Chapter Three:

Ethical Decision Making and Moral Judgments

3.1. Chapter Introduction

3.2. Chapter Objectives

3.3. How Can We Make Ethical Decisions And Actions?

- It is difficult to do always the right thing.

Individuals could give their own justification to testify that what is Right or correct!

- We made right decision and actions.
- We regret when we make wrong decision and action.
- The ethical nature of our action and decision, however, is very much dependent upon our notion of ``Good'' and ``Bad'', `` Right'' and 'wrong``.

There are things which we consider good or desirable for their result-for what they lead to.

- not because of what they lead to
- but because of what they are in themselves: this are considered as worth having or perusing not merely as way of getting other things but because of their own intrinsic nature.

The first kind of good is called instrumental good because

- the goodness of these things lies in their being instruments towards the attainment of the other things which are considered good not simply as instruments.

The second category of good is called intrinsic good because

- We value these things not for what they lead to but for what they are.

One of the key tasks of ethical

1. is to analyze and critically consider the values we hold
   - Perceiving obligations that we might have towards one another.
2. to evaluate the adequacy of reasons that we give for our actions:

- It considers whether the reasons offered to support a particular course of action are based on sound evidence and/or logical argument.

The Ethical problem:

- are not as clear as other kinds of problems and
- Resolving ethical problems as definitively is not always possible.

Aim of ethics

- to take the high moral ground judgments
- Tell people what to do, but, rather, to offer tools for thinking about difficult problems.
- Purposely try to find out the grey in questions
- Making concerns in order to acknowledge the diversity and complexity of roles, situations and circumstances that arise in human life and relationships.

3.3.1. Ethical Principles and Values of Moral Judgments

- **Ethics' is** concerned with studying and or building up a coherent set of 'rules' or principles by which people ought to live.
- The theoretical study of ethics is not normally something that many people would regard as being necessary in order for them to conduct their everyday activities.
- We need to examine problems and to find rational, coherent solutions to those problems.
- Whilst some people attempt find general answers that can be used by everyone in society.

3.3.2. Moral intuitions (perception - awareness) and Critical Reasoning

- The study of ethics involves reasoning about our feelings.
- It involves making sense of and rationalizing our intuitions about what is 'right' or 'good'.
- Almost all people are capable of experiencing feelings of empathy towards others.
- Empathy (understanding) provides us with a sense of what others are feeling and may thereby allow us to identify with other people.

All societies are characterized

- by their own ethical ideas expressed in terms of attitudes and beliefs
- By their own customs (their notions of what is considered customary).

Some of those ethics are:

- Formalized in the laws and regulations of a society, nation or state.
  - Such customs and laws can influence
    - the conscience es and the moral sentiments of those living in a society,
    - as individuals acquire ideas and attitudes from their families and from their wider society.

1.3.2.1. Rationalization

- Having a general ideas or what philosophers call intuitions‘ or presumptions‘ about what they think is right‘ or wrong‘.

Rationalization is philosophical approach to ethics that requires

- how people to think critically about the moral ideas that they hold,
- how people critically think to support or disprove those who have convincing arguments
- Are able to articulate and explain the reasons and assumptions on which those arguments are based.

1.3.2.2. Types of reasoning

There are three forms of critical reasoning:

1. **Reasoning by analogy**
   - Explains one thing by comparing it to something else that is similar, although also different.
   - In a good analogy, the similarity outweighs the dissimilarity and is clarifying. For instance, animals are like and unlike humans, as humans are also animals.
2. **Deductive reasoning** applies a principle to a situation.
   - For instance, if every person has human rights, and you are a person, then you have human rights like every person.
3. **Inductive reasoning**
   - Involves providing evidence to support a hypothesis.
   - The greater the evidence for a hypothesis, the more we may rely on it.

3.3.2.3. Ethics and Religious Faith

- Religious faith is another important argument that people use when making ethical decision.
- For many people, ‘morality and religious faith go hand in hand.

- Rather than relying on rational arguments, some people view actions as being right or wrong in terms of whether they are commanded by a God.
- Some moral philosophers do not view arguments based on religious faith as being rationally defensible.
- They believe that we can determine through rational reflection what is right and wrong.
- If a God commands only what is right then, logically,
  - this makes divine commands unnecessary;
  - We are able to know what is right or wrong without relying on any divine commandments, as we can use rational reflection.

1.3.2.3. Testing moral arguments

- Critical reasoning is about asking questions whenever anyone gives us a reason to support an argument.

There are three main ways of testing a moral argument.

(1) Factual accuracy.

- The 18th c David Hume (1711-1776) argued that we should not derive an ought from an is.
- Means that we cannot say that something is wrong or right simply based on how things are.
- It does not mean that ethical discussion should be divorced from fact; the accuracy of the factual content of a discussion is very important.

(2) Consistency.

- Arguments need to be consistent.
- One can only argue that it is morally wrong to kill one person and yet morally acceptable to kill another, if one can demonstrate that there is a morally relevant difference between the two individuals

(3) Good will.

- This one is the most difficult criterion to quantify.
- While arguments may be factually correct and consistent, they also need to exemplify good will‘.
- This involves resorting to our intuitions and emotions, which are notoriously difficult to integrate with rigorous theoretical debate.

3.3.3. Thinking Ethically: A framework for Moral Decision Making

- The first step in analyzing moral issues is obvious but not always easy to get the facts.
- Some moral issues create controversies
  - Because we do not difficulty to check the facts.

- This first step, although **obvious** is also among the most important and the most frequently overlooked.
- But having the facts is not enough.
- Facts by themselves only tell us what is; they do not tell us what ought to be.
- In addition to getting the facts, resolving an ethical issue also requires an appeal to values.

The five different approaches to values **to deal with moral issues** are:

1. Fairness and Justice
2. The common Good
3. The Utilitarian
4. The Rights
5. The Virtues

3.3.3.1. Fairness and Justice Approach

- Ethics has its roots in the teachings of the ancient Greek philosopher Aristotle who said that equals should be treated equally and unequal‘s unequally.

The basic moral question in this approach is:

- **Favoritism** gives benefits to some people without a justifiable reason for singling them out; discrimination imposes burdens on people who are no different from those on whom the burdens are not imposed.
- Both favoritism and discrimination are unjust and wrong.
- Aristotle believed that ethical knowledge is not precise knowledge, like logic and mathematics, but general knowledge like knowledge of nutrition and exercise.
- It is a practical discipline rather than a theoretical one; he thought that in order to become "good", one could not simply study what virtue is; one must actually be virtuous.

Aristotle first establishes what was virtuous.

- He began by determining that everything was done with some goal in mind and that goal is 'good.'
- The ultimate goal he called the Highest Good: happiness.
- Aristotle contended that happiness could not be found only in pleasure or only in fame and honor.
- He finally finds happiness "by ascertaining the specific function of man".
- A human's function is to do what makes it human, to be good at what sets it apart from everything else: the ability to reason or logos.

The Common Good Approach

The Greek philosophers have also contributed

- the notion that life in community is a good in itself and
- Our actions should contribute to that life.
- the interlocking relationships of society are the basis of ethical reasoning and
- That respect and compassion for all others especially the vulnerable are requirements of such reasoning.

Community members are bound by the pursuit of common values and goals.

- The common good is a notion that originated by Plato, Aristotle, and Cicero.
- Recently John Rawls defined the common good as "certain general conditions that are equally to everyone's advantage."
- In this approach, we focus on ensuring that the social policies, social systems, institutions, and environments on which we depend are beneficial to all.

Examples of goods common to all include

- Affordable health care, effective public safety,
- Peace among nations, a just legal system, and an unpolluted environment.

The Rights Approach:

- What makes human beings different from mere things is that people have dignity based on their ability to choose freely what they will do with their lives, and they have a fundamental moral right to have these choices respected.
- People are not objects to be manipulated; it is a violation of human dignity to use people in ways they do not freely choose.
- Many different but related rights exist besides this basic one.
- These other rights can be thought of as **different aspects of the basic right** to be treated as we choose.

Among these rights are:

- **The Right to the Truth:** We have a right to be told the truth and to be informed about matters that significantly affect choices.
- **The Right of Privacy:** We have the right to do, believe, and say whatever we choose in our personal lives so long as we do not violate the rights of others.
- **The Right not to be injured:** We have the right not to be harmed or injured unless we freely and knowingly do something to deserve punishment.

- **The Right to what is agreed:** We have the right to what has been promised those with whom we have freely entered into a contract or agreement.

To Whom or What Does Morality Apply?

In discussing the application of morality, **four aspects** may be considered:

1. religious morality,
2. morality and nature,
3. individual morality, and
4. Social morality.

3.4.1. Religious Morality

- It refers to a human being in relationship to a supernatural being or beings.
- In the Jewish and Christian traditions,

Example, the first three of the Ten Commandments pertain to this kind of morality.

- These commandments deal with a person‘s relationship with God, not with any other human beings.
- By violating any of these three commandments, a person could, according to this particular code of ethics, act immorally toward God and toward anyone else.

The Ten Commandments

1. I am the Lord, Your God; do not worship false gods.
2. Do not take the name of God in vain.
3. Keep holy the Sabbath Day.
4. Honor your father and your mother.
5. Do not kill.
6. Do not commit adultery.
7. Do not steal.
8. Do not bear false witness against your neighbor.
9. Do not covet your neighbor‘s spouse.
10. Do not covet your neighbor‘s belongings. (Exod. 20:1–17)

3.4.2. Morality and Nature

- Morality and nature refers to a human being in relationship to nature.
- Natural morality has been prevalent in all primitive cultures,
- More recently, the Western tradition has also become aware of the significance of dealing with nature in a moral manner.

- Some see nature as being valuable only for the good of humanity, but many others have come to see it as a good in itself, worthy of moral consideration.
- With this viewpoint there is no question about whether a Robinson Crusoe would be
- Capable of moral or immoral actions on a desert island by himself.
- In the morality and nature aspect, we could be considered either moral or immoral, depending upon his actions toward the natural things around him.

3.4.3. Individual Morality

- Refers to individuals in relation to themselves and to an individual code of morality that may or may not be sanctioned by any society or religion.
- It allows for a higher morality, which can be found within the individual rather than beyond this world in some supernatural realm.
- A person may or may not perform some particular act, not because society, law, or religion says he may or may not, but because he himself thinks it is right or wrong from within his own conscience.

3.4.4. Social Morality

- Social morality concerns a human being in relation to other human beings.
- It is probably the most important aspect of morality, in that it cuts across all of the other aspects and is found in more ethical systems than any of the others.
- Returning briefly to the desert-island example, most ethicists probably would state that Robinson Crusoe is incapable of any really moral or immoral action except toward himself and nature.
- Such action would be minimal when compared with the potential for morality or immorality if there were nine other people on the island whom he could subjugate, torture, or destroy.
- Many ethical systems would allow that what he would do to himself is strictly his business, as long as it doesn‘t harm anyone else.

3.5. Who is morally / ethically responsible?

- Morality pertains to human beings and only to human beings; all else is speculation.
- If one wants to attribute morality to supernatural beings, one has to do so solely on faith.
- If one wants to hold animals or plants morally responsible for destructive acts against each other or against humans, then one has to ignore most of the evidence that science has given us concerning

the instinctual behavior of such beings and the evidence of our own everyday observations.

3.5.1. Moral Judgments

- It refer to deciding what is right and what is wrong in human relations.
- Individuals are judging their own conduct and that of their fellows.
- They approve of some acts and call them right or good.
- They criticize other acts and call them wrong or evil or bad.

Moral judgments

- always have to do with the actions of human beings in particular, with voluntary actions
  - **Voluntary actions** those actions freely chosen.
- **Involuntary actions** - people have no control - are rarely open to moral judgment, as a person usually is not held responsible for an action that she or he did not initiate.
- Moral judgments are evaluative because they place value on things or relation or human actions; determine what is right or wrong, good or bad.
- Moral judgments are also normative b/se they evaluate or assess the moral worth of something based on some norms or standards.
  - Finding the right course of action,
  - Choosing the right alternative, it is not always simple.

Onora O'Neill argues that:

- Moral principles do not provide us with an auto-pilot for life and that judgment is always needed in using or following and in flouting rules or principles, as you have saw above.

When conflicts of interest arise,

- the solution may require the greatest sensitivity,
- experience, discernment,
- Intelligence and goodwill, and even then we may doubt whether we have acted rightly.

However, in judging conduct or action we should have to consider:

1. motives,
2. means,
3. consequences
4. Sometimes the situation.

1. **Motives** :
   - Motives are basic for a determination of morality.
   - The motive refers to the intention or why an action is done.

- A good motive is a prerequisite to conduct that we approve without qualification.
- If a good motive is present when an act, through some unforeseen factor, leads to harmful effects, we tend to disapprove less severely.

Kant defined the good as the good will.

- Nothing can possibly be conceived in the world, or even out of it, which can be called good without qualification, except a good will.
- For Kant, a rational being strives to do what he or she ought to do and this is to be distinguished from an act that a person does from either inclination or self-interest.
- In other words, a person must act out of duty to the moral law - that is, ought what one to do.
- The truly moral act, for Kant, not only agrees with the moral law, but is done for the sake of the moral law - not only as duty requires but because duty requires.
- In Kantian thinking the seat of moral worth is the individual's will, and the good will acts out of a sense of duty.

2. Means :

- The term **means** can be defined as an agency, instrument, or method used to attain an end.
- Though we expect people to use the best available **means** to carry out their purposes, we condemn them if their choice of means impresses us as unjust, cruel, or immoral.
- On rare occasions we may approve of an act when means are used that under other conditions would be condemned.
- However, there is a danger in proposing that any **means** may be used, provided the end is good, or that the end justifies the means.

3. Consequences:

- Consequences are the effects or results of a moral decision based on a value.
- We expect the consequences of an act that we call right to be good.
- When people ask, what is right? they are thinking about the consequences of the action.
- Society judges conduct right if it proceeds from a good motive, through the use of the best available means, to consequences that are good.

4. The Moral Situation:

- A moral situation involves moral agents
- Human beings, who act, are empowered to make choices, and consciously make decisions.

