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## UNIT 11 MEANING AND NATURE OF THE STATE

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State, Civil Society and  
Community

### Structure

- 11.0 Objectives
- 11.1 Introduction
- 11.2 The State and its Derivations
- 11.3 Meaning and Definition of the State
  - 11.3.1 Elements of the State
  - 11.3.2 Distinction Between the State and Other Associations
  - 11.3.3 Is this Distinction Real?
- 11.4 Nature of the State: Different Theories
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- 11.5 Let Us Sum Up
- 11.6 Some Useful References
- 11.7 Answers to Check Your Progress Exercises

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### 11.0 OBJECTIVES

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This unit deals with the greatest of all human association, viz. the state, which is the main concern of political science. There is such a great diversity in the uses of the word 'state' that it creates confusion. Thus, an attempt has been made to elucidate the basic features and tenets of the state in comparison to the synonyms of the state like nation, country, society and government. After reading this unit, you should be able to:

- Understand the meaning and derivations of the term state and know its basic characteristics;
- Differentiate the state from its various synonyms; and
- Understand the major theoretical framework about the nature of state.

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### 11.1 INTRODUCTION

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As mentioned before, one of the ways of studying political science is to study the state in all its varied manifestations. But the word state has often been used indiscriminately to express a general tendency or an idea like the "state" of a man's health, of his mind or of his economic conditions. In political science too, it has been used in different shades; as a synonym of government, federation or its constituent units. So, what 'is' the state, does it promote progress or restrain it, how much powers should the state have and in what spheres of human activity, how is it different from other existing institutions and what is the exact explanation about the nature of state?

These questions have been the concern of political philosophers since the days of ancient Athens; however, conscious efforts to formulate principles concerning the state of political theory began in the western world, along with the ancient Greeks. Thus, it becomes imperative to understand the concept as a basic theme of the discipline.

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## 11.2 THE STATE AND ITS DERIVATIONS

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As has been stated, one aspect of political science is to deal with the state, the highest of all human associations. The Greeks used the word “polis” for which the word city-states corresponds most closely to the English term ‘Civitas’, which also means the same along with the notion of ‘public welfare’. The Teutons employed the term ‘status’ which forms only a part of the phrase. The modern term ‘state’ has been derived from the word “status” earlier employed by the Teutons. It was Niccolo Machiavelli who first used the term “state” in political science. Thus, it becomes very clear that the term state did not become very popular until the sixteenth century. The people living in a greater part of Medieval Europe did not know the concept of modern state. In course of time, the word became popular and acquired a neutral sense of authority.

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## 11.3 MEANING AND DEFINITION OF THE STATE

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Since the state is one of the important components in the study of political science, a clear understanding of what is meant by the term ‘state’ is important. From the beginning of social life, mankind has lived under some form of authority. This authority has varied in its nature and has exercised its function through different forms of organization. Beneath these differences in the concrete manifestation of political life may be observed a practical identity of purpose; and by disregarding non-essential elements and modifications that arise because of the demand of time, place and circumstances, we may discover the very essence of state, different from other organizations.

From a consideration of matters of terminology, we now come to inquire what the state is. Definitions of the state are, as the German writer Schulze remarked, innumerable. Naturally, these definitions are colored by the opinions of their authors and are effected by the point of view from which the state is envisaged. The sociologists view it as a social phenomenon, while the jurists regard the state as a juridical establishment; writers on international law emphasize certain elements, which the political scientists ignore, and finally philosophical writers formulate their definitions in abstract terms. However, we should remember that the state is both an abstract conception and a concrete organization. i.e. identified with physical elements. Thus, in all these senses, state can be taken to mean the following:

- i) An organization of individuals i.e. mankind viewed as an organized unit
- ii) Politically organized people of a definite territory
- iii) An organization of public law that is monopolistic over the use of violence against a group or population
- iv) An organization which in internal matters carries out its functions through a unified set of institutions known as the government.

### 11.3.1 Elements of the State

The state, as said earlier, may be viewed as both a concrete thing and an abstract idea. A concrete thing means that it is a specific human group or association and viewed in abstract terms, it is a corporation possessing a juristic personality. The state is composed, therefore, of both physical and metaphysical or spiritual elements. These elements are:

- i) A group of human beings, i.e. population (Population)
- ii) A territory upon which they permanently reside (Territory)

- iii) Internal sovereignty and independence from foreign control (Sovereignty)
- iv) A political organization or agency through which the collective will of the population is expressed, i.e. government (Government)

Students of political science should, thus, understand that the absence of any one of these elements nullifies the state; all must exist together. The state is not the people, nor the land nor the government, but all of them and in addition, the state must possess that unity which makes it a distinct and independent political entity. These features are common to all states, irrespective of their historically specific manifestations. For instance, it applies to the Greek City states, the medieval kingdom, the modern monarchy and all the other kinds of states that exist today-liberal democracies, military dictatorships and communist regimes. So, this explanation of four elements is common to all the states; this does not, however, clearly throw light on the socio-political meaning of the state.

### 11.3.2 Distinction Between the State and Other Associations

The common man does not make any distinction between the state and many other institutions like society, government, nation and others. But the legalistic view of the state, which says that the state is a law making power, makes a distinction between the state and other institutions.

The distinction between state and society is quite important because society is much wider than the state. In a society, all the social institutions and social relationships are included, whereas the state only covers an aspect of society. Many idealists and monistic writers on politics have not made any distinction between society and state. But the liberal writers make such a distinction and contend that the state is the servant of society and is within the society; that society is much older than the state and does not have the four elements like the state; the state is a highly organized institution with sovereignty, while society may be even unorganized and does not possess sovereignty; the state is not a natural institution, whereas society is. The Pluralists have always given importance to the distinction between state and society, because they regard the state merely as an institution, equal to the other associations of society to serve the specific interests of society.

Government is one of the constituents of the state, but the two terms, state and government, have been indiscriminately used for each other. But as a matter of fact, government is only an agency of the state through which the collective will is formulated, expressed and executed. In terms of stability, sovereignty and extensiveness, the state is in possession of all these rather than the government. It is also important to note that the state is regarded as a recently developed institution, while government is very old. Even the most primitive human societies must have developed some elementary form of government to manage the common life of the community. Therefore, government is a necessary, but not a sufficient condition for the existence of the state.

Pluralists do not make a distinction between the state and other institutions of society and maintain that the state is like any other association of society. But, generally, the state is distinguished from other social associations because of its sovereignty. In every liberal democracy, the material apparatuses of state sovereignty viz.: police, military, bureaucracy and prison have become stronger. Today, a sovereign state has got tremendous material power to crush revolts, which the other associations do not have.

The difference between state and nation stroke nationalities has been a matter of great dispute because modern states are also nation-states. But the students of political science should understand the main distinction between state and nation, which is that the basis of a nation is psychological and cultural unity, while that of a state is

physical and political unity. Nations emerged with the development of capitalism, whereas states existed prior to it. The essential elements of a state are not the pre-requisites of a nation.

### 11.3.3 Is this Distinction Real?

The legalist view of the state makes a distinction between the state as a legal concept and other social institutions. But with the emergence of the welfare state, the difference between state and society almost disappeared; the distinction between state and government is merely a technical one and government for all practical purposes, is equivalent to the state. Similarly, with the emergence of the nation-state, the difference between nation and state is no more important and the differences between state and other associations were washed away by the pluralists.

The activities of state must be seen with reference to the whole society. The state should be understood as the whole of the political system, which is operating in society to perform certain functions, activities and processes in the whole static legal institutions having population, definite territory, government and sovereignty. The supreme power to make laws is a political system which performs the functions of maintaining stability and equilibrium, policy making and serving the common welfare functions in society.

#### Check Your Progress 1

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) What do you understand by the term state?

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2) Distinguish between the state and other associations. Is this distinction for real?

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## 11.4 NATURE OF THE STATE: DIFFERENT THEORIES

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The state has been envisaged from various points of views. Every theorist conceives and defines the state in terms of his own discipline. Each has given his own theory regarding the origin, nature, sphere, function and ends of the state. These theories often differ from one another in form and substance. In this unit, we shall make an attempt to deal with the various theories regarding the nature of state.

### 11.4.1 The Liberal Theory

Before looking into the liberal theory of the origin and nature of the state, it will be proper to have some understanding of liberalism itself. With the emergence of the new bourgeois class (middle class) in the 16th and the 17th centuries, the philosophy of liberalism came into being as a progressive revolt against the reactionary forces represented by feudalism, the church and the monarchy. It was a voice for the recognition of the consent of the individuals based on individual's rights and liberty. Its concept of the individual was that of the 'possessive individual' and it was a political movement for the establishment of a democratic government.

