

CHAPTER TWO :

ETHICS

Reminder !

The subject matter of ethics is too large to be encompassed in this short note. So there has been some way of deciding what to include and what to leave out. The decision has been guided by the following thought: suppose that there is someone who knows little or nothing at all about the subject matter of ethics but who is willing to spend a modest amount of time learning about it. What are the most important thing that he/she needs to learn? This note is an attempt to answer this question. The note is neither an attempt to cover every topic in the subject nor intended to cover everything that could be said of the subject. But it try to cover the most important idea the new comer should confront.

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Defining Ethics

- We all have some more or less intuitive understanding of what morality is about, but if asked to explain its nature, or the concepts in terms of which we make moral judgments, most people would be hard pressed to come up with satisfactory answers.
- Ethics is a branch of philosophy which attempt to understand, interpret and to some extent guide, the practice of morality.
- It is philosophical thinking about, or analysis of, moral problems, dilemmas, and concepts, and the making of moral judgments.
- It seeks to impart understanding and clarity to a practice with which we are all, in one way or another, thoroughly familiar.

The Task of Moral Philosophy

- It gives us the clarity of thought and integrity of action in moral judgment.
- If moral philosophy cannot, in the end, tell us what to do, it can at the very least tell us what we mean when we claim to have done the morally right thing.
- It can also tell us what the fundamental bases of such moral claims might be, and disclose to us various constellations of moral rules, principles, values, and approaches that might be used in making moral judgments.

Moral and non moral judgment

Moral judgment

- Judgments of obligation
- Judgments of value
- Judgments of Virtue

Non moral judgment

- judgment of taste
- Legal judgment
- aesthetic judgment
- prudential judgment

Moral Judgment

- **Judgments of obligation:** are typically made when we mean in some way to assess conduct or actions.
- **Judgments of value:** judgment of value by contrast, are not, at least directly, about our actions. These are not assessments of what we should do, but about what things or properties are good or have value.
- **Judgments of Virtue:** Among the many things often said to be of moral value are traits of character or dispositions traditionally called moral virtues.

Non moral judgments

- **Judgment of taste** refers to expression of one pleasure or displeasure with reference to our sensory perceptions.
- **Aesthetic judgment** refers to an appreciation or criticism of an art work. It is a critical reflection on art culture and nature.
- **prudential judgment** is a judgment about what it is rational for one to do in order to promote ones own welfare or well-being.
- **Legal judgment** refers to appraising and evaluating an action based on what is written down in a legal document.

- **Note that** all non moral judgments can be changed in to moral one when :
 - They concerns with interpersonal relation, and
 - When they began criticizing the subject in question.

Dimensions of Ethics

- ethics is not identical with what we might call descriptive ethics.
- Sociological and historical description of cultural values can be inputs for moral philosophers
- It investigates the very nature or status of morality(meta ethics)
- It deals with the nature and meaning of moral judgments. (metaethics)
- It studies the fundamental rules, principles and values justifying moral judgments (normative ethics)
- It concerns with particular moral practices and beliefs.(applied ethics)

Meta Ethics

- The term “meta” means after or beyond, and, consequently, the notion of metaethics involves a removed, or bird’s eye view of the entire project of ethics.
- We may define metaethics as the study of the *origin* and *meaning* of ethical concepts.
- When compared to normative ethics and applied ethics, the field of metaethics is the least precisely defined area of moral philosophy.

- Two issues are prominent in meta ethics:
 - (1) **metaphysical issues** concerning whether morality exists independently of humans, and
 - (2) **psychological issues** concerning the underlying mental basis of our moral judgments and conduct.

Metaphysical Issues: Objectivism and Relativism

- Metaphysics is the study of the kinds of things that exist in the universe.
- Some things in the universe are made of physical stuff, such as rocks; and perhaps other things are nonphysical in nature, such as thoughts, spirits, and gods.
- The metaphysical component of metaethics involves discovering specifically whether moral values are eternal truths that exist in a spirit-like realm, or simply human conventions.

- Proponents of the **other-worldly view** typically hold that moral values are objective in the sense that they exist in a spirit-like realm beyond subjective human conventions.
- They also hold that they are absolute, or eternal, in that they never change, and also that they are universal insofar as they apply to all rational creatures around the world and throughout time.
- The most dramatic example of this view is Plato, who was inspired by the field of mathematics. When we look at numbers and mathematical relations, such as $1+1=2$, they seem to be timeless concepts that never change, and apply everywhere in the universe. Humans do not invent numbers, and humans cannot alter them. Plato explained the eternal character of mathematics by stating that they are abstract entities that exist in a spirit-like realm.
- He noted that moral values also are absolute truths and thus are also abstract, spirit-like entities.

- Medieval philosophers commonly grouped all moral principles together under the heading of “eternal law” which were also frequently seen as spirit-like objects.
- 17th century British philosopher *Samuel Clarke* described them as *spirit-like relationships rather than spirit-like objects*.
- In either case, though, they exist in a spirit-like realm.
- A different other-worldly approach to the metaphysical status of morality is divine commands issuing from God’s will.
- Sometimes called voluntarism (or divine command theory), this view was inspired by the notion of an all-powerful God who is in control of everything. God simply wills things, and they become reality.

- According to Devine command approach, god *wills* the physical world into existence, he *wills* human life into existence and, similarly, he *wills* all moral values into existence.
- Proponents of this view, such as medieval philosopher William of Ockham, believe that God wills moral principles, such as “murder is wrong,” and these exist in God’s mind as commands. God informs humans of these commands by implanting us with moral intuitions or revealing these commands in scripture.

- The second and more **this-worldly approach** to the metaphysical status of morality follows in the skeptical philosophical tradition, such as that articulated by Greek philosopher *Sextus Empiricus*, and denies the objective status of moral values.
- Technically, skeptics did not reject moral values themselves, but only denied that values exist as spirit-like objects, or as divine commands in the mind of God.
- Moral values, they argued, are strictly human inventions, a position that has since been called moral relativism.

- There are two distinct forms of moral relativism.
- The first is **individual relativism**, which holds that individual people create their own moral standards. *Friedrich Nietzsche*, for example, argued that the superhuman creates his or her morality distinct from and in reaction to the slave-like value system of the masses.
- The second is **cultural relativism** which maintains that morality is grounded in the approval of one's society – and not simply in the preferences of individual people. This view was advocated by *Sextus*, and in more recent centuries by *Michel Montaigne* and William Graham Sumner.

Psychological Issues in Metaethics

- A second area of metaethics involves the psychological basis of our moral judgments and conduct, particularly understanding what motivates us to be moral.
- We might explore this subject by asking the simple question, “**Why be moral?**”
- Some answers to the question “Why be moral?” are to avoid punishment, to gain praise, to attain happiness, to be dignified, or to fit in with society.

Egoism and Altruism

- One important area of moral psychology concerns the inherent selfishness of humans.
- 17th century British philosopher Thomas Hobbes held that many, if not all, of our actions are prompted by selfish desires.
- According to Hobbes, even if an action seems selfless, such as donating to charity, there are still selfish causes for this, such as experiencing power over other people.
- This view is called **psychological egoism** and maintains that self-oriented interests *ultimately* motivate all human actions.

- Closely related to psychological egoism is a view called **psychological hedonism** which is the view that pleasure is the specific driving force behind all of our actions.
- 18th century British philosopher **Joseph Butler** agreed that instinctive selfishness and pleasure prompt much of our conduct.
- However, Butler argued that we also have an inherent psychological capacity to show benevolence to others.
- This view is called **psychological altruism** and maintains that at least some of our actions are motivated by instinctive benevolence.

Emotion and Reason

- A second area of moral psychology involves a dispute concerning the role of reason in motivating moral actions.
- On the one side of the dispute, 18th century British philosopher David Hume argued that moral assessments involve our emotions, and not our reason.
- We can amass all the reasons we want, but that alone will not constitute a moral assessment.
- We need a distinctly emotional reaction in order to make a moral pronouncement.
- Reason might be of service in giving us the relevant data, but, in Hume's words, "reason is, and ought to be, the slave of the passions."