- As moral agents, demands are made on us and place us under obligations: we have both duties and rights.
- We are faced with moral alternative s, and we can better weigh those alternatives when we have an understanding of the ingredients of the moral situation.

3.5.2. What Makes an Action Moral?

- Sometimes we think of moral means what morally good.
- But, philosophically, it refers to an action which comes within the scope of morality, that is, an action which is morally significant either in positive way or in a negative way.
- Not all actions have a moral sense.

Many of the actions we perform in life, such as

  - putting on a raincoat,
  - sharpening a pencil, or
  - counting apples,
  - standing on your head, are not in themselves either good or bad acts.
- Such actions are morally neutral or non-moral.

By contrast,

  - stealing from your libraries,
  - punching people or
  - Helping the disadvantage are considered as morally significant actions.

The following are features that make an action moral:

A. A moral act involves an agent:

- If something is a natural event or an action performed by animals, then it is morally neutral
- Means it does not appear on our moral radars.
- Humans can be moral agents, or any creatures that can freely and thoughtfully choose its actions will count as a moral agent.

B. A moral act involves intention:

- An intention here refers to our motives that are important to determine the rightness or wrongness of an action.
- If an action is done accidentally, it may be counted as a morally neutral action.
- However, some unintentional acts, such as those done through negligence, can be moral.
- Neglecting our duties, even accidentally, make us morally culpable.

C. A moral act affects others:

- A moral action needs not only an agent and to be deliberate but also needs to affect others in significant ways, that is, an action that has harmful (be it physical, psychological, emotional, or depriving others of happiness) or beneficial consequences for others.

Generally, a moral action is one which:

- Is performed by agents , creatures that are capable of free choice/ free will
- Is the result of intention ; the action was done on purpose with a particular motive
- Has a significant consequence on others in respect of harm or benefits it brings about.

3.6. Why Should Human Beings Be Moral?

Let us assume for the moment that there is no supernatural morality and see if we can find any other reasons why people should be moral.

- There can be no society without moral regulation; man is man only because
  - he lives in a society;
  - take away from man all that has a social origin and nothing is left but an animal compare with other animals.

We should be moral because being moral is following the rules designed to overrule self-interest whenever it is in the interest of every one alike that everyone should set aside his interest.

John Hospers

A. Argument from Enlightened Self-Interest

- The enlightened self-interest argue that it is better to be good rather than bad and to create a world and society that is good rather than one that is bad.
- Self-interest is the sole basis of one ethical theory, ethical egoism.
- It is not being suggested that one ought to pursue ones own self-interest.
- an argument is being presented that if everyone tried to do and be good and tried to avoid and prevent bad, it would be in every ones self-interest.

B. Argument from Tradition and Law

- The previous argument is the argument from tradition and law.
- Traditions and laws, established over a long period of time,

- Traditions and laws govern the behavior of human beings,
- These traditions and laws urge human beings to be moral rather than immoral, there are good reasons for being so.
- Self-interest is one reason, but another is respect for the human thought and effort that has gone into establishing such laws and traditions and transferring them from one historic period and one culture to another.
- This can be an attractive argument, even though it tends to suppress questioning of traditions and laws - a kind of questioning that is at the core of creative moral reasoning.
- It is interesting to note that most of us probably learned morality through being confronted with this argument, and the experiences surrounding it.

C. Common Human Needs

- All human beings have many needs, desires, goals, and objectives in common.

For example, people generally seem to need

- friendship, love,
- happiness, freedom,
- peace, creativity, and
- Stability in their lives, not only for themselves but for others, too.

In order to satisfy these human needs,

- People must establish and follow moral principles that encourage them to cooperate with one another and that free them from fear that they will lose their lives, be mutilated, or be stolen from, lied to, cheated, severely restricted, or imprisoned.
- Morality is not of course identical with following self-interest.
- If it were, there could be no conflict between morality and self-interest and no point in having rules overriding self-interest.

John Hospers

- Morality exists, because of human needs living together in a cooperative and significant way.

Why should human beings be moral?

- Generally can best be answered by the statement that adhering to moral principles enables human beings to live their lives as peacefully, happily, creatively, and meaningfully as is possible.

Chapter Four:

State, Government and Citizenship

4.1. Chapter Introduction

4.3. Defining State

The term state has been used to refer to a bewildering range of things:

- a collection of institutions,
- a territorial unit,
- a philosophical idea,
- an instrument of coercion or oppression, and so on.

The state has been understood in four quite different ways;

1. from an idealist perspective,
2. a functionalist perspective,
3. an organizational perspective and
4. an international perspective.

1. As the idealist approach
   - State is most clearly reflected in the writings of Hegel.
   - Hegel identified three moments of social existence:
     - the family,
     - civil society and
     - The state.

Within the family, he argued,

- A particular altruism operates that encourages people to set aside their own interests for the good of their children or elderly relatives.

In contrast, **civil society**

- Was seen as a sphere of universal egoism' in which individuals place their own interests before those of others.
- Hegel conceived of the state as an ethical community underpinned by mutual sympathy universal altruism'.
- The drawback of idealism, however, is that it fosters an uncritical reverence for the state and, by defining the state in ethical terms, fails to distinguish clearly between institutions that are part of the state and those that are outside the state.

2. **Functionalist approaches**
   - State focus on the role or purpose of state institutions.
   - The central function of the state is regularly seen as the maintenance of social order
   - The state being defined as that set of institutions that uphold order and deliver social stability.

- This approach has been adopted by neo - Marxists, who have been inclined to see the state as a mechanism through which class conflict is ameliorated to ensure the long-term survival of the capitalist system.

3. The weakness of the functionalist view of the state, however, are tends to associate any institution that maintains order with the state itself.

The organizational view defines

- the state as the apparatus of government in its broadest sense; that is, as that set of institutions that are recognizably public', in that they are responsible for the collective organization of social existence and are funded at the public's expense.
- The virtue of this definition is that it distinguishes clearly between the state and civil society.
- The state comprises the various institutions of government: the bureaucracy, the military, the police, the courts, and the social security system and so on; it can be identified with the entire body politic'.

4. The international approach to the state views
   - It primarily as an actor on the world stage; indeed, as the basic unit'of international politics.
   - This highlights the dualistic structure of the state; the fact that it has two faces, one looking outwards and the other looking inwards.

The previous definitions are concerned with

- the state's inward-looking face,
- its relations with the individuals and
- groups that live within its borders, and
- its ability to maintain domestic order,
- the international view deals with the state's outward-looking face,
- its relations with other states and,
- Therefore, its ability to provide protection against external attack.

According to Article 1 of the Montevideo Convention, the state has four features:

1. a defined territory,
2. permanent population,
3. an effective government and
4. Sovereignty.

4.4. Rival Theories of State

- There are various rival theories of the state, each of which offers a different account of its origins, development and impact on society.

Indeed, controversy about the nature of state power has increasingly dominated modern political analysis and goes to the heart of ideological and theoretical disagreements in the discipline.

- The state is autonomous and independent of society, or whether it is essentially a product of society, a reflection of the broader distribution of power or resources.

Andrew Heywood (2013) classified the rival theories of state into four:

1. the pluralist state,
2. the capitalist state,
3. the leviathan state and
4. the patriarchal state.

4.4.1. The Pluralist State

- The pluralist theory of the state has a very clear liberal lineage.
- It stems from the belief that the state acts as an umpire or referee' in society.
- This view has also dominated mainstream political analysis, accounting for a tendency, at least within Anglo-American thought, to discount the state and state organizations and focus instead on government'.
- Indeed, it is not uncommon in this tradition for the state' to be dismissed as an abstraction, with institutions such as the courts, the civil service and the military being seen as independent actors in their own right, rather than as elements of a broader state machine.
- Nevertheless, this approach is possible only because it is based on underlying, and often unacknowledged, assumptions about state neutrality.
- The state can be ignored only because it is seen as an impartial arbiter or referee that can be bent to the will of the government of the day.
- The origins the state can be traced back to the social - contract theories of thinkers such as Thomas Hobbes and John Locke.

The principal concern of such thinkers was:

- To examine the grounds of political obligation, the grounds on which the individual is obliged to obey and respect the state.
- They argued that the state had arisen out of a voluntary agreement, or social contract, made by individuals who recognized that only the establishment of a sovereign power could safeguard them from the insecurity, disorder and brutality of the state of nature.
- Without a state, individuals abuse, exploit and enslave one another; with a state, order and civilized existence are guaranteed and liberty is protected.

As Locke put it, where **there is no law there is no freedom**.

- **Modern pluralists** have often adopted a more critical view of the state, termed the neo pluralist theory of the state.
- Theorists such as Robert Dahl and Charles have come to accept that modern industrialized states are both more complex and less responsive to popular pressures than classical pluralism suggested.
- Neo-pluralists have acknowledged that business enjoys a privileged position' in relation to government that other groups clearly cannot rival.
- Neo -pluralists have accepted that the state can, and does, forge its own sectional interests.
- State elite, composed of senior civil servants, judges, police chiefs, military leaders and so on, may be seen to pursue either the bureaucratic interests of their sector of the state, or the interests of client groups.

4.4.2. The Capitalist State

- The Marxist notion of a capitalist state offers a clear alternative to the pluralist image of the state as a neutral arbiter or umpire.
- Marxists have typically argued that the state cannot be understood separately from the economic structure of society.
- This view has usually been understood in terms of the classic formulation that the state is nothing but an instrument of class oppression: the state emerges out of, and in a sense reflects, the class system.
- Nevertheless, a rich debate has taken place within Marxist theory in recent years that has moved the Marxist theory of the state a long way from this classic formulation.
- In many ways, the scope to revise Marxist attitudes towards the state stems from ambiguities that can be found in Marx's own writings.

Marx did not develop a systematic or coherent theory of the state.

- He believed that the state is part of a super structure' that is determined or conditioned by the economic base',
- State can be seen as the real foundation of social life.
- However, the precise relationship between the base and the superstructure, and in this case that between the state and the capitalist mode of production, is unclear.

Two theories of the state can be identified in Marx's writings.

The first is expressed in his often - quoted dictum from The Communist Manifesto (1848):

- The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie'.
- The state is clearly dependent on society and entirely dependent on its economically dominant class, which in capitalism is the bourgeoisie.
- Lenin thus described the state starkly as an instrument for the oppression of the exploited class.

A second, more complex and subtle, theory of the state can nevertheless be found in Marx's analysis of the revolutionary events in France between 1848 and1851.

Marx suggested that

- the state could enjoy what has come to be seen as relative autonomy' from the class system, the Napoleonic state being capable of imposing its will upon society, acting as an appalling parasitic body'.
- If the state did articulate the interests of any class, it was not those of the bourgeoisie, but those of the most populous class in French society, the smallholding peasantry.
- Marx did not develop this view in detail, it is clear that, from this perspective, the autonomy of the state is only relative, in that the state appears to mediate between conflicting classes, and so maintains the class system itself in existence.
- Marx's attitude towards the state was not entirely negative.
- He argued that the state could be used constructively during the transition from capitalism to communism in the form of the revolutionary dictatorship of the proletariat.
- The overthrow of capitalism would see the destruction of the bourgeois state and the creation of an alternative, proletarian one.

4.4.3. The Leviathan State

- The image of the state as a leviathan' (in effect, a self-serving monster intent on expansion and aggrandizement) is one associated in modern politics with the New Right.
- Such a view is rooted in early or classical liberalism and, in particular, a commitment to a radical form of individualism.

The New Right, or at least its neo-liberal wing,

- is distinguished by a strong antipathy towards state intervention in economic and social life,
- Born out of the belief that the state is parasitic growth that threatens both individual liberty and economic security.

New Right thinkers therefore argue that the 20th c

- Tendency towards state intervention reflected not popular pressure for economic and social security, or the need to stabilize capitalism by ameliorating class tensions but, rather, the internal dynamics of the state.
- New right theorists explain the expansionist dynamics of state power by reference to both demand side and supply - side pressures.
- Demand - side pressures are those that emanate from society itself, usually through the mechanism of electoral democracy.
- **Supply** - side pressures, on the other hand, are those that are internal to the state.
- These can therefore be explained in terms of the institutions and personnel of the state apparatus.
- In its most influential form, this argument is known as the government oversupply thesis.

4.4.4. The Patriarchal State

- Modern thinking about the state take account of the implications of feminist theory.
- However, this is not to say that there is a systematic feminist theory of the state.
- Feminist theory encompasses a range of traditions and perspectives, and has thus generated a range of very different attitudes towards state power.
- Moreover, feminists have usually not regarded the nature of state power as a central political issue, preferring instead to concentrate on the deeper structure of male power centered on institutions such as the family and the economic system.
- Some feminists may question conventional definitions of the state,
- Are arguing that the idea that the state exercises a monopoly of legitimate violence is compromised by the routine use of violence and intimidation in family and domestic life.

Liberal feminists,

- Who believe that sexual or gender equality can be brought about through incremental reform; have tended to accept an essentially pluralist view of the state.
- If women are denied legal and political equality, and especially the right to vote, the state is biased in favor of men.

However, their faith in the state's basic neutrality is reflected in the belief that any such bias can, and will, be overcome by a process of reform.

- Liberal feminists believe that all groups (including women) have potentially equal access to state power, and that this can be used impartially to promote justice and the common good.

- Liberal feminists have therefore usually viewed the state in positive terms, seeing state intervention as a means of redressing gender inequality and enhancing the role of women.

4.5. The Role of the State

- State power has clear implications for the desirable role or responsibilities of the state.
- With the exception of anarchists, who dismiss the state as fundamentally evil and unnecessary, all political thinkers have regarded the state as, in some sense, worthwhile.
- Revolutionary socialists, inspired by the Leninist slogan smash the state have accepted the need for a temporary proletarian state to preside over the transition from capitalism to communism, in the form of the dictatorship of the proletariat'.
- Nevertheless, there is profound disagreement about the exact role the state should play.
- Therefore about the proper balance between the state and civil society.