This theory is based on the liberal notion of man, which gives due importance to man as a free agent in this world, having a free will of his own. So as regards the origin of the state, it assigns due role to individuals, their natures, activities, interests and objectives. The state is seen as a necessity, an institution – evil or otherwise – which may establish law and order, peace and justice in society. The state is there to serve the general interest of society as a whole. It is regarded as an agency of human welfare, which will secure life and property of man. It is regarded as a contributor to moral and social development of man. Liberalism distinguishes between state and society and maintains that state is for society and not otherwise.

Liberal views on the functions of state have been changing from time to time. During the 17th century, the requirements of the capitalist class – which supported liberalism – were quite different and during the 18th, 19th and the 20th centuries, the requirements of this class changed, thereby necessitating a different role of the state in society. Classical liberalism of the 18<sup>th</sup> and the early 19th century, which supported the negative state with minimal functions, changed to modern liberalism in the later half of the 19th and the early 20th century that supported the positive state with welfare functions.

Classical liberalism is also known as the theory of 'laissez-faire' or the police state, or the theory of individualism that regards the state as a necessary evil. Necessary, because of the selfish nature of man and an evil, because it is an enemy of individual liberty. The state and individual freedom are seen as each other's opposite and classical liberalism wants to give more freedom to the individual by increasing the sphere of his activities and decreasing the sphere of the state. The function of the state is to provide physical security to the individual so that he can develop his personality without state interference. In brief, it means minimal state function and maximum individual liberty. Adam Smith supported this on an economic basis and Bentham on a moral and political basis. Later liberalism or modern liberalism is also called the 'theory of welfare state', 'revisionist' or 'reformist liberalism'. Here, the state is not regarded merely as a necessary evil, but it is assumed that the state can perform various functions of social welfare, can bring equilibrium and can satisfy socio-economic demands of the masses. Various thinkers - Mill, Freeman, Hobhouse, Lindsay, Keynes, Tawney, Cole, Barker, Laski and MacIver - gave the philosophy of the positive functions of the state.

Thus, the increasing democratization of the liberal state through the extension of franchise to all adults compelled the state to initiate policies of significant intervention

**Understanding the State**

in the economy. It also meant transferring resources from the wealthier to the less wealthy through taxation and state subsidy. Unlike the minimal state, which was the original form of the liberal state, the welfare state was called upon to make public welfare one of its principal concerns. The welfare state was not simply a response to electoral pressure, but also a response to the increasing awareness among common people of their power, expressed through associations like the trade unions and public opinion. But the welfare state should not be seen as a radical shift from the classical minimal state. Rather, we should consider it as an attempt to give maximum concessions to the people consistent with the needs of a liberal, capitalist market economy.

Liberalism, in the late 20<sup>th</sup> century, has taken a new turn in the form of neo-liberalism. It may be regarded as going back to the ideas of classical political economy. The neo-liberal goal is to ‘roll back the frontiers of the state’, in the belief that unregulated market capitalism will deliver efficiency, growth and widespread prosperity. The neo-liberal view of the state is found in the writings of economists like Friedrich Hayek and Milton Friedman, and philosophers like Robert Nozick.

**Check Your Progress 2**

**Note:** i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) What are the salient features of the liberal theory of state?

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2) What is classical liberalism?

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**11.4.2 The Marxist Theory**

The Marxist theory of state emerged as a criticism of, and as an alternative to the liberal theory of state. If liberalism was a socio-economic and political philosophy of the working class, Marxism was a product of the capitalist economic system itself.

According to the liberal view, state is the product of social contract, consent and consensus, and is there to serve the general interest of the whole community by

maintaining law and order, and providing justice and welfare services. While according to the Marxist theory, the state is a product of class division and class struggle and serves only the interest of one particular class, because all the classes cannot have a single interest/common interests. It rejects the state, associates its pressure with the presence of classes, and suggests that by a revolution and the establishment of a classless society, the institution of the state would be done away with. You should know that in social sciences, the debate with regard to “consensus model” and “conflict model” remained hot for a longtime. The consensus model on which liberalism is based, maintains that the basis of society and social institutions, including the state is shared values, norms, beliefs, interests, ideas and institutions. The conflict theory gives importance to conflict and struggle and draws the conclusion that the state and many other institutions are the product of conflict.

Let us analyse carefully the Marxist assumptions about the nature, function and legitimacy of the state, which Karl Marx built through his various writings including ‘Das-Capital’ and ‘The Critique of the Gotha Programme.’ Though Marx himself never formulated a theory of state separately, discussion of the state is scattered in almost all the writings of Marx. Marx was busy with the historical analysis of the capitalist mode of production, so he could not concentrate on specific issues like the state. But Engels and other Marxist scholars and revolutionaries have written on this aspect.

The main points of the Marxian theory of state deserve the attention of students of political science. Marx made it clear in his early writings that the state is an organized power of one class oppressing the other i.e. the economically dominant minority class through dominant political dominance rules over the majority working class. Marx regarded the state as an alienated and parasitical social force and rejected Hegel’s idea of the state as ‘a march of god on earth’. He never regarded the state as a higher morality ending conflicts in society and bringing unity and harmony. The state to him was neither equal to society nor above it, but was merely its product at a certain stage of historical development. Thus, Marx believes in a general theoretical framework known as ‘Dialectical Materialism’ and in the materialistic interpretation of history. Dialectical Materialism is a more general philosophical system from which is derived the more specific theory of historical development, which is termed ‘Historical Materialism’ or the materialistic interpretation of history.

Marxists hold that all phenomena that we experience are material, concrete and objective, outside our mind and consciousness. Also, all the phenomena are characterised by internal contradictions, leading to conflicts and then, eventually rising to a higher level of development. This whole process is termed by Marx as dialectical materialism. Therefore, to understand any phenomenon, one must grasp the way it changes.

A capitalist society is one that is based on the capitalist mode of production, where the capitalists (a minority class) own the means of production and the motive of production is profit and the workers (a majority class) sell their labour power to the capitalists for wages. In such a society politics, culture, morality and social norms are determined by the capitalist mode of production and the society is sharply divided into capitalists and workers. As the interests of these two classes are opposed to each other, class struggle between them is fundamental. The western liberal democracies—the USA, England, France, West Germany, Italy, etc – are examples of such societies. For the abolition of classes, Marx gives the theory of revolution, which is the most important aspect of the Marxian theory of state. The task of Marxian philosophy is two-fold to understand the world and to change it. Marxism does not suggest reforms of the exploitative capitalist system, but suggests that it should be over-thrown by a violent revolution and a socialist state and economy established. This socialist state will be a temporary phenomenon; it will abolish private property and classes; and thereafter, it will wither away.

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Thus, the Marxian theory of state does not glorify the state; rather it is a theory of its overthrow, its withering away, in a classless society. According to the theory, politics and state are parts of the superstructure which is based on the economic system or the mode of production of a given society. Marxian theory of the origin of state is also based on this general view of state and politics.

A state originated with the division of society into classes and with the beginning of the struggle between classes. The historical analysis of the origin of state is that the state is by no means a power forced on society; rather, it is a product of society at a certain stage of development that is entangled in contradictions with it. The state has, thus, originated with the birth of classes and class struggle in society and is merely an instrument of exploitation in the hands of a dominant class. With the help of the state, ruling classes maintain their power over economically poor classes.

**Check Your Progress 3**

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) Explain the Marxist theory of state in your own words.

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**11.4.3 The Gandhian Theory**

Let us now try to see how Gandhi conceptualized the nature of state. Before briefly examining it, we should note that it shows similarities and differences with the concept of state found in Liberal and Marxist perspectives. We may also note that though it is derived from the Indian tradition of thinking on state, it also shows some influence of western thinking on the subject.

First of all, Gandhi accepts the need of the state; though as an advocate of non-violence, he does see that the state implies the use of violence or coercion. This is because Gandhi accepts the idea that man is by nature non-violent and that this applies to man in the ideal sense. Taking a realistic view, he agrees that there is some need of the state since in practice, men may not possess the ideal qualities of non-violence and sociability. But having said this, Gandhi also holds that state as an institution of violence must be limited. In other words, Gandhi accepts the minimal state.

Secondly, Gandhi suggests that the state should be limited on the basis of certain considerations. On the one hand, the authority of the state should be reduced by a system based on decentralization of power, in which communities below the level of state should have greater autonomy and independence from the central state. The



unit of such autonomy should be the village community. That community itself through a process of consensus should decide all decisions affecting the rural community. The Gandhian position is that insofar as the crucial local community decisions are taken at that level, the central state would be minimal, presumably concerned with the defence of the overall territory under its jurisdiction, foreign relations and any other problems affecting the territory as a whole. The power of the state is also minimized in the Gandhian perspective by the ethical norms embedded in the society as a whole through customs and traditions.

