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B.A.LL.B C-102

Introduction to Political Science

Unit III

Objectives:

Unit III: The Concept of Sovereignty

- 3.1 The Concept of Sovereignty: Difference between Legal Sovereignty and Political Sovereignty.
- 3.2 Theories of Sovereignty:
 - a) Monistic Theory of Sovereignty
 - b) Pluralistic Theory of Sovereignty
- 3.3 The Concept of Sovereignty and Globalization.

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Unit III**REFERENCES FOR THE COURSE**

The following books have been consulted for the preparation of this E-Content Material. However, nothing in this material should prevent the students from consulting other books or e-resources relevant to the said course.

1. Key Concepts in Politics. Andrew Heywood. Palgrave Macmillan
2. Politics. Andrew Heywood. Palgrave Macmillan.
3. Political Theory; An Introduction. Edited by Rajeev Bhargava and Ashok Acharya
4. Political Theory and Organization For Law Students. L.S. Rathore and S.A.H Haqqi. Eastern Book Company.
5. Political Theory Issues, Concepts and Debates. Edited by Akhil Ranjan Dutta. Arun Prakashan
6. Material downloaded from JSTOR & YouTube Lectures.
7. Principles and Theory of Political Science. Urmila Sharma and S.K.Sharma. Atlantic Publishers and Distributors (P) Ltd.
8. An Introduction to Political Theory. O.P.Gauba. Macmillan.

I would like to appreciate my deep regard to the following writers as I have mainly consulted their material for the preparation of this e-content material.

1. Andrew Heywood
2. Patrick O'Neil
3. Rajeev Bhargava
4. Ashok Acharya
5. L.S. Rathore
6. S.A.H. Haqqi
7. Akhil Ranjan Dutta
8. Barnali Sarmah
9. Nivedita Menon
10. Urmila Sharma
11. Krishna Menon
12. O.B.Gauba

Unit - III	Number: 3.1
Title: The Concept of Sovereignty	

THE CONCEPT OF SOVEREIGNTY

National and international politics today is dominated by the notion of sovereignty and contests over it. Sovereignty, according to its defendants, both in theory and practice, aims at establishing order and clarity in what they describe as a turbulent and incoherent world.

The term sovereignty is derived from the Latin word 'Superanus' meaning supreme or paramount. Thus the etymological meaning of sovereignty is the supreme power of the state. The idea of sovereignty entails that there is a political authority in a community and it has been entrusted with undisputed legal right to determine the framework of rules and regulations in a given territory to govern the members of that community. The exercise of the supreme power by the state is commonly called 'sovereignty' and states are, therefore, described as 'sovereign'. The use of the word 'sovereignty' as a technical term in political science dates from the publication of a work called *The Republic* by the French thinker Jean Bodin in 1576 A.D.

The sovereign state system in Europe emerged as a response to specific historical circumstances. By the 16th century, the Church in Europe was beginning to lose control over the state and societal structures since these were moving in a secular direction for a variety of reasons. The main components of the new cultural and political milieu of which the idea of sovereignty is a product are mentioned as under:

- Expanding avenues of trade
- New forms of manufacturing industries
- New developments in art, culture, philosophy and of course
- Systematic expansion of scientific and technological base accompanied by a challenge of doctrinaire religion.

DEFINITIONS OF THE CONCEPT OF SOVEREIGNTY

- **J. W. Garner**, "Sovereignty is that characteristic of the state in virtue of which it cannot be legally bound except by its own will or limited by any other power than itself."
- **Jean Bodin**, "Sovereignty is the absolute and perpetual power of commanding in a state and a supreme power over citizens and subjects unrestrained by law." J. Bodin also defines it as, 'the supreme power over citizens and subjects, unrestrained by laws.'
- **Hugo Grotius**, "Sovereignty means freedom from foreign control."
- **Harold J. Laski**. "The modern state is a territorial society, divided into government and subjects, claiming with its allotted physical area, supremacy over all other institutions."
- **J.W.Burgess** writes, 'I understand by it, the original, absolute, unlimited, universal power over the individual subject and all associations of subjects.'
- **W.F.Willoughby** styles sovereignty as, "the supreme will of the state".
- **R.G. Soltau**, "sovereignty is the exercise of final legal coercive power of the state."

