



THEORIES OF SOVEREIGNTY

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What is Sovereignty?

- It is derived from the Latin word Superanus, which means supreme.
- It represents the highest power of the state to excerpt obedience from the people who live in it.
- The power of the state is unquestionable and the state has a right to claim commitment from its citizens.

Types of Sovereignty

- There are two types of Sovereignty: internal Sovereignty and external Sovereignty.
- Internal Sovereignty- The state is supreme to any individual or organisation, living or functioning, within its boundaries, and they have to function under the laws and command of the state. The power of the state over them is original, total, indefinite and all inclusive.
- External Sovereignty-In the comity of states, every state is supreme and is free to cast its destiny. No other state or any international organisation can claim dominance to a state.

Definitions of Sovereignty

- Jean Bodin defines sovereignty “The supreme power over citizens and subjects, unrestrained by law.”
- Grotius defines sovereignty as “The supreme political power vested in him whose acts are not subject to any other and whose will cannot be overridden”
- Soltau , “Sovereignty is the final legal coercive power by the state.”

Fundamentals of Sovereignty

- 1. An element of the state.
- 2. Ultimate will of the state.
- 3. Authorized coercive power of the state.
- 4. Absolute laws.
- 5. It lies within individuals
- 6. Absolute and unlimited authority
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Forms of Sovereignty

- 1-Legal Sovereignty- supreme law making power.
- 2-Political Sovereignty-According to Dicey, "Behind the sovereign which the lawyer recognises there is another sovereign to whom the legal sovereign must bow. That body is politically sovereign, the will of which is ultimately obeyed by the citizens of the state"
- 3-Popular Sovereignty: Modern democracy is based on the concept of popular sovereignty which means that the source of all authority is the people. J.J. Rousseau is credited with espousing it in modern times.

- 4-National Sovereignty-sovereignty resides essentially in the nation, conceived as a collective body of all the people enjoying independence from external control.
- 5-Real and Titular Sovereignty-. Titular Sovereignty can be defined as sovereignty power acceded by the Monarch. As the constitutional or ceremonial head of the state he is called a titular sovereign. In India, the president is the titular head while the real sovereign is the prime minister and his cabinet.
- 6-De Jure and De Facto Sovereignty-De jure sovereignty is one, which is legally competent to issue the highest command of the state. A de facto(factual) sovereign is the one who has got actual power and who has real command to go with it

Theories of Sovereignty

- Monistic Theory of Sovereignty: Jane Austin---
- 1-Sovereignty is the highest power in a state which is subject to no laws but is itself the maker and master of them.
- 2-It may reside in either one person or in a number of persons, but in either case it is above law, incapable of any limitation and having an absolute claim to the obedience of all.
- 3-But in some way the sovereign is subject to Law of God and laws of nature, and is therefore he is bound to respect the rights of property and personal freedom.

- 4-Its authority is absolute and incapable of limitation. The sovereign receives habitual obedience from the people but not in the habit of obedience to a like superior.
- 5-Thomas Hobbes and Jermy Benthem followed this theory.
- 6-. Law is a command of the state obliging the subject to do, or to refrain from doing, certain acts, failure to obey being visited by punishment.
- 7- Sovereignty is indivisible.

Monistic Theory of Sovereignty: A Critique

- It conflicts with the basic ideas of democracy.
- The state is only one association among several.
- It ignores the great body of customary law.
- Sovereignty is shared between the legislative, executive and judicial branches and between the national and state governments in a federation.

Pluralistic Theory:- Laski

- Pluralists view modern society as a web of associations. Other associations are equally important and natural; such association for their purpose as a sovereign as the state is for its purpose
- Pluralistic theory advocates division or sharing of sovereignty on group basis, and limited sphere of state action.
- Sovereignty is possessed by many associations. It is not an indivisible unit; the state is not supreme or unlimited.
- The state can serve its purpose by and through goodwill alone.

Pluralistic View of Sovereignty-A Critique

- Pluralists fail to go clear over to their goal of a non-sovereign state.
- They attempt to abolish sovereignty, but inertness sovereignty, but are finally compelled to restore it. Such as Hegel viewed it as “God on Earth” and invested it with not only supreme legal, but also supreme moral authority.
- Pluralism demarcates and limits the functions of the state and defines its authority.

Sovereignty and Globalisation-Contemporary Relevance

- Sovereignty is a contentious concept in domestic and international relations.
- Globalisation means the increasing interaction of the inhabitants of the world.
- External sovereignty has undergone major changes as a result of the international commitments made by sovereign states as well as because of growing interdependence of states.
- The new international law is binding itself on the concept of togetherness and closeness of the numerous states.

CONCLUSION

- Concept of sovereignty is being comprehensively looked which essentially means that the state performs all its functions with the help of some authority or power.
- Time is changing very rapidly and theoretically the concept of state sovereignty still exists but very important in-roads have been made especially since globalisation has curtailed the effectiveness of the state supreme power.