

## **B.A.LL.B. 2nd Sem. Paper-II Sociology-II**

**Question 1- Define population and explain the function and importance of population.**

**Answer-** In sociology, the term "population" plays an important role in understanding social structures and dynamics. Let us learn what it means, its importance and how it is studied.

**Definition and Importance-**Population is the entire group of individuals living in a specific area, such as a city, country or the world. This group can be classified based on various characteristics such as age, sex, income, education and others. Understanding population dynamics helps sociologists, policy makers and researchers make informed decisions about resources, services and planning.

**Population size and density-**Population size-Population size refers to the number of individuals in a specific area. Food, this is important for understanding the demand for resources such as water, housing, and healthcare. Larger populations may indicate higher demand for these resources, while smaller populations may indicate less pressure. Population density -Population density measures the number of people living per unit area, such as per square kilometer or mile. High population density can lead to overcrowding, while low density may indicate more available space per person. Both scenarios have significant social, economic, and environmental impacts.

**Population growth-**Population growth means the change in the number of people over time. It Change may occur due to birth, death and migration.

**Birth rate-**The birth rate is the number of live births per 1,000 people in a year. A high birth rate increases the population can increase rapidly, especially if the mortality rate is low.

**Mortality rate**—the mortality rate is the number of deaths per 1,000 people in a year. Advances in healthcare, sanitation, and nutrition often result in lower mortality rates, which contribute to population growth. Migration—Migration includes both immigration (moving into an area) and emigration (moving out of an area). Migration significantly affects the size and composition of a population. For example, areas with high immigration rates may have increased population growth and cultural diversity.

**Population Structure-**Population structure refers to the composition of the population based on characteristics such as age, sex, and ethnicity.

**Age structure**—The age structure of a population is divided into groups such as children, working-age adults, and the elderly. This structure affects social services, labor markets, and economic policies. For example, an aging population may require more health services and pensions.

**Gender Composition-**The gender structure of a population examines the proportion of men and women. This ratio can affect social mobility, family structure, and employment patterns.

Ethnic and cultural composition -Different ethnic and cultural groups within a population contribute to its richness and complexity. Understanding this diversity is important for promoting social cohesion and addressing potential conflicts.

**Demographic transition**—The demographic transition model describes changes in birth and death rates over time.

**Describes changes, usually in four stages**-Pre-industrial stage High birth and death rates, resulting in slow population growth. Transitional stage: Better health care and living conditions lead to a decrease in death rates, while birth rates remain high, leading to rapid population growth.

Industrial Stage As society becomes more industrial; birth rates tend to decline, slowing population growth.

In the post-industrial stage both birth and death rates are low, keeping the population size stable.

**Effects of population change-** Economic effects—Population changes can significantly affect the economy. Aging populations can boost economic growth by increasing the labor force and consumer demand. Conversely, aging populations can put pressure on public resources due to healthcare and pension costs.

Social effects Population changes affect social structures and relationships. For example, high population growth in urban areas can lead to overcrowded schools, housing shortages, and increased demand for public services.

**Environmental impact**-Population growth affects the environment through increased consumption of natural resources and more waste generation. Sustainable practices are necessary to strike a balance between population growth and environmental protection.

**Population Policies** - Governments implement population policies to manage population growth and its impacts. These policies may include family planning programs, immigration regulations, and initiatives to support aging populations. Effective policies aim to balance population size with available resources and ensure the well-being of all citizens.

**Question 2- Explain the interrelated principles between the individual and society.**

**Answer- Interrelationship between individual and society**-Individual and society are two concepts that are inseparably linked to each other. They are like two sides of the same coin, whose existence is incomplete without each other. In sociology, the study of the complex and multidimensional interrelationships between individual and society is an important subject.

**Influence of Society on the Individual**-Society deeply influences every aspect of an individual's life. From birth to death, the individual is bound in a web of social structures, norms, values and institutions. Following are some of the major ways in which society influences the individual-

**Socialization** - Society teaches the individual social norms, values, beliefs and behaviors through the process of socialization. Various socializing agencies such as family, school, peer groups and media teach the individual how to live and interact in society. Without socialization, the individual would not be able to develop as a socially competent being.

**Identity Formation** - An individual's identity is largely shaped by social contexts and his interactions with others. Social categories such as caste, class, gender, religion and nationality influence an individual's self-perception and social status. Society helps an individual develop a sense of 'self' and 'dislike', which forms his social identity.

**Shaping Behavior** - Society shapes the individual through social norms and expectations regulates and guides the individual's behaviour. The system of rewards and punishments ensures that the individual behaves in a socially acceptable manner. Social pressure and the desire to conform also influence the individual's behaviour.

**Determining Opportunities**- Society determines the opportunities available to an individual opportunities in areas such as education, employment, health care and political participation are linked to factors such as social background, class, caste and gender. Social inequalities can limit an individual's life path and prospects.

**Development of Language and Thought** - Language is a product of social interaction and it shapes the individual's ability to think and understand the world. Society provides the individual with language, through which he expresses ideas, acquires knowledge and communicates with others.

**Impact of the individual on society**-Although society deeply influences the individual, the individual also plays an active role in shaping and changing society. Individuals are not mere passive recipients of society's influence; rather they are active agents who contribute to social processes. Following are some of the major ways in which the individual influences society-

**Social Change** - Individuals can challenge and change social norms, values and structures through social movements, protests and innovations. Great thinkers, scientists, artists and activists can give new direction to society with their thoughts and actions.

**Creation and Maintenance of Culture** - Individuals create and maintain culture through their daily interactions, artistic expressions, and traditions. New practices, fashions, and technological innovations become part of the culture and enrich society.

**Operation of Social Institutions** - Individuals act as members of various social institutions (such as the family, the education system, the government, and the economy) and contribute to their functioning. Their roles and responsibilities affect the effectiveness and stability of these institutions.

**Social Interaction and Relationships** - Individuals interact with each other and form social relationships, which constitute the social fabric. These interactions and relationships can reinforce or challenge social norms.

**Innovation and Creativity**- Individuals bring innovation and creativity to society by giving birth to new ideas, technologies and solutions. Scientific discoveries, artistic creations and technological advancements move society forward.

**Interdependence and dialectical relationship**-The relationship between the individual and society is not one-sided, but it is an interdependent and dialectical relationship. This means that they constantly influence each other and are influenced by each other. Society is formed by the actions and thoughts of individuals, while individuals develop within the framework and culture of society.

Dialectics implies that tensions and contradictions may sometimes arise between the individual and society. Individuals may resist social norms and expectations, and society may restrict individuals' freedom and autonomy. Social change is often the result of this dialectics.

**Conclusion**- In short, the individual and society complement each other and share a complex and dynamic relationship. Society shapes the individual, makes him a social being and influences his life chances. At the same time, the individual through his actions, ideas and innovations changes society, creates culture and contributes to the functioning of social institutions. Understanding this interdependence and dialectical relationship is important for sociology as it helps us better understand the complexities of social life and the processes of social change. This unbreakable bond between the individual and society is the basis of human existence and social development.

**Question 3- Define religion and explain the theory of origin of religion and discuss its characteristics.**

**Answer**- Religion is an essential element of human life. Looking at the characteristics, ideals and functions of religion related to organizing life, it has to be accepted that religion is such an intangible element, which is more important than the basic needs of man. Marx considers religion to be opium for man. Max Weber believes that religion affects our economic life. In the words of Davis, "Religion is so universal, permanent and widespread in human society that without clearly understanding religion, we cannot understand society".

Some western scholars say that religion is associated only with civilized society, but in reality it is not so. Religion is also found in tribes in some form or the other. The reality is that the background of the religion of civilized society has been created from the tribal society itself and the religion of civilized life is a modified and changed form of tribal religion. We will have to accept that religion has its own special place in every human culture. Which no other institution has been able to replace till date.

**Meaning and definition of religion-** Religion is found in every society in some form or the other. Religion is based on belief in supernatural powers and their worship. Religion is related to our mental tendency which is manifested through our thoughts and rituals. The word 'Dharma' is made from the root 'Dhri' which means to hold That is, by which the universe is held. Mostly religion is seen as a belief in some superhuman power, belief in some sacred thing or belief in some spiritual power. It is a kind of institutional system of beliefs, symbols, values and actions which provides groups of humans with the ultimate goals or solutions to the questions of life.

Different thinkers have presented different definitions of religion. Some of the main definitions are as follows-

1. According to Tyler- "Religion is belief in spiritual power."
2. According to Malinovsky - "Religion is a method of action as well as a system of beliefs. Religion is a sociological fact as well as a personal experience."
3. According to Majumdar and Madan- "Religion is a human response to the fear of some supernatural and extra-sensory power. It is a form of expression of behavior or adaptation to circumstances which is influenced by the concept of supernatural power."
4. According to Johnson - "Religion is, more or less, a stable system of beliefs and practices regarding beings, powers, places and other elements in a higher supernatural order."

The reality is that it is very difficult to understand a complex system like religion through a single definition. From this point of view, we can successfully explain its nature on the basis of some important characteristics related to religion and religious system.

1. Religion is a system of beliefs and practices regarding God or gods.
2. Higher supernatural beings mean God or gods.
3. Supernatural powers mean sacred feelings.
4. Sthānas mean heaven, hell etc.
5. Other elements refer to the soul.
6. Higher supernatural means- that which cannot be investigated from scientific point of view.

Thus, religion has been explained as a belief in some form of super-human power. In contrast, the definition of religion given by Dr. Radhakrishnan gives religion a directly social form.

In his words, "The principles by which we live our daily lives, by which our social relations are established, that is religion. It is the truth of life and the power that determines our nature."

**Theories of the Origin of Religion** - Various anthropologists and sociologists have tried to answer the question of the origin of religion.

Different ideas were presented, which range from completely imaginary beliefs to social ideologies. The origin of religion is a very ancient event which can be understood only by relating it to the events of primitive society. In the following discussion, some of the major theories presented by anthropologists and sociologists are being mentioned.

**(1) Theory of Animism**-Edward Tylor first propounded the view that the basic source of the origin of religion is the belief in the spirits of ancestors. Spencer also supported this theory of no modification. According to this theory, the initial type of religious life is traced through animistic beliefs and activities and in this three things are emphasized- the idea of the soul, worship of the soul and its transformation into ghost and the transformation of worship into religion. According to this theory, the first idea of the soul came due to the imagination of a double life in man. One is the life when the person is awake and the other is the one in which he is asleep. The worship of ancestors started from the concepts of body soul and independent soul which later assumed the form of religion.

**(2) Theory of Naturalism** - Max Muller is the proponent of the theory of naturalism. The ideology of naturalism is related to the concept of a living entity in all natural objects. According to Max Muller, religion originated due to the fear of natural forces. Seeing storms, hurricanes, earthquakes, lightning, sun, moon, stars etc., fear arose in the mind of primitive man. Therefore, feelings of respect and devotion towards nature arose in his mind and he started worshipping nature, which led to the origin of religion.

**(3) Theory of Animism or Parashakti** - The fundamental source of religion among the tribes was the belief that every object has life and consciousness. On this basis, Preuss explained the tribal religion through the consciousnesses approach while Max Muller called it naturalism. Preuss was of the opinion that the tribals experienced 'life' or 'consciousness' in every object. Due to this belief, the tribals started worshiping this conscious power and later on, religion developed on the basis of this belief.

On the basis of this living power, Merritt propounded a new theory of religion, which he called Jivashaktivaad or Parashaktivaad or Manavaad. To understand this form of religion, it is necessary to understand the nature of Mana. Mana is an extra-sensory and supernatural power which has no physical form. Merritt concluded that due to belief in this extra-sensory and supernatural power, tribes started worshipping it. This worship was the basic form of religion.

**(4) Social Theory or Theory of Totemism** - Durkheim in his book "The Elementary Forms of Religious Life" has presented the origin of religion on the basis of collective representation or social basis. Durkheim has considered totem as an early religion and has tried to give the origin of religion on the basis of totemism. According to Durkheim, religious thoughts and activities are symbols of the group.

**Characteristics of religion-** Religion have many distinctive features, which distinguish it from other socio-cultural systems. Some of these major features are as follows-

**(1) Belief in supernatural power** – almost all religions in one form or another Believe in a supernatural power or powers (such as God, deities, spirits) that are beyond human understanding and the natural world. This belief forms the basis of religious experience and interpretation.

**(2) Distinction between Sacred and Profane** - As mentioned earlier, religion divides the world into sacred and profane. Sacred objects, places and times are given special importance and require special behaviour.

**(3) Religious Rituals and Practices** - Religion involves a series of symbolic actions and behaviors called rituals. These rituals are performed to communicate with the sacred, express religious beliefs, and bring community members together. Prayers, sacrifices, festivals, and pilgrimages are some common religious rituals.

**(4) Moral Code of Conduct** - Religion often provides a set of moral principles and rules that guide the behaviour of followers. These moral codes provide guidance about right and wrong, good and evil, and play an important role in maintaining social order.

**(5) Religious Feelings and Experiences** - Religion often gives rise to specific feelings and experiences (such as reverence, awe, wonder, mystery, peace, unity) that are associated with a connection with the supernatural or participation in religious practices. These experiences are often perceived as personal and intense.

**(6) Prayer and Other Forms of Communication** – Adherents often seek ways to communicate with the supernatural, which may include prayer, meditation, chanting, and other forms of religious expression.

**(7) A Social Group** - Religion is usually organised around a community of people who share similar beliefs and practices. This community provides social support, identity, and a means of transmitting beliefs and traditions from generation to generation.

**(8) Worldview** - Religion provides comprehensive explanations and perspectives about the meaning of life, the origin of the universe, and the purpose of human existence. It gives followers a framework for understanding the world and determining their place in it.

**(9) Sacred Narratives and Myths** - Religion is often based on sacred narratives, myths and stories that express religious beliefs, values and history. These narratives are passed down from generation to generation and shape religious identity and understanding.

**(10) Sacred Symbols and Objects** – Every religion has sacred symbols and objects.

symbols and objects that hold specific meaning and significance. These symbols and objects play an important role in religious identity, beliefs, and rituals.

**Question 4- Define village and tell the basic characteristics of Indian villages.**

**Answer- Definition of Village-** In sociology, a village is usually defined as a small, compactly settled human community, based mainly on agriculture and other primary occupations. It is a social organization characterized by close social ties, a sense of community, a relatively simple social structure and local culture. The village is often located in a specific geographical area and has its own identity, history and traditions.

Different sociologists have defined a village from different perspectives. Some define it in terms of population size and density, while others emphasize social relationships, economic activities and cultural characteristics. Broadly speaking, a village is a community where people are connected with each other through direct and informal relationships and live a shared life.

**Basic Characteristics of Indian Village-** Indian villages have been the cornerstone of Indian society for centuries and have certain unique characteristics that distinguish them from other rural communities. Following are some of the basic characteristics of Indian villages-

**Agriculture-based Economy** - The most prominent feature of Indian villages is their agriculture-based economy. Most of the rural population is directly or indirectly engaged in agricultural work. Agriculture is not only the main source of livelihood, but it also deeply influences social life, customs and festivals.

**Small Size and Clustered Settlement-** Indian villages are usually relatively small, with a population ranging from a few hundred to a few thousand. The settlement is often dense, with houses built close to each other. This promotes close social ties and a sense of community.

**Dominance of Primary Relationships** - In Indian villages, primary or face-to-face relationships between people are important. People know each other personally and have close, emotional and long-term relationships. Social interactions are informal and personal.

**Community Feeling** - Indian villages have a strong community feeling. People support each other in good and bad times, participate in group activities and work together for common interests. Panchayats and other community organizations play an important role in maintaining this feeling.

**Caste System** - Historically, the caste system has been an important social structure in Indian villages. Although its rigidity has been reduced by the influence of urbanization and modernity, caste still influences identity and social relations to some extent today. Different castes have traditionally been associated with specific occupations and held a specific place in the social hierarchy.



**Traditional Social Structure** - The social structure in Indian villages is relatively simple and traditional. Family, caste, panchayat and religious organizations play an important role in organizing social life. The influence of modern institutions and organizations is less than in cities.

**Local Culture and Traditions** - Every Indian village has its own distinct local culture, customs, traditions, folk arts and folklore. These cultural elements are passed down from generation to generation and maintain the identity and social unity of the village.

**Social Homogeneity**- Indian villages are more socially homogeneous than cities. Most people share similar economic backgrounds, lifestyles and cultural values. However, some variations may exist based on caste and class.

Limited Availability of Formal Education and Modern Facilities

**Education and Modern Amenities**- The availability of formal education and modern facilities (such as healthcare, transport, communication) is often limited in Indian villages compared to cities. However, this situation is slowly changing due to government efforts and technological advances. **Importance of Panchayat** - The Panchayat (village council) is an important traditional institution in Indian villages that plays a key role in local self-governance and dispute resolution. The Panchayat is also important in community decision-making and implementing development work.

**Close Relationship with Nature** - People in Indian villages have a close relationship with nature. Their livelihood depends on agriculture and other natural resources, and nature has an important place in their customs, festivals and worldview.

**Importance of Traditions**- Traditions and customs have deep significance in Indian villages. Most aspects of social life are guided by traditional rules and customs. The pace of change is slower than in cities.

**Question 5- Explain the concept of city and the basic characteristics of urbanization and urban life in India.**

**Answer- City-** "City", "town", "urban community" and "urban area" are synonymous words. The meaning of the word urban is not the same in different countries. If we look at it from the point of view of the composition of the word, the word "city" or "nagar" is the Hindi translation of the English word city. The word city itself is derived from the Latin word civitas which means citizenship. The English word Urban is derived from the Latin word Urbanies which means "city". The Latin word Urbas also means city.

A city is also defined on the basis of population. The US Census Bureau considers a city to be a place where the population is 25,000 or more. In France, an area with a population of 2,000 and in Egypt, an area with a population of 11,000 is considered a city.

A city has also been defined on the basis of behaviour. According to Wilcox, "A place where the main occupation is agriculture, it will be called a village and a place where other occupations apart from agriculture are prevalent, it will be called a city."

Louis Wirth has emphasized on defining the city on the basis of characteristics like segmentation of secondary relations, roles and rapid mobility of people. According to Wirth, the city is a relatively widespread phenomenon and a permanent residence area of socially heterogeneous people. Along with the city, words like 'Metropolis', 'Mega city or Megalopolis', 'Cosmopolis' and conurbation are also used. Differences are made in all these words on the basis of population size, population density, facilities of transport and communication means etc.

**Urbanization in India** - India is a country of villages. Every year some people living in villages leave the village and settle in cities for jobs. As a result, the urban population keeps on increasing. Leading scholars have defined urbanization in the following ways-

According to Davis and Golden, "The term urbanisation can be used for the increasing proportion of the population living in urban areas and the non-urban population in a country."

According to Bose- "From the demographic (population) point of view, urbanization is the increase in the share of urban population in the total population over time."

According to Sewani - The ratio of urban population to total population is an inaccurate indicator of urbanisation because it does not take into account the distribution of urban population of the country.

Although India has been a country of villages and even today it is a country of villages due to being mainly agricultural, yet the population is continuously increasing in some areas. Following are some of the major reasons encouraging urbanization in India:

1. During the British rule, urbanisation got encouragement through discovery of new routes, development of means of transport and public transport.
2. Industrialisation has also helped in the development of cities in India.
3. Due to increase in population, rural population starts coming towards cities in search of employment, which encourages the process of urbanisation.
4. The increase in means of commercial entertainment in cities has also helped in the development of cities.
5. The development of political parties and their organisations being located in cities have also been a contributing factor in urbanisation.
6. The rise of new economic organisations and favourable geographical conditions has also encouraged urbanisation in India.
7. Progress in business and educational sector has happened mostly in cities. Due to this, villagers have been attracted towards cities.

**Basic characteristics of Indian urban life-** The basic characteristics of Indian urban life are as follows-

- 1. Social Heterogeneity** - The population of urban communities is engaged in various types of occupations and there is a lot of diversity in their cultural values and customs. People belonging to different religions, beliefs, sects, castes, classes, races, languages and provinces live in cities.
- 2. Secondary Associations** - Due to the predominance of secondary associations, urban people of the community do not know each other personally. Formal and secondary relations are predominant among the people of the city.
- 3. Social Tolerance** - Despite social heterogeneity, individuals have to live together in the urban community, which increases their social tolerance towards each other.
- 4. Secondary Control-** Due to the large population of cities, the behaviour of all people cannot be controlled through primary control, hence the means of secondary control like education, police, law etc. are given priority.
- 5. Social Mobility-** Social mobility is more in urban communities due to more facilities of transportation, communication, education, new businesses etc. On the basis of increase in work efficiency and innovation, more mobility is found among urban people.
- 6. Individualism** - There is more individualism in the city than in collective and community life. Most people think more about themselves than the community.
- 7. Social Problems** - At present cities have become centres of many problems like crime, juvenile crime, prostitution, unemployment, slums, insanity, poor health, malnutrition, class conflict, air pollution and disease etc.

**Question 6- Explain the tribal concept and explain the various problems of Indian tribes.**

**Answer-** One important thing that is known from the racial history of India is that since ancient times, various racial elements have been coming to this country and getting lost in this ocean of multi-racial elements. On one hand, India is a mixture of various racial elements and on the other hand, it is a mixture of various geographical areas. In these various regions of India, there are many human groups which are still at the primitive level of civilization. They usually live in forest, hilly or plateau regions away from the civilized society and are extremely backward in every field. They are addressed by many names like Vanyajati, Adivasi, Janjati etc. In the Indian Constitution, such people have been called Scheduled Tribes. Dr. G.S. Ghurye has used the word backward Hindu for them.

**Meaning and definitions of tribe** - Tribes or wild tribes are more extensive than nomadic groups, it is a more organized and stronger social group. A tribal community is a relatively larger organization of many small groups and families living in a particular place and generally living in a deserted and natural

environment away from civilization. Here we will briefly discuss the meaning and definition of tribes-

**According to Gillin and Gillin** - "We call a tribe any collection of local primitive groups who live in a common area, speak a common language and behave under a common culture."

**According to Dr. Boas** - "By tribe, we mean a group of economically independent people who speak a common language and are organized to protect themselves from external attacks."

**According to Dr. Majumdar**- "A tribe is a collection of families or groups of families, identified by a common name, whose members live on a territory, speak a common language, follow certain common prohibitions in marriage, business and economic activities and develop an organised system of mutual exchange in the field of social responsibilities."

On the basis of the above definitions the following characteristics of tribes can be mentioned:

**1. Common territory**- Tribes live on a definite territory and their members have much more attachment towards their territory as compared to other groups. Due to living in a common territory, other characteristics of common life develop in them.

**2. Common language**- All the members of a tribe speak one language. This makes it easy to exchange ideas and with its help cultural characteristics are continuously passed on from one generation to the other.

**3. Common culture** - The members of a tribe follow the rules of the common culture and control their behaviour through it. There is a provision for strict punishment for any person who disobeys the cultural rules and thus one of the main functions of the chief in the tribe is to clarify the meaning of the cultural rules and enforce them on the members.

**4. Wide size**- A tribe is a collection of many families. The number of members in it is the highest among all regional groups. The number of members in some tribes can be up to millions. For example, the number of members in the tribe 'Santhal' spread in Chhota Nagpur and other places of India is more than 40 lakhs.

**5. General prohibitions** - A tribe follows similar prohibitions related to food, marriage, family, business, religion etc.

**6. Economic self-reliance**- Every tribe is capable of fulfilling all its economic needs. All the needs of life are fulfilled within the village itself, due to which every person, in addition to the main work of agriculture or hunting, must have general knowledge of making weapons, repairing bullock carts and blacksmithing.

**7. Endogamy**-A tribe is usually an endogamous group. It has many clans, groups, gotras and fraternal groups. This is the reason why its membership number is more than other regional communities.

**8. Political organization**-Each tribe has its own organization. Mostly it has a hereditary chief who ensures that traditions are followed, maintains control and makes arrangements for punishment for those who violate the rules. Some scholars have not considered political organization necessary for a tribe.

**Classification of Indian tribes** - All the tribes spread across India cannot be understood on any one basis. That is why they have been classified on various bases which are as follows-

**1. Geographical Classification**- Dr. B.S. Guha has classified all the tribes of India on the basis of geographical residence.

But it is divided into three parts-

**(a) Northern and North Eastern Region**- It includes Kashmir, Eastern Punjab, Himachal Pradesh, Northern Uttar Pradesh and Assam

The hilly areas are included in this. The area of Leh, Shimla and Lushai hills comes under this. This entire area is politically important because it is a border area. The major tribes of this region are Motiya, Tharu, Naga, Garo, Khasi, Dafla, Kuki, Labot, Mikir, Lashai, Gujar, Chakma, Gurung etc.

**(b) Madhyavati region**-This region extends from the Ganges plains in the north to the Krishna River in the south. It also includes the Vindhya and Satpura mountain belt. It includes Bengal, Bihar, Southern Rajasthan, Uttar Pradesh, Madhya Pradesh, Northern Bombay and Orissa. Major tribes living in this region Santhal, Oraon, Ho, Kharia, Virhaur, Gond, Vaiga, Kora, Chenchu, Korwa, Kol, Bhil etc. Santhal, Bhil, and Gond are the important tribes of this region.

**(c) Southern region**- This region is to the south of Krishna river. It includes Mysore, Travancore, Cochin, Hyderabad, Andhra and Tamil Nadu etc. The tribes of this region are Toda of Nilgiri, Kota Paniyan, Kadar, Chenchu of Hyderabad, Kurumba and Urali etc. The tribes of Andaman and Nicobar Islands like Jakha, Nicobari, Setonelli, Ong and Shopan etc. are also included in this region.

**2. Racial Classification**- Dr. Guha, Hutton and Risley, etc. have classified the various races found in the tribes of India.

There is a difference of opinion about their classification on the basis of racial characteristics. While Risley mentions Dravidian and Mongoloid racial elements in Indian tribes, Dr. Guha mentions Negrito, Igneous, Mongoloid etc. elements, Dr. D.N. Majumdar does not believe in the presence of Negrito racial elements in Indian tribes. Here we will only mention the tribal classification done on the basis of racial characteristics presented by Dr. Guha.

**(a) Negrito**-Negrito is the oldest race of India. We find these race elements in the tribes residing in Kadar, Isla, Paniyan of South India, Angab Nagas in Assam and Rajmahal Hills of East Bihar. The main physical characteristics of this race are short height, broad head, dark complexion, black woolly hair, thick lips and broad nose etc.

**(b) The characteristics of the Proto-Australoid race** are found in almost all the tribes of early south-central India. The Meen and Chenchu people also belong to this race. The physical characteristics of this race are as follows - short stature, long and high head, broad face, mouth bent forward and nose small and flat etc.

**(c) Mongol-Mongolian race** has two branches in India- one broad headed and the other long headed. Broad headed race elements are found in Chittagong and Burma (Myanmar) and North Eastern India. Long headed Mongols are found in Assam, border provinces and Brahmaputra valley.

On the basis of race, it can be said that Mongol, Negrito and Proto-Austolian races are found in the Indian tribes.

**3. Cultural Classification-** Barrier Elvin did cultural classification of Indian tribes in 1943 and on this basis he divided the tribes into four categories-

(a) The first category includes those tribal people who are extremely primitive. They lead a joint social life and reside in remote and dense forests. These people are very simple and climb trees on seeing people from civilized society. Prominent among them are the Pahari Bhadia of Bastar region of Central India, Juang and Bonda tribes of Odisha.

(b) The second category includes those tribes in whose lives some changes have come. They have abandoned their collective life and are leading an individualistic life. Discrimination between the rich and the poor has started among them they use axe for farming.

(c) The third category includes those tribes who are not able to make any progress due to excessive contact with modern civilization and culture. They have lost their original culture. Their tribal religion, tradition, custom, art, belief, social organization etc. have become different. As a result, they are facing social problems.

(d) The fourth category includes those tribes which belong to the ancient aristocratic class. Bhils and Nagas are prominent among them. These people associate themselves with the upper castes, for example, Bhils include themselves in the administrative class and Kshatriyas.

**4. Classification on the basis of Language** - On the basis of language, Indian tribes can be classified into three main parts-

**(a) Dravidian language family-** This language is spoken by the tribes of the south. Telugu, Kannada, Tamil and Malayalam languages are included in the Dravidian language family. The Gond tribe of central India also uses the Dravidian language. The tribal people living in Kundh of Orissa, Kui of Bihar and Orissa, Oraon and Rajmahal hills speak Malto dialects. The major tribes speaking the Dravidian language are Toda, Maler, Polia, Savar, Koya, Paniyan, Chenchu, Isla Kavar etc.

**(b) Austronesian language family-** It includes Kol Munda languages which are spoken by the tribes of Central East India and Khasi of Assam and Nicobari dialects of Nicobar Island. This language includes Mundari, Santhali, Kharia,

Bhumij, Garo etc. languages which are spoken in Bihar, Orissa, Bengal and Assam. Kuki, Sathra and Gadhwa languages of Madhya Pradesh also come in this. The dialects of Austronesian language family are spoken by the tribes of the central region but the tribes living here like Oraon, Kolam, Gond etc. speak the languages of Dravidian family.

**(c) Sino-Tibetan language family** - The languages of this family are found in Nepal, Darjeeling, Tripura, Cachar, Manipur, Eastern these are spoken in Kashmir, East Punjab, Himachal Pradesh, Bhutan, Northeast Bengal, Assam and Sikkim etc. Monkhmer language is spoken in some areas of the Northeast which belongs to the Austronesian language family. About 16 languages are used by the Nagas of Assam.

**5. Economic Classification** - On the economic basis, Indian tribes are classified into the following categories: It is classified into four parts-

**(a) Tribes with hunting and crisis economy-** Kadar of Cochin, Bhala of Travancore people like Paliyan of Panthrayam Madura, Paniyan of Wayanad etc. make their living by collecting fruits, flowers and honey from the forests. The forest policy of the government has greatly affected their lives.

**(b) Animal husbandry tribes** - Gujjars of Himachal and Toda of Nilgiri are the main tribes who make their living by animal husbandry. These people earn their livelihood by selling milk and milk products of animals.

**(c) Tribes doing agriculture-** Some tribes do agriculture with the help of axes, some do it in a shifting way, while some tribes also use modern agricultural equipment. These tribes are found mostly in North-East India and Central India.

**(d) Tribes engaged in industries** - Due to the demand for labour in industries and lack of production in agriculture, tribes have started working in new industries. Tribes of Bengal, Bihar and Assam work in tea gardens, mines and factories.

**6. Classification on the basis of population in States** - In our India, various types of data related to population are collected in censuses every ten years.

**Question 7- Describe the efforts made by the Indian Government to solve the problems of weaker sections and mention the constitutional rules for the upliftment of Dalit class.**

**Answer-** In the "Rig Veda", only three castes of Aryans are mentioned, Brahmin, Kshatriya and Vaishya. It seems that the "Shudra" caste was probably created in the last phase of the Rig Veda. Shudras were different from Aryans in racial and cultural terms. They were opposed to the Aryan gods, did not offer sacrifices to them nor gifts to the priests. Therefore, the Aryans gave them the lowest status, deprived them of religious and cultural activities and social rights. Shudras were also deprived of education and sacrifices by calling them disgusting, impure and unclean. Hutton is of the opinion that the origin of these Shudras / untouchables / Dalit castes was the result of partly ethnic, partly religious ethnic, partly religious and partly social customs.

The word Dalit, as is clear from the word itself, means a person or class which has a very low status in the society, which is a victim of oppression and whose life is a life of deprivation, misery and humiliation. The untouchables were first called the 'Dalit class' during the British period, whereas before this they were known by the names of outside caste, Harijan, Scheduled caste etc. According to Dr. Ambedkar, in the ancient Indian society they were called "Bhagn Purush". Due to the pitiable economic condition of the untouchables and scheduled castes, they were called "Dalits". According to the Arya Samaj, this class is not untouchable, but Dalit, because the Hindu society has suppressed them and deprived them of all rights. Before the 1931 census, they were called "Dalits". The Simon Commission called them "Scheduled Castes" in 1935, which included castes like Bhangi, Chamar, Dom, Pasi, Mochi, Kori, Rajvanshi, Chuhra etc.

Dr. Kailash Nath Sharma has written in his book "Indian Society and Culture" - "Untouchable castes are those, by whose mere touch a person becomes impure and he has to perform some acts to become pure."

**According to Dr. Majumdar-** "The untouchables are those who suffer from various social and political disabilities, many of which are traditionally determined and socially enforced by the upper castes.

**Problems of Dalits-** The "Dalits" of Indian society are considered to be very low from the social point of view and are also deprived from the economic point of view. In this situation, the spread of education among them has also been very less. Ignorance, superstition and many other problems have also developed among them. These problems can be explained in the following manner.

**1. Problems related to untouchability and social distance** - The most important problem of Dalits has been untouchability. The word untouchability was not used in the Vedic period, but words like Chandal, Dom, Antyaj, Nishad etc. have been used for such people whose level was almost like that of untouchables. Gandhiji had said that the form in which untouchability is prevalent in Hinduism today is against both God and man. Therefore, untouchability is like a poison which is eating away Hinduism. In my opinion, it is not accepted anywhere in the Hindu scriptures from a collective point of view. Children of untouchable castes could not study in those schools, children of higher castes used to get education.

At some places, the untouchables were not even allowed to wear jewellery of their choice. For example, in the area of Jaunsar Babar, the people of Kolta caste could not wear gold. They could only wear silver jewellery. They had to build their houses etc. outside the village. There were separate roads for this and there were various types of restrictions on the use of public places like wells, ponds, hostels, hotels etc.



**2. Problems of atrocities and oppression-** Due to the socio-economic problems faced by them due to untouchability, these Dalits have become victims of many types of atrocities and oppression. These include working as bonded labourers, abuse and exploitation of women, murders, looting, illegal seizure of land, burning alive and many incidents of atrocities by the police.

**3. Economic problems -** The Dalit class of the society is economically backward. Due to the disabilities related to untouchability, their socio-economic and political level has also been very low. They did not have the right to choose the profession of their choice. Due to economic problems, the families of the Dalit class are not able to pay any special attention towards the education of their children.

Dalits have been exploited economically in many ways by outsiders such as landlords, traders and moneylenders. There has been another method of economic exploitation of Dalits. These Dalit tribals, suffering from food shortage, have been lured and taken out of their area in large numbers to work in tea gardens and mines.

Pointing out the economic problems of the scheduled castes, Panikkar has written-

"Economically, the scheme of community rights has always kept these helpless people propertyless. They have been forced to serve unconditionally as permanent servants." According to Gandhiji, "If a doctor gives up, there is a possibility of the death of only one patient, but if a sweeper and other low-level workers give up, then there is a possibility of a hellish end for the whole society. The person who cleans the biggest dirt of the body gets the lowest wages. The least money and torn old clothes, that too on Holi and Diwali."

The Dalit class is not a victim of economic exploitation. Their standard of living has gone down to the level of hungry and naked people.

**4. Political problems-** In independent India, many protections have been given to the scheduled castes from the constitutional point of view, but before this the scheduled castes did not have any kind of rights. They were not appointed to any administrative or public post. In a way, the political field was completely forbidden for them. 3. In short, the problems of Dalits have been there in every sphere of life. They have been exploited, oppressed and poor from the economic, political and social point of view. This can be called an unfortunate and shameful incident. This is the reason that some of these people wanted to change their situation by converting religion.

**Solution of the Problems of Dalits -** Our Constitution is based on the principle of economic equality or socialism. Through the Directive Principles of Policy in the Constitution, it has been arranged that the state should make plans for the improvement of the living standards of workers, Dalits, backward and people living below the poverty line and for their development and welfare and implement them as soon as possible. Seats have been reserved for them in

Parliament, Legislative Assemblies and local self-government bodies. Reservation has also been arranged in selection and promotion in government and semi-government jobs. Various laws have also brought about a wide change in the social and economic conditions of Dalits. The following two types of efforts have been made to solve the problems of Dalits.

**1. Reform Movement or Non-Governmental-** Efforts From time to time, social reformers organize movements for the removal of untouchability. The names of Jagadguru Adi Shankaracharya, Keshav Chandra Sen, Rangarao Shinde, Raja Ram Mohan Roy and Mahatma Gandhi are especially noteworthy in this regard. Mahatma Gandhi started the tradition of allowing Harijans to enter temples, sitting with them and praying, and presented a direct model of their staying in the colony.

Harijan Sevak Sangh organized many programs for Harijans for temple entry, establishment of cottage industries and spread of education. Social organizations like Ramakrishna Mission and Servants of India Society also do various types of work for the welfare and upliftment of scheduled castes. Similarly, Dalit Varg Sangh, Harijan organizations are also working for the upliftment of scheduled castes through seminars, cultural programs and other practical schemes.

In the nineteenth century, Shri Jyotiba Phule established Satya Shodhan Samaj and tried to give rights to the untouchables. Later, Dr. Ambedkar established 'All India Dalit Classes Confederation' and 'All India Dalit Classes Federation' in 1920. In the Round Table Conference in 1931, Dr. Ambedkar succeeded in getting the demand for separate elections for them accepted. But Gandhiji accepted them as part of Hindus and started a fast. On 30 December 1931, a huge meeting was held in Bombay under the chairmanship of Pandit Madan Mohan Malviya and in 1932, 'All India Sevak Sangh' was established to eradicate untouchability in the whole country. Through the efforts of this organization, 1,130 Shishu Mandirs, 1,018 hostels, 67 Dharamshalas and 1,995 wells were arranged for them and the propaganda against untouchability also intensified. Apart from all these, Brahma Samaj, Arya Samaj and Ramakrishna Mission also made a lot of efforts are.

**2. Government efforts-** Government efforts to eradicate untouchability started during the British rule itself. In 1920, the Congress made eradication of untouchability an important part of its efforts. After independence, the efforts made by the government to solve the problems of Dalits can be divided into three parts-

- (1) Constitutional functions
- (2) Help work
- (3) Welfare work.

**1. Constitutional functions-**In the Constitution of independent India, many legal provisions have been made to remove the disabilities of the Scheduled Castes, out of which the following can be specially mentioned-

According to Article 29, no citizen shall be barred from admission into any educational institution established by the State or receiving aid out of State funds on grounds only of race, religion, caste, language or any of them.

Article 49 provides for special economic and educational facilities to the weaker sections of the people, scheduled castes and tribes by the state so that they can progress to the maximum. This article also provides for the protection of Dalit classes from social injustice and exploitation.

Under Articles 330, 332 and 334, they have been given special facility of representation in the Parliament and State Legislatures for 20 years.

Article 338 provides that the President will appoint an officer for the Scheduled Castes and Scheduled Tribes who will keep the President informed about their condition from time to time. The Untouchability (Offences) Act, 1955 was passed by the Indian Government in 1955 AD along with various provisions in the constitutional articles for the prevention of untouchability, which was implemented in the whole country on 1 June 1955 AD. All the disabilities of untouchables have been abolished by the 17 sections of this law. Its main sections are as follows-

**Section 3 says:**

- (1) Every person shall have freedom of entry into any public religious place.
- (2) Every person shall have freedom to practice any form of worship, prayer and other religious rites,
- (3) Every person shall have complete freedom to bathe or take water in any religiously sacred river or tank, and
- (4) Violations of the above rules may result in withdrawal of aid by the State.

**According to section 4**

- (1) Every person is prohibited from entering any shop, restaurant or hotel or place of public entertainment there will be complete freedom.
- (2) Every person shall have the freedom to practice every occupation, trade or business.
- (3) Every public place may be used by every person.
- (4) Everyone shall have the full right to enjoy the benefits and services of charitable institutions established for the public good.
- (5) Everyone shall have the right to avail the benefits of any Dharamshala or Musafir Khana.

**According to section 3-**

- (1) Every person shall have the right to admission to a hospital, dispensary, educational institution or any hostel attached thereto.
- (2) No shopkeeper can refuse to sell any goods or render any service on the ground of untouchability.

**According to section 7**

(1) Whoever violates these rules or promotes untouchability, shall be punished with imprisonment of six months and fine of up to five hundred rupees or with both.

(2) Every state has made laws to eliminate untouchability in its state. To make its provisions and punishment system more stringent, the Protection of Civil Rights Act, 1976 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been passed.

**(3) Welfare work** - Special provision has been made in the Indian Constitution for the protection of the Scheduled Castes. To fulfill this purpose, a Commissioner has also been appointed at the Center, under whom Deputy Commissioners have been appointed. An Advisory Board has been established at the central level to give all kinds of advice for the welfare of the Scheduled Castes. Some of the major works done by the government are as follows-

**(i) Representation in Legislatures:** According to the Constitution, seats have been reserved for these people in the Lok Sabha, Rajya Sabha and State Legislative Assemblies on the basis of their population ratio. This provision has also been implemented in Panchayati Raj institutions.

Article 15 provides that the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them.

The provision of untouchability has been made under Article 17. The practice of untouchability and the enforcement of the disabilities resulting from it are punishable as a legal offence.

According to Article 25, the state was given the right to open public institutions of Hindus to all sections.

**(ii) Reservation in Government jobs:** On 26 January 1950 the Government of India decided that in the posts for which selection is done through open competition and in other types of appointments, seats should be reserved for the Scheduled Castes and Scheduled Tribes and relaxation should be given in age limit and educational limit etc.

**(iii) Educational facilities:** Special educational facilities have been provided to untouchables. Because such an assumption it is believed that education and economic improvement due to it can help in solving the problem of untouchability. Students of these castes are given free education, scholarships, financial aid for buying books and writing materials etc. The government has opened four such centres in Delhi, Jabalpur, Kanpur and Madras which help the people of scheduled castes in getting government jobs.

**(iv) Technical and Vocational- Training** Some seats have been reserved for these people in medical, engineering and other industrial and vocational training centers. The Government of India has reserved 20% seats in the National Dairy Research Institute, Karnal and 8 seats for Indian Dairy Diploma in Southern Regional Station, Bangalore for scheduled castes, tribes and backward classes. 17.5% seats have been reserved for these classes in other government

institutions. The Health Ministry has reserved 20% seats in all medical colleges and institutions under its control, 10% in health institutions of New Delhi and 2 seats in Lady Harding College for these classes.

**(v) Subsidy for setting up cottage industries** - Uttar Pradesh and many other state governments has launched several schemes to provide subsidy for running and developing cottage industries.

**(vi) Housing Construction Schemes** - The government has provided assistance to Dalits for getting houses on easy instalments and for their construction. Facility of free land and money has also been provided.

**(vii) Five Year Plans and Welfare of Scheduled Castes-** In the first plan period, Rs. 7.08 crores were spent for the upliftment of Dalits for their education, health and housing. In the second plan, Rs. 10.08 crores were spent on these and in the third plan, Rs. 40 crores each were spent. A provision of Rs. 30 crores was made in the state plans. In the fourth plan, Rs. 142.38 crores were spent. This has helped in raising their socio-economic status.

In the end, it would be enough to say that today many problems of the Scheduled Castes / Dalits have been resolved. Now they themselves are aware of their rights, and accordingly they have also started demanding equality and social justice within constitutional and political limits. Andre Bevai has rightly written that "But as the nature of the social system is gradually becoming simpler and as there is more mobility and movement of the working class, the gap which separated the Harijans from the rest of the society in the past will gradually reduce."