- Inspired by Hume's anti-rationalist views, some 20th century philosophers, most notably **A.J. Ayer**, similarly denied that moral assessments are factual descriptions.
- For example, although the statement "it is good to donate to charity" may on the surface look as though it is a factual description about charity, it is not. Moral utterances involves two things.

1. First, I (the speaker) I am expressing my personal feelings of approval about charitable donations and I am in essence saying “Hooray for charity!” This is called the *emotive element* insofar as I am expressing my emotions about some specific behavior.
2. Second, I (the speaker) am trying to get you to donate to charity and am essentially giving the command, “Donate to charity!” This is called the *prescriptive element* in the sense that I am prescribing some specific behavior.

- From Hume's day forward, more rationally-minded philosophers have opposed these emotive theories of ethics and instead argued that moral assessments are indeed acts of reason.
- 18th century German philosopher **Immanuel Kant** is a case in point.
- Although emotional factors often do influence our conduct, he argued, we should nevertheless resist that kind of sway.

- Instead, true moral action is motivated only by reason when it is free from emotions and desires.
- A recent rationalist approach, offered by Kurt Baier (1958), was proposed in direct opposition to the emotivist and prescriptivist theories of Ayer and others.
- Baier focuses more broadly on the **reasoning and argumentation process** that takes place when making moral choices.
- All of our moral choices are, or at least can be, backed by some reason or justification.

- If I claim that it is wrong to steal someone's car, then I should be able to justify my claim with some kind of argument.
- For example, I could argue that stealing Smith's car is wrong since
 - this would upset her,
 - violate her ownership rights, or
 - put the thief at risk of getting caught.
- According to Baier, then, proper moral decision making involves giving the best reasons in support of one course of action versus another.

Normative Ethics

- Normative ethics involves arriving at moral standards that regulate right and wrong conduct.
- it is a search for an ideal litmus test of proper behavior.
- Using those rules, that enables to determine whether any possible action is right or wrong.

- The key assumption in normative ethics is that there is only one ultimate criterion of moral conduct, whether it is a single rule or a set of principles. Three normative approaches:
 - (1) virtue ethics,
 - (2) duty ethics, and
 - (3) consequentialist ethics.

Virtue ethics

- Many philosophers believe that morality consists of following precisely defined rules of conduct, such as “don’t kill,” or “don’t steal.”
- The central question virtue ethics is “what should I do?”, but “what kind of person should I be?”
- Virtue ethics, however, places less emphasis on learning rules, and instead stresses the importance of developing good habits of character.

- In addition to advocating good habits of character, virtue theorists hold that we should avoid acquiring bad character traits, or vices, such as cowardice, insensibility, injustice, and vanity.
- Virtue theory emphasizes moral education since virtuous character traits are developed in one's youth. Adults, therefore, are responsible for instilling virtues in the young.

- Aristotle argued that virtues are good habits that we acquire, which regulate our emotions.
- Analyzing 11 specific virtues, Aristotle argued that most virtues fall at a mean between more extreme character traits.
- Look at Aristotle's virtue below in the table

	Sphere of Action	Excess	Mean	Deficiency
1	fear	rashness	courage	cowardice
2	pleasure	licentiousness/self-indulgence	temperance	insensibility
3	getting and spending(minor)	prodigality	liberality	illiberality
4	getting and spending(major)	vulgarity	magnificence	pettiness
5	honor and dishonor (minor)	vanity/conceit/arrogance	magnanimity	pusillanimity
6	honor and dishonor (major)	overambition	proper ambition	Unambitious
7	anger	irascibility	patience	lack of spirit
8	self-expression	boastfulness	truthfulness	overstatement
9	conversation	buffoonery	wittiness	boorishness
10	social conduct	flattery/obsequiousness	friendliness	cantankerousness
11	shame	shyness	modesty	shamelessness

- While **liberality** deals with ordinary expenditures of money, magnificence is the virtue of properly spending large sums of money on liturgies, or public gifts.
- **Magnificence** requires good taste: gaudy displays of wealth exhibit the vice of vulgarity, while spoiling a liturgy through penny pinching is a sign of pettiness.
- **Magnanimity** is the quality of the person who knows himself or herself to be worthy of great honors.
- The person who overestimates self-worth is **conceited**, and the person who underestimates self-worth is **pusillanimous**.

- Neither **vanity** nor **pusillanimity** are so much bad as mistaken, though pusillanimity is generally worse.
- The **magnanimous** person is great and knows it. This person therefore accepts honors knowing they are deserved, but does not take excessive pleasure in these honors.
- Being aware of his or her greatness and status, the magnanimous person is uncomfortable when put in a position inferior to anyone and always seeks his or her rightful superior place.
- Aristotle asserts of the magnanimous person that “his gait is measured, his voice deep, and his speech unhurried.”

- Interest in virtue theory continued through the middle ages and declined in the 19th century with the rise of alternative moral theories.
- In the mid 20th century virtue theory received special attention from philosophers who believed that more recent ethical theories were misguided for focusing too heavily on rules and actions, rather than on virtuous character traits.
- **Alasdair MacIntyre** (1984) defended the central role of virtues in moral theory and argued that virtues are grounded in and emerge from within social traditions.

Pros and Cons of Virtue Ethics

Pros

- Virtue Ethics deals with a person's virtues and how he or she uses them in making the lives of other people better. (**character traits**)
- The theory of Virtue Ethics makes it possible for people to be better individuals and members of society who are willing to help other people, thinking of others first over personal interest. (**better society**)
- Having no particular criteria, Virtue Ethics encompasses different virtues which are important to live in harmony with other people. (**broad and holistic**)

Cons

- Critics of virtue ethics say that this theory lacks focus when it comes to determining the types of actions that are morally acceptable and permitted from the ones that should be avoided. (**lack focus**)
- weakness attributed to virtue ethics is the difficulty in determining the nature of virtues. This is due to the difference in opinions and perspectives of people who are inherently different from each other and came from diverse cultures and societies. (**nature of virtues**)
- opponents of virtue ethics maintain that it deals with a person's own character when it is supposed to be how the actions of an individual affect other people. (**self centered**)

Deontological Ethics

- Duty theories base morality on specific, foundational principles of obligation.
- Deontological derived from the Greek word deon, or duty, in view of the foundational nature of our duty or obligation.
- They are also sometimes called nonconsequentialist since these principles are obligatory, irrespective of the consequences that might follow from our actions. For example, it is wrong to not care for our children even if it results in some great benefit, such as financial savings.

There are six central deontological ethics:

- The first is that championed by 17th century German philosopher **Samuel Pufendorf**, who classified dozens of duties under three headings: duties to God, duties to oneself, and duties to others.
- Concerning our duties towards God, he argued that there are two kinds:
 1. a theoretical duty to know the existence and nature of God, and
 2. a practical duty to both inwardly and outwardly worship God.

- Concerning our duties towards oneself, these are also of two sorts:
 - 1.duties of the soul, which involve developing one's skills and talents, and
 - 2.duties of the body, which involve not harming our bodies, as we might through gluttony or drunkenness, and not killing oneself.

- Concerning our duties towards others, Pufendorf divides these between absolute duties, which are universally binding on people, and conditional duties, which are the result of contracts between people. Absolute duties are of three sorts:
 1. avoid wronging others,
 2. treat people as equals, and
 3. promote the good of others.
- Conditional duties involve **various types of agreements**, the principal one of which is the duty to keep one's promises.

- The second approach to deontological ethics is the **DCT** (Devine command theory) ,
- discussed by Plato in his dialogue the *Euthyphro* an later by Leibniz in his *Discourse on Metaphysics*
- According to Divine Command theory the true standard of moral right and wrong lies in the will of God.