Thirdly, and only non-violently, the state is also limited by moral challenges arising from the individual “conscience” or the “inner voice”. In his great classic work, *Hind Swaraj*, he held this kind of polity in which political powers are dispersed over a large number of self-governing village communities, to be a *Swaraj Polity*. Gandhi claimed that this was a genuinely Indian political system evolved over centuries in India. However, the Gandhian state cannot be separated from its economic and social systems. Therefore, the concept of Swaraj or self-government extends to economic and social arrangements. Within the rural community itself, Gandhi emphasizes the significance of groups over individuals.

Thus, it would be wrong to call Gandhi an anarchist, if by that is meant a thinker who denies the need of the state. Certainly, he limits the state, but this does not mean that he dispenses with it. The case of the minimal state is that it involves minimal violence, and it also means the acceptance of the Gandhian political principle of Swaraj. While Gandhi’s emphasis on individual conscience has a parallel with the liberal emphasis on individual rights, it should be differentiated from the notion of individual right. Gandhian rights are not given to the individual on liberal grounds of individualism, but on moral grounds; that is, the claim that one has a duty to act morally. The Gandhian notion of *Satyagraha* or the political action of protest or resistance to untruth is a moral right and duty, and the Gandhian state is also subject to this type of action.

Gandhi’s conception of the state resembles the Marxist state in the sense that both regard the state as a system of violence. Gandhi also lays emphasis on duties rather than on rights, given his moral perspective. Further, the Gandhian state rests more on a moral, communitarian consensus than on any notion of a collectivity of individual wills. In many ways, the Gandhian state is a distinctively Indian form of state. Today, Gandhian elements are reflected in the notion of the Panchayat Raj or the ideals of democratic decentralization. Infact, one of the crucial issues in Indian politics has been whether and to what extent the Gandhian form of state can be introduced in India.

Summarising the three perspectives of the state, we may say that the Liberal state is based on individual rights; that according to the Marxists, the state is based on class dominance and class exploitation, and the Gandhian state is based on a moral and communitarian consensus.

#### Check Your Progress 4

**Note:** i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) Enumerate the salient features of the Gandhian theory of state.

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- 2) Compare and contrast the Gandhian theory of state with either the Liberal or the Marxist theory.

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**11.5 LET US SUM UP**

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So far, different notions of the state have been analysed above, which confirms that the state is a historical entity. Its meaning, nature, functions and scope have changed with change in time and circumstances, which gives us a better understanding of the state. However, one situation is confirmed; that since society is a collection of diverse groups, interests and conflicts, the state remains a platform for the promotion and articulation of the common interests of society as a whole.

Politics should be understood as a dimension of social processes rather than merely the study of state and government. According to the liberal view, the state is not merely a legal institution, having sovereign law-making powers and the coercive power to enforce laws, but its most important aspect is to serve society and satisfy the maximum demands of the maximum number of people in society. While Marxism emphasized the class nature of the state, it maintained that the basis of society is the sub-structure- the mode of production that determined classes in society – and on this is based the cultural, moral and political super structure of society. This to them, is a coercive instrument belonging to one particular dominant economic class of society. On the other hand, the Gandhian state is based on a moral and communitarian consensus, with the ideals of democratic decentralization.

In all these various perspectives, the need of the state is greatly felt. Whether the state is viewed as a class organization or a power system, or a necessary or unnecessary evil, or the welfare system, or the very basis of life, it serves its purpose during the various phases of its historical development.

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## 11.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress 1

- 1) See Sections 11.2, 11.3 and sub-section 11.3.1
- 2) See sub-sections 11.3.2 and 11.3.3

### Check Your Progress 2

- 1) See sub-section 11.4.1
- 2) See sub-section 11.4.1

### Check Your Progress 3

- 1) See sub-section 11.4.2

### Check Your Progress 4

- 1) See sub-section 11.4.3
- 2) See sub-section 11.4.3

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## UNIT 12 SOVEREIGNTY

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### Structure

- 12.0 Objectives
- 12.1 Introduction
- 12.2 Nature of Sovereignty
- 12.3 What is Sovereignty?
- 12.4 Characteristics of Sovereignty
- 12.5 Development of the Idea of Sovereignty
- 12.6 Legal and Political Sovereignty
- 12.7 Location of Sovereignty
  - 12.7.1 Sovereignty of the Monarch
  - 12.7.2 Sovereignty of the People
  - 12.7.3 Sovereignty as Constitution Making Power
  - 12.7.4 Sovereignty of Law Making Power
- 12.8 De Jure and De Facto Sovereignty
- 12.9 Limitations on Sovereignty
  - 12.9.1 Moral Limitations
  - 12.9.2 Constitutional Limitations
  - 12.9.3 International Limitations
- 12.10 Attacks on the Theory of Sovereignty
- 12.11 Let Us Sum Up
- 12.12 Some Useful References
- 12.13 Answers to Checks Your Progress Exercises

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### 12.0 OBJECTIVES

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This unit deals with one of the most important concept used in Political Science, namely, Sovereignty. After studying this unit, you should able to:

- Understand the concept of sovereignty and know its nature and characteristics;
- Trace the genesis of the doctrine and explain its location and varieties;
- Critically evaluate the attacks leveled against the concept of sovereignty; and
- To know the relevance of the concept in today's world.

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### 12.1 INTRODUCTION

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Before we begin to analyse the concept of sovereignty, we should have an insight about the meaning of politics, relation of politics with other social sciences and the meaning of the state. The Liberal view regards politics as a social process to resolve conflict, maintain unity: an activity to serve the common good of society and to prepare the way for peaceful social change. The Marxist view regards politics as a study of class relations and class struggles in society. Similarly, the state has been understood as an institution, which performs all these functions in society. One fundamental question crops up here-how does the state perform all these functions? In reply to this question, it may be said that it performs all these functions with the help of some authority or coercive power, which is known as sovereignty. If there

are conflicts in society and these conflicts are resolved by a coercive power, then many questions arise-what is this coercive power? What is its nature? What are its bases? How can it maintain unity in a crisis-ridden, class-divided society? Should the state have all this power or is it to be shared with other associations of society? All these questions are associated with the issue of sovereignty in one way or the other, which shall be dealt with in this unit.

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## 12.2 NATURE OF SOVEREIGNTY

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The relation of state to state, of a state to its citizens, and of one citizen to another can be understood only after a further discussion of that characteristic which distinguishes the state from all other organizations, its sovereignty. Another consideration is the nature of law, since in that form the sovereignty of the state manifests itself.

The concept of sovereignty is the basis of modern political science. It underlies the validity of all laws and determines all international relations. It may be briefly outlined as follows: The state comes into being when an independent group of people are organized by means of a government which creates and enforces laws. Within this group, there must be supremacy of will and power. It must contain some person or body of persons whose commands receive obedience and who can, if necessary, execute those commands by means of force. Such a person or body of persons exercises sovereignty, and such commands are called laws. Evidently, there can be no legal limit to sovereignty, since that would imply a higher lawmaking body, and that in turn would be sovereign. The state, therefore, is legally sovereign.

While possessing unlimited legal power, the state grants certain rights and privileges to individuals and sets limits to its own activities. A state may grant a large measure of autonomy to its colonies or may give extensive powers to its local divisions, and still retain sovereignty, if it can legally withdraw these delegated powers at any time.

A distinction is usually made between internal and external sovereignty. Writers, especially on international law, speak sometimes of internal sovereignty as the power to make and enforce laws over all persons in the territory of a state, and of external sovereignty as the power to establish and carry on relations with other states, including the power to declare war and make peace. This conception of external sovereignty is objectionable, because it implies that a state possesses sovereign power vis-à-vis other states, which is not true. Other writers view external sovereignty as the freedom of the state from subjection or control by another state. Treaties or the rules of international law by which states agree to certain limitations on their complete freedom of action does not destroy their sovereignty, since there is no superior legal compelling authority to enforce them. If a state is internally sovereign, it must of necessity be legally independent externally. Sovereignty, properly speaking, deals with the internal relations of a state with its inhabitants ; it is a term of constitutional law rather than of international law. It is a legal concept and deals with positive law only.

In the last analysis, sovereignty rests upon either force or consent or a combination of force and consent. Men obey because they agree that it is desirable to do so. In despotic states, men obey through fear, while in democratic states the majority of men obey through consent. Force is only required for the few who refuse to obey. It is this possession of force to support its commands and to compel obedience that distinguishes the state from all other associations and that makes it sovereign.