**Suggestions for the Upliftment of Dalits-** Although the Central Government, State Governments, All India Harijan Sevak Sangh, Arya Samaj, Ramakrishna Mission, Red Cross, etc. have made every effort for their upliftment, however, this practice is still prevalent to some extent. Some effective suggestions for the upliftment of Dalits are as follows-

1. Their economic condition should be improved.
2. Public opinion should be created in their favour through education.
3. The settlements of these people should be in ordinary settlements only so that the nature of discrimination can be reduced to some extent.
4. Separate schools should not be opened for Scheduled Castes.
5. To improve the condition of untouchables, efforts should be made to raise the level of adult education in villages.
6. Exploitation of these people should be stopped and rules should be made for giving them proper wages in return of their work.
7. Every effort should be made to raise their moral standards through healthy entertainment.
8. Central government and state governments should encourage inter-caste marriages.

9. Dalit members should get equal opportunity to participate in religious and political occasions.

10. 21-point Dalit agenda (Bhopal Declaration) should be implemented.

### **Question 8- Discuss the Child Marriage Prevention Act?**

**Answer - Prohibition of Child Marriage Act-**The Prohibition of Child Marriage Act, also known as the Prohibition of Child Marriage Act (PCMA), 2006, is an important law to prevent child marriage and protect the rights of girls in India. The major provisions of this Act and its impact are as follows:

**Key provisions - Definition of child marriage:** According to this Act, child marriage is a marriage in which either the boy or the girl is a minor. The minimum marriage age has been fixed at 18 years for girls and 21 years for boys.

**Prohibition of Child Marriage -** Under this Act, child marriage is prohibited and punishment is provided for it. Anyone who aids or participates in a child marriage can be punished.

**Measures to prevent child marriage-** Under this Act, the government and other concerned agencies have been directed to take measures to prevent child marriage, such as running awareness campaigns, promoting education and taking legal action against child marriage.

#### **Effect-**

**Decrease in child marriage -** After the implementation of this Act, the incidence of child marriage has decreased. Awareness among people has increased and social support against child marriage has increased.

**Protection of the rights of girls-** This Act has played an important role in protecting the rights of girls. This has provided opportunities for education and healthy development to girls.

**Social Change -** This act has helped in bringing a significant change in the society. The mindset of the people has changed and child marriage is now seen as a social evil.

#### **Challenges and suggestions-**

**Lack of awareness-** There is still a lack of awareness about child marriage in many areas. People need to be educated about the provisions of this act and the ill effects of child marriage.

**Legal action -** There is a need to take legal action in cases of child marriage. Punishment of the culprits only this will reduce incidents of child marriage.

**Education and Empowerment -** Providing girls with education and empowerment opportunities will make them aware of their rights and enable them to oppose child marriage.

**Conclusion-**The Prohibition of Child Marriage Act has played an important role in preventing child marriage and protecting the rights of girls. Its impact has brought about a significant change in society and the incidence of child marriage has decreased. Nevertheless, continuous efforts are needed to effectively implement this Act and completely eliminate child marriage.

**Question 9- Explain the difference between caste and class.**

**Answer- 1- Caste is closed while class is open-** Since caste membership is based on birth, a person cannot make any change in it during his lifetime. On the contrary, class membership can change at any time.

**2. Caste is based on birth, while class is based on social status-** Members of a caste are members of a particular caste only because they are born in it. Thus, a single caste may have members with different abilities, skills and economic status. In contrast, all members of a class have different abilities and skills.

The social status is almost the same.

**3. Membership of caste is a given while membership of class is earned-** To acquire caste membership one has to undergo one does not have to make any effort for this, rather it is automatically acquired by birth, whereas in the class system one has to make a conscious effort to attain membership of a class.

**4. The occupation of the caste is fixed, not that of the class-** Traditionally the occupation of every caste is pre-determined and it is considered a moral duty of the members to earn their livelihood through this. The basis of the class is a particular social and economic status which can be achieved through any occupation.

**5. Behavioural prohibitions of caste are more complex than class-** Under the caste system, the feeling of distance in different areas becomes institutionalized and disobeying these rules is considered a social crime. Whereas in the class system, distance is maintained practically, there are no fixed rules for this.

**6. Class system is more unstable than caste system-** Since membership of class is related to the social and economic status of the individual, it is always changing. In contrast, caste system is a relatively stable organisation whose characteristics have not changed much even after thousands of years.

**7. The stratification of castes is more definite and clear than that of classes-** Under the caste system; every caste the status of a caste is clearly higher or lower than that of other castes. On the contrary, among the different classes, no one can be said to be lower or higher than the other in terms of importance and work.

**Question 10- Discuss the concept of social change and the impact of social change?**

**Answer-** Change is inevitable because it is the law of nature. There is no substance in the world that remains stable. Some change or the other is always taking place in it. Continuity and mobility in the living and non-living things in nature i.e. every living being and all kinds of things, is possible only due to this. Macawer and Page say that "Society is both changing and dynamic."

Not every type of change is called social change. Social change is the change that takes place in the mutual relations between man and group or one group and another. In fact, the change that takes place in various aspects related to society, social structure, social functions and social institutions, events and processes is

called social change. The more dynamic a society is, the greater is the speed of change in it. The less dynamic it is, the greater is the speed of change in it. The speed of change is slower in a less dynamic society. But the process of change goes on in every society, whatever is its speed.

**Meaning and definition of social change** - Regarding social change, some scholars say that when changes occur in the social structure, it is called social change. On the contrary, there are some sociologists who believe that when changes occur in social relations, it is called social change.

Initially, social scientists did not make any distinction between evolution, progress and social change and they used these three concepts for the same purpose. For the first time in 1922, Augburn clarified the distinction found between them in his book 'Social Change'. Since then, these words have been used a lot in sociological literature. We will call the change taking place in the entire society or any of its aspects as social change.

Here we will clarify the concept of social change on the basis of definitions given by some prominent sociologists-

**1. According to Maclver and Page-** "As sociologists, our special interest is directly in social relations. Only the change taking place in these social relations is called social change."

**2. According to Kingsley Davis-** "By social change we mean those changes which occur in the structure and functions of social organization i.e. society."

**3. According to Gillin and Gillin-** "Social change is the change that occurs in the accepted ways of life, whether the change is generated by changes in geographical conditions, cultural resources, population structure or ideologies, and whether it is possible through diffusion or as a result of inventions within the group."

**4. According to Jones-** "Social change is a term used for any change or modification that takes place in any part of social processes, social patterns, social interactions or social organisation."

If we analyse the above definitions, we come to know that the most emphasis has been given on the fact that social change takes place in the social structure. This change is called social change. It can be seen in different models of structure. The second fact emphasizes on the changes taking place in social relations and culture. In this way it can be said that sociologists call the changes taking place in mainly three aspects of society as 'social change'. These three aspects are respectively as follows - social structure and function, social relations and culture.

**Effects of social change-** Social change is an important process in society which occurs due to various factors and its effects are visible on various aspects of society. The effects of social change are as follows-

**Positive impact**



**Social progress** - Social change promotes progress in society. It moves society forward through the adoption of new ideas, technologies and values.

**Social Justice** - Social change promotes social justice. It helps in removing the inequalities prevailing in the society and protecting the rights of all individuals.

**Women Empowerment** - Social change promotes women empowerment. It makes women aware of their rights and helps them get equal opportunities in the society.

**Spread of education** - Social change promotes the spread of education. It helps to educate people and equip them with new skills and knowledge.

### **Negative impact**

**Social instability-** Social change can cause social instability. It challenges old values and traditions and there may be difficulty in adopting new values.

**Social tension-** Social change can cause social tension. It can cause tension between different groups can lead to differences and conflicts.

**Erosion of traditional values-** Social change can lead to erosion of traditional values. It can lead to forgetting of old traditions and values and adoption of new values.

**Economic inequality** - Social change can increase economic inequality. It can make some groups economically stronger while leaving other groups behind.

### **Managing the effects of social change**

**Awareness and Education-** Awareness and education are important to manage the effects of social change. People need to be educated about social change and make them aware of its effects.

**Social support-** Social support is important to manage the effects of social change. There is a need to bring together different groups of society and help them cope with the effects of social change.

**Development of policies and programs-** Development of policies and programs is important to manage the effects of social change. Government and other organizations should develop policies and programs to minimize the effects of social change and promote its positive effects.

**Conclusion-** Social change is an important process in society that can have both positive and negative effects. Awareness, education, social support and the development of policies and programs to manage its effects are important. Understanding and managing the effects of social change can promote stability and progress in society.

## **B.A.LL.B. 2nd Sem. Paper-III Economics-II**

### **Question 1- Explain planning in India?**

**Answer-** Economic planning in India has been an important process aimed at achieving rapid and balanced economic development by making the most efficient use of the country's limited resources. After independence, India adopted a mixed economy model in which both the public and private sectors played an important role. Economic planning became a key tool for determining the direction and pace of development within this framework.

**Meaning and Definition of Economic Planning-**Economic planning refers to the determination of goals, priorities and policies for the development of the economy by the government for a certain time period. It includes assessing the available resources, setting goals for various sectors and formulating strategies to achieve those goals. It is a conscious and well-thought-out process aimed at directing market forces in accordance with national objectives of development.

**History of Economic Planning in India** - The roots of economic planning in India existed even before independence. In 1934, Sir M. Visvesvaraya published a book titled "Land Economy for India", which emphasized the need for economic planning for India. Following this, the Indian National Congress formed a National Planning Committee under the chairmanship of Jawaharlal Nehru in 1938.

After independence, on 15 March 1950, the Government of India established the Planning Commission, which began formulating and implementing five-year plans in the country. The first five-year plan began in 1951, and since then twelve five-year plans have been completed. In 2015, the Planning Commission was replaced by NITI Aayog (NITI Aayog & National Institution for Transforming India), which aims to involve states more in the development process and adopt a more participatory approach.

**Main Objectives of Economic Planning in India-** There have been many important objectives of economic planning in India, some of the major ones are as follows-

**Economic Growth-** Increasing the national income and per capita income has been a primary goal of planning so that the standard of living can be improved.

**Full Employment** - Providing gainful employment opportunities to all able-bodied persons.

**Self-reliance** - Achieving self-sufficiency in the production of essential goods and services and reducing dependence on imports.

**Social Justice and Equality** - Reducing inequalities in income and wealth and ensuring that the benefits of development reach all sections of society. This includes poverty alleviation and ensuring equal access to education and health services.

**Modernization-** Adoption of new technologies and production methods in the economy, which leads to Increase in productivity and efficiency.

**Structural Change** - Changing the structure of the economy, such as reducing dependence on agriculture and developing industry and the service sectors.

**Regional Balance** - reducing disparities in the level of development between different regions of the country to do.

**Main Features of Five-Year Plans** - In Five Year Plans Specific goals and priorities were set for each plan. Some common features were as follows-

**Fixed Time Period** - Each plan was made for a period of five years.

**Goal-based** - Each plan focused on achieving specific economic and social goals.

**Resource Allocation** - The plan allocated resources for public and private investment to various sectors.

**Policy Interventions**-Government policies and programmes are determined to achieve the goals.

**Sectoral Priorities** - Priorities were given to various sectors like agriculture, industry, infrastructure, education, health etc. in the plans from time to time.

**From Planning Commission to NITI Aayog: A Change-**

The Planning Commission, despite being a top-level government body, was facing some criticism, such as the lack of adequate involvement of states and difficulty in adapting to the changing economic environment. For this reason, it was replaced by the NITI Aayog in 2015.

The main objective of NITI Aayog is to provide a platform that enables the central and state governments to work together to achieve national objectives. The approach of NITI Aayog is more decentralised, participatory and result-oriented. It encourages states to play an active role in formulating development policies and programmes.

**Conclusion** - Economic planning in India has played a vital role in shaping the direction and pace of the country's development. Through the Five Year Plans, India has achieved significant progress in various sectors. With the establishment of NITI Aayog, India's approach to economic planning is moving towards becoming more dynamic and inclusive, aiming to achieve sustainable and balanced growth. This process will continue to be crucial to address the country's complex economic and social challenges and build a prosperous and equitable future.

**Question 2- Throw light on the nature and importance of agriculture?**

**Answer- Nature of Agriculture** - In economics, agriculture is seen as a specific type of economic activity, which has some unique characteristics of its own-

**Dependence on Natural Factors-** Agriculture is mainly dependent on soil, climate, It depends on natural factors like rain, sunlight etc. These factors directly affect the quantity and quality of production and man does not have complete control over them. Due to this, the amount of uncertainty and risk in agriculture is high.

**Biological Process-** Agriculture is a biological process that involves the growth and development of plants and animals. It takes time and cannot be increased or decreased instantly like industrial production.

**Limited Availability of Land** – Land is an important and important resource for agricultural production.

There are limited resources. Pressure on arable land is increasing due to population growth and use of land for other purposes.

**Seasonal Nature** - Most agricultural operations are seasonal and can be performed only during a particular time period. This affects production and employment opportunities.

**Diverse Production** - Agriculture produces a variety of products including food grains, fruits, vegetables, fibres, fuel and livestock. This diversity makes it an important and multifaceted sector of the economy.

**Base of Rural Economy** - In developing countries, agriculture is the main source of income and employment for the rural population. It shapes the social and economic structure of rural areas.

**Role of Technological Advancements** - Modern agriculture is increasingly using improved seeds, fertilizers, pesticides and machinery, leading to increased productivity. However, the pace and reach of technological adoption may vary across regions.

**Importance of Agriculture-** The importance of agriculture in the economy is multidimensional and it can be understood under the following points-

**Source of Food** - Agriculture is the primary source of food necessary for human life. It Agriculture plays a vital role in ensuring food security for the growing population. All essential food items like cereals, fruits, vegetables, dairy products and meat are obtained from agriculture.

**Employment Generation** - Agriculture is a major source of employment globally, especially in developing countries. It provides employment opportunities not only in farms but also in agro-based industries, such as food processing, textiles and production of agricultural inputs. In countries like India, even today a large population depends on agriculture for their livelihood.

**Contribution to National Income-** Agriculture is the main contributor to the national income (GDP) of many countries. Agriculture contributes significantly to the economy. Though it's relative contribution may be less in developed economies, it forms a major part of the economy in developing countries. Income from agriculture is the main source of income in rural areas. This boosts demand and contributes to overall economic growth.

**Base for Industrial Development** - Agriculture supplies raw materials for many industries. Important raw materials such as cotton for the textile industry, sugarcane for the sugar industry, cereals and fruits for the food processing

industry, and jute for the jute industry are obtained from agriculture. Development in the agricultural sector accelerates the growth of these industries.

**Contribution to Foreign Trade-** Agricultural products are important export items for many countries. Export of agricultural products like tea, coffee, spices, cotton and grains earns foreign exchange. This helps to establish a balance of trade and improves the trade balance.

**Basis for Rural Development-** Agriculture is the core of the rural economy. Investment in agriculture leads to development of infrastructure in rural areas, improved access to education and health services, and reduced poverty. Agricultural development helps in socio-economic upliftment of rural community's plays an important role.

**Source of Savings and Investment** - Surplus income from agriculture can promote savings and investment in rural areas. It helps in capital formation which can be used for further agriculture. This can be done for the development of agriculture and other areas.

**Creation of Demand** - Rising incomes in the agricultural sector increase the demand for industrial and other non-agricultural products and services. When farmers' incomes rise, they buy tractors, fertilizers, consumer goods and other essentials, which benefit other sectors of the economy as well.

**Conclusion** - In short, agriculture is a vital economic activity whose nature is influenced by natural, biological and seasonal factors. It not only provides food for human life but is also extremely important for employment generation, contribution to national income, base of industrial development, contribution to foreign trade and rural development. A strong and developed agricultural sector is essential for the stability and progress of any economy. Therefore, focus on development and modernization of the agricultural sector should be an integral part of the economic development strategy.

**Question 3- What is Green Revolution? Explain its impact on Indian economy?**

**Answer- What is Green Revolution?** - Green Revolution refers to the unprecedented increase in agricultural production in developing countries in the mid-1960s. This was made possible mainly through the use of high-yielding varieties (HYVs) seeds, chemical fertilizers, pesticides and improved irrigation techniques. The main objective of this revolution was to achieve food security by increasing food grain production. Globally, Norman Borlaug is considered the 'Father of Green Revolution', while in India M.S. Swaminathan played an important role in this movement, so he is called the 'Father of Green Revolution in India'.

The Green Revolution in India began in 1965, when the country was facing a severe food crisis. The then government adopted a new strategy to increase agricultural production, which included the use of improved technologies and seeds.

**Impact of Green Revolution on Indian Economy**-Green Revolution had a far reaching and multidimensional impact on the Indian economy. Its positive And both the negative aspects are-

**Positive Impacts-**

**Unprecedented Increase in Agricultural Production** – Green Revolution the most important impact of the Green Revolution was a massive increase in food grain production. The use of high-yielding varieties increased the productivity of major crops like wheat and rice manifold. While India was dependent on imports for food grains in the 1960s, after the Green Revolution the country not only became self-sufficient but also came into a position to export grain.

**Food Security** - The Green Revolution played an important role in providing food security to India. Adequate food was available for the growing population and the risk of frequent famines was reduced to a great extent.

**Increase in Farmers' Income** - from increased productivity and crop production the income of farmers increased tremendously. This enabled them to live a better standard of living and invest more in agriculture.

**Employment Generation** – Along with the increase in agricultural production, agro-based industries are also being developed and new employment opportunities were also created in services such as irrigation, transportation, food processing and marketing. This increased the availability of employment in rural areas.

**Boost to Industrial Development** - Growth in the agricultural sector fuelled the development of agricultural input industries (such as fertilizers, pesticides, agricultural machinery) and agro-processing industries. The increasing supply of agricultural products ensured the availability of raw materials for these industries.

**Saving of Foreign Exchange** – By achieving self-sufficiency in food grain production, India saved valuable foreign currency spent on grain import.

**Impetus to Rural Development**- Increase in farmers' income and creation of new employment opportunities led to socio-economic development of rural areas. Investment increased to improve education, health and infrastructure.

**Negative Impacts-**

**Regional Disparity** - The impact of the Green Revolution was not uniform across all regions. It was mainly limited to areas where better irrigation facilities were available, such as Punjab, Haryana and Western Uttar Pradesh. Areas with rain-fed agriculture benefited relatively less from it, which increased regional inequality.

**Crop Specificity** - The Green Revolution focused mainly on a few major crops such as wheat and rice. Other important crops such as pulses, coarse cereals and oilseeds were relatively neglected, which harmed crop diversification.

**Environmental Impact** - Excessive use of chemical fertilizers and pesticides resulted in reduced soil fertility, water pollution, and loss of biodiversity. Intensive agricultural practices also led to land degradation and declining water levels.

**Economic Inequality** - The Green Revolution benefited large farmers more than small and marginal farmers. Large farmers, who had the capacity to purchase advanced technology and inputs, earned more profits, while small farmers lagged behind, leading to economic inequality in rural areas.

**Impact on Health** - Residues of chemical fertilizers and pesticides in food items the findings raised the possibility of negative impact on human health.

**Excessive Use of Water** - High-yielding varieties of crops require more irrigation, leading to increased pressure on water resources and declining groundwater levels in many areas.

**Conclusion** - The Green Revolution proved to be a turning point in the history of Indian agriculture. It led the country out of food crisis and towards self-sufficiency and transformed many sectors of the economy. The Green Revolution has had a positive impact on the agriculture sector. However, it has also had some negative consequences, such as regional and economic inequality and environmental damage. Future agricultural development strategies will have to focus on reducing these negative impacts and promoting sustainable agricultural practices so that the benefits of the Green Revolution can be sustained in the long term and all farmers and regions can benefit equally.

**Question 4- What do you understand by industrial licensing policy?**

**Answer- Meaning of Industrial Licensing Policy-** Industrial licensing policy is a set of rules and procedures made by the government to control the establishment, expansion, production and location of industries. Under this, it is mandatory to obtain prior permission or license from the government to set up any new industrial unit or expand an existing unit or start production of new products. This policy was mainly implemented by the Government of India after independence with the aim of giving a certain direction to industrial development, ensuring proper allocation of resources and reducing regional disparities.

In simple words, industrial licensing was a government system under which private entrepreneurs had to obtain a 'letter of permission' from the government to start any new industry or expand their existing industry.

**Main Objectives of Industrial Licensing Policy** - There were many important objectives behind implementing the Industrial Licensing Policy in India, some of the major ones are as follows-

**Regulation of Industrial Development-** The government wanted to ensure that industrial development took place in a planned manner and was in line with the overall goals of the economy.

**Efficient Allocation of Resources** – Through licensing the government could control how limited resources (such as capital, raw materials, foreign exchange) are allocated between different industries and sectors.

**Promotion of Regional Balance** - Licensing policy was used to encourage the establishment of industries in backward areas and prevent excessive concentration of industrial activities. Those setting up industries in backward areas got licenses easily and were also given concessions such as exemption in taxes and power rates.

**Protection of Small & Scale Industries**- Certain products were reserved exclusively for small scale industries and it was difficult for large industries to obtain licenses to produce those products. The purpose of this was to protect small industries from competition from large industries.

**Preventing Monopoly and Concentration of Economic Power**- The licensing policy was used to ensure that there was no excessive concentration of economic power in the hands of a few large industrial houses.

**Ensuring Adequate Production of Essential Goods**- Through licensing, the government wanted to ensure that there was adequate production of essential goods in the country.

**Conservation of Foreign Exchange** – Licensing policy was also used to encourage import substitution and control unnecessary imports.

**Impact of Industrial Licensing Policy on Indian Economy** - Industrial Licensing Policy had a mixed impact on the Indian economy. It had some positive aspects, but some negative consequences also came to the fore-

#### **Positive Impacts-**

**Direction of Industrial Development** - This policy provided a definite direction to the industrial development of India in the initial years and helped the public sector to play an important role.

**Development of Backward Regions**- Licensing policy helped in development of backward areas helped reduce regional disparities to some extent by encouraging the establishment of industries.

**Protection of Small Industries** – Reserving certain products for small industries helped them compete with large industries and boosted employment generation.

**Steps Towards Self & Reliance** – This policy promoted import substitution and helped achieve self-sufficiency in some areas.

#### **Negative Impacts-**

**Red Tapism and Corruption** – The process of obtaining a licence was often complex, lengthy and bureaucratic, leading to delays and corruption.

**Lack of Competition and Inefficiency** - Licensing made it difficult for new industries to enter, thereby reducing competition and perpetuating inefficiency in existing industries. Industries also needed government permission to expand their production capacity or introduce new products, which stifled innovation and growth.



**Misallocation of Resources** – Licences were often allocated for political and other non-economic reasons, leading to inefficient allocation of resources.

**Slow Pace of Industrial Development** – The pace of industrial development remained slow due to delays and restrictions in the licensing process.

**Control over Private Sector**- This policy limited the freedom of the private sector and made them dependent on government permission.

**Negative Impact on Productivity and Quality** – Due to lack of competition, industries did not pay enough attention to productivity and quality improvement.

**Conclusion** - Industrial licensing policy was an important tool in the early development of the Indian economy after independence. It made some positive contributions, especially in shaping the industrial growth and promoting backward regions. However, over time, the shortcomings of this policy became apparent, including red tape, corruption, lack of competition, and slow industrial growth. Under the economic reforms initiated in 1991, the licensing requirement for most industries was eliminated, making the Indian economy more liberal and competitive. Currently, industrial licensing is mandatory only for a few specific industries (e.g. defense, some hazardous chemicals).

#### **Question 5- Explain the difference between FERA and FEMA?**

**Answer**- There has been two important laws for the management and regulation of foreign exchange in India- the Foreign Exchange Regulation Act (FERA) and its successor the Foreign Exchange Management Act (FEMA). Both these Acts were enacted to regulate foreign exchange transactions, foreign investment and international trade, but there are significant differences in their objectives, approach and provisions.

#### **Foreign Exchange Regulation Act (FERA)-**

**1. Full form:** Foreign Exchange Regulation Act

**2. Year of enactment:** 1973

**3. Main objectives:** To conserve foreign exchange and prevent misuse, conserve the country's limited foreign exchange reserves and exercise strict control over foreign exchange transactions.

**4. Approach** - The approach of FERA was highly controlling and restrictive. Under it, prior permission from the Reserve Bank of India (RBI) was mandatory for almost all types of foreign exchange transactions. It was believed that foreign exchange is a scarce resource that needs to be strictly controlled by the government.

**5. Violation:** Violation of the rules under FERA was considered a criminal offence, which carried severe penalties, including imprisonment. A person was considered guilty until proven innocent.

**6. Authorised Person:** The definition of 'authorised person' under FERA was narrow, thereby restricting the number of institutions that could undertake foreign exchange transactions.

**7. Definition of Resident:** In FERA, resident status was determined on the basis of citizenship.

**8. Foreign Investment:** FERA was very restrictive and cautious about foreign investment. Foreign companies had to comply with a number of conditions and restrictions to do business or invest in India.

### **Foreign Exchange Management Act (FEMA)-**

**1. Full form:** Foreign Exchange Management Act

**2. Year of enactment:** 1999 (replaced FERA)

**3. Main Objectives:** To facilitate external trade and payments, promote orderly development and maintenance of foreign exchange market and increase the country's foreign exchange reserves.

**4. Approach:** The approach of FEMA is liberal and managerial. It aims to simplify foreign exchange transactions and remove unnecessary restrictions so as to encourage international trade and investment. It believes that foreign exchange is an asset which must be managed efficiently.

**5. Violation:** Violation of rules under FEMA is considered a civil offence, which usually carries a monetary penalty. However, if the fine is not paid on time, imprisonment can also be imposed. A person is presumed innocent until proven guilty.

**6. Authorised Person:** The definition of 'authorised person' under FEMA is wide enough to include banks and other financial institutions, thereby streamlining the process of foreign exchange transactions.

**7. Definition of Resident:** Resident status under FEMA is defined as stay in India for more than 182 days in the previous financial year. It is determined on the basis of.

**8. Foreign Investment:** FEMA is more conducive to attracting and facilitating foreign investment. It has allowed foreign investment through the automatic route in many sectors and simplified procedures.

The main differences between FERA and FEMA can be summarized in the following points-

Similarity	FERA	FEMA
Full form	Foreign Exchange Regulation Act	Foreign Exchange Management Act
Year of enactment	1973/1999 (effective from 1 June 2000)	
Main objective	Conservation of foreign exchange and provision of reserve	Facilitating external trade and payments
Approach	restrictive, restrictive	Generous, Managerial, Facilitator
Nature of violation	Criminal offense	civil offense
Penalty	Monetary penalty or imprisonment	Monetary penalty (Imprisonment in case of non-payment)
Authorized person	narrow definition	broad definition
Resident's Definition	citizenship based	Based on period of stay in India
Foreign Investment	cautious, restrictive	more generous and encouraging
Forex outlook	Scarce resources, control required	Assets, efficient management required

### **Impact on Indian economy-**

**FERA** - The restrictive provisions of FERA discouraged foreign investment and slowed down the growth of the Indian economy. Complex procedures and stringent regulations made it difficult for businesses to make investments. International transactions were difficult. This also gave rise to a parallel 'black market' where foreign currency was traded illegally.

**FEMA** - FEMA played an important role in the liberalization of the Indian economy. It provided foreign FEMA helped attract investment, boost international trade and make the foreign exchange market more efficient. Simpler rules and procedures made it easier for businesses to conduct cross-border transactions. FEMA also contributed to establishing India as a more attractive investment destination. Conclusion FERA and FEMA represent two different eras of foreign exchange management in India. FERA was implemented at a time when India had limited foreign exchange reserves and the government wanted to keep tight control over the economy. FEMA, on the other hand, was implemented following the economic reforms of 1991, which aimed to liberalise the economy and keep pace with global trade. FEMA adopted a more flexible and growth-oriented approach, which has significantly contributed to making the Indian economy more competitive globally.

### **Question 6- Explain the reasons for population growth in India?**

**Answer-** Population growth in India is a complex issue which has many social, economic and cultural reasons.

**Here are some major reasons-**

#### **1. Increase in birth rate-**

**A- High fertility rate-** The fertility rate in India, especially in rural areas, is still relatively high. There are many reasons for this, such as poverty, lack of education, and considering children as a source of social security and income.

**B-Child marriage** - The practice of child marriage is still prevalent in India, especially in some rural areas. Early marriage increases the reproductive life span of women, which leads to the possibility of having more children.

**C-Son preference** - In Indian society, sons are given more importance, due to which some families keep producing children until they get a son. This also contributes to population growth.

#### **2. Decrease in mortality rate-**

**A- Improvement in health services-** Over the past few decades, health services in India have improved significantly. Vaccinations, better medical facilities, and sanitation have reduced infant mortality and maternal mortality rates, leading to an increase in life expectancy.

**B- Epidemic control-** India has successfully controlled many deadly diseases, such as smallpox and polio. This has also reduced mortality rates.

#### **3. Lack of education -**

**A-Lack of awareness about population control-** Due to lack of education, many people do not have enough knowledge about population control measures and the benefits of a small family.

**B-Traditional Beliefs-**Some traditional beliefs and superstitions encourage large families.

#### **4. Poverty -**

**A-Considering children as a source of income -** In poor families, children are often considered an important source of income. They help in the fields, in the household, and with other tasks. Therefore, some families have more children so that more people can work and contribute to the family income.

**B-Lack of social security -** Due to poverty, many people do not get social security in their old age. Therefore, they produce more children so that they can take care of them when they grow up.

#### **5. Social and cultural factors-**

**A-Joint Family System -** In India, in the joint family system, large families are generally given more importance.

**B-Religious beliefs-** Some religious beliefs and practices oppose family planning measures.

#### **6. Ineffective family planning programs-**

**A-Lack of access -** In rural and remote areas, people have limited access to family planning services and products.

**B-Lack of quality-** In some areas, the quality of family planning services is poor, which causes people to not trust them.

**Economic effects of population growth in India -**Population growth affects the Indian economy in many ways-

**1 - Pressure on resources -** A growing population increases pressure on natural resources, such as water, land and energy.

**2- Poverty and Unemployment -** The problem of poverty and unemployment may increase due to population growth, because the economy is not able to generate enough jobs for all the people.

**3. Pressure on infrastructure -** The growing population puts pressure on infrastructure such as education, healthcare and housing puts pressure on.

**4- Decrease in per capita income-** If economic growth does not keep pace with population growth, there may be a decrease in per capita income, which affects the standard of living of people to control population growth in India, both the government and society have to work together. For this, it is important to promote education, reduce poverty, make family planning programs effective and increase social awareness.

#### **Question 7- How was the Indian economy at the time of independence?**

**Answer- Indian Economy at the Time of Independence:** A Detailed Description at the time of independence, on 15 August 1947, the Indian economy was in a complex and challenging state. Two centuries of British rule had deeply

affected the structure of the Indian economy, resulting in many weaknesses and asymmetries.

#### **Agricultural sector-**

**1-Backward and stagnant-** At the time of independence, about 85% of India's population was dependent on agriculture, and it contributed about 50% of the national income. However, the agricultural sector was extremely backward and its productivity was very low. Lack of irrigation facilities, old techniques, low use of fertilizers and exploitative land systems like the zamindari system were hindering agricultural development.

**2- Emphasis on commercial crops -** British rule forced Indian farmers to focus on commercial crops instead of food crops encouraged the growing of commercial crops (such as cotton, jute, indigo) to supply raw materials for British industries. This had a negative impact on food grain production and India became dependent on imports for food grains.

**3-Land inequality-** Ownership of land was concentrated in the hands of a few landlords, while most of the peasants were landless or small farmers. The landlords charged heavy rent from the peasants and showed no interest in agricultural reforms.

#### **Industrial area-**

**1-Backward and unbalanced-** British policies had destroyed India's traditional handicraft industries and the development of modern industries was very limited. The few modern industries (such as textiles, sugar, cement) were mainly confined to the production of consumer goods. Heavy and basic industries were almost absent.

**2-Foreign control -** Most modern industries were controlled by British capitalists whose main objective was to exploit India's resources and use it as a market for their finished goods.

**3-Lack of infrastructure -** The infrastructure required for industrial development, such as power, transport and communication, was woefully inadequate.

#### **Infrastructure-**

**1-Underdeveloped -** At the time of Independence, India had very underdeveloped infrastructure such as transport (railways and roads), communication (post and telegraph) and power. The British rule had brought some development, but it was mainly done keeping in mind their administrative and economic interests, not the overall development needs of the Indian economy.

#### **Socio-economic conditions-**

**1- Poverty and inequality -** At the time of independence, widespread poverty and economic inequality existed in India. Most of the population was living below the poverty line and did not have access to even basic necessities.

**2-Illiteracy** - The level of education was very low, and most of the population was illiterate. This not only hindered social development but also limited the availability of skilled labour force for economic development.

**3-High mortality rate and low life expectancy-** Due to lack of health services and poverty, the mortality rate was very high, and life expectancy was very low foreign trade-

**Dependence on Britain-** Most of India's foreign trade was with Britain. India remained an exporter of raw materials and an importer of finished goods from Britain. This trade relationship made Indian exploited the economy to summarise, the Indian economy at the time of independence had the following characteristics:

- 1-A predominantly agrarian economy that was backward and less productive.
2. A weak and unbalanced industrial sector with limited development of modern industries and high foreign control.
- 3-Undeveloped and inadequate infrastructure.
- 4- Widespread poverty, economic inequality and illiteracy.
- 5-Excessive dependence on Britain in foreign trade and exploitative trade relations
- 6-A stagnant economy with very low growth rate of per capita income.

After independence, the Indian government had a tough task to deal with these challenges and build a strong, self-reliant and equitable economy. In the initial years, India adopted the path of planned development and gave a key role to the public sector so that these problems could be addressed.

**Question 8- Explain Bombay Plan and Sarvodaya Plan in brief?**

**Answer- Bombay Plan** - The Bombay Plan, also known as "A Brief Memorandum Outlining a Plan of Economic Development for India", was prepared by a group of eight leading industrialists of India in 1944-45 during the Second World War. The main purpose of this plan was to provide a framework for the economic development of India after independence.

**Headlines-**

**1- Important role of the state** - This plan advocated an active and important role of the state in the development of the economy. Industrialists believed that government intervention was necessary to protect nascent Indian industries from foreign competition.

**2-Emphasis on heavy industries-** The plan had a special focus on the development of heavy and basic industries.

**3-Planned Development** - The Bombay Plan stressed the need for a planned economy, in which the government would determine the direction and priorities of development.

**4- Fifteen Year Plan-** This plan aimed to double the agricultural production and fivefold the industrial production in a period of 15 years.

**5-Mixed Economy-** Although the plan envisaged growth driven primarily by the private sector, it also acknowledged the role of the public sector in certain key areas. Although the Bombay Plan was not officially accepted by the government, many of its recommendations influenced subsequent Indian economic policies, especially the important role of the public sector in the early five-year plans and its approach to planned development.

**Sarvodaya Scheme** - Sarvodaya scheme was presented by Jayaprakash Narayan in 1950. This scheme was inspired by Gandhian philosophy and Vinoba Bhave's Sarvodaya idea. Sarvodaya means 'all' The aim of this plan was to establish a society in which the welfare of all individuals is ensured.

#### **Headlines-**

**1-Based on Gandhian principles** - The plan emphasizes on non-violence, self-reliance, and a decentralized economy it was based on Gandhian principles.

**2- Emphasis on agriculture and cottage industries** - The Sarvodaya scheme paid special attention to the development of agriculture and small-scale cottage industries. Its aim was to strengthen the rural economy and generate employment at the local level.

**3-Self-Reliance** - This plan emphasized on self-reliance and less dependence on foreign capital and technology.

**4-Land Reforms-** Land reforms and equitable distribution of land was one of the important aspects of this plan.

**5-Decentralised Planning-** The Sarvodaya Plan advocated decentralised planning with the participation of village panchayats and people at the local level the Sarvodaya scheme presented an idealistic vision whose main aim was to create a just, egalitarian and self-reliant society. Although it could not be fully implemented, many of its ideas influenced community development and rural development programmes.

**Question 9– India is a rich country, but its people are poor. Explain.**

**Answer** - India is a rich country, but most of its people are poor. This is a paradoxical situation which can be explained through many economic factors-

#### **1. Income Inequality-**

(a) The distribution of income in India is very unequal. The top 1% of the country's richest people owns a large share of the national wealth, while the majority of the population lives on relatively low incomes.

(b) This inequality is due to historical causes, such as the zamindari system, unequal access to education and skills, and unequal distribution of the benefits of globalisation.

(c) There is also a significant difference in income between urban and rural areas.

## **2. Per Capita Income-**

- (a) Although India has one of the largest economies by gross national income (GDP) in the world, its per capita income is relatively low.
- (b) Per capita income is calculated by dividing a country's total income by its total population. Due to India's large population, per capita income remains low even though the size of the total economy is large.
- (c) It indicates that the wealth produced in the country is not distributed equally.

## **3. Unemployment and Underemployment-**

- (a) The unemployment rate in India is a significant issue, especially among the youth.
- (b) Moreover, a large number of people are underemployed, which means they work less than their potential or are engaged in irregular and low-paid jobs.
- (c) It negatively affects the income and standard of living of people.

## **4. Lack of Education and Skills-**

- (a) A large population in India lacks quality education and required skills.
- (b) It prevents them from getting good jobs and earning higher incomes, thereby perpetuating poverty.
- (c) Lack of investment in education and skill development is a major cause of long-term poverty.

## **5. Lack of Social Infrastructure-**

- (a) Rural areas particularly lack basic social infrastructure such as health care, sanitation, electricity and transportation.
- (b) It affects the quality of life of people and prevents them from fully participating in economic activities.

## **6. Corruption-**

- (a) Corruption prevents the benefits of development from reaching the common people.
- (b) Government schemes and resources are misused, due to which the poor are not able to get their rights.

## **7. Population Pressure-**

- (a) India's huge population puts enormous pressure on natural resources and infrastructure.
- (b) Rapid population growth leads to depletion of per capita resources, thus hampering efforts to reduce poverty.

## **8. Over & dependence on Agriculture-**

- (a) A large population of India still depends on agriculture, which often offers low productivity and income.
- (b) Uncertainty of weather and lack of modern technology make agricultural income even more unstable.

**Conclusion-** In short, India, despite being a large economy, faces poverty among most of its citizens because the distribution of wealth in the country is highly unequal, per capita income is low, unemployment and underemployment are



rampant, education and skills are lacking, social infrastructure is weak, corruption is prevalent, population pressure is high, and a large population is dependent on agriculture. Only by addressing these complex economic and social factors can India ensure prosperity for all its citizens.

**Question 10- What do you understand by conventional energy?**

**Answer** - In economics, conventional energy refers to energy sources that have been used by human civilization for a long time and which are available in limited quantities in nature. These are also called non-renewable energy sources because once they are used; they cannot be replenished easily or in human timeframe.

**Main examples of conventional energy sources-**

**1-Coal-** It is a fossil fuel formed due to the compression of plant remains over millions of years and high pressure and temperature. It has been used for power generation (in thermal power plants), industrial processes and as a domestic fuel.

**2-Petroleum** - This is also a fossil fuel formed from the remains of ancient marine organisms. It is also called crude oil and is the basis of many products such as gasoline, diesel, kerosene and plastics. It is important for transportation, power generation and various industrial uses.

**3-Natural Gas** - It is mainly composed of methane and is found in underground reserves along with petroleum or independently. It is used for domestic fuel, power generation and industrial processes. It is considered relatively less polluting than coal and petroleum.

**4- Nuclear Energy** - It is produced by the process of nuclear fission, in which energy is released by splitting the atoms of heavy elements such as uranium. It is mainly used for electricity production. Although it does not emit greenhouse gases, its waste is radioactive and its safety is a significant concern.

**5-Hydroelectric Power** - It generates electricity using the kinetic energy of flowing water. Dams are built on rivers and water is forced onto turbines, which produce electricity. Although it is a renewable source, it is often classified with conventional energy sources because large hydroelectric projects require large-scale infrastructure and natural resources and can have environmental impacts.

**Importance of Conventional Energy-**For a long time, conventional energy sources have been the cornerstone of the global economy and human development. They fuelled the industrial revolution and have played a vital role in meeting the energy needs of modern societies. The high energy density and established technologies of these sources make them reliable options for power generation, transportation, and industrial processes.

**Economic concepts related to conventional energy-**

**1- Scarcity** - Conventional energy sources are non-renewable and have limited availability. As their use increases, they become scarcer, which can increase their prices and threaten energy security.

**2- Demand and Supply** - The demand for conventional energy sources is driven by global economic growth,

These continue to increase with population growth and improvement in living standards. Due to their limited supply, market fluctuations and price instability can be seen.

**3- Externalities** - The production and use of conventional energy sources generate negative externalities, such as air pollution, water pollution and greenhouse gas emissions, which cause climate change. The social and economic costs of these externalities can be significant.

**4. Infrastructure** - for harnessing, processing and distribution of conventional energy sources a huge and complex infrastructure is required, which includes mines, oil wells, pipelines, refineries, power plants and transmission networks. This infrastructure requires huge investments.

**5- Technological Development-** Improving the efficiency of conventional energy sources, pollution technological developments are constantly taking place to reduce the cost and discover new reserves. However, the cost and complexity of these technologies is a significant factor.

**Conclusion-** Conventional energy sources have long been a significant part of our energy needs and still dominate many sectors today. However, due to their limited availability, environmental impact and increasing demand, the world is now rapidly moving towards renewable and more sustainable energy sources. From an economics perspective, the rarity of conventional energy sources, demand-supply dynamics, negative externalities and required infrastructure play a key role in determining energy policy and future energy mix.

**Question 11- Explain the difference between balance of trade and balance of payments?**

**Answer-** In international economics, there are two important concepts for analysing the external economic position of a country- Balance of Trade (BOT) and Balance of Payments (BOP). Though these two concepts are inter-related, there is a significant difference in their scope and type of transactions involved.

**Balance of Trade** - Balance of trade is the difference between the value of exports and imports of goods made by a country during a given period (usually a year). It is also called trade balance or international trade balance.

**1-Exports-** Physical goods (like machinery, clothes, grains) sold by a country to other countries.

**2-Imports-** Physical goods purchased by a country from other countries (such as petroleum, electronics) equipment).

**Calculation of Trade Balance-** Balance of Trade (BOT) = Export value of goods – Import value of goods Trade Balance can be of three types-

**1- Trade Surplus** - When the value of exports is more than the value of imports (BOT > 0). This indicates that the country is a net exporter of goods.

**2- Trade Deficit-** When the value of imports is more than the value of exports ( $BOT < 0$ ). This indicates that the country is a net importer of goods.

**3-Balanced Trade-** When the value of exports and imports is approximately equal ( $BOT \approx 0$ )<sup>1</sup>

**Balance of Payments** - Balance of Payments is a comprehensive statement which reflects the financial performance of a given period it keeps a systematic record of all economic transactions between the residents of a country and the rest of the world during a period (usually a year). It includes not only trade in goods but also trade in services, flows of income, unilateral transfers, and capital and financial account transactions.

**Main components of balance of payments-**

**(1) Current Account** - This accounts for trade in goods and services, investment income (such as dividends and the current account records transactions related to interest), and unilateral transfers (such as foreign aid and remittances). The trade balance is an important part of the current account, which shows the net value of exports and imports of goods and services.