Two Versions of Divine Command Theory

- The first version, **the moral ground version**, of Divine Command theory holds that the grounds for our moral claims lie in God's will or commands.
- The second version is known as **Devine Index version**. On this particular version, X is not morally right because God commanded X. Rather, God commands us to do X because it is the morally right thing to do.

Critics against DCT

- Critics against the first version of Divine command theory is this: if there are no objectively right standards to which God necessarily adheres in commanding what He does — if, that is, moral standards are simply a function of God's naked will — then his commands become wholly arbitrary.
- Critic against Divine index version holds that version of Divine Command Theory is of little help since we are seldom able to determine “the commands of God.” Where are we to discover the commands of God? In religious scriptures? In various sacred Hindu texts, or the disputed gospels of St. Peter? Perhaps God's word is found in the pronouncements of “divinely inspired” prophets and religious leaders?

- The third approach to duty based ethics the natural law approach by *Thomas Aquinas*.
- According to Aquinas, there is a law governing the universe which is universal, unchanging, rational and objective.
- **Eternal Law** includes physical law and natural law.
- Eternal law includes **the physical laws** which govern the behavior of inanimate objects, the laws which govern animal behavior, as well **the moral (natural) law** governs the conduct of rational creatures.
- Aquinas holds that it is of the essence of law, and hence the natural law, that it be promulgated or communicated. Physical law are promulgated through instincts whilst moral laws are communicated thorough decrees and proclamation.

- That part of the Eternal Law which applies to human being is promulgated in two different ways: the Natural Law and the Divine Law.
- The Natural Law is, Aquinas believes, “imprinted on us”, they are self-evident like the law of *non-contradiction*, or the principle of “*Nihil ex Nihilo*”
- The divine laws are communicated as they are found in different divine texts.
- Aquinas draws an important distinction between two different types or categories of Natural Laws: **the primary and the secondary principles of the Natural Law.**

- Among the primary principles is one basic principle from which all the other primary and secondary principles are thought by Aquinas to follow. This is *The Fundamental Principle of the Natural Law* (FP): *That good is to be done and pursued, and evil is to be avoided.*
- According to Aquinas, some of our very basic inclinations that we share with all other things in the universe such as
 - *Preservation of our offspring*
 - *Education of children*
 - *Inclination to live in society*

- It is not as such easy to draw clear demarcation between primary and secondary principles of natural law. But, the secondary principles are characterized by:
 - are more detailed and concrete than primary principles
 - are more difficult to grasp
 - are logically entailed by the primary ones, and
 - can, like the primary principles, ultimately be traced back to FP.
- Whereas the primary principles are self-evident to all rational creatures, the secondary principles are “not equally known to all.”

- secondary principles can be prevented from emerging to consciousness by "*evil persuasions*," "*vicious customs*" and "*corrupt habits*" or *error in reasoning*.
- homosexuality, abortion, and sexual activity outside marriage are instances which some culture endorses which are immoral, according to Aquinas. So, the need to Divine law arises here.
- According to Aquinas there are two main reasons why Divine Law is necessary:
 - human beings have a supernatural end, and
 - it is an essential corrective for our tendency to make errors in deriving secondary principles of the NL from primary ones.

- The fourth approach to deontological ethics is by Right Theory, John Locke.
- a “right” is a justified claim against another person’s behavior – such as my right to not be harmed by you
- Rights and duties are related in such a way that the rights of one person implies the duties of another person. For example, if I have a right to payment of \$10 by Smith, then Smith has a duty to pay me \$10. This is called the **correlativity of rights and duties**.

- The most influential early account of rights theory is that of 17th century British philosopher John Locke, who argued that the laws of nature mandate that we should not harm anyone's **life, health, liberty or possessions**.
- For Locke, these are our natural rights, given to us by God.
- Following Locke, the United States Declaration of Independence authored by Thomas Jefferson recognizes three foundational rights: life, liberty, and the pursuit of happiness.

- There are four features traditionally associated with moral rights.
 - First, rights are **natural** insofar as they are not invented or created by governments.
 - Second, they are **universal** insofar as they do not change from country to country.
 - Third, they are **equal** in the sense that rights are the same for all people, irrespective of gender, race, or handicap.
 - Fourth, they are **inalienable** which means that one cannot hand over his rights to another person, such as by selling himself into slavery.

- A fifth duty-based approach is that by **Kant**, which emphasizes a single principle of duty.
- Influenced by Pufendorf, Kant agreed that we have moral duties to oneself and others, such as developing one's talents, and keeping our promises to others.
- It is a single, self-evident principle of reason that he calls the "categorical imperative."
- A **categorical imperative**, he argued, is fundamentally different from **hypothetical imperatives** that hinge on some personal desire that we have, for example, "If you want to get a good job, then you ought to go to college."

- By contrast, a categorical imperative simply mandates an action, irrespective of one's personal desires, such as "You ought to do X."
- Kant gives **three versions of the categorical imperative**:
 1. "Act only according to that maxim whereby you can at the same time will that it should become a universal law." Immanuel Kant, GWMM (UNIVERSALITY)
 2. "Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end." Immanuel Kant, GWMM (HUMANITY)
 3. "Thus the third practical principle follows [from the first two] as the ultimate condition of their harmony with practical reason: the idea of the will of every rational being as a universally legislating will." — Immanuel Kant, GWMM. (AUTHONOMY)

- A six and more recent duty-based theory is that by British philosopher **W.D. Ross**, which emphasizes prima facie duties.
- Like his 17th and 18th century counterparts, Ross argues that our duties are “part of the fundamental nature of the universe.” However, Ross’s list of duties is much shorter, which he believes reflects our actual moral convictions:
 - **Fidelity**: the duty to keep promises
 - **Reparation**: the duty to compensate others when we harm them
 - **Gratitude**: the duty to thank those who help us
 - **Justice**: the duty to recognize merit
 - **Beneficence**: the duty to improve the conditions of others
 - **Self-improvement**: the duty to improve our virtue and intelligence
 - **Nonmaleficence**: the duty to not injure others

Critical assessment on Ross duty based ethics

- It is questionable whether **self-improvement** belong on a list of moral duties. Allowing one's talents to lie unused or allowing one's health to deteriorate may be imprudent or foolish, but is it immoral?
- An other questionable candidate from ross list of duties is the duty to be **grateful**. If a favor is done with the sense that something is owing as a result, then perhaps it is not really a favor at all, but an investment
- The third critical point goes against to his notion of **moral intuition**. According to Ross, that we have the prima facie duties he mentions is simply self-evident to any rational human being who thinks seriously about the requirements of morality. If a principle truly is self-evident, then should not everyone agree on its validity?

Consequentialism

- It is common for us to determine our moral responsibility by weighing the consequences of our actions.
- According to consequentialism, correct moral conduct is determined solely by a cost-benefit analysis of an action's consequences:
- An action is morally right if the consequences of that action are more favorable than unfavorable.

- Consequentialist normative principles require that we first tally both the good and bad consequences of an action.
- Second, we then determine whether the total good consequences outweigh the total bad consequences.
- If the good consequences are greater, then the action is morally proper. If the bad consequences are greater, then the action is morally improper.
- Consequentialist theories are sometimes called teleological theories, from the Greek word telos, or end, since the end result of the action is the sole determining factor of its morality.

Three subdivisions of consequentialism :

- **Ethical Egoism:** an action is morally right if the consequences of that action are more favorable than unfavorable only to the agent performing the action.
- **Ethical Altruism:** an action is morally right if the consequences of that action are more favorable than unfavorable to everyone except the agent.
- **Utilitarianism:** an action is morally right if the consequences of that action are more favorable than unfavorable to everyone.

Types of Utilitarianism

- Bentham proposed that we tally the consequences of each action we perform and thereby determine on a case by case basis whether an action is morally right or wrong. This aspect of Bentham's theory is known as **act-utilitarianism**.
- Second, Bentham also proposed that we tally the pleasure and pain which results from our actions. For Bentham, pleasure and pain are the only consequences that matter in determining whether our conduct is moral. This version is called **hedonistic utilitarianism**.