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## 12.3 WHAT IS SOVEREIGNTY?

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Like the notion of the state, sovereignty has also undergone changes in historical circumstances. During the 18<sup>th</sup> and the 19<sup>th</sup> centuries, the legal notion of sovereignty

**Understanding the State**

would have been sufficient, but in our times it is not so. The state cannot run its affairs on the basis of law or command alone. Today, the naked power of the ruler of earlier times is replaced by the power to control public opinion to enforce sovereignty. Its legitimacy is based more on its ability to resolve social conflict, establish order and serve the general interest of the community. This gives a proper understanding of the authority of the state. Its authority rests more on the will of the people to render obedience than on its coercive power. This is the liberal meaning of sovereignty. However, the liberals do not reject the coercive power of the state altogether, and opine that in order to save the socio-economic and political order, its use may be legitimate, when necessary.

There is yet another view of sovereignty, which regards sovereignty to be the power of one particular class of society over another class. This view is based on a scientific analysis of society and is the Marxian view. According to this view, state and sovereignty are the power of an economically dominant class, which uses this to further its own interest. Marxism suggests that sovereignty in a capitalist state should be destroyed by a socialist revolution and it should be replaced by the sovereignty of the working class— the Dictatorship of the Proletariat. The state will wither away in a classless society. In a classless society, sovereignty, which is a class power, will have no place.

In the present century, some pluralists and behaviouralists have given a new interpretation of sovereignty. According to the pluralist conception, power in a society is not centralized in the state, but divided among different associations and groups. Behaviouralists maintain that in a democratic society, power is shared by a competing plural elite. Thus, power is assumed as diffused, rather than centralized, in a democratic society.

**Check Your Progress 1**

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) What is Sovereignty?

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2) Explain the nature of sovereignty in your own words.

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## 12.4 CHARACTERISTICS OF SOVEREIGNTY

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In this section of the unit, we shall discuss several key characteristics of sovereignty, which makes it imperative for the citizens to obey the state. The characteristics of sovereignty may be summarized as follows:

- 1) **Absoluteness:** This means that there can be no legal power within the state superior to it, and there can be no legal limit to the supreme law making power of the state. It is absolute in the sense of not being subject to any restraint, legal or otherwise. In a civil society, although the laws passed by the sovereign are binding on all associations and citizens, still this does not mean that there are no practical limitations on the sovereignty of the state. Although certain self-imposed limitations, internal or external, cannot be legally treated as limitations. These limitations are overcome by the “absolute” nature of the state.
- 2) **Universality:** The sovereignty of the state extends over every person and every association of persons in the state. The apparent exception in the case of diplomatic representatives is an international courtesy, which the state may remove any time.
- 3) **Permanence:** The sovereignty of the state continues as long as the state itself exists. Those who exercise it may change, and the whole state may be reorganized; but sovereignty, wherever located, persists. Only by the destruction of the state itself can sovereignty be destroyed.
- 4) **Indivisibility:** This implies that there can be but one sovereignty in a state. To divide sovereignty is to destroy it. The exercise of its powers may be distributed among various governmental organs, but sovereignty is a unit, just as the state is a unit. There must be as many states as there are sovereignties. A divided sovereignty is a contradiction in terms.

The theory of indivisibility of sovereignty has been attacked from various points of view. Writers on international law speak of part sovereign states, such as protectorates. The theory of divided sovereignty was held by most American thinkers, who viewed the United States as sovereign with regard to the powers conferred upon the national government, and the states as sovereign with regard to those powers reserved for them. German writers revived this theory at the time of formation of the German Empire, but it has now been abandoned. What is divided in a federal system is not sovereignty, which resides in the state, but the exercise of its various powers, which are distributed in accordance with a constitutional system among various governmental organs. More recently the theory of divided sovereignty has been revived by the pluralists, who deny that the state alone is sovereign and who hold that other associations in the state, such as churches or economic groups, are sovereign over their particular interests.

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## 12.5 DEVELOPMENT OF THE IDEA OF SOVEREIGNTY

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The idea of sovereignty can be traced back to Aristotle, who wrote of the ‘supreme power’ of the state. Roman lawyers and medieval writers, however, had a somewhat vague and confused idea of the nature of sovereignty. In the Middle Ages, the state in the modern sense did not exist. Feudalism was a governmental system based on personal allegiance. However, the feudal nobles were weakened by the crusades and their own quarrels. Taking advantage of their weakness, the king increased his power and importance until he became supreme in the state. Later, as men began to realize that government was an agent rather than a master, sovereignty was applied to the state itself, instead of to the king.

It was the struggle between the rising national state and its various internal and external rivals—the feudal lords, the Papacy and the Holy Roman Empire—that gave rise to the modern doctrine of sovereignty. Jean Bodin in the 16<sup>th</sup> century was the first writer to discuss at length the nature and characteristics of sovereignty. The state was recognized as supreme over all its citizens and free from any external compulsions. The idea was further developed by Hobbes who justified its absolute powers. Rousseau too agreed that sovereignty was absolute and unlimited, although he located it in the general will of the people. Finally, in the writings of John Austin, the legal theory of sovereignty received its most elaborate analysis. He held that in every state, there must be a determinate body, which possesses sovereign power, that its authority is indivisible and legally unlimited and that its commands alone create law. This theory serves as the basis for modern jurisprudence, although it has been criticized by many writers.

**Check Your Progress 2**

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) Enumerate the salient features of sovereignty.

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2) Trace the development of the concept of sovereignty.

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**12.6 LEGAL AND POLITICAL SOVEREIGNTY**

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It is important for the students of political science to understand the line of distinction between legal and political sovereignty.

Legal sovereignty represents sovereignty as the supreme law making power; that is, to issue the highest orders. It is bound neither by moral nor by natural laws. Laws made by the sovereign are to be obeyed by all compulsorily. But then the question arises, where does this legal sovereignty lie in the modern state? In a federal state, the legislature cannot make laws on matters assigned to the states, since powers are decentralized between the center and the states according to the constitution. Thus, legal sovereignty does not reside with the legislature. Even the British parliament, where the king makes any law that it derives, unrestrained by the courts, is also bound by public opinion and by moral and other laws. To elaborate further, even



dictators like Napoleon, Hitler and Mussolini did not have unlimited powers of law making. Thus, in real political life, legal sovereignty, as undisputed supreme power to make any law, is not generally seen.

Thus, to enumerate again, legal sovereignty is determinate and definite, has supreme and unlimited powers to make laws, its laws are obeyed by all and involve punishment or disobedience, and finally it being the fountain head of all legal rights, it alone has the power to make laws. The most explicit statement of legal sovereignty is found in the Austinian theory of sovereignty.

Now, we have seen that legal sovereignty presents merely a legal viewpoint of sovereignty. In every society, there is an unseen power behind legal sovereignty. This unseen power is known as political sovereignty, which is expressed in many forms like public meetings, processions and demonstrations. If the laws of the legal sovereign are immoral, this unorganized power of political sovereignty can compel the legal sovereign to bow down. Thus, political sovereignty is unseen and a bigger command. It is the revolutionary power of the alert and conscious people.

History has shown several instances of this revolutionary political sovereignty destroying the legal sovereign; e.g. Czar Nicholas of Russia was overthrown by Lenin's political sovereignty in 1917, Chiang Kai-Shek of China was destroyed by the leadership of Mao-Zedong, and similar events happened in Iran, South Africa and Rhodesia against despotic regimes. It is the fear of this sovereignty, which keeps the legal sovereign tight and alert. If legal sovereignty has to survive, then it must work in close cooperation with political sovereignty.

In a representative democracy, the difference between legal and political sovereignty can be seen clearly, since the representatives of people (government) are the legal sovereign and the electorate are the political sovereign. But in a direct democracy, this difference is not seen since the people (political sovereign) are also the legal sovereign as they make laws themselves. In socialist countries like China and Russia, participation through organized mass organizations is enough to end the difference between the legal and the political sovereign. However, in despotic states, this difference becomes very clear- the police, the army, the prisons, lathi, bullets etc. reflect legal sovereignty; and the people, their organizations, mass movements and struggles, strikes, demonstrations etc. reflect political sovereignty. In their struggle, political sovereignty predominates. But this is quite impossible in a class divided society because the class interests of both the classes – property owners and the property less – are diametrically opposed.

**Check Your Progress 3**

**Note:** i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) Distinguish between legal and political sovereignty.

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## 12.7 LOCATION OF SOVEREIGNTY

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One of the most difficult questions in political theory is that of the location of sovereignty in the state. Now, that we know that sovereignty is the essence of the state, implies external and internal independence from other states and involves legal supremacy over persons, the question of its exact location still remains. To this, various solutions have been offered, which we would now be looking into.