**a-Trade in Goods** - as included in the balance of trade (export - import).

**b-Trade in Services** - The value of services provided by a country to and received from other countries (such as tourism, banking, software).

**c-Income** - Income from investments abroad (such as profits, interest, dividends) and income earned by residents working abroad.

**d-Unilateral Transfers** - Transfers made without any consideration (such as foreign aid, donations, remittances).

**2-Capital Account-** It records transactions relating to capital transfers and the acquisition and disposal of non-produced, non-financial assets (such as patents, copyrights). It is a relatively small account.

**3-Financial Account-** It records transactions relating to changes in international financial assets and liabilities. It includes direct investment, portfolio investment and changes in reserve assets.

**1. Direct Investment** - A resident of one country invests in another country with the aim of acquiring a permanent interest (such as buying shares in a foreign company).

**2. Portfolio Investment** - Investment in financial assets (such as shares, bonds) without the aim of acquiring control.

**3-Reserve Assets** - Foreign exchange reserves, gold and special drawing rights (SDR) held by the central bank <sup>1</sup>

**4. Errors and Omissions:** This account is included to adjust for any statistical discrepancy or incomplete recording in the balance of payments figures to ensure that the totals add up to zero.

**Calculating Balance of Payments-** Theoretically, the balance of payments should always balance because every international transaction uses the double entry system one credit and one debit. Therefore-

Current Account Balance + Capital Account Balance + Financial Account Balance + Errors and Omissions = 0

However, in practice, individual accounts (e.g. current account, financial account) may be in surplus or deficit.

**Main difference between balance of trade and balance of payments-**

Speciality	Balance of Trade	Balance of Payments
Scope	Covers only export and import of goods.	Trade of goods and services, flows of income, unilateral transfers, capital and financial transactions are all included.
Components	Trading of only one component commodity.	Several components current account (which includes trade in goods and services), capital account, financial account, errors and omissions.
Nature	Focuses on the physical flow of goods.	Focuses on all types of economic transactions (both physical and financial).
Balance	There may be surplus, deficit or balanced.	Theoretically it should always be balanced (zero). Individual accounts can be in surplus or deficit.
Utility	Provides a partial view of a country's goods trade performance.	Provides a comprehensive and complete picture of all international economic transactions of the country.

**Conclusion-** In short, the balance of trade is a part of the balance of payments and it focuses only on the international trade of goods. On the other hand, the balance of payments is a broader concept that covers all economic transactions between a country's residents and the rest of the world. The balance of payments provides a more complete and accurate assessment of a country's overall international economic situation, while the balance of trade is particularly useful for analyzing the performance of the trade of goods. It is important for policymakers and economists to understand both concepts to assess a country's external stability and economic health.

**Question 12- What is Foreign Direct Investment?**

**Answer-** In economics, Foreign Direct Investment (FDI) refers to investments made by a resident (person or company) of one country in business interests or assets located in another country with the aim of establishing a long-term interest and significant influence or control over the foreign enterprise. This investment can be made through equity capital, reinvested earnings, inter-company loans and other types of capital transfers.

In short, FDI is not just a transfer of capital but involves direct participation by the foreign investor in the management, technology and expertise of an enterprise located in the host country. This is different from Foreign Portfolio Investment (FPI), in which the foreign investor aims only to make financial gains and has no direct control over the management of the company. Usually, for an investment to be considered as FDI, the foreign investor has to acquire at least a 10% stake in the host country company.

#### **Main features of FDI-**

**1-Long-term commitment** - FDI is a long-term investment in which the foreign investor aims to establish a permanent presence and operations in the host country.

**2- Control or influence in management** - In FDI the investor has significant control or influence in the management and decision making process of the host country company. This may be through ownership stake, franchise rights or other agreements it can be obtained through.

**3-Transfer of technology and expertise** - FDI often brings new technologies, management skills and business practices to the host country, which can improve the productivity and competitiveness of local industries.

**4. Flow of Capital** – FDI brings in additional capital into the host country, which can be used to set up new businesses, expand existing businesses and develop infrastructure.

**5-Source of non-debt finance-** FDI is an important source of non-debt finance for the host country, which means it does not require future payment, as is the case with loans.

**Types of FDI-**FDI can be classified on various bases, some of the major types of which are as follows-

**1-Horizontal FDI** - This occurs when a company starts the same type of business abroad sets up a company as it does in its home country. For example, an Indian automobile company to establish a manufacturing plant in the United States.

**2-Vertical FDI** - This occurs when a company invests in a specific activity within its supply chain that is different from the business it carries out in its home country. This can be further divided into two parts-

**1-Backward Vertical Integration-** The Company invests in suppliers abroad who provide it with raw materials or other inputs. For example, a textile company buying cotton farms abroad.

**2-Forward Vertical Integration** - The Company invests in distributors or retailers abroad who sell its products. For example, a food processing company buying a supermarket chain abroad.

**3. Conglomerate FDI-** This is when a company invests in a business abroad A company invests in a business that is unrelated to the business it does in its home country. This is often done as part of a diversification strategy. For example, an Indian software company investing in a chemical manufacturing company in Brazil.

**4. Platform FDI-** This is when a company invests in a foreign country with the aim of exporting to a third country. In this case, the host country only acts as a production or assembly hub.

**Importance of FDI for the host country-**FDI provides several important benefits to the economy of the host country can-

**1. Boosts economic growth** - FDI boosts economic growth by bringing in capital, technology and expertise.

**2- Employment generation-** Establishment of foreign companies creates new employment opportunities in the host country, thereby reducing unemployment and increasing the income of the people.

**3- Technology transfer** - access to advanced technologies and innovations to the host country through FDI this provides employment, thereby increasing the competitiveness of local industries.

**4-Skills Development** - Foreign companies often provide training to their employees, thereby developing the human capital of the host country.

**5- Infrastructure Development** - Some FDI projects contribute to the development of infrastructure such as transportation, energy and communications.

**6-Export boost** - FDI can increase the host country's exports, especially if foreign firms move local production to global markets.

**7. Increase in competition** - Entry of foreign companies increases competition in the domestic market, which increases the prices of consumers better quality products and services are available.

**8. Increase in government revenue** - FDI increases tax revenue, which is used by the government for development programmes can do for financing.

**9. Improvement in Balance of Payments** - FDI improves the balance of payments of the host country through inflow of capital Can help create it.

**Conclusion-**Foreign direct investment (FDI) plays a vital role in the global economy. It is not only a cross-border flow of capital, but it is also a means of transferring technology, knowledge and best practices. For host countries, FDI can be a powerful tool for economic growth, job creation and improving competitiveness. Therefore, many countries actively provide policies and incentives to attract FDI. However, there are also some potential risks associated

with FDI, such as negative impact on local industries and repatriation of profits, which need to be carefully managed by host countries.

## **B.A.LL.B. 2nd Sem. Paper-II History-II**

**Question No. 1- Discuss the situation of North India at the time of the invasion of Turks?**

**Answer-** It is very important to understand the situation at the time of the invasion of the Turks in North India, because taking advantage of this situation, the Turks started to establish their hold in India. This period was mainly the 10th and 11th centuries, when India was becoming politically, socially and religiously weak. Below is a detailed description of the situation.

**The detailed answer is given:**

**Condition of North India at the time of the invasion of the Turks (long answer) -** Before the invasion of India by the Turks, the condition of North India had become extremely complex and weak. This period was full of political instability, mutual conflicts, social inequality and religious orthodoxy. These circumstances made India an easy target for external invasions.

**1. Political disintegration and weak governance-** Before the invasion of the Turks, there was no powerful central governance in India. Various small and big kingdoms like Pratihara, Pala, Rashtrakuta, and later Chauhan, Solanki, Parmar, Gahadwal etc. dynasties were fighting among themselves. There was lack of unity among the kings and they were fighting against each other. This was the reason that when Mahmud Ghaznavi and later Mohammad Ghorî invaded, they did not face serious resistance.

**2. Social condition-** Indian society was divided into castes. There was a huge difference between the upper class and the lower class. Brahmins and kings dominated, while Shudras and other lower castes were victims of exploitation. Due to social inequality, there was lack of unity and harmony in the society.

**3. Religious condition-** There was decline in the field of religion as well. Religious ostentation, idol worship, rituals and Brahmanism were prevalent. The feeling of devotion was replaced by hypocrisy. This religious decline made people indifferent, due to which there was no organized resistance against the foreign invaders.

**4. Weak state of the armies-** The armies of the Indian kings fought in a traditional manner, while the Turks were adept at cavalry and swift attack tactics. The Indian armies lacked discipline and were technically behind.

**5. Invasions of Mahmud Ghaznavi and Mohammad Ghorî-** Taking advantage of this political and social weakness, Mahmud Ghaznavi invaded India 17 times and looted major temples like Somnath. After this, Mohammad Ghorî lost the first battle of Tarain to Prithviraj Chauhan in 1191, but emerged victorious in the second battle in 1192. With this, the permanent rule of the Turks entered India.

In conclusion, at the time of the Turkish invasion, North India was facing conditions of political disintegration, social inequality, religious degradation and military weakness. These weaknesses made India an easy prey for Turkish



invasions and ultimately paved the way for the establishment of the Delhi Sultanate.

**Question No. 2- How was the Delhi Sultanate established? Discuss the works of Qutbuddin Aibak?**

**Answer-** Mohammad Ghori had no son. The master of Ghori's Indian empire was his most important slave Qutbuddin Aibak. The Sultans of Delhi Sultanate who ruled between 1206 AD and 1290 AD were known as the Sultans of the Slave Dynasty, although they neither belonged to the same dynasty nor was any of them a slave when they became Sultans. All those Sultans were Turks but their dynasties were different.

**Qutbuddin Aibak (1206-1210)** - The first Muslim ruler of Delhi was Qutbuddin Aibak and he is also considered the founder of the Turkish state. The main success of Qutbuddin Aibak was to free the Turkish state of India from the ownership of the Sultans of Ghor and Ghazni and to try to give it an independent existence and to provide it stability in the unstable conditions that arose after the death of Mohammad Ghori. For this reason, he is accepted as the founder of the Turkish state in India.

Qutbuddin Aibak was a Turk and his parents were residents of Turkistan. In his childhood, Qazi Fakhruddin Abdul Aziz Kuki of Nishapur bought him as a slave. The Turks had a tradition of making their slaves capable. Many people made their slaves capable of serving the state by imparting literature, art and military education to them. With the grace of the Qazi, Aibak started reading the Quran along with his sons, gradually became an expert horse rider and archer and became famous for his courage and manly qualities. When his first master died, his sons sold him again and finally he became the slave of Mohammad Ghori. He showed devotion and dedication, due to which Mohammad Ghori was pleased and made him the leader of a contingent of his army. After that he was appointed to the post of the head of the stables (Amir Akhur). After the second battle of Tarain in 1192 AD, Mohammad Ghori made him the head of his Indian army. He appointed him as the ruler of the empire and gave him the right to run the government in his absence. Aibak made Indraprastha near Delhi his capital.

In the absence of his master, Qutbuddin Aibak suppressed the rebellions in Ajmer and Meerut in 1192 AD. In 1194 AD, he suppressed the second rebellion of Ajmer and then helped Ghori in the war against the Gahadwals of Kannauj. Aibak played an important role in that war in which Jaichand was defeated and died. In 1195 AD, he conquered Aligarh, suppressed the rebellion of Ajmer, looted Anahilwad, the capital of Gujarat, won some forts of Rajasthan and after subduing the king of Bundelkhand, Parmardidev, established his supremacy over Kalijar, Mahoba and Khajuraho. In this way, Aibak not only helped his master Ghori in conquering various regions of India, but also from time to time kept the regions conquered in his absence under the domination of the Turks and also expanded the kingdom.

After the death of Mohammad Ghori in 1206 AD, the citizens of Lahore invited Qutbuddin Aibak to come to Lahore and take over the government. Aibak reached Lahore and took over the government, although he got himself crowned three months after Ghori's death in 1206 AD. On the occasion of his accession to the throne, he did not take the title of Sultan, but was satisfied with only the titles of 'Malik' and 'Shasipahsalar', which he had received from his master Mohammad Ghori. For this reason, Aibak neither got the Khutba read in his name nor issued coins in his name. Later in 1208 AD, Mohammad Ghori's successor Ghiyasuddin honoured Aibak with the title of 'Sultan' and sent him royal articles like Raj Chhatra, Flag, Throne etc.

At the time of his accession to the throne, Aibak was surrounded by many difficulties. The Turks had certainly crushed the lands from Afghanistan to Bengal in northern India under their feet, but they were still not able to become its undisputed masters. Ghori had certainly weakened the power of the Rajputs, but could not end it and the Rajputs were confronting the Turks at various places and expelling the Turks from many places. The Chandel ruler had blocked the way of the Turks to advance towards the south by reconquering Kalinjar, the Gahadwal king Harishchandra had established his rule in Farrukhabad and Badaun and the Pratihara-Rajputs had again conquered Gwalior. The mutual conflicts among the Khalji chieftains in Bengal had weakened the Turkish power there and the Khalji chieftains of Bengal were not ready to accept Aibak's supremacy. In reality, Aibak's supremacy was limited to Sindh, Punjab, Delhi and Doab and even there the Rajputs were resisting his power.

But the biggest threat to Aibak was from his relatives and Ghori's slave like him and his successor in the kingdom, Tajuddin Yildiz (Eldouz) and Nasiruddin Qubacha. Tajuddin Yildiz had established his independent rule in Ghazni, his daughter was married to Aibak and he considered Aibak as his subordinate and his right over Ghori's kingdom in India. In fact, Eldouz and Qubacha were rivals of Aibak.

The biggest threat to Qutbuddin Aibak and the new Turkish state of Delhi was from Central Asia. The Shah of Khwarizm had his eyes on Ghazni and Delhi. Therefore, one of the main difficulties of Aibak was to separate the state of India from the politics of Central Asia, to free it from the legal hegemony of the rulers of Ghazni and to give it the rights and existence of a separate state.

Aibak's rule was a pure military rule. There was a strong army in the capital and there was a proper system of keeping the army in other parts as well. His greatest ability was to be a diligent soldier and a capable commander. He was a courageous and experienced commander. Most of the credit for Mohammad Ghori's Indian victories goes to him.

Aibak also had a special interest in building construction. In 1191 AD, he built the Qubab-ul-Islam Mosque in Delhi. It is said that it was built on the ruins of a Jain temple. This mosque had a rectangular courtyard surrounded by pillared

verandahs. The outer part of its prayer room had a wall like an arched curtain in Muslim style on which verses from the Holy Quran and pictures with ornamentation were inscribed. The Ibadat Khana of this mosque is very beautiful. The second building built by Aibak is Qutub Minar. It is said that Aibak built it in the memory of Mahatma Khwaja Qutubuddin. It is located in Delhi. Some scholars call Qutub Minar a Hindu building. But Sir John Marshall criticizes it and says that almost every aspect of the entire plan, structure and decoration of the minaret is completely Islamic. Apart from this, Qutubuddin Aibak built the famous mosque of Ajmer which is called Adhai Din Ka Jhopda.

Thus Aibak was a capable commander, a practical ruler and a generous person. He is considered the founder of Turkish rule in India. Despite this, it can be accepted that Aibak neither achieved any victory during his reign nor expanded the kingdom. He had no special talent in terms of governance. His rule was like a military fiefdom which did not have the qualities of stability. In 1210 AD, leaving behind a vast kingdom for his successors, he passed away from this world while playing Chaugan.

**Question No. 3- Discuss the monarchy principles and actions of Balban.**

**Answer- Ghiyasuddin Balban (1265-1287 AD)** - Balban was a Turk of the Ilbari clan, Iltutmish himself also belonged to this clan and his father was the Khan of ten thousand families. From this it can be concluded that Balban was born in a noble family. Sultan Iltutmish was impressed by his qualities and appointed him the head of the Bhishtis. After that, when his brother Kishloo Khan was appointed to the post of Amir-e-Hajib, the path of progress opened for him. Due to his ability and efficiency, he reached the important post of 'Amir-e-Shikar' during the reign of Razia. He was also one of the Turkish chieftains who conspired against Razia and when Bahramshah became the Sultan, he was given the post of 'Amir-e-Akhur' (Head of the Horse Stable). 'Amir-e-Hajib' Malik Badruddin Sankar Rumi was very kind to him due to which he was given the estate of Rewari. He also supported the Turkish nobles in removing Sultan Bahram Shah from the throne and making Masood Shah the Sultan, due to which he was given the governorship of Hansi. When there was a conflict between Wazir Muhajbuddin and the Turkish chiefs and Muhajbuddin was removed and Abu Bakr was made the Wazir, Balban got the post of 'Amir-e-Hajib'. In August 1249, Balban got his daughter married to Sultan Nasiruddin. On this occasion, he was given the title of 'Ulug Khan' and the post of 'Naive-e-Mamlakat'. Thus, all the rights of governance were legally given to him. Balban gave important posts to his relatives and himself became the real ruler of the state. Later, after the death of Sultan Nasiruddin, Balban, who already had control over the kingdom, ascended the throne under the name of Ghiyasuddin Balban in 1266 AD.

Balban's Theory of Kingship Balban was the first ruler of Delhi Sultanate who expressed his views in detail about the position and rights of the Sultan. There were two main features of Balban's theory of kingship. First, the position of the

Sultan is given by God and second, the Sultan must be autocratic. According to him, "The Sultan is the representative of God on earth (Niyabat-e-Khudai) and his place is only after the Prophet. The Sultan gets the inspiration and power to work from God. Therefore, the common people or the chieftains have no right to criticize his actions." He had told his son Vugra Khan that the position of the Sultan is a living symbol of autocracy. He adopted the theory of kingship of the Sasani rulers of Iran and resorted to various means to raise the position of the emperor to a very high level. Therefore, he is not answerable to the public or the feudal class but to God. To maintain the dignity of the post of Sultan, he laid special emphasis on enforcing strict discipline in the royal court and started keeping himself away from the common people. In this way, he erected a wall of aloofness between the ruler and the ruled. After the death of Iltutmish, before Balban came to power, the noble class (Umra class) had become powerful and influential. They had become so capable that if any Sultan opposed them, they would dethrone him and kill him. Before becoming Sultan, Balban himself had played such a game as Nayav (deputy), which he resolved to stop in the interest of himself and his descendants by establishing new standards of kingship. By displaying aloofness and determining a code of conduct, he made it compulsory for everyone to walk within the boundaries of the newly created lines of court etiquette, decorum and discipline. In his presence, no courtier had the courage to talk or joke at a high level. He believed that there was a lot of difference between people born in high and low castes and did not like to give any government position to any person belonging to a low caste.

Balban decorated his court on the pattern of the court of the Sassanid rulers of Iran. Balban also adopted Persian and Iranian customs and traditions. He strictly enforced various norms of ancient Persian customs and living in his private and public life. He introduced the customs of Sijda (laying down on the ground in salutation) and Paibos (going near the throne of the Sultan and kissing his feet), appointed a bodyguard of tall and fearsome persons who stood on both sides of his throne with shining naked swords and ordered all persons except the great chieftains to stand in his court. Drinking of wine was prohibited for the courtiers and they were made to stand in front of the court. He was allowed to enter the court only after wearing special clothes. The Iranian festival 'Nowruz' was celebrated with great pomp and splendor in his court every year. This display of pomp and splendor and power influenced the chieftains and the common people and the personal prestige of the Sultan increased.

Balwan laid special emphasis on aristocracy and blood purity in his theory of royalty. To ensure the purity of aristocracy, he implemented the system of inheritance and abolished the appointment of previously appointed chiefs. By declaring himself a descendant of Afrasia of Persia, he wanted to show that only people of high lineage get this post and people of low lineage are not entitled to this post.

According to the need of autocratic rule, he tried to keep politics away from religion by keeping the Ulema class out of the ambit of governance. Along with this, he used the Ulema for the satisfaction of the Ulema and the Islamic world in his coins and thus kept the Caliphate alive. He used the name of the original Caliph of Baghdad in his coins.

**Balban's administration** Balban's- administration was a strong central administration. All the power of the state was in his hands. He did not leave the burden of any work on his sons and officers. Although he had appointed officers for the region etc., he himself looked after all the work of the state.

**Central Government** - Balban had established an autocratic central government. All the powers of the state were vested in the Sultan, and he was the central authority and the source of all rights. It was necessary to consult the Sultan and obey his orders in all the works.

**Balban's Rajya Sabha** Balban's- Rajya Sabha is very famous. Balban increased the splendor of the court. He appointed capable people and gave them high positions. He believed that improvement is possible in the rule of the most capable people. He arranged for strict discipline in the court. He removed those people who were not suitable for the work of the labour.

**Military system:** The main pillar of Balban's autocracy was his powerful army. He paid due attention towards organizing them. During the time of Qutbuddin Aibak, Turkish soldiers were given a part of the land tax instead of military salary. Some of them were also given territories as jagirs. Iltutmish also provided jagirs in lieu of military service. Sultan Balban issued an order that land be taken back from the widows, orphans and widows and they be given cash salary. The jagirs of those who were young and eligible for military service were allowed to remain in their possession but the central government took upon itself the task of collecting land tax from their villages and a rule was made to give cash money to the jagirdars. The jagirdars raised their voice against these orders of the Sultan. On the persuasion of Kotwal Fakhruddin, he relaxed his order regarding old jagirdars, hence this reform of the Sultan did not have much effect. The old policy of giving land to soldiers in return for military service continued. Often the soldiers used to send hired soldiers in their place who did not even have proper weapons. This was mostly stopped.

Balban appointed Imad-ul-Mulk, who was a very capable officer, as the army minister. Imad worked with special interest in the recruitment, salary and equipment of the soldiers. He established military discipline and made the army very strong through his intelligent and honest policy.

**Establishment of Peace-** After the death of Iltutmish, unrest and discord had increased in the state. According to Barani, the fear of the state, which is the basis of a well-organized government and the means of state pride and prosperity, had vanished from the hearts of all the people and the country was in a very bad state. Balban made all the difficult situations easy with his reforms. Barani has written

that when he sat on the throne, he gave a new vigour. He established the system of governance and restored the capacity of those institutions whose power had been destroyed or weakened.

**Construction of new forts and renovation of old ones** – During the reign of Balban, there was always a fear of rebellions and Mongol attacks. To protect the country from Mongol attacks, he got the old forts repaired and some new forts constructed. In these forts, huge armies were kept under the control of experienced commanders.

**Well-organized Intelligence Department-** Balban established a well-organized intelligence department to ensure that the people get proper justice. This system of spies certainly reduced crime and protected innocent people from the atrocities of the people in authority, but at the same time it also led to a lot of moral degradation in the society and people would have been deprived of those social facilities which they were supposed to get as per the rules. They were needed and there was no possibility of any kind of harm from them. The Sultan had spies in all the provinces and districts whose loyalty was also tested.

**Border Management** - Balban followed a certain border policy which was much needed in that era. By making proper arrangements for the border area, he was successful in his attempt to stop the invasion of the Mongols.

Balban suppressed the Mewatis who used to create disturbances near the capital at night like bandits. Balban established military posts for the security of the capital and appointed a strong army of Afghans on them.

**Impartial Justice System-** Balban was a great judge. He never hesitated in punishing even his relatives. People were afraid of the Sultan because he behaved well even with his servants and slaves. The Sultan used to be completely impartial in delivering justice and never favoured even his relatives and friends. If even one of his close relatives or close friends did something unjust, he never showed laxity in satisfying the oppressed party. The Sultan's inevitable justice system had such an impact that no one could dare to misbehave with even his followers and slaves.

**Land System-** Balban also paid attention to land management. The practice of giving jagirs to soldiers was going on since the time of Qutubuddin Aibak but those soldiers did not pay proper attention to the land. The yield of the land was also decreasing. Balban gave priority to giving cash salary to the soldiers but he could not completely end the system of not giving jagirs. He had to amend his policy.

**Patronage of art and literature-** Balban also loved art and literature. He was a patron of Persian literature and poet Amir Khusro was specially favoured by him. Many poets and litterateurs were favoured by Balban. Balban was a patron of knowledge and education. He gave shelter to many princes and scholars of Central Asia.

**Appointment of the most qualified persons-** Balban's view was that only the most qualified and talented persons should be appointed to government jobs. In this appointment, he also paid attention to lineage and birth. He was not in favour of giving responsible positions to people of lower classes.

**Question No. 4- Discuss the economic policy of Alauddin Khilji i.e. market control system. Answer-** Khilji people were Afghans or Pathans but this view of Vincent Smith has been proved baseless and invalid. According to Sir Hameed, Khilji people were originally Turks, but had been living in Afghanistan for a long time and they adopted Afghan customs. They lived in a village named Khalj in Afghanistan, hence their name Khilji. According to Khawaja Nizamuddin, the author of Tawakeet-i-Akbari, Khilji people were descendants of Kalij Khan, a relative of Genghis Khan and from him the name of that dynasty got corrupted and became Khilji. Ziauddin Barani has not considered Khiljis to be of Turk race in his book Tarikh-e-Firozshahi. According to Dr. Ishwari Prasad, Khilji people were not pure Turks. Modern research also shows that Khilji was a Turk.

**Alauddin Khilji (1296-1316 AD) -** Alauddin killed his uncle Jalaluddin Khilji in 1296 AD after forcing his son Ruknuddin Ibrahim to leave Delhi, he ascended the throne of Delhi. On this occasion he had the son of Abul Muzaffar Sultan Alauddin-wa-din. His father was a military officer in Balban's army. After the sudden death of Masood, his uncle Jalaluddin Firoz Khilji took the responsibility of taking care of Ali. Alauddin was more interested in military work than getting education. Therefore, he became skilled in horse riding and swordsmanship. Jalaluddin was very impressed by his military talent. He got his daughter married to Alauddin. Sultan Jalaluddin appointed him to the post of 'Amir Atjuk'.

Alauddin Khilji carried out two major military campaigns during the reign of Jalaluddin Khilji. When Firoz Khilji was busy in Rajputana, with his permission Alauddin attacked Bhilsa situated in Malwa region in 1293 AD. Alauddin got immense wealth from the temples here by looting. The Sultan appointed Alauddin as Ariz-e-Mamalik and he was also given the governorship of Awadh. This increased Alauddin's influence even more. Alauddin's second military campaign was against King Ramchandra Dev of Devagiri (Daulatabad) in 1295 AD. His main objective was to loot wealth from there as well. Devagiri was a prosperous state and the capital of the Yadavas. Alauddin attacked the capital. Ramchandra's position was weak at this time, so he thought it appropriate to enter into a treaty by paying compensation.

The money received from Devagiri strengthened Alauddin's financial position. He now decided to overthrow Firoz Khilji. Alauddin had secretly attacked Devagiri without taking permission from the Sultan. Alauddin went to Kara with the money received from Devagiri, he did not meet the Sultan. So the Sultan himself went to meet him at Manikpur. There Alauddin got Sultan Firoz Khilji killed by deceit. On 19 July 1296 A.D. Alauddin declared himself Sultan. His first and most important task was to increase the number of his followers and gather around

him people of proven ability and loyalty. He was a very industrious and enthusiastic soldier and he had common sense and realism in abundance.

**Alauddin's administrative reforms-** Alauddin Khilji resolved to re-establish Balban's revenue-related principles. Like Balban, he also believed in the glory of the king and considered him to be God's representative on earth. He firmly believed that the Sultan had more intelligence than all other human beings, so his wish should be the law. He believed in the principle that the king has no relatives and all the residents of the state are his servants or subjects. He wanted to keep the Amirs and Ulema as his servants so that he could appoint and remove them according to his wish.

**Sultan** - Alauddin Khilji was the supreme authority of the government theoretically and practically. All the powers of the state were concentrated in his hands. He was an autocratic ruler. He was the supreme authority of the executive, justice, kingship and army. All the appointments in the state were done according to his wishes. His ministers were also not his advisors but like his servants, who had to obey the Sultan's orders. The closest associate of the Sultan was the Wazir. He was the head of the Diwan-e-Wazarat (Finance Department). It was his responsibility to collect revenue. Apart from this, he also performed the work of other ministers and departments. Alauddin Khilji handed over the post of Wazir to his trusted military officers. Khwaja Khatir, Nusrat Khan and Malik Kafur were appointed to this post respectively. The Wazir was answerable to the Sultan for his work. Diwan-e-Ariz was responsible for military work, appointment of army, arrangement of their salary, collection of army equipment, inspection of army etc. The war minister was addressed as Ariz-e-Mamalik. He was assisted by Naib Ariz. The head of Diwan-e-Insha department was Dabir-e-Khas. This department had to prepare drafts of government orders and letters, correspond with governors and local officials and keep government orders safe. The head of this department took the help of many Dabirs in discharging his work. Diwan-e-Rasalat was the foreign department which maintained contact with foreign countries. This department was probably under the control of the Sultan. Because Barani does not mention the name of the person working on this post. Sultan Alauddin also established a new department called Towan-e-Riyasat. It controlled the market and traders. Apart from these ministers, many employees were from the central government who used to look after the work of various departments.

**Military reforms-** A well-organized army was necessary to fulfill Alauddin's victory aspirations and to maintain his autocracy. In this context, Dr. Ishwari Prasad has also written that "In a system of governance based on military power, it was absolutely necessary for the army to be well-organized." The vast kingdom that Alauddin had established could not have survived in the absence of a permanent army. Therefore, he paid attention to the good management of the army and appointed skilled and experienced generals in the royal army. He centralized the army and arranged for a permanent army. According to Farishta,



this army had 4,75,000 well-equipped and uniformed horsemen. On the basis of the size of the army (ten thousand, thousand, hundred, ten etc.) they were divided into different units and placed under Khans, Maliks, Amirs, Sipahasalaars etc. The soldiers were paid cash salary on the basis of their efficiency and the number of horses they had. A rider having one horse was called 'Shyakaspash' and one having two horses was called 'Doaspash'. The annual salary of each soldier was fixed at 234 tankas and a soldier having two horses was given 78 tankas more. Barani's description in this regard is not clear but this seems to be his intention. During inspection, the practice of branding horses to detect deception was started and soldiers were cautioned to always keep their horses and weapons in a usable condition. Good breed horses were kept in the army and arrangements were made for branding them so that the soldiers could not deceive the Sultan by showing false horses. High quality manufactured weapons were distributed to the soldiers. To control the army, the Sultan appointed an officer called 'Ariz-e-Mamalik'.

**Justice System** - Alauddin himself was the supreme judge and used to sit in the court and deliver impartial justice. In the matter of justice, he was in favour of a strict policy like Balban. After the Sultan, the head of the judicial system was Sadar-e-Jahan Qazi-ul-Qujat, under him were Naib Qazi or Adal and Mufti. Amir-e-Dad used to make the influential but guilty person appear in the court. In the provinces also, the judicial system was kept in line with the center. In local ordinary matters (conflicts), the chief and the panchayats used to resolve the conflicts. Even the princes and military officers used to hear and resolve simple matters (cases). There was no delay in dispensation of justice. The behavior of the judges was also monitored. The penal code was very strict. Provisions were made for death penalty, mutilation, imprisonment, punishment of flogging and confiscation of property. Peace was established in the state through strict punishment.

**Postal system** - The Sultan also drew attention towards the postal system. This system was also necessary for the army. Many postal posts were established and horsemen and clerks were appointed there. Through these, the Sultan got the facility to get quick information about the events in distant areas. During rebellions and wars, the postal system provided ample help.

**Police and Intelligence System**- Sultan Alauddin also paid attention towards the police and intelligence department. This was necessary to maintain peace in the state and to keep an eye on the rebellious tendencies. The head of the police department was the Kotwal. He was responsible for establishing peace in Delhi and other places. The Kotwal had more authority. The Delhi Kotwal was the trusted person of the Sultan. The Diwan-e-Riyasat, Shahar (Magistrate) and Muhtasib (one who prevents un-Islamic things) worked under the control of the Kotwal. Alauddin had also made arrangements for an efficient intelligence department. A network of efficient and trained spies was spread across the entire

state who used to send information about all the incidents to the Sultan. The head of this intelligence department was Warid-e-Mamalik, who used to look after the work of this department with the help of Warid (messenger) and Munhian or Munhi (information collector).

**Revenue reforms and economic reforms of Alauddin**-No doubt, none of Alauddin's works could be successful without money, therefore, organizing the treasury became his sacred duty. He was the first Sultan who paid attention to financial and revenue reforms and took interest in the complex subjects of finance and revenue. Before Sultan Alauddin Khilji, to some extent, Balban only paid attention to agricultural expansion, but also increased the treasury by increasing the Khalsa area by implementing reforms in the Aqtadari system. Alauddin made important changes in the land system and tax system. Before him, the Khalsa area was under the Diwan-e-Wazarat. From this area, the officers appointed by the Wazir, Amil, Karkun, etc. used to collect land revenue on behalf of the state. Apart from this, except the Khalsa land, the remaining land was under the provincial rulers. These provincial rulers (Mufti) were responsible for collecting land revenue. From the collected land revenue, they used to deduct their expenses on soldiers and salaries to the officials and deposit the remaining money in the treasury. The method of collecting revenue and the way of assessing it was based on local traditions. The rate of land revenue used to be 13th part of the Kukul production, which the farmer used to pay to the state officials. The local officer (Chaudhary or Mukaddam) used to collect land revenue in cash or grain. Thereafter, he used to deduct his remuneration and deposit the remaining land revenue in the treasury. Before Alauddin, the local officers used to harass the farmers by arbitrarily collecting much more money than the rate of land revenue fixed by the state. The Sultan took concrete steps to protect the rights of the farmers and to stop their harassment by middlemen. He took back the land given to the state employees, rich, scholars, religious persons in inam waqf or milk.

Alauddin's second attack was on the Khuts, Chaudharys and Mukadams who were revenue officers on hereditary basis and all of them were Hindus. The Sultan had a complaint against them that they used to collect more money from the farmers and keep as much money as possible for themselves by giving the least amount to the state. They also used to avoid paying taxes like Kharaj, Jaziya, Curry and Grazing. Due to these reasons they were rich. Alauddin took away the right to collect revenue from them and ended their special privileges. This weakened their position. According to Barani, their position became very bad due to which their wives had to go to the houses of Muslims to work. By this reform of his, Alauddin made the Hindus poor and ended their power to revolt. According to Dr. Banarasi Prasad Saxena, this policy of Alauddin was adopted towards the hereditary officers of the village. This policy was not adopted towards politically influential persons like big Hindu Rai, Rana, Rawat etc. Now in their place, Amil (tax collector) and Gumasta (representative) started collecting revenue. Other

officials associated with revenue collection were Muhassil (tax collector) Wala), Ohada Darane Dafatir (head of the office) and Navi Sinda (clerk). A large number of Hindu employees were also associated with the revenue system. The revenue system was handed over to the Diwan-e-Mustakhraj. The amount of Khiraj (land tax) was increased to 50%.

Alauddin also imposed some new taxes, such as house tax and grazing tax. The state also received income from irrigation tax, customs duty, Karahi, Jaziya (tax imposed on Hindus), Zakat (religious tax, collected only from Muslims), and Khams (the loot obtained in war, Alauddin took 45% of it as state tax). Grazing tax was collected by fixing pastures for milch animals. According to Farishta, four bulls, two cows, two buffaloes and twelve goats and sheep were exempted from tax. Karahi was probably a secondary tax. Apart from women, children, insane and disabled, all non-Muslims had to pay Jaziya. Zakat was taken as 40% of the wealth of Muslims. Strictness was shown in tax collection. The credit for successfully implementing Alauddin's revenue policy goes to his deputy minister Sharaf Kayini. Historian Barani has also pointed out the weaknesses of the revenue system. Due to the collection of revenue directly from the farmers, strict measures were taken against the officers and employees of the revenue department who resorted to corruption. The amount of outstanding revenue was strictly recovered from the revenue employees. Alauddin Khilji's revenue reforms had two clear objectives. He wanted to increase the state's income substantially on the basis of which a large and well-organized army could be established and the Khilji empire could be provided stability. His second objective was to weaken the power of the intermediary landlord class by curbing it so that the frequent disturbances and rebellions could be controlled.

Alauddin took three special measures to increase revenue. First of all, he increased the rate of land revenue prevalent in Doab. Now, 12% was taken from the farmers as rent (land tax or Khiraj) which has been mentioned earlier. Improvement was also brought in the rent system. Land was measured and rent was fixed on the basis of yield. According to the writings of historian Barani, rent was fixed on the basis of measurement and per Biswa. It does not give detailed information about the method of measurement or 'Mashat'. But it is assumed that a unified system was adopted for measuring land. No one was given exemption in this system. Thus, Alauddin was the first Sultan of Delhi who fixed the amount of rent on the basis of actual yield. Through this system, the state established a direct relationship with the farmers and ended the influence of middlemen between the state and the farmers.

**Market and price control-** Alauddin kept a large army at the centre and paid it cash salary. The expenditure of that army was very high. According to Barani, if such a large army was paid even a normal salary, the state treasury would have been exhausted in five or six years. Therefore, Alauddin reduced the salary of the soldiers to reduce the expenditure. But to ensure that his soldiers could live

comfortably, he fixed the price of goods and reduced their rates. The purpose of price control was to provide relief to the public as well. The Sultan established Diwan-e-Riyasat to implement the rules related to the market in Delhi, where all the traders and shopkeepers had to get their names registered and had to make an agreement with the administration that they would sell their goods only at the prices fixed by it and would bring goods from outside Delhi and supply them continuously to the market. The task of looking after the market was entrusted to Diwan-e-Riyasat. This department was with a capable and experienced person, Malik Kabul Ulugharbani, a confidant of the Sultan. He arranged for separate markets for all goods. Shahna (Superintendent of the market) and Barid (Intelligence Officer) were appointed under him. Only those traders registered with the Diwan-e-Riyasat could do business. Those traders who did not have sufficient capital of their own were given advance money by the state. They had to sell goods at a fixed rate and no one was allowed to deviate from the rule.

Alauddin organized different types of markets for different goods and made necessary regulations for them. These markets were Mandi (Galla Bazaar), Sarab-e-Adal, market for horses, slaves and cattle and general market for other goods. The most important of the markets established by Alauddin was Mandi or Galla Bazaar. Food grains were delivered to these markets from the food grain (Galla) warehouses established by the state. A central Galla Mandi was established in every locality of the city where grain was bought and sold.

By fixing the price of foodgrains, the Sultan not only ended the instability of prices but also did two things to end the superficial scarcity. First, he started collecting land revenue in the form of grains from the neighbouring states of Delhi and started depositing that grain in government godowns. This kept the prices of foodgrains stable and there was no shortage of foodgrains even in adverse circumstances. Apart from this, registered traders, Shopkeepers and hawkers were forced to keep supplying food grains to Delhi. The state employees who were collecting land revenue in the areas near Delhi were ordered to strictly collect food grains from the farmers and keep sending it to Delhi. Not only this, to deal with famine or emergency, Sultan Alauddin also implemented the rationing system in Delhi, at that time, arrangements were made to give half a maund of food grains per day to every family. Whatever rules were made by Sultan Alauddin Khilji related to the food grain market, they were strictly implemented. Any shopkeeper who used to charge more money than the prescribed price was given the harshest punishments.

After the food grain market, other important markets were cloth market, animal and bird market, slave market, horse market etc. Sultan Jalauddin Khilji appointed Malik Yakub as the Shahna of cloth market. The cloth market was located in a place called Sarai Adal. Sultan Alauddin fixed the prices of all kinds of cloth except silk and cotton cloth. The prices of silk cloth were higher than those of cotton cloth. The Sultan used to get cloth from outside Delhi by giving advance

to Multani merchants. A rule was made regarding silk cloth which was available at cheap prices in Delhi that it should not be taken outside Delhi and sold at high prices.

While fixing the prices of different types of clothes, Sultan Alauddin kept in mind the cost of production of clothes and the profit of the trader. The cloth traders also had to register their names in Diwan-e-Riyasat and had to assure the administration that they would regularly supply clothes to Sarai Adal. No person could buy Tasvih, Tabrezi, Kiarbab, Shashtri, Hariri, Chinese Meeram and Devgiri silk, brocade clothes etc. without taking prior permission from the Sultan. The Sultan later gave the right to Diwan-e-Riyasat to issue permits. In this way, the administration imposed restrictions on the smuggling of clothes.

Similarly, while arranging markets for horses, animals and slaves, Sultan Alauddin fixed their prices and made rules for the markets. According to these, the price of the goods was determined according to their type, traders and capitalists were boycotted, middlemen were kept under strict surveillance and the Sultan himself controlled the implementation of all the laws. The horses purchased for the army were divided into three categories. For this, the help of horse brokers was taken. The horses whose price was 100-120 tankas were placed in the first category, those of 80-90 tankas were placed in the second category and those of 60-70 tankas were placed in the third category. The price of a mule or pony unsuitable for the army was fixed between 10 and 25 tankas. After fixing the prices of horses, Sultan Alauddin gave harsh punishments to the brokers and middlemen due to whom the prices used to increase. By weakening this class, the prices of horses remained stable and there was no increase in prices.

Sultan Alauddin established separate markets for the sale of slaves and animals and also fixed their prices. The price of a skilled maid doing household work was fixed at 5 to 12 tankas, the price of a beautiful maid was fixed at 20 to 40 tankas and the price of a very talented and beautiful maid was fixed at 1,000 to 2,000 tankas. Similarly, the price of slaves was fixed at 20 to 30 tankas. An ordinary slave could be bought for 7 to 8 tankas. Sultan Alauddin classified slaves on the basis of their beauty, qualities and abilities. The price of a good breed of draft cattle was fixed at 4-5 tankas, a milk-giving buffalo at 10-12 tankas, a milk-giving cow at 3-4 tankas, and a fat goat or sheep at 10-14 jetals. Spies were also posted in these markets who ensured that the royal laws were strictly followed. Sultan Alauddin also fixed the prices of all essential commodities like sweets, vegetables, rotis, combs, slippers, shoes, socks, laals, bowls, utensils, betel leaves, betel nuts etc. so that the residents of Delhi do not have to face any inconvenience.

Alauddin's market system was successful in achieving its goal in his time. Alauddin wanted that all goods should be sold at a fixed price and he was successful in this. Barani has written that "As long as Alauddin ruled, the prices of

goods neither increased nor decreased but remained fixed always". Alauddin's objective in keeping the prices of goods fixed was that he could maintain a large army. He was successful in this too. His army was not only large but also successful in every war. But after giving due credit to Alauddin for his success, it also has to be accepted that Alauddin's market system was neither in the interest of the common people, nor helpful in fulfilling the ultimate interests of the state, nor permanent. Farmers did not get any benefit from this system. Farmers who have to give half of their produce as rent, some other taxes and sell the rest to government traders at a fixed price, how can they be happy and prosperous by purchasing the items of their daily needs at the prices of their local market? Could they live? The citizens of Delhi could benefit from the prices fixed by Alauddin, but how could the rest of the citizens get this facility? The business class could not be satisfied with this because their benefit depended on the will of the state. With the death of the aged Sultan Alauddin in 1316 AD, the political supremacy of the Khiljis ended and the Tughlaq dynasty arose. The last Sultan of the Khilji dynasty was Qutbuddin Aibak Mubarak Khilji who ruled from 1316-1320 AD. Khusro got him murdered on 4 April 1320 AD. The rule of the Khiljis ended with Mubarak Shah.

