy as the key orientation of foreign policy. It also shows how the foreign policy now, more than in the past, responds to shifts in the international economic balance of power, through closer interaction with the International Monetary Fund (IMF), the World Bank or International Bank for Reconstruction and Development (WB/IBRD), World Trade Organization (WTO), International Finance cooperation (IFC), and World Economic Forum (WEF). At the same time, there is emphasis on the new economic balance of power in the world, caused by the emergence of new economic frontline states such as European Union and China. This is an example of how foreign policy orientation may change along with regime change.

- When a government acknowledges the world balance of power and how it is dominated by the US and Europe, its foreign policy may appear as 'pro-Western.' This is the case with the present government's foreign policy. However, the UNP government is promoting a policy of greater understanding and cooperation with India than in the past. Close economic cooperation with China is also a noticeable trend.

- The foreign policy of SLFP and its coalition governments has been influenced by regionalism as well as cultural and ideological factors.

The Asia oriented foreign policy position of recent SLFP-led governments indicates this tendency.

- When we look at the foreign visits undertaken by the leaders of the present government, we can see how they lay emphasis on improving relations with emerging economic powers such as Vietnam, Singapore, China, India, and South Korea.

- We can also see how economic factors have influenced Sri Lanka's multilateral as well as bi-lateral relations regionally and globally. There is now greater bi-lateral cooperation with the newly emerged economic powers. Continuing closer relations with China, despite the initial reluctance by the present government, is the best example.

United Nations and Sri Lanka

- Sri Lanka obtained UN membership in 1955. However, Sri Lanka maintained relations with the UN since 1952. The United Nations Development Programme (UNDP) has been active in Sri Lanka since 1952. While Sri Lanka has participated in all UN General Assembly Sessions since 1952, it has chaired the Sessions in 1976. Sri Lanka was also the country that proposed disarmament resolution to the UN General Assembly in 1978.

- During 1960-65, Sri Lanka was a non-permanent member of the UN Security Council.

- Sri Lanka is also a member state of UNESCO. Sri Lanka has ratified a number of international covenants of the UN such as covenants on human rights, labour, and environment.

- In recent years, Sri Lanka has been subjected to UN reviews on human rights on alleged incidents relating to human rights occurred during the ethnic civil war. The UN involvement in these issues has led to intense political debates and they have influenced Sri Lanka's foreign policy orientation.

The Commonwealth and Sri Lanka

- Sri Lanka has been a member of the Commonwealth since 1948. Sri Lanka's recent relations with the Commonwealth have been mainly in the areas of education, sports and culture. The 23rd Commonwealth Summit was held in Sri Lanka in 2013.

Non-Align Movement and Sri Lanka

- The Non-Aligned Movement (NAM) was formed in 1961. Its objective was for the member countries to follow a middle path in world affairs without aligning themselves either with the US or the USSR, which were the two super powers at the time. Sri Lanka was a founder member of the NAM.

- In 1976 Sri Lanka was the host county to the NAM Summit. At present NAM is not an influential actor in world affairs. The relations between Sri Lanka and NAM were close during SLFP-led governments.

South Asian Cooperation and Sri Lanka

- Sri Lanka was a founder member of the South Asian Association of Regional Cooperation (SAAEC) which was formed in 1985. At present, SAARC is inactive dues to internal problems of the Association. Sri Lanka is also a member of South Asian Free Trade Association (SAFTA) and South Asian Preferential Trade Agreement (SAPTA). Sri Lanka has also been active in the festival of South Asian Games.

International Financial and Development Institutions and Sri Lanka

- Sri Lanka holds membership of the International Monetary Fund (IMF) as well as the International Bank of Reconstruction and Development or the World Bank (IBRD or WB), the Asian Development Bank (ADB), and the World Trade Organization (WTO). These institutions have provided Sri Lanka financial and material assistance needed for development.

- Sri Lanka's relations with these institutions have also come under much criticism. When providing financial assistance, these institutions impose economic policy conditions on receiving governments. These conditions in recent years have emphasized economic restructuring and political reforms.

International Non-Governmental Organizations and Sri Lanka

- International non-governmental organizations (INGO) are active in a number of areas within states. Their agenda includes issues of human rights, development, women's rights, and minority rights etc. Their role has been influential in determining domestic policies as well as triggering domestic political debates. Therefore, governments have to interact with them as well when making foreign policy decisions.

15.5 Problems and Challenges in Foreign Policy

- Problems and challenges in Sri Lanka's foreign policy are also reflections of the state's internal dynamics in political, social, economic and cultural spheres. Smallness of size and territory, limited economic and physical resources, regional balance of power, international balance of power, domestic social and political ideologies and discourses are sources of foreign policy challenges. Because of smallness of size and limited economic power, Sri Lanka's international role is also restricted.

- The overall foreign policy challenge is about how to secure maximum international support and cooperation, preventing unnecessary interventions, in the fields of education, culture, and information in order to promote the country's development and economic growth.

- The government needs to be able to stabilize and manage the domestic politics in order to achieve the above objectives. At the same time, there is also the need to be an active and neutral member of the international community.

- The government's ability to manage these two issues will determine its capacity to manage the problems and challenges in the country's foreign policy.

Learning Activities

Either

1. Impromptu Talks: make arrangements for students to give impromptu talks on the following topics:

    - Factor that influence Sri Lanka's foreign policy.
    - Special features of Sri Lanka's foreign policy
    - Current trends in Sri Lanka's foreign policy
    - United Nations and Sri Lanka
    - Commonwealth and Sri Lanka
    - South Asian cooperation and Sri Lanka
    - International financial institutions and Sri Lanka
    - Problems and challenges in foreign policy today.

Or

2. Using internet sources, prepare reports on the above topics.

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