Summing Up Definitions

To be a sovereign, one must have absolute authority upon the society and the members of the society must obey his command. At the same time, sovereign must also ensure that there is no final and absolute authority upon him and he is free from all the external forces.

TWO DIMENSIONS OF SOVEREIGNTY

There are two sides of sovereignty:

- **Internal Dimension of Sovereignty:** Sovereign authority exercises supreme command within a given territory. Internally, the state is considered to be sovereign and has supreme authority within its borders. This implies that no higher authority exists internally above the state to take any coercive or any other action. Sovereignty enjoys absolute authority over the individuals and institutions of that region and sovereign has

exclusive power to formulate rules and regulations for them. It thus means the final legal power of the state to command and enforce obedience to its authority. Its orders are final to all individuals or associations within the boundaries of the state.

- **External Dimension of Sovereignty:** Sovereign is free from all exterior pressures. It upholds independence of the state from the control or interference of any other state in the conduct of international relations. The sovereign status of the state is not destroyed by the conclusion of any treaty with other states, or by the rules of international law. These are 'auto-limitations and are obeyed at will of the state.' There is no other authority which can coerce it into obedience. It's will is its own, unaffected by the will of any external power.

CHARACTERISTICS OF SOVEREIGNTY

- **Absoluteness:** The sovereign authority is supreme and absolute both in internal as well as external arena. It is unlimited and subject to no legal limitations. It implies absence of any restraint on its authority, either from within or without.
- **Permanence:** Sovereignty is permanent feature of the state. As long as the state maintains its independence, sovereignty lasts. The two are inseparable. Governments may be formed or dissolved according to established procedure, but the continuity of the state will not be affected by such changes. It does not cease with the 'death or temporary dispossession of particular bearer or reorganization of the state, but shifts immediately to a new bearer as the centre of gravity shifts from one part of a physical body to another when it undergoes external change.'
- **Indivisibility:** Sovereignty cannot be divided between different sets of individuals or groups. In every state, sovereignty is vested in a single body. The division of sovereignty means the destruction of sovereignty. The notion of a 'divided, fragmented, diminished, limited, relative sovereignty' is the negation of sovereignty. Here it should be mentioned that pluralists have a different notion of sovereignty.
- **Universality:** Sovereignty extends to all individuals, groups, areas and things within its territory. Sovereignty is all-comprehensive in its nature. A sovereign state does not recognise the existence of any rival within its jurisdiction. Neither any person nor any organization can affect the sovereignty of the state within its territory. The only exception to the universality of sovereignty is the extra-territorial jurisdiction allowed to

embassies. But here it must be remembered that the state grants immunity or extra-territoriality to the officials of embassies including;

- Envoys
- Ambassadors
- UN officials
- Foreign Heads of State etc.

- **Inalienability:** Sovereignty can no more be alienated (from the state) than a tree can alienate its right to sprout or a man can transfer his life and personality without self destruction. 'Sovereignty can no more be alienated than a tree can alienate its right to sprout or a man can transfer his life and personality without self-destruction.'
- **Exclusiveness:** The sovereign power of the state is exclusive. No individual or association within and outside the territory of a state can compete with it. There is only one sovereign power in a state. It alone is legally competent to command the obedience of its inhabitants.

Unit - III	Number: 3.1
Title: Difference Between Political Sovereignty and Legal Sovereignty	

POLITICAL SOVEREIGNTY AND LEGAL SOVEREIGNTY

The classification of sovereignty into legal and political sovereignty is applicable in the case of modern, indirect or representative democracy. Here, people elect representatives to run government on their behalf. Elected representatives constitute legal sovereignty, since they have supreme power to make and enforce laws. If these representatives fail to perform satisfactorily, they can be removed from office in next elections. Thus, people sanction authority of legal sovereignty and are, therefore, actual force behind legal sovereignty; and they constitute ultimate political sovereignty. Political sovereignty is the exclusive right to have control over an area, to operate the government, enact laws, and regulate activities and commerce.