**Question No. 5- Explain the invasion of Taimur Lang.**

**Answer- Invasion of Timur Lang on India-** Taimur Lung, also known as Timur or Timur, was a cruel and ambitious invader from Central Asia. He attacked India in the late 14th century. His invasion is known as a terrible and devastating event in the history of India. This invasion took place in 1398 AD, when the power of Delhi had weakened.

**1. Introduction of Timur Lang-**Timur was born in 1336 AD near Samarkand. He was a Turkish-Mongol ruler who considered himself the successor of Genghis Khan. His empire extended from West Asia to Central Asia. He established his power through terror and looting in many regions.

**2. Reasons for the attack on India-** There were many reasons for Timur's attack on India-

**Religious reasons:** Timur was a staunch Sunni Muslim. He wanted to exterminate the "kafirs" (non-Muslims) of India and the "non-Sunni" Muslims ruling in India.

**Lust for loot:** The prosperity of India and especially the wealth of Delhi attracted Timur. Political instability: At that time the Delhi Sultanate had become weak in India and the ruler Nasiruddin Muhammad Tughlaq was ineffective. This situation was favourable for Timur.

**3. Invasion of Timur (1398 AD)-** Timur invaded India in 1398 AD. He crossed the Indus river and entered India. He looted and destroyed the cities that came in his way. The most destruction took place in Delhi.

**Major events-**

**Battle of Delhi-** Timur defeated Tughlaq Sultan Muhammad Shah in Delhi.

**Massacre and plunder:** Timur carried out a terrible massacre in Delhi. Thousands of innocent people were killed and the city was looted and ruined.

**Religious fanaticism:** Timur specifically targeted Hindus and Shias. He destroyed many temples and religious places.

**4. Timur's Return-** After looting and destroying Delhi, Timur did not stay in India for long. He returned to Samarkand in March 1399 AD with his huge wealth. He did not try to establish a permanent rule in India.

**5. Effect of Taimur's invasion-** Destruction of Delhi: Life in Delhi came to a standstill, the city was devastated economically and culturally.

**Weakness of the Sultanate** – The Tughlaq dynasty was already weak, Timur's invasion weakened it further.

**Political instability:** After this invasion, the struggle for power in India increased further, which ultimately led to the establishment of the Lodi dynasty.

**Foundation of the Mughal Empire** - Babur, a descendant of Timur, later invaded India and laid the foundation of the Mughal Empire in 1526 AD.

### **Conclusion**

Timur Lang's invasion of India was a devastating event that completely devastated Delhi and its surrounding areas. The invasion was not only an economic and human tragedy but also severely affected the political structure of India. Although Timur did not establish permanent rule in India, his invasion accelerated the decline of the Delhi Sultanate and laid the ground for the role of the Mughal Empire in the future of India.

**Question No. 6- Discuss the achievements of Sher Shah as a skilled land reformer.**

**Answer- Sher Shah Sur (1486-1540 AD)-** Sher Shah's childhood name was Farid. He was the son of Hasan, the jagirdar of Sahasaram in Bihar province. Farid was born in 1436 AD in a town called Hisar Firoza. He went to Jaunpur in 1494 AD to stay with Jamal Khan. Jaunpur was the centre of education and culture of the Islamic world in those days. It was called the Shiraz of India. Farid earned fame there due to his sharp intellect. He acquired good knowledge of Persian, history and literature. On returning to Sahasaram, Hasan entrusted Farid with the administrative responsibility of Sahasaram's estate. He managed the estate very efficiently. His principle was that the ruler should take care of the welfare of the people. There should be strict control over government employees and landlords. According to him, justice is the source of all governance and the means of progress. As a Jagirdar, Farid spent about 21 years of his time in Bihar. He used this time properly in organizing the administration. As a result, he gained sufficient practical education and experience. During this period, he established direct contact with farmers, landlords and lawsuits, paid attention to agriculture and land revenue system, organized the army in a proper manner and determined a definite policy towards local officials. As a landlord, Farid's most important task was to protect the workers. The amount of rent was fixed

according to the yield by measuring the land. Leases were given to farmers and they were made to write a contract. Arrangements were made to take it at fixed times (twice a year). Revenue officials, soldiers and landlords were clearly ordered not to harass farmers. As a result, farmers started paying more attention to agriculture, which led to the desired improvement in the economic system.

Sher Khan increased his power and prestige by defeating Humayun in the Battle of Chausa on 26 June 1539. He now assumed the title of Sher Shah and got his name changed to Kit. After this, on 17 May 1540, Sher Shah defeated Humayun again in the Battle of Kannauj. On 10 June 1540, he got his coronation ceremony done and became an independent ruler.

**Land and Revenue System:** The land system was unsatisfactory during the time of the early Muslim rulers. They had no regard for the welfare of the people. They used to determine the rent (malguzari) only by guessing. The rent was also so high that it was difficult for the farmers to live a simple life. Sher Shah drew his attention towards this and tried to remove these flaws as much as possible. The rent system made by Sher Shah was much better than the system of the Sultanate period and this is the reason for his great fame. While managing his father's estate in Bihar, he got direct experience of the rent system.

Sher Shah took several measures to improve the land revenue system and agriculture. While implementing the land revenue system, he kept in mind that the proposed system should neither cause loss to the state nor cause unnecessary exploitation of the farmers. Sher Shah's objective was to implement such a system which could benefit both the state and the farmers. For this purpose, he made several reforms in the land system. First of all, Sher Shah ordered Ahmed Khan to conduct a land survey. He got the entire land of the state measured for the purpose of fixing the amount of rent. According to Dr. Kalika Ranjan Kanungo, he got all the land under the empire measured in bighas through 'Gaj Sikanderish', but the disturbed areas of Multan, Malwa, Rajasthan and Western Punjab remained outside the purview of land measurement. The area of each bigha was 3600 square yards. All cultivable land was divided into best, middle and low categories respectively on the basis of its yield. The average yield of the land was determined on the basis of the yield per bigha in all three types of land. One third ( $\frac{1}{3}$ ) of the yield was fixed as rent. A new system of rates, Rai (crop rates), was introduced according to which the rate of the state's share was fixed differently on different varieties. The rate was fixed according to the market price of different areas. In this way, Sher Shah fixed land tax on Bigha basis and Jinswar basis. Dr. R.P. Tripathi considers this system to be a special contribution of Sher Shah and perhaps he was the first ruler to implement it for the first time. Farmers were given the freedom to pay rent in cash or grain, however, the government wanted to take cash rent for its convenience and benefit. According to the article of Professor Nurul Hasan, the real importance of Farid's revenue system is that he ordered to determine the land revenue on the basis of actual yield or land area



per crop. Thus, the basis of his land revenue determination was production, which was paid in cash. Farmers had to pay land tax twice a year. Apart from this, farmers also had to pay Jaribana (for measuring land) and Mahasilana (land tax as salary to employees). Its rate was fixed from 2-1/2 percent to 5 percent. Along with this, farmers had to pay 2.5 percent of land revenue in the form of additional grain which was used for assistance in times of sudden calamities. Zakat, khāms, customs duty on foreign goods etc. were other sources of state income.

The system of land measurement and revenue fixed by Sher Shah could not be implemented in a general way in the entire empire. This system was established in most parts of the empire, but due to practical difficulties in Multan, Malwa and Rajputana, the old revenue system was allowed to remain. In fact The amount of tax was fixed in different ways in different parts of the empire. During the time of Sher Shah

**There were three main systems of fixing rent-** Galla-Bakshi (share tax), Nashk, Muktai or Kanakut and Naqd, Zabati or Jamai. Galla-Bakshi or share tax was of three types- Khet-Batai, Lank-Batai and Ras-Batai. Under Khet Batai system, after sowing the field or the standing crop itself was divided between the farmer and the government. In Lank-Batai, the grain was divided without separating it from the stalks. In Ras-Batai, the grain was separated from the straw and then divided. Under Nashk or Kanakut system, the yield was estimated by looking at the standing crop in the field and the amount of rent was fixed on that basis. This system was neither beneficial for the government nor for the farmer. If the yield was not as per the estimate, both could incur losses. The most convenient system for the state and the farmer was Naqd, Jamai or Zabati. According to this system, the amount of rent was fixed between the farmer and the government at the rate of per bigha per year for a period of three years or more. The farmers used to pay only the fixed amount to the state, they used to keep the extra profit with themselves, but if the crop was not complete, the farmers had to bear losses due to this system.

A 'lease' or Kabuliyat (Ikraranaama) was given to every farmer by the state. The farmer accepted it and thus signed the Kabuliyat. Lease and Kabuliyat were in a way an agreement between the state and the farmer. A direct relationship was now established between the farmer and the emperor.

Sher Shah also took measures for the safety of the farmers. Officials (Muqaddam, Aamil) who collected the revenue were clearly instructed not to harass the farmers. Farmers were not harassed if they paid the fixed amount on time. Sher Shah had clearly ordered that the revenue officials should show generosity while fixing the revenue, but collect it strictly. The soldiers were also ordered not to damage the crops on the way. If the crop of any farmer is damaged due to military campaign, then compensation should be given. Apart from this, arrangements were made for assistance from the state in case of crop destruction due to famine or other natural calamities. Many historians have criticized Sher

Shah's land revenue system. There were many flaws in Sher Shah's system. The most flawed aspect of this system was that the owner of the best quality land had to pay the lowest rent and the owner of the lowest quality land had to pay the highest rent. This caused losses to both the state and the farmer. Apart from the rent, the farmers were also burdened with other taxes, which had no justification. Both the state and the farmers faced problems due to the lack of uniformity in the rent system and the amount of rent not being fixed in the entire empire.

**Monetary System:** With the aim of improving the economic condition of the state, Sher Shah made necessary changes in the prevailing monetary system. As soon as he became the Sultan, he stopped the circulation of old coins and minted new coins in a fixed proportion of different metals. He minted pure silver rupees and copper coins. The silver rupee weighed 180 grains. The amount of pure silver in it was kept at 173 grains. Apart from Arabic letters, the name of the Sultan was also engraved in Nagari letters on it. He also engraved the name of the Sultan in some coins.

Additionally, the names of the first four caliphs of Islam were also engraved. Sher Shah performed many works for public welfare. Under this, first of all roads and inns were constructed. Four of the roads constructed by him are particularly noteworthy. The first road went from Lahore to Sonar village (Bengal), which was the longest road and was called 'Sard-e-Azam'. The second road went from Agra to Burhanpur. The third road went from Agra to Jodhpur and Chittor and the fourth road went from Multan to Lahore. He arranged for inns for the stay of travelers at every four miles distance on these roads, the number of which is said to be one thousand seven hundred. Houses were built for Hindus and Muslims to stay (rest) in each inn. Water pitchers were kept in each inn. The Sultan had ordered that food should be provided by the government in these inns. He settled a village near the inn and built a mosque along with a well in each inn. Improvement in the means of transportation and establishment of inns provided many facilities to the traders.

Sher Shah also established many Maktabas and Madrasas for the welfare of the people. Hindus were given the right to manage their own educational system. The educational institutions established by them were also given state aid. The state made arrangements for the education of Arabic and Persian. Maktabas were opened in every mosque. Madrasas were established. Scholarships were provided to encourage poor students. Sher Shah provided patronage, honour and financial aid to litterateurs and scholars. With the aim of helping the helpless and poor people of the state, Sher Shah established a charity department. Established. Apart from the poor, this department also provided assistance to those persons and institutions who needed government assistance.

**Religious Policy** – Sher Shah was a staunch Sunni Muslim in his personal life. In fact, he was a strong supporter of the glory and importance of Islam in this country. Sher Shah followed the policy of religious tolerance. Dr. Kanungo writes

that Sher Shah followed the policy of religious tolerance towards Hindus. Its vision was to provide honorable security to the Hindus instead of causing hateful suffering. It provided posts to the Hindus as per their merit and established a good artillery of Hindus. In this way he also nationalized the army. But many scholars are of the opinion that because Sher Shah was a staunch Sunni Muslim, he behaved conservatively towards Hindus. They had to pay Jaziya and Sher Shah destroyed many Hindu temples. He attacked Rajput states inspired by religious sentiments. Hence he was a fanatic ruler. Such a belief about Shershaah does not seem to be correct. It is true that like other medieval Muslim rulers, Sher Shah also strictly followed the rules of Islam in his personal life, Muslims also had a special status in the state, but in practice Sher Shah followed the policy of equality with everyone.

**Question No. 7- Critically examine Akbar's Rajput policy.**

**Answer-**Rajput Policy Akbar was an imperialist as well as a diplomat. He showed his political foresight by establishing close relations with the bravest caste like Rajput. Akbar wanted to strengthen the Mughal Empire, for which it was necessary to enlist the support of the majority Hindu population of India. Akbar had seen that his previous rulers did not follow the policy of cooperation and friendship with the Rajputs due to which they had to face difficult situations. People of Rajput caste among Hindus were courageous and skilled warriors. Therefore, by getting the services of Rajputs, the military shortage would have been fulfilled and Akbar's dependence on foreign soldiers would also have been reduced. Along with this, Akbar understood very well that for the expansion of the Mughal Empire in India, it was very important to end the resistance of the Rajputs. Due to the resistance of the Rajputs, he could not succeed in expanding and stabilizing the Mughal Empire. Being a far-sighted person, Akbar tried to bring the Rajputs closer to him. Akbar's behavior towards the Rajputs was not the result of any inconsiderate sentiment nor was it the result of respect for the bravery, patriotism and generosity of the Rajputs and this policy was based on self-interest, acceptance of merit and policy of justice.

From the initial years of his rule, Akbar realized that the people of the Muslim rich class did not show complete loyalty to him. They are mainly motivated by their own selfish interests due to whom Akbar had to face many rebellions. Due to this bitter experience, Akbar obtained the support of Rajputs and formed a separate Rajput rich class against the opposing Muslim rich class. In this way, Akbar tried to control and balance the power of the Muslim rich class by forming the Rajput rich class. Apart from this, Akbar's liberal attitude also proved to be very helpful in adopting tolerant policy towards Rajputs. Akbar was the first Muslim ruler who tried to bring the Rajputs to his side. For this purpose he displayed generous and tolerant behavior towards them.

Akbar not only appointed him to high administrative posts but also gave him high mansab in the army where he showed his devotion to the expansion of the

Mughal Empire. He gave more respect to Mansingh. Raja Bhagwan Das was also given high mansab. Mansingh was one of the greatest generals of Akbar. He (Akbar) appointed many Rajputs as governors and also gave the highest mansab to some of them. Talented Rajputs like Birbal and Todarmal held high positions in his court. Raja Todarmal was made Diwan-e-Ashraf in 1581 AD. Akbar also behaved generously with Rai Surjan Hada of Ranthambore. Under his Rajput policy, Akbar made the kings accept his subordination and returned them to their kingdoms and established tax relations with them. Now the Mughal emperor started receiving revenue and military aid from Rajput tax states without any administrative expenditure.

It is noteworthy that Akbar did not force the Rajputs to establish marital relations. It depended on the will of the Rajput kings. Akbar did not force his Rajput wives to convert to religion after marriage but gave them complete freedom. Akbar adopted a policy of religious liberalism and provided religious freedom to people of all religions. This also brought the Rajputs closer to Akbar.

**Question No. 8- Critically examine Akbar's religious policy i.e. Deen-e-Ilahi.**

**Answer** - Religious policy of Akbar Akbar had established a huge empire, had done many social reforms and his religious policy was also liberal. Lanepool has also written that he was definitely a man of very religious nature and used to find goodness in almost all types of worships.

Akbar also established relations with the teachers of different religions. Akbar was in contact with Hari Vijay Suri, Vijay Sen Suri, Bhanuchandra Upadhyaya etc. of Jain religion. Akbar was in contact with Sikh Guru Amardas, Guru Raptadas and Guru Arjun Dev. Akbar contacted Christian priests and learnt the beautiful things of all religions. Akbar used to think a lot on religious matters. From the very beginning, he was not fanatic about religion but was curious. Due to his religious and curious nature, he established Iwadat Khana in Fatehpur Sikri. Akbar had close relations with Rajputs. He had given place to Rajputs in both his court and army. Due to the establishment of matrimonial relations, he became even more liberal from the religious point of view.

Emperor Akbar's goodwill towards Hindus remained intact. Akbar adopted a policy of generosity towards Hindus. Hindu queens had a special influence on Akbar's religious views. Due to coming in contact with Hindus, he also started following Hindu customs. The emperor banned animal slaughter on Sundays and he himself did not eat meat on every Friday and Sunday. Mr. Smith has written about Akbar's religious tolerance that "He established such a close relationship with all religions that people of different religions and sects started calling him a follower of their own religion or sect, like Parsis, Hindu Jains called him a follower of Jainism and Christians called him a follower of their religion. There was also a political objective behind Akbar's religious policy. He wanted to establish supremacy over the whole of India. His socialist policy could not be completed without the cooperation of Hindus. Therefore, he considered it

necessary that the cooperation of Rajputs is necessary for this. Therefore, he adopted a liberal policy towards Hindus.

Akbar had acquired sufficient knowledge about many religions. He realized that all religions have some or the other virtue and the aim of all is to reach God. Abu'l Fazl writes that Akbar had started believing that all religions have intelligent and independent thinkers. When truth is present in all religions, it is a mistake to think that truth is limited only to Islam. Therefore, Akbar showed his religious tolerance and generosity by following the policy of 'Sulaihkul' in the field of religion. Not only this, he established 'Deen-e-Ilahi' with the aim of removing mutual differences among the followers of different religions and making India a nation.

Din-e-Ilahi (Tauheed-e-Ilahi) Din-e-Dalhi was established by Akbar in 1581 AD. Under this, Akbar tried to make it universally accepted by incorporating the basic principles of all religions. In other words, it was a social-religious fraternal community, which was organized with the idea of bringing different castes as close as possible to each other. It was created on the principle of universal tolerance (Sulhekul) and the emperor himself collected the good things from all religions and kept them in it. This new community believed in the unity of God. Some major principles of Hindu, Jain and Parsi religions were also included in it. The door of membership of Din-e-Ilahi was open for people of all religions. Sunday was the day fixed for the initiation of disciples. On that day, the new visitor would place his head at the feet of the king with a turban in his hand. Then the king would lift him up and place the turban on his head with his own hands and as a Guru, would give him Gurumantra. Akbar would also give him a symbol which the disciple would put on his turban. When its members met each other, one would say 'Allah Hu Akbar' (God is great) and the other would reply 'Jalle Jalal Hu' (May his glory increase). Both these sentences address the greatness and glory of God.

There is a lot of disagreement among scholars about Deen-e-Ilahi. According to Smith and Blackman, "It was a new religion which propounded the principles of Islam." Modern scholars argue that it cannot be called a religion and they say that it was a sect under Islam. Prof. Shri Ram Sharma writes that it cannot be called a religion, because it had no scripture, no priest, no customs and no practical religious beliefs. It was more of an order than a religion. According to Dr. Makhan Lal Rai Chaudhary, "Deen-e-Ilahi or Deen-e-Islam was not a new religion but just an order. It was based on the principles of the Quran imbued with Sufi thoughts." The date of establishment of Deen-e-Ilahi is also confusing. According to Smith, Vartoli and Badayuni, it was established in 1582 AD. According to Mansaret, it was established in 1538 AD, which seems more appropriate.

Members of Din-e-Ilahi Although Akbar started the Din-e-Ilahi religion, he did not force anyone to follow this religion. The result was that the followers of this religion were very few. Only a few members of this religion were among Akbar's

courtiers. Abul Fazal is of the opinion that the main followers of this religion were 18. Birbal was the only Hindu who adopted this religion. The reason for the low number of members was that Muslims considered this religion to be anti-Islam and Hindus considered it to be a modified form of Islam.

Mohsin Fani has mentioned ten rules under Deen-e-Ilahi, which are as follows: (i) Generosity and charity, (ii) Renunciation of worldly desires, (iii) Forgiving the wicked and politely rejecting anger, (iv) Desire for freedom from worldly bondages and earning virtues for the afterlife, (v) Desire for noble deeds, (vi) Passion for one's own deeds, (vii) Brotherly behaviour, (viii) Being sweet-spoken, (ix) Complete detachment from living beings and attachment to God, (x) Love for God and devotion to the oneness of God.

Apart from this, monotheism of Islam was given special importance under Deen-e-Ilahi. The followers of this religion had to take a vow of not eating meat and doing good to all. Probably this was done to please Hindus, Jains and Buddhists. Its followers had to prostrate themselves before the emperor, which was a sign of respect and reverence towards the emperor. Its followers worshipped the sun and fire, which was probably done to attract Parsis and Hindus. Its followers were not allowed to eat with fishermen, butchers and hunters. Its members had to give Shraddha feast after death during their lifetime. Every follower had to give a feast on his anniversary. Sunday was given special importance. It was forbidden to have sexual intercourse with young, barren and pregnant women.

There were four categories of members of Deen-e-Dalhai- the first category included those people who were always ready to give their property for the king. The second category included those people who were ready to sacrifice their property and life for the emperor. The third category included those people who were ready to sacrifice their property, life and prestige for the king. The fourth category included those people who were ready to sacrifice their life, property, prestige and religion.

Regarding the results of Din-e-Ilahi, it can be said that its propagation generated a feeling of religious tolerance among the people, and atrocities committed in the name of religion came to an end. The propagation of this religion gave rise to a feeling of nationalism. Many evils of Hindu and Muslim society came to an end due to the propagation of Din-e-Ilahi. Many principles of Hindu religion were included in Din-e-Ilahi, so Akbar succeeded in establishing Hindu-Muslim unity. Narrow-mindedness among the people came to an end due to the propagation of the principles of this religion. The thoughts of the people became broad. With the propagation of Din-e-Ilahi, debates began on religious principles. Many religious principles were clarified. But despite all these results, Din-e-Ilahi religion declined.

In fact, if seen objectively, Akbar's religious policy was a slave of political circumstances. Dr. Ishwari Prasad has written that Mughal emperor Akbar did

not propagate this religion in the spirit of a religious preacher or with the aim of increasing the number of followers. In reality, it was an indicator and mixture of various religions in a new form. Both historians Smith and Woolsley Hague have condemned Akbar for establishing a new religion. Smith has even said that Din-e-Ilahi is not an indicator of Akbar's intelligence but of his stupidity. But this criticism is not appropriate and fair. Akbar's great political objective in establishing Din-e-Ilahi was that through this he could establish political unity in the Mughal empire by combining Hindu and Muslim religions. Dr. R.P. Tripathi has written in one of his articles that Din-e-Ilahi could not influence Akbar's religious policy. Akbar followed the policy of 'Sulhkul' but his efforts were unsuccessful.

**Question No. 9- Describe Shahjahan's policy of expansion of empire.**

**Answer- Shahjahan (1627-1658 AD)** - Shihabuddin Mohammed Shahjahan was born to Salim's second wife Rani Manmati in Lahore. Emperor Akbar was very happy and delighted at the birth of his grandson. He named his grandson Khurram, meaning joyful. Special attention was paid to his education. His first teacher was Mullah Qasim Beg Tabrizi. Soon Khurram became proficient in Persian language but he remained indifferent towards Turkish language.

Khurram was given the rank of 8,000 zat and 5,000 horsemen in 1607 AD. He married Arjumandavatu Begum in 1612 AD. After Khusro's rebellion, Khurram was considered the heir to the throne. The success he achieved in the campaigns of Mewar, Kangra and the South clearly showed his ability. He was a member of Noorjahan's group and till 1622 AD, he continued to receive respect and position in the state. His mansab was specially increased and his mansab reached thirty thousand zat and twenty thousand horsemen. He ascended the throne on 4 February 1628 AD. Khutba was read in his name and he assumed the highest title of 'Abul Muzaffar Shihabuddin Mohammad Saheb-e-Karnesani'. Shahjahan got all the princes including Dawar Baksh and their supporters brutally killed who had created obstacles in his accession to the throne, but he showed generosity towards Noorjahan.

**Rebellion of Jujhar Singh Bundela (1628-1635)** - Soon after Shahjahan ascended the throne, the Bundelas revolted. During Jahangir's reign, the Bundelas got an opportunity to increase their power. After Veer Singh's death in 1627, his son Jujhar Singh became the owner of his property. He left Agra without Shahjahan's permission and went to his kingdom Orchha and started gathering his army. Shahjahan was very angry with this act of Jujhar Singh.

The emperor immediately made preparations to suppress him. Probably, Shahjahan had his eyes on the wealth collected by Jujhar Singh. In 1628, Jujhar Singh was attacked. This was the first military attack during Shahjahan's time. Shahjahan did not want to lose this war under any circumstances. For this reason, Mahabat Khan was ordered to attack from Gwalior, Khanjahan from Malwa, Abdullah Khan Firozjung from Kalpi and Syed Muzaffar Jung from Bundelkhand. Jujhar Singh soon realized his weak position and surrendered in the beginning of

1629. Jujhar Singh received an appointment from Shahjahan for the war in South India and played an important role in the wars in the South for five years. In 1634 AD, he came to his capital Orchha. In 1635, he attacked Godwana, conquered its capital Chauragarh and killed Raja Prem Narayan. Prem Narayan's son complained to Shahjahan against Jujhar Singh. The emperor ordered Jujhar Singh to hand over the captured fort to the royal officials and deposit ten lakh rupees from the looted goods in the royal treasury. He refused to obey this order of the emperor, due to which war became inevitable. The emperor immediately sent a huge army under the command of Aurangzeb against Jujhar Singh. On receiving the news of the arrival of the royal army, Jujhar Singh became so frightened that he left the fort with his wife and children and ran away. The royal army captured his fort. The royal army chased Jujhar Singh but he kept running here and there for many days. At last he took refuge in the forests of Gond but the Gonds caught him and killed him. Thus the most wealthy and prosperous Rajput kingdom of Bundelkhand came to an end.

**Rebellion of Khan Jahan Lodi (1628-31)-** Pir Khan alias Khan Jahan Lodi was a capable and respected Afghan chieftain. In the last days of Jahangir, he was on the important post of governor of the south. At the time of Shah Jahan's rebellion, he remained indifferent and did not help Shah Jahan when he asked for help. On the same occasion, he tried to make peace between the states of the south and handed over Balaghat to Ahmednagar after taking three lakh rupees. Probably, in accordance with his Afghan nature, he became interested in establishing his independent existence in the south by taking advantage of the chaotic situation at the time of Jahangir's death. Shah Jahan had given the post of 'Khan Khanash' to Mahavat Khan. He was also dissatisfied with this because this post was given to him during Jahangir's time. When Shah Jahan was declared the emperor in Agra, he accepted Shah Jahan as the emperor. Shah Jahan ordered him to regain Balaghat but he failed to conquer Balaghat. Shah Jahan gave the governorship of the south to Mahavat Khan and Malwa to Khan Jahan. Thus, the situation was becoming such that Khan Jahan's relations with Shah Jahan were not good.

After the Bundela rebellion was pacified (1629), Khan Jahan was ordered to appear in court. Despite Shah Jahan's assurance, he feared for his life and in October 1629, he fled to the south without the permission of Emperor Shah Jahan. Khan Jahan reached Ahmednagar. Murtaza Nizam Shah welcomed him, gave him the estate of Shvirash and entrusted him with the responsibility of taking back the land of Ahmednagar which had come under the control of the Mughals. The problem of the south became difficult after Khan Jahan reached the south. Ahmednagar won some lands from the Mughals. The situation in the south became such that Shah Jahan himself had to go to the south in 1629. First of all, Shah Jahan made a plan to suppress Khan Jahan and attacked him from three sides. Khan Jahan had to flee from place to place. He fled to Daulatabad and tried to get help from Bijapur. But he could not succeed. Due to the pressure of the



Mughals, Nizam Shah also became neutral and Khan Jahan had no option but to leave the south and escape. He was no more. He was hoping to get help from Afghans in the north-west. Khan Jahan crossed the Narwada river and tried to go northwards through Malwa. On the way, Vikramjit, son of Jujhar Singh, attacked him and killed most of Khan Jahan's companions. But Khan Jahan escaped. Now Muzaffar Khan Syed chased him. The fort commander of Kanlijar snatched his elephants and finally Khan Jahan fought his last battle at a place called Singhoda in Banda district and was killed by Madho Singh. Thus, Khan Jahan's rebellion ended in 1631.

**Expansion of Empire - (South India)** Attempts were made to conquer the South even during the times of Akbar and Jahangir. It was a part of the imperialist policy of the Mughals.

**Objectives of Shahjahan's Southern Policy** The following were the objectives of Shahjahan's Southern Policy- (i) Shahjahan was a person of imperialist ideology. He planned to conquer the South with the aim of expanding his empire. (ii) Shahjahan was a staunch Sunni. Hence, he was hostile towards the Shia states of the South and wanted to eliminate them. (iii) The rebels of the Mughal Empire used to take refuge in the South. Shahjahan himself had taken refuge in the South when he rebelled against his father. During Shahjahan's reign, Jujhar Singh and Khanjahan Lodi had also taken refuge. Hence, Shahjahan wanted to eliminate the Southern states. (iv) From 1630 AD to 1632 AD, there was a terrible famine in South India and Gujarat. Countless people died of hunger. The economic condition there became extremely unsatisfactory. Hence, the Southern states stopped paying taxes to the Mughal Empire. As a result, Shahjahan planned to conquer the South. (v) There was mutual conflict among the Southern states. Shahjahan took special advantage of this mutual animosity. He knew very well that the three states of the south, Ahmednagar, Bijapur and Golkunda would not face him and he would destroy these states easily. (vi) The states of the south encouraged the Marathas by giving them money. The Marathas were the enemies of the Mughal Empire. It was completely intolerable for Shahjahan to provide any help to the enemies.

In 1621 AD, Shah Jahan appointed capable persons like Abul Hasan and Azam Khan to run the royal army. Prime Minister Asaf Khan was also appointed in the south. The emperor himself went to Burhanpur and set up his camp.

**Attack on Ahmednagar-** The Mughal army first attacked Ahmednagar. The rebel Khane Jahan had fled to Ahmednagar in fear and had formed an alliance with the ruler there. Therefore, the first duty of the Mughal army was to arrest Khane Jahan. But Khane Jahan fled from there to Punjab. Still the war with the armies of Ahmednagar continued. These days the situation of Ahmednagar was more unsatisfactory. The ruler there, Murtaza Khan, was an incompetent and weak person. There was a lot of factionalism in his kingdom. Since Murtaza Khan had killed a Maratha chieftain named Jadorai who was a very influential Jagirdar, the

Marathas turned against him and influential Marathas like Jagdev, Shahji, Bhola, Maloji joined the Mughals. Many Muslim officers of Murtaza Khan also left Ahmednagar displeased and took up jobs in the Mughal army. Unfortunately, during these days, famine struck the south, due to which there was a shortage of food and fodder. Abal defeated the army of Ahmednagar and looted a lot of wealth. Azam Khan also won Dharwar and pushed back the army of Ahmednagar. He was trying to lay siege to Daulatabad, so Azam Khan attacked the fort of Parenda, but was unsuccessful and returned to his camp.

Mughal forces were continuously advancing and achieving success. At the same time, a big revolution took place in Ahmedabad. To get the help of the Abyssinians, Malik Ambar's son Fateh Khan was released from prison and made the Prime Minister. But the results were not good. Muqarrab Khan, who was a staunch opponent of the Mughals, now joined the Mughals. The Mughals welcomed him heartily. He was given the title of Rustam Khan. Fateh Khan's loyalty also remained doubtful. He also joined the Mughals. He poisoned Murtaza Khan and killed him and made his ten-year-old son sit on the throne and himself became his guardian. Shah Jahan was not satisfied with this. So Fateh Khan sent him a lot of money and elephants as gifts and got the Khutba read in his name and got coins issued in his name. This satisfied Shah Jahan completely. His heart was not in the war in the South because his beloved wife Mumtaz Mahal had died on 17 January 1631. For this reason, Shah Jahan himself went to North India (1632) after handing over the responsibility of the South to his officers.

This agreement between Shahjahan and Fateh Khan could not last long. Fateh Khan's nature was completely different from his father Malik Ambar. He was very devious and untrustworthy. Since Shahjahan had won over the Marathas who were Fateh Khan's enemies, he was unhappy with Shahjahan. Now he had to go to Shahjahan to take revenge on him. He left the Sultanate of Bijapur and joined hands with the Sultan of Bijapur. At this time Mahavat Khan was the governor of the south. This betrayal of Fateh Khan made Mahavat Khan very angry and on 1 March 1633, he attacked Ahmednagar. Mahavat Khan captured the forts of Amberkot, Mahakot, Daulatabad etc. Helplessly, Fateh Khan surrendered. In September 1633, Mahavat Khan sent Fateh Khan and the last Sultan of Ahmednagar, Husain Shah, to Agra. Shah Jahan imprisoned Husain Shah and sent him to the fort of Gwalior and Ahmednagar was annexed to the Mughal Empire.

**Conflict with Bijapur** - For the next few years, Shahjahan's attention was occupied with the famine in the south and the death of Mumtaz Mahal and other incidents. In the meantime, discontent flared up again in the south. A group of chieftains of Bijapur state and Ahmednagar started harassing the governor of the south, Mahavat Khan. There began a rivalry between the Mughals and Bijapur state for the division of Ahmednagar state. Shahji Bhosale left the service of the Mughals and took up employment in the Bijapur state. This strengthened the position of the Bijapur state. Bijapur captured Pereda (Perenda) and attacked

Daulatabad in 1633 AD. A large army under Radaul Khan and Murari Pandit was sent to encircle Daulatabad. Shahji was also helping them. Shahji and the Bijapuri army tempted Fateh Khan (who was in the Mughal army). So he left the Mughals and made a treaty with Shahji. Enraged, Mahawat Khan laid siege to Daulatabad. Fateh Khan again apologized to the Mughals and surrendered and handed over the fort to the Mughals. Fateh Khan was given money and a job. Nizam Shah was imprisoned and sent to Gwalior. Thus, due to Fateh Khan's betrayal, the Ahmednagar kingdom and the Nizamshahi dynasty came to an end in 1633 AD.

Shahji tried to revive Nizamshahi. Even after the end of Ahmednagar, the problems of the Mughals did not end. The Nizamshahi and Adilshahi soldiers and chieftains did not lose courage. They made tireless efforts to protect their independence from the Mughals. The most active among them was Shahji Bhonsle. Like Malik Ambar, Shahji found a prince of the Nizamshahi dynasty and declared him the Sultan of Ahmednagar and called upon all the soldiers and chieftains to help him. The Sultan of Bijapur provided military assistance to Shahji for this task. Shahji now started troubling the Mughals. He occupied many parts of Ahmednagar. Therefore, Shahjahan himself had to come to the south in 1635 AD. Shahjahan intimidated or tempted many of Shahji's supporters and won them over to his side and took control of many areas under Shahji's control. Mughal rule was reestablished over Ahmednagar. Shahji kept wandering here and there for his safety.

Shahjahan decided that without establishing control over Bijapur, it would not be possible to establish complete peace in the south. After establishing control over Ahmednagar, the Mughal army was ordered to attack Bijapur. Along with this, an envoy was sent to Bijapur and Adil Shah was lured to re-implement the old treaty and the Mughals and the Sultan of Bijapur should divide the Ahmednagar empire among themselves. The Sultan of Bijapur was terrified by the massacre and destruction caused by the Mughal soldiers in the meantime. The anti-Mughal chieftains were deposed and Adil Shah signed a new treaty with Shahjahan. According to this, Bijapur accepted Mughal ownership and agreed to pay 20 lakh rupees as damages. It was also decided that the Sultan would help the Mughals in suppressing Shahji and if Shahji remained in the service of Bijapur, he would be kept in the south, away from the Mughal border. Adil Shah also promised not to interfere in the matter of Golkunda. This is where the matter ended. No, the Sultan also agreed that in future all disputes arising between Bijapur and Golconda would be resolved through the mediation of Shahjahan. In return, Shahjahan gave Bijapur a part of Ahmednagar principality whose annual income was 20 lakh Huns.

**Golconda-** Shahjahan was now attracted towards Golconda. It was more difficult to fix terms with Golconda because the Sultan there was more polite than Ahmednagar and Chizapur. Shahjahan made a treaty with Sultan Qutub Shah of Golconda along with Bijapur. He gave a grand welcome to the royal ambassador

in his court and accepted Shahjahan's sovereignty. He got the Khutba read in Shahjahan's name and issued coins. He assured to remain loyal to Shahjahan. In return for all this, Golconda was freed from the tax of four lakh annual loan which it used to pay to Bijapur. In return for getting protection from the Mughals, the Sultan of Golconda agreed to give two lakh annual loan to the royal treasury. As a result of these two treaties in 1636 AD, Shahjahan effectively established Mughal ownership over the states of the South.

**Question No. 10- Discuss the rise of Marathas and the achievements and works of Shivaji?**

**Answer-** The power of the later Mughal emperors had become very weak and limited and in the eighteenth century the Marathas became the first power of India. According to G.S. Sardesai, the word 'Maratha' seems to have originated from the word Rathas. Their power arose in Maharashtra. The part of South-West India which is spread from the Arabian Sea in the west to Satpura in the north and which includes the state of modern Bombay, Konkan, Khandesh, Berar, some part of Central India and almost 1/2 part of Hyderabad state, was called Marathwada. This part of India is called Maharashtra, the main language of the residents there is Marathi. It was here that the Maratha power arose. This was the power on the basis of which the Maratha leaders dreamt of creating a 'Hindu-Padshahi' in India and by taking the empire of Delhi in their hands, tried to bring the various powers of India under the control of one power and this was the power on the basis of which the Marathas could endure even the biggest crisis. Swami Ramdas, the main leader of this movement, propagated the feeling of respect and devotion towards Hinduism and Brahmins in Maharashtra. Modern historians believe that it was Swami Ramdas who inspired Shivaji to establish a Hindu kingdom.

**Reasons for the rise or rise of Maratha power-** It is true that Shivaji deserves most of the credit for the rise and development of Maratha power in India, but it is equally true that when Shivaji appeared on the stage of Indian history, the stage for his arrival was already set. The main reasons for the rise of Maratha power are as follows-

**Geographic location of Maharashtra-** Maharashtra state was an inaccessible region surrounded by Vindhya and Satpura mountain ranges. It is safe because it is surrounded by hills and rivers and even after continuous efforts throughout the year, no enemy can easily conquer it. This state is unique from a military point of view.

**Role of opposition among Muslims-** Muslims were fanatics and they were determined to destroy Hinduism by opposing it. In northern India, they dominated over Hindus and Hindus, due to their weakness, tolerated everything. But the situation in the south was different. The residents here faced this initial campaign and atrocities. Religious sects like Kapalika, Jain etc. stood firm against Islam. The anti-Hindu policy and atrocities of the Muslims awakened the feeling

of revenge in the Marathas and they got organized in the south and started establishing 'Swarajya' under the leadership of Shivaji.

**Influence of Hindus in Muslim states of the South-** There were many small dynasties in the South. Mughal emperors kept trying to establish their authority over them but they got only partial success. As soon as the Delhi Sultanate weakened, the dominance of Hindus started increasing in these states. Apart from this, Hindus kept getting jobs in the Muslim states of the South, so the Hindu power could not decline in the South. Hindus had high positions in the army of the Sultans of the South, due to which they did not face any difficulty in organizing themselves from a military point of view. This situation paved the way for the rise of Maratha power.

**Local institutions-** The age-old village institutions of Maharashtra also helped in the upliftment of the Marathas. In Maharashtra, every village had panchayats which used to decide small matters of the villages.

**Political condition of the South -** While the Marathas had the support of nature, they also got a lot of help from the politics of the South. Ahmednagar, Bijapur and Golkunda were important powers of the South at that time. Due to the continuous attacks of the Mughals and the policy of Aurangzeb, these three had become weak. The clever Maratha community took full advantage of this chaos and situation.

**Aurangzeb's policy towards Hindu-Muslim kingdoms of South -** The policy of the Mughal rulers of Delhi, especially Aurangzeb, was not only anti-Hindu but also against the Muslim kingdoms of South. Aurangzeb was trying to trample these kingdoms. After destroying the power of Ahmednagar, he proceeded to conquer Bijapur and Golkunda. As a result, the condition of these kingdoms became weak and reached the verge of collapse. The Marathas took advantage of this situation and strengthened their position.

**Religious Movement-** The saints and sages of Maharashtra also played an important role in the upliftment of the Marathas. As soon as the Muslims entered the south, there was a stir in Maharashtra and the saints took the responsibility of public awakening. They prepared a spiritual background for the upliftment of Maharashtra. At the same time, the Manbhaav movement started under the leadership of Akbar, which brought about a revolution in the field of religion, society and politics. Independent thoughts were encouraged from the platform of Manbhaav.

Through this movement, superstition, casteism, high-low feeling and untouchability were openly opposed. All classes like barber, tailor, potter, gardener etc. were involved in this movement. Women were also included in it for religious preaching. The tradition of social reform through religious movements continued in the fifteenth and sixteenth centuries.

**Social and economic equality-** In the 16th century, there was not much casteism and discrimination in Maratha society as it became later. Women also

used to participate in social life then. This type of social feeling tied the Marathas in the thread of unity and there was no feeling of discrimination like it is found in other parts of India. There was no economic inequality or discrimination among the Marathas. Not many people were rich. In the absence of an exploitative class, the Marathas enjoyed economic equality.

**Characteristic features of the Marathas** - The lack of rain in Maharashtra and the difficulties of living made the Marathas hardworking and self-confident; otherwise they would have had to face many difficulties. No Maratha is arrogant and when he fights, he thinks deeply about its outcome. He does not think much before using any means to achieve his goal. The Maratha soldier is a fierce enemy who fights with patience, cleverness and war skills and when the time comes, he displays courage and cleverness.

**Literature and Language-** Marathi language and literature also played an important role in binding the people of Maharashtra together. Devotional songs and sayings of saints became popular in every Marathi speaking household. Shridhar's book started being read in every household. Godhaji singer travelled from village to village in entire Maharashtra and mesmerized the people by reciting heroic tales. All these brought people closer to each other. All the Marathas were bound in the thread of unity under the influence of this language and the feeling of their uniqueness got firmly rooted in them.

**Administrative and military experience:** Even before the advent of Shivaji, the Marathas had received education in administrative and military science. Beniprasad is of the opinion that the main importance of the Mughal campaign in the south is that the invasion provided the Marathas with a perfect opportunity to acquire military training and to establish political influence.

The Marathas received administrative and war training from the Muslim kingdoms of the south. The Marathas served in the tax department of these kingdoms and some were ministers of the Muslim rulers. Mudar Rao, Madan Pandit and many members of the Raj-Rai family were occasionally the Diwan and Minister of the Golconda kingdom.

By the sixteenth century, the Marathas had developed feelings of establishing a state and attaining independence. At the same time, Shivaji, a disciple of Guru Ramdas and belonging to the Bhosla dynasty, led the Marathas. Shivaji was brave and courageous. He had a great personality and his personality had a special impact on the Marathas and he organized them under his umbrella. Due to the above-mentioned reasons, the Marathas became independent there was progress.