Among the different **state forms** that have developed are the following:

- Minimal states
- Developmental states
- Social-democratic states
- Collectivized states
- Totalitarian states
- Religious states

4.5.1. Minimal States

- The minimal state is the ideal of classical liberals, whose aim is to ensure that individuals enjoy the widest possible realm of freedom.
- This view is rooted in social - contract theory, but it nevertheless advances an essentially negative' view of the state.
- From this perspective, the value of the state is that it has the capacity to constrain human behavior and thus to prevent individuals encroaching on the rights and liberties of others.
- The state is merely a protective body, its core function being to provide a framework of peace and social order within which citizens can conduct their lives as they think best.

In Locke's famous image, state with three core functions.

- First and foremost, the state exists to maintain domestic order.

- Second, it ensures that contracts or voluntary agreements made between private citizens are enforced, and
- Third it provides protection against external attack.
- The institutional apparatus of a minimal state is thus limited to a police force, a court system and a military of some kind.
- Economic, social, cultural, moral and other responsibilities belong to the individual, and are therefore firmly part of civil society.

4.5.2. Developmental States

The best historical examples of minimal states were those in countries such as the UK and the USA during the period of early industrialization in the nineteenth century. As a general rule, however, the later a country industrializes, the more extensive will be its state's economic role. In Japan and Germany, for instance, the state assumed a more active _developmental' role from the outset. A developmental state is one that intervenes in economic life with the specific purpose of promoting industrial growth and economic development. This does not amount to an attempt to replace the market with a _socialist' system of planning and control but, rather, to an attempt to construct a partnership between the state and major economic interests, often underpinned by conservative and nationalist priorities.

The classic example of a developmental state is Japan. During the Meiji Period (1868–1912), the Japanese state forged a close relationship with the Zaibutsu, the great family-run business empires that dominated the Japanese economy up until World War II. Since 1945, the developmental role of the Japanese state has been assumed by the Japanese Ministry of International Trade and Industry (MITI), which, together with the Bank of Japan, helps to shape private investment decisions and steer the Japanese economy towards international competitiveness. A similar model of developmental intervention has existed in France, where governments of both left and right have tended to recognize the need for economic planning, and the state bureaucracy has seen itself as the custodian of the national interest. In countries such as Austria and, to some extent, Germany, economic development has been achieved through the construction of a _partnership state', in which an emphasis is placed on the maintenance of a close relationship between the state and major economic interests, notably big business and organized labor.

More recently, economic globalization has fostered the emergence of _competition states', examples of which are found amongst the tiger economies of East Asia. Competition states are distinguished by their recognition of the need to strengthen education and training as the

principal guaranteeing economic success in a context of intensifying transnational competition.

4.5.3. Social Democratic (Welfare) States

Whereas developmental states practice interventionism in order to stimulate economic progress, social-democratic states intervene with a view to bringing about broader social restructuring, usually in accordance with principles such as fairness, equality and social justice. In countries such as Austria and Sweden, state intervention has been guided by both developmental and social democratic priorities. Nevertheless, developmentalism and social democracy do not always go hand-in-hand. As Marquand (1988) pointed out, although the UK state was significantly extended in the period immediately after World War II along social-democratic lines, it failed to evolve into a developmental state. The key to understanding the social-democratic state is that there is a shift from a ‗negative' view of the state, which sees it as little more than a necessary evil, to a positive view of the state, in which it is seen as a means of enlarging liberty and promoting justice. The social-democratic state is thus the ideal of both modern liberals and democratic socialists.

4.5.4. Collectivized States

While developmental and social-democratic states intervene in economic life with a view to guiding or supporting a largely private economy, collectivized states bring the entirety of economic life under state control. The best examples of such states were in orthodox communist countries such as the USSR and throughout Eastern Europe. These sought to abolish private enterprise altogether, and set up centrally planned economies administered by a network of economic ministries and planning committees. So-called ‗command economies' were therefore established that were organized through a system of ‗directive' planning that was ultimately controlled by the highest organs of the communist party. The justification for state collectivization stems from a fundamental socialist preference for common ownership over private property. However, the use of the state to attain this goal suggests a more positive attitude to state power than that outlined in the classical writings of Marx and Engels (1820–95).

Marx and Engels by no means ruled out nationalization; Engels, in particular, recognized that, during the dictatorship of the proletariat', state control would be extended to include factories, the banks, transportation and so on. Nevertheless, they envisaged that the proletarian state would be strictly temporary, and that it would wither away as class antagonisms abated. In contrast, the collectivized state in the USSR became permanent, and increasingly powerful and bureaucratic.

4.5.5. Totalitarian States

- The most extreme and extensive form of interventionism is found in totalitarian states.
- The essence of totalitarianism is the construction of an all-embracing state, the influence of which penetrates every aspect of human existence.
- The state brings not only the economy, but also education, culture, religion, family life and so on under direct state control.

The best examples of totalitarian states are

- Hitler‘s Germany and Stalin‘s USSR, modern regimes such as Saddam Hussein‘s Iraq.
- Their central pillars are a comprehensive process of surveillance and terroristic policing, and a pervasive system of ideological manipulation and control.
- Totalitarian states effectively extinguish civil society and abolish the private sphere of life altogether.

This is a **goal** that only fascists,

- who wish to dissolve individual identity within the social whole, are prepared openly to endorse.

4.5.6. Religious States

- A religious state is a contradiction in terms.
- The modern state emerged largely through the triumph or victory of civil authority over religious authority,
- Religion increasingly being confined to the private sphere, through a separation between church and state.
- The advance of state sovereignty thus usually went hand in hand with the forward march of secularization. In the USA, the secular nature of the state was enshrined in the First Amendment of the constitution, which guarantees that freedom of worship shall not be abridged, while in France the separation of church and state has been maintained through a strict emphasis on the principle of laïcité.
- In countries such as Norway, Denmark and the UK, ‗established‘ or state religions have developed, although the privileges these religions enjoy stop well short of theocratic rule, and their political influence has generally been restricted by a high level of social secularization.

4.6. Understanding Government

4.6.1. What is Government?

- Government can be understood as mechanism through which ordered rule is maintained,

- its central features being the ability to make collective decisions and the capacity to enforce them.
- government is to refer to the formal and institutional processes that operate at the national level to maintain public order and facilitate collective action.
- It is a body or organ that administers a country and main organization dealing with affairs of the whole country.
- Government is one of the most essential components and also an administrative wing of the state.
- Government can also refer to political organization comprising individuals and institutions authorized to formulate public policies and conduct affairs of state.
- Governments are empowered to establish and regulate the interrelationships of the people within their territorial confines, the relations of the people with community as a whole, and the dealings of the community with other political entities.

Any form of government, to be stable and effective, must possess two essential attributes: authority and legitimacy.

Authority:

- the word authority implies the ability to compel obedience.
- It can simply be defined as legitimate power.‘

Power

- Is the ability to influence the behavior of others, authority is the right to do so.
- Authority is therefore, based on an acknowledged duty to obey rather than on any form of coercion or manipulation.
- Authority is the legitimacy, justification and right to exercise that power.
- Authority can be expressed as naked force and terror as was the case in many undemocratic governments or through a series of more or less transparent public hearings as in the case of most democratic states.

Legitimacy:

- The term legitimacy (from the Latin word legitimare, meaning to declare lawful) broadly means rightfulness.
- Legitimacy is the attribute of government that prompts the governed to comply willingly with its authority.
- It confers on an order or commands an authoritative or binding character, thus transforming power in to authority.
- Legitimacy is the popular acceptance of a governing regime or law as an authority.

4.6.2. Purposes and Functions of Government

One of the central questions of political philosophy is the purpose of government. Many great political philosophers have conceived themselves with this question. One common formulation is that the main purpose of the state is to protect rights and to preserve justice. There are several ways to conceive the differences between the different political views. For example, one might as in what areas should the government have jurisdiction, to what extent it may intervene in those areas, or even what constitutes intervention in the first place. A lot of institutions can be said to exist only because the government provides the framework for their existence; for instance, Marxist argue that the institution of private property only exists due to government. Mostly, the constitutions of various countries codify views to the purposes, powers, and forms of their governments, but they tend to do so in rather vague terms, which particular laws, courts, and actions of politicians subsequently flesh out. In general, various countries have translated vague talk about the purposes of their governments in to particular state laws, bureaucracies, enforcement actions, etc.

Evidently, depending on the character of the society of which they are an expression, different governments may serve various purposes and functions. In the contemporary world, however, the purposes and functions of governments have greatly expanded with the emergence of government as the most active force vehicle in the political, social, and economic developments. Accordingly, the major purposes and functions of government include, among other things, the following:

4.7. Understanding Citizenship

4.7.1. Defining Citizenship

Citizen

- Refers to the person who is a legal member of a particular State and one who owes allegiance to that State.
- is a person who is legally recognized as member of a particular, officially sovereign political community, entitled to whatever prerogatives and encumbered with responsibilities.
- citizenship simply denotes to the network of relationships between the State and the citizen.
- citizenship refers to the rules regulating the legal / formal relations between the State and the individual with respect to the acquisition and loss of a given country‘s nationality.
- However, from political and social perspectives citizenship is beyond a legal status.
- Citizenship is a political and legal arte fact that creates a condition of civic equality among those who possess it with regard to the

prerogatives and responsibilities it bestows and requires, the term citizenship has been defined differently by scholars and practitioners.

- refer to the term citizenship in their national language as expressing merely the judicial relationship between the citizen and the State

4.7.3. Modes/Ways of Acquiring and Loosing Citizenship

- Citizenship right was one of the rights guaranteed to individuals by the Universal Declaration of Human Rights adopted in 1948.
- According to Article 15 of the declaration, everyone has a right to a nationality and that no one shall be arbitrarily deprived of his nationality.

Ways of Acquiring Citizenship

- means of acquiring a particular State‘s citizenship vary from country to country.

However, the common ways of acquiring citizenship can be grouped in to two:

- citizenship by birth and
- Citizenship through naturalization/law.

Citizenship from birth/of Origin:

- Individuals can get citizenship status of a particular State either because he/she is born in the territorial administration of that or his/her mother and/or father are citizens of the State in question.
- There are two principles of citizenship from birth commonly known as;
  - Jus Soli (law / right of the soil) and
  - Jus Sanguinis (law / right of blood).
- **Jus Soli** is a principle whereby an individual is permitted to obtain citizenship status of a particular State because he / she was born in the territorial administration of that country
- **Jus soli** could not apply to children born from diplomats and refugees live in a host State.

- Children born from diplomats in a host State where jus soli is allowed do not have the right to claim citizenship status of the host country because of two special principles (international diplomatic immunities): extraterritoriality and inviolability principles.

- **Jus Sanguinis** is a norm where citizenship acquired claiming one‘s parents citizenship status.

ii) Citizenship by Naturalization/ Law:

- Is the legal process by which foreigners become citizens of another country.

The common sub-principles of acquiring citizenship through naturalization are the following.

- Political case (secession, merger and subjugation),
- grant on application,
- marriage,
- Legitimatization / adoption, and
- Reintegration / restoration.

4.7.3.1. The Modes of Acquiring Ethiopian

- Before the 1930, there wasn't officially inscribed legal document that deals with citizenship.
- In 1930 Ethiopia adopted a legal document named as Ethiopian Nationality Law.

Recently, this nationality law has replaced by another called Ethiopian Nationality Proclamation NO. 378/2003 which was adopted in 2003 by the House of People's Representatives.

- This proclamation is enacted in accordance to article 6 and 33 of the 1995 FDRE constitution and affirmed that a person can acquire Ethiopian citizenship either by birth or naturalization.

1) Acquisition by Descent :

- the 1930 Ethiopian nationality law asserted that
  - Any person born in Ethiopia or abroad, whose father or mother is Ethiopian, is an Ethiopian subject.

Article 6(1), the 1995 FDRE constitution stated that

- Any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian.

Article 3 of the 2003 nationality proclamation ascribed two principles under the acquisition of Ethiopian citizenship by decent.

- 1. Any person shall be an Ethiopian national by descent where both or either of his / her parent is Ethiopian;
- 2. An infant who is found abandoned in Ethiopia shall, unless proved to have a foreign nationality, be deemed to have been born to an Ethiopian parent and shall acquire Ethiopian nationality.

According to the proclamation, any person can't acquire Ethiopian citizenship through the principle of Jus Soli (law of soil).

- It means that children born in the territorial administration of Ethiopian do not have the right to acquire Ethiopian citizenship.
- Birth place of a child is not a requirement to acquire Ethiopian nationality.
- Wherever a child was born, he/she has the right to attain Ethiopian citizenship if, and only if, he / she is born from an Ethiopian father or mother or both Ethiopian parents. aver

2) Acquisiti on by Law (Naturalization) :

- Article 6(2) of the 1995 FDRE constitution also asserts that aliens can get Ethiopian citizenship.
- There are various ways of acquiring Ethiopian citizenship in accordance with of the amended Ethiopian nationality proclamation of 2003 recognized by the provisions of Articles 5 to 12 of the 2003 nationality proclamation.

a) Grant on Application (registration):

- **Is** happens when an alien requests a host state to be granted citizenship status of the country in question. However, host countries, including Ethiopia, do not simply grant citizenship status to those who apply unless they fulfill certain requirements. The common ones are applicant‘s age, length of residence in the host country, criminal conviction, income and moral character. But the criteria vary from country to country.

According to Article 5 of the 2003 Ethiopian nationality proclamation, an applicant shall get Ethiopian nationality if, and only if, he/she

- 1) reach the age of majority, 18 years;
- 2) lived in Ethiopia for a total of at least four years;
- 3) has sufficient and lawful source of income (economically self-reliant);
- 4) is able to communicate in any of the indigenous languages spoken in Ethiopia;
- 5) has a good character;
- 6) has not recorded criminal conviction;
- 7) has been released from his/her previous nationality or the possibility of obtaining such a release upon the acquisition of Ethiopian nationality or that he/she is a stateless person; and
- 8) takes the oath of allegiance indicated in Article 12 of the proclamation:
  I-----, solemnly affirm that I will be a loyal national of the federal democratic republic of Ethiopia and be faithful to its constitution.

b) Cases of Marriage:

- An alien who is married to an Ethiopian citizen have the possibility of acquiring Ethiopian citizenship.

There are certain preconditions set in Article 6 of the proclamation in which the marriage and the alien married to an Ethiopian citizen must fulfill just to allow the foreigner acquire Ethiopian nationality by law.