- Act utilitarianism seems to be against human right; it seems to endorse torture and slavery as long as it yields greater social benefit.
- Act utilitarianism seems to be unreasonable , because it charity works and the likes by ignoring leisure activities which is unreasonable.
- Rule utilitarianism, by J.S Mill developed as a response to address the problem of act utilitarianism.
- According to **rule-utilitarianism**, a behavioral code or rule is morally right if the consequences of adopting that rule are more favorable than unfavorable to everyone.

- G.E. Moore proposed **ideal utilitarianism**, which involves tallying any consequence that we intuitively recognize as good or bad (and not simply as pleasurable or painful).
- R.M. Hare proposed **preference utilitarianism**, which involves tallying any consequence that fulfills our preferences.

Social contract approach to ethics

- Hobbes was an advocate of the metaethical theory of psychological egoism—the view that all of our actions are selfishly motivated.
- Upon that foundation, Hobbes developed a normative theory known as social contract theory.
- According to Hobbes, for purely selfish reasons, the agent is better off living in a world with moral rules than one without moral rules. For without moral rules, we are subject to the whims of other people's selfish interests.

- Without social contract, Our property, our families, and even our lives are at continual risk.
 - Selfishness alone will therefore motivate each agent to adopt a basic set of rules which will allow for a civilized community.
 - As selfish creatures, each of us would plunder our neighbors' property once their guards were down.
 - Each agent would then be at risk from his neighbor.
- Therefore, for selfish reasons alone, we devise a means of enforcing these rules: we create a policing agency which punishes us if we violate these rules.

David Gutheir version of social contract approach (prisoner's Dilemma)

Consider the following scenario !

You and your friend have each been apprehended and charged in connection with the same crime and are taken to separate rooms to be interviewed. In the course of your interrogation you learn the following facts. If you confess to the crime but your friend does not, you will get a one year prison sentence. Ted, on the other hand, will be put away for ten years. You also learn that if you do not confess while your friend does, it will be you who gets the ten year sentence and your friend who gets off with only one year. Furthermore, you learn that if both of you confess to the crime, each one of you will get five years in the slammer — and that if neither of you confesses, the authorities will have enough to put each of you away for only two years. Finally, although you are unable to communicate with friend, you do know that he is rational and that he has managed to put together the same information as you have. In this scenario you and your friend are faced with what is known as the Prisoner's Dilemma.

Mr.X

confess

Don't confess

confess

5,5

1,10

Don't confess

10,1

2,2

You

- According to Gauthier, **the structural problem** inherent in the Prisoner's Dilemma reveals an important fact: the decision to confess only appears to be rational according to a strategy Gauthier calls **straightforward utility maximization**.
- Gauthier likens the situation in which you and Mr.X find yourselves to the natural, pre-social condition of humankind.
- Morality, on Gauthier's account, acts as a constraining factor that enables us to overcome the structural problem of interaction illustrated by the Prisoner's Dilemma.
- Morality facilitates, or makes possible, the rational pursuit of constrained maximization, which leaves everyone better off.

Applied Ethics

- Applied ethics is the branch of ethics which consists of the analysis of specific, controversial moral issues such as abortion, animal rights, or euthanasia.
- In recent years applied ethical issues have been subdivided into convenient groups such as medical ethics, business ethics, environmental ethics and sexual ethics.
- two features are necessary for an issue to be considered an “applied ethical issue.”
- First, the issue needs to be controversial in the sense that there are significant groups of people both for and against the issue at hand.
- The second requirement for an issue to be an applied ethical issue is that it must be a distinctly moral issue.

- issues such as
 - affirmative action policies, ,
 - involuntary commitment in the military,
 - capitalistic versus socialistic business practices,
 - public versus private health care systems, or
 - energy conservation.
- Although all of these issues are controversial and have an important impact on society, they are not all moral issues. Some are only issues of social policy.
- The aim of social policy is to help make a given society run efficiently by devising conventions, such as traffic laws, tax laws, and zoning codes.
- Moral issues, by contrast, concern more universally obligatory practices, such as our duty to avoid lying, and are not confined to individual societies.

Normative principles in applied ethics

The following principles are the ones most commonly appealed to in applied ethical discussions:

- **Personal benefit:** acknowledge the extent to which an action produces beneficial consequences for the individual in question.
- **Social benefit:** acknowledge the extent to which an action produces beneficial consequences for society.
- **Principle of benevolence:** help those in need.
- **Principle of paternalism:** assist others in pursuing their best interests when they cannot do so themselves.
- **Principle of harm:** do not harm others.
- **Principle of honesty:** do not deceive others.

Principle of lawfulness: do not violate the law.

Principle of autonomy: acknowledge a person's freedom over his/her actions or physical body.

Principle of justice: acknowledge a person's right to due process, fair compensation for harm done, and fair distribution of benefits.

Rights: acknowledge a person's rights to life, information, privacy, free expression, and safety.

- The above principles represent a spectrum of traditional normative principles and are derived from both consequentialist and duty-based approaches.
- The first two principles, personal benefit and social benefit, are consequentialist since they appeal to the consequences of an action as it affects the individual or society.
- The remaining principles are duty-based. The principles of benevolence, paternalism, harm, honesty, and lawfulness are based on duties we have toward others.
- The principles of autonomy, justice, and the various rights are based on moral rights.

Issues in Applied Ethics

- there are many controversial issues discussed by ethicists today, some of which are :
- ***Biomedical ethics*** focuses on a range of issues which arise in clinical settings. Health care workers are in an unusual position of continually dealing with life and death situations.
- ***business ethics*** examines moral controversies relating to the social responsibilities of capitalist business practices, the moral status of corporate entities, deceptive advertising, insider trading, basic employee rights, job discrimination, affirmative action, drug testing, and whistle blowing.

- **sexual morality** include monogamy versus polygamy, sexual relations without love, homosexual relations, and extramarital affairs.
- **environmental ethics** often overlaps with business and medical issues. These include the rights of animals, the morality of animal experimentation, preserving endangered species, pollution control, management of environmental resources, whether eco-systems are entitled to direct moral consideration, and our obligation to future generations.
- **social morality** which examine capital punishment, nuclear war, gun control, the recreational use of drugs, welfare rights, and racism.

CHAPTER FIVE

CONSTITUTION, DEMOCRACY & HUMAN RIGHTS

CONTENTS

1. Constitution

- **The concept**
- **Traditional and modern constitutional experience of Ethiopia**

2. Democracy

- **Defining Democracy**
- **Principles of democracy**
- **Actors in democratization**

3. Human Rights

Constitution

Defining constitution

- Constitution consists of fundamental laws of a country.
- It includes basic rules, regulations, values, beliefs, traditions, norms, customs, standards and aspirations that channel internal affairs of a country and give direction to country's foreign relation.
- It is a document containing essential principles on distribution of governmental powers as well as rights and responsibilities of citizens.
- It indicates economic, political and social policies of a given country.
- Constitution is also defined as the body of doctrines and practices that form the fundamental organizing principles of a political system.

Constitutionalism

- Constitutionalism is the way that public authority is to be exercised, implemented, or applied according to the law.
- It is government by constitution or practice of government regulated by a constitution.
- It is a concept which implies constitutional provisions and full realization or implementation.
- It is a culture in which government officer's act in accordance with the rule of law.

- Hence, constitutionalism is more than having a constitution.
- it implies the proper implementation or practice of the principles, which are included in the constitution.
- It refers to the prevalence of the rule of law where the government and public officials are held accountable to the people and responsible for their decisions and actions.

Purposes and Functions of Constitution

- A. Serves as a framework for government:** constitution is a plan for organizing composition and structures of a government.
- B. Grants powers to government:** constitution provides authority to government to accomplish its tasks and to make different decisions.
- C. Constitution limits government powers:** constitution determines what public authorities must do and must not do. It restricts extent or degree of officials' power. Government authorities should not do whatever they wish to do but according to their constitution. The working of government officials in the spirit of constitution ensures the rule of law.