**Shivaji (1627-1680 AD)-** Political and Military Achievements Shivaji was born on 20 April 1627 in the hill fort of Shivner near Junnar city, located north of Pune. Some people say that he was born on 9 March 1630 AD. It is believed that his father Shahaji Bhosale belonged to the Sisodia dynasty of Chittor and mother Jijabai belonged to the Yadav (or Jadhav) dynasty of Devagiri. Thus, the blood of

two dynasties was flowing in Shivaji's veins. Shahaji Bhosale earlier held a high position in the royal court of Ahmednagar, but when Ahmednagar was conquered by the Mughals, he took up a job in the Bijapur state. He was often absent from his estate, so the burden of Shivaji's education fell on his mother Jijabai. Shahaji Bhosle handed over the responsibility of his Pune estate to a Brahmin named Dada Konddev and put Shivaji's mother Jijabai under the care of Dada. Shahaji Bhosle himself lived in his new estate with his second wife Tukabai. Thus, the responsibility of Shivaji's education fell on Dada Konddev and Jijabai.

Like some great Indian rulers, Shivaji was illiterate. His mother had instilled in him the values of bravery, hard work etc. by narrating to him religious books like Ramayana, Mahabharata, Geeta etc. Grandfather Konddev had taught him horse riding, weaponry, hunting and administration. Shivaji became proficient in all the subjects. Apart from this, Swami Ramdas and Tukaram also taught Shivaji political science. Shivaji travelled to his hilly regions and saw the degraded condition of Maharashtra with his own eyes. He resolved to liberate Maharashtra. There is a difference of opinion among scholars about Shivaji's aim and objective. Some scholars are of the opinion that Shivaji wanted to liberate Maharashtra. Some scholars are of the opinion that he wanted to help the neighbouring states. Some scholars believe that Shivaji's aim was to establish a Hindu kingdom in the whole of India. To fulfil this aim, he went to Dilli Darbar so that he could gain knowledge about it. All scholars come to the conclusion that Shivaji wanted to establish a Hindu kingdom in India.

**Shivaji's rise and victory** - Shivaji was against the Mughals and the Sultan of Bijapur, so he captured the fort of Sinhagad in 1644 AD and strengthened his position by building the fort of Ramgarh. After this, Shivaji captured the hill fort named Toran in Bijapur in 1646 AD. He found a treasure of 2 lakh hun in this fort. He made good use of this money and increased his army. In 1648 AD, Shivaji snatched the 'invincible', 'Purandar' fort from Neeloji Neelkanth through a conspiracy. In 1656 AD, he conquered Javli and built a fort named Raigad. Javli state was under the rule of Maratha chieftain Chandrarao More and was located at the last corner of the north-western border of Satara district. Chandrarao had conspired against Shivaji with the Bijapuri governor of that region and stopped Shivaji's expansion in the south and south-west. Therefore, Shivaji hatched a conspiracy to get rid of him and capture Javli. He got Chandrarao killed by Ghataks and after his murder; he attacked Javli on 25 January, 1656 AD and established his control over the fort. The capture of Javli boosted Shivaji's courage for other victories. The victory of Javli was a notable event in Shivaji's life, because after this victory, the doors opened for the expansion of his kingdom in the south-west. Secondly, this victory increased his military strength a lot, because several thousand infantry Mavli soldiers of the army joined his army. With the victory of Javli, Shivaji became the master of the Maval region.

**Konkan Vijay** - When Aurangzeb was not able to pay special attention to Konkan due to the civil war in northern India, Shivaji took advantage of this opportunity and attacked the Siddis of Janjira in August 1657 AD but he did not succeed. Finally, he attacked Konkan and captured Katyad and Bhiwandi areas of northern Konkan. After this, he captured South Konkan and established his regular rule there.

**Killing of Afzal Khan of Bijapur** - The Sultan of Bijapur was very afraid of Shivaji's growing power. At this time, Sultan Muhammad Adil Shah of Bijapur was a minor. All the work of the state was in the hands of Queen Mother Badi Sahiba and the new Prime Minister Khwasakha. These people were worried about Shivaji's activities. Therefore, to deal with Shivaji, in September 1659, a capable Pathan commander Abdul Bhatari, who was decorated with the title of Afzal Khan, was sent against Shivaji. He became worried and afraid. He tried to lure Shivaji's Mavali Deshmukhs, officers, and army. Some Deshmukhs also joined him. Afzal left Bijapur in September 1659 and came to Pandharpur and destroyed the idol of the Bithova temple. From there he left for Ward. There he collected a deposit of two lakhs from Balaji Nayak Nimbalkar for supporting Shivaji. He had decided to attack Shivaji by entering Maval country, but Shivaji had set up his camp in the forest district of Javli, so Afzal Khan gave up the policy of attacking Shivaji directly and tried to trap him and went to Pratapgarh and camped there. He sent Krishnaji Bhaskar and requested Shivaji to come. He promised that he would give him the Konkan region and fort occupied by Shivaji.

Shivaji got the hint of Afzal Khan's deceitful intentions from Krishnaji Bhaskar. He accepted the proposal to meet with conditions. Shivaji went to meet Afzal with full preparations. He hid his powerful military squad at the designated place. Shivaji wore armour under his clothes and wore an iron cap under his turban. Apart from this, he also had a meeting in case of emergency. Shivaji reached the pandal and saluted Afzal Khan. When Afzal embraced Shivaji and tried to strangle him, Shivaji immediately regained his balance and tore apart Afzal's stomach with his tiger claws and then stabbed him in the armpit. Syed Kada faced Shivaji and with his sword he cut off Shivaji's turban with a single stroke. Then Jeev Mahala, Shivaji's aide, cut off Syed's right hand with a sword stroke and killed him. Shambhuji Kavji, another companion of Shivaji, beheaded Afzal and presented his head to Shivaji with victory, who buried it on the top of the hill.

**Shivaji's conflict with the Mughals**- Aurangzeb appointed his maternal uncle Shaista Khan as the governor of the South.

Shaista Khan, having got Bijapur on his side, started continuously attacking Shivaji. He captured many Maratha forts and almost destroyed Maharashtra. On 19 May 1660, he reached Pune and made Shivaji's Lal Mahal his residence. Shivaji was very worried due to the loss of his forts. He did not have enough power to face the combined power of Bijapur and the Mughals. Therefore, according to



another plan, on 15 April 1663, during the days of Ramzan, he disguised himself and attacked the palace with 200 soldiers. Shivaji got more success in this attack, but Shaista Khan escaped by cutting his thumb. The Mughal soldiers could not chase the Marathas and they fled. This increased Shivaji's prestige a lot and Shaista Khan was insulted a lot. Aurangzeb got angry and sent him to Bengal to punish him.

**First plunder of Surat (1664 AD)-** After this act of fearless courage, Shivaji decided to attack Surat, the most prosperous port, and loot it. The Mughal governor there wanted to make a treaty with Shivaji, but Shivaji was not ready and he looted Surat city a lot. In this attack, the Marathas got property worth about ten crore rupees.

**Struggle between Jai Singh and Shivaji and Treaty of Purandar (1665 A.D.)-** Aurangzeb defeated Shaista Khan and being very saddened by the looting of Surat, Raja Jai Singh was appointed to crush Shivaji. Jai Singh first made all the powers of the south his friends and then planned to conquer the double fort (fort) of Purandar situated in the south-west of Saswad. First he conquered Bajragad, the gate of Purandar victory. After this, he laid siege to Purandar. During this time, he also looted Maratha cities. The Mughals had to face special losses and difficulties in the siege of Purandar. After two months of siege and fighting, Jai Singh captured five towers and a bastion of the fort. Now it became clear that even the main fort of Purandar would not be saved. The Rajput commander deployed his entire army on the main road. Here the brave commander of the Maratha attack Murar Baji Prabhu attained martyrdom. Shivaji was very saddened by his death and finally he

The treaty of Purandar was signed with Raja Jai Singh on 15 June 1665. According to this treaty- (i) Independent Maratha chief Shivaji handed over his 23 forts, Kodana, Lohgarh, Tikona, Purandar etc. to the Mughals. The adjoining regions were also given to the Mughals whose annual income was 4 lakh hun.

(ii) Along with Raigad, Shivaji's 12 forts and the adjoining land whose annual income was 1 lakh Hun remained in Shivaji's control.

(iii) According to this treaty, there was a condition that Shivaji himself would not be present in the Mughal court but his son Shambhu Ji would remain in the Mughal court as Panch Hazari Mansabdar.

(iv) According to this treaty, it was also decided that if Shivaji gets the part of upper and lower Konkan, then he will give 40 lakh rupees to the emperor in 13 installments. Shivaji was defeated here in front of Jai Singh's Chatrai. Shivaji had to give more land to the Mughals. In this way, the treaty of Purandar was completely nullified it was a diplomatic move by Jai Singh.

**Shivaji's visit to Agra-** Jai Singh wanted to meet Shivaji and Aurangzeb once. Shivaji he also wanted to go to Agra once to study Mughal politics. Hence, in 1666, Jai Singh convinced Shivaji to go to the Mughal court by giving him full assurance. Shivaji went to Agra with his son Shambha Ji in May, 1666. Seeing Aurangzeb's

behavior in the Mughal court and his place among the third class Mansabdars, he became angry and moved away. Aurangzeb imprisoned him. But Shivaji escaped from the prison by sitting in a sweets basket. Aurangzeb kept trying to catch him but could not succeed. Now Jaswant Singh was appointed the governor of the South in place of Jai Singh and with his help Shivaji got the title of king.

Shivaji's conflict with the Mughals again- After returning from Agra, Shivaji kept organizing his rule for three years. Meanwhile, the emperor was busy suppressing other powers of the south. In 1669, Aurangzeb again ordered the governor of the south to destroy Shivaji. Shivaji started regaining his lost forts and established his authority over Kalyan, Bhiwandi, Purandar, Sinhagad. Shivaji was in dire need of money for the administration, so in 1670, he looted Surat for the second time and obtained innumerable wealth from there. Now Shivaji had also conquered the sea coast and his kingdom had become more extensive. Now he collected Chauth and Sardeshmukhi taxes from Mughal areas. He collected taxes from Bijapur and Golkunda. In 1674, large ceremonies and Hindu festivals were organized in the fort of Raigad. Shivaji was crowned according to the scriptures. On this occasion, many high ranking officials were present. When Shivaji was accepted as the king, there was a new excitement among the Hindus.

**Attack on Mughal Army** - Shivaji's treasury had become empty due to excessive money spent on coronation.

Hence, he looted Bijapur, Golkunda and some other provinces of the Mughals but on not getting much wealth, he attacked the Mughal army under Bahadur Khan in the south and looted one lakh rupees and two hundred horses.

War with the Siddis of Janjira Janjira is a hill station located 5 miles south of Bombay. In 1669 AD, Shivaji attacked Janjira but could not achieve success.

**Karnataka Vijay** – Shivaji was in dire need of money. He took advantage of the weakness of the southern states and with the help of the Sultan of Golconda, he attacked Karnataka, a state under Bijapur. At the same time, Shivaji also started fighting with his Vyakochi. In the end, a treaty was signed between the two brothers.

Shivaji's last days were not spent happily. His son Sambhaji joined the Mughals. The Mughals started a war against Shivaji. Shivaji did not have much strength left now. He fell ill with fever on 23 March 1680 and died a few days later on 4 April 1680.

**Question No. 11- Discuss the architecture and painting of the Mughal period.**

**Answer-** As a result of the confluence of Hindu Muslim art in the field of building construction art, many huge and grand buildings were constructed. This art continued to develop in the Mughal period. The effect of Hindu-Muslim mixed art became more evident in the buildings of the Mughal period. Aurangzeb was indifferent towards arts due to his religious fanaticism, otherwise all the Mughal emperors were fond of architecture. From Swaraj to Akbar, the Indian style was

influenced by Iran and as a result a new national style was born. Even after the mixture of Iranian and Indian art, the Indian influence remained dominant. Havell is of the opinion that Mughal Kalash presents a mixture of foreign and native styles. Initially, red stone was used in it and emphasis was laid on making the buildings huge and strong, but later the use of white marble was included in the buildings and an attempt was made to make them extremely beautiful by carving, use of gold-silver and colorful creepers, etc. All this together made Mughal architecture excellent and grand buildings were constructed at that time.

The first Mughal emperor Babur was fond of building construction. Babur was most impressed by the buildings of Gwalior built by Raja Mansingh and Raja Vikramjit. However, being a connoisseur of art, he could understand their flaws as well. Babur's love for art is known from his autobiography 'Stujuk-e-Babarish', where he writes that "I employed 1491 sculptors in building construction at places like Agra, Sikri, Bayana, Dholpur, Gwalior and Kaul". It appears from his statement that instead of constructing public buildings at these places, he constructed wells, bathhouses, ponds and fountains which got destroyed due to lack of strength. Three mosques of his time are found. One mosque built by him is in Kabuli Bagh in Panipat and the other is in Sambhal of Rohilkhand. Both these mosques were constructed in 1529. The third mosque of his time is in Ayodhya. But none of these three can be accepted as the best example of art. Humayun, like Babur, was also an art lover but unfortunately his entire life was spent in hardships. Still, in the time that Humayun got, he got some buildings constructed. In Delhi, he got a building named 'Din Panah' constructed. It was constructed in a hurry due to which it lacked artistic beauty and strength. Apart from this, he got two mosques constructed in Agra and Fatehabad (Hisar).

Akbar's reign was a period of amalgamation and coordination in every field. He aspired to realize the dream of a mixed culture in India. For this, he gave birth to new experiments in every field of culture. That is why the elements of Iranian and Indian architecture are clearly visible in the buildings constructed by him. Akbar established a beautiful harmony between the indigenous and foreign styles. He tried to incorporate his generosity and tolerance in the buildings through architecture. Akbar's contemporary historian Abul Fazal writes that "The king plans beautiful buildings and gives the thoughts of his mind and heart the form of stone and mortar."

Akbar used mostly red stones in his buildings. The reason for this was that red stones were found in abundance. Apart from this, he also used marble in some buildings. 'Humayun's Tomb' was built in Delhi between 1564 and 1570 AD by Haji Begum, one of Humayun's queens, during Akbar's rule. This building was built on the four-bagh system. Hence, it can be considered the first beautiful work of the Mughal style. It is considered to be the Indian interpretation of the Iranian concept. A strong, shapely and beautiful dome was built to decorate the upper part of Humayun's tomb. During Akbar's time, the forts of Agra, Lahore and

Allahabad were built; the Agra Fort is the first example of the Akbari style. Its construction work was done under the supervision of Qasim Khan, the chief artisan of Akbar's court. Its construction work started in 1565 AD and was completed in about fifteen years. This fort is located on the right bank of the Yamuna river in an area of about one and a half miles. Inside the fort, Akbar had built more than five hundred buildings with red stones. Jahangiri Mahal is located in this fort, which was built by Akbar for the residence of his son and successor Shahzada Salim. It is also built with red stones. The style of this palace is mostly inclined towards Hindu architecture. Akbari Mahal was built near Jahangiri Mahal inside Agra Fort but now it is in ruins. Lahore Fort was also built by Akbar at the time of construction of Agra Fort. The plan of Lahore Fort is higher than that of Agra Fort. Red stones have also been used in its construction. Many palaces were also built in Lahore Fort. Beautiful craftsmanship was done in them. Akbar built Allahabad Fort in 1583 AD which is situated at the confluence of two rivers Ganga and Yamuna. A large part of it has been destroyed and only a few buildings remain. Among the remaining buildings inside the fort, a beautiful pavilion called 'Janana Mahal' is still safe. Akbar established forts in Ajmer (1570 AD) and Attock (1581) to protect the borders of his empire. Attock Fort is in ruins.

**Fatehpur Sikri-** This village was situated at some distance from Agra. The famous Sufi Sheikh Salim Chishti used to live here and Akbar used to visit Sikri often to see him. Sheikh Salim was pleased with Akbar and blessed him with a child, as a result of which Akbar's son was born who was named Shahzada Salim after Sheikh Salim Chishti. Sikri proved to be a fortunate place for Akbar and his attachment towards it also increased. He decided to give this village (Sikri) the form of a city. Akbar made this city his capital. As per his orders, palaces, mosques, khanqahs (monasteries), bathhouses and other buildings were constructed in this new city. The buildings here include Diwan-e-Aam, Diwan-e-Khas, Panch Mahal, Turkish Sultana's Palace, Khas-Pahal, Jodhabai Palace, Maryam Palace, Birbal Palace, Hiran-Mahal, Jami Masjid, Hathi-Pol, Buland Darwaza and the tomb of Sheikh Salim Chishti. Apart from these, there are hundreds of other buildings. All of them are beautiful and probably, it is not possible to find so many beautiful buildings at one place anywhere else. All the pillars in the five-storey Panch Mahal are of various forms. The decoration of each pillar is different from each other, and often vases, Ghashtis, various flowers and leaves have been made in them. The palace of the Turkish Sultana is so beautiful that Percy Brown has called it a pearl of architecture. Jodha Bai's palace indicates that the members of the Mughal family liked some kind of arrangement for living. Akbar's wife Maryam's palace has the influence of Persian art. Its pillars and walls were decorated with animals like monkeys, elephants, leopards etc. and human figures in stones of different colors. Jami Masjid holds a great place among the mosques built in India. It is written on this mosque that it is a replica (Kanchasapbanjam) of the holy place (Mecca). The Buland Darwaza, which is 175

feet high from the ground and 134 feet high from the first platform, can itself be considered a huge and beautiful building. Beautiful arches have been built on it and there is a plan to put urns on them to decorate them. The pillars made of shells on the tomb of Sheikh Salim Chishti are of great beauty. Brackets have also been used skillfully in this.

After Akbar, his son Jahangir ascended the throne. It was a difficult task for him to implement Akbar's building construction plan at the same pace. Hence, Jahangir did not pay much attention to architecture. Apart from this, Jahangir was more interested in painting and gardens than architecture. But still, the buildings constructed by Jahangir reflect the excellent form of architecture of Akbar's era. The first building built during Jahangir's time is Akbar's tomb in Sikandara near Agra. Its plan was made by Akbar, but Jahangir made some changes in it and completed it. Akbar named it Wahistabad. This tomb has five floors. Akbar's tomb is made of marble. 99 names of God are engraved in Arabic around the tomb. Apart from this, an attempt has been made to decorate this tomb with beautiful lattices.

Its roofs are also strong and have beautiful inlay work. The second building of Jahangir's time is his own tomb built in Lahore. But it is not impressive. The important building built during Jahangir's time is the tomb of Etmaduddaula in Agra. It was built by Noor Jahan on the orders of her father Etmaduddaula. The main part of the tomb is made entirely of white marble and it is the first Mughal building built in this style. Maximum inlay work has been done in it and other precious stones have been used in addition to marble. Beautiful arches have been constructed in it. Other buildings of Jahangir's period include Moti Masjid located in Lahore and Anarkali's tomb which was built by Jahangir.

Mughal architecture reached its pinnacle during Shahjahan's time. The use of white marble and other precious stones, maximum inlay work, use of bright colours, etc. became the characteristics of the art of this time. Shahjahan was interested in architecture. He not only constructed new buildings but also demolished many buildings built by Akbar in the forts of Agra and Lahore and constructed new buildings made of marble. Diwan-e-Aam, Diwan-e-Khas, Machhi Bhawan, Sheesh Mahal, Khas Mahal, Anguri Bagh, Jharokha Darshan Ka Sthal, Shahburj, Moti Masjid, Nagina Masjid, etc. in Agra Fort, Jama Masjid in Agra itself, Jama Masjid in Delhi and Red Fort and the buildings built in it like Diwan-e-Aam, Diwan-e-Khas, Moti Mahal, Hira Mahal, Rang Mahal, Nahar-e-Baghisht, etc. and Diwan-e-Aam, Shah-burj, Sheesh Mahal, Naulakha Mahal and Khwabgah, etc. in Lahore Fort are the major buildings of Shahjahan's time. Apart from these, Shahjahan also built many mosques, mausoleums etc. in various places like Kabul, Kashmir, Ajmer, Kandahar, Ahmedabad, etc. But the best building of Shahjahan is the world famous Taj Mahal built in Agra in the memory of Mumtaz Mahal, which was built in 22 years.

All the buildings in the Agra Fort built by Shahjahan are very beautiful but the best place among them is of Moti Masjid. It was built (1645 AD-1653 AD) by Shahjahan at the cost of three lakh rupees, which is the best example of perfection of art combined with simplicity. Made of milk-white marble, this mosque is just like its name Motish. Jama Masjid of Agra was built by Shahjahan's elder daughter Jahanara.

The buildings of Delhi's Red Fort, the arrangement of water and fountains in them, etc. were so beautiful that one has to accept the statement written at one place - "If there is heaven on earth, it is here, it is here". But the Taj Mahal of Agra ranks best among all these buildings. This building made of white marble in the northern part of a large garden ranks among the best buildings of the world. There is a difference of opinion among scholars regarding its artisans. Some consider it to be the work of non-Indian artists and some consider it to be the work of Indian artists. According to Father Menrique, its plan was made by an artist named Geronio Veronio, a resident of Venice. Smith also supported this opinion and called it a European work. But Percy Brown refutes this opinion and writes that "This is a systematically developed form of Mughal building art which is according to tradition and is completely free from external influence." It has been proved that its main artist was Ustad Ahmed Lahori, whom Shahjahan honoured by conferring the title of 'Nadir-ul-Asarsh'.

Emperor Aurangzeb was neither interested in painting or literature, music etc., nor in architecture. He built only a few buildings, but none of these are comparable to the beautiful buildings of his father and grandfather. After Shahjahan's death, Hindu-Muslim architecture went into decline. The fall of the Mughal Empire was a reason for this, but along with this, the architecture also started declining due to Aurangzeb's religious fanaticism and narrow outlook and the natural course of events. Aurangzeb's name is associated with the Moti Masjid of Delhi. It is a white marble mosque inside the Red Fort. But this mosque is not of the size of Shahjahan's Moti Masjid. Although Aurangzeb got it constructed from Sangmarmar like his father. The construction of this mosque was completed in 1659 AD. Aurangzeb got the tomb of his beloved wife Rabia-ud-Daurani constructed in 1678 AD. Its architectural style is based on the famous Taj Mahal. But this tomb is less beautiful than the Taj Mahal. The eight marble curtains around the tomb and the skilled craftsmanship in it add to its beauty of the few notable mosques built during Aurangzeb's reign, the Badshahi Mosque at Lahori stands out for its design and size. It was built under the supervision of Fidai Khan, the Daroga of Aurangzeb's artillery, and is a magnificent building. But despite its size, it is inferior to the Jami Masjid at Agra and Delhi. Another mosque was built at Banaras on Aurangzeb's orders. It was built on the site of the famous Vishwanath temple, and its minarets were the tallest in the city. But this too illustrates the unstable nature of the art of the period; and it demonstrates the That is how low it had fallen from its earlier level by the end of the seventeenth

century. A similar tall mosque was built in Mathura at the place of Veer Singh Dev Bundela Keshav Dev's temple. It is very huge and made of red stone.

**Development of Mughal Painting-** The rulers of the Delhi Sultanate did not patronize painting. The main reason for this was the indifference of the Sultans towards painting. Although paintings made on some architectural works are found, apart from these there is no evidence of the development of painting. The real development of painting in medieval India progressed rapidly under the rule of the Mughals. Art connoisseurs have classified Indian painting on the basis of technique or method of painting. The Hindu style has been named Rajput and the Muslim style has been named Mughal style. Different styles are known as 'Kalam'. There are two main varieties of Rajput painting - Jaipur Kalam and Kangra (Kangana) Kalam. Mughal painting is divided into many Kalams such as Delhi, Lucknow, Patna, Kashmiri, Dakhni, Iranian Kalam. A beautiful harmony of Iranian and Indian influences took place during the reign of Akbar. During the reign of Jahangir, the Indian style completely assimilated foreign elements, due to which a national style emerged. From the time of Akbar, it started being called Mughal painting. Its decline becomes visible during the reign of Shahjahan. It collapses during the time of Aurangzeb.

Babur and Humayun, the founders of the Mughal Empire, did not have any special contribution in its development but they were interested in painting. This had a great impact on the future development of painting. In his autobiography 'Tuzuk-e-Baabri', Babur has praised Behzad's painting a lot, but at the same time he has also criticized him. Apart from Behzad, Babur has also praised Shah Muzaffar. Babur wanted to invite painters like Behzad to his kingdom and develop the art of painting. But he could not do anything special in this field. Humayun used to spend some of his time in cultural activities. While coming from Iran, he brought two famous painters of that place, Khwaja Abdussamad and Mir-Syed Ali, with him to India. But after the reconquest of Hindustan, he did not live for long. Therefore, he could only pave the way for the development of painting. The illustration of the famous Iranian book Dastan-e-Amir Hamza started under the supervision of Khwaja Abdussamad and Mir Syed Ali. These paintings come under the category of film. They have the influence of Hirat style but they have a personality and Indian artists have also done a lot of work. The costumes and attire are Indian. In natural depiction, Indian fruits and flowers etc. are visible and images of Indian gods and goddesses are also found. These two Iranian painters started a new chapter in the development of painting during the time of Akbar. During the reign of Akbar, every field of art progressed. He provided protection and encouragement to capable and skilled craftsmen and painters. Although painting is prohibited in Islam, Akbar still provided protection to painters. There were many skilled painters in Akbar's court. Abul Fazal has given the names of painters in his famous work Ain-e-Akbari - Mir Syed Ali, Khwaja

Abdul Samad, Farrukh Kalam, Miskeen, Daswant, Basavan, Keshavlal, Mahesh, Madhav, Jagannath, Khemkaran, Mukund, Tara, Harivansh Ram etc.

Akbar had many books illustrated. The first among them is Dastan-e-Amir Hamza. Akbar had books like 'Razmnama' (Mahabharata), Ramayana, 'Baqayat Babari', 'Akbar Nama', 'Anware-e-Suheli', 'Tarikh-e-Rashidi', 'Khamsa Nizami', 'Baharistan-e-Jami' etc. illustrated. In this way, Akbar established the Mughal painting style in India.

Jahangir was both a lover and a connoisseur of the painting style. Mughal painting reached its peak during his time. One reason for the progress of painting during Jahangir's time was to provide patronage to artists and the other reason was his interest in art and being a good connoisseur of it. Jahangir's reign (1605-1627 AD) is called the golden age of Mughal painting. Jahangir writes in 'Tuzuk-e-Jahangiri' that my interest in painting and skill in identifying had reached such a level that when any painting of a dead or present-day painter comes in front of me without telling his name, I can immediately tell that this painting is of a certain person. He could also tell that if different parts of the painting have been made by different persons, then which part has been made by which painter. There was a lot of progress in painting during Jahangir's period. There was novelty and liveliness in both the subject and the method. Now, instead of painting of historical manuscripts, more importance was given to nature painting. Lively pictures of animals, birds and plants were made. Floral margins were made around these paintings so that the paintings could get amazing beauty. In this effort sometimes the margins themselves became so beautiful that the original got relegated to the background and it seemed as if the aim of the painter was only to make the margins.

One of the main features of the paintings of Jahangir's reign was that now individual portraits were made in large numbers. Even portraits of the Begums of the harem were made. Jahangir, like Akbar, also patronised Hindu painters. Among the accomplished painters of that time were Abul Hasan, Nadir-Uzzama, Sajivahan, Farrukhveg, Ustad Mansoor, Vishandas, Manohar, Govardhan, Daulat, Mohammad Nadir, Ustad Murad, etc. Abul Hasan was considered the best painter of that time. Jahangir himself has praised him in his autobiography.

The decline of Mughal painting is evident from the reign of Shahjahan. "With the death of Jahangir, the soul of Mughal painting also left the world." This view of Mr. Percy Brown is true. According to Dr. Banarasi Prasad Saxena, Shahjahan was more interested in the development of architecture, but he still continued his father's traditions in the field of painting. In the absence of Shahjahan's personal encouragement, not only did the number of painters decrease, but the emotionality, liveliness and naturalness of the paintings also vanished. Now artificiality, carving and inertia started appearing in the paintings. The use of gaudy and golden colors increased, which created figurative inertia. In the paintings of Shahjahan's time, only individual portraits were made. These



paintings have no expression of emotions. They show static postures. The specialty of Jahangir's paintings was liveliness, which has now vanished. With the end of royal patronage, many artists had to go to the service of feudal lords or other kings. They had to set up art houses in the markets to earn their livelihood. In such a situation, the decline in standards was natural. Shahjahan's son Dara Shikoh was a generous patron of painting. The prominent painters during Shahjahan's era were Mir Hashim, Anup, Chintamani.

The decline of painting was certain during the reign of Aurangzeb (1658-1707 AD) and after his death nothing remained. He had neither interest nor time or resources for music, architecture or painting. He disfigured and destroyed the paintings of Asar Mahal in Bijapur, and got the paintings on the walls of Akbari mausoleum in Sikandara whitewashed. The nobles who used to patronize the painters started paying them very low salaries. As a result, less attention was paid to the quality and excellence of the paintings. Painting got a new impetus during the reign of Farrukhsiyar (1713-19 AD). Painters made a large number of paintings. But these paintings were of a lower quality than the paintings of the times of Akbar, Shahjahan and Jahangir. There was no clarity of colours in them and to hide (their) defects, dotted carvings were used in abundance. Muhammad Shah also encouraged painting, but no one could achieve the same level of art as before. From the middle of the eighteenth century, there were general deficiencies in the line work of the paintings, their colours, choice of scenes, beauty, feeling and proportion.

**B.A.LL.B.-2nd Sem. Paper-V Human Rights and International Law-II**  
**Question No. 1- Define human rights. Explain the origin and development of the concept of human rights.**

**Answer-** Human rights or Manav Adhikar are actually those rights which every person gets only on the basis that he will need those rights to survive as a human being. Human rights are essential and necessary for the dignity of a person, his freedom and physical, moral, social and material development.

Definition of Human Rights-

**According to Mary Robinson-** "The rights of every person to protect and enjoy his fundamental freedoms individually or collectively at national or international level are called human rights."

Human rights are also called natural rights, fundamental rights, or inherent or innate rights goes.

**Latrepaat** defines it in his book International Law and Human Rights as "Human rights also include the duty to respect legal duties and every State is committed to respect and observe human rights and fundamental rights."

Human rights have been defined under **Section 2 (d) of the Protection of Human Rights Act, 1993**. According to this, 'human rights' mean the life, equality and dignity of individuals guaranteed by the Constitution, included in international covenants and enforceable by the courts in India. In the absence of these rights, it means the life, freedom, equality and dignity of individuals. In the absence of these rights, the condition of a person will become like that of an animal. Certain rights and freedoms are associated with the concept of being human, deprived of which, a human being is deprived of his humanity. That is why the Universal Declaration of Human Rights has been rightly called the Magna Carta of mankind.

The Second World Conference on Human Rights, commonly known as the Vienna Conference, was held in Vienna from 14 June 1993 to 25 June 1993. The Declaration of this World Human Rights Conference stated that all human rights arise from the dignity and inherent worth of the individual and the individual is the central subject of human rights and fundamental freedoms. D.D. Basu in his book Human Rights in Constitution defines human rights as the minimum rights which every individual has, without any other distinction, against the State or other public authority by virtue of being a member of the human family. Thus, human rights are essentially dependent on basic human needs, some of which are important for physical life and health and some others are important for mental life and health.

**Origin and Evolution of Human Rights-** Human rights principles have deep roots in diverse cultures and civilizations. Ancient legal codes, such as the Code of Hammurabi (1792 to 1750 B.C.) and the Magna Carta (1215) promulgated by the Babylonian king Hammurabi, established certain fundamental rights. The origin of human rights is ideally traced to the year 539 B.C. when the army of Cyrus the

Great conquered Babylon. Cyrus freed the slaves, declared that all people had the right to choose their religion, and established racial equality. These and other principles were recorded on a baked clay cylinder known as the Cyrus Cylinder, the provisions of which served as the inspiration for the first four articles of the Universal Declaration of Human Rights. Another cornerstone in human rights history is represented by the promulgation of Magna Charta in 1215, which introduced a crude concept of the "rule of law" and the basic idea of defined rights and freedoms for all individuals, providing protection from arbitrary prosecution and incarceration. Prior to Magna Charta, the rule of law, now considered a key principle for good governance in any modern democratic society, was regarded as a divine justice, delivered solely by the king or monarch or, in this case, King John of England.

The evolution of the concepts expressed by Magna Carta is represented by the English Bill of Rights. It was an act signed in 1689 by William III and Mary II, who became co-rulers in England after overthrowing King James II. The bill outlined specific constitutional and civil rights and ultimately gave Parliament power over the monarchy. Many experts consider the English Bill of Rights to be the primary law that set the stage for constitutional monarchy in England. It is also credited as an inspiration for the U.S. Bill of Rights (1791). The Declaration of the Rights of Man and of the Citizen, adopted in 1789 by the National Assembly of France, represents one of the basic charters of human liberty, containing the principles that inspired the French Revolution. The core value introduced by the Declaration was that all "human beings are born and remain free and equal in rights", which were specified as the rights to liberty, private property, inviolability of the person, and resistance to oppression. All citizens were equal before the law and had the right to participate in lawmaking directly or indirectly. No one was to be arrested without a judicial order. Freedom of religion and freedom of speech were protected within the limits of public 'order' and 'law'. Private property was given the status of an inviolable right, which could be taken by the state only if compensation was given and offices and positions were opened to all citizens. It was during this historical period that the concept of civil and political rights was defined, based primarily on political concerns. These rights, also known as first generation rights, recognize the existence of certain things that omnipotent rulers should not be able to do and that people should have some influence over policies affecting them. The two central ideas were personal liberty, and protecting individuals against violations by the state. They work negatively to protect the individual from the excesses of the state. The steps taken since Cyrus' time were impressive, yet many of these concepts, when originally translated into policies, excluded women, people of color, and members of certain social, religious, economic, and political groups. Key examples of overcoming this situation are represented by efforts in the 19th and early 20th centuries to prohibit the slave trade and limit the horrors of war. Significant are the adoption

of the first three Geneva Conventions and the Hague Convention, which express public opinion's deep concern to promote a basic level of respect for the human dignity of individuals even in times of war and lay the foundations of modern international humanitarian law. Concerns over the protection of certain minority groups, which were raised by the League of Nations at the end of World War I, and the establishment of the International Labor Organization (ILO) to oversee protection treaties for workers in relation to their rights, including their health and safety, reflect a growing positive attitude toward the recognition of the importance of human rights as we know them today. The time had come for a revolution and profound progress in the protection and promotion of human dignity. Ultimately, it took the catalyst of World War II to propel human rights onto the global stage and into global consciousness. The unprecedented atrocities committed during and outside the conflict, such as Nazi Germany's extermination of more than six million Jews, Sinti and Romani (Gypsies), homosexuals and persons with disabilities, horrified the world. Thus the idea of human rights emerged stronger than ever after World War II. The trials held in Nuremberg and Tokyo after World War II introduced the concept of 'crimes against peace' and "crimes against humanity".

New concepts introduced.

**Question No. 2- What procedure is followed for the International Covenant on Civil and Political Rights? Explain.**

**Answer - Implementation system** - The rights given in the Covenant on Civil and Political Rights-1966 There is a provision for implementation. This implementation arrangement was given in **Articles 28 to 45** in **Part-4** of the Convention. **Article 28** of the Convention provides for the establishment of an '18' member Human Rights Committee. This Committee implements the human rights mentioned in the Convention in the following three ways-

- (a) The Reporting Procedure (**Articles 40, 41**);
- (B) The Inter State Communication System (**Article 41**) in which reconciliation or Conciliation Commission (**Article-42**); (c) Individual's Communication System (of Optional Protocol) (**Article-1**)

The final or personal communication system is not mentioned in the Covenant on Civil and Political Rights. It is mentioned in **Article 1** of the Optional Protocol to the International Covenant on Civil and Political Rights. This remedy is available only to those States Parties who are parties to both the Covenant on Civil and Political Rights-1966 and the Optional Protocol. According to **Article 2** of the Optional Protocol, "Persons who claim that their rights set out in the Covenant have been violated and have exhausted domestic remedies may do so in the interest of their rights" Remedies) i.e. remedies available to them in their State have been exhausted. They may submit a communication or complaint petition for consideration of the Human Rights Committee."

### **Optional Protocol of the International Covenant on Civil and Political Rights**

- The purpose of adopting the Optional Protocol is clarified in its preamble. Its preamble states that in order to further the purposes of the Covenant on Civil and Political Rights and to enforce its provisions, it would be appropriate that the Human Rights Committee established in **Part 4** of the Covenant receive complaints or communications from those persons who claimed to be victims of any human rights recognized in the Covenant. The Optional Protocol has **14 articles**. **Article 1** of the Optional Protocol states that any Party to the Covenant on Civil and Political Rights which becomes a Party to the Optional Protocol acknowledges the Human Rights Committee's competence to receive and consider complaints or communications from persons within its jurisdiction who claim to have suffered violations of the rights set forth in the Covenant. The Human Rights Committee may not receive complaints from persons of a State Party to the Covenant on Civil and Political Rights that is not a State Party to the Optional Protocol. Under the provisions of **Article 1**, only persons who claim that their rights set forth in the Covenant have been violated may send complaints or communications to the Human Rights Committee if they have exhausted all available domestic remedies.

If a proper complaint communication has been sent to the Human Rights Committee, the Committee considers the complaint keeping in view the information available from the concerned person and the concerned State Party. The Committee transmits its opinion or views to the concerned State Party and the person. (**Article 5** of the Optional Protocol) In its annual report, the Committee includes a summary of its activities and sends it to the General Assembly of the United Nations through the Economic and Social Council. (**Article 6** of the Optional Protocol and **Article 45** of the Covenant on Civil and Political Rights).

The Optional Protocol entered into force on March 23, 1976, upon depositing the tenth ratification with the UN Secretary-General (**Article 9** of the Optional Protocol). So far, 92 states have ratified the Optional Protocol.

**Second Protocol to the International Covenant on Civil and Political Rights Aiming at the Abolition of Death Penalty** - This protocol has been adopted exclusively with the objective of abolishing the death penalty. This optional protocol is mainly linked to the Covenant on Civil and Political Rights and its first optional protocol. It came into force on 11 July 1991. As of 27 April 2005, it has 54 parties.

**Question No. 3- Explain the formation, functions and powers of the National Human Rights Commission.**

**Ans-** India is a party to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on December 16, 1966. India is a signatory to the above conventions and the human rights embodied in the said conventions are

largely protected by the Constitution. However, there is growing concern on issues relating to human rights in India and abroad. Keeping in view the changing social realities and emerging trends in the nature of crime and violence, the Government is reviewing the existing laws and the system of administration of justice. Section 3 of the Act provides that the Central Government shall constitute a body to be called the 'National Human Rights Commission' The National Human Rights Commission (NHRC) of India is an autonomous public body which was constituted on 12 October 1993 under the aegis of the Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the Protection of Human Rights

The Human Rights Act, 1993 (TPHRA). The NHRC is the national human rights body responsible for the protection and promotion of human rights, which are defined by the Act as 'rights embodied in the International Covenants relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution.

**Section-3, Constitution of National Human Rights Commission-** The Commission shall consist of a Chairman and seven other members.

It will consist of a Chairman. Chairman - The Commission will have a Chairman. The Chairman should be a qualified person who has been the Chief Justice of the Supreme Court.

In the case of **Paramjit Kaur vs State of Punjab AIR 1999 SC 340**, the Supreme Court held that "The Chairman of the National Human Rights Commission, being a former Chief Justice of the Supreme Court, is an expert in his own right and is a person of extraordinary personality."

Chapter's two to four of the Act is related to the National Human Rights Commission. The main provisions related to it are as follows-

**Composition of Construction of National Human Rights Commission-**

According to the section of the Act, the structure of the National Human Rights Commission is Central the following will be done by the government-

- (a) A Chairperson who has been the Chief Justice of the Supreme Court;
- (b) A member who is, or has been, a Judge of the Supreme Court;
- (c) A member who is, or has been, the Chief Justice of a High Court;
- (d) Two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.
- (e) Honorary Members Chairpersons of the following National Commissions
  - (1) The Chairperson, National Commission for Minorities,
  - (2) Chairperson, National Commission for Scheduled Castes and Scheduled Tribes
  - (3) Chairperson, National Commission for Women
  - (4) A General Secretary

**Appointment of Chairman and Members of the Commission (Section-4)-** It is clear from the above discussion that the Commission will have a total of eight members including the Chairman, out of which, 3 will be ex-officio members.

Apart from the ex-officio members, the appointment of other members (including the Chairman) is done by the President under his signature and seal, but he does so on the recommendation of a committee. These members will be the following-

**(a) Prime Minister** – Chairman. (b) Speaker of Lok Sabha – Member. (c) Minister in charge of Ministry of Home Affairs in Government of India – Member. (d) Leader of Opposition in Lok Sabha – Member. (e) Leader of Opposition in Council of States – Member. (f) Deputy Chairman of Council of States – Member.

**Powers and functions of the National Human Rights Commission-** The functions of the Commission were determined under **Section 12** of the Act, which are as follows-

(1) The NHRC has the power to investigate complaints regarding violation of human rights either suo motu or after receiving a petition.

(2) It has the power to intervene in any judicial proceedings involving any allegation of violation of human rights.

(3) It may visit any prison or other Government-controlled facility to observe and make recommendations upon the living conditions of prisoners.

(4) It may review the protection provided in the Constitution or any human rights protection law and recommend effective remedial measures.

(5) The NHRC also undertakes and promotes research in the field of human rights. It works to spread human rights literacy among various sections of society and promotes awareness about the safeguards available for the protection of these rights through publications, media, seminars and other means.

(6) While advising on the protection of human rights in constitutional language or legislation, the Commission adopts an independent stand for some time.

(7) The NHRC has the powers of a civil court and can grant interim relief.

(8) It also has the power to recommend payment of compensation or damages.

(9) It can recommend appropriate steps to both the Central and State Governments to prevent violation of human rights.

(10) The NHRC submits its annual report to the President of India who causes it to be laid before each House of Parliament.

**Power of the Commission to investigate complaints-** The Commission has the power to investigate and hear all complaints related to violation of human rights. All complaints received by the Commission will be presented for acceptance within two weeks before a bench of one member and if necessary, a bench of two members.

A general complaint will be dismissed on the following grounds-

(1) The complaint is outside the scope of the Commission;

(2) The case is pending before a Judge or any other Commission;

(3) The incident in respect of which the complaint is made occurred more than one year before the complaint.

(4) The complaint is vague or frivolous, anonymous or made under a false name and does not involve any violation of human rights becomes.

(5) The complaint is of a very simple or trivial nature.

Under the Protection of Human Rights Act, the Commission shall, while inquiring into complaints, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5th of 1908) and in particular in the following cases-

(a) Summoning and enforcing the attendance of witnesses and examining them on oath,

(b) The disclosure and production of any document,

(c) Receiving evidence on affidavits,

(d) Requisitioning any public record or copy thereof from any court or office,

(e) Issuing commissions for the examination of documents and witnesses,

(c) Any other matter as may be prescribed (**section 131**)

**Power of the Commission to investigate-** The Commission has the power to involve outsiders in any matter related to investigation. The police force of the Commission does the work of investigation on behalf of the Commission, but in complicated cases or in such cases where adequate investigation is not possible through them, the Commission can take the services of any officer or investigation agency of the Central or State Government with the consent of the Central or State Government. **Section 14 (1).**

Where the services of any officer or Investigative Authority are availed of under **section 14(1)**, the Commission

When the Court is investigating a case pursuant to the directions of the Court, it has the power under **section 14(2)1(a)** to summon a person, ensure his attendance and examine him;

(b) Require the discovery and production of any document;

(c) Requisition any public record or copy thereof from any office;

The officer or the investigating agency entrusted with the task of investigation under the provisions of **section 14(1)** shall, after completing the investigation, submit a report within such period as may be specified by the Commission. If any conclusion is arrived at in the report of the said officer or investigating agency, the Commission may conduct such inquiry as it may deem fit to satisfy itself about the correctness of the same and the facts stated in the conclusion.