1. the marriage shall be thru in accordance with the laws of Ethiopia or the State where the marriage is contracted;
2. the marriage shall lapse at least for two years;
3. the alien married to an Ethiopian citizen have to live in Ethiopian for at least one year preceding the submission of the application;
4. The alien have to reach the age of majority, be a morally good person, and lastly take the oath of allegiance stated under Article 12 of the proclamation.

c) Cases of Adoption (Legitimating):

- this process whereby an illegitimate child get citizenship status of his/her caretaker‘s nationality.

Article 7, a child adopted by and grown under the caretaker of Ethiopian citizen has the right to acquire Ethiopian citizenship.

- the child could get Ethiopian citizenship if the adopted child has not attained the age of majority;
- lives in Ethiopia together with his / her adopting parent; and
- Has been released from his / her previous nationality or the possibility of obtaining such a release upon the acquisition of Ethiopian nationality or that he/she is a stateless person.
- However, where one of his / her adopting parents is a foreigner, in writing, such a parent has to express his / her agreement that his/her adopted child gain Ethiopian nationality.

d) Citizenship by Special Cases:

- Article 8, an alien who has made an outstanding contribution in the interest of Ethiopia may be conferred with Ethiopian nationality by law without undergoing the pre-conditions stated in Article 5 (sub-articles 2 and 3) of the 2003 Ethiopian nationality proclamation.
- That is, he / she is not required to live in Ethiopia for a total of four years and may lack the ability to communicate in any of the languages spoken in Ethiopia.

e) Re - Admission to Ethiopian Nationality (Reintegration / Restoration):

- This is a process by which a person acquires his/her lost citizenship.
- The 2003 Ethiopian nationality proclamation acknowledges this principle in its Article 22.
- a person who has lost Ethiopian citizenship status may get back Ethiopian nationality.
- However, there are requirements in which the person is expected to fulfill.

The person could be readmitted to Ethiopian nationality if he/she applies

- to the Security,
- Immigration and
- Refugee Affairs Authority for re-admission.
- In addition, he / she has to return and domiciled in Ethiopia and renounces his foreign nationality to get back Ethiopian nationality.

4.7.3.3. Dual Citizenship

- Dual citizenship is the condition of being a citizen of two nations.
- a person may acquire more than two States which is called multiple citizenship.
- Duality / multiplicity arise because of the clash among the Jus Soli, Jus Sanguini and naturalization.

For example,

- a baby born to a French family visiting the United States would acquire U.S. citizenship by Jus Soli and French citizenship by Jus Sanguinis.
- A child born from a mother and father of two different countries could acquire dual citizenship through decent.
- Besides, on the one hand, a State may allow its naturalized citizens to keep their original citizenship, an on the other, a State may refuse its citizen to revoke his/her citizenship for various reasons which are cause for dual/multiple citizenship.
- People who declared that they no longer were citizens of such a country and became naturalized in another still would be claimed as citizens by the original nation.

Article 20(1) of the 2003 nationality proclamation assert that

- Any Ethiopian who voluntarily acquires another nationality shall be deemed to have voluntarily renounced his Ethiopian nationality.
- However, a person who retains another country‘s citizenship or voluntary renounces his Ethiopian nationality may not be allowed to release his / her Ethiopian citizenship if he/she hasn‘t discharged his/her outstanding national obligations and/or has been acquitted or served the penalty for the crime he/she accused of or convicted (see Article 19(4) of the 2003 Ethiopian nationality proclamation).
- Therefore, under this condition which is called indelible allegiance, the person would remain dual / multiple citizen, an Ethiopian and the country he/she acquires citizenship through law (see also Article 20(4) of the 2003 nationality proclamation).

4.7.4. Ways of Loosing Citizenship

Citizenship can be lost when;

- a State provides for lapse or withdrawal of citizenship under certain conditions, or
- when a citizen voluntary renounces it.
- The primary rational for loss of citizenship is the absence of a genuine link with the state. Many citizenship laws also provide for loss if there has been fraud in the course of acquiring citizenship.
- Some States have provisions for depriving people of citizenship in cases where their behavior is considered to demonstrate disloyalty towards the state.

4.7.4.1. Statelessness

- Statelessness is the condition of having citizenship of any country and with no government from which to ask protection.
- According to the international law, stateless person is a person who is not considered as a national by any state under the operation of its law.
- Statelessness almost always results when state failure leads people to flee be it due to invasion and conquest by another state, civil war, famine, or an oppressive regime from their home country.
- Individuals could also become stateless persons because of deprivation and when renouncing their citizenship without gaining nationality in another State.
- Some people become stateless as a result of government action.
- To settle such conditions, the UN has adopted a convention on the protection and reduction of stateless persons.

Chapter Five: Constitution, Democracy and Human Rights

5.3. Constitution and Constitutionalism

5.3.1. Conceptualizing Constitution

- Constitution is defined as the fundamental or basic law of a state which sets out the structure of the state.
- lists the rights of citizens alongside the limits on the power exercise of a government.
- It is a blue print placed on top the hierarchy of laws on constitutional governments.
- is a collection of principles according to which the powers of the government, the rights of the governed, and the relation between the two are adjusted.
- constitution refers to body of rules and laws, (written or unwritten) that determine the organization of government and the distribution of powers and functions to various organs of government, regulate the relationship among themselves and also between the state and its

individuals through general principles on which these powers are to be exercised.

- Constitution is the mothers of all laws; all other ordinary laws are derived from and subjected to this blue print.
- is supreme law of a land, any other law contradicted with the provisions of the constitution becomes void or invalid.

Features of Constitution

The following are some of the distinctive features of a constitution.

A. Generality:
   - a constitution provides the general principle of a state and carry on foundation and sets out general framework of the law and the government.
   - As other laws provide the details of the subject for which they are created, Constitutional principles are guidelines for others laws.
   - It announces principles while other laws apply or implement what the constitution announce their respective spheres of fields.
   - It builds substantial foundation and basis and general framework of the law and government.

All other laws provide the details of the subject which they treat. Of course, the degree of generality of laws may depend on other factors like hierarchy of laws. But constitution is always the most general in the sense, short and brief. The general set up of the government and its functions in all spheres, including political, economic, legal, etc is by the constitution. The generality is very important because it give the constitution a feature of elasticity through interpretation thereby to accommodate various questions.

B. Permanency:
   - unlike laws constitution is made for undefined period of time.
   - That means constitution serve for a long lap of ages.
   - It is purposely made to be stable and permanent.
   - It is made to be stable, i.e., not to be worked upon by the temper of the times or to rise or fall with the occasional events.
   - On the contrary, other laws are tentative, occasional and in the nature of temporary existence.

C. Supremacy:
   - Constitutions are laws about the political procedures to be followed in making laws.
   - They are supreme laws, taking precedence over all others, and defining how all the others should be made.
   - As a mother of law, it is original law by which the system of government is created, and to which the branches of government must look for all their powers and authority.

- It is original because it is directly made by the people as the direct expression of the will of the people.
- All other laws are secondary or derivate being commands of representatives of the sovereign.

D. Codified document:
- Constitutions are written down; often in a single document that presents the constitution in a systematic manner.
- The constitutions are not intended to be perfect is evidenced by expressly stated processes for revising or amending them.
- Constitutional change by means of an orderly procedure is far preferable to overthrowing a government by force whenever a country‘s constitution has fallen out of favour with a majority of its people.

E. Allocation of powers:
- Constitutions outline the proper relations between institutions and offices of the state, and between government and citizens.
- This is probably the most crucial part because it allocates powers and functions to government and specifies the rights and duties of governments and citizens-who can do what, to whom, and under what circumstances.

5.3.3. Major Purposes and Functions of Constitution

1. It serves as a framework for Government:
   - This means that the constitution of state is a plan for organizing the operation of government which in turn effectively guides the functions and powers of the executive, legislative and judicial bodies of government.
   - In other words, it is a brief and a general outline of duties and rights of governments and also that of citizens.
2. It Limits the Powers of Government:
   - In a constitutionally limited government, officials are always abided by the constitution.
   - Everyone is subjection to the laws and rules from the part of the government and the governed (the people) is coined as the rule of law.
   - Constitutional government protects the rights and a freedom of citizens doesn‘t mean that the government has no authority to effectively exercise its functions.
   - A constitutional Government is neither too powerful nor too weak because if a government is excessively powerful, i.e. if it has unlimited powers, it tends to abuse the rights and freedoms of citizens.
   - If, on the other hand, a government is too weak it can‘t protect citizens.

- Constitutions shall grant Governments enough powers to effectively and consistently undertake their functions and responsibilities but at the same time must put limits on their powers to make sure that they are not in a position to endanger the rights and freedoms of citizens.

3. It protects individual and collective rights of citizens:
   - To protect the individual and collective rights and freedoms of people,
   - it lay down the relationship between the state and the individual by making out the respective spheres of government
   - it lay down the individual and collective rights and freedoms on the other.
4. It serves as the Supreme (Highest) Law of a Country:
   - Constitution is the source of and supreme over all laws in a country.
   - No specific law will be valid if it contradicts the constitution.
   - All laws in a country are made to fulfill the objectives and goals clearly specified in a constitution of a given country.
   - Constitution is referred to as the law behind other laws or the Mother of all laws of a country.
5. It provides Government legitimacy/stability:
   - ✓ it formalize and regulate relationships between political bodies and citizens
   - ✓ it provide mechanisms through which any potential conflicts can be adjudicated and resolved
   - ✓ Constitution usually provides the vital function of introducing a measure of stability, order, and predictability of government.
   - ✓ it gives governments a legitimate / legal right to rule or govern and by doing so it serves as the weapon for legitimizing regimes.
6. Constitution Blue Prints for establishing Values and Goals:
   - ✓ In a constitution there is also an ideological aspect of constitution making where the people truly aspired for it.
   - ✓ In such a situation, it would be a common belief of the constituent, or at least, their leaders, what the envisioned state should be geared towards providing the people either as citizens or as members of any organization.
   - ✓ This sort of positive declaration also usually has a way of offering bearing to the operation of the constitution as well as affording the subjects the parameter for assessing them. It, therefore, seeks to invest for unifying political values.
   - ✓ As such, the fundamental aims (objectives) and principles are described or accomplished explicitly in preambles to constitutional documents, which often function as statements of national ideals and values.

For instance, the preamble of the FDRE Constitution stated that:

We, the Nations, Nationalities and Peoples of Ethiopia:

Strongly committed, in full and free exercise of our right to self-determination, to building a political community founded on the rule of law and capable of ensuring a lasting peace, guaranteeing a democratic order, and advancing our economic and social development;

5.3.4. Classification of Constitutions

- Constitutions are classified into different categories using different criteria.
- For instance, taking the criteria, form, amendment procedure and degree of implementation / practice, constitutions can be classified into the following categories.

A. Constitution based on **form**:

- Constitutions can be classified as written and unwritten.

1. Written Constitution

- a written constitution is one whose provisions are written in detail.
- A written constitution is one in which most of the provisions are embodied in a single formal written instrument or instruments.
- It is a work of a conscious art and the result of deliberate effort to lay down a body of fundamental principles under which a government is organized and conducted.
- is a formal document that defines the nature of the constitutional settlement, the rules that govern the political system and the rights of citizens and governments in a codified form.
- It is a single document containing the fundamental laws and principles specifying the rights of citizens, defines the political structure of a state.
- It determines the distribution of government powers
- it serves as a supreme law of the state.
- For example, India, Kenya, Ethiopia, USA, Germany, Brazil, Indonesia, Jordan, Venezuela and Nigeria have written form of constitution.

Written constitution has certain merits and demerits.

Merits of Written Constitution

- It is easily accessible to citizens that enable them to monitor the behavior of their government thus preventing the emergency of dictatorship
- Citizens can easily learn about their rights and duties and the basic laws governing the patterns of political processes of their nation
- It is full of clarity and definiteness because the provisions are written in detail.

- It has the quality of stability, since people know the nature of constitutional provisions , they feel a sense of satisfaction

Demerits of written constitution

- It creates a situation of rigidity. Since all important rules are on writing, attempts are made to act according to rules.
- It leads to the development of a conservative attitude.
- It becomes difficult to change it easily quickly as per the requirements of time.
- As such the possibilities of mass upheaval are increased.
- A written constitution becomes a play thing in the hands of the lawyers and the courts.
- Different interpretations come up from time to time that unsettle the judicial thought of the country.
- Written constitution is not easily adapted to a new situation or changing circumstances.
- It needs be continuously amended to be adapted to a new situation

2. Unwritten Constitution

- Unwritten constitution is basically means that the fundamental principles and powers of the government are not written down in any single document.
- An unwritten constitution is one whose written provisions are very brief and most of the rules of the constitution exist in the form of usages and customs.
- It consists of customs, conventions, traditions, and some written laws bearing different dates.
- The British constitution is the best example of unwritten constitution.
- The most of the prescriptions of an unwritten constitution have never been reduced to writing and formally embodied in a document.
- It is made up, largely of customs and judicial decisions.

Merits of Unwritten Constitution

- It has the quality of elasticity and adaptability.
- Since, most of the rules are in an unwritten form, people may adapt them in response to the new constitution.
- It is so dynamic that it prevents the chances of popular uprisings.
- Unwritten constitution can absorb and also recover from shocks that may destroy a written constitution.
- It looks like a natural outgrowth of a national life.

Demerits of Unwritten Constitution

- Since it is not compiled in to a single document, it is not easily accessible to the public to determine which aspects of the constitution are violated and when it is violated
- It is difficult to create awareness through education on the fundamental constitutional rights and duties of citizens because it is not easily accessible to citizens
- It leads to situations of instability.
- The provisions of such a constitution may change the spur of the moment and so they are always in a state of flux as per the emotions, passions and fancies of the people.
- It leads to the state of confusion.
- Controversies often arise over different provisions of the constitution having their place in the usages and customs of the country.
- Unwritten constitution may be suitable to a monarchical or aristocratic system.
- It certainly does not suit a democracy where people are always conscious and suspicious of constitutional provisions

B. Constitution based on complexity of amending process

On the basis of the distinction in the process of amendment, constitutions may be classified as rigid and flexible.