### 12.7.1 Sovereignty of the Monarch

Sovereignty of the state was identified with the power of the Monarch in the sixteenth century. This was so because, in order to establish personal independence and supremacy, the kings underwent struggles, that gave rise to the conception of sovereignty. When success was achieved over rivals, sovereignty was accorded to the kings. The king was the sovereign and even said, "I am the state". This theory made the king the source of all law and authority; he could do no wrong; subjects were to render passive obedience. However, modern democracy came to the forefront via revolutions and thus, destroyed this theory and the kings became unimportant parts of the government.

### 12.7.2 Sovereignty of the People

This theory was also known as the theory of popular sovereignty, which meant that the people have the supreme power and they are the source of all powers. It means that sovereignty of the states is not based either on God or on naked power, but only on the people's will. The demand for popular sovereignty was raised by the supporters of the Conciliar Movement during the 15<sup>th</sup> century against the authority of the Church. But in modern times, it is associated with the name of Rousseau, who supported it in his theory of general will during the 18<sup>th</sup> century. The theory of popular sovereignty overthrew the French monarchy, caused the American Revolution and has been the burning idea behind all the revolutions against despotism. This theory was also responsible for making Europe the graveyard of monarchies. Thus, popular sovereignty has emerged as a powerful revolutionary idea in Europe. This principle, infact, is the basis of all modern democracies.

But the main difficulty with the principle of popular sovereignty is the assumption that the whole of the people have one will. This theory does not assume that society is class-divided and that the interests of different classes are opposed to each other. In a class-divided society, there are always two wills—one of the exploiting rich class and the other of the exploited poor class. These wills can never meet and as such, the whole of the people cannot have a single will. In view of this, the principle of popular sovereignty becomes vague and indeterminate. From the legal viewpoint, the principle of popular sovereignty is merely a fiction, as it does not fit into the realities of modern-day political life. The elitist theory of democracy has proved that popular sovereignty is a bogus principle even in modern democracies. According to some writers, popular sovereignty can be located in the electorate or the majority of the electorate and according to others, it can be located in unorganized masses. But this view is not really true. People's sovereignty is not expressed in elections, but it finds an expression in the people's revolutionary struggles and mass movements. In a class-divided society, popular sovereignty is manipulated by the ruling class or it tries to crush it.

In conclusion, it may be said that popular sovereignty regards power of the people as the basis of state sovereignty. This principle has shaken monarchies, but in European democracies and class-divided societies, this principle does not hold much water now. The 18<sup>th</sup> century principle of popular sovereignty in the European world has converted itself into the principle of sovereignty of the bourgeoisie in the present century.

### 12.7.3 Sovereignty as Constitution Making Power

After the theory of popular sovereignty had successfully accomplished its work of overthrowing royal sovereignty and establishing democratic governments, it was re-examined in an effort to find a more definite and legal location of sovereign power. This was the work of a number of jurists in the nineteenth century, who reached the conclusion that sovereignty is located in that body of person/persons who make the constitution of the state or who, once the constitution is made, possess the legal power to amend it. This theory, which is essentially juristic in nature, reasoned as follows: The supreme law in a state is its constitution. This body of principles creates the framework of government, outlines its powers, and adjusts the relation of the state to its citizens. Hence, the government is limited in its power by the constitution, and is inferior in authority to the body that may create or change this fundamental law. Whoever creates the constitution makes the supreme law of the state and expresses its direct will; therefore, they may be sovereign. In some states, the national legislature exercises this power; in others, a special organ or a special method of procedure is required for constitution making.

But a more serious objection strikes at the root of the apparent legality of this theory. The constitution-amending organ does not possess the legally unlimited power that is the essence of sovereignty. It can legally do one thing only and that is to amend the constitution. Any attempt to go beyond this power and to make any other law would be an illegal usurpation of power. We, thus, have the contradiction of the sovereign body being legally limited to the exercise of a single and specific function. The constitution making body, therefore, is not sovereign. It is merely a part of the government, possessing the legal power to exercise the limited, though important, function of redistributing the total exercise of sovereign power among the various other organs of government.

### 12.7.4 Sovereignty of Law Making Power

This theory locates sovereignty in the sum total of all the lawmaking bodies in the government in accordance with law. All the bodies in the state, legally sharing themselves in the expression of the state's will, were sovereign too. These included courts (as they created law), administrative officials (since they had discretionary powers), the electorate (as they decided issues through elections or referendum) and such other special bodies. This theory considers state and government as a unit each and sovereignty resides in both of them, but is exercised by the government. Thus as a whole, the state is a unit but its exercise of power is to be distributed among numerous organs of government. Thus, this theory avoids the vagueness and loose thinking of the theory of popular sovereignty. Sovereignty ultimately resides in the state, but only through the laws made and administered by its government can sovereignty be manifested.

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## 12.8 DE JURE AND DE FACTO SOVEREIGNTY

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This aspect of sovereignty has been established by international law. Whenever there is a political upheaval or a civil war in a country or a similar situation, we have two types of government- the legal government, which has been uprooted and the new government which though not legal, holds actual power. In such a situation, the question of recognition of (which) power arises. De jure sovereignty is one, which is legally competent to issue the highest command of the state. It has the legal right to exercise sovereign power and has the obedience of the masses. A de facto (factual) sovereign is the one who has got actual power and who has real command to go with it. His authority rests on his physical force and control. He may be a usurping king, a dictator, a priest, a prophet, or a charismatic leader. In any of these instances, his power rests not on law, but on physical force and actual control.

**Understanding the State**

History is full of examples of de facto exercise of sovereignty. In 1649, Cromwell in England became the de facto sovereign after he dismissed the long standing Parliament. Napoleon became the de facto sovereign of France after overthrowing the Directory. Czar Nicolas was overthrown by the Russian people in 1917 and de-facto sovereign power came into the hands of the Bolshevik Party under the leadership of Lenin. Similarly, de jure sovereign Chiang kai-shek was over-thrown by the Communist Party of China, under the leadership of Mao-Zedong in 1949, and the socialist state under his leadership became the de facto sovereign in China. Similar situations arose because of military coups in Bangladesh in 1975, Argentina and Lebanon in 1976, Pakistan in 1977 and again in 2001, Afghanistan in 1978, Iran in 1979 and Uganda in 1980. Similar situations may arise when a civil war takes place in a country.

A de facto sovereign in the long run becomes a de jure sovereign also, because he has the actual power. It is always the endeavor of the de facto sovereign to turn himself into a de jure sovereign. As the actual power lies with the de facto sovereign, he is in a better position to stake his claim, and be recognized as a legal sovereign in the long run.

However, some jurists maintain that sovereignty is a mere legal concept and the distinction between de facto and de jure sovereignty is a political fiction, because the authority of a de facto sovereign is unlawful. But here one thing must be understood, viz., that the distinction between de facto and de jure sovereignty is with regard to the exercise of sovereign power. It is mainly important from the viewpoint of international law and diplomacy. This question becomes important only in the case of a revolution, a coup, a civil war, etc., in a state because in such cases there exist too many political claims to sovereignty.

**Check Your Progress 4**

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) List the various sources of sovereignty.

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2) Describe any two sources of sovereignty.

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## 12.9 LIMITATIONS ON SOVEREIGNTY

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We have already discussed at length that sovereignty is the supreme power of the state with no legal limitations. But in actual practice, there are some limitations, which may or should limit the exercise of its powers.

### 12.9.1 Moral Limitations

Many early writers argued that sovereignty was limited by divine law, by natural law, or by moral law. They generally accepted the principles of religion, morality and justice which undoubtedly influence the exercise of sovereignty. But the law of gods and of nature must be interpreted by human agencies; they exercise no sovereignty by themselves. They are not legal limits, but a part of the intellectual atmosphere in which laws are made. They limit sovereignty only in the sense that a wise state will not enact laws contrary to generally accepted ideas of morality and justice, because of the opposition such laws would arouse, leading to difficulties in enforcement or even leading to a revolution. Only such laws are supported by a general consensus of opinion that can be successfully administered. In modern states, many aspects of life are exempt from governmental interference, and any state which attempts to exercise its legal power to interfere in certain relations of human life would face a lot of resistance and may even be overthrown by a revolution.

### 12.9.2 Constitutional Limitations

Some writers have argued that sovereignty is limited by the constitution of the state. They make a distinction between fundamental or constitutional law and the ordinary laws made by the government, holding the former to be the higher law, and the latter to be valid only if they accord with the former. To this point of view, two objections may be raised. The sovereignty of the state is not limited by the constitution, since the state may legally amend its constitution whenever it desires. A limitation self-imposed and removable at pleasure is not a real or a legal limitation. What is limited by the constitution is not the state or its sovereignty, but the government of the state. But this provision for a legal distribution of the exercise of its sovereign powers places no limitation on sovereignty itself.