Despite the above contribution, it must be accepted that the Commission lacks sanctions and cannot take direct action. It can only give recommendations and it is up to the government whether it accepts them or not. This situation is not satisfactory. The recommendations of the National Human Rights Commission are not sufficient and the government can avoid implementing them at any time by giving political or other reasons. Therefore, the truth is that the powers given to the Commission under Section 18 after completing the investigation are not adequate. There is a lot of force in the fact that the



Commission lacks sanctions. It can only give recommendations and its recommendations are not binding on the government.

**Question No. 4- Human rights and humanitarian laws are two sides of the same coin. Explain.**

**Answer- Similarity-** International humanitarian law and human rights law are both based on humanitarian ideas. The subject of both the laws is the protection of human beings. In the case of Nicaragua, the International Court of Justice had observed that the principles of humanitarian law are similar to the basic ideas of humanity. Because of this, there is a close relationship between the two. The development of both international humanitarian law and human rights law began in 1945. Many international treaties related to the protection of human rights were adopted and especially two international conventions related to human rights of the year 1966. The development of international humanitarian law has also taken place to a large extent after the year 1945 and the codification of the years 1949 and 1977 are concrete achievements in this regard.

After the establishment of the United Nations, human rights have emerged as the most important subject of international law. The need was felt to apply human rights in peace as well as in war or armed conflict. The truth is that there was an urgent need to apply fundamental rights in armed conflict. It is also true that the United Nations Charter has outlawed war and the use of force has also been prohibited. Nevertheless, even after the adoption of the United Nations Charter, incidents of war have continued to occur. When a state party to the United Nations wages war against the territorial integrity or political independence of a state, which is inconsistent with the objectives of the United Nations and is a violation of **Article 2 (4)** of the Charter, then in such a situation, the only option available to the state against which armed attack has taken place is to make individual or collective efforts for self-defense as provided in **Article 51** of the Charter and thus it will have to wage war. Apart from this, the Security Council can take joint action under **Chapter VII** of the Charter in cases of threat to peace, breach of peace and acts of aggression. Hence, the requirement of international humanitarian law remains.

The Nazi atrocities and large scale violation of human rights during the Second World War shocked the conscience of mankind so much that it led to the amendment of the provisions relating to human rights in the United Nations Charter. It was felt that human rights should be applied even during wars. For this reason, on August 12, 1949, four Geneva Conventions were adopted which formulate international human law.

Humanitarian international law is a law based on humanity and morality. As such it is a humanitarian law of war. War, as Sir Radha Vinod Pale has said in the case of the Tokyo Trials, is not a subject of law, yet rules of law have been formulated in respect of it so as to protect humanity. Many rules of humanitarian law are so fundamental to the basic idea of man and humanity that the Hague and

Geneva Conventions have gained wide acceptance as creating international customary law and are therefore binding on all nations.

The basic similarity between international humanitarian law and human rights law is the concern for human protection. The reason for this common basis is the principle of humanity. Since the purpose of both is to protect human beings, they are protective, preventive and preventive. Apart from this, there is one more element common in both the laws, that is, the purpose of both is to protect human beings as individuals, and hence it should be known. Thus, both the laws have similar rights, for example, they can be counted as - right to life, prohibition of torture, right to humane treatment, prohibition of discrimination, right to health, basic guarantees to individuals under judicial proceedings, right to humanitarian assistance etc.

Since international humanitarian law emerged and developed for the protection of human rights, that is, international humanitarian law is a branch of human rights law. Thus it is clear that human rights and humanitarian law are two sides of the same coin.

**Question No. 5- The Fundamental Rights and the Directive Principles of State Policy mentioned in the Indian Constitution reflect the standards of human rights. Discuss.**

**Answer-** The Directive Principles of State Policy are mentioned in Part 4 of the Constitution. The Directive Principles contain the objectives and principles which it is the duty of the State to follow. The ideal of a welfare state and the establishment of a socialist society as envisaged in the Preamble of the Constitution can be achieved only when the Government compulsorily implements the Directive Principles.

Today we are citizens of a welfare state whose duty is to increase the opportunities and facilities for happiness, prosperity, dignified environment and health development of the general public. For this purpose, some economic and social goals have been contained in the Directive Principles of State Policy which the states are required to follow.

The Directive Principles contain the ideals which every government will always keep in mind while formulating its policies and making laws. They express the ambition and sentiment of the Constitution makers regarding a welfare state based on social, political and economic justice in India. They contain the goals and objectives which are expected to be achieved by the government. Therefore, the Directive Principles are the basic principles for the governance of the country which have been imposed on the states to achieve them. The following Directive Principles have been mentioned in **Part 4-**

**Application of the principles contained in this Part (Art. 37)-** The provisions contained in this Part shall not be enforceable by any court, but the principles laid down therein shall nevertheless be fundamental in the governance of the

country and it shall be the duty of the State to apply these principles in making laws.

**State to promote social order for the promotion of public welfare (Article 38)-** (1) The State shall strive to promote the welfare of the people by securing and protecting a social order in which justice informs all the institutions of national life, social, economic and political.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also between groups of people residing in different areas or engaged in different vocations.

**Certain policy principles to be followed by the State (Art. 39)-** The State shall, in particular, direct its policy towards securing-

(a) That citizens, men and women equally, have the right to an adequate means of livelihood;

(b) Ownership and control of the material resources of the community are distributed in a manner that best serves the common good;

(c) That the operation of the economic system does not result in concentration of wealth and means of production to the general detriment;

(d) There is equal pay for equal work for both men and women;

(e) The health and strength of workers, men and women, and the tender age of children are not abused and citizens are not forced by economic necessity to enter occupations unsuitable for their age or strength;

(c) That children are given the opportunities and facilities to develop in a healthy way and in conditions of freedom and respect and that childhood and youth are protected from exploitation and moral and material abandonment.

**Equal justice and free aid (Article 39A)-** The State shall ensure that the operation of the legal system promotes justice on a basis of equal opportunity, and, in particular, shall provide free legal aid by appropriate legislation or schemes or in any other way to ensure that opportunity for access to justice is not denied to any citizen on account of economic or other disability.

**Organisation of Gram Panchayats (Art. 40)-** The State shall take steps to organise Gram Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

**Right to work, education and public assistance in certain cases (Art. 41) -** The State shall, within the limits of its economic capacity and development, make effective provision for the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.

**Provision for just and humane conditions of work and maternity relief (Article 42) -** 4 The State shall make provision for securing just and humane conditions of work and for maternity relief.

**Living wages, etc., for workers (Art. 43)** - The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, whether agricultural, industrial or other, work, a living wage, a decent standard of living and conditions of work ensuring the full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

**Participation of workers in management of industries (Article 43A)**- The State shall take steps by suitable legislation or in any other way to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

**Provisions for early childhood care and education of children below six years of age (Article 45)**- The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, free and compulsory education for all children until they attain the age of fourteen years.

**Promotion of educational and economic interests of the Scheduled Castes, the Scheduled Tribes and other weaker sections (Article 46)** - The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Duty of the State to raise the level of nutrition and the standard of living and to improve public health (Art. 47)**-The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as one of its primary duties and, in particular, the State shall strive to promote the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes.

**Organisation of Agriculture and Animal Husbandry (Art. 48)** - The State is to organise agriculture and animal husbandry on modern and scientific lines shall endeavour to organise and, in particular, take steps to preserve and improve the breeds of cows and calves and other dairy and draught cattle, and to prohibit their slaughter.

**Protection and improvement of environment and safeguarding of forests and wild life (Article 48A)** -The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

**Protection of Monuments, Places and Objects of National Importance (Art. 49)**- It shall be the duty of the State to protect every monument or place or object of artistic or historical interest, declared by or under any law made by Parliament to be of national importance, from looting, defacement, destruction, removal, disposal or export, as the case may be.

**Separation of Judiciary from Executive (Art. 50)** - The State shall take steps to separate the judiciary from the executive in the public services of the State.

**Promotion of International Peace and Security (Art. 51)** - The State shall endeavour to-

- (a) Promoting international peace and security;
- (b) Maintaining just and honourable relations between nations;
- (c) Promote respect for international law and treaty obligations in the dealings of organized peoples with one another; and
- (d) To encourage the settlement of international disputes by arbitration.

**Importance of Part 4 (Directive Principles) of the Constitution-** the Directive Principles of State Policy in our Constitution have been conceived keeping Ireland in mind. While supporting the Directive Principles in the Constituent Assembly Policy, Dr. Bhimrao Ambedkar had said as follows-

"In the mind of Messy, the Directive Principles are of great importance because they state that our ideal is economic democracy. The reason being that we did not want to establish by the various procedures provided in the Constitution a mere parliamentary form of government without any direction as to what our economic ideal, as to what our social order should be, we deliberately incorporated the Directive Principles in the Constitution."

The Directive Principles are in no way less important than the Fundamental Rights. Granville Austin has expressed the importance of the Directive Principles in the following words- "The Indian Constitution is first and foremost a social document. Most of its provisions either directly provide for furthering the goals of social revolution by establishing the conditions necessary to fulfil the purpose of social revolution, or the essence of commitment to social revolution, despite the goal of national renaissance being prevalent in the entire Constitution, is in the Fundamental Rights of Parts 3 and 4 and the Directive Principles of State Policy. This is the soul of the Constitution."

Since the Directive Principles are also contained in the Constitution, it is the duty of the government to implement them. It is true that there is no legal power behind it, but there is the great power of 'public opinion' behind it. No government, which does not want to make its future dark forever, will dare to ignore these directives.

It is clear from the above detailed discussion that "The Directive Principles of State Policy mentioned in Part-4 of the Indian Constitution are fundamental necessity based human rights."

**Question No. 6- Explain the nature, scope and significance of the Universal Declaration of Human Rights, 1948.**

**Answer- Universal Declaration of Human Rights-** The United Nations Charter has not defined human rights and fundamental freedom but it has laid down the principle that "every nation in the world has the responsibility to develop and promote human rights and fundamental freedom." Implementing this principle

laid down under the United Nations Charter was now the most important task for the United Nations. Hence, keeping this in mind, the United Nations General Assembly asked the Economic and Social Council on 29 January 1946 to get a study done in this regard by the 'Commission on Human Rights' (General Assembly Resolution 7 {1}). For this task, the Commission appointed a Drafting Committee in January 1947. The draft of the Universal Declaration of Human Rights was prepared by the Drafting Committee. Which was appointed by the Human Rights Commission after receiving comments from the state governments. The Drafting Committee redrafted the full draft declaration and sent it to the Commission. The Commission accepted the draft declaration in its third session in June 1948 and sent it to the Economic and Social Council.

The Economic and Social Council presented the draft declaration to the General Assembly by adopting a resolution without a vote. Finally, the General Assembly adopted it on 10 December 1948 by a resolution known as the Universal Declaration of Human Rights. The resolution was adopted by 48 votes to none with a negative vote. However, at the time of adoption of the resolution, 8 member states abstained from voting. The member states who abstained were Belarus, Yukoslovakia, Poland, Saudi Arabia, Ukraine, the U.S.S., the Union of South Africa and Czechoslovakia. Due to the adoption of the declaration on 10 December, the whole world celebrates this date as 'Human Rights Day'. The Universal Declaration of Human Rights has been hailed as a historic event of immense importance and the greatest achievement of the United Nations. The declaration is a mine from which other conventions and national constitutions protecting these rights have drawn these rights.

In this declaration, the rules laid down by the Nuremberg Court have also been accepted. In the peace treaties signed between various states in 1946, a resolution was taken to protect human rights. Those arrangements have also been included in this declaration. The importance of this declaration is as follows-

- (1) This Declaration seeks to secure the human rights of every human being.
- (2) The Declaration is issued to all human communities, beyond the boundaries of nations.
- (3) The Declaration proclaims the universal right of human rights.

Apart from the Preamble or Preamble, this declaration includes 30 articles related to civil, political, economic, social and cultural rights.

The Universal Declaration extensively describes the fundamentals and principles of human rights. These principles include the idea that the recognition of the dignity and respect and inalienable rights of all members of the human family is the basis of freedom, justice and peace in the world." In the Universal Declaration Not only civil and political rights have been mentioned but economic and social rights have also been mentioned.

**Enumeration of Rights in the Universal Declaration** - The Preamble also states the reasons that inspired the General Assembly to declare the Universal Declaration of Human Rights and after mentioning those reasons, the General Assembly declared civil, political, economic, social, and cultural rights.

**Articles 1- 2:-** The basic concepts of dignity, liberty and equality are established.

**Articles 3-5:-** Description of personal rights, such as the right to life and the prohibition of slavery, are explained in detail.

**Articles 6-11:-** Mentions the fundamental rights along with remedies for their violation.

**Articles 12-17:-** Sets out the rights of the individual towards the community, including freedom of movement and residence within each state, the right to property, and the right to nationality.

**Articles 18-21:-** These set of articles refer to the rights of the individual towards the community, which includes freedom of movement, thought, opinion, expression, religion, peaceful association and expression of ideas through any media.

**Articles 22-27:-** Sets forth the economic, social and cultural rights of an individual, including health care. It also upholds the right to a good standard of living and makes a special mention of maternity or childhood care.

**Articles 28-30:-** It establishes the general means of exercising these rights, in the areas where the individual has the right to exercise his or her rights the rights cannot be enforced.

**Legal importance of the Universal Declaration** - There is a lot of disagreement about the legal importance of the Universal Declaration. On one hand, some writers are of the opinion that the Universal Declaration of Human Rights is not legally binding. But on the other hand, some writers have expressed the opinion that this declaration has great value. It may not have been binding then, but now it has become binding and it has legal implications. Apart from these two opinions, some writers have expressed the opinion that although this declaration is not legally binding, despite this, there is a moral and political obligation on its member countries.

According to Stark, the Declaration is only a statement of ideals and is not a legally binding document, yet it is one of the most widely known international documents and is frequently referred to or quoted in joint and regional agreements of various agencies and resolutions of international organizations and in national constitutions, statutes and court decisions. It is a beacon of light for all mankind, although it is more often violated than respected or observed.

The fact is that the Universal Declaration is neither an international convention nor an international agreement. Therefore, its provisions are not binding on the states. In fact, the Declaration was not made with the purpose of being binding on the states. Therefore, it does not impose any legal obligation on the states to implement its provisions. Nevertheless, it has legal importance.

Through this, the states have tried to achieve the objectives of the United Nations Charter.

Ian Brownlie has written that the Declaration in itself is not a legally binding document and some of its provisions are at variance with existing and generally accepted rules. Nevertheless, some provisions of the Declaration are general principles of law and basic ideas of humanity. Most authors who express the view that the Universal Declaration is not a legally binding document also believe that the general guidelines on the subject matter of these fundamental rights and freedoms provided by the United Nations initiative have received wide acceptance among the members of the United Nations and it is an important link connecting the concepts of human rights in different parts of the world. In 1970, the Security Council imposed economic sanctions on Namibia for not complying with this Declaration. Similar treatment was also meted out to South Africa. Its provisions have influenced the constitutional laws of many countries.

### **Is it binding on the states?**

The Universal Declaration is not binding on the states but after its adoption, the provisions of the Universal Declaration have an effect on many national constitutions. For example, in Algeria, Burundi, Cameroon, Democratic Republic of Congo, Families, Guinea, Madagastor, Mali, Mauritania, Senegal, Togo (after independence between 1958 and 1964), the people of these countries have expressed their deep commitment to the principles and orders of the Universal Declaration in their constitutions. The Universal Declaration also has a clear effect on the Indian Constitution and the Supreme Court has accepted it. In the case of **Kesavananda Bharati vs. State of Kerala AIR SC**, the Chief Justice of the Supreme Court, referring to the fundamental rights mentioned in Part-3 of the Constitution, said that "I am unable to hold that these provisions show that some rights are natural or inherent" It is not inalienable. In fact India was a party to the Universal Declaration of Human Rights and the Declaration states certain fundamental rights as inalienable."

### **Question No. 7- What do you understand by international human law? Describe the provisions of the Geneva Convention 1949 related to the treatment of prisoners of war.**

**Answer-** The term 'International Humanitarian Law' started being used after the Second World War and it expresses its new nature. The most important word in it is 'humanitarian' which determines the nature of its rules. Legal experts started using the term humanitarian law from 1950 itself but this term was used for the first time in resolution number- XXVIII of the 22nd Red Cross Conference held in Biana in 1965. Humanitarian law is related to those matters which have an impact on the life, personal integrity and freedom of human beings due to armed conflict between states. International humanitarian law is that branch of international law which provides protection to human beings from the consequences of armed conflict. It is applied only during conflicts. In the case of



Nicaragua, the International Court of Justice observed that "the principles of humanitarian law are similar to the fundamental ideas of humanity." The United Nations General Assembly in the title "Respect for Human Rights in Armed Conflict"

### **Many proposals related to human law have been adopted. Definition of Humanitarian Law-**

Although there is no fixed definition of it, its scope can be interpreted in many ways. Hence it has been defined in various ways. Humanitarian law can be defined as those rules which are made for the purpose of protection of human beings in armed conflicts. These rules are inspired by the principles of humanity and their purpose is to eliminate human suffering, barbarity and cruelty in armed conflicts. According to Vosko Jakovjevic, "International humanitarian law is the branch which regulates the protection of war victims. It includes certain basic human rights which are essential for the survival of a human being, in emergency situations when he feels great danger or suffers from the effects of armed conflict."

According to Hector Gras Espailier, "International humanitarian law means a group of rules and principles under international law which regulate matters relating to the protection of persons in armed conflict, both international and internal."

International humanitarian law means that "International humanitarian law is a branch of international law which provides protection to the victims of armed conflict, both international and domestic." "International humanitarian law" is that branch of public international law which provides protection to humans from the consequences of armed conflict or war. It is applicable only during armed conflict. Thus the rules of war which have been made for the protection of the victims can be called humanitarian law. Therefore, it would be appropriate to refer to humanitarian law as a branch of the rules of war.

**Humanitarian Law** - What we today call international humanitarian law is also called the humanitarian law of war.

It was also called the Nature and Application of International (Humanitarian Law of War). Its purpose was not to provide a code for the game of war, but to reduce human suffering for humanitarian reasons and at the same time limit the area within which the barbarity of armed conflict is permissible. Thus the main purpose of international humanitarian law is to reduce the suffering of the victims of armed conflict, whether they are wounded, sick, shipwrecked, civilian prisoners of war. This change in the nature of international humanitarian law took place after the World War in its codification in 1949 and 1977.

International humanitarian law applies in armed conflicts. Here international conflicts mean armed conflicts between two or more states or armed conflicts in which people are at war in the exercise of their right to self-determination against colonial power or foreign occupation and rule. This is different from the

non-international armed conflict which takes place within the boundaries of a state between the armed forces of a state and opposing military forces or other organized armed groups. Thus, civil war, civil conflict and internal conflict are included in non-international armed conflicts. This distinction was made in two protocols adopted on 3 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. Humanitarian law applies in both types of armed conflicts.

It is worth mentioning here that the rules of international humanitarian law are binding not only on States but also on individuals, including members of armed forces, heads of state, ministers and officials. They are also binding on United Nations forces involved in armed conflict.

**Sources of International Humanitarian Law-** The main sources of international humanitarian law are the four conventions of 1949 and the two additional protocols of 1977 related to them, which are as follows-

- (1) Geneva Convention regarding the Treatment of Prisoners of War of 12 August 1949;
- (2) Geneva Convention for the Amelioration of the Condition of Wounded and Sick Members of Armed Forces in Battle Fields of 12 August 1949;
- (3) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of 12 August 1949;
- (4) Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War.

The two additional protocols of 1977 related to these conventions are as follows-

- (a) Additional Protocol to the Geneva Convention of 12 August 1949 relating to the Protection of Victims of International Armed Conflict - Protocol I
- (b) Additional Protocol to the Geneva Convention of 12 August 1949 relating to the Protection of Victims of Internal Armed Conflict - Protocol II

Apart from these international instruments, there are many declarations and conventions in international humanitarian law which are as follows-

- (1) Paris Declaration, 1856; (2) Geneva Convention, 1864; (3) Declaration of Petersburg; (4) Hague Convention of 1899; (5) Hague Convention of 1907; (6) Geneva Gas and Germ Warfare Protocol, 1925; (7) The Submarine Rules Protocol, 1937; (8) The four Red Cross Conventions of 1949; (9) Protocol I to the Geneva Conventions of 1949 and Red Cross Protocol I, 1977 and (10) Protocol to the Geneva Conventions of the Red Cross, 1949.

**Geneva Convention Relating to the Treatment of Prisoners of War, 1949 -** Prisoner of war is the status granted to a person arrested by a belligerent State during war or armed conflict.

Provisions regarding treatment of prisoners of war were first made in the Hague Convention, 1907. Thereafter, detailed provisions were made regarding treatment of prisoners of war in the Geneva Convention, 1929. Both the above mentioned treaties have been replaced by the Geneva Convention of 12 August,

1949 related to treatment of prisoners of war. The 1949 Convention has 143 articles and is divided into 6 parts. The following rules have been laid down in this Convention for treatment of prisoners of war-

- (1) Prisoners of war must be treated humanely.
- (2) It shall be a violation of the Treaty to kill prisoners of war or to do any act which is contrary to their health.
- (3) No prisoner of war shall be subjected to medical, scientific or other experiments of any kind unless it is in the interest of the prisoner of war.
- (4) Prisoners of war must at all times be protected from acts of violence, intimidation, disrespect and curiosity from the local population.
- (5) Retaliation by force against prisoners of war is prohibited.
- (6) Prisoners of war have the right to respect for their position in all circumstances. All prisoners of war must be respected.
- (7) It is the responsibility of the country holding prisoners of war to provide them free food, medical care etc.
- (8) Prisoners of war should be treated equally; they should not be discriminated against on the basis of nation, religion etc. but some discrimination may be made on the basis of health, age and professional qualification.
- (9) Prisoners of war cannot be subjected to any physical torture. No undue pressure can be exerted on them to extract information from them.
- (10) Articles belonging to prisoners of war who reveal their nationality or religion cannot be taken.
- (11) Prisoners of war should be removed from the battlefield and away from danger as soon as possible.
- (12) Prisoners of war must always have their identity cards with them. Prisoners of war who do not have identity cards shall be provided with such cards by the Country in which they are prisoners of war.

These rules have been made keeping in mind the interests of prisoners of war so that they are not mistreated.

It is a general rule of international law that prisoners of war should always be treated humanely but it is the duty of prisoners of war to disclose their name, rank, date of birth, address etc. whenever they are questioned. If they do not provide such information, they cannot be given facilities according to their rank.

**Question No. 8- Explain the relationship of the International Covenant on Civil and Political Rights with the rights guaranteed in Part III of the Indian Constitution.**

**Answer-** In the International Covenant on Civil and Political Rights (1966) and **Part III** of the Indian Constitution, many basic human rights have been provided to the individuals as fundamental rights. These rights are called fundamental rights. The word 'fundamental' means that these rights are inherent in all human beings and they are essential for the development of human personality. They have been given a dignified place in the Constitution and not by ordinary law and

the Constitution is the supreme law of the country. Since the fundamental rights are guaranteed by the Constitution, they are inviolable. No law, ordinance, custom, or administrative order can either reduce or abolish them. Any law which violates any of the fundamental rights is void (**Article 13**). They can be changed or amended only by constitutional amendments. Fundamental rights are binding on the legislature as well as the executive.

Justice Beg of the Supreme Court of India in **A.D.M. Jabalpur v. Shivkant Shukla AIR 1976 SC 1207** Chief Justice of India Patanjali Shastri referred to the Fundamental Rights as the great and fundamental rights which are recognized and guaranteed as 'natural rights or human rights' inherent in the status of citizens of a free country. Similarly, **Golaknath v. State of Punjab AIR 1967 SC 1643** is a landmark case related to the Fundamental Rights of the Indian Constitution. In this case, the Supreme Court in the year 1967 ruled that the Parliament cannot limit any of the Fundamental Rights of the Constitution. In this case, the Court also said that the ability of the Parliament to amend the Constitution is not indefinite and constitutional amendments cannot change the basic structure of the Constitution. The Court also said that any amendment violating the provisions of **Article 13** would be void.

The fundamental rights mentioned in the Indian Constitution are divided into two categories for convenience. That is specific Fundamental Rights and Other Fundamental Rights.

**(a) Specified Fundamental Rights-** Specific rights mean such civil the basic rights are those which are mentioned in the International Covenant on Civil and Political Rights (1966) and they are mentioned as fundamental rights in **Part III** of the Indian Constitution. The following (table) shows the various articles of the Covenant and the Constitution where similar rights have been prescribed-

Sr. No.	Rights	Covenant on Civil and Political Rights	Indian constitution
1	Right to life and personal liberty of a person	Articles 6(1) and 9(1)	Article 21
2	Right against forced or coerced labour	Article 8(3)	Article 23
3	Right against arbitrary arrest and detention	Articles 9(2), (3) and (4)	Article 22
4	of any territory  Right to movement and choice of residence within	Article 12(1)	Article 19(1)(d)
5	Equality before law	Article 14(1)	Article 14
6	To be a witness against oneself or to admit guilt not forced to go	Article 13 (3) (g)	Article 20(3)

7	protection from prosecution and punishment	Article 14(7)	Article 20(2)
8	Right against retrospective penal laws	Article 15(1)	Article 20(1)
9	Right to freedom of thought, conscience and religion	Article 18(1)	Article 25
10	Right to freedom of speech and expression	Articles 19(1), (2)	Article 19(1)(a)
11	Right to peaceful assembly	Article 21	Article 19(1)(b)
12	Right to form and become members of trade unions for the protection of their interests	Article 22(1)	Article 19(1)(c)
13	Equal right to enter the public services	Article 25(c)	Article 16(1)
14	Prohibition of discrimination	Article 26	Article 15(1)
15	Rights of ethnic, religious and linguistic minorities	Article 27	Articles 29 and 30

From the various rights included in the Constitution, it appears that many of the rights provided in the Civil and Political Rights Covenant were already available to individuals before India ratified it. Some of these rights are available only to citizens while some are available to all individuals. The word 'individual' includes both citizens of the country and non-citizens (other nationals).

So far as the right to life of a person is concerned, in the case of **Chairman, Railway Board vs. Chandrika Das AIR 1996 SC 1234** it was held that-"Even those persons who are not citizens of the country and who have come here as tourists or in any other status shall be entitled to protection of their life as per the constitutional provisions."

**(b) Other Fundamental Rights** - In the present context, other fundamental rights mean those fundamental rights which are mentioned in the International Covenant on Civil and Political Rights (1966) but are not specifically mentioned in Part III of the Constitution. The question is whether these rights will be available to individuals in India? It has been held by Indian courts that treaties will not be binding on the courts until they are implemented by the legislature.

The above view was in vogue even before the independence of India. In the cases of **Birma v. State of Rajasthan AIR 1251 Raj. 127** and **Shiv Kumar Sharma and others v. Union of India AIR 1968 Delhi 64** the Rajasthan High Court and the Delhi High Court respectively have held that treaties which form part of international law do not form part of the law of the country unless they are expressly endorsed by the legislative authority in legislation. **Jolly George Varghese v. Bank of Cochin AIR 1980 SC 470** **K.M. Iyer and V.J. Francis** for the respondent. The judgment of the Court was delivered by Krishna Iyer, J. This litigation has received special leave from us as it involves a deep issue of constitutional and international law and it throws up a challenge to the emerging advocates of human rights in India who have a strong interest in the field of

human rights Political prejudice has abandoned the civil debtor, whose personal liberty is endangered. By judicial process itself, thanks to s. 51 (proviso) and O. 21, r. 37, Code of Civil Procedure. Here is an appeal by judgment-debtors-appellants-whose personal liberty is endangered because a court warrant for arrest and detention in civil prison is pursuing them for non-payment of the amount due to the bank-defendant, which has resulted in a decree and has not yet been discharged. Is such a deprivation of liberty illegal? In **Maneka Gandhi v. Union of India A.I.R. 1978 S.C. 597**, Justice Bhagti of the Supreme Court held in his judgment that the scope of the term personal liberty used in **Article 21** is very wide and includes a variety of rights which constitute personal liberty and some of these have been given the status of separate fundamental rights.

Following are some of the rights which are included in the constitutional and political covenants which are available to the citizens even after being mentioned as specific in the Indian Constitution-

**(1) Right to Privacy-** Right to Privacy is mentioned under Article 17 (1) of International Covenant on Civil and Political Rights. According to it, no person shall be subjected to arbitrary interference with his privacy, family home or correspondence nor shall his reputation or honour be unlawfully invaded or attacked. **Article 17 (2)** provides that everyone has the right to the protection of law against such interference or attacks. But this right is not guaranteed in the Indian Constitution. Nevertheless, the Supreme Court in the case of **Kharak Singh vs. State of Uttar Pradesh, AIR 1963 SC 1295** has held that right to privacy is included in **Article 21**. **State of Maharashtra vs. Madhukar Narayan Mardikar, AIR 1991 SC 207** the Supreme Court held that even an ordinary person (such as a prostitute) is entitled to privacy and no one can disturb her privacy against her will. **People's Union for Civil Liberties v. Union of India AIR 2004 SC 1442** Phone tapping is a violation of the right to privacy contained in Article.

**(2) Right to Travel -** The right to travel abroad is described in **Article 12 (2)** of the International Covenant on Civil and Political Rights. According to this, every person is free to leave any country, including his own. No other restriction shall be imposed on this right apart from the restrictions imposed under **Article 12 (3)**.

In **Maneka Gandhi vs Union of India Justice Bhagwati** held that the right to travel abroad is a highly valuable right and is a part of personal liberty.

**(3) Right to Speedy Trial -** The right to speedy trial is described in the Constitution and this right is covered under **Article 9(2)** of the International Covenant on Political Rights. But the Supreme Court has held that the right to a speedy trial falls under the article.

**Hussain Ara Khatoon** Home Secretary, States of Bihar 1980 Speedy trial is an integral part of the fundamental right to life and personal liberty guaranteed under **Article 21** of the Constitution of India.

**(4) Right to Provide Legal Assistance - Article 14 (3) (d)** of the International Covenant on Civil and Political Rights provides for free legal aid. **Article 39A** of the Indian Constitution includes free legal aid as a directive principle of state policy. In the case of *M.H. Hoskote vs State of Maharashtra*, the Supreme Court has held that the right to free legal aid is contained in **Article 21** of the Constitution. In the case of **Hussain Ara Khatoon (IV) vs Home Minister, State of Bihar in 1979**, the right to legal aid was generally accepted as a guarantee under **Article 21** for a person accused of a crime.

**(5) Rights of Prisoners to be treated with Humanity** - The penitentiary system shall involve the treatment of prisoners with the essential aim of their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and shall be given appropriate treatment according to their age and legal status.

**(6) Right not to be imprisoned for being unable to fulfil a contractual obligation** - Article 11 of the International Covenant on Civil and Political Rights “guarantees freedom from imprisonment solely on the ground of inability to fulfil a contractual obligation.”

**(7) Right to Compensation** - Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation. In the present case of **Smt. Neelabati Behera v. State of Orissa**, a letter was sent by **Smt. Neelabati Behera** to the Supreme Court stating that her twenty-two year old son Suman Behera had died in police custody due to multiple injuries. The Hon’ble Court had suo motu Taking cognizance, it converted it into a writ petition under **Article 32** of the Indian Constitution. The petitioner claimed compensation for violation of the fundamental right to life of his son guaranteed under **Article 21**. The Orissa police had arrested Suman Behera for investigation of the crime of theft. It also stressed that it would be extremely unjust to expect a socio-economically deprived person to take ordinary civil action under private law. And the apex court ordered compensation of Rs 1,50,000 to the petitioner and an amount of Rs 10,000 to be paid to the Supreme Court Legal Aid Committee.

**(7) Right to Information- Article 19(1)(a)** According to **Article 19(1)(a)** all citizens shall have the right to freedom of speech and expression. It implies that all citizens have the right to express their views and opinions freely. Where an appeal is preferred against an order made by the Central Public Information Officer or the State Public Information Officer, as the case may be, under **section 11** for disclosure of third party information, the appeal shall be preferred by the third party concerned within thirty days from the date of the order.

**Question No. 9- Discuss the formation, functions and powers of the National Commission for Women. To what extent has this commission been successful in achieving its objectives?**

**Answer- Section 3, Formation of National Commission for Women-** The 'National Commission Act' for Women-1990 was passed by the Parliament. The National Commission for Women will be constituted in the manner prescribed under **Section 3** of the Act. Chairperson - who will be nominated by the Central Government.

**Other members** - There will be 'five' other members who will be nominated by the Central Government. Out of these five members, at least one member will be a person from Scheduled Caste and one from Scheduled Tribe.

**Section 4, Tenure of office.-** Under **Section 4(1)** of the Act, the Chairperson and Members shall hold office for such term as may be specified by the Central Government but shall not exceed five year the Commission may appoint committees to deal with special cases (**Section-8**)<sup>1</sup>.

**Section-10, Functions and powers of the National Commission for Women-** The functions of the National Commission for Women will be as follows-

- (1) To investigate and inquire into all matters relating to the protections for women in the Constitution and other laws;
- (2) To submit to the Central Government, annual and other reports on the working of these protections at such times as the Commission may deem fit;
- (3) To make recommendations in these reports for the effective implementation of the said safeguards so as to improve the conditions of women;
- (4) To examine, from time to time, the constitutional and other legal provisions affecting women and to recommend amendments in respect of any deficiencies or inappropriateness therein;
- (5) To bring to notice or present cases of violations of legal provisions relating to women and other legal provisions to the above authorities;
- (6) To personally look into the complaints as follows;
  - (a) Deprivation of women's rights;
  - (b) Non-implementation of laws made for the protection of women and achievement of the objective of equality and development;
  - (c) Non-compliance with the relevant policy, decision, guidelines or instructions aimed at ensuring the welfare of women and providing relief to women; and to refer such cases to the appropriate authorities.
- (7) To undertake special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women with a view to making recommendations as to strategies for their elimination;
- (8) To undertake promotional and educational research with a view to secure the adequate representation of women across all fields and to identify the factors or causes which impede their advancement?
- (9) To participate and advise in the planning process for the socio-economic development of women;
- (10) To evaluate the progress of women's development in the Union and a State;



(11) To cause or have caused an inspection of jails and remand homes, and women's institutions or other places of detention where women are kept as prisoners or otherwise and to take action for remedial action and to refer the case to the concerned authorities for remedial action;

(12) Funding litigation-related issues that disproportionately affect women;

(13) Periodical reports on any matter relating to women, particularly on the difficulties faced by women hand over to the government;

(14) Any other matter as the Central Government may direct. (**Section 10(10)**).

The Commission will prepare a detailed report of its activities in each financial year and send a copy of it to the Central Government (**Section-13**). The Central Government will cause the annual report and accounts of the Commission to be laid before both the Houses of Parliament (**Section-14**). The Central Government will consult the Commission regarding all major policies affecting women (**Section-16**).

The National Commission for Women has always been ready for the protection and upliftment of women and has been successful to a great extent in achieving its objectives. It is a unit which, on the basis of complaints or suo motu cognizance, implements the constitutional interests of women and their legal protection measures for them.

**Question No. 10- "The Supreme Court and High Courts of India have played an important role in the protection of human rights." Explain with the help of decided cases.**

**Answer-** Judiciary has an important role in the protection of human rights in India. Under the Indian Constitution, the Supreme Court has been declared the vigilant watchdog of fundamental rights and human rights. The Universal Declaration of Human Rights has a clear influence on the Indian Constitution and the Supreme Court has also accepted this. Speaking about the fundamental rights mentioned in Part-3 of the Constitution in the case of **Kesavananda Bharati vs. State of Kerala AIR 1973 SC 1461**, Justice Sikri said, "I am unable to hold that this right is not natural or inalienable."

In the case of **Golaknath vs State of Punjab AIR 1967 SC 1643**, the Supreme Court had said that the modern name of what was traditionally called natural rights is fundamental rights. "To enforce human rights, a person has the right to go directly to the Supreme Court through habeas corpus, mandamus, prohibition, quo warranto and certiorari. The Supreme Court has given many historic decisions on human rights and has given protection to these rights. In the case of **Kishore Chandra vs Himachal Pradesh (1991), A.C.J. 68,76**, the Supreme Court has accepted the fundamental value of the Universal Declaration of Human Rights."

(a) In Respect of **Article-14** mainly mentions about equality and it prohibits classification and recognized reasonable classification, but in the case of **E.P. Royappa vs. State of Tamil Nadu AIR 1974 SC 591**, the Supreme Court rejected

this traditional concept and formulated a new principle by adopting 'protection against arbitrariness', which was later accepted as a judicial principle in the case of **Maneka Gandhi vs. Union of India AIR 1978 SC 507**.

(b) In Respect of **Article 21** Under **Article 21** of the Indian Constitution, protection of "life and personal liberty" has been provided in such a way that no person shall be deprived of his life and personal liberty except according to "procedure established by law", otherwise than by law.

The purpose of **Article 21** is to prevent interference with personal liberty by the executive. The executive can take away this liberty on its own by law and following the provisions of law. This view was expressed by the Supreme Court in the case of **A.K. Gopalan v. State of Madras (1950) SC 88**. Though the Supreme Court did not reverse the case of Gopalan, it replaced it in the case of **Maneka Gandhi v. Union of India (AIR 1979 SC 597)** and held that "the procedure established by law under Article 21 should be 'just' and 'fair'". **Faisis Coralai v. Union Territory of Delhi (AIR 1981 SC 597)**. In **2003 No. 746** the Supreme Court held that "any act which impairs or injures or interferes with the use or functioning of any part of the body or body, even permanently or temporarily, would be within the prohibition of Article 21"

In the present context, as per the various decisions given by the Supreme Court under **Article 21**, a person has mainly the following rights-

**(1) Right to Livelihood** - In some earlier decisions it was held that the right to livelihood does not come under the right to life within the scope of **Article 21**. But in the case of **Olga Tellis vs Mumbai Municipal Corporation AIR 1986 SC 180**, the Supreme Court has clearly held that the right to livelihood comes under the right to life, "because no person can live without the means of living." Therefore, a person can be deprived of the right to livelihood only according to the fair and just procedure established by law; otherwise it would be contrary to **Article 21**.

**(2) Right to Die** - In the case of **Gyan Kaur vs State of Punjab (1996) 2 SC 649**, it has been held that the right to life does not include the right to die, hence **Section 309** and **Section 306** of the Indian Penal Code are constitutional and valid. Right to die with dignity till the last moment of life This cannot be compared to the 'right to die' under the Article by shortening the normal period of life in an unnatural manner.

**(3) Right to Medical Aid** - In the case of **Parmanand Katara vs. Union of India AIR 1982 SC 2039** it was held that "Under Article 21 the State is obliged to protect the life of every person, whether guilty or innocent, and every patient should get immediate medical aid. If procedural methods interfere with the discharge of this obligation, they should be disregarded.

**(4) Right to Education** - The Supreme Court in **Unnikrishnan v. State of Andhra Pradesh (1993) 1 SCC 644** has recognised the fundamental right to education as a fundamental right to life under **Article 21**. Relying on **Articles 41**

and **45**, it has held that “every child/citizen of this country has the right to free education until he attains the age of fourteen years. Thereafter his right to education is subject to the economic capacity of the State and the limitations of development.”

**(5) Right to Privacy-** In **Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632**, the Supreme Court laid down the principle that “privacy is a fundamental right under **Article 21** and no one can interfere with the private life of a person.”

In the case of **State of Maharashtra vs Madhukar Narayan AIR 1991 SC 207**, the Supreme Court held that even a woman of loose character has the right to privacy and no one can interfere in it.

**(6) Right to public health and environment-** It is essential for human life that the environment remains free from pollution, which is very essential for 'public health'. Public health and environment have been considered as fundamental rights under **Article 21**. The Supreme Court has banned all commercial vehicles like trucks, buses, taxis and autorickshaws etc., which are 15 years or more old, from running on the roads in the country's capital Delhi. (**M.C. Mehta vs. Union of India (1998) 6 SCC 63**).

**(7) Right to Speedy Trial- Husainara Khatoon v. State of Bihar, AIR 1979 S Capital 1369** held that the right to speedy trial and free legal aid is an essential element of the fundamental right to personal liberty under **Article 21**.

**(8) Right to Travel Abroad -** In the case of **Satwant Singh vs Assistant Passport Officer, New Delhi AIR 1976 SC 1836**, the Supreme Court has held that the right to travel abroad is a fundamental right under **Article 21**. The term 'physical liberty' used in Article 21 includes the right to travel i.e. the right to go anywhere at will, which includes travel abroad.

**(9) Protection against illegal arrest and inhuman treatment in police custody.-** In the case of **Nilavati Behera v. State of Orissa AIR 1993 SC 1960** the Supreme Court has held that “It is the duty of the State to protect the person arrested in police custody and the prisoners in jail and if his fundamental rights are violated by the State or its servants in police custody or in jail, the State has to pay compensation to such citizen.”

**(10) Right to Compensation -** After being acquitted, the prisoner may be punished with imprisonment for a term which may extend to three years.

If a person is kept in prison for a long time, then he has the right to get compensation. In the case of **Rundal Shah vs State of Bihar (1983) 4 SC 14**, the petitioner was released during the trial but was kept in prison for more than 14 years thereafter. He filed a habeas corpus petition in the Supreme Court, claiming not only his release but also state compensation for illegal detention. The Supreme Court accepted the habeas corpus petition as well as the claim for compensation and directed the State of Bihar to pay Rs 35,000 as compensation. In the case of **Bhim Singh vs State of Jammu and Kashmir AIR 1986 SC 494**, the petitioner was detained maliciously to prevent him from participating in the

session of the Legislative Assembly. The petitioner was ordered to be paid a sum of Rs 50,000 as compensation for being deprived of 'personal liberty' under **Article 21**.

## **B.A.LL.B.-2<sup>nd</sup> Sem. Paper-VI Law of Contract-II**

**Question No. 1- Define the contract of indemnity and explain it. Discuss the essential elements of the contract of indemnity. "All insurance contracts contain a contract of indemnity. Except life insurance contract." Explain it.**

**Answer- Definition - According to Chitty,** the word "indemnity" is used in several different senses. In the broadest sense, it means whether or not a loss or liability occurs as a result of an agreement.

In English law the term 'indemnity' includes promises made to keep the promise harmless from certain events or accidents and which may or may not be based on the conduct of a person. In English law, the promise to indemnify may be express or implied. In this regard the case of **Dugdale v. Lovering** is noteworthy. In this case some trucks were in the possession of the plaintiff. The defendant and a company claimed them to be theirs. On the defendant demanding the trucks, the plaintiff asked for an indemnity bond from him, but did not receive any reply. Despite not receiving any reply he handed over the said trucks to the defendant: thereafter the said **company (K.P. Co.)** made a claim against the plaintiff. The court gave judgment against the plaintiff. The court said that the plaintiff was liable, because as a result of asking for the indemnity bond, an implied promise had arisen.