THE CONCEPT OF LEGAL SOVEREIGNTY

One significant aspect of the idea of sovereignty is the concept of legal sovereignty. The legal sovereign, 'the authority within a government which by law has the power to issue final commands. It is the authority to whose directions the law of the state attributes final legal force.' In every ordered state there are laws which must be obeyed by the citizens, and there must be a power to issue and enforce these laws. The power that issues and lays down these laws is the legal sovereign power in the state. It may be vested in a person, or a body of persons. The authority of the legal sovereign is absolute. Its will is illimitable, indivisible and inalienable. Law is simply the will of the sovereign as Hobbes said, within the sphere of law there is no such thing as an unjust command. The sovereign has the legal right to will whatever he may happen to desire. All rights enjoyed by citizens are granted and enforced by the legal sovereign and there can be no right against him.

THE CONCEPT OF POLITICAL SOVEREIGNTY

Behind the legal sovereign there is another power which is unknown to law. The power is unorganized and incapable of expressing the will of the state in the form of a legal command. But nevertheless the force of this power is of paramount importance. This power (not defined in law) is known as political sovereignty. Political sovereignty is the ultimate repository of political power. In countries with representative governments the elected parliament may have temporary legal control but they have to derive their authority from the body of electors.

The notion of political sovereignty is unorganized and indeterminate. Political sovereignty, therefore, is theory can be identified with the power of the electorate, mass of people and public opinion. Political sovereignty is nothing but the latent power of the electorate plus all other vehicles and influences that shape public opinion. Garner gives a fairly wide scope when he writes: 'In a narrow sense the electorate constitutes the political sovereign, yet in a wider sense it may be said to be the whole mass of the population, including every person who constitutes to the moulding of public opinion whether he is a voter or not.'"

Difference Between Legal Sovereignty & Political Sovereignty

LEGAL SOVEREIGN	POLITICAL SOVEREIGN
Law making authority in legal terms.	It is behind legal sovereign. It cannot issue commands in the form of laws.
Legal Sovereign is vested in one person or a group.	Political Sovereign is vested in the electorate or people.
Legal sovereign is definite, organised, precise and known to law.	Political sovereign is indefinite, unorganized, vague and known to law.
Recognised by lawyers and courts.	Not recognised by lawyers and courts.
Cannot go against the will of Political sovereign	Actually the legal sovereign has to bow down before the political sovereign.
Legal sovereign is elected by Political sovereign	It is identified with the community & with the mass or Public Opinion.

Unit - III	Number: 3.2
Title: Theories of Sovereignty	

THEORIES OF SOVEREIGNTY

From time to time, various thinkers have been trying to define the concept in terms of its nature leading towards the emergence of a number of theories. Mainly we will discuss two following theories of sovereignty.

- **Monistic Theory of Sovereignty / Austin's Theory of Sovereignty.**
- **Pluralistic Theory of Sovereignty.**

MONISTIC /JURISTIC/LEGAL/ AUSTIN'S THEORY OF SOVEREIGNTY

The classical theory of sovereignty as articulated by thinkers from Jean Bodin to John Austin emphasises primarily on the legal character of the sovereignty. It is also known as the legal theory of sovereignty. It considers sovereignty as absolute, universal, inalienable and indivisible. It ordains that the state be one and indivisible. It became dominant in late nineteenth century due to the doctrine of German philosophers like Hegel and Treitschke, Jean Bodin, Hobbes, Rousseau, Bentham, Austin are some of the advocates of legal theory of sovereignty.