In the second place, there is no such thing as a higher law and a lower law. Laws may differ in the importance of the question with which they deal. Both are exercising that share of the sovereign power of the state which its legal system of organization allots to them. The constitution differs from the other laws in nature and purpose, but not in legal validity. Like other laws, it is an expression of the sovereign will of the state and not a limitation upon it.

### 12.9.3 International Limitations

Many writers today hold that the sovereignty of a state is limited by the rules of international law and by the treaties and conventions into which it enters with other states. According to the strictly, juristic theory of sovereignty, these restrictions are not legally binding. They are voluntary limitations, self-imposed, which a state may legally repudiate, and no legal authority exists to enforce them. Sovereign states must be, in the last analysis, judges of their rights and obligations to the other states. They may repudiate their treaties, refuse to be bound by the accepted rules of international law, and declare war in defense of their interpretation of international rights. International law is not law in the sense that it is the will of a determinate sovereign, enforceable on subjects.

If, as some writers believe, the present tendency is towards the development of an international organization with unified control, the result would be a world sovereign

state, with the right to create and enforce law. In that case, what we now call international law would be law, but it would cease to be international, being the unified will of a world state. What is now called external sovereignty would cease to exist, being swallowed up by the internal sovereignty of the world system. Most writers, however, believe that it is more feasible, under present conditions, to develop internationalism on the basis of sovereign national states. If this is to be done, the traditional theory of external sovereignty and equality of states must be modified to permit a certain degree of international control.

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## 12.10 ATTACKS ON THE THEORY OF SOVEREIGNTY

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The concept of sovereignty as the essence of the state has been severely criticized. One group of writers contend that sovereignty is not necessary for state existence, while another group of writers denies that sovereignty is the source of law; still another group denies that sovereignty is the exclusive possession of the state and argues for the plurality of sovereignties possessed by various associations.

Writers who maintain that sovereignty is not necessary, hold that states may be partly sovereign and the test of statehood is the right to govern. These writers were from Germany, Switzerland and USA and they agreed on claiming statehood but not full sovereignty. Even the political bodies of today, which possess their own constitution and government, are not fully sovereign. Some writers regard the doctrine as futile and dangerous as it leads to unlimited powers; while the others attack the idea of state sovereignty because of their desire to give full autonomy to associations other than the state; others because of their interest in individual freedom. The attack on state sovereignty is valuable in pointing out certain defects in the governmental organization of the modern state which impede the exercise of sovereign power.

In the recent past, criticism has been leveled by a group of jurists against state sovereignty as the supreme and only source of law. The theory that the sovereignty of the state is legally limited by natural laws, cannot be accepted, since the state judges and observes those principles. Such limitations are not legally binding, but only self-limiting. This does not mean a limitation on sovereignty.

Another attack on the theory holds that the state's claim to supreme authority is not in accord with actual factors in the complex world of today. They discredited the state, opposed the theory of a single and unified sovereignty and demanded for other agencies, a larger share of social control. The purpose of such an attack was to focus on the decentralization of authority and greater individual freedom.

At present, the growth of economic interests and the strength of economic associations have created conflicts of authority between them and the existing organs of government. The state does not immediately adapt its organization and law to correspond with the new condition. At such a time, the doctrine of absolute and unlimited authority of the state seems dangerous and undesirable. Hence, pluralism is the natural point of view. The pluralists emphasize the necessity of studying the actual facts of political life in a rapidly changing social system. In this connection, they point out the growing importance of non-political groups, the danger of over-interference by the state with regard to the working of such groups and the desirability of giving to such groups greater legal recognition in the political system.

Nevertheless, this is a problem of the proper internal organization of the state and of the proper scope of its activities, and does not imply the abandonment of the theory of state sovereignty. Somewhere, there must be an organization of supreme legal control and however, much the state may limit its activities or reorganize its internal structure, a sovereign state still remains. Even in the current era of globalisation, when state sovereignty is seemingly under threat from various supra-national actors.

**Check Your Progress 5**

**Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) How is sovereignty limited by morality?

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2) Discuss either the constitutional or the international limitations on sovereignty.

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3) Examine the grounds on which sovereignty has been attacked.

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**12.11 LET US SUM UP**

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In this unit, we have taken a thorough look into the concept of sovereignty which essentially means that the state performs all its functions with the help of some authority or power. Its basic features comprise of absoluteness which means no internal or external limitations; universality meaning its power over every person in the state, permanence meaning its continuity as long as the state exists and indivisibility implying that there is only one sovereignty.

Sovereignty rose largely owing to the conflict between the rising national states. When the state was recognized as supreme over all its citizens, the concept of sovereignty was established as absolute and unlimited. However, the notion of sovereignty was interpreted in a different frame-work. Legal sovereignty was understood as a supreme law making power, not bound by any laws. Its laws were to be obeyed by all and involved punishments on disobedience. Austin was the chief exponent of this notion. On the other hand, political sovereignty was revolutionary

power of the people which could destroy any legal sovereign. So, in a representative democracy, legal sovereignty had to work in close proximity with political sovereignty. Otherwise, there was a fear of destruction of the legal sovereign by revolutionary political sovereignty.

Sovereignty is also understood to mean that the people have supreme power and that they are the source of all powers. Rousseau supported this in his theory of general will during the eighteenth century. This principle is the basis of modern democracies. The popular sovereignty theory recognizes that in modern democratic states, sovereign powers are widely distributed and exercised by a large number of citizens.

Every state exercises its sovereign power with the help of certain material and ideological apparatuses. Material apparatuses are those which make the sovereignty of the state effective in a material way or in a real visible way. Ideological apparatuses are those which make or generate a habit of obedience in the general public and create an atmosphere in which the consent of the people towards sovereignty may be achieved. Material apparatus of the state uses physical force to obtain obedience and thus, makes the command of the sovereign effective. Ideological apparatuses make sovereignty effective by generating a mood of obedience in the general public and provide legitimacy to the existing socio-economic and political order.

The present century has been a century of reaction against all authoritarian thoughts. The pluralist view of sovereignty was a reaction against the legal, traditional, monistic, absolutist, Austinian theory of sovereignty and against the theory of fascist, unlimited, absolute state supported by idealist philosophers like Hegel and other supporters of the power view of state and politics like Nietzsche, Treitschke and Bernhardt. It may be termed as a strong voice for decentralization of authority against the absolute centralized sovereignty of the state. It was an attack launched in the last decades of the nineteenth and the beginning of the 20<sup>th</sup> century, against those who regarded the state as the highest and supreme power in society. Thus, pluralism was a reaction against unlimited state and sovereignty ; it was an attack on the absolutism of state and its absolute sovereignty; it was a voice to control, limit and divide the sovereignty of state; it was a movement of labour, economic, religious and professional associations and unions for the fulfillment of demands of rights and power against the state.

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## 12.12 SOME USEFUL REFERENCES

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## 12.13 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress 1

- 1) See Section 12.1 to 12.3
- 2) See Section 12.1 to 12.3



**Check Your Progress 2**

- 1) See Section 12.4
- 2) See Section 12.5

**Check Your Progress 3**

- 1) See Section 12.6

**Check Your Progress 4**

- 1) See Section 12.7 and sub-sections 12.7.1 to 12.7.4
- 2) See Sections 12.7.1 to 12.7.3

**Check Your Progress 5**

- 1) See sub-section 12.9.1
- 2) See sub-section 12.9.2 and 12.9.3
- 3) See Section 12.10



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## UNIT 13 STATE, CIVIL SOCIETY AND COMMUNITY

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### Structure

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Meanings and Relationship
  - 13.2.1 State and Civil Society
  - 13.2.2 Democracy and Civil Society
  - 13.2.3 Community and Civil Society
- 13.3 Characteristic Features of Civil Society
- 13.4 Let Us Sum Up
- 13.5 Some Useful References
- 13.6 Answers to Checks Your Progress Exercises

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### 13.0 OBJECTIVES

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This unit deals with the theories of civil society and its relationship with the state and the community. After reading this unit, you will be able to:

- Know the meanings and theories of civil society;
- Understand the reasons of its origin;
- Comprehend the relationship between civil society and community; and
- Assess the significance of civil society for democracy

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### 13.1 INTRODUCTION

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The concepts of state, civil society and community are very important in social sciences, especially in the discipline of Political Science. Any debate on democracy, rights, citizenship, social capital, etc., is related to these phenomena. What is the relationship between the particular and the universal rights? How the citizens are able to enjoy their rights, achieve basic development depend on the role the state, the civil society and the community play. There exists conflicting opinion on their relevance to democracy and development. In the following section, you will understand these concepts and their relationship.