A similar decision was also given in the case of **Sheffield Corporation v Barclay**.

**Indian Law** - Section 124 of the Indian Contract Act gives the following definition of contract of indemnity-"A contract by which one party undertakes to save the other from any loss caused to him either by the conduct of the promisor himself or by the conduct of some other person is called a contract of indemnity." For example, A contracts to indemnify B against the consequences of any proceedings which C may take against B in respect of a sum of Rs. 200. This is a contract of indemnity.

**The scope of Section 124** is narrower than the concept of compensation in English law. In English law, the nature of loss is not limited to the conduct of a person. It also includes those events and accidents which do not depend on the conduct of any party. In India, it is limited to the conduct of a person. But Section 124 is not exhaustive and generally the courts apply the same principles which the courts of England decide.

Where installments were paid for three years in an insurance policy and the policy was in existence as a policy paid for a small amount, no interest was payable on it. The Supreme Court held that no Act or rule or any contractual provision provides for payment of interest on such policy. Since interest is not payable on the said policy, the order of the District Consumer

Forum, State Consumer Commission and National Consumer Commission to award interest would be erroneous.

It is important to note here that **section 124** of the Contract Act is not applicable in marine insurance contracts because in a marine insurance contract the damage is covered under the contract itself and such damage is not caused by the conduct of the insurance company or any other person.

**Essential elements of a contract of indemnity** – There are the following three essential elements of a contract of indemnity –

**1. Loss to the promise is essential** - It is clear from the words of **section 124** that the promise must have suffered loss under the indemnity contract. The occurrence of loss depends on the occurrence of a contingency on the occurrence of which the liability of the indemnity agent arises. 'B' promises to indemnify 'A' against any loss arising out of such dealings and becomes liable to A, C and D to the extent of Rs. 1,000. Although he has not actually paid any amount to C and D yet, he still sued B for compensation. A could not recover the amount from B on these grounds.

**2. The consideration and object of the contract of indemnity must be lawful** - Apart from this, it is also worth remembering that the consideration and object of the contract of indemnity must be lawful. For example, the contract of indemnity to the publisher and printers by the author of a crime cannot be enforced as it is illegal. Similarly, an agreement between an accused and a surety that the accused will compensate the surety for the loss incurred by him will not be enforced.

**3. Contract of Indemnity may be Express or Implied-** Although **Section 124** is applicable only in cases of express indemnity contract, but sometimes such situations also arise where a person has to compensate the loss of another person by implied means. For example, under **Section 69**, a person is bound to compensate the other person by the process of law, even though there is no express contract in favor of doing so. Under **Section 69**, when a person deposits on behalf of another, without his consent, the amount which was legally payable by him to someone else and in the payment of which he himself is interested, then in such a situation he can recover this amount paid from the person by whom it was legally payable. For example, where as per the terms of a contract a tenant has to pay the electricity and water bills to the landlord but he does not do so, in such a situation, if the tenant pays the bill then he can recover the amount of the bill from the landlord.

**Scope of Section 124** - The definition of indemnity as defined in **section 124** is less wide than the definition in English law. **Section 124** is limited to compensation of any loss which is caused by the conduct of the promisee himself or by the conduct of any other person. It does not include loss

which is caused only by natural causes such as accident by fire etc. But in English law any loss can be caused whether caused by human conduct or by natural causes. That is why insurance facilities which are common examples of indemnity contract in English law are not included in Indian law. In Indian law, indemnity contract promises to protect only those contracts which are caused by the conduct of the promisee himself.

**According to Chitty**, the word 'indemnity' has been used in different senses. In the broad sense it means compensation for any loss or liability incurred by a person, whether the liability is the result of an agreement or contract. English law is wider than Indian law. It also includes promises made to protect against loss or accidents caused by certain events. These events may or may not be caused by the conduct of a person. **Section 124** of the Indian Contract Act is not exhaustive and generally the courts apply the principle of indemnity which the courts of England do.

**Rights of Indemnity holder or Liability of Indemnifier – As per section 125**-The promisee of a contract of indemnity is entitled to receive from the promisee, acting within the scope of his authority-

(1) All damages for which he is liable in respect of any matter which he is unable to compensate

The promisee is enforceable and should be compelled to enter into any suit.

(2) All costs which he might be compelled to pay by any such suit, if, in prosecuting or responding to it, he had not violated the orders of the promisee, and had done the same act as The act would have been tenable for him in the absence of any contract of indemnity if the promisor had authorized him to prosecute or defend the suit.

(3) He is entitled to recover all sums which he has paid under the terms of any compromise in any such suit, if the compromise was not contrary to the orders of the promisor and as it would have been prudent for the promisee to do in the absence of any contract of indemnity, or if the promisor has authorized him to compromise the suit.

In the case of **Sujir Ganesh Nayak & Co. v National Insurance Co. Ltd. (Sujir Ganesh Nayak & Co. v National Insurance Co. Ltd., Calcutta) 10**, the appellant took two insurance policies from the respondent. There was a provision in these policies that if the appellant suffered any loss due to riot and strike, the respondent would compensate for it. In January and February 1977, there was no work in the factories of the appellant due to non-availability of raw cashew nuts, so the factories remained closed; hence the workers were not paid wages for this period. This caused anger among the workers and they went on strike. Due to this, the cashew nuts available in the factories at that time were destroyed. Thus the appellant suffered loss due to the strike. The division bench of the Kerala High Court



decided that since the policy supported riot and strike, the respondent is bound to compensate."

Where the bank had promised to give a bank guarantee to the defendant. Thereafter the plaintiff alleged that the defendant refused to take delivery of the machines manufactured by the plaintiff though he had examined and approved them, and fraudulently invoked the bank guarantee, the question for consideration was whether the defendant could be prevented from invoking the bank guarantee. The Delhi High Court held that the defendant could be prevented from invoking the bank guarantee. The court said that the plaintiff did not plead that the defendant fraudulently persuaded the plaintiff to give the bank guarantee. The court said that in its opinion, the said plea by the plaintiff cannot prevent the defendant from invoking the bank guarantee. The alleged plea of the plaintiff that the defendant refused to take delivery of the machines is not of such a nature that it can be termed as fraud. The court also clarified that the bank guarantee will be considered as an independent contract which is independent of the main contract between the parties.<sup>12</sup>

**Commencement of Liability-** the commencement of the liability of the indemnitor there is difference of opinion among the High Courts regarding the time of indemnity. According to the opinion of the High Courts of Calcutta, Madras, Allahabad and Patna, the indemnitor can be forced to pay compensation by the indemnitees without waiting for the actual loss to occur or before its discharge. But according to the opinion of Lahore, Nagpur and Bombay High Courts, the indemnitor cannot be forced to pay compensation before the actual loss occurs. The opinion of the Calcutta, Madras and Allahabad Courts seems to be more appropriate and it is also consistent with the English law. In **Gajanan Moreshwar v. Moreshwar Madan (13)**, Judge Chagla (J.) of Bombay High Court has also supported this. In the words of Justice Chagla (J.), "Section 124 and 125, Contract Act are not exhaustive of the law of indemnity and that the court here would apply the same equitable principles that the liability is England do. Therefore, if the indemnified had incurred a liability is absolute he is entitled to call upon the indemnifier to save him from liability and pay it off." <sup>14</sup> This opinion of Justice Chagla has also been supported by the Law Commission. <sup>15</sup>

**Question No. 2- Define the guarantee contract. Who is a surety? Discuss the circumstances in which a surety is released from his liabilities.**

**Answer-** According to section 126, "A contract of guarantee is a contract to perform the promise or discharge the liability of another person in the event of his default." The guarantee can be written or oral. The person who gives the guarantee is called the "surety". The person for whose default the guarantee is given is called the "principal debtor". The person to whom the



guarantee is given is called the "creditor". **Section 126** clarifies that there are three parties to a contract of guarantee - the principal debtor, the surety and the creditor. For such a contract, their express participation or implied consent is required to be proved by the person who relies or relies on it. Enforcement of Bank Guarantee- Enforcement of bank guarantee is the rule and the only exceptions to it are fraud or irretrievable wrongs and the courts do not like to interfere in the enforcement of guarantee.

The Supreme Court in its judgment in the case of **Svenska Handelsbanken v. M/s Indian Charge Chrome** has held that in the law relating to bank guarantees, the party who wants to get enforcement against the encashment of the bank guarantee is required to show prima facie that there has been fraud and irreparable damage. Where the term of the guarantee by the bank for payment of Rs. 26,15,000 is that the bank is bound to pay the money unconditionally on written demand by the appellant or on demand by the appellant and the other term of the guarantee also makes it clear that the appellant alone will decide whether the seller has committed a breach or not, the appellant's demand for money cannot be suspended on the ground of the dispute being submitted to the courts or arbitrators.

The second reason for the guarantor being a beneficial debtor is that if he pays the liability of the principal debtor then he gets some rights.

**Discharge of Surety from Liability-** The surety is discharged from his liability one can get relief in the following ways-

**(1) By notice of revocation - Under section 130**, when the surety gives notice to the creditor that he is revoking his liability.

**(Case)- Offord v. Davies-**

**For example-** But if A gives a guarantee to B for Rs. 10,000 that C will pay all the bills of exchange which B will draw in his name. C accepts that bill. A gives notice of revocation. C dishonors that bill of exchange on its maturity. A is responsible for his guarantee.

**(2) Revocation of continuing Guarantee by Surety's Death- Section 131** says: "The death of the surety revokes the continuing guarantee in so far as it relates to future transactions, in the absence of anything to the contrary."

**(Case) - Durga Priya vs Durga Padya, AIR 1923 Calcutta 204,206-** Perpetual guarantee is revoked by the death of the surety. But this happens only in relation to future transactions. But if there is a contrary contract then the surety will not be relieved of his liability.

**(3) Variance- Section 133** says: "Any variation in the terms of the contract between the principal debtor and the creditor without regard to the property of the surety discharges the surety as regards transactions subsequent to such variation."

**For example-** C contracts to lend B Rs. 1,000 on 1st March. A guarantees the payment of that loan. C lends B Rs. 1,000 on 1st January. The contract is changed.

**(4) By Release or Discharge of Principal Debtor - Section 134** says: "A surety is released by any contract between the creditor and the principal debtor by which the principal debtor is released or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor."

**For example-** A contracts with B that he will build a house for him at a fixed time and at a fixed price. B will supply wood for the house. C becomes A's surety. B does not supply the wood. C is released from the liability of surety.

**(5) By Composition, Extension of time and Agreement not to sue - According to section 135**, the surety can also be discharged from his liability in the following circumstances-

(A) If the creditor and the debtor enter into a contract of compounding

(B) A promise to extend the repayment of the principal debt

(C) A promise to file a claim against the principal debtor

**By Composition** - If the lender and the principal debtor enter into a contract of composition without the consent of the surety, the surety is discharged from his liability.

**Promise to Extend Time - according to section 135**, if the lender by contract if the guarantor gives more time to the principal debtor to pay the loan and does not obtain the consent of the guarantor for the same, then the guarantor is relieved of his liability. But if the contract for giving more time is not with the principal debtor but with some other or third person, then the guarantor is not relieved of his liability.

**For example-** A is the holder of a time-dated bill of exchange which has been written by A as security for B and which is accepted by B. C contracts with D to give time to B. A is not discharged.

**Promise not to Sue-** If the lender contracts with the surety not to sue the principal debtor without the consent of the surety, then the surety is discharged.

**For example-** B is indebted to C. A guarantees the debtor's loan. The loan becomes due. C does not sue B for one year after the loan becomes due. A will not be released from his liability within the meaning of section 137.

**(6) Discharge of Surety by Creditor's Act or Omission impairing Surety's Eventual Remedy- As per section 139-** When the surety's remedy is impaired by the act or omission of the creditor.

(7) When the creditor has lost the security under section 141.

(8) When any material fact has been concealed or misrepresented by the principal debtor as per sections 142-143.

**Question No. 3- Define the concepts of subtenant and subtenant. Briefly discuss the duties and rights of subtenant and subtenant.**

**Answer-** Bailment is actually a term of common law which is derived from the French word bailer which means to give or hand over. Thus, there is a contract in the act of bailment. In which one person will return the movable property to another person after the purpose is fulfilled.

**For example -** A gives his coat to B with the intention that B makes A's coat and gives it to A, then it is called sublease. Here A is called sublease and B is called sublease.

**According to Definition 148** "Bailment is the delivery of goods by one person to another for some purpose on a contract that when the purpose is accomplished, they will be returned or given to the other person in accordance with the directions of the person making the delivery."

**Duties and Liabilities of the Bailee -** Under various sections of the Indian Contract Law, the duties and liabilities of the Bailee in relation to the deposited goods are as follows-

**(1) To take care of goods - Section 151** stipulates that the bailee should take as much care of the goods deposited with him as a person of ordinary prudence would take of his goods of the same quantity, kind and value under similar circumstances. **Martin v. London Council, 1947 K.B. 618** the plaintiff was a sick woman admitted to a paid hospital. During her admission, the hospital officials took possession of her two gold ornaments and a golden cigarette case and locked them in the medicine room (someone broke the lock and stole the ornaments). It was held that the hospital was liable because the officials did not take necessary care considering the value of the goods.

**(2) Not to make unauthorized use of goods - According to section 154,** it is the duty of the bailee to use the goods bailed in accordance with the terms of bailment. If he makes any unauthorized use, he will be fully liable for all the losses caused by it, even if he is not at fault. For example, A gives his horse to B for riding. B does not ride on it but harnesses it to a cart. In this situation, A has the right to cancel the bailment and take back his horse from B.

**(3) Not to mix the goods - According to section 155,** it is the duty of the bailee not to mix the bailed goods with his personal goods. If he mixes it with his goods then his liability will be determined as follows-

(a) Where the bailee keeps, with the consent of the bailor, goods belonging to him mixed with his own goods, the bailee and the bailor may receive the goods to the extent of their respective shares in such mixture.

**(b) According to Section 156**, if a person mixes the goods deposited with his own goods without the consent of the bailor and the goods so mixed are capable of being separated, then both the parties shall be entitled to their respective goods but the cost of separating the goods will have to be borne by the bailee.

**(c) According to section 157**, if the bailee mixes the goods of the bailor with his own goods without his consent and the goods cannot be separated, then the bailee will have to compensate for the entire goods. For example- A gives flour worth Rs. 20 per kg to B along with his flour worth Rs. 2 per kg. The flour is not separable. B is liable to A for the loss of the entire flour.

**(4) To return the goods - According to section 160**, if the purpose of bailment is fulfilled or the period has expired, it is the duty of the bailee to return the goods to the bailor without demand. If he does not return the goods, he will keep them at his own risk, even if he was not negligent in taking such risk.

**(5) To return of the increase of goods- According to section 161**, if the increase in the value of goods of the bailor has increased during the period of bailment, the increase in the value of goods to the bailor has to be returned along with the goods.

**For example** - A leaves his cow with B for care for some time. During this time the cow gives birth to a calf. B is obliged to return the cow along with the calf to A after the specified time.

**(6) Not to dispute with the title of bailor - According to section 166**, when the bailor demands his goods back, the bailee cannot refuse to return the goods on the pretext that the goods belong to some other person. If there is a person who appears to be the owner of the goods as against the bailor, the bailee should return the goods to the bailor only because he has no responsibility towards the real owner.

**Rights of the bailor** - The following are the rights and liabilities of the bailor-

**(1) Right to Terminate the Bailment - According to section 153**, if the bailee does any act in relation to the goods bailed which is contrary to the terms of the contract, then the bailor has the right to terminate the contract of bailment. **For example-** A rents a horse to B for his own ride. B harnesses the horse to his cart and drives it. This is the end of the bailment at A's option.

**(2) Right to Receive Compensation - According to Section 154**, if the lessee uses the goods leased in a manner which is not in accordance with the terms of the agreement, he is liable to compensate the lessor for any damage caused to the goods by reason of such use or in the course of such use.

For example- A lends a horse to B for his own riding. B allows C, a member of his family, to ride on the horse. C rides carefully, but by chance the horse falls and is damaged. B is liable to pay compensation to A for the damage caused to the horse.

**(3) Right to Restoration of Goods - Section 160** provides that a bailor has the right to get back the goods bailed without demand as soon as the period for which the thing was bailed expires or the thing for which it was bailed is completed. **In Ishfali v. Ibrahim AIR 1971** it has been stated that "A bailee in a hire is normally bound to return the thing hired on the expiry of the period of hire. But when an article is given on hire it carries with it an implied assurance that it is fit for use for the purpose and in the event of a breach of this assurance, i.e., in the event of its being unfits for use, the liability to pay the hirer ceases. In such a case the bailee may leave the article where it is And he may give notice to the bailor that due to the breach of trust he is not bound to return the thing to the bailor.

**(4) Bailor Entitled to increase of Profit from Goods Bailed - According to section 163**, in the absence of a contract to the contrary, the bailor is entitled to receive any increase or profit in respect of the goods bailed during the period of bailment.

**For example-** A leaves a cow in the custody of B for care. The cow gives birth to a female calf. B is bound to deliver the female calf and the cow to A.

**(5) Right to get compensation on the mixing of the goods- According to section 156**, if the lessee mixes the goods of the lessor without the consent of the lessor, and the goods can be separated or divided, then the goods remains with the respective parties. But the lessee will be bound to bear the cost of separation or division and the loss arising out of the mixing. But if the lessee, without the consent of the lessor, mixes the goods of the lessor in his goods in such a manner that the goods are separated from other goods and it is impossible to deliver them among themselves, then the lessor is entitled to get compensation from the lessee for the loss of those goods.

**For example**, A sublet to B 100 bales of cotton marked with a particular mark. B, without A's consent, mixes those 100 bales with some other bales of his bearing a different mark. A is entitled to recover his 100 bales and to recover all expenses incurred in the separation of the bales.

**Obliges B to bear other incidental losses. Liabilities of a bailor** - The following are the liabilities of a bailor-

**(1) To Disclose the Faults of Goods Bailed - According to section 150**, it is the primary duty of the bailor to disclose to the bailee the defects known to him in the goods bailed and which are likely to cause actual obstruction in their use or to make the bailee aware of the extraordinary risks and if he fails to do so, the bailor is liable for any damage caused to the bailee



directly by such defects. If the goods have been bailed for hire, the bailor is liable for such damage, even if he had knowledge of the existence of such defects in the goods bailed.

**For example-** A gives a bicycle on rent to B. A and B do not know that the bicycle's brakes are faulty. B uses the bicycle and falls down due to faulty brakes and gets injured. A is bound to compensate B even though at the time of giving the bicycle on rent he did not know that the bicycle's brakes were faulty.

**(2) Liability for Fannayment of Necessary Expenses- Under Section 158**, where goods are kept or carried or any work is done by the bailee for the bailor in accordance with the terms of the bailment and the bailee does not receive any remuneration, the bailor shall be liable to pay the cost of the bailee's custody and the cost of such maintenance, if any, incurred directly in connection therewith.

**(3) Bailor's Responsibility: Under Section 164**, the bailor is liable to make good any loss which the bailee sustains by reason of the bailor not being entitled to make the pledge or to cause the goods to be pledged or to give direction therein i.e. the bailor shall be liable to make good the loss of the bailee who had no title to the goods.

**Right of Bailee** - A bailee gets the right-

**(1) Bailee's Right or Lien** - Bailee's Right or Lien it is called the right under which the subtenant has the right to keep the subtenant in his possession until he receives the money due for the services rendered to him for repairing the subtenant. There are two types of lien rights.

**(a) Particular Lien - According to section 170**, this is the right by which the bailee keeps in his possession the goods for which he has rendered services by his labour or skill, so long as He has the right to keep things until he gets compensation for his services. He can keep in his possession only those things for which he has rendered services by his labour and skill.

**For example-** A gives a diamond to B, a jeweler, to be cut and polished. This is done accordingly. B is entitled to hold the diamond until he has been paid for the services he has rendered.

**(b) General Lien - According to section 171**, general lien is given to moneylenders, the middlemen, wharfinger, High Court agents and insurance brokers have this right. They have been given this right to hold the goods until their contracts are satisfied by the owner of the goods.

**(2) Right to Sue Against Wrong doer - Section According to section 180**, if any person wrongfully deprives the bailee of the enjoyment of the things bailed or causes any injury to them, the bailee has a right to enjoy such remedies as the owner would have had in the event of bailment if there had been no bailment, and either the bailor or the bailee may sue against such person for such saving or injury.

**According to Section 181**, whatever is received by way of relief or compensation in such a suit shall, so far as the relation between the bailor and the bailee is concerned, be dealt with according to their respective interests.

**Question No. 4- Define mortgage. And explain its essential elements. Mortgage who can keep it? Tell me.**

**Answer-** The definition of mortgage is given in section 172 of the Indian Contract Act. According to this, the hypothecation of goods as security for the payment of a loan or for the fulfillment of a promise is called mortgage. In this situation, the bailor is called the pledge. The bailee is called the pledge. In fact, mortgage is a guarantee between lien and mortgage in which the hypothecation of goods is done by contract to guarantee the loan and as far as it is necessary to secure the loan, the right of the property is vested in the person who pledges it. Therefore, when a person takes a loan, the person taking the loan keeps some of his goods like jewellery etc. with the lender as security for the security of that loan, then it is said that he has pledged a certain thing in exchange for a certain loan. When the loan is repaid, the item is returned to the borrower. This transaction is called a pledge transaction.

**For example-** A takes a loan of Rs. 10,000 from B and in return keeps his motor cycle with B as security, then it will be said that A has pledged his motor cycle.

**Essential elements of pledge** - The following are the four essential elements of pledge-

**(1) There must be Delivery of Possession, Actual or Constructive of the Property Pledged** - The first essential element of a pledge is that delivery of possession of the pledged property may be actual or constructive. For example, in **Reebs v. Capper (1939)**, the captain of a ship pledged his chronometer to the captain. The chronometer was left with the captain for the purpose of the voyage. Later on, the captain again pledged it to another person. The court held that the first pledge was valid and there was constructive consideration.

Similarly, in **Chittor Bank vs Narasimbalu AIR 1966**, the bank allowed the mortgaged property (cinema projector etc.) to remain with the obligor who sold it to another person. The court held that the first mortgage was valid and there was a contingent delivery.

Sometimes it may happen that delivery is made before the mortgage. **For example-** In **Blendell Lee vs. Atenbaron, 1921**, the plaintiff gave his jewellery to a person M for its evaluation and to know how much money he could advance on it. That person could keep the jewellery with him as security for giving the advance money. That person could keep the

jewellery with him as security for giving the advance money. There was no valid mortgage between M. But this decision of the Court of Appeal was reversed and held that although the original delivery was a gratuitous vesting, it became a valid mortgage when M paid the money for it.

A valid pledge can also be made by delivery of documents. The Supreme Court gave this decision in **Maurvi Mercantile Bank vs Union of India AIR 1965 SC 1954**. In this case, a bank paid Rs 20,000 on three railway receipts endorsed in the name of the bank. Goods worth Rs 35,000 were lost by the railway. The bank filed a suit against the railway for the loss of the goods. The Supreme Court by majority decided that the bank was entitled to get the full amount, although it had paid less money for the goods in pledge.

**(2) The Delivery of goods must be made for security of Debt** – The delivery of goods must be made for securing a loan or in fulfillment of a pledge and not for any other purpose.

**(3) There must be Special Interest of the Pawnee-** The Pawnee must have a special interest in the mortgaged property. The property remains with the pawner and is recovered by him after repayment of the loan.

**(4) Right to retain the pledged property till the payment of debt** – Until the debt is paid, the pledge can retain the property of the pledge.

**Pledge by Mercantile Agent - According to section 178**, where a commercial agent is in possession of goods or title documents to goods with the consent of the owner, the pledge made by him in the ordinary course of his business as a commercial agent shall be valid as if he were expressly authorized by the owner of the goods to do so, provided that the pledge acts in good faith and at the time of pledge does not foresee that the pledge has no right to pledge.

The general rule is that only the owner of the goods or his authorized agent can pledge the goods. Pledge by a commercial agent is an exception to this general rule.

**The following are the elements for the application of section 178-**

- (1) The applicant must be a commercial agent.
- (2) The goods or deeds must be in the possession of the commercial agent.
- (3) The possession must be with the consent of the owner.
- (4) While mortgaged, such commercial agent must act in the ordinary course of business.
- (5) The pledge must act in good faith and must not have any knowledge that the pledge has no right to mortgage.

**Pledge by person in possession under Voidable Contract - According to section 178**, when the pledge has intended to take possession of the things pledged by him under a voidable **contract under section 19 or 19A**, but the contract is not rescinded at the time of pledge, the pledge



acquires rightful title to the things, provided he acts in good faith and without notice of the fault of the pledge.

**The following are the essential elements of section 178-A-**

(1) The hypothecary has obtained possession under a voidable **contract under section 19 or 19A**. In this connection it would be desirable to refer to the English case Phillips v Brooks Ltd. In this case a person went to a jewellery shop and fraudulently represented himself as Sir GB and took a ring and paid by cheque. Thereafter he pledged the ring with the defendant. The defendant had pledged the ring in good faith and without notice of the defect in the title of the hypothecary. The court held that though the pledge was made by a person who had obtained it under a voidable contract, the pledge was still valid. The principle has been adopted in **section 178-A**.

(2) Such voidable contract has not been rescinded.

(3) provided that the recipient acts in good faith and without notice of the defect in the title of the applicant.

**Limited interest of the Pawnee** - Where a person where a person mortgages things in which he has only a limited interest, the mortgage is valid only to the extent of that interest.

**Question No. 5- What are the different ways of creation of agency relationship? Explain. Discuss the method related to creation of agency by ratification.**

**Answer- Agency - According to Anson**, "Although the general rule is that a person cannot give any right to another person by entering into a contract with him nor can he impose any responsibility on him, but when employed, he can represent the employed person with the purpose of establishing his legal relationship with the third party. Employment done for this purpose is called 'agency'."

**According to Polak and Mulla**, agency in law means that a person has the authority or capacity to create legal relations between a person in the position of principal or owner and third parties. The test of agency is whether the person purports to transact on behalf of the principal or not.

**Essential elements of agency** - The essential elements of agency are as follows-

**(1) Any person can be an agent - According to section 148**, as far as the question is between the principal and the third party, any person can be an agent. Therefore, a minor can also be appointed as an agent. But a minor cannot appoint an agent for himself. Because the appointment made by a minor is void.

**(2) Principal must be competent to appoint agent - Section 183** states that a person who is of sound mind and major according to the law applicable to him can appoint an agent. Thus, insane persons and minors are not capable of appointing an agent.

**(3) Consideration is not necessary for the contract of Agency-** Though the consideration for the contract is given to the agent in the form of salary or commission, however, **according to section 185**, consideration is not necessary for the contract of agency.

**Creation of Agency** – The agency can be created in the following ways-

**(1) By direct appointment** - The most common way in which an agency is established or originated is when the principal gives the agent express authority to enter into a contract. When the authority is given in writing, it is called authority by direct appointment. For example, Ram appoints Mohan as his agent by writing.

**(2) By implication** - When agency is inferred from the circumstances of the case or from the general course of conduct, it is called implied agency. **(Section 186)**

**Example-** 'A', who himself lives in Calcutta, is the owner of a shop at Srirampur and visits the shop here occasionally. The shop is managed by 'B' and he orders goods from 'C' in the name of 'A' for the purposes of the shop and places orders for the same in the treasury of 'A' with the knowledge of 'A'. 'B' orders goods from 'C' in the name of 'A' for the purposes of the shop has the authority to imply 'A'.

**In Commissioner cum Secretary Animal Husbandry Department vs. Smt. K. Rinzing, the Sikkim High Court** in its judgment regarding **Section 186** of the Indian Contract Act said that-

**According to section 186**, the agency may be established either actually, expressly or impliedly. Hence, where the appointment letter states that the appointment has been made with the approval of the Government, the plaintiff need not adduce any further evidence of the authority of the appointment.

The person who has been given a general power of attorney or power of attorney has the right to sell both the present property of the owner as well as the property acquired after the power is given; hence it is not proper to cancel the contract on the ground that the holder does not have the authority.

In this regard, it would be desirable to mention the decision given by the Supreme Court in *Chairman Life Insurance Corporation vs. Rajiv Kumar Bhaskar*. The main question in this case was whether the employer would be the agent of Life Insurance Corporation under the salary savings scheme of Life Insurance Corporation. The question was what would be the responsibility of Life Insurance Corporation in case of employer's default? The employer had fully accepted the responsibility that he would collect or deposit the insurance installment from his employees and give it to Life Insurance Corporation by cheque. Under the scheme, it was not necessary

to send notice to every employee and it was not necessary to give them any receipt, the employer also had to inform the employees about the end of prosecution. The Supreme Court decided that although according to the rules of Life Insurance Corporation, the employer is not an agent, but keeping in mind section 186, it can be concluded that the employer has the implied authority to act as an agent. Therefore, in case of default or failure by the employer in paying the installment, Life Insurance Corporation will be liable to pay the insured amount.

**(3) By necessity.** -An agency may be created by necessity, a person acting as an agent for another in certain circumstances. When a husband fails to maintain his wife, the wife may pledge his credit to obtain the goods necessary for her maintenance and the payment of which would bind the husband.

**(a) By Legal Necessity-** In certain cases the law establishes the relationship of principal and agent between two parties with their consent.

**(b) By Emergent Necessity -** In certain circumstances, even though the relationship between principal and agent is established by law itself, the law permits the agent to exceed the limits of his powers in case of extreme emergency.

**(4) By estoppels-**Agency may also arise by estoppels.

**(5) By Ratification-** Agency may also arise by ratification. **According to section 496** where acts are done by a person on behalf of another person but without his knowledge and authority, he may decide whether to ratify or reject such acts. If he ratifies them, it will have the same effect as if they were done with his authority. Thus, if an agent does any act without the authority of the principal, the principal may ratify his act and accept the rights and liabilities arising out of such contract. Ratification may be express or implied from the conduct of the person on whose behalf the acts are done.

**Example-** (a) 'A' buys goods for 'B' without authority, thereafter 'B' sells them to 'C' on his own account. 'B's' conduct implies that he has ratified the purchase made by 'A' for him.

(b) A lends B's money to C without B's authority. B then accepts interest on the money from C. B's conduct implies that he has ratified the loan.

**Question No. 6- With the help of examples, explain the circumstances under which agency relationships are terminated and also mention the circumstances when agency relationships cannot be terminated.**

**Answer-Termination of Agency-**Agency means the relationship between one person and another person, where the first person brings the second mentioned person into a legal relationship with others. There are various ways of creation of agency and termination of agency.

An agent is a person who is appointed to perform an act on behalf of his principal or to enter into a contractual relationship with others (third parties). An agent acts as a connecting link between his principal and third parties.

When representing his principal, an agent acts in the same manner as his principal. An agent is authorized by his principal to act on his behalf. An agent legally binds his principal in business transactions with third parties because of their agency relationship.

**According to section 201 of the Indian Contract Act, 1872**, the agency is terminated under the following circumstances:-

**(1) By Revocation-** When the principal revokes his authority.

The agency thus ceases. Revocation may be express or implied from the conduct of the owner. A authorizes B to let the house himself, and thereafter A lets the house himself. This is an implied revocation of B's authority.

**In addition, the revocation of authorization is subject to the following conditions-**

(a) Where there is a contract, express or implied, that the agency is to continue for a period of time, compensation shall be paid by the agent to the principal for any earlier rescission or abandonment, as the case may be, without sufficient cause.

(b) The principal does not revoke the authority given to his agent after the authority has been partly exercised so far as regards acts and obligations arising out of acts already done under the agency.

(c) Reasonable notice must be given of such rescission or abandonment, otherwise any loss caused to the principal or the agent thereby shall be made good by one to the other.

**(2) Renunciation of the business of Agency by Agent-** According to **section 201**, the agency comes to an end when the agent ceases to carry on the business of the agency. This may be expressed or implied from the conduct of the agent.

**(3) On completion of the business of the agency. -** When the business of the agency is completed, the agency stands terminated.

**(4) By the death or insanity of principal of Agent-** It is important to note here that in such a situation all the liabilities of the agent cease. According to **section 209**, when the agency ceases due to the death or insanity of the principal, the agent is bound to take all reasonable steps on behalf of the representatives of his former principal for the protection and preservation of the interests entrusted to him.

**(5) By Insolvency of the Principal -** The agency comes to an end when the principal becomes insolvent.

When the agency cannot be terminated, it is known as an irrevocable agency. There are certain situations when it is not possible to revoke an agency by the principal, which are as follows:-

When agency is coupled with interest it is a case where an agent has an interest in the subject matter of such agency. Where the agency is coupled with interest, it does not come to an end even in the event of the death or insanity or bankruptcy of the principal.

When personal liability comes upon an agent, the principal cannot revoke the agency, the agency becomes irrevocable. For example, A appoints B as his agent. A purchases some wheat in his personal name as per the instructions of B. Now in such a case P cannot revoke the agency. Where the agent has exercised the authority partially, and it is irrevocable in respect of the liabilities arising out of the acts performed. (Section 204) For example Mr. X appoints Mr. Y as his agent. On the direction of Mr. X, Mr. Y purchases 100 kg of grain in the name of his principal Mr. X. Now, in such a case Mr. X cannot revoke the agency.

When termination is effective the termination of an agency is effective when it comes to the knowledge of an agent. When the principal revokes the agency, it is effective only when the agent has knowledge of it. However, in the case of third parties, the termination is effective only when such termination of the agency comes to their knowledge.

**As per section 210 of the Indian Contract Act, 1872** the termination of the authority of an agent also terminates the authority of the sub-agent appointed by the agent. **As per section 209 of the Indian Contract Act, 1872** an agent has a duty to protect the interests of his principal if his principal becomes of unsound mind or dies. It is the duty of an agent to take all reasonable steps on behalf of his late principal or dying principal to protect the interests of those assigned by him on the termination of an agency by reason of the death or becoming of unsound mind of the principal.

**Question No. 7- Explain the concepts of condition and warranty with the help of examples. Explain the difference between condition and warranty. Under what circumstances is the breach of a condition considered a breach of a warranty?**

**Answer-** The most important difference between a condition and a warranty lies in the consequences of breach. When the conditions are fulfilled, the purpose of the contract is accomplished. However, breach of condition gives the aggrieved party the right to terminate the contract and claim damages. This is the only remedy available to the aggrieved party. In contrast, breach of warranty only allows the aggrieved party to claim damages, but the contract remains valid. When it comes to contracts and legal grounds, the terms used can be tricky and difficult to understand. Two



such terms that arise frequently are 'condition' and 'warranty'. This article will help you understand the difference between condition and warranty. This will make it easier for those involved in contract law, especially the **Sale of Goods Act, 1930**, to work with.

**Difference between condition and warranty:-** Conditions form the basis of any contract or sale while warranties provide additional assurance or guarantee. If a condition is not fulfilled, it is considered a material breach. On the other hand, non-fulfillment of warranty is not considered a material breach. Here condition and warranty are the two main differences.

**Here is a tabular comparison on the differences between the warranties:-**

Parameter	Condition	Warranty
<b>Definition</b>	Forms the basis of the contract.	A warranty is a secondary condition or promise in a contract.
<b>Importance</b>	This is a primary obligation and is vital to the contract.	This is a secondary promise and not as important as a condition.
<b>Consequences of violation</b>	Right to Terminate and Claim Compensation.	Right to claim compensation without voiding the contract.
<b>Example</b>	In the car purchase contract, the specific model of the car will be a condition.	In the same contract, the promise that the car will be serviced before delivery would be a warranty.

### **What is a condition?**

**According to Section 12** of the Sale of Goods Act, a condition is a fundamental term that forms the basis of the contract. It is a primary obligation and is of utmost importance to the contract. If the facts specified are true and the conditions are fulfilled, the purpose of the contract is accomplished.

For example, in a contract of sale, if you are buying a car and the expressed condition is that it must be a specific model, then getting a different model would be considered a breach of contract. This breach of condition gives the aggrieved party the right to reject the car and cancel the contract.

**Benefits of terms-**The following points highlight the benefits of terms within a contract-

Provide a level of protection to the parties involved. If a condition is not met, the aggrieved party is allowed to terminate the contract, providing protection against unfulfilled promises.

Help clarify the essential elements of the contract, making it clear what each party is obligated to do, what is the seller's duty.

**Disadvantages of conditions-** The following points explain the disadvantages of the terms:

The strict nature of terms can sometimes lead to unfair consequences if a smaller condition is breached. If there is disagreement over whether a term is a condition or not, this can lead to a legal dispute.

**Case Studies: Bettini v. Gay (1876)** In this case, an opera singer (Bettini) was contracted to perform for a period of three months but was required to arrive six days before the performance for rehearsals. Bettini fell ill and missed the rehearsals but was ready for the first performance. The court held that the requirement to attend rehearsals was not a condition but a warranty.

Therefore, the contract could not be terminated, and the singer could not be replaced.

### **What is the warranty?**

A warranty is a secondary condition or promise in a contract. It is not as important as a condition. A breach of warranty will not terminate the contract. Instead, a breach usually results in damages to compensate. A warranty is often a guarantee given by the seller, which serves as collateral for the main purpose of the contract it occurs.

For example, in the same contract of sale, a promise that the car would be serviced before delivery would be a warranty. If the car is delivered without being serviced, this would be a breach of warranty. However, this would not invalidate the contract. You would still have to accept the car, but you could potentially claim compensation for the cost of servicing the car.

**Benefits of Warranty** - The following points highlight the benefits of warranty within a contract-

Warranties provide additional assurances beyond the essential terms of the contract, often relating to the quality or performance of goods or services. In the event of a breach of warranty, the aggrieved party can claim damages, providing a form of compensation for any losses suffered.

**Loss of Warranty** - The following points explain in detail the loss of warranty within a contract-

A breach of warranty only allows for damages and gives the aggrieved party the right to terminate the contract doesn't give.

Since warranties are secondary promises, they can sometimes be overlooked or not given as much attention as the terms, potentially leading to a breach.

**Case Study:-Hong Kong Fir Shipping Co. Ltd. v. Kawasaki Kisen Kaisha Ltd. (1962)** In this case, a ship was leased for 24 months, and the contract included a warranty that the ship would remain seaworthy throughout the lease period. However, the ship was out of service for 5 weeks due to engine problems and for 15 weeks due to crew incapacity. The court held that the warranty of seaworthiness was not a condition. Therefore, the lessee could not terminate the contract, especially since the ship was available for most of the lease period.

**Condition vs. Warranty: Which is Better?**

The choice between a condition and a warranty largely depends on the specific circumstances and the importance of the promise in the contract.

**Condition** – If the promise is crucial to the agreement, it is better to make it a condition. This is due to the fact that breach of the condition gives you the right to terminate the contract, giving you a strong protection. If the promise is less crucial and it is okay for you to receive compensation if it is not fulfilled, it is better to make it a warranty. This is because breach of warranty does not terminate the contract but allows for damages.

**Guarantees**-Warranties offer more flexibility because they allow the contract to continue even if it has been breached. This can be beneficial in situations where maintaining the contract is more important than an unfulfilled promise. On the other hand, conditions offer stronger guarantees that important promises of the contract will be kept. They provide a stronger mechanism to enforce.

**Question No. 8- Who is a non-paying seller? Explain the rights of a non-paying seller under the Sale of Goods Act, 1930 with the help of legal provisions and illustrations.**

**Answer-** As per Section 2(f) of the Indian Contract Act, the seller must transfer the goods sold, and the buyer must pay the required amount in return under the contract of sale. This is known as reciprocal promises. In other words, any set of promises made which form the consideration or part of the consideration for each other are called reciprocal promises and every contract of sale of goods involves reciprocal promises.

**He is a seller whom-**

1. The full price has not been paid
2. Conditional Payment

The seller has received the bill of exchange/promissory note/cheque but the same has been dishonored. Till the time the bill of exchange/promissory note/cheque is with the seller, he is called as the



seller only, but when any of the mentioned instruments is dishonored then after that the seller is called the unpaid seller.

### **Features of Unpaid Seller**

1. The seller should sell the goods on cash basis and not make payment (cash transaction In). Payment becomes due immediately)
2. The seller must be paid either in full or not paid by the party
3. The stipulated period has expired and the price has not been paid to the seller
4. The seller must not refuse to accept payment
5. Where the price is paid by means of a negotiable instrument (bill of exchange/promissory note/cheque) and he has been disrespected

**Example-** A sells his bike to B for Rs. 60,000 and receives a cheque for the amount. Till this time A is called a seller. But when the cheque is dishonoured thereafter due to insufficiency of funds in B's bank account, then A becomes a non-paid seller.

### **Three important rights of the unpaid seller against the goods-**

1. Right of lien
2. Right to stop in transit
3. Right to Resale

**Right of Lien of Unpaid Seller** - One of the important rights of an unpaid seller is the right of lien. Lien refers to the right to retain possession of the goods until the full price is paid by the buyer. An unpaid seller can exercise this right if the goods have been sold on credit and the buyer has not yet paid the full price.

The seller may retain possession of the goods until payment is made and may refuse to deliver the goods to the buyer unless the price has been paid in full. The right of lien can be exercised by the seller even if the goods are in transit, i.e., they have been shipped but not yet delivered to the buyer. However, there are certain conditions that must be fulfilled by the seller to exercise the right of lien. **As per Section 47 of the Sale of Goods Act, 1930**, the right of lien can be exercised by the seller if:

- (a) The goods have been sold without any credit condition, i.e., the sale was on cash basis.
- (b) The buyer becomes insolvent, i.e., is unable to pay his debts when due.
- (c) The goods have been sold on credit, but the credit period has expired and the seller has not yet received the full price. If these conditions are met, the seller can exercise his right of lien and retain possession of the goods until the full price is paid.

In the case of *Grice v Richardson*, the sellers had delivered a portion of three parcels of tea which were part of the sale, but the remaining portion had not been paid for. They were allowed to retain the goods until the price was paid. However, if there is an agreement to waive the lien for the

delivered goods, the seller cannot retain the remainder. In one case the Supreme Court of India held that an unpaid seller has the right to exercise a lien over the goods and refuse to deliver them until the buyer pays the price. The court further held that the seller's right of lien is not affected by the fact that the goods have been delivered to the carrier for transmission to the buyer or that the seller has claimed an interest in the goods as a result of the buyer's bankruptcy.

**Partial Delivery- (Section 48)** Further, Section 48 states that if an unpaid seller makes partial delivery of the goods, he can exercise his right of lien on the balance. This is valid unless there is an agreement between the buyer and the seller to waive the lien under partial delivery.

**In Mordaunt Brothers vs British Oil Cake Mills Ltd**, the contract was for the sale of a part of the oil which was lying with the seller. The buyer sold a part of the said oil to the plaintiff and wrote a delivery note on his behalf in which he directed the seller to give the oil to the plaintiff. The seller delivered a part of the oil to the plaintiff but later stopped it. Because till then the buyer had not paid the price of the oil. The plaintiff sued the buyer to get the oil, which was dismissed by the court and decided that the seller had a lien on the goods.