John Austin (1790-1859), an English jurist, was the main supporter of monistic theory of sovereignty. He was greatly influenced by Thomas Hobbes and Jeremy Bentham. John Austin discussed this theory in his book, Lectures on Jurisprudence (1832) in the basis of his idea on positive law. Austin rejected the concept of natural law and stated that sound changes cannot be brought in Europe through natural law. So his main aim was to design a coherent system of law and for it he divorced law from morals, ethics, religion and other social norms. He defined law as a command given by superior to an inferior. According to Austin, law is binding on the people because of the superior's power to impose punishment on them. It is the duty of the people to obey the command of the sovereign. Austin classified laws into two categories, i.e., positive law and positive morality. The former are laws consisted of commands lined by the political superior. The positive law is characterised by four elements command, sanction, duty and sovereignty. On the other hand, there are laws which are not set directly or indirectly by a political superior. In this category are diverse types of rules: customs, rules of clubs, laws of fashion and of honour, laws of natural science, the rules of so called international law and the principles and precedents of constitutional law. To all these, Austin gives the name of 'positive morality.'

John Austin states his theory of sovereignty as under:

“If a determinate human superior not in the habit of obedience to a like superior receives habitual obedience from the bulk of a given society that superior is sovereign and that society (including the superior) is a society political and independent.”

The following are the main points of this theory:-

- In every independent political community there are some persons or a body of persons who exercise sovereign power.
- The sovereign is a determinate body or a body of persons. This determinate authority is the source of the supreme and he exercises it.
- The will of the determinate human is supreme and is not subject to any kind of control. Therefore, he does not obey any other authority.
- The sovereign must receive habitual obedience from the bulk of the community. The obedience must be a matter of habit and not mere occasional.
- The command of the determinate human superior is the essence of law.
- Sovereign power is indivisible. The division of sovereignty is its destruction.

CRITICAL EVALUATION OF THE MONISTIC /JURISTIC/LEGAL/ AUSTIN'S THEORY OF SOVEREIGNTY

Some of the criticisms are given below:

- 1) The monistic theory is criticised for asserting that the sovereign is absolute and no limitations exist on its authority. In fact, the sovereign authority is restrained both by internal as well as external limitations. Customary and religious laws are big limitations.
- 2) Austin has defined law as a command lined by the political superior. But the critics are of the view that all laws are not necessarily in the nature of commands and all commands cannot be considered as law. For example, the law that gives people the right to vote is not a command. Moreover, no sovereign can receive habitual obedience from the bulk of the society unless its laws, in the opinion of the citizens, promote common interest.
- 3) The monistic theory defines sovereignty as indivisible. But in every state, whether it is democratic or not, we see division of functions among various organs of government to ensure efficiency of administration.
- 4) Austin is of the view that sovereign is the supreme law maker and whatever he commands becomes law. But all laws do not emanate from determinate superior. There

are some customary laws that are not derived from the command of the sovereign, but have been evolved over a long period of time.

- 5) Pluralists criticise this theory on the ground that society is federal and plural rather than monistic. State is only one out of many associations in society. There are numerous associations and groups in society established independently of the state.
- 6) It is not only impossible to exercise unlimited powers, but also undesirable to confer unlimited powers to anybody.
- 7) This theory does not stand the test of practical reality.

PLURALISTIC THEORY OF SOVEREIGNTY

Pluralism in political science means that existence of many groups and associations in a society and the recognition of their importance for the overall welfare of human beings. Pluralists accuse monists that they regard all non-political associations created by the state as dependent for their continued existence upon the will of the state and as exercising only powers conceded by the state. Pluralists believe that other associations arise naturally and spontaneously and in their peculiar spheres act independently of state control.

During the period of First World War, the state forced its citizens to obey each and every rule created by it and went to the extent of saying them to sacrifice their lives for the sake of the state. Their policy of war was also determined only by the people in power who were imperfect and unsound like other common people. Therefore, the pluralists argued that the state may be a powerful and dominant institution, but it is only one of many associations in society. Pluralist ideas can be traced back to early liberal political philosophy, and notably to the ideas of John Locke and Montesquieu. Their first systematic development, however, was in the contribution of James Madison to the *The Federalist Papers*, in which he advocated a system of divided government based upon the separation of powers, bicameralism and federalism in order to resist majoritarianism and to provide minority interests with a guaranteed political voice.