1. Rigid Constitution

- The process of amendment is difficult.
- A special procedure is followed to make a change in any rule of the constitution.
- A constitutional amendment bill must be passed by the parliament by special majority.
- Then it is to be approved either by the provincial units or by the people in a referendum or both.
- Rigid constitution is one that does not adapt itself to changing circumstances immediately and quickly or simply one whose amendment procedures are relatively complex or difficult.
- A more difficult procedure of constitutional amendment is the one which requires a national referendum.
- A referendum is the process of direct voting by citizens to support or rejects at constitutional amendment or other major national issues.
- Those countries like USA, Australia, Denmark and Switzerland are known to have rigid constitutions.

2. Flexible Constitution

- Flexible constitution is the constitution which set up simple amendment procedure and there is as such no special required procedure for amending a constitution.

- The simplest and commonest amendment procedure is the one which requires an absolute majority (two thirds support) in the parliament.
- If it is very simple and convenient, the constitution is flexible.
- Any new law made by the parliament gives a new rule to the constitution.
- Flexible constitution is one that adapts easily and immediately to changing circumstances or simply one whose amendment procedures are relatively simple.
- For instance, constitutions, such as those of the United Kingdom and New Zealand, may be altered by a simple majority vote in the legislature.

C. Constitution based on degree of practice

On the basis of the degree to which constitution of state observed in practice, or on the basis of the relationship between constitutional rules and laws and principles, on the one hand, and the practice of the government (the workings) of the constitution, on the other hand, we can have effective and Nominal Constitution of State.

1. Effective Constitution: Effective constitution denotes to a situation in which government/citizens practices correspond to the provisions of the constitution. Thus, an effective constitution of state requires not merely the existence of constitutional rules and laws but also the capacity of those rules and laws to constrain or limit government behavior and activities, and establish Constitutionalism.

2. Nominal constitution: the constitution accurately describes government‘/citizens‘ limits yet in practice either or both fail to behave accordingly. In short when the constitution only remains to have paper value or when there is absence of constitutionalism. This is a constitution of state that shows the texts, principles, rules and laws that may accurately describe the government behavior but fail to limit government behavior and activities in practice. Therefore, a nominal Constitution is not observed in practice but in form.

D. Based on the kind of state structure

Constitutions either concentrate powers at the centre or distribute it among the different branches and levels of government. Such a constitution is called unitary and federal constitution respectively. This classification of constitution is based on the kind of state structure made by the constitution. In this regard, it can be classified as federal or unitary.

1. Federal Constitution: Federal constitution is one that distributes power among the different units of a state administration. But the model that is followed by constitutions in distributing state power differs from each other. Some constitutions purely classify and decentralize power between the

central government and regional/local units and such constitutions are referred as federal constitutions. In many states, for example, the United States of America, Canada, Australia and Malaysia, there exists a division of powers between central government and the individual states or provinces which make up the federation. The powers divided between the federal government and states or provinces will be clearly set down in the constituent document.

2. Unitary Constitution:

- In unitary constitution state power is concentrated in the hands of the central government.
- the central government can establish or abolish the lower levels of government
- It determine their composition, and their power and functions.
- In this case the local government has no guarantee for their existence.
- Powers and responsibilities are delegated to them by the central government.
- The constitution of the unitary state presents a very different arrangement from constitution of federal state outlined above.

5.4. Constitutionalism

- It refers to a doctrine that governments should be faithful to their constitutions because the rules and laws so provided are all that can protect citizens' rights from arbitrary actions and decisions of the government.
- It is being subject to limitations and that citizens and governments operate in accordance with the general rules and laws rather than arbitrary.
- This is because the rules and laws so provided are all that can protect citizens' rights from arbitrary actions and decisions of the government.
- In other words, constitutionalism is the belief that constitution is the best arrangement of affairs in a society.
- Hence, the essential elements for constitutionalism are constitution and its effective implementation.

Constitutionalism, desires a political order in which the powers of the government are limited. It is another name for the concept of a limited and civilised government. There exists no government in the world that may not be called constitutional, though such a government hardly exists in a country under a totalitarian rule where the constitution is seen with _contempt'. Because of this, it is only in a democratic country that a constitutional government can be said to exist. A form of government can only be classified as constitutional when the rulers are subject to a body of rules and principles, which limits the exercise of their power. Thus,

constitutionalism does not merely require the existence of constitution. This is because, constitutionalism checks whether the act of government is legitimate and whether officials conduct their public duties in accordance with laws pre-determined in advance.

5.5. The Constitutional Experience of Ethiopia: Pre and Post 1931

5.5.1. Traditional Constitution (Pre- 1931)

- Beginning in the 13th Century until the early 20th Century the Ethiopian Orthodox Church was the chief legitimator of monarchical rule.
- However, the rights and obligations of the Crown and its subjects were not spelled out in a written secular constitution.
- There was developed by monks of the Church an elaborate set of codes rooted in an Ethiopian national epic.
- Despite the fact of existence of constitutionally significant documents in traditional Ethiopia, no written constitution in the modern sense formed the basis for the constitutional process.
- Documents like the Kebra Nagast, the Fatha Nagast and serate mengest from the 13th Century until the early 20th Century were the ancestor or precursor s to the formal written Ethiopian national constitutions of the modern era.

Fetha Negest

- The Fetha Negest (The Law of Kings) was a religious and secular legal provision than being a definite constitution.
- Law of the Kings, is a collection of laws which in use in Christian Ethiopia for many centuries. It was originally written in Arabic by the Coptic Egyptian writer Abu-l Fada‘il Ibn al-Assal (commonly known as Ibn al-Assal) when Cyril III was the Patriarch of Alexandria (12351243).
- It was designed by monks in the Church the same time Kebre Negest penned. It set out the laws and regulations that were used to govern all activities of the Ethiopia society in the late middle age.
- It was used as the sources of constitutional, civil, and criminal laws.
- It was compiled from the Old Testament, the New Testament, and the Roman law.
- It serves as both religious laws and legal provisions of state.
- It was fundamental laws upon which the government and the administration were based and the king vested with absolute power.
- The throne was hereditary, the king was thought to be appointed divinely, that is derives his power directly from God.
- It contains the idea of divine rights of kings with the assumption that rules have a God given power.

Kibre Negest

- Kibre Negest was another traditional document that has constitutional relevance. Literally, Kibre Negest means glory of king.
- The Kebra Nagast (The Glory of Kings) was written to document for the first time the mythical origins of the royal house.
- This document was written by six Tigrean clerics and completed in the early 14th Century.
- It was the most important traditional document that even defined who should become king in Ethiopia i.e., it determine the succession of the throne in Ethiopia.
- It was the principal sources of legitimacy for the kings.
- This document takes the Ethiopian history back to the Solomonic dynasty, where the queen of Sheba made romantic tripe to King Solomon of Israel and gave birth to the first Ethiopia king Menelik I.
- Based on this the document determined that any king in Ethiopia must descend from the Solomonic dynasty or must have such blood relationship with the dynasty.

Ser'ate Mengist

- Ser'ate Mengist was another traditional document that had been used as constitution by the traditional rulers before 1931.
- It was one of the traditional documents of the nineteenth century that provided certain administrative protocol and directives in the 19th century.
- It can hardly be considered to be a document of Constitutional Law in its widest sense.
- it is the first document known to have been used for allocating power among the Crown, its dignitaries and the Church, by means of a protocol of ceremonies which had to be consulted whenever occasions required it and tried to lay out a pattern of succession to power, though the problem of primogeniture was more theoretical than practical as incessant rivalries among members of the royal house intermittently switched lines.

5.5.2. The 1931 First Written Constitution

- It is often said that the key sources of legitimacy in Ethiopia's past were force (conquest, military expansion), religion (i.e. Orthodox Christianity), and tradition (i.e. right'genealogy).
- This is also in line with the official titles of the supposedly Solomonic Ethiopian Emperors which, roughly, are as follows; Conquering Lion (force) of the Tribe of Judah, Elect of, King of Kings, Emperor of Ethiopia.

- With promulgation of first written form of constitution on July16, 1931 by Emperor Haile Selassie, the era of unwritten form of constitution came to an end.
- The constitution reinforced the traditional position of the emperor as Siyume Egziabiher, Niguse Negast Za Ethiopia‘ which literally means:
    - Elect of God, King of Kings of Ethiopia‘
- It is believed that both internal and external factors forced the development of the 1931 constitution.
- Externally, the introduction of the 1931 constitution was the result of the growing interaction between Ethiopia and the external world, particularly the western European countries.
- Emperor Haile Silassie developed strong aspiration to view Ethiopia as a modern state to the rest of the world.
- Yet, it is important to note that Haile Selassie was crowned with full support of the prewar modern elite with a mission of Japanizing Ethiopia.
- The Meiji Constitution of Japan was conceived as a benevolent gift of the Emperor of Japan to his people.
- The emperor embodied the state itself and was the source and repository of all state power.
- The emperor had to convince the world that his country was modernizing and taking her place among the civilized states.
- A few years before that it became a member of League of Nations, over some nations‘objection that it was not civilized enough to join the club of civilized nations.
- The constitution unequivocally declared that the sole basis of legitimate authority was the emperor, and that all titles and appointments descended from him.
- For instance, Article 6 of the constitution declares that:
- In the Ethiopian Empire supreme power rests in hands of the emperor.
- He ensures the exercise thereof in conformity with the established law.
- Ethiopia was in need of reflecting a different picture of its own to the rest of the world, that it is no more a back ward state.
- However, the 1931 constitution was failed to achieve external goals as intended by the emperor.

5.5.3. The Revised Constitution of 1955

Ethiopian politics were profoundly affected by World War II and its aftermath. The emperor had been driven into exile when beginning in 1935 the Italian Fascists occupied the country for just over five years. During this period both the Ethiopian Orthodox Church and the traditional aristocracy were severely weakened. In fact, in the process of resisting the Italian occupation, virtually a whole generation of young Ethiopian intellectuals

was wiped out. When the emperor was restored to the throne by the British in 1941, he used their military and administrative assistance to bolster his own authority against what was left of the Church leadership and the traditional aristocracy. At the same time, the world had also been profoundly changed by the War. Ethiopia found itself needing to establish itself as a legitimate player in the world community of states. Moreover, it was surrounded by African colonies which were rapidly gaining their independence and left by the departing colonialists with varying forms of democratic institutions. This trend led to pressures for reform on the Imperial Crown from younger Ethiopians.

In this situation, after quarter of a century, the 1931 constitution was revised and replaced by the revised constitution of 1955. There were constellations of social and political events that urged the revision of the 1931 constitution. The revision of the 1931 constitution was urged by both internal and external factors. The Revised Constitution continued to reinforce the process of centralization. The sketchy provisions regarding the powers and prerogatives of the Emperor were extensively elaborated in the new Constitution. The Constitution spent one chapter settling the issue of succession on the rule of male primogeniture. Detailed provisions vested in the Emperor wide powers over the military, foreign affairs, local administration and so forth. Interestingly enough it also contained an elaborate regime of civil and political rights for the subjects. In theory, the Constitution was the supreme law of the land governing even the Emperor. It contemplated even an independent ministerial government responsible to the monarch and parliament, an elected chamber and independent judiciary but these liberal provisions were overshadowed by executive prerogatives reserved to the Emperor who exercised them expansively. Despite the apparent inclusion of the notion of separation of powers, little change was introduced regarding the position of the Emperor.

Class Discussion: Can you reason out the bases for the revision of the 1931 constitution?

He was both the head of state and of the government and he continued to oversee the judiciary through his Chilot (Crown Court).

Fourteen years after the end of a five year colonial suppression by the Italians in 1941, a revised constitution was embraced in the Ethiopian legal system in 1955. It was revised because of internal and external factors mainly to cope up with the social and political dynamics of the then period, global politics, and Ethio-Eritrean federation. This revised version of the 1931 constitution comes with a slight modification in the structure of the system of governance, limiting the power of the emperor to a certain extent and a relatively better recognition of rights and freedoms. However, like its predecessor, the constitution declares the inviolability of the Emperor‘s

dignity and the power of appointing and dismissing members of the parliament and other offices were in the hand of the Emperor.

The federation of Eritrea with Ethiopia led to the addition of two new documents in to the Ethiopia legal system. These were the federal act and the Eritrean constitution. The federal act was a document that specified the terms of agreements for the federation between Eritrea and Ethiopia. The Eritrean were established their own constitution with the support of UN. This constitution incorporated the human rights provisions of the universal declaration of human rights and other progressive concepts. It also implied a more liberal government that incorporated the values and ideas of a democratic society as the result of colonial heritage and the influences of United Nations. Both documents were far modern and better than the existing traditional 1931 constitution of the imperial government. Thus, the emperor was forced to revise the 1931 Constitution.

5.5.4. The 1987 Constitution of People's Democratic Republic Ethiopia (PDRE)

- The Dergue setup the Provisional Military Administrative Council (PMAC) type of temporary government.
- The Provisional Military Administration was also in the process of reconstituting itself.
- To legitimize itself within and broad it had, at least, to take off the uniform and appear in a civil dress.
- The PMAC presented itself for elections through a new party- the Workers' Party of Ethiopia.
- The party became the vanguard communist party.
- The establishment of the Dergue inevitably brought profound changes in the country.
- After coming to power the Dergue issued a series of decrees and proclamations that was used as legal rules until the adoption of 1987 constitution.
- It took sweeping measures through series of decrees and proclamations that includes nationalization of rural and urban land, extra urban houses, private schools and factories by passing series.
- In the Article 3, state would control key production, distribution and service enterprises, which legalized the massive nationalization of private businesses after the government came to power in 1974.
- However, these, decrees and proclamations cannot be given a constitutional status because it does not touch basic constitutional issues.
- This may lead us to the conclusion that the time from 1974-1987 was a period of constitutional vacuum in Ethiopia.
- During the Dergue regime a new constitution was adopted in 1987.

- The regime facilitated the adoption of a new constitution, through a constitutional commission, which was different in its nature form the constitutions of its predecessors.
- The People‘s Democratic Republic Ethiopia constitution (1987) was different from the 1931 and the 1955 imperial constitutions in that constitution:

Practically, however, the 1987 constitution was not different from the 1931 and 1955 constitutions.