**Termination of lien (Section 49)**-Extinction of lien is defined in section 49 as (1) An unpaid seller of goods loses his lien thereon

(a) when he hands over the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving a right to dispose of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods;

(c) by the release thereof.

(2) An unpaid seller of goods, having a lien thereon, does not lose his lien merely because he has obtained a decree for the price of the goods.

The lien is attached to possession and is lost when possession is lost.

**Accordingly Section 47** provides that an unpaid seller of goods loses his lien in the following cases

(1) When he hands over the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right to dispose of the goods;

(2) When the buyer or his agent lawfully obtains possession of the goods;

(3) by a waiver of the lien.

Sub-section (2), however, provides that the unpaid vendor does not lose his lien merely because he has obtained a decree for the price of the goods.

**By delivery to the carrier**-Delivery of the goods to a carrier for the purpose of transmission to the buyer operates as a delivery to the buyer itself and, therefore, the right of lien is lost. The lien is extinguished by delivery to a carrier, but the seller still has a right of stoppage in transit. If

the seller recovers possession of the goods from the carrier by exercising his right of stoppage in transit, his lien is revived. But if he withdraws the goods from the carrier for some other purpose, the lien is not revived. Thus, in **Valpy v. Gibson**, the goods sold were handed over to the buyer's shipping agents, who put them on board the ship. But the goods were returned to the sellers for repacking. While they were still with the sellers, the buyer became insolvent and the sellers, being still unpaid, claimed to retain the goods in exercise of their lien.

It was held that, having lost his lien by delivery to the shipping agents, it was wrong to refuse delivery. Where the seller has reserved the right to dispose of the goods, his lien continues until the end of the transit.

**By delivery to buyer-** The right of lien also ceases when the goods are handed over to the buyer or his agent. The effect of delivery to the buyer is stated by Blackburn as follows: When the seller has delivered the goods to the buyer for the purpose of sale Once the buyer has delivered possession of the goods under a contract of delivery, all his rights in the goods are absolutely extinguished; he is liable to recover the price in the same manner as he would recover any other debt and has no better claim on the goods sold than any other creditor. The delivery and acceptance of possession completes the sale, and gives the buyer an absolute, unqualified and indefeasible right of property and possession of the things sold, even if the price remains unpaid and the buyer is insolvent.

Where the goods are returned to the seller for a specific purpose, such as the repair of a machine sold, this does not revive the seller's lien. However, the seller's lien is not extinguished where the buyer has obtained possession without the seller's consent, for example by some wrongful act or for some temporary purpose, such as testing. The buyer must obtain possession legally and under the contract. Where possession is obtained with consent, but the consent itself is managed by cunning or fraud, the effect is thus stated by P.S.

Although it may be a little odd to say that possession obtained in circumstances of theft may be 'lawfully' acquired, it is submitted that this is more consistent with the rest of the Act, and this construction will probably be adopted. But if the buyer obtains possession of the goods without the seller's consent, the lien does not extinguish, and even if the property has passed to the buyer, it appears that he cannot pass a good title to a third part free of the lien at a discount.

The right of lien is attached by implication of law to every contract of sale for the benefit of the seller. The seller may, therefore, waive his right if he so wishes. The waiver may be express or implied by the seller's conduct. An implied waiver occurs when the seller is guilty of some wrongful act in reference to the goods, such as dealing with the goods in a manner

inconsistent with his right of possession thereof, such as wrongfully reselling or consuming them, or claiming to possess them on any ground other than his right of lien." Thus, where the seller cut and used a stack of hay which he had sold and part of which was taken by the buyer, he was held liable to the buyer for damages for failure to deliver by price tender.

When the buyer quotes a price for the goods, the seller ceases to be an unpaid seller, and cannot, therefore, by a voluntary refusal to accept the price, convert himself into an unpaid seller and claim a lien.

**Question No. 9- Define partnership as per Section 4 of the Indian Partnership Act, 1932. What are its essential elements? Tell whether sharing in profit is a conclusive proof of partnership? Discuss.**

**Answer- Definition of partnership Section 4 of the Indian Partnership Act, 1932 (AA of 1932)** defines partnership in the following terms- "Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any one of them acting for all."

**Halsbury defines partnership as** "the relation which subsists between persons carrying on a business in common with a view to profit."

In the story on partnership, the term is defined as a voluntary contract between two or more capable persons to put their money, influence, labour, skill or any part or all of it into lawful commerce or business with the understanding that there shall be an equitable sharing of the profits between them.

**What is the meaning of partnership as per section 4 of Partnership Act, 1932? Explain with examples.**

Partners, Firm, Name of the **Firm Section 4** Persons who enter into partnership with each other are individually called 'partners' and collectively called 'a firm' and the name under which their business is carried on is called the 'name of the firm'.

**Section 58.-** A firm name may not include any of the following words, namely, Crown, Emperor, Empress, Empire, Royal King, Queen Royal or words expressing or implying the approval, sanction or patronage of the Government.

**Section 4** of the present Act corresponds to the repealed **section 239(c)** of the Indian Contract Act which contained the following examples:

- (1) 'A' and 'B' buy bales of cotton which they agree to sell for their joint account. 'A' and 'B' are partners in respect of such cotton.
- (2) 'A' and 'Bish buy 100 bales of cotton and agree to share it among themselves. 'A' and 'B' are not partners.
- (3) 'A' agrees to buy gold with a goldsmith and to sell it to 'B' and they will share in the resulting profit or loss. 'A' and 'B' are partners.

(4) 'A' and 'B' agree to work together as carpenters, but 'A' shall receive all the profits and 'B' has to pay the wages. 'A' and 'B' are not partners.

(5) A and B are joint owners of the ship. This circumstance does not make them partners.

### **Essentials of Partnership**

**What are the requirements for forming a partnership firm? Explain with relevant examples and case-laws.**

According to section 4 the following are the essential things required to form a partnership-

(a) There should be an agreement between the persons who want to become partners.

(b) The object of forming a partnership should be to carry on the business.

(c) The motive of forming a partnership should be to earn and share profits.

(d) The business of the firm should be carried on by all of them or one of them should act for all that is, there is mutual agency.

(1) In **Raghunath Sahu v. Trinathdas**, MANU/OR/0002/1985 : AIR 1985 Ori 8 (10), a Division Bench of the Orissa High Court pointed out three essential elements of partnership:

(2) An agreement between the persons concerned,

(3) The agreement must be for sharing of profits,

(4) The business should be carried on either by all or one of them should act on behalf of all.

(5) In **Pratibha Rani v. Saroj Kumar**, MANU/SC/0090/1985: (1985) 2 SCC 370 (384), the Supreme Court pointed out two essential elements of partnership-

(a) Any real or external physical act done by two persons to start a business.

(b) If all or any one of them carries on the business, the partners shall share profits on the basis of shares allotted to them under the agreement.

(3) The Supreme Court held in **Helper Girdharbhai v. Syed Mohammed Hirasahab Qadri**, MANU/SC/0381/1987 : AIR 1987 SC 1782 that, "Whether there was a partnership or not in certain cases is a mixed question of law or fact." The understandings that in a particular case the elements of partnership as embodied in the law of partnership were present or No, this must be decided in the light of the principles applicable to partnerships."

**(1) Agreement-**As per section 5 of the Partnership Act, the relationship of partnership arises out of contract and not by status. Thus, members of a Hindu Undivided Family carrying on a business, or co-owners of a business are not 'partners' because HUF and co-ownership are created by operation



of law and not by contract. The agreement of partnership may be express or implied.

The first essential ingredient of a partnership is that there must be an agreement between the persons forming the partnership. Under clause (e) of **section 2 of the Indian Contract Act, 1872** the term 'agreement' has been defined as follows-Each promise as a group of promises which constitutes a consideration for each other is an agreement. An agreement is an essential part of a partnership and without it no partnership can exist. Any agreement, express or implied, must be proved to establish the relationship between partners.

**Section 4** makes it clear that partnership is the relation between persons who have agreed to share profits. There can be no partnership without an agreement. Section 5 clarifies it by stating that the relation of partnership arises out of contract and not of status. In **Deputy Commissioner Sales (Law) v. M/s K.K. Kelukutte**, MANU/SC/0313/1985: AIR 1985 SC 1143, the Supreme Court held that the relation between partners is based on an agreement between them. Thus, the basis of partnership and firm is the partnership agreement.

**(2) Business** - A partnership can be formed only for the purpose of carrying on a business. **Section 2(b)** of the Partnership Act says that the term 'business' includes every trade, vocation or profession. Thus, an association formed primarily for charitable, religious and social purposes is not considered a partnership. Similarly, when two or more persons agree to share the income of joint property, it does not fall under the category of partnership; such a relationship is called co-ownership.

**According to Lindley**- "A single commercial transaction may constitute a business, it is not necessary that the business be of long term and permanent nature. If persons, not already partners, share the profits or losses of a particular transaction, they may be partners for the said particular transaction." In **Kottapally Jaggaiah v. Kokumanu Venkatasatyanarayana**, MANU/AP/0163/1984: AIR 1984 AP 149: **Andhra Pradesh High Court** held that the test is whether there is any activity which can be termed as business for that transaction. Hence a single contract with the government can be the subject-matter of partnership.

**(3) Sharing of profits** - Sharing of profits is an essential element of a partnership firm. Discussion on this:-

It is also an essential element of partnership that the agreement provides for sharing of profits among the partners. Section 4 of the Partnership Act does not provide that profits should actually be shared by the partners. The object of every partnership should be to carry on the

business for profit and to share the same. Though the term profit is not defined in the Act, it means net profit i.e. return in excess of outlay.

**'Case Cox v. Hickman, (1860) 8 HLC 268', 125 RR 148'**: brought a revolutionary change in this regard. Delivering the judgment Lord Cranworth of the House of Lords held that double sharing of profits is good evidence that the business in which profits are made is being carried on on behalf of the persons who are sharing the profits. The net result of this landmark decision is that no person is a partner unless he has a right to share the profits of the business.

**(4) Mutual agency-** Discuss the doctrine laid down in **Cox v. Hickman**.

The existence of mutual agency is also essential for the formation of a partnership. As per **Section 4 of the Partnership Act, 1932** the partnership business must be carried on by all or any one of them acting for all. This enables any partner to carry on the business on behalf of others. Therefore, each partner can bind other partners by his act alone on behalf of the firms. Each partner can be the agent of any other partner and the relationship is that of mutual agency.

'A' carries on the business of loading and unloading wagons of a limited company in his own name. 'A' appoints 'B' to manage the business. It is agreed between them that 'B' will get a share of 75 paise out of the net profit as remuneration and 'A' will get 25 paise but will not be liable for loss. Are 'A' and 'B' partners?

In this example, there is an agreement between A and B, the agreement is for the carrying on of business and the object or motive of the agreement is to divide the profits but the fourth element i.e. mutual agency is absent. Therefore, A and B are not partners. The fact that A is not liable for damages shows that there is no mutual agency.

It enables any partner to carry on the business on behalf of the others. Therefore, each partner can bind the other partners by his act done on behalf of the firm. Each partner can be the agent of any other partner and the relationship is one of mutual agency.

This is the principle of Cox v. Hickman, (1860) 8 HLC 268.

"S and S were iron merchants in partnership. They became financially embarrassed and, therefore, they compromised with their creditors. Under the compromise the property of the firm was assigned to certain creditors elected as trustees. They were given the right to continue the business subject to dividing the net income in fair proportion among the creditors and after the debts were paid, the business was to be returned to S and S. Cox was one of the trustees, however he never acted. The other trustee continued the business. He purchased a quantity of coke from the plaintiff Hickman and gave him a bill in exchange for the price. The bill remained to

be paid. Hickman brought an action against the trustees including Cox for the price.

**Question 10- Can a minor become a partner in a partnership firm? Describe the position of a minor in a partnership. Briefly discuss the rights and liabilities of a minor who is admitted into a partnership firm to share in the profits.**

**Answer-** According to Section 3 of the Indian Majority Act, a person who has not attained the age of majority i.e. 18 years is called a minor.

**Section 4 of the Indian Partnership Act, 1932**, defines partnership and partner as follows-

‘Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any one of them acting for each other. The persons who have entered into a partnership with each other are individually called ‘partners’ and collectively a ‘firm’, and the name under which their business is carried on is called the ‘firm name’.

In simple words, partnership is an agreement between individuals to share the profits of a business and the persons who enter into this agreement are called partners.

As we have seen in the Indian Contract Act, 1872, minors cannot be parties to an agreement. An agreement involving a minor is void ab initio. However, the Indian Partnership Act has its own set of legal rules regarding minors.

**Minor admitted to receiving benefit from partnership-** A partnership firm cannot be formed by having a minor as the only other member. The relationship of partnership arises out of a contract. In the case of **Shriram Sardarmal Didwani vs. Gaurishankar**, it was held that a minor is incompetent to enter into a contract and hence, a partnership contract cannot be made with a minor.

In **CIT v. Dwarkadas & Co.**, the Supreme Court held that a minor cannot become a full partner in an existing firm. The only concession that Section 30 makes is that a minor may be admitted to the benefits of an existing firm. The Hon'ble Judge then went on to observe- "Section 30 of the Indian Partnership Act clearly states that a minor cannot become a partner, however, with the consent of the adult partners, he may be admitted to the benefits of partnership. Any document which goes beyond this section cannot be held valid for the purpose of registration."

In **S.C. Mandal v. Krishnadhan** it was held that under **section 4** of the Partnership Act, a firm means a group of persons who have entered into a contract of partnership among themselves and this may be read with section 11 of the Contract Act. It is to be understood that a minor cannot be a part of a contracted partnership. A minor can only be admitted to the benefits of the partnership, and that partnership must be independently in



existence. Also, there cannot be a contract between two minors. In short, there must be a partnership between two principal partners before a minor can be admitted to its benefits.

#### **Rights of minor-**

(1) A minor admitted to the benefits of partnership has all the rights of a full partner.

(2) Such minor is entitled to his agreed shares of the property and profits of the firm.

(3) Such a minor has the right to access and take copies of the books of accounts of the firm. This means that he has no right to access other books of the firm which do not contain the matters of accounts. Section 30(2),

(4) Such a minor is not personally liable to third parties for the debts of the firm, but his liability is limited only to his share in the partnership assets and profits.

For example, if the partnership assets fall short of covering the firm's debts then the separate personal property of a minor cannot be used to pay the debts.

(1) Such a minor cannot bring any suit against the partners for the account or payment of his share in the property or profits of the firm unless he has first completed his connection with the firm. **Section 30(4),**

(2) Such a minor is not entitled to take part in the conduct of the business as he has no representative capacity to bind the firm.

(3) Where a minor fails to become a partner by his own choice or within the specified time, i.e., within six months of attaining the age of majority, he becomes personally liable to third parties for all the debts of the firm retrospectively from the date of his admission to the benefits of partnership.

#### **If a minor chooses not to become a partner, his rights-**

(1) As of the date of public notice, he or she has the same rights and obligations as a minor will stay.

(2) His share shall not be liable for any act of the firm done after the date of the notice

(3) He shall be entitled to sue the partners for his share in the property and profits.

If after attaining the age of majority, but before choosing to become a partner, the minor represents and knowingly allows himself to be represented as a partner in the firm, he shall be personally liable to any person who may have given credit to the firm on the faith of such representation on a 'holding back' basis. Liability during minority **section 30(3),**

Sub-section 3 of Section 30 says that "the share of such minor is liable for the acts of the firm, but the minor is not personally liable for any such acts." In **Addepalli Nageswara Rao and Brothers v. CIT**, the Andhra Pradesh High Court held that- "If he contributes capital or is entitled to benefit from the profits of the firm, it is to that extent that the liability can be fixed on the minor. But in no case, the person of the minor or his other property, which he has not brought into the partnership property, can be held liable. This is the object and scope of **Section 30(3)** of the Indian Partnership Act."

**Liability after attaining the age of majority-Sub-sections (5) to (9)** of section 30 of the Indian Partnership Act deal with the consequences of a minor partner attaining majority-

(1) He is given six months to decide whether he should leave the company or continue as a full partner. This is called the minor's choice, i.e. the right to exit or continue in the firm. **Section 30(5)**,

(2) Where the minor claims that he had no knowledge about his admission and, therefore, should be allowed six months from the date of knowledge, the burden of proving that he had no knowledge lies on the minor. **Section 30(6)**,

**When a minor becomes a partner-**

(1) He shall be treated as a general partner, but he becomes personally liable for all acts of the firm done since he is first admitted to the benefits of partnership. **Section 30(7)(a)**,

(2) His share in the properties and profits of the firm shall remain the same as it was during his minority. **Section 30(7)(b)**, where a minor elects not to become a partner.

(1) His powers and duties shall remain the same until he gives public notice. **Section 30(8)(a)**,

From the date of public notice, the liability of the firm for any future act of its share ceases. **Section 30(8)(b)**,

(2) He becomes entitled to sue the partners of the firm to recover his share in the property and profits. **Section 30(8)(c)**,

(3) Where, in spite of the notice, the minor does any act which represents that he is a partner in the firm, the provisions of section 28 i.e. prohibition of such act comes into operation immediately and liability arises to any person giving credit to the firm for placing his faith in the representation. **Section 30(9)**,

**Question 11. Define sale. Explain the essential elements of sale. Differentiate between sale and agreement to sell. OR Define sale. Discuss the essential elements of sale. Differentiate between sale and agreement to sell.**

**Answer-Definition of Sale-** Sale of an item is a type of contract. In this contract, one party transfers or agrees to transfer the ownership of an item to the other party at a fixed price.

**Section 4** of the Sale of Goods Act, 1930 (which was earlier a part of the Contract Act, 1872) defines sale. According to Section 4, a contract for sale of goods is a contract in which the seller transfers or agrees to transfer the property in a good to the buyer for a price.

Thus, sale is a type of contract in which ownership of a good (goods) is transferred by the owner of the good (seller) to another person (buyer) for some price or an agreement is made to transfer the ownership of the good in future. All the essential elements of a contract are present in sale.

**Essential Elements of Sale** - Sale of goods is not complete in itself. Some essential conditions have to be fulfilled for that. Without fulfilling these conditions, the sale of goods is not complete. Generally, the following elements are necessary for the sale of goods-

**(1) Two parties competent to contract** - Sale of goods is not complete without two persons. One person cannot be both buyer and seller. If one person buys his own goods then he does not sell the goods in any way. The definition of this section does not apply in such a situation. If the buyer himself is the owner of the goods before the sale of the goods then the transfer of ownership of the goods will not be called sale. There are some exceptions in this context also. These exceptions are as follows-

(a) Just as a person sells goods to another person, similarly a partner has the right to sell goods of his own firm or part of the firm to another partner. The court has already given its decision in this regard.

This does not apply in the case of a club. It is possible that a club provides food or something else to a member and receives payment from the member for the same. Although such a transaction would be similar to a sale, it is not considered so in the eyes of the court. It is accepted there that the members of a club or voluntary organization are its joint owners, not partial. From this point of view, there is a difference between a club and a partnership firm.

(b) Where, by law or by order of a court, a person who has the right to sell goods belonging to another person has the right to purchase his own goods, For example, if a person's goods are being sold due to bankruptcy, then the owner of the goods can buy his goods from the trustees.

**(2) Mutual consent-** Sale of goods requires that both the buyer and the seller are willing and agree to buy and sell the goods.

**(3) Transfer of the property-** Sale of goods requires actual transfer of property. It may also happen that a contract is made that the goods will be delivered at a future date on the fulfillment of certain conditions but in

such a situation it has to be seen whether the goods have actually been sold or a contract for sale has been made.

**(4) Transfer for consideration of money-** In sale, transfer of property or ownership of goods generally takes place for monetary consideration. If there is no monetary consideration, then transfer of property cannot be called sale. In such a situation, there will be no transfer of property and even if there is, it is a gift and will be called donation.

**(5) Offer or request for sale and its acceptance-** In a sale it is necessary that the seller makes an offer or request for the sale of his goods or presents his goods for sale and the buyer buys it. Without the fulfillment of these elements the sale transaction will not be complete. It is necessary that these things are fulfilled.

**Difference between sale and agreement to sell-**The effects of sale and agreement to sell are different. Hence, the difference between the two has been clarified in **Section 4 (3)** of the Sale of Goods Act. According to this section, where the title or property in the goods is transferred immediately from the seller to the buyer, the transaction is called sale, but if the transfer of ownership to the buyer is to take place after the fulfillment of any condition contained in an agreement, then that transaction is called an agreement to sell.

The following are the differences between sale and agreement to sell-

Sr.No	Sale	Agreement to Sale
1	In a sale, the ownership in the goods passes from the seller to the buyer immediately at the time of sale	In an agreement to sell, the transfer of ownership of the goods does not happen immediately but on the fulfillment of a condition specified in the agreement.
2	In a sale the buyer immediately becomes the owner of the subject matter of sale and can exercise all the rights of ownership.	In an agreement to sell, the buyer does not immediately become the owner of the subject matter (goods) but acquires ownership as per the conditions laid down in the agreement.
3	The right acquired in sale is called Jus in rem or universal right.	The right obtained in the agreement of sale (Jus in personam) is a personal right.
4	Once the sale has taken place the risk of loss of the goods passes to the buyer.	In an agreement to sell, the risk in the goods vests in the seller until the sale is completed.
5	In a sale, if the buyer does not pay the price, the seller can file a suit to get the price.	In an agreement to sell, the seller can sue not for the price but for compensation for breach of contract.

**Question 12. What do you understand by participation by representation? When is a person held liable in this manner? What is the basis of such liability?**

**Answer-Theory of Holding out - Section 28** of the Partnership Act refers to the Doctrine of Holding out. It is also called the Doctrine of Applied Performance. The basis of this section is the prevalent principle of natural justice under which if a person makes a false representation of himself to any party or gives permission by clear conduct to make such a representation, such false representation or representation brings some change in the position of the third party. The person making the false representation is responsible for his statement.

The doctrine of holding out mentioned in section 28 is a form of the doctrine of estoppels contained in section 115 of the Indian Evidence Act. According to the above section, if a person by oral or written statement or by his conduct represents himself to be a partner of a firm or knowingly makes such a representation to any other person, then he is liable as that firm to any person who has given a loan to the firm on the faith of such a representation, whether the person representing himself or being represented as a partner knows or not that such representation has reached the lender.

The above principle describes the relationship of liability towards the third party. The firm is liable for the debt of the third party who is not a partner but is still responsible for it. To hold any person liable on the basis of holding out, the following facts must be fulfilled-

**(1) Deliberate representation.-** A person who represents himself as a partner in a firm or does not object to another person proposing his name as a partner is within the definition of representation, as the result of both these acts is the same. But where a person does not know that he is being falsely proposed as a partner by another person, no liability is imposed on that person. That is to say, a person who has been represented as a partner in a firm can be held liable only if he knows of the fact.

**(2) He has represented himself by a statement written or spoken or by his conduct to be a partner in a firm.-**It is not necessary to use any particular source for representation. Such representation may be either direct or indirect. In the case of **Tulsidas v. Layton & Co., AIR 1925 Sindh 225**, it was held that in case of holding out the evidence should be very clear. The representation made by the person should show that he is a partner in the firm. If he expresses his desire to become a partner, then **section 28** does not apply.

**(3) Debt given in reliance on representation-** For a suit on representation it is necessary that the person to whom it is addressed should have given a debt in reliance on the representation. This is the principle of estoppels in evidence. If the statement does not make a difference to the previous position of the other party then this principle does not apply. If a person who is not aware of the representation does any



business related work with the firm, then he cannot get the benefit of this representation. Only those persons get the benefit to whom such representation is addressed. It is not necessary for such address to be made directly. If such address is made indirectly with the intention that the other person repeats it again and again so that it becomes the basis of truth or belief for the third party.

The mere representation made by a person cannot be the basis for holding him liable as a partner, but the other party may have given a loan to the firm in reliance on that representation. If the person to whom the representation is made does not believe it to be true or does not act on it, then the person making the representation is not liable.

This principle also applies to a retiring partner. If a retiring partner has not given public notice of his retirement and someone lends money to the firm on the basis that the retiring partner is in fact a partner, the retiring partner is made liable. **Section 32(3)** also requires that the retiring partner give notice of his retirement in a proper manner.

**Exceptions to the Doctrine of Disappearance** - The Doctrine of Disappearance does not apply in the following cases-

**(1) Deceased partner**-As the death itself is public information, the doctrine of representation does not apply in respect of the property of the deceased partner or his share in the partnership firm. According to section 28 (2), "Where after the death of any partner, no

**(2) Insolvent partner** - **Section 45(1)** provides that "notwithstanding the dissolution of the firm, unless public notice of the dissolution is given, the partnership shall not be liable as a partner to any person for any act which, if done before the dissolution, would have been the act of the firm." But this principle does not apply in the case of an insolvent partner. According to the proviso to **section 45 (1)**, "If a partner dies or is adjudged an insolvent, or if a partner ceases to be a partner without the knowledge of any person dealing with the firm, his estate shall not be liable under this section for acts done after the date on which he ceased to be a partner."

**(3) Dormant Partner**- Dormant partner means a partner whose partnership is not generally known to the persons dealing with the firm. Dormant partner is included in the proviso to **section 45(1)**. In other words, like in the case of a deceased or insolvent partner, the doctrine of representation does not apply in the case of a dormant partner. Hence, it is necessary to give public notice of his retirement. However, if some of the clients know that he is a partner in the firm, it would be necessary to give public notice to them.

The same principle will also apply in a case where the plaintiff is not aware of the retiring partner. That is, the plaintiff deals with the firm but he does not know that the retiring partner is a partner in the firm. In such a

case, the question of representation does not arise. According to the proviso to **Section 32 (3)**, where the retiring partner fails to give public notice about his retirement, the retiring party will not be liable for representation. If the third party dealing with the firm does not know that he was a party to the firm. Therefore, the respondent will not be liable even after not giving public notice after retirement.

**Question 13. Explain the principle of 'let the buyer beware' and discuss its exceptions, if any.**

**Answer-** The term *Caveat Emptor* is a Latin word which means 'let the buyer beware'. It is a matter of general principle that the buyer should be careful while purchasing the goods, i.e. he should protect his own interests.

This rule is given in the opening words of **Section-16** of the Act. According to this- Subject to the provisions of this Act and any other law, there is no implied condition or assurance regarding the quality or fitness for any purpose of the goods sold under a sale contract.

Thus, the buyer should buy carefully. He should buy the goods after taking proper care of them. If he buys bad, unsuitable or defective goods, the seller will not be at fault. According to this principle, it is the responsibility of the buyer to be completely careful while buying the goods and to use his discretion and intelligence. He should check the goods thoroughly. If the buyer relies on his own intelligence, discretion and skill while buying the goods and even if the goods turn out to be defective, then the buyer will be responsible for it.

In the case of **Jones vs Just** it was made clear that if there is no fraud on the part of the seller then the seller cannot be held responsible for the defects in the goods purchased by the buyer.

**Exceptions to the 'Buyer Beware' Rule** - Exceptions to the 'Buyer Beware' principle are more important than its principle. In the present times, it is not possible in the business world that every buyer can go and examine the product himself and complete the contract. Therefore, most purchases and sales are done through letters and on the basis of description.

**(1) Implied competition as to quality or fitness - Under Section 16 (1)**, it has been clarified that the goods supplied by the seller should be used for the purpose of the buyer. The following things are necessary to give effect to this fact-

- (a) The buyer must be informed of the specific use for which the goods are purchased from the seller.
- (b) The buyer must rely on the seller's discretion and judgment.
- (c) The goods must be of such description as is in the course of trade of the seller.

**Lord Wright**, while explaining the specific purpose, said that it has no importance in the words of the section. When a buyer purchases a thing, he must have a purpose. It is not justified to make any difference by telling it to the seller or not.

**Raghava Menon v. Fuitappan Nair** - A person was allowed to return a defective watch to a watchmaker and the seller's argument that the buyer had not disclosed the specific purpose was not accepted.

**(2) Merchantable Quality-** Another exception to the above principle is a commercial quality. Its main condition is that the goods should be supplied by the seller as per the description. At many places, these are produced only on the demand of the goods. It has been said that the sale done over the counter comes under the category of sale as if the contract has been made on the basis of the list. **(Gadley vs. Perry (1960))** All England Report (36) William L. Professor has said that 'as per the description' is a very controversial word. Different meanings have been derived and can be derived on the basis of facts.

**(3) Usage of Trade - Section 16, sub-section (3)** gives legal importance to trade customs. It is a well-established principle that where the provisions of the contract are not clear, trade customs can be invoked from outside. It is quite clear that such a custom cannot be enforced if it is contrary to the provisions of the contract. Therefore, only rational practices will be recognized.

**(4) Consent by Fraud** - Where the consent of the buyer is obtained by the seller by fraud or false representation, the seller cannot avail the benefit of the principle of buyer beware. Hence, the buyer will get the benefit of this.

From the above discussion it is clear that the principle of 'buyer beware' has its very important exceptions. Earlier in India this principle was fully recognized because the development of business and trade was very slow before independence. At present its exceptions have been clearly mentioned in Section 16 of the Sale of Goods Act. The progress of business has found the exceptions of this principle very effective in India and on the basis of facts the court gives utmost importance to the implied condition and guarantee.

**Question 14. What are the rights of the surety against the lender, principal debtor and co-surety? Explain the difference between the contract of guarantee and the contract of indemnity.**

**Answer-**Rights of a surety against the principal debtor, creditor and co-surety-Rights of a surety against the principal debtor and creditor and the following rights are available towards the co-surety-

**Right against the principal debtor-** A guarantor has the right to claim against the principal debtor the following are the rights-



**1. Right of Subrogation- According to Section 140**, subrogation means that the rights that the creditor has against the principal debtor, the same rights are available to the guarantor against the principal debtor because after making payment to the creditor, the guarantor assumes the position of the creditor. The above principle was approved in *Harigopal Agarwal vs. The State Bank of India* AIR 1976 Madras 211. In this case, it was decided that if the creditor has the right to stop the goods in transit, or the seller has a lien, then if the guarantor has fulfilled his obligation towards the creditor, then he will assume the position of the creditor and can exercise all the rights that the creditor can exercise.

**2. Right of Indemnity-** Right of Indemnity of the guarantor under section 145 it has been described. For every reason related to the guarantee, the principal has to make an implied promise to compensate the surety. Under this promise, whoever has to pay the amount to the lender under the guarantee, the surety can get the amount from the main loan.

**Right against Creditor-** A surety has the following rights against the creditor-

**1. Right to securities- Under section 141**, the surety is entitled to the benefit of every security which, at the time when the contract of security is made, the creditor has a lien against the principal debtor, whether the surety knows of the existence of such security or not. The creditor shall be relieved of the liability for a debt to the extent of the value of such security.. In *Madhya Pradesh vs Kaluram* AIR 1967 SC 1105, the state government sold dry trees to a person who bought them. The buyer had to pay the price of the goods in four equal installments, the government's security for the payment was given by the defendant. In case of default in payment, the government had the right to stop the transportation of the goods but the government did not do so and the government guarantor sued the defendant for the value of the goods. The Supreme Court decided that since the state government did not stop the transportation of the goods in case of default in payment, the guarantor was free from the liability of guarantee.

**2. Right of Set-off** – If the creditor files a suit against the surety, then the surety the surety will be given the benefit of security. Setback means that the debtor can adjust his claims, if any, in the loan to the lender. The surety can take the defence of counterclaim etc.

**Rights against Co-surety-** A surety has the following rights against a co-surety where the lender has given a loan against the security of more than one surety, all the sureties will be called co-sureties to each other.

**1. Effect of Releasing Co-surety** - The lender can release any co-surety from the liability of the loan at his will. If the lender releases this co-surety, it does not mean that other co-sureties will also be released from that liability. Similarly, a co-surety who is released does not become free from

the liability towards other co-sureties even after being released by the lender.

**2. Right to Contribution** – Where the debtor has more than one surety in such a case, if the original debtor defaults in payment, then such debtor will be called a surety the co-sureties will repay the lender the loan in equal amounts For example.

But under **section 147**, if the sureties are bound for different amounts, they shall be liable to pay equal amounts within the limits of their successive obligations.

### **Difference between contracts of guarantee and indemnity**

<b>Sr. No</b>	<b>Guarantee</b>	<b>Indemnity</b>
1	There are three parties in this: the principal debtor, the lender and the guarantor. But it is not necessary that the principal debtor be a party to the document of guarantee contract in person. It is enough that he is a party by implication. ("But it is not necessary of sine qua non that the principal debtor must expressly be a party to the document of guarantee as it is adequate if the principal debtor is a party by implication-")	There are two parties to this - compensation: the body and the indemnities.
2	The contract of guarantee is for the protection of the lenders.	The contract of indemnity is only for compensation of loss.
3	Under this, three contracts are implied: (a) between lender and borrowers, (b) between lender and guarantor, and (c) between borrower and guarantor.	There is only one contract in this - between the indemnitor and the indemnitee.
4	The contract of guarantee is only a quantitative contract. The fundamental contract is between the lender and the borrower.	This is a fundamental and direct contract between the indemnitor and the indemnitee.
5	The liability of the surety is not primary but secondary. Hence, if the original debtor is not responsible, then the surety will also not be responsible.	In a contract of indemnity, the indemnitor has the primary responsibility.
6	If the guarantor pays off the debt of the principal loan, he takes the place of the creditor and becomes entitled to receive the money paid.	Compensator.

**Question-15 Write short note on the following-**

**Answer-(1) Rights of Indemnity Holder - Section-125** means the rights of indemnity contract year 2019. The indemnity holder is entitled to obtain the following from the promisor while acting within the scope of his rights-  
(1) All damages which he may be compelled to pay in any suit in respect of any matter for which the promise to indemnify is in effect.

(2) all costs which he may be compelled to pay in any such suit, if by prosecuting it he has not violated the orders of the promisor, and has done the same act as it would be wise for him to do but for any contract of indemnity if the promisor had authorised him to prosecute or defend the suit.

(3) All sums of money paid by him under the terms of any compromise in any such suit, or if the promisor has authorised him to compromise the suit.

**(2) Difference between an Agent and a Servant** - The main difference between an agent and a servant is that an agent is appointed on behalf of his principal to establish legal relations with other persons whereas a servant is appointed to work under the immediate control and instructions of his principal and does not establish any relationship between the servant and the other person.

The second major difference is that the principal is liable for the acts of the servant during the period of his service whether he is benefited by his work or not but the principal is not liable for the acts of the agent.

In the case of **Lakshminarayan, Ramgopal and Sons vs. Government of Hyderabad**, the court held that "an agent is bound to exercise his authority in accordance with all directions given to him by his principal from time to time." Thus an agent is not a servant, but a servant is generally the intended agent of his principal for certain purposes, the extent of the agency depending on the duties or position of the servant.

**(3) Continuous Guarantee** - Sometimes the guarantee is not for a single transaction but for a number of future transactions. Hence, it is called a continuing guarantee. **Under Section 129 of the Contract Act**, a guarantee which extends to a series of transactions is called a continuing guarantee.

For example, a guarantee to pay rent for a period of several months is a continuing guarantee. In consideration of A's employment with C to collect rent for his living, C promises to be responsible to B for the due collection and payment of rent to the extent of Rs. 5,000. This is a continuing guarantee.

Whether a guarantee is continuing or general is determined on the basis of the nature of the transaction, the position of the parties and subsequent circumstances.

The guarantee that a person will faithfully perform his duties is not a continuing guarantee but a guarantee of appointment.

Similarly, a guarantee for payment of money in installments within a fixed time is not a continuing guarantee but a guarantee of a loan.

**(4) Liability of Co-Surety-** The liability of co-surety is mentioned in the Contract Act this has been done in sections 146 and 147 of the IPC. It has two types of liabilities-

**(1) Right to make equal contribution.-**In the case of co-sureties, it is well settled that if the creditor co-surety is entitled to receive contribution, it is the duty of the co-sureties to make such contribution.

**For example-** 'E' is in default of payment by 'A', 'B' and 'C' as sureties for 'D' for Rs. 3,000 lent to 'E'. 'A', 'B' and 'C' are the relations between them, each one is liable to pay Rs. 1000.

**(2) Liability of co-sureties for different sums- Section 147** provides that where several sureties make themselves liable for one debt, but to a limited amount, each surety is liable to make an equal contribution, subject to the limit fixed by their guarantee. Example: A, B and C as sureties for D enter into three separate bonds, each carrying a different penalty, each of which carries a penalty of Rs. 10,000, B Rs. 20,000 and C Rs. 40,000. D Rs. 30,000 'A' 'B' 'C' are each liable to pay Rs. 10,000.

**(5) Sleeping Partner -** When a person is a partner in a firm, but the fact of his being a partner is not known to any client or any outsider, then that partner is called a sleeping partner. Although these partners also play a passive role in the business of the firm, their responsibilities and duties are the same as those of an active partner, but they have the exemption that when they leave the firm or retire, they do not have to give a public notice as per **section 72** because no one knows about their being a partner and it is also worth remembering that the principle of representation (section 28) is also not applicable in the case of dormant partners.

In the case of **Carter vs. & Others** the Court held that it becomes necessary to give public notice of withdrawal of a dormant partner from the firm where the fact of his being a partner is known to some clients or outsiders.

**(6) Right of unpaid seller to retain goods -** According to **section-47**, subject to the provisions of this Act, an unpaid seller in whose possession the goods have been sold has the right to retain possession of the goods until the price is paid. In this regard, he will get a lien in the following cases-

(1) Where the goods are not sold on credit,

(2) Where the purchaser has become insolvent.

(3) Where goods were sold on credit but the terms of the credit have expired.

**Sub-section (2) of Section 47** clarifies the right of lien of an unpaid seller and provides that even if the seller is in possession of the goods sold as an agent or bailee of the buyer, he will still be entitled to payment of the price and the right of lien.

It is noteworthy that it is linked to the right of possession and not the right of ownership. Thus, even if the seller has provided the title document on the goods but he still has the possession of the goods, he still has the right to hold the goods until the payment of the price of which has not been paid in full or in part.

**(7) Sale of Goodwill** - The goodwill of a firm is an asset of the firm. This has been confirmed by the courts many times. This fact has been confirmed in **Section 55** of the Indian Partnership Act. This section states that in settling the accounts of the firm after dissolution, goodwill shall be included in the assets subject to the contract between the partners and it shall be sold either separately or along with other assets of the firm.

If the assets of the firm are sold after the dissolution of a partner, a partner of the firm may compete against that person but in doing so he must not, having regard to the contract between him and the purchaser,

- (1) Use the name of the firm;
- (2) misrepresent that he is carrying on the business of the firm;
- (3) Attract traders who were carrying on business with the firm before his separation from the partnership.

After the sale of the reputation of the firm, any partner can make a contract with the seller that he will not carry on the same business as the firm was carrying on for a certain period of time within a fixed limit.

**(8) Property of the Firm** - The property of the firm, also called partnership property, joint stores, common stores, includes all the rights and interests to which the firm, that is, all the partners, are equally entitled. Section 14 of the Partnership Act specifies the properties which, in the absence of a contract to the contrary, shall be deemed to be the property of the firm.

Three types of assets are included in the assets of a firm-

- (i) Any property, right or interest which is initially placed in the stock of the firm becomes the property of the firm unless there is any contract to the contrary.
- (ii) The asset purchased by the firm for the purpose of carrying on the business of the firm becomes the property of the firm.
- (iii) If any partner leaves his personal property to the firm in the course of the business of the firm, it becomes the property of the firm.

**(9) Difference between and Agreement to Sell-** The difference between sale and sale agreement are as follows-



Sr. No	Sales	Contract of sale
1	In a sale, the transfer of ownership in the goods takes place from the seller to the buyer immediately at the time of sale.	In an agreement to sell, the transfer of ownership of the goods does not take place immediately but upon the fulfillment of a condition specified in the agreement.
2	In a sale the buyer immediately becomes the owner of the subject matter and can exercise all the rights of ownership.	In an agreement to sell, the buyer does not immediately become the owner of the subject matter (goods) but acquires ownership as per the conditions laid down in the agreement.
3	The right acquired in sale is called Jus in rem or all-related right.	The right obtained in the agreement of sale (Jus in Personam) is a personal right.
4	Once the sale has taken place the risk of loss for the goods passes to the buyer.	In an agreement to sell, the risk in the goods vests in the seller until the sale is completed.

**(10) Extent of Surety's Liability** - According to section 128 of the Contract Act, the liability of the surety is co-extensive with the liability of the principal, unless otherwise provided by the contract. Thus, if the surety is liable for the full debt, he will be liable for the full debt of the principal debtor. For example, A guarantees the payment by C, the acceptor of a bill of exchange to B. The bill of exchange is dishonored by C. A is liable not only for the amount of the bill of exchange but also for the interest and charges which have become due on him.

Thus, as per **Section 128** of the Act, the extent of liability of the surety is equal to that of the principal debtor, unless there is a contract to the contrary. However, if the surety has stated the extent of his liability at the time of entering into the contract, then in such a case his liability does not exceed the stated liability, irrespective of the liability of the principal debtor. For example, A undertakes to take over the loan of Rs. 10,000 from B to C. C lends Rs. 50,000 to B which he fails to repay. Here A is liable for Rs. 10,000 of the loan of B and if there is any interest on the loan, then Rs. 10,000 is the debt of B.

**(11) Rights of Finder of Goods** - In the law, finding of goods lying there has also been considered a new form of bailment. A person who has not been bailed any goods but finds them lying there and if he picks them up, he becomes the bailee of the goods and has the same duties and liabilities as a bailee. According to the provision of **section 168 (1)** a person can keep an object which he has discovered in his possession until its owner

compensates the person who finds the object for the expenses and inconveniences incurred in searching for it.

(2) Where the owner of a lost thing has posted a reward for the discovery of the thing, the finder may—

(a) Sue the owner of the thing for the recovery of the reward, and

(b) May retain the lost article in his possession until the reward for the same is declared.

**According to section 169-** If a person has found any object and even after a general search the owner is not able to find the person or if the owner is able to find the owner he is refusing to accept the object then in such a situation the person who finds the object has the right to sell the object.

**(12) Bailor for Reward** - Bailor for Reward means the person who gives the goods as bailor in exchange for money. In **section 150**, bailor has been divided into two categories-

**(1) Gratuitous Bailor** – Gratuitous bailor is a donor who gives his goods without any consideration. Since he does not take any consideration, his duties are less than those of a bailor for a reward. It is the duty of a gratuitous bailor to point out the defects of the goods given in pledge also. But he is bound to point out only those defects of the goods which he knows and which would be harmful in the use of the goods. For example, A lends a horse to B which he knows is wicked. He does not reveal that the horse is wicked. The horse runs away. B falls from the horse and gets injured. A is liable to B for the loss suffered. The gratuitous bailor is not liable for those defects of the goods which he does not know.

**(2) Bailor for Rewarded - According to section 150-** 'If the goods have been bailed for non-sale then the bailor is liable for such damage, whether he knew or not about the existence of such defects in the bailed goods. This rule was propounded in *Heman and Wife vs Nye and Sons*. In this case, the plaintiff had borrowed a cart from the defendant and he was injured due to the removal of a bolt of the lower part of the cart. The court declared the defendant liable, because the said defect could have been discovered with care and skill.'