

FACULTY OF JURIDICAL SCIENCES

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Lecture-16



Sovereignty: Meaning and Characteristics of Sovereignty

Meaning:

The term "Sovereignty" has been derived from the Latin word "Superanus" which means supreme or paramount. Although the term "Sovereignty" is modern yet the idea of "Sovereignty" goes back to Aristotle who spoke of the "supreme power of the state". Throughout the middle Ages the Roman jurists and the civilians kept this idea in their mind and frequently employed the terms "Summa" potestas and "Plenitudo potestatis" to designate the supreme power of the state.

The terms "Sovereign" and "Sovereignty" were first used by the French jurists in the fifteenth century and later they found their way into English, Italian and German political literature. The use of the term "Sovereignty" in Political Science dates back to the publication of Bodin's "The Republic" in 1576.

"The word sovereign", says J.S. Roucek and others, "entered the vocabulary of political theory from the feudal order, wherein it designated a relationship between persons. The term sovereign had been applicable to any feudal overlord with authority over subjects in his own dominions".

Two Aspects of Sovereignty:

There are two aspects of sovereignty: internal sovereignty and external sovereignty. Internal Sovereignty means some persons, assembly of group of persons in every independent state have the final legal authority to command and enforce obedience.

This sovereignty exercises its absolute authority over all individuals or associations of the individuals within the state. Professor Harold Laski has very aptly remarked in this connection: "It issues orders to all men and all associations within that area; it receives orders from none of them. It will is subject to no legal limitation of any kind. What it proposes is right by mere announcement of intention".

We mean, by External Sovereignty, that the State is subject to no other authority and is independent of any compulsion on the part of other States. Every independent state reserves the authority to renounce trade treaties and to enter into military agreements. Each estate is independent of other states.

Every independent State is at liberty to determine its foreign policy and to join any bloc of power it likes. Any other state does not reserve any right to interfere with the external matter of an independent state. Thus, by external sovereignty we mean that every state is independent of other states.

In other words, External Sovereignty means national freedom. Professor Laski has very correctly observed in this regard, "The modern state is a sovereign state. It is, therefore, independent in the face of other communities.

It may infuse its will towards them with a substance which need not be affected by the will of any external power". This statement of Professor Laski makes it very clear that the State possesses both external and internal sovereignty.

Definitions of Sovereignty:

(1) "That characteristic of the state by virtue of which it cannot be legally bound except by its own or limited by any power other than itself. -Jellineck

(2) "Sovereignty is the sovereign political power vested in him whose acts are not subject to any other and whose will cannot be over-ridden". -Grotius

(3) "Sovereignty is the supreme power of the State over citizens and subjects unrestrained by law". -Bodin

(4) Sovereignty is "the common power of the state, it is the will of the nation organised in the state, it is right to give unconditional orders to all individuals in the territory of state". -Duguit (Droit Constitutional Vol. 1, page 113)

(5) Burgess characterised sovereign is the "Original, absolute, unlimited power over the individual subjects and over all associations of subjects".

(6) "Sovereignty is that power which is neither temporary nor delegated, nor subject to particular rules which it cannot alter, not answerable to any other power over earth". - Pollock

(7) "Sovereignty is the supreme will of the state". -Willoughby

(8) "Sovereignty is the daily operative power of framing and giving efficacy to the laws". -Woodrow Wilson

(9) Sovereignty is "the supreme, irresistible, absolute, uncontrolled authority in which the 'jurist summi imperi' reside". -Blackstone

(10) The sovereignty is "legally supreme over an individual or group, says Laski, he possesses "supreme coercive power".

MCQ

1. Who said that sovereignty can no more be alienated or transferred?
A. John Coulhon
B. Laski
C. Liber
D. Prince Kropotkin
2. Legal sovereignty is one which is accepted by:
A. All the persons in and outside the state
B. By outside people alone
C. By international organisations alone
D. By associations in the state only
3. Political sovereign is:
A. Recognised by national courts
B. Recognised by international courts
C. One which has no legal status
4. A sovereign in the state who simply heads the state is technically called:
A. Absolute sovereign
B. De facto sovereign
C. Political sovereign
D. Titular sovereign
5. John Austin who expounded his theory of sovereignty was:
A. Roman
B. Greek
C. French
D. English
E. Russian