5.5.5. The 1995 (FDRE) Constitution

- The FDRE constitution has a wider coverage of both human and democratic rights.
- has total 106 articles of the constitution just about one third (approximately 33 articles) is devoted to the discussion of rights.
- the democratic rights enshrined in the constitution tend to be essentially group-oriented and political in nature the human rights on the other hand are individualistic and natural.
- The 1995 Constitution has some salient features.

The FDRE (1995) Constitution takes core democratic principles including

- the principle of self determination of collectivities,
- rule of law, democracy,
- development, fundamental rights and freedoms,
- equality and non-discrimination,
- sustainable peace and affirmative action in its preamble part.
-

In the second chapter, the Constitution gives recognition to five fundamental principles;

- To be precise the principles of popular sovereignty (art. 8),
- Constitutionalism and constitutional supremacy (art. 9),
- Sanctity of human rights (art. 10),
- Secularism (art. 11) and
- Accountability and transparency of government (Art.12).

5.6. Democracy and Democratization

5.6.1. Defining Democracy

Question for discussion: How do you define democracy?

- Democracy means the government of the people or government of the majority.
- Etymologically, the word democracy is derived from two Greek words: demos and kratos, which means common people and rule (legitimate power to rule) respectively.
-
- In this case the word democracy refers to the idea of rule by the people or government by the people. Hence, in its original sense democracy means —rule by the people
- Grraduallyrtfrfe eze rrryrby , however, the meaning of this term is evolving and changing substantively.
- Hence, democracy may mean different things for different people and in different times. You may have already heard about the most common definition of democracy: —the government of the people, by the people and for the people‖, given by former US President Abraham Lincoln. To put it another way, we can say that a government comes from the people; it is exercised by the people, and for the purpose of the people‘s own interests.

The lexicon or dictionary definition of the term entails that democracy is a state of government in which people hold the ruling power either directly or indirectly through their elected representatives. Accordingly, democracy embraces the principles of equality, individual freedom and opportunity for the common people, as those who actually wield political power. Moreover, the definition entails, among others, in democratic system, state power involves compromise and bargaining in decisionmaking process in a democratic system. One of the mostly quoted definitions of (modern day) democracy is the one given by Joseph Schumpeter (1943: 269), which defines democracy as an —institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people‘s vote‖. In democracies, rulers are held accountable for their actions in the public realm and citizens act indirectly through the competition and cooperation of their elected representatives.

Abraham Lincoln defined democracy as the virtues of what he called ‗government of the people, by the people, and for the people‘. In so doing, he defined between two contrasting notions of democracy. The first, ‗government by the people‘, is based upon the idea that the public participates in government and indeed governs itself: popular self-government. The second, ‗government for the people‘, is linked to the notion of the public interest and the idea that government benefits the people, whether or not they themselves rule. The classical conception of democracy, which endured well into the nineteenth century, was firmly rooted in the ideal of popular participation and drew heavily upon the example of Athenian democracy. The cornerstone of Athenian democracy

was the direct and continuous participation of all citizens in the life of their polis or city-state.

Democracy can also be conceived as the institutionalization of freedom. That means democracy is a set of ideas and principles as well as procedures and practices about human and democratic rights, and freedoms. In this case, it refers to the process of organizing agencies that can watch the respect of rights and freedoms, the signing and ratification of international treaties and conventions and introduction of these rights and freedoms in the fundamental law of a state. As such, institutionalization of freedom is possible by the application of constitutional government, human rights and equality before law and the like. In this regard, freedom means responsibility to do in line with national interest and then answerable for one‘s actions and inactions.

If one maintains the definition of democracy to be a government system in which supreme power is vested in and exercised by people, two broad ways of exercising it can be singled out namely direct and indirect democracy. Direct democracy implies a form of government in which the right to make political decisions is exercised directly by the whole body of citizens acting under procedures of majority rule. It is also known as pure/classical democracy. Every decision concerning the government is decided based on popular vote. This kind of democracy was mainly practiced in Ancient Greece city states. As the city states were relatively had small population it was manageable to conduct direct democracy. In modern society/state, because of the population size of countries direct democracy has lost its validity and substituted by indirect/ representative democracy. However even in modern times there are some cases that governments applied direct democracy. These include referendum, recall, initiative and plebiscite. Indirect democracy on the other hand refers to a form of government in which citizens exercise their rights and freedoms and discharge their obligations not in person but through representatives chosen by themselves. Citizens will submit their sovereignty for their representatives. The representatives will act on the behalf of the citizens they are representing.

Like all regimes, democracies depend upon the presence of rulers, persons who occupy specialized authority roles and can give legitimate commands to others. What distinguishes democratic rulers from nondemocratic ones like monarchy, aristocracy and dictatorship are the means by which governments/rulers come to power and the practices that hold governments accountable for their actions. However, for democracy to flourish, specific procedural norms must be charted (procedural democracy) and fundamental rights and freedoms of citizens must be respected (substantive democracy). The overall concept of modern democracy constitutes three key portions: democracy, constitutionalism, and respect for human rights. Each needs to happen in a given polity or political system for it to be a genuine democracy. Thus, any state or system of government that miscarries to levy

such limits upon itself, that fails to follow the rule of law with regard to its own procedures, should not be considered democratic. Robert Dahl (1982:11) provides the most generally accepted listing of procedural minimal conditions must be fulfilled for modern political democracy to be existent. The major ones are: o Control over government decisions about policy is constitutionally vested in elected officials. o Elected officials are chosen in frequent and fairly conducted elections in which coercion is comparatively uncommon. o Practically all adults have the right to vote in the election of officials. o Practically all adults have the right to run for elective offices. o Citizens have a right to express themselves without the danger of severe punishment on political matters broadly defined. o Citizens have a right to seek out alternative sources of information. Moreover, alternative sources of information exist and are protected by law. o Citizens also have the right to form relatively independent associations or organizations, including independent political parties and interest groups. Exercise: Think about the following questions; How does limited government help to fulfill the purposes of democracy?

 What responsibilities does democracy place upon citizens?

5.6.2. Values and Principles of Democracy

Democracy is a popular political notion in today's world, fair and free elections are the prerequisite of democracy and rule of the law, protection and freedom of human rights and supremacy of the constitution are important elements in true democratic system. There are some key elements that distinguish states organized under democratic principles from dictatorship. The respect of fundamental freedom and fundamental rights, elections, citizen's participation, equality, rule of law, separation of powers, democratic pluralism, and multi-party political system are among these key elements or sometimes called fundamental principles of democracy.

Exercise What else could be mentioned as a fundamental principle of democracy?

Hence, democracy is more than just a set of specific government institutions; it rests upon a well understood group of values, attitudes, and practices - all of which may take different forms and expressions among cultures and societies around the world. Democracies rest upon fundamental principles, not uniform practices.

There are three core values that are central in the discussion of the concept of democracy. These are values of liberty/freedom, justice and equality. Let us now briefly look at what each of them means.

o Liberty: This value includes personal freedom (to mean that Individuals should be free from arbitrary arrest and detention and also their homes/property should be secured from unreasonable searches and seizures), political freedom (to imply that people of a nation have the right to participate freely in the political process such as elections without being subject to arbitrary arrest, harassment and electoral corruption such as buying votes, intimidation and obstruction of voter) and economic freedom (to mean that citizens should have the right to acquire, use, transfer and dispose of private property without unreasonable governmental interference and more over to enjoy right to seek employment wherever one pleases, to change employment at will and to engage in any lawful labor unions or business corporations).

o Justice: This value of democracy can be understood in three general senses of fairness. These are distributive Justice (the sense of distributing benefits and burdens in society via agreed up on standards of fairness), corrective Justice (the sense that a proportional response should be in place to correct wrongs and injuries) and procedural justice (the idea that procedures used for gathering information and making decisions should be guided by such principles as impartiality and openness of proceedings).

o Equality: Three notions of equality are of particular significance here for our discussion. These are political equality (implying that all people who attain the status of adult hood have equal political rights or in short one man-one vote- one value), social equality (implying that there should be no social hierarchy at individual and collective level or no discrimination what so ever) and economic equality (implying that all peoples of a country deserve equal and fair assessment to the national resources services).

Although we can be exhaustive in our list, the followings constitute some of the fundamental principles of democracy. These are;

A. Popular Sovereignty

This type of sovereignty is associated with power and legitimacy. In this way, the citizen as a whole is the sovereign of the state and holds the ultimate authority over public officials and their policies. Consent is given by the people through their regularly elected representatives and through approval of all constitutional changes. Popular sovereignty also means that the people have the right to withdraw their consent when the government fails to fulfill its obligations under the constitution. On the other side, popular sovereignty in democracy assumes the principle of majority rule, which means that within constitutional limits, majorities should have the right to make political decisions. Such decisions are made within the framework of regular elections and include the choice of who should be elected to public office and what laws should be passed by legislative bodies.

The notion that sovereignty came from the people (popular sovereignty) became one of the main foundations of modern democracy and constitutional principle. John Locke‘s notion of popular sovereignty contrasted with a later model developed from the philosophy of the French intellectual Jean-Jacques Rousseau in the 18th century. Rousseau asserted that sovereignty was based in the general will of a population (or the common good) and that there was no distinction between the source of sovereignty and its exercise. The general will was consequently the basis for national sovereignty and the means through which state authority was manifested. It was expressed through the structure of government (which Rousseau argued should be a form of direct democracy but was implemented as a representative system). The general will could and would supersede the individual rights of citizens.

B. Constitutional Supremacy

This is a principle that puts the constitution at the highest level in the hierarchy of laws. Constitutions are laws about the political procedures to be followed in making laws. They are supreme laws, taking precedence over all others, and defining how all the others should be made. Some analysts call them ‗meta-rules‘ (rules about how to make rules), but the German constitution calls them ‗the Basic Law‘. As a mother of law, it is original law by which the system of government is created, and to which the branches of government must look for all their powers and authority. It is original because it is directly made by the people as the direct expression of the will of the people. All other laws are secondary or derivate being commands of representatives of the sovereign. Because, after all, the direct will of the people outrights the will of any other single individual. Thus, according to this principle, the constitution is above all laws and organs of a state. This principle dictates all laws and governmental or non-governmental acts to be under the constitution. It also implies that if an act is found to be against the constitution, it would out of effect or void. In the Ethiopian case, Article 9 of the FDRE constitution states that the highest power and authority is vested in the nations, nationalities and peoples of Ethiopia to indicate that they are the sovereign in the land.

C. Rule of Law

In contemporary time, almost in all countries, the concept of the rule of law has been reflected either in their constitutions or statutes. There are two aspects of the rule of law that are important. First, the law should govern the people and the people should obey the law. And second, the law must be capable of being obeyed (‗good‘ laws). This made the rule of law different from ‗rule of men‘ where the people were ruled by ‗bad‘ laws. In order to maintain the rule of law, an institution, independent from the legislative or executive or other forces, impartial and free from interference or influence is required. In this case, the rule of law is the principle under which a

government exercises its authority in accordance with clear, objective, and publicly disclosed laws. Laws must be adopted and enforced through established procedure and incompliance with international recognized standards.

D. Secularism

Secularism referred to as an approach that asserts to dismiss or ignores God, the divine, the supernatural, and other religious viewpoints when discussing or participating in politics. Emphasis is placed on human excellence, potential, fulfillment, —actualization,‖ and so on, instead of the Godly, providential, or spiritual dimensions of life. Contemporary expressions of secularism occur in the mainstream liberal media, business, public education, and social organizations. In church and state matters, secularists demand a strict separation of religion and politics, keeping prayer and religious instruction out of government, public schools, and other common institutions.

Secularism is mostly understood to mean separation of state and religion. This principle demands strict separation of religious and political affairs hence state and church operations basing on the philosophy that individuals and groups in a free society should have freedom of conscience (the right to decide for themselves what to believe in which case it can be threatened if government becomes religious and supports some religions but not others). It asserts the freedom of religion, and freedom from the government imposition of religion upon the people, and absence of state privileges or subsidies to religions. Government should do only what is necessary to keep the peace and prevent one religious group from violating the rights of others. To achieve this goal government should not interfere with religion in any way.

E. Separation of Powers

The doctrine of separation of powers refers to the idea that political power should be divided among several bodies or officers of the state as a precaution against too much concentration of power. Most of the literature on federalism has emphasized the relationship between national and subnational governments but overlooked the organization of sub-national powers. Likewise, the debate on the separation of powers in presidential and parliamentary systems has neglected the role of federalism in strengthening the separation of powers. A federal polity is a constitutional arrangement that creates executive, legislative, and judicial branches of government in its constituent units. This definition is applied to all countries that are classified as federations, or unions.

F. Free, Fair and Periodic Election

In order to establish democratic government, first the election should be free means all interested parties to the election should get the chance to participate in the election. Secondly, fair means after giving the chance of participation all of them should be treated equally without discrimination. Finally, the election should be conducted periodically with fixed duration.

G. Majority Rule Minority Right

After conducting democratic election, those who gets the majority vote will establish a government. The policies, programs and decisions of the majority will govern the country while the right of the minority respected

H. Protection and Promotion of Human Rights

Human rights are those naturally given values that reflect respect for human life and dignity hence their protection and promotion test the legitimacy and constitionality of a democratic government.

I. Multiparty System

Democracy also requires having several political parties working together in one political system. These political parties should get equal constitutional guarantee, support and treatment to compete for elections and present their offer freely to the voters. That enables to establish market of ideas to the citizens and encourage parties to come with better alternatives to be elected among the competitors.

5.6.3. Democratization

Question for Exercise: What do you understand by the concept of democratization?

Democracy is a variable not a fixed phenomenon; it changes and develops over time, so that what was regarded as good democratic practice a hundred years ago may not be now. Democracy does not automatically arise out of —primal mud‖ but needs to be planted and nourished by years of practice and experience through various levels of democratization process. Democratization is the process of transitions from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction during that period. It is not a simple process and will taken an extend period of time to complete, if it wishes to be prosperous. There are three main elements in democratization such as the removal of the authoritarian regime, installation of a democratic regime, and the consolidation, or long-term sustainability of the democratic regime.