Classification of Constitutions

- Constitutions in different political systems differ from one another in terms of their principles on the distribution of political power, on the structural separation of authority among branches of the government, and on the limitations they set on government authority.
- constitutions of various countries differ from each other in their form, content, and patterns of political arrangements.
- These differences may have been caused due to the difference in historical backgrounds, social traditions, and political practices.

- In some cases, constitutions tend to be products of compromises and consensus of the different social and political forces of a society.
- in some cases, power holders in government with the aim of securing their desired political and socio-economic interests draw constitutions.
- constitutions of different countries are not only differing in their forms and appearances, but they may also differ in terms of their contents of the underlying principles and procedures.

- In terms of their forms, constitutions are classified into written and unwritten constitutions.
- **Written constitution** is one that exists in a single document containing the basic principles and rules specifying the rights and duties of citizens and the composition and powers of institutions of the government.
- In a written constitution, all political structures and institutions of the state are organized in accordance with the principles stated in the single written document.
- The majority of the constitutions in the world are written constitutions. For example, India, Nigeria, Ethiopian, Kenya, France, Germany, United States of America, and the like have written constitutions.
- A written constitution has its own advantages and disadvantages.

Advantage and disadvantages of written constitution

Advantages

- It is full of clarity and definiteness because the provisions are written in detail.
- It is readily available to citizens to enable monitor the behavior of their government and prevent the emergence of dictatorship.
- it is easily available to citizens, it helps them easily know their rights and duties.
- It has the quality of stability and the ability to help citizens develop a sense of confidence and satisfaction.
- Since the people know of the nature of the constitutional provisions, they feel a sense of satisfaction and confidence for being their rights are accorded with a legal protection of the constitution.

Disadvantages

- It creates a situation of rigidity; it is difficult to change it easily and quickly as per the requirements of the time.
- it is not easily adaptable to new changes.
- Implementation of the constitution usually involves interpretation. In some instances, interpretation leads to disputes between branches of the government

- **Unwritten constitution** is a document based on common traditions, and usages of the country.
- It is meant that the fundamental principles and powers of the government are not written down in any single legal document.
- there is no single written document that specifies the rights and duties of citizens and the composition of powers of institutions of the government.
- principles exist in a number of documents, customs and conventions.

- unwritten constitution is a collection of documents, rules, regulations, declarations and traditional practices that serve as governing principles.
- These elements were passed by either a parliament or other competent government bodies at different times, without compiling into a single document.
- Unwritten constitution is used in Great Britain, New Zealand, Oman, Saudi Arabia, Israel and the like.
- Like that of written constitutions, unwritten constitutions have their own advantages and disadvantages.

Advantage and disadvantages of unwritten constitution

Advantages

- It has a quality of elasticity and adaptability.
- It is so dynamic that it prevents the chance of popular uprising, because the government will easily amend it based on the demands of the public.
- It is resilient as a result it can absorb and recover from shocks that may destroy written constitution.

Disadvantages

- It is not stable and could easily be abused by politicians who are irresponsible to the interests of the public.
- It leads to a state of confusion, because it is not easily available to citizens.
- It is not suitable in democratic political systems, because in democratic political systems the government is required to make citizens know their rights and duties.

Rigid Vs. Flexible Constitutions

- A constitution is the supreme law of the land and considered as a permanent legal instrument. However, it needs modification in order to cope with changing internal and external circumstances.
- Modification takes place either by writing a new provision (s) into the constitution or by modifying the exiting provision(s) of the constitution. Such a process is called amendment.
- Accordingly, writers on constitutional matters have traditionally divided constitutions into rigid and flexible constitutions depending on the complexity of the requirements (procedures) for amendment.

- a. **Rigid constitution:** - is the one that provides a series of procedural requirements for amendment. In this case special procedures need to be followed to amend such constitution, and therefore, difficult to amend.
- b. **Flexible constitution:** - is a constitution that adapts easily to changing circumstances. It has simpler requirements (procedures) for amendment.

Federal Vs. Unitary Constitutions

- One major function of a constitution is the definition of the political structure of the state.
- some constitutions design federal state structure and they are named as federal constitutions, and others design unitary state structures and they are named as unitary constitutions.
- constitutions may concentrate power at center or distribute it among the different (horizontal and vertical) branches and levels of the government.

- When a constitution determines that there must be sub-national levels (dual polity) of government such as **regions** in Ethiopia, **states** in the United States of America, **Lander** in Germany, **cantons** in Switzerland, it is said to be a federal constitution.
- in unitary constitutions, all state powers are concentrated in the hand of the central government.
- The central government can establish or abolish the lower levels of government, determine their form, composition, and sub national units do not have constitutional guarantee for their existence

Origins and Development of Constitution and Constitutionalism

- The historical evolution of constitution can be traced back to earlier stages of civilization.
- In the history of human societies, the emergence of constitutional government is related to the desire to limit the absolute powers of rulers over those who are ruled.
- Different political experiences of governance, political rights, roles and relations of state and society developed through time.
- many cultures influenced and shaped the development of constitutional thinking.
- Thoughts and actions of different cultures of societies since ancient times have contributed for the appearance of the modern concept of constitution and the development of constitutional practices.

Hammurabi's Law:

- Hammurabi (r. 1792-1750) was ancient Babylonian king.
- His legal traditions were not concerned with issues of freedom and rights of the citizens.
- attention was given to maintain forceful orders.
- Rules were aimed at consolidating the authorities of rulers who claimed justifications that their laws originated from supernatural forces or divine being.
- Subjects who did not obey the law would be seriously punished.
- Any criticism against the law was unacceptable.
- Hammurabi's law established a highly authoritarian rule.
- Modern sense of constitutionalism was not known.
- There was no limit on authority of government. The relationship between government and people was not based on equality.
- Hammurabi's Law introduced a legal system of governance or legality but not the idea of constitution and democratic practices.

Hebrews - Theocratic Constitutionalism:

- the Hebrew were the first to practice constitutionalism emphasized on limiting rulers' absolute power by divine law.
- Subjects claimed that they lived under divine guidance and rulers on earth were considered as God's agents.
- rulers were expected to have moral obligation to their subjects.
- When rulers became unjust in practicing law, prophets claiming spiritual authority arose to advice, warn and resist them.
- This is considered as the first legitimate opposition against established authority.
- However, Jewish understanding of justice was based on religious and mythical thinking, not on free will of the governed.
- modern ideas of political rights did not exist.

Greeks-Constitutional Democracy:

- Greeks were the first to exercise democratic governance during 5th and 4th century.
- They developed a fully constitutional political civilization.
- The constitutional ideal of the Greeks included popular participation of all citizens in decision making through direct democracy.
- There was no possibility for political power to be held in the hands of the few.
- it also involved sharing of power and state functions.
- that system also included mechanisms of limiting the powers of office holders. The office holders were usually selected by the vote. In some offices that required qualification and knowledge, the office holders were designated by election. All active citizens had access to the public offices.

- When public officials tend to abuse power, condemnation and exclusion from social acceptance were exercised.
- The office terms were also short.
- political power was rationally shared.
- Officials and citizens also made observance to the rule of law.
- Nevertheless, the constitutional democracy of the Greeks was not absolutely perfect.
- The assembly of citizens was without any constitutional limitations. That is, the kind of democracy exercised was excessive. As a result of this, the Greek political system was unstable and full of internal disharmony.

Romans-Republican Constitutionalism:

- Romans introduced a republican system of governance from 600 BC to about 100 BC.
- Republican constitutionalism was not completely left at the mercy of all citizens and not completely controlled by absolute monarchy.
- Romans exercised distribution of powers among different assemblies which were meant to be complex devices of checks and balances on each other's powers.
- Officials were elected by assemblies of citizens and for a term of a year at a time. Thus, republicanism was a form of constitutional supremacy of legitimate officials and bodies for limited purposes and periods.