Whereas the monistic theory is associated with the legal aspects of sovereignty, the pluralist theory emphasizes on the sociological character of the state. The pluralists are of the view that there many associations in the society and some of them like family and church have been in existence prior to the origin of the state itself. All these associations are equally important for the well-being of the human beings.

The assumptions of the pluralism are as follows:

- All citizens belong to groups and many will have multiple group membership;
- There is rough equality amongst groups, in that each group has access to government and no group enjoys a dominant position;
- There is a high level of internal responsiveness within groups, leaders being accountable to members;
- The state is neutral amongst groups and the governmental machine is sufficiently fragmented to offer groups a number of access points;
- Although groups have competing interests, there is a wider consensus among groups on the nature of the political system and the values of openness and competition.

MAIN POINTS OF THE PLURALISTIC THEORY OF SOVEREIGNTY

- Pluralist abhor the over-concentration of power in the hands of the state. It is harmful.
- They want a state in which power is distributed among different groups and associations.
- Absolute sovereignty undermines the autonomous associations.
- State is an amalgam of agencies and persons with different objectives and means of decision.
- It is tyrannical to treat state as the only source & upholder of power.

CRITICAL EVALUATION OF THE PLURALISTIC THEORY OF SOVEREIGNTY

Some of the criticisms are given below:

1. It is said that the logical conclusion of the theory of pluralism is anarchism. Anarchism is an ideology that is defined by the central belief that political authority in all its form, and especially in the form of the state is both evil and unnecessary. Anarchy literally means 'without rule.'
2. The pluralists forget that the state is a unifying force, which cannot be challenged by others. In order to avoid social conflict, unified power must be given to the state.
3. The pluralistic theory of sovereignty implies superiority of the interests of the dominant group over those of the vulnerable groups/sections of the society.
4. This theory equates power of the state with other associations and puts them in the same category. But the reality is that it is in the interest of associations that more power is vested in the state.
5. Division of sovereignty among different associations is not only impossible but also improper. Division of sovereignty in fact lead to destruction of sovereignty.

Unit - III	Number: 3.3
Title: The Concept of Sovereignty and Globalization	

GLOBALIZATION AND SOVEREIGNTY

What is Globalization?

Globalization is the emergence of a complex web of interconnectedness that means that our lives are increasingly shaped by events that occur, and decisions that are made, at a great distance from us. The central feature of globalization is therefore that geographical distance is of declining relevance and that territorial boundaries, such as those between nation-states, are becoming less significant.