5.6.4. Actors of Democratization

5.6.4.1. Political Parties The centrality of political parties for modern democracy is generally accepted both by contemporary scholars and by policy-makers charged with fostering the development of newly emerging democracies or with improving the quality of democracy in established democratic politics. Despite their relatively recent appearance on the political stage, parties have put such a strong mark on contemporary politics and democracy that twentieth century democracy could be best described as party democracy.

It has been argued that parties are —endemic to democracy, an unavoidable part of democracy. In a democratic system, political parties provide the proper mode of functioning for the government so that the majority party or a combination of parties controls the government, while other parties serve as the opposition and attempt to check the abuses of power by the ruling party. Citizens extend their desires, needs, and problems to the government through the political parties. In fact, political parties represent an essential and important tool that acts as a bridge between a society and its government. The existence of a strong and viable opposition keeps the ruling party alert. It is also the duty of political parties to promote policies that will educate the people about how a democratic system functions and offer different policy packages to the electorates.

5.6.4.2. Media Mass Media and Democracy are always related to each other. Media is a mirror of the society and how democratic a society is, can be represented through media. Opinion leaders influence the public opinion regarding political leaders and political system of any country. Hence, media has an influential role in strengthening democracy. Hence, media and democracy have strong association. Countries which are strong democracies always have strong and free media. Studies show that a free and democratic society is not possible without an independent, free and responsible media and active civil society.

Saeed (2009) argues that the maturing of mass democracy in most societies has gone hand-in-hand with development of mass communication as an important player in the organization of public life and opinion formation on issues significant to the masses. To better understand how free press enhance democracy, we need to look at various and distinct role of media, namely, media as source of information, media as a watchdog, media as a civic forum and media as an agenda setter. Norris (2006) measures how press freedom affects democracy, good governance and human development and concludes that there is a strong relation between the critical role of the free press, as one of the major components of democracy and good governance. Media in all countries serves as a watchdog, as a source of information, a civic forum and an agenda setter.

5.6.4.3. Civic Societies

Civil society is the set of civil rights, including primarily everyone‘s right to participate in public life. Civil society forms the backbone of democracy. Larry Diamond (1999: 220-221) defines civil society as ―the realm of organized social life that is open, voluntary, bound by a legal order or set of shared rules‖. Diamond stated that civil society encompasses ―private citizens acting collectively to make demands to the state or to express in the public sphere their interests, preferences and ideas or to check the authority of the state and make it accountable‖ (ibid: 221). Following Diamond‘s definition, civil society may contain a wide range of establishments concerned with public matters. Civil society may comprise civic, issue-oriented, religious, and educational interest groups and associations.

In large multicultural developing countries like Ethiopia, there are numerous gaps left by the government in the development and democratization process. Civil societies have a potential of playing numerous momentous roles for democratic development and consolidation. To mention some: limiting the power of the state more generally, including challenging the abuses of authority; monitoring human rights and strengthening the rule of law; monitoring elections and enhancing the overall quality and credibility of the democratic process; educating citizens about their rights and responsibilities; building a culture of tolerance and civic involvement; incorporating marginal groups into the political process and enhancing the latter's responsiveness to societal interest and need; providing alternative means, outside the state, for communities to raise their level of material development; opening and pluralizing the flows of information; and building a constituency for economic as well as political reforms.

Questions for Discussion : How would you describe the civil society in Ethiopia? Do public associations presently support the work of the government at national and local levels? How? What role do public associations play in providing public information? Do any public policies make it difficult for public associations to communicate information?

5.7. Human Rights: Concepts and Theories

5.7.1. What Are Human Rights?

Question for Exercise: How do you define human rights? What comes to your mind when you read/heard the term human rights?

Human rights are basic to humanity. They apply to all people everywhere. An understanding of human rights is an important part of our individual status as human beings and of our collective status as members of the global community of humankind.

The notion of human rights infers that fundamental entitlements belong to every member of the human race. These are privileges someone can claim just because he/she is a human being without any discrimination based on condition. The basic idea of human rights lies in people‘s recognition of the need to protect and affirm every other person‘s individual dignity. It is also common to call them ‗natural‘ rights, since they are natural entitlements to everyone. Hence, one of the points most scholars in the field agreed on is the fact that human rights derived from fundamental human dignity and worth.

Class Discussion : Whose responsibility do you think is making sure everyone‘s rights are fully respected?

The Universal Declaration of Human Rights (UDHR, Article 2), stipulates that human rights belong to every human being ―without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status‖ (Art. 2). Thus, the only criteria someone must fulfil to enjoy these rights is being a human. However, there is no universally agreed definition of the term human rights. Peoples understanding towards the notion of human rights is changing from time to time. One prominent way of defining human rights is to present them as a special kind of claim on others. For example, the right to education denotes that everyone is entitled with the privilege to good education and the state have an obligation to provide and fulfil the needed resources, structures, infrastructures and services.

Human rights provide the minimum standards indispensable for people to live worth-living life. Human rights allow people to live the life they deserved to live, they aspire to live, and to live a life with dignity and equality. Human rights give people a full control of their life and the freedom to choose how they live, how they express themselves, and what kind of government they want to support, among many other things. Human rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing, and education, so they can take full advantage of all opportunities. Finally, by guaranteeing life, liberty, and security, human rights protect people against abuse by individuals and groups who are more powerful. The United Nations stated that human rights ensure that a human being will be able to fully develop and use human qualities such as intelligence, talent, and conscience and satisfy his or her spiritual and other needs.

Question for Exercise : Are you familiar with these principles of human rights? Try to explain what each principle is intended for.

When we say human rights are universal, it is to show their worldwide applicability. This means all rights are expected to be applied equally everywhere, every-time and to everyone in this world. They transcend time,

geographical and cultural disparities. However, this is not to mean that no room is available to contextual realities and value differences among various communities around the globe. Article one of the Universal Declaration of Human Rights (UDHR here after) stipulated that —All human beings are born free and equal in dignity and rights.‖ It also stated that human rights belong to every human being —without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status‖ (Art. 2).

Human rights are inalienable. That means you cannot lose these rights any more than you can stop to be a human being. These entitlements are essential to live a human or worth-living life. Human rights are not luxury or privileges we only enjoy after some preconditions are met, rather part of our basic necessities. We may not die, but we cannot live the life we supposed to live a human creature without our rights and freedoms. Human rights are indivisible. This implies that human rights are inherent to the dignity of every human person. It is not possible for one to live a worth living life without the full respect of these rights; this concerns all the civil, cultural, economic, political or social rights endowed for all human beings.

Human rights are interdependent and interrelated. This is to mean that all rights have equal weight/importance and it is not possible for one to fully enjoy any of his/her right without the others. For instance, one cannot enjoy his/her right to life without his/her rights of health, education, freedom from torture and inhuman treatment, right to an adequate standard of living and the like. The violation of all these rights threatens one‘s life and existence in general. That is true for all our human rights, not possible to enjoy the one ignoring the other. That means we cannot prioritize one right from others, because no right can stand on itself. The fulfillment of one right often depends, wholly or in part, upon the fulfillment of others. The respect of one right (e.g. right to life) is subjected to the respect of our other rights (e.g. right to an adequate standard of living), and the vice versa. Thus, human rights are entitlements which apply to all equally, and all have the right to take part in all the decisions that affect their lives.

The other important principle of human rights is the principle of equality and nondiscrimination. This principles pronounces that all individuals are equal as human beings and by virtue of the inherent dignity of each human person. Accordingly, no one should face discrimination on the basis of race, color, ethnicity, gender, age, language, sexual orientation, religion, political or other opinion, national, social or geographical origin, disability, property, birth or other status as recognized by many of the international and regional, national human rights frameworks.

5.7.2. Human Rights and Responsibilities

Human rights involve responsibility and duties toward other people and the community. Individuals often have a responsibility to ensure that they exercise their rights with due regard for the rights of others. For example, exercising freedom of speech should not infringe someone else's right to privacy. Human rights are part of a context of people living together in societies. As part of this, there must be a legal, social and international order for human rights to be realized effectively.

Promoting for the respect of human rights is one of the core missions of the UN and its agencies. Besides, state parties to the UN are mandated with the promotion, protection and fulfillment of human rights. Human rights protection and fulfillment is considered as one of the functions of governments, one of the very reasons why people need a government or political system in general. This is clearly states in various human rights instruments and resolutions issued by the UN including the UN Charter, Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESC), Convention on the Rights of Children (CRC), Convention on all forms Discrimination against Women (CEDAW) and the Paris Principles. For instance, principle 63 (1 and 2) of the Paris Principles (1993) stipulated that:

A national institution shall be vested with competence to promote and protect human rights. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

5.7.3. Landmarks in Development of Human Rights

The modern human rights notions are the result of extended tussles to end many forms of oppressions; including slavery, genocide, discrimination, and government tyranny, in history of world societies. In their contemporary manifestation, human rights are a set of individual and collective rights that have been formally promoted and protected through international and domestic law since the adoption of UDHR in 1948. The following diagram shows the timeline of major international human rights treaties or instruments with the dates of their adoption.

Source: UN, 2017

5.7.4. Rights Holders and Duty Bearers

Rights become rights when the job of identifying the two main actors is done. This works for every rights we may possess as an individual or group. These are right holders and duty bearers . Right holders are those who are entitled to enjoy, possess or claim a given right. Human rights provisions usually started by mentioning the right holder using terms like —every human being, all children, women, people with disability…‖ from that we

can simple know for whom is a given right intended. Duty bearers are those who carry the obligation of promoting, protecting, and fulfilling these right

to the right holders. There must be always someone you will claim the protection, provision and fulfillment of your rights from and become accountable for any failures to do so.

Questions for Exercise:

Identify the rights holders and duty bearers of the following rights in the FDRE Constitution; The right to life (Article 15)

 The right to Privacy (Article 26)

 Freedom of Religion, Belief and Opinion (Article 27)

 Rights of Nations, Nationalities, and Peoples (Article 39)

 The right to development (Article 43)

The primary (not the only) duty bearer for almost all of our rights is the state. Besides, individuals and other non-state actors may be named as duty bearers depending on the nature of the right. Thus, it has been typically understood that individuals and certain groups are bearers of human rights, while the state is the prime organ that can protect, provide and fulfil human rights. Moreover, uninterrupted and cyclic relationship is expected among rights holders and duty bearers. The rights holders should always claim their rights from the duty bearers and the duty bearers should discharge their responsibility of promoting, protecting, and fulfilling the rights out of sense of obligation or duty. The following diagram shows the relationship among rights holders and duty bears from human rights perspective.

Figure 1 Duty-bearer-rights-holders Relationship Cycle

Source: UN OHCHR, 2017

5.7.5. Categories of Human Rights

Questions for Exercise: Identify some categories of human rights comes to your mind?

Human rights cover virtually every area of human activity. They include civil and political rights, such as freedom of speech and freedom from torture. They also include economic and social rights, such as the rights to health and education. Some rights apply to individuals, such as the right to a fair trial: these are called individual rights. Others apply to groups of people, such as the right to a healthy environment or to native title: these are called collective rights. There are various ways used by different scholars to categories human rights. These writers use various reference point in classifying rights in to different clusters. The common way of

categorization is the one developed by Karl Vasak (1982) who have classified Human Rights into three: First, Second and Third generation rights. However, Vasak‘s representation of generations is criticized by many authors for its failure to capture the nature of human rights mainly in —one respect: classes of human rights, unlike generations in life, don‘t replace each other sequentially over time‖ (Alston, 2000: 641). Carl Wellman states the problem in Vasak generational categorization stunningly: —generations succeed one another, not only in that the members of one generation are born before those of the next generation, but also in that parents tend to die before their children‖ (Wellman, 2000: 641).

5.7.5.1. Civil and Political Rights Civil and political rights are the first generation rights which uphold the sanctity of the individual before the law and guarantee his or her ability to participate freely in civil, economic, and political society. Civil rights include such rights as the right to life, liberty and personal security, equality before the law, protection from arbitrary arrest and the right to religious freedom and worship. When protected, civil rights guarantee one's 'personhood' and freedom from state-sanctioned interference or violence. Political rights include such rights as the right to speech and expression, assembly and association, vote and political participation. Political rights thus guarantee individual rights to involvement in public affairs and the affairs of state.

Civil and political rights are seen as an immediately realizable rights. This is to mean that all states, regardless of their economic, social, cultural and political developments or realities, are expected to ensure the realization of these rights immediately. No precondition could be acceptable for any violations of civil and political rights. They have also been called as ‗negative‘ rights to indicate the fact that they simply entail the absence of their violation in order to be upheld. The state, as a primary duty bearer, is expected here to let citizens enjoy their rights and freedoms and not intrude in their private life. Besides staying aside of the life of the rights holders, the state is also responsible to protect them from any potential interventions from other non-state actors; such as individuals, groups and organizations. Hence, protection is the main obligation of the duty bearers for civil and political rights.

Question for Exercise : List four civil and political rights recognized in the FDRE Constitution and the corresponding articles.

5.7.5.2. Social and Economic Rights In contrast to the above set of rights, the second generation (social, economic, and cultural) rights are considered by many writers as an aspirational and programmatic set of rights that national governments ought to strive to achieve through progressive implementation. Social and economic rights include such rights as the right to education, health and wellbeing, work and fair remuneration, form trade unions and free associations, leisure time, and the right to social security.

When protected, these rights help promote individual flourishing, social and economic development, and self-esteem. Cultural rights include such rights as the right to the benefits of culture, indigenous land, rituals, and shared cultural practices, and speak one's own language and ‗mother tongue' education. Cultural rights are meant to maintain and promote sub-national cultural affiliations and collective identities, and protect minority communities against the incursions of national assimilationist and nation-building projects.