- The Romans also established a system of civil and criminal law, which is the source for the legal codes of many modern nations.
- Republicanism emphasized the operation of an elaborate legal system and institutional means of limiting power.
- the influence of citizens in governance process was limited although it was conducted on legally or popularly acceptable ways.

Magna Carta:

- in its modern sense, constitution emerged in 7th century England.
- In 13th century England, King John used to rule his people unfairly or selfishly. The abuses of his power were asking unusual tax rates and depriving of established privileges. As a result, those who suffered decided for an armed confrontation. However, in 1215 AD John agreed to sign a great charter of liberties called Magna Carta, which put restriction upon king's power.
- Magna Carta has served as cornerstone for modern systems particularly English parliamentary, USA's presidential and French hybrid systems.

Overview of Constitutional Experiences in Ethiopia

Traditional constitutions

- The modern Ethiopian Empire, which was created in the last quarter of the 19th century, did not possess written constitution until 1931.
- this does not mean the various nations and nationalities of Ethiopia did not have customs and social norms that regulated their day-to-day life.
- The different ethnic entities in the country had their own customary laws and highly developed cultural norms, which governed their society.
- Ethiopia had for centuries lived according to **Fitha Negest** (legislation of the king), the **Kibre Negest**, and the **Sirate Mengist**.

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 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 (1235- 1243).
- It was designed by monks in the Church the same time Kebra 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

- 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 Ethiopian 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 any king in Ethiopia must descend from the Solomonic dynasty or must have such blood relationship with the dynasty

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.
- The Ser'ate Mengist can hardly be considered to be a document of Constitutional Law in its widest sense.
- as 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.

Modern Constitutional Experiences

- In its modern history, Ethiopia has experienced three constitutions:
 - the monarchial constitution (1931 later revised in 1955),
 - the 1987 PDRE, and
 - the 1995 FDRE constitution.
- These constitutions have reflected their own values and political objectives as per the nature of the successive Ethiopian governments.

The 1931 Written Constitution

In the literature of the Ethiopian legal systems, the 1931 constitution has been given wider attention.

There are many reasons for this, but the most important being:

1. It was the first **written** modern constitution
2. It furnished the formal basis for government and **consolidation of the imperial power**.
3. It illustrated both the theoretical and practical problems of integrating traditional political system with Emperor Hailelassie's policies of **modernization and centralization**
4. It **emphasized the reputation** of Hailelassie as a reformer and modernizer both at home and abroad.

- The constitution was introduced in order to achieve Ethiopia's diplomatic recognition abroad and to strengthen Hailelassie's authority at home.
- The 1931 constitution was not a reform measure in response to popular demands from Ethiopian citizens.
- There was little or no attention to guaranteeing political freedoms and fundamental human rights to Ethiopians.
- Rather than creating a limited monarchy, the constitution gave all sovereign power to the emperor.
- The people were considered as mere 'subjects', and not as 'citizens' with political and civil rights.

- the 1931 constitution was formulated to attain the following two basic purposes that would advance the Emperor's authority and political control.
 - First, the constitution was intended to give Ethiopia the image of 'modernity' in the international community because Ethiopia was considered as 'uncivilized' state in the eye of western colonial powers.
 - Secondly, in the domestic affairs, the 1931 constitution aimed at providing a legal framework for subordination of the powerful traditional nobility to the Emperor.
- It served the interests of the Emperor.
- the 1931 constitution can be referred to as the charter of the absolute power of the monarchy.

- the 1931 is considered as an instrument of modernization in that it introduced some modern institutions such as:
- **Parliamentary system:-**The core contribution of the 1931 constitution was the creation of the parliament. The parliament consisted of two chambers (Houses), namely, the senate or upper house (Yehig Mewesegna Meker Bet) and the chamber of Deputies (Yehig Memria Meker Bet). In this regard, the parliament in its structure was bi-cameral (having two houses). Those elected to the two houses (chambers) were only noblemen and princes and their term of office was not limited. However, the constitution did not provide powers and functions to the parliament. It was a weak institution to decide on matters relating to laws. Power to make laws was vested with the Emperor and the parliament was nominal (superficial), which mainly assigned to approve the legislation of the Emperor.
- **Annual budget system:** The second major contribution of the 1931 constitution was the introduction of the idea of providing fixed annual budget for government. However, the assignment of budget as indicated in the constitution had not been properly implemented.

- **The Ministerial system:** The constitution provided the institutional framework for the ministerial system. However, the executive branch of government was heavily centralized in the hand of the Emperor. Individually and collectively, the ministers were completely subordinated to the Emperor.
- **The judiciary:** The fourth major contribution of the constitution of 1931 was the introduction of two separate systems of courts. These were:
 - The regular courts that dealt with civil and criminal cases .
 - The administrative tribunals which concerned with civil cases that affect the government.
- At the top of the court system was the Emperor's chilot (Yenigus chilot or zufan chilot), where the Emperor reviewed cases, and can change any judicial decision.

The Revised Constitution of 1955

- After nearly 25-year experiment of written constitution, Ethiopia entered in to the second phase of its constitutional development.
- The second written constitution of Ethiopia was the Revised Constitution.
- It was promulgated on 4 November 1955.
- The 1955 constitution was similar to that of the 1931. But, the political principles and objectives of the 1955 constitution were much clearer in pronouncing the powers and functions of the Imperial government.
- It also included some provisions bearing advanced democratic ideas compared to the previous written constitution

- the historical and political process of the Ethiopian state and society influenced the contents and issues addressed in the revised constitution.
- Like the constitution of 1931, however, the revised constitution did not involve popular process for ratification.
- it was a “gift” from the Emperor to his subjects on the occasion of celebrating his twenty–five years in power, i.e. silver jubilee.
- In terms of enhancing popular sovereignty, the principles and manners of implementing the revised constitution made little or no progress.
- There were major historical and political processes that forced the revised constitution to come into being: the act of federation of Eritrea with Ethiopia in 1952.
- in its nature, the Eritrean constitution implied a more liberal government that incorporated some element of democratic society as a result of their colonial tradition.

- Eritrea that had been under Italian colonial rule for decades, and latter under the British protectorate, was federated with Ethiopia following the decision made by United Nations (UN) General Assembly (1952).
- Under the supervision of the United Nations, the Eritrean constitution of 1952 was drafted providing a separate system of government for Eritrea under the sovereignty of Ethiopian crown.
- The federation of Eritrea, therefore, created abnormal political situation because:
 - Firstly, the federal act was not strictly federal in its nature; Ethiopia remained a unitary state with absolute rule of an Emperor, while Eritrea obtained an entirely different government. In other words, there emerged two separate governments, based on entirely different principles i.e. elected government in Eritrea and a monarch in Ethiopia. Thus, both were exercising different powers over the same territory.
 - Secondly, in its nature, the Eritrean constitution implied a more liberal government that incorporated some element of democratic society as a result of their colonial tradition.

- the origins of the revised constitution were related mainly with the historical factors of the time rather than being simply adapted from foreign constitutions as in the case of the 1931 constitution
- it incorporated some new concepts, and it was much more elaborated than its predecessor.
- It has 131 articles divided in to eight chapters.
- The first two chapters, comprising nearly one third of the articles, were concerned with defining the power and authority of the Emperor and privileges of the imperial family.
- Only one chapter was reserved to deal with some rights and more duties of the people.
- Its undemocratic character can simply be inferred from the Emphasis given to the Authority of the Emperor.
- It further developed the centralizing and “modernizing” themes of the 1931 constitution.

