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SCHOOL OF EDUCATION

DAPAERTMENT OF LANGUAGES AND SOCIAL SCIENCIES

CIVIC EDUCATION SECTION

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TASK

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PRESENTATION (GROUP 23)

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QUESTION: BRIEFLY DESCRIBE THE WESTERN AND MARXIST TYPE OF CONSTITUTIONALISM.

Constitutionalism desires a political order in which the power of government are limited. It is civilize government, the real justification of the constitution finds place in having a limited government and of requiring those who govern to conform to laws and rules. We are required to see how the constitution of a state works in actual practice and whether usages and conventions operate to strengthen or weaken the machinery of the constitutional arrangement. We may find that apart from those limitations that have their place in the provisions of the constitution there are well established customs and norms that have their own effect for same purpose. Keeping such empirical facts in mind, one may say that there exists no governments in the world that may not be called constitutional, though they may also say that such a government hardly exists in a country binder a totalitarian rule where the constitution is seen with contempt for this reason, it is only In democratic country that constitution is government can be said to exist. Therefore this essay will discuss western and Marxist constitutionalism, followed by key concepts which are constitutionalism and constitution last conclusion will be given.

Constitutionalism is the theory that the best form of government are those which are laid out in a formal constitution, which establishes the guidelines for the formation and operation of government and laws by which citizens live. Furthermore constitutionalism also states that politicians and government leaders should operate strictly according to the constitution. In addition constitutionalism is the principles that governs the legitimacy of government actions and the idea of legality that requires official conduct to be in accordance with pre fixed legal rules (John, 1984).

A constitution therefore provides a collection of principles according to which collection the power of the government, the right of the governed, and the relations between the two are adjusted. It is used to describe the whole system of a government of a country, the collection of rules which establish and regulate or govern the government .As already alluded to this democratic political order is what signifies a constitutional state and hence a constitutional government (Vashon, 2009).

The western concept of constitutionalism is the provisions of the composition of various organs of the governments and the powers entrusted to each organ of the government they also demand for human right for example, when the girl child is been violated or raped by unknown person they will demand speak on her behalf and it values lies in the respect for human rights. The development of western constitutionalism has always been closely related to the core issues of human rights

protections for citizens , Furth more the norms of liberty freedom for people , equality , justice for all peoples regarding their status in the society according to this view , the constitution is not only an end that ought to be respected by all , but also a means to an end , and such end being the achievement of security and the protection of ;liberty of the people human rights (Andrea, 1977).

The western constitutionalism it also stands for a constitution that is either in the form of a documents, or it is like an assemblage of numerous laws, institutions and customs. The rules may either be written or not written form of the constitution and both of them may have the same force of application. What makes a constitution, therefore, is the actual observance of recognized principles relating to the government of a country (Jeremy, 2018).

Furth more whether the constitution is in the form of a document made at a particular time of history as the American constitution was made by the Philadelphia convention in 1787, or it is in the form of numerous laws, institutions, and conventions, western concept of constitutionalism lays emphasis on this points that the basic laws of the land should be such that difference between the constitution of the state is discernible (Paul, 1991)

The constitution is more important than the government. The constitution make adequate arrangement for the establishment and maintenance of restraints so that the area of a civilized government are well preserved. These restraints may be embodied in the legal framework, they may also be in the form of informal arrangement what is really needed is that the restraints must be effective so that the government remains limited and also committed to realize the ideas of the constitution. Further the western concept of constitutionalism desires a constitutional state that has a well acknowledged body of laws and conventions for the operation of a limited the government it has of a limited the government it has a legislature, an executive, and a judiciary all required to work within the prescribed framework by following the defined procedure, it has its own duties what to do and what not to do. If there is a change, it should be peaceful and orderly so that the political system is not subjected to violent stresses and trains. There is the rule of law ensuring liberty and equality to all people in the country, there is also freedom of press were people are not happy are free to express (Fletcher, 1975).

The Marxist concept of constitutionalism being their theory by criticizing liberal theory .According to them liberal constitutional theory is status quoits socialist constitutionalism aim at socialist transformation, the constitutionalism is not an end in itself, it is just a means to implement the

ideology of scientific socialism. It is a tool in the hand of the dictatorship of the proletariat that seeks to establish classless society that would eventually turn in to a stateless condition of life. The purpose of having constitution is not to limit the powers of the government but to make them so vast and comprehensive that the ideal of workers state is realized that and a new type of state comes in to being , further, the real aim of the constitution in such a country is not to ensure liberty and equality , rights and justice for all meaning , people are not free to express themselves what is effecting them in the country , also freedom the is no freedom in the country , but to see that the enemies of socialism are destroyed and the new system is firmly consolidated . In this way, the real aim of the constitution is to firmly anchor the new socialist discipline among the working people in the country (Sohini, 2019).

The Marxist concept of constitutionalism is based on the principle of a particular ideology of Marxism –Leninism according to which the state is viewed as class institution whose raison is to act as instruments of exploitation and oppression by one class over another. If the bourgeois class make use of this instrument to perpetuate it is rule of exploitation and oppression over the working class, the proletariat will make use of the same instrument for the purpose of liquidating the enemies of socialism and all counter –revolutionary forces. Thus, not the constitution of the state but the policy of the communist party is supreme. The Marxist concept of constitutionalism, thus, stands for the system of the soviets where in is realized the universal participation of the working people, one and all, in the constitutionalism is seen to have class character. It incorporates right (Crystal, 2009).