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### 13.2 MEANINGS AND RELATIONSHIPS

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#### 13.2.1 State and Civil Society

You have already read about the meaning and the nature of the state in Unit 11. We shall not repeat it here. In this sub-section, we shall discuss straight the nature of relationships between the civil society and the state. The state is among the most important concepts discussed in political theory. As you know, the state is distinct from other associations of the society, i.e., government, civil society, community, nation, etc. According to the liberal tradition, the state is supposed to remove the constraints for the development of the society as well as provide measures for social welfare. On the other hand, the Marxist tradition views the state as partisan to the propertied classes. With the concept of civil society gaining currency, the relationship of the state to the civil society has again occupied an important place in the discourse of political theory.

Recently, especially from the 1980s onwards, the concept of civil society has acquired a special significance in the discourse on political theory. The rise of new social movements having their organisations, structure and ideology aiming at social change and development in Eastern Europe and the former Soviet Union have generated interest in the civil society. Both these developments show the erosion in the credibility of the state and emergence of parallel centres of power. The origin and evolution of the civil society owes a lot to its relationship with the state. As you have read above, the nature of the relationships between the civil society and the state occupies an important place in political theory.

The recent attention to the civil society can also be traced to the eruption of social movements or resentment of the people against the state. Civil society is the space which exists between the community and the state. It is represented by those associations, the NGO's, individuals, academicians, intellectuals which strive for the establishment of democracy in society. Since the civil society institutions exist between the state and the community and question the state, they are generally referred to as the institutions, which are distant from the state. The civil society is considered both complimentary and sometimes as a substitute for the state institutions. The basis of the formation of civil society is secular. Caste and kinship linkages, religion or tribal mobilization etc. are not the basis of the formation of civil society. According to Neera Chandhoke, the organisations based on primordial bonds are, in fact, "counter – civil society" movements.

Before we proceed further, it is essential to note that in the old European tradition till the eighteenth century, the terms state and civil society were used interchangeably. Dominique Colas traced the history of the concept of civil society and found that throughout the 16th and the 17th centuries it was used as a concept opposed to religious fanaticism. At that time, it was the state which opposed the church as an institution of rights. It means that the state functioned as a civil society or there was no distinction between them. The civil society was an aspect of the state (as opposed to the church). It is, in fact, in the following period that these came to be known as two distinct entities. The fact whether there exists a civil society or not depends on the nature of the relationship it has with the state. This gave rise to several questions in political theory. Is the state subordinate or superior to the civil society? Can one exist without the other? Are they inimical or supportive of each other's interests? Whose interest does the state serve in comparison to the civil society? Basically, there are four perspectives which deal with these questions in political theory – Tocquevillian, Lockean, Hegelian and Marxian. De Tocqueville studies the reasons for the existence of democracy in America and its absence in France in his book 'Democracy in America'. He observes that it is the nature of the state in both the countries on which the existence or the absence of democracy depends. It was present in America because a liberal democratic state there allowed the formation of the associations of people, which indicated presence of mutual trust among them. As you shall read in the next sub-section, formation of association relations is an indication of the civil society. The civil society in turn reflects democracy. In France, de Tocqueville observes, that unlike America, there did not exist the civic association or society due to the despotic or undemocratic nature of the state.

In the case of John Locke, the 17th century thinker of England, the relationship between the state and the civil society can be viewed in terms of the relationships between the two entities in the state of nature and after the state of nature. As one of the social contractualist thinker, Locke believed that the state is the result of a contract which was made among the individuals who were living in the state of nature. They enjoyed certain rights, which were entailed to them by nature. But there was no authority which could protect the rights of the individuals, provide them security or could regulate their affairs. Such an authority could be the state, which was born out of the social contract which the individuals made with each other. Through this contract, the political society of the state of nature was transformed into

a civil society. Locke, in fact, uses the civil and the political interchangeably. It is difficult to distinguish between the civil and political society of Locke. Suffice it to say that according to Locke, the civil society was born to secure the rights which were already available in the state of nature. As Neera Chandhoke observes, Locke's "political society" was a "civil state" as opposed to the natural. Civil or political society was created to protect the rights which the individuals had inherited from the nature of the state. (see how Gurpreet Mahajan interprets it)

Hegel, the German philosopher, has most systematically dealt with the relationship between the civil society and the state. In his book 'Philosophy of Rights', Hegel considers the *civil society* as one of the moments of ethical life, the other two being the *family* and the *state*. This civil society is to be distinguished from both the family and the state. In the family, Hegel argues, particular interests are transcended in a natural and unreflective unity, and transactions between the members are guided by love and concern; while in the state, universality is institutionalized as the highest form of ethical life as the 'actuality of the ethical idea'. Civil society, by contrast, is the domain of particularity, of the self-seeking individual concerned with the fulfillment of his private need. In this stage, the ethos of the family i.e., natural love and altruism disintegrate; but equally, it is here that the principle of universality which the state comes to embody is found in an embryonic form. Civil society as an important stage in the transition from the unreflective consciousness of the family, to conscious ethical life, becomes the site where the Hegelian philosophical concern that particularity has to be mediated by universality, can be realized.

The civil society in the Marxian tradition represents the interests of the propertied classes, the bourgeoisie. There are, however, two approaches in the Marxian tradition regarding the civil society. One is the classical approach. It is related to Marx, who inherited the Hegelian perspective on civil society, but he led the analysis further to interrogate the system itself. To Marx, it is not only the ground where one man's selfish interest meets another man's selfish interest; it is the place where the appropriation of surplus labour takes place. The historical stage must be transcended. But Marx, unlike Hegel, rejected the possibility that any existing institution can do it. Civil society must find a new agency from within itself to transcend egoism and self-interest, exploitation and humanity. And given the nature of the sphere, this transformation had to be revolutionary. Only then could the individual be integrated into the society and the state. Revolutionary transformation becomes the organising principle to civilize civil society.

The other within the Marxian paradigm is the Gramscian tradition. Gramsci, although he uses civil society to refer to the private or the non-state sphere, including the economy, his depiction of civil society is very different from that of Marx. Gramsci's main proposition is that the state cannot be understood without an understanding of the civil society. Civil society, to Gramsci is not simply a sphere of individual needs, but of organisations, and has the potential of rational self-regulation and freedom. Gramsci insists on its complex organisation, as the 'ensemble of organisms commonly called 'private' where hegemony and 'spontaneous consent' are organised'. While Marx insists on the separation between the state and the civil society, Gramsci emphasises the inter-relationship between the two, arguing that whereas the everyday, narrow use of the word state may refer to government, the concept of state in-fact includes elements of civil society. The state narrowly conceived of as government is protected by the hegemony of the dominant class fortified by the coercive state apparatus. To Gramsci, political society is the location where the coercive apparatus of the state is concentrated in prisons, the judicial system, the armed forces and the police. Civil society is the 'location' where the state operates to enforce invisible, intangible and subtle forms of power through educational, cultural, religious systems and other institutions. In fact, the withering away of the state is redefined by Gramsci in terms of a full development of the self-regulating attributes of civil society.

It had been first mentioned in the writings of John Locke. As mentioned earlier, he mentioned that the civil society emerged as a result of the transformation of the state of nature into a civil society. He differentiated the civil society from the state of nature and the political society. The civil society gets transferred into the political society by the laws framed by the common authority that emerged as a result of the contract. Civil society is a (political) society where the rights of individuals get priority. The civil society is different from other associations in the sense that unlike the former, it accords priority to the individual rights. It does not stand outside the state, rather it (civil society) emerged with the presence of the state. It means that the people who were living in the state of nature, enjoying natural rights to life, liberty and property entered into a social contract under a common public authority, with one another for establishing a just society in which the rights of each individual can be protected. The common authority has the right to make laws about the people or the civil society. This civil society is different from the state of nature where people enjoyed equal natural rights, but did not have any authority to punish the offenders. Before the formation of the social contract, the society existed as an uncivil society. Thus, in the civil society the rights of each individual are protected.