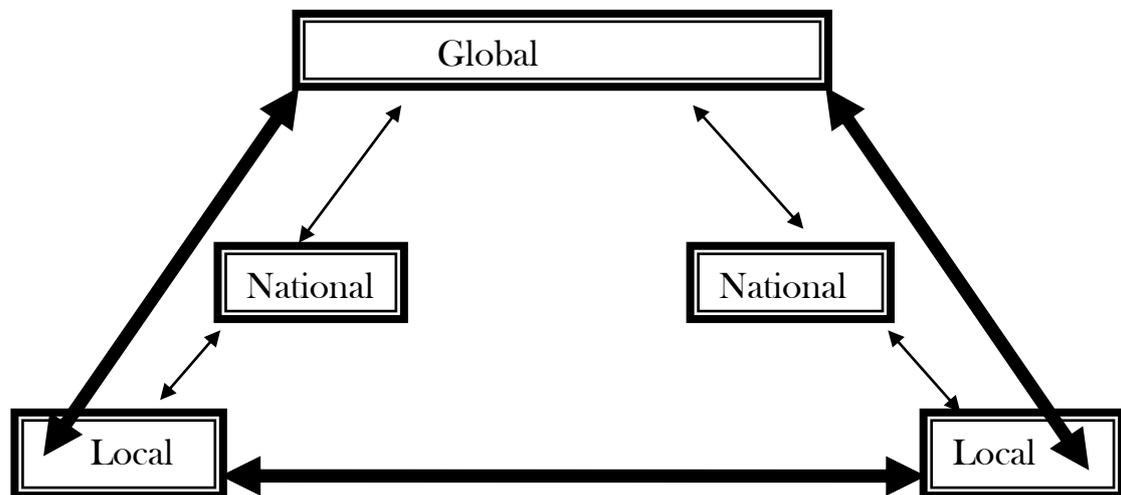


Figure Displaying **Global Interdependence**.

Source: Andrew Heywood's Key Concepts in Politics

Andrew Heywood says that by no means, however, globalization imply that 'the local' and the 'the national' are subordinate to 'the global'. Rather it highlights the deepening as well as the broadening of the political process, in the sense that local, national and global events (or perhaps local, regional, national, international and global events) constantly interact, as indicated in the figure above.

Roland Robertson defines globalization as “a concept that refers to the compression of the world and the intensification of the consciousness of the world as a whole.” Globalization has actually converted the whole world into one single unit or a global village in which events in one part of the world have its impact on another part.

The forces which are fuelling Globalization:

- Techniques (Technological Change)
- Economics (Markets & Capitalism)

● Politics (Power, Interests & Institutions)

The three dimensions of globalization, as per Bernali Sarmah in the edited book *Political Theory: Issues, Concepts and Debates* are listed as under:

- **Economic Globalization:** It refers to the involvement of the MNCs, the free flow of goods in the global market and also the changing nature of the economy in the globalized world.
- **Political Globalization:** Political globalization refers to the 'shifting reach of political power, authority and forms of rule," as it involves the international organizations and regimes, non-state actors, transnational bodies or national pressure groups, whose activities have their influences in the international arena.
- **Military/Security Globalization:** Traditionally, national security means the acquisition, deployment and use of military force to achieve national goals, but today, military / security globalization redefined and widened the concept of international security as it includes environmental issues, humanitarian issues etc.

IMPACT OF GLOBALIZATION ON THE STATE SOVEREIGNTY

Globalization has led to the transformation of the state – Its Power & Authority. The nature of statehood has changed. The impact is not uniform on the states of this world. The main changes can be summed up as under:-

1. **Erosion of State Borders**
2. **Softening of State Sovereignty**
3. **Loosening of State's Control**
4. **Increasing Constraints on State Sovereignty.**
5. **Diminution of the State**

● Erosion of State Borders

In today's world borders are gradually becoming irrelevant. The emergence of Multi-National Corporations (MNCs) has led to the internationalization of business. Their interests are global – that is their interests go beyond the borders of the state.

A New Global Culture has come into existence which belittles the importance of borders.

● **Softening of State Sovereignty**

Economic globalization is considered to put an end to the system of independent sovereign state system (Westphalia Model). So it can be said that economic globalization has attained supremacy or triumph of the market over the state. And it is Economics which has become important and not Politics.

● **Loosening of State's Control**

The Globalization (Privatization & Liberalization & Computers) has changed the idea of security. The traditional notion of security has been replaced by modern notion of security. For ensuring this security to human beings state cannot do everything on its own.

● **Increasing Constraints on State Sovereignty**

The changes in International Law have introduced new forms of regulations, rights and duties which act as constraints on states. States are now supposed to obey these laws. For example the provisions of the UN Charter.

● **Diminution of the State**

The state's authority has shrunk in the modern world today. State's authority has got minimised. A minimal state has come into existence which has very less functions and a very limited scope.

Taken all together, the trends and factors mentioned above have contributed to what has been described by Bob Jessop as 'hallowing out' of the state both from outside and from inside. Sovereignty as the turbo power of the state is running out of fuel while the state has not only a lot of speed-breakers ahead of it but also uncharted tracks.