Unlike the civil and political rights, rights in this category are called ‗positive' rights to indicate that whose realization is highly subjected to the economic capability of states. One of the strong counterarguments to this false dichotomy is to assert that all rights are positive since the full protection of all categories of human rights ultimately relies on the relative fiscal capacity of states. For instance, the protection of property rights requires a well-funded judiciary, police force, and fire service, as well as a well-developed infrastructure that can relay information, goods, and services in the event that property is under threat in some way. The same is true for the rights to vote. Besides to avoiding segregation and discrimination at the polls, running a free and fair election requires a tremendous amount of financial support, technology, and infrastructure. However, by claiming that all rights are positive, it is not to undermine the negative characteristics or dimensions of human rights. Comprehensive understanding of human rights requires the recognition of both positive and negative dimensions. Thus, for every rights, we need to ask what the positive (those actions that states can take to provide resources and policies for improving the protection of human rights) and negative (those actions that states do (or not do) that deliberately violate (or protect) human rights) dimensions are, instead of trying to classify whether a given category of rights are positive or negative.

Second generation rights are considered as ―less fundamental‖ or unrealistic rights because of the issues of justicialibility. Justiciability is not obviously the quality of economic, social and cultural rights. For this category of rights there is a room for the state to justify duty failure referring to lack of capacity, resources or finance. For instance, suppose you are living in Ethiopia and you are still unemployed for some years after finishing college. You may argue that ―I have the right to work and fair remuneration, and should be taken as a violation of my human right at the time the state fails fulfill or provide it to me‖. This will be considered as human rights violation only if the state is economically capable (in the condition to fulfil that right for every citizen with the resources at hand). If the state able to justify that the needed resources and finance to fulfil or provide that particular rights are not adequately available – then that will be the end of the story. That means, the state's duty failure and the violation of your right can be justified. This makes many authors in the field

to question the justiciability of most of the economic, social and cultural rights.

Question for Exercise : List three economic, social and cultural (one from each category) rights recognized in the FDRE Constitution and the corresponding articles. Peace, Development and Environmental Rights Third generation (solidarity) rights are aimed to guarantee that all individuals and groups have the right to share in the benefits of the earth's natural resources, as well as those goods and products that are made through processes of economic growth, expansion, and innovation. Many of these rights are transnational in nature. They requires redistribution of wealth, resources from developed to developing nations. Solidarity rights also require global cooperation and shared responsibility to world peace, development and the environment. Third Generation (solidarity) rights include rights to public goods such as the right to development, the environment and peace. The third generation rights are still considered as an emerging rights, where the rights holders and duty bearers of the rights included under this category are yet to be identified clearly. Think, for instance, about the right to peace or right to clean and protected environment. Whose right are these? And whose responsibility? At this stage it is difficult to determine answer these key questions, unfortunately.

Question for Exercise : List two solidarity rights recognized in the FDRE Constitution and the corresponding articles.

5.7.6. Derogations and Limitations on Human Rights

There are two conditions under which human rights can be restricted: limitation and derogation. Limitations are lawful infringements of rights. Limitations are deviations from the standard manner of dealing with rights imposed primarily to facilitate optimal use or exercise of rights in a context of scarce public resources, space and time. Limitations can take the form of restrictions and/or derogation. Restrictions are acceptable or justifiable limits of human rights during the normal times. Restrictions circumscribed the manner, or place, and the extent to which rights can be enjoyed or exercised in a particular set of circumstances, often in normal times. Derogation means a temporary non-application and suspension of rights by the state in abnormal or emergency (natural/artificial) situations.

Enjoyment of human rights is subject to limitations and this limitations are normally found in constitutional human rights and international human rights treaties. But that limitation should not be arbitrary, it should be based on legality, necessity, rationality and proportionality supposed to be determined by the human rights law. Limitations may be made on the enjoyment of human rights for the sake of: safeguarding of national security or public peace; the prevention of crimes; the protection of health, public morality; the protection of the rights and freedom of others; and

safeguarding democratic institutions In Ethiopia, for example, both federal and regional governments have constitutional powers to limit exercising human rights since they have the power to declare state of emergency is their respective domains. Regional states can declare in two conditions: natural disaster and epidemics. Besides, the FDRE Constitution (art. 93) clearly specifies four conditions for such declaration by the Federal Government. The Council of Ministers can declare a State of Emergency in the following situations: 1) External Invasion, 2) Breakdown of law and order when it: (i) endangers the constitutional order, (ii) cannot be controlled by regular law enforcement, 3) Natural disaster, and 4) Epidemic.

5.7.7. Non-derogability of Human Rights

The concept of non-derogability has been one of the important aspects of the international human rights laws and treaties. Some of the important treaties concerning human rights, including the ICCPR have special provisions explaining whether its member states can derogate from certain rights during some exceptional situations. States believe that some provisions of derogability are necessary to allow them exercise their sovereign power during exceptional circumstances for the greater good of their people. However, this kind of derogation is not unconditional and it has its own limits.

There are also certain unique and inherent human rights, which can never be suspended under any circumstances. For instance, the ICCPR, which also allows states to suspend some of the rights under specific conditions, clearly mentions that some of the articles are non-derogable. They are: right against arbitrary deprivation of life (art. 6); freedom from torture or cruel, inhuman and degrading treatment or punishment; and freedom from medical or scientific experimentation without consent (art. 7); freedom from slavery and servitude (art. 8); freedom from imprisonment for inability to fulfill a contractual obligation (art. 11); prohibition against the retrospective operation of criminal laws (art. 15); right to recognition before the law (art. 16); and freedom of thought, conscience and religion (art. 18).

The FDRE Constitution (art. 93(3[c])) states that rights under Articles 1, 18, 25, and sub-Articles 1 and 2 of Article 39 of the Constitution are non-derogable rights. However, it is good to mention here that this is not to mean that all other rights are suspend-able anytime at the will of the state. In this regard, Article 4 of ICCPR clearly established the specific conditions could be used as a ground for derogation. Conditions like the existence of real emergency, threat to life of a nation, official proclamation of emergency, and guarantee of non-discrimination are justifiable grounds to suspend some of or all the derogable rights.

5.7.8. Implementation and Enforcement of Human Rights

5.7.8.1. International Mechanisms and the International Bill of Human Rights The very reason behind the establishment of the international law is ensuring global peace and security, and help men to lead a worth-living life; a life with liberty, equality, and freedom from violence. Hence, the main objectives of the international law and its institutions is in one way or another related with the protection of human rights. The issues of human rights come into picture in the international law starting from the adoption of the Charter of the United Nations on October 24, 1945. The charter make protection of human rights one of the three main objectives of the UN, in addition to preserving global peace and stimulating comprehensive development. The United Nations has six prime organs, namely; the General Assembly, Security Council, Economic & Social Council (ECOSOC), International Criminal Court (ICC), Office of the Secretariat and the Trusteeship Council (Suspended operations-1994 with the independence of Palau).

The General Assembly, Security Council and ICC are functioning as the legislative (law making), executive (law enforcing) and judiciary (law interpreting) organs of the UN respectively. The Office of High Commissioner for Human Rights (OHCHR) is established under the ECOSOC, and is an organ particularly dedicated to the promotion, observance and monitoring of human rights worldwide. The international bill of human rights is made up of various treaty and charter based human rights instruments; treaties, covenants, charters and declarations.

The UN Charter clearly stated that the organization is dedicated to help men live a life free from fear of war, the promotion of human rights and the worth of human person and dignity of mankind. It also seeks to establish justice, and promotes corporation between the States to discharge their duties to create a just economic, social and cultural order wherein mankind can realize the fundamental human rights in accordance with the principles of international law.

The Universal Declaration of Human Rights (UDHR) is a human rights instruments considered as the groundwork of most of the post-1945 codification of human rights. It is the basis for human rights protection and promotion around the world and has been endorsed by all countries. Many countries have included its provisions in their basic laws or constitutions (Used 2). Most of the modern national, regional and international human rights regimes are established based on this declaration. Many of the UN human rights instruments are drafted under the shadow of the UDHR. Actually, almost all international human rights instruments comprises at least a preambular reference to the Universal Declaration, as do many declarations adopted unanimously or by consensus by the UN General Assembly. It has served as a model for most of the laws, constitutional provisions and rules aimed at protecting citizen‘s rights and freedoms.

The UDHR is not a binding instrument, but claimed to have great moral weight and popularity. It is a declaration adopted by the General Assembly of the United Nations in 1948. Thus, no obligation can be drawn from that instrument, since it is not a treaty based document. However, its wider global acceptance is enabling it to be seen as a customary law. The UN claims that the Declaration is the most translated document in the world to show its inclusive nature and spread (UN, 2015: iii). Hence, beyond doubt the UDHR is most widely accepted declaration of its kind (Walter, 2014: 121). The preamble of the UDHR states that ―the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms […]‖ (UN, 1948: 1).

The first two provisions of the UDHR deals with its two core principles; equality and nondiscrimination.1 The following 21 articles (Articles 3 to 21) postulate civil and political rights. In these articles, rights set forth include the right to life, liberty, a fair trial, free speech, privacy, of personal security, and of movement, as well as freedom from slavery, torture, and arbitrary arrest. The subsequent five articles (Articles 22 through 27) articulates economic, social and cultural rights recognized in the Declaration. These rights include entitlements such as the right to social security, right to work, reasonable payment and leisure, the right to an adequate standard of health, well-being 1 Article 1 stipulates that "All human beings are born equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". Article 2 reads "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." and education, the right to partake in cultural life. To end with, Articles 28 through 30 provides the general frameworks needed for the enjoyment of the above mentioned rights.

Besides to the UN Charter and the UDHR, the UN presently has more than ten core human rights treaty based human rights instruments. These includes, but not limited to, the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the Convention Relating to the Status of Refugees (1951), the International Covenant on Civil and Political Rights (ICCPR), the Slavery Convention (1926, but amended by Protocol in 1953), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention

on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

5.7.8.2. Regional Mechanisms In addition to the international human rights regime functioned under the UN umbrella, there are regional human rights systems which cover three parts of the world; Africa, the Americas and Europe. These two (international and regional) systems are aimed to make sure state actors are fulfilling their obligation in promoting, protecting, providing and fulfilling their citizen‘s rights. Hence, if an individual or groups feel that his/her/their rights are not protected on the domestic level, —the international system comes into play, and protection can be provided by the global or the regional system‖. Actually, this works only for the countries found in regions of the world where such systems are in place. As mentioned before, regional human rights systems are currently established only in Europe, Africa and American regions. The alternative for citizens live in the other regions is to take their complaints to the UN human rights system, which is barely functional. However, beyond their existence, the functionality of these systems is highly questionable.

Question for Discussion : Do you think there is a hierarchy among the international, regional and national human rights regimes?

These human rights systems are established independent, but as part of regional integration arrangements. This is the case in all the three regions have human rights institutions. In African, this system is established under the African Union (AU) structure; in the Americas it is part of the Organization of American States (OAS); and in Europe it is embedded in the European Union‘s (EU) organizational structure. The other regional integration agreements we found in various places in the world does not have such human rights mandate. This includes, for instance, North American Free Trade Area (NAFTA), ASEAN, and OPEC. Such arrangements are established for economic or political purposes other than human rights.

Many authors in the field agreed on the importance of regional systems referring into the opportunity they offer for regional values to be taken into consideration when human rights norms are defined and framed. However, it should be also recognized that if this goes too far, of compromising the idea of the universality of human rights. Regional human rights systems are also recognized for providing a better systems of enforcement than the global system. It allows regions to apply the relevant enforcement mechanism that fits to their context. For example, the EU founds judicial approaches more appropriate and the AU inclined to non-judicial mechanism. The global human rights system lacks such flexibility.

The African human rights system is operative under the organizational structure of the AU since in July 2002. Currently, 53 African countries are signatory members to the AU and the African Charter on Human and Peoples' Rights (1981/86). Besides, a protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (1998/2004) is adopted in 2004 and ratified by 21 member states. This Protocol entered into force in January 2004 and the process is underway to establish the Court. The AU Summit has started this endeavor by taking a decision to merge the African Human Rights Court with the African Court of Justice in July 2004. Ethiopia is a signatory party to the Banjul Charter since 1991 and to the African Charter on the Rights and Welfare of the Child in 2001.

5.7.9. The Ethiopian Human Rights System

The foundation of the observance of the human rights in Ethiopia is the FDRE Constitution, which was ratified in 1994. The Constitution is the supreme law of the land and the source and basis of legality of all other laws. The FDRE Constitution classifies human rights as one of its five fundamental principles and declares that human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable and that the human rights of citizens and peoples are respected. The Constitution further empowers all Federal and State legislative, executive and judicial organs at all levels with the responsibility and duty to respect and enforce the Constitutional provisions of human rights.

The FDRE Constitution has established a national human rights regimes by recognizing most of the human rights entitlements acknowledged by the core international and regional human rights instruments. These rights cover civil and political rights (arts. 14 to 38), socio-economic rights (arts. 41 to 42) and group rights (arts. 39, 43 and 44). About one-third of the Constitution is devoted to enshrining fundamental rights and freedoms. Accordingly, most civil and political rights and economic, social and cultural rights as well as environmental rights and the right to development are stipulated in detail. Further Article 9/4/ and Article 13 of the Constitution state that international agreements ratified by Ethiopia are an integral part of the law of the land and the fundamental rights and freedoms specified in the Constitution are to be interpreted in a manner conforming to the principles of the UDHR, International Covenants on Human Rights and international instruments adopted by Ethiopia.

Moreover, the Constitution gives outstanding emphasis to the rights of women, children, persons with disability, and of nation, nationalities, and peoples. Besides including a vast of human rights provisions, the Constitution has required the establishment of human rights and democratic institutions; including the national human rights commission,

general attorney office and office of ombudsmen, with an independent judiciary or courts equipped with the needed resources.

To end with, there have been established institutions with the specific and prominent mandate of respect and promotions of human rights and the main organizations in this respect are: the Ethiopian Human Rights Commission (EHRC) and the Ethiopian Institution of the Ombudsman (EIO). Additionally, the Federal and Regional Ethics and Anti-Corruption Commissions and the Chief Auditor‘s Office are agencies that consolidate transparency and accountability. The National Election Board was established on the basis of the Constitution‘s dictum that state power can be assumed only through representatives elected by universal and equal suffrage held by secret ballot, guaranteeing the free expression of the will of the electors. The above structured nexus is designed to ensure respect, protection and promotion of human rights.