In the 19th century when Hegel elaborated the idea of civil society, it was after nearly two centuries of Locke's. But there were differences between the concept as devised by the two thinkers. The main concern in the Lockean understanding is the particularistic or subjective rights of individuals. He does not mention anything about the relationships between the particularistic or subjective rights and universal rights. As mentioned earlier, Hegel on the other hand, believes that a civil society can exist only if there is ethical order in the society. Ethical order, according to him, means the existence in harmony of subjective and universalistic laws. The subjective laws originate in the communities, and are related to the specificity of that community – about its traditions, customs, place of the individual member in the community, his/her relationships with elders, priests, position of women, etc. These are particularistic. On the other hand, the universalistic laws belong to the laws of the state, which might be enshrined in the written or unwritten constitution of the state. These laws are based on the universal principles of rights of individuals – equality, liberty, property and fraternity. If the universalistic and particularistic rights exist together, one does not negate the other despite the differences existing between them. Infact, then an ethical order exists in the society. This, in the view of Hegel means that in such an order of coexistence, the civil society exists.

The concept of civil society again came in the currency in the twentieth century. The disintegration of the former Soviet Union and Eastern Europe in the 1980s revived the interest in this concept. The loss of faith in the state due to its failure revived the interest in the civil society. The notion of state came under attack, more specifically, during the latter half of the twentieth century. It came to be seen as an alternative to the state.

Even as the Marxists consider the civil society to be partisan and contributory to the perpetuation of unequal and discriminatory class relations, the non-Marxists find in the civil society a panacea for the failure of the state. Non-Marxist models of civil society, which view it as an alternative to the state, belong to the associative model of democracy.

### Check Your Progress 1

**Note:** i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) What do you understand by civil society? Examine its relationship with the state.

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2) Trace the evolution of the concept of civil society.

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### 13.2.2 Democracy and Civil Society

Democracy and Civil Society are inseparably related to each other. A healthy liberal democracy needs the support of a vibrant civil society. As mentioned in the earlier sub-section, the foundation of the democracy-civil society nexus thesis could be traced in Tocqueville’s classic writings on American politics.

In recent years, there are several scholars who have developed this democracy-civil society relation in various models of democracy. One such model is the ‘Associative Model of Democracy’ as developed by Sunil Khilnani, Paul Trust and Benjamin Barber. According to them, the decentralisation of power is the basis of formation of civil society. The decentralised units of power are inclined towards trust, association and democracy. But the basis of the formation of the smaller communities is secular-equality, not ascriptive. The advocates of this perspective are critical of the centralised authority of the state, which they find too imposing. They pin their hopes on the communities or the decentralisation in the western democracies. The perspective of the civil society is related to that literature which emerged in the wake of the decline of socialist societies, especially in Eastern Europe. Here, the civil society emerged in contrast to the totalitarian state. The rights of the individuals, which were violated during the totalitarian regimes, were seen to be protected in the civil society.

The existence of civil society also indicates the extent of democracy in a society, viz, formal democracy like elections, multi-party system or a democratic constitution. It also means, at the same time, existence of democratic norms and values like coexistence of differences along with tolerance of each other’s culture and views. According to Gellner, the institutional notion of democracy is less comprehensive than that of civil society. Civil society is an arena of contestation and debate. Neera Chandhoke says that civil society is a space where individuals set their norms in association with each other. It resides in the life of those who question the state’s imposition on them. They make the state respond to their voices. Each group in the civil society is entitled to maintain its specificity, culture. These are based on the principles of freedom and equality. According to Manoranjan Mohanty, the civil society organisations may be called “creature societies”, because these associations question the state and strive to create an egalitarian and democratic order.

A new generation of neo-Tocquevillians, the most prominent amongst whom is Robert Putnam, have since the 1990s revived the concept of civil society as the bedrock of democracy. Putnam popularized a concept called ‘Social Capital’ which stands for “features of social organisations such as trust, norms and networks”. The linkage between democracy and social capital takes off from one of Putnam’s famous study of the varying performances of local governments across North and South Italy. The work argues that North Italy generally promoted better institutional performance than the South, because here conditions were historically geared to wider public participation in civic affairs, which itself resulted from the availability of better inter-personal and institutional trust in the society.

### Check Your Progress 2

- Note:** i) Use the space given below for your answer.  
ii) See the end of the unit for tips for your answer.

1) What is the Associative Model of Democracy?

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2) Discuss Robert Putnam’s views on civil society.

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### 13.2.3 Community and Civil Society

Community is a group of people knit into relationships on the basis of primordial factors, i.e., religion, kin, family ties, caste, etc. These set rules for the individuals, which constitute the community. The nature of the rules of the community about the rights of the individuals and citizens show the nature of polity and society. The rules of the community are particularistic and those of the state are universalistic. If there are conflicts between the two sets of rules, the democratic edifice of the polity gets eroded. But if on the other hand, the rights of the individuals in a society are in consonance with those of the state, the polity represents democratic traits. The community exists between the state and civil society. The status of the democratic rights of individuals within the society – of women, of disadvantaged groups, of minorities, etc.–depends on the nature of all the three institutions of state, civil society and community.

The sociological argument on the distinction between community and civil society takes its purest, most systematic and most elaborate form in the work of Ferdinand Tönnies. Tönnies called these ‘real or organic’ life and ‘imaginary or mechanical structures’ – Gemeinschaft and Gesellschaft. In Tönnies’s words, Gemeinschaft is old; Gesellschaft is new. In rural life, community among people is stronger and more alive; it is the lasting and genuine form of living together. In contrast to Gemeinschaft, Gesellschaft (society) is transitory and superficial. Accordingly, Gemeinschaft (community) should be understood as a living organism, Gesellschaft as a mechanical aggregate and an artifact.

Sudipta Kaviraj in an article ‘In search of Civil Society’ points to a connection between the two dichotomies: the state and the civil society on one hand, and the civil society and the community on the other. There are significant connections between these two separate arguments in several types of analyses of Third World politics. It has been argued that the proper working of a modern constitutional state requires a distinction not merely between the state and the other organisations in society, but the sphere of non-state organisations being governed by Gesellschaft like principles.

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### 13.3 CHARACTERISTIC FEATURES OF CIVIL SOCIETY

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There have been such diverse analyses of civil society, that the term may seem to be confusing. So a look at the features of civil society may help to comprehend the subject. Following Diamond, the features of civil society may be enumerated as follows:

First, civil society is the realm of organised social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state and bound by a legal order or set of shared rules. It is distinct from “society” in general in that it involves citizens acting collectively in a public sphere.

Second, civil society is concerned with public ends rather than private ends. It is an intermediary phenomenon standing between the private sphere and the state. Thus, it excludes parochial society: individual and family life and inward-looking group activity; and it excludes economic society: the profit-making enterprise of individual business firms.

Third, civil society is related to the state in some way, but does not seek to control the state; it does not seek to “govern the polity as a whole”.

Fourth, civil society encompasses pluralism and diversity. It encompasses a vast array of organizations, formal and informal, including economic, cultural, informational and educational, interest groups, developmental, issue-oriented and civic groups. In addition, civil society encompasses what Thomas Metzger calls “the ideological marketplace”, the flow of information and ideas, including those which evaluate and critique the state.

Fifth, it follows from the fourth that civil society does not seek to represent the complete set of interests of a person or a community. Rather different groups represent or encompass different aspects of interest.

Sixth, civil society should be distinguished from the more clearly democracy-enhancing phenomenon of civic community. Diamond argues that civic community is both a broader and narrower concept than civil society: broader in that it encompasses all manner of associations (parochial included); narrower in that it includes only associations structured horizontally around ties that are more or less mutual, cooperative, symmetrical and trusting.



**Check Your Progress 3**

**Note:** i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) What are Ferdinand Tonnies' views on the distinction between civil society and community?

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2) Enumerate and describe the basic characteristics of civil society.

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**13.4 LET US SUM UP**

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Civil society, although has a root to Lockean tradition, gains currency in the twentieth century, in the wake of the demise of the East European Socialist regimes.

Apart from Locke, earlier thinkers who contributed to the development of the idea of civil society were Tocqueville, Hegel and Marx. Extending the Marxian vision further, Hegel explained it from a different perspective.

Civil society can be defined in terms of enumerating certain features which you have found in this unit.

The relations between civil society, on the one hand, and state, democracy and community, on the other have also been mentioned.

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**13.5 SOME USEFUL REFERENCES**

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Cohen, J. and Arato, A., *Civil Society and Political Theory*, Cambridge: Cambridge University Press, 1992

Hayness, Jeff., *Democracy and Civil Society in the Third World*, Cambridge: Polity Press, 1997.

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## 13.6 ANSWER TO CHECK YOUR PROGRESS EXERCISES

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### Check Your Progress 1

- 1) See Section 13.2
- 2) See Section 13.2

### Check Your Progress 2

- 1) See sub-section 13.2.2
- 2) See sub-section 13.2.2

### Check Your Progress 3

- 1) See sub-section 13.2.3
- 2) See Section 13.3



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