In addition Marxist constitutionalism proffers important resources to develop a critical constitutional theory that question the fetishism and mystifications of modern constitutionalism and whose goal is to deepen democracy. Marxist critical theory of constitutional law is law is political, social, socialist, and anti – systemic Marxist contrasts the political constitution with democracy in order to foreground the constitution limitations and point the way toward the resolution of the paradox of constitutionalism by centering the peoples constituent power and subjecting the constitution to popular will at all times instead of a class- neutral constituent power leading a political revolution in which the proletariat is the constituent power for Marxist the fundamental contradiction consists in the blockage of social emancipation, and constitutional incoherence and instability emanate from the unresolved prorate of constitutionalism . Marxist

paves the way for a radical constitutionalism that offer an alternative to both despotism and class rule (Neil, 1992).

Further according to the basic principles of Marxism, a social-political theory put out by Karl Marx, Marxist constitutionalism is a theoretical framework. According to this viewpoint, constitutionalism is evaluated through the prism of class conflict and the materialist view of the past as stated by legal experts who follow Marxism, constitutional provisions do not represent or serve the interests of the ruling class but rather are reflective of them. In order to further their hegemony over the proletariat, they stress the states function as a tool of the bourgeoisie in power (Theodor, 2011).

The Marxist theory of constitutionalism is founded on the tenets of a certain Marxism –Leninism worldview, according to which the state is seen as a class institution whose purpose is to serve as a tool of exploitation and oppression by one class over another. If the bourgeois class uses this weapon to continue its reign of exploitation and oppression over the working class, the proletariat will employ the same instrument to eliminate all counterrevolutionary forces and socialist adversaries. Therefore, the communist party's policy supersedes the states constitution. The soviet system, in which is realized the universal participation of the people is what the Marxist idea of constitutionalism refers to the proletariat will utilize the same tool, if the bourgeoisies class use it to continue its rule of exploitation and oppression over the working class, in order to eliminate all counterrevolutionary forces and socialist foes. Thus, the communist party policy is paramount rather than the states constitution. The so called universal participation of the working people, one and all, in the management of the state is therefore realized in the soviet system which is what the Marxist idea of constitutionalism refers to (Johari, 2011)

In conclusion, it can be pointed out that constitutionalism does not necessarily stand for a particular form of government, but instead it limits the powers of the government and seeks to check the abuse of power. Therefore, the western and Marxist type of constitutionalism differ from each other in their main objectives and ideologies and the western constitutionalism it is either in the form of document or it is like an assemblage of numerous laws, institutions and customs while the concept of Marxist of constitutionalism theory is status quoists socialist constitutionalism aim at socialist transformation, the constitutionalism is not an end in itself, it is just a means to implement the ideology of scientific socialism.

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GROUP 23RESENTATION

**BRIEFLY DESCRIBE THE WESTERN AND MARXIST
TYPE OF CONSTITUTIONALISM**

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INTRODUCTION

Constitutionalism is one of the growing achievements of human civilization. Therefore, all nations particularly developing countries are striving hard to integrate tenets of constitutionalism in their respective constitutions in an effort to remain relevant at the world political scene.

DEFINITION

- ❖ **Constitutionalism** is the principle that governs the legitimacy of government actions and the idea of legality that requires official conduct to be in accordance with pre-fixed legal rules.
- ❖ **Constitution** is a set of rules and regulations according to which a country is governed.

CONT'D

- ❖ Constitutionalism empowers legitimate authorities to act for the public good and manage all common concerns while protecting people against rulers from exploitation of powers which would otherwise be used for their own benefit and not for the public good.

TYPES OF CONSTITUTIONALISM

❖ WESTERN CONCEPT

❖ MARXIST CONCEPT

WESTERN CONSTITUTIONALISM

- ❖ The Western concept of constitutionalism ensures that the government does not own the state, it simply manages the state under the authority of higher laws on behalf of citizens.

CONT'D

- ❖ The constitution is not only an end that ought to be respected by all, but also a means to an end, and such end being the achievement of security and the protection of liberty of the people.

CONT'D

- ❖ It holds that the constitution has a duty of giving sanctity to the norms of liberty, equality, justice, and human rights.
- ❖ Separation of power among the three branches of government

CONT'D

- ❖ It further lays emphasis on the point that the basic laws of the land should be such that the difference between the rights of people in the country and the government of the state is distinct.

MARXIST CONSTITUTIONALISM

- ❖ Its a type that is not an end in itself, it is just a means to implement the ideology of scientific socialism.
- ❖ It is a tool in the hands of the dictatorship of the working class people that seek to establish a classless society that would eventually turn into a stateless condition of life.

CONT'D

- ❖ The Marxist real aim of the constitution is not to ensure liberty and equality, rights and justice for all but to see that the enemies of socialism are destroyed.
- ❖ It is based on the principles of a particular ideology which is viewed as a class institution whose reason of existence is to act as an instrument of exploitation and oppression by one class over another.

CONCLUSION

In a nutshell, it can be pointed out that constitutionalism does not necessarily stand for a particular form of government, but instead it limits the powers of the government and seeks to check the abuse of power. Therefore, the Western and Marxist type of constitution differs from each other in their main objectives and ideologies.

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- ❖ In the western type of constitutionalism the constitution is the supreme law of the land while in the Marxist it is a tool in the hands of the dictatorship of the proletariat that seeks to establish a classless society.

CONT' CONC

- ❖ The main purpose of having a constitution in Western concept is to limit the powers of the people in authority, but in Marxist concept its to make the powers of the government vast and comprehensive.

CONT'D

- ❖ In Marxism, constitutionalism is based on the particular ideology of Marxism Leninism, where a state is viewed as a class institution whose reasons of existence is to act as an instrument of exploitation and oppression by one class over another.