- The Revised Constitution more strongly established the absolute power of the monarch.
- It declares the “inviolability of the emperor’s dignity”. He could appoint and dismiss government officials in all branches of government as he wished.
- The emperor also had the power to dissolve the parliament. Any law could not come in to effect unless he approved it.
- The imperial power also extended to the extent of determining the administrative affairs of the church itself.
- It consolidated the executive, legislative and judicial power of Emperor Haile-Selassie.
- little or no significance was attached to the need to guarantee political and human rights of the Ethiopian people.
- In a nutshell, the 1955 revised constitution made the powers and authority of the Emperor absolute and complete in the Ethiopian state and society.

The 1987 PDRE Constitution

- The 1974 Ethiopian revolution resulted in the deposition of Emperor Haile-Selassie from power.
- the “Derg” controlled political power.
- The Derg emerged to be the military government in Ethiopia.
- The military regime suspended the 1955-revised constitution and began to rule the country by series of decrees and proclamations.
- Constitutional process of government was foiled.
- In order to deepen its power, the Derg established its single party, the Workers’ Party of Ethiopia (WPE) in 1987.

- This was transition from a no party system to the one party system in Ethiopia.
- In 1987, the ‘Derg’ constitution was issued justifying its rule.
- It introduced the first **republic** whereby abolishing the system of monarchy in Ethiopia.
- It differed from the previous constitutions in some ways.
- The constitutional commission via a program of public “consultation” drafted it and it was later on ratified in the name of broad popular participation.

- In principle, some of the provisions of the “Derg” constitution included “democratic” elements.
- Sovereignty lies on the workers of Ethiopia and exercised through the National **Shengo**, Local **Shengos** they establish by election, and referendum.
- Candidates to the National **Shengo** were nominated by organs of the Workers' Party of Ethiopia, mass organizations, military units and other bodies.
- The terms of the **Shengo** would be five years.

- The national “Shengo” was by name the supreme organ of the state.
- It was responsible to establish the subordinate organs of the state and elect the president and other state leading officials. However, in practice, actual powers of the “Shengo” were artificial or superficial.
- The military regime, which claimed to be socialist, centralized all political powers under the leadership of one party system.
- the 1987 constitution apparently attempted to present the military dictatorship as popular civilian government.

- The Council of Ministers was the highest executive and administrative organ of the PDRE and was accountable to the Shengo
- The Judiciary branch consisted of the Supreme Court, Courts of administrative and Autonomous Units and other courts established by law.
- President, vice president and judges of the Supreme Court were nominated by the president and approved by the Shengo for five years term. Other judges were to be elected and recalled by the Shengos in the respective levels.

The 1991 Transitional Charter

- The ethnic based liberation movements came together immediately at a conference and drafted and approved an interim constitution or otherwise known as the Transitional Charter.
- The Charter is a very brief document with only 20 articles.
- The aspirations stipulated in its preamble include the guarantee of freedom, equal rights, and self-determination of all peoples; ensuring peace and stability by bringing an end to all hostilities, redressing regional prejudices and safeguarding rights of citizens through democratically elected, accountable government, and rebuilding the country and restructuring the state.
- Interestingly the Charter, despite its briefness, puts a high premium on human rights.

- This is manifested in its direct reference to the Universal Declaration of Human Rights (UDHR) in its Art(1) which states that based on UDHR individual human rights are respected fully and without any limitation what so ever.
- In accordance with the aspiration of the Charter Art(2) give recognition to the right of “Nations, Nationalities and Peoples to self-determination” thereby guarantying their right to a) preserve their identity, culture, history and language; b) self-administration with fair and proper representation at the center; and c) independence when the above mentioned rights are “denied, abridged or abrogated.”
- the Charter, in contrast to Ethiopia’s legal and political tradition, gave an explicit recognition to the rights of “Nations, Nationalities and Peoples,” and also recognized their right to secession.

- The process of decentralization initiated by the Charter was further elaborated by National/Regional Self-Government Establishment Proclamation No.7/1992.
- Accordingly, 14 National/Regional self-governments, whose borders were determined, based on settlement structure of nations, nationalities and peoples were established.
- the Transitional Charter established devolved administrative units on the basis of ethnic and linguistic criteria.
- On the basis of the Charter, fourteen regional governments were created; Addis Ababa and Dire Dawa were given autonomy on the basis of political and population considerations.
- Each regional government shall have executive, legislative and judicial power in respect to all matters within their geographic territory, except such matters as defense, foreign affairs, citizenship, declaration of state of emergency, national economic policy and so forth.

The 1995 FDRE Constitution

- The 1995 FDRE constitution is different from that of the Imperial and the Derg constitutions.
- It made an important departure in the history of constitutional development in the country in terms of its basic philosophy, content, and organization of government.
- The constitution strongly affirms and expresses that nations, nationalities and people of Ethiopia are source of sovereignty.
- It explicitly states the rights and duties of the federal government as well as the prerogatives of the regional states.
- It also states that political power shall be held through free, fair and periodic elections.

- It entitles the Ethiopian citizens to exercise their human, democratic, political and socioeconomic rights and freedoms.
- It defines the rights of nations, nationalities, and peoples of Ethiopia to exercise their self-determination, including the right to secession (art.39).
- the constitution recognizes and affirms fundamental human rights and freedoms in conformity with the United Nations Universal Declaration of Human Rights (UDHR) and other international human right instruments.

- The constitution established a federal state structure with nine member states (National Regional States) that exercise legislative, executive, and judicial powers in their own jurisdictions.
- It established a parliamentary system with three branches of the government: legislative, executive, and judicial powers performing different functions.
- It is a bi-cameral parliament (House of Peoples' Representatives and the House of the Federation).

- The parliament has the power of legislation on matters relating to the federal government.
- The constitution gives provided the House of the Federation with the power to interpret the constitution.
- Council of Constitutional Inquiry (CCI) is given the power to investigate constitutional disputes assisting the House of Federation.
- An executive organ led by a Prime Minister whose office is accountable for the House of Peoples Representatives (HPR) is set up.

- The executive branch includes the President, Prime Minister, Council of State, and Council of Ministers.
- The president is elected by both legislative chambers for a six-year term.
- The leader of the largest party in the lower chamber becomes Prime Minister, who submits cabinet ministers for the chamber's approval.
- All ministers serve for the duration of the legislative session.

- Executive power is in the hands of the Prime Minister, who is also the commander in chief of the armed forces.
- an independent judiciary with the supreme federal judicial authority vested in the Federal Supreme Court is established.
- regions have the State Council (with legislative power), State administration (highest organ of state executive) and a judicial power vested in courts.

- The judicial branch is composed of federal and state courts.
- The Federal Supreme Court is the highest court and exercises jurisdiction over all federal matters
- The president and vice president of the Federal Supreme Court are recommended by the Prime Minister and approved by the lower chamber of the legislature.

Stages in the ratification of the FDRE Constitution

Drafting Stage

- Drafting stage was the first stage of the formulation of the 1995 FDRE Constitution.
 - A special body known as Constituent Assembly carried out the drafting task.
 - Experts with a good deal of experiences from other countries were invited to such seminars and workshops that have helped immensely in sharing experiences.

Discussions and Development Stage

- This stage involved extensive public discussions on the draft of the constitution.
- This can be termed as popular discussion of the constitution.
- These extensive discussions on the draft gave citizens of Ethiopia the opportunity to: -
 - Know the tentative provisions that would be parts of the final constitution,
 - Amend or improve the provisions before they enforced into action, and
 - Participate in the formulation of their own constitution.

The Ratification Stage

- This stage is also known as adoption or endorsement
- Constitutional Assembly- a special body constituted body of elected representatives of the Nations, Nationalities, and peoples of Ethiopia accomplished a historical task of ratifying or endorsing the draft of the constitution.
- In the constitutional Assembly, 538 elected citizens participated.
- The Constitutional Assembly thoroughly and conspicuously discussed on the draft of the constitution for 3 weeks.
- Each provision or article of the Draft was passed by Vote.
- Finally the signatures of the Constitutional Assembly endorsed it on December 8, 1994, and came in to force on 21st day of August, 1995.

Objectives of the 1995 FDRE Constitution

The preamble, which is an introduction to the main body of the constitution, determines the objectives and principles, which the nations, nationalities, and peoples of Ethiopia share in common.

1. **Building a political Community based on the popular will** or agreement that is the destiny of all Nations, Nationalities and Peoples of Ethiopia;
2. **To have the rule of law** as the foundation of the political community built based on popular will;
3. **Ensuring lasting peace, democracy and development** that would characterize building a prosperous country; and
4. **Maintaining and consolidating the effectiveness and successful unity** based on diversity through guaranteeing and securing the right of Nations, Nationalities and peoples of Ethiopia to self –determination, including up to secession.

Fundamental Principles of the FDRE Constitution

- **Sovereignty of the People**: it indicates that power is vested in the hands of the people. As stated in Article 8 “All sovereign power resides in the nations, nationalities and peoples of Ethiopia.” Hence, citizens are legally recognized as they are the ultimate sources of political power.
- **Supremacy of the Constitution**: according to Article 9 (1) of the constitution “the constitution is supreme law of the land.....Any law that contradict with the constitution has no legal effect”
- **Separation of State and Religion (Secularism)**: in the long history of Ethiopia, state and religion were inseparable entities. However, today, according to article 11 of the FDRE constitution, state and religion are separate and there is no state religion. Religion shall not interfere in state affairs and like-wise state shall not interfere in religious affairs. ☐

- **Respect for Human and Democratic Rights...** human and democratic rights in current Ethiopia have legal protections and stated in Articles 14-44 of the FDRE constitution.
- **Accountability of Government...** This principle is given recognition in Article 12 (1) and (2) of the FDRE constitution. It denotes that the government should be responsible for its functions. The conduct of government affairs shall be transparent and any public official or an elected representative is accountable for any failure in his/her duties.

Democracy

Defining democracy

- In our contemporary world, democracy as a way of life
- It is the most advocated system of government.
- It is conceived as the institutional arrangement for arriving at political decisions in which individuals acquire the power to decide based on competitive struggle for the people's vote.
- competition for political leadership is the distinctive feature of democracy.

- Democracy as a way of life concerns with social justice, civil and political rights, gender equality etc in the process of interactions between citizens themselves and between the government and citizens.
- democracy implies the existence of ethical values in an enabling environment such as freedom, human rights, organized dialogues, and the exercise of citizenship.
- Etymologically the term democracy derived from classical Greek *demokratia*, which means rule by the people.
- It is formed from the two roots *demos* (by the people) and *kratos* (rule). Hence, the word democracy literally means rule by the people

- Democracy is a complex and illusive concept: there is no universally agreed definition of democracy among politicians and researchers.
- different people define democracy in different ways. **Shumpeter**, defined democracy as
 - *A system for arriving at political decisions in which individuals acquire the power to decide by means of competitive struggle for the people's vote.*
 - **Przeworski** also defined democracy as
 - *A regime in which governmental offices are filled as a consequence of contested election.*
- According to **Abraham Lincoln**, democracy is defined as
 - *the government of the people, by the people and for the people.*
- Accordingly, democracy is a system of government and also a society where liberty, justice, and respect of human rights prevail.

Forms of Democracy

- There are two basic forms of democracy, direct democracy and representative democracy.

Direct (Pure) Democracy

- is a political system where all citizens can participate in making public decisions personally, without relying on intermediaries or representative officials.
- Direct democracy is obviously practical only with relatively small numbers of people – in a community organization, where members can meet in a single room to discuss issues and arrive at decisions by consensus or majority vote. Modern society, with its large size and complexity, offers few opportunities for direct democracy.

Representative (Indirect) Democracy

- Today, the most common form of democracy is representative democracy, which involves the selection of government officials by the people being represented.
- In representative democracy, citizens elect their representatives to make political decisions, formulate laws, and administer programs on their behalf.
- It can be true representative democracy if and only if the representatives are elected through a democratic election.

Approaches of Understanding Democracy

There are two views of understanding democracy: substantive and procedural views.

Substantive Views of Democracy

- The substantive view concentrates on what a government actually does, that is, the policies it makes should fulfill democratic ideals.
- A substantive theorist would not recognize a decision that violated those ideals as "democratic" even if it were made in response to majority wishes.
- Substantive democracy is a form of democracy in which the outcome of elections is representative of the people
- substantive democracy is a form of democracy that functions in the interest of the governed.
- Though a country may allow all citizens of age to vote; this characteristic does not necessarily qualify it as a substantive democracy. This type of democracy can also be referred to as a functional democracy.

Procedural Views of Democracy

- The procedural view stresses the form and process of government, or how the government governs. Procedural democracy emphasizes the principles of universal participation, political equality, and majority rule.
- The procedural view of democracy also insists on the principle of responsiveness, that the government should follow the general thrust of public opinion.
- the procedural view of democracy sets forth principles that describe how government should make decisions and address three distinct questions:
 - Who should participate in decision-making?
 - How much should each participant's vote count?
 - How many votes are needed to reach decisions?

- This type of democracy is characterized by voters choosing to elect representatives in free elections.
- Procedural democracy assumes that the electoral process is at the core of the authority placed in elected officials and ensures that all procedures of elections are properly complied with.
- It could be described as a democracy in which only the basic structures and institutions are in place.
- Commonly, the previously elected representatives use electoral procedures to maintain themselves in power against the common wish of the people, thus awkward the establishment of a full-fledged democracy

Actors in the Democratization Process

- Modern democracy has procreated the system of political parties, organized interest groups and an independent media as indispensable factor for its operation among others.
- The fact behind is that the representative system arrange the mobilization of political participation by enjoying upon the members of politically active people to take the mass, as much as possible in confidence either for the sake of demonstrating their faith or to justify the very legitimacy of their leadership and authority.
- Building up of democracy is not an overnight program; as process it needs not only time but different actors must also involve to build democracy and democratic culture. The following are the major actors.

1. Political Parties

- In a political regime characterized by representative democracy, political parties are vectors of democracy. They are essential to the functioning and durability of democracy since they are not only the instruments through which power is attained by means of free, fair and transparent elections but also the setting for working out practical ideas and proposals which may constitute alternative programs to the government.
- They also constitute the means through which individuals may influence public affairs, express their discontent or support governmental action.
- Open competition between political parties in the framework of elections is one of the indispensable characteristics of representative democracies.

- Open competitions between parties contend for the management of a country's affairs is a socially and politically divisive factor and the stakes are generally high for those involved in this competition.
- It is important and this is one of the conditions for democracy's survival. Party Systems Party systems refer to the number of parties and pattern of relationships among the parties within a nation.
- Taking into account the number of dominant or existing political parties within a state, party systems are classified in to four major categories.
 - a. One Party System
 - b. Two Party System
 - c. Dominant (One) Party System
 - d. Multi Party System

One Party System

- One party system is, most of the time, ideological in its outlook and authoritarian in its structure.
- In this system, it is usually not allowed for other parties to exist and function.
- As such, the party and its ideology are the main determinants of governmental policy, style, and the very existence of the media and interest groups and the like.
- In this case, the party requires that important government officials are members of the party or of satellite groups and expects their behavior to conform to the policies and ideology of the state or the ruling party.

Two Party System

- Two party systems are characterized by a regular alternation in office between two major dominant parties.
- In two party systems, although minor parties exist, two major parties dominate government power.
- It is argued that the system provides the people with a choice of policies and leaders while at the same time guaranteeing governmental stability.
- The devices of the electoral arrangement in such a system assure a majority for one party or the other, thus enabling that one will have the power to carry out its election promises.
- United States of America and Britain are examples of this system.

Dominant (One) Party System

- Dominant party system is competitive in the sense that a number of parties compete for power in regular popular elections, but is dominated by a single major party that consequently enjoys prolonged periods in power.
- Dominant party system is characterized by weak and ineffective oppositions

Multi Party System

- Multiparty systems are systems in which we have at least three or more major parties.
- In multiparty system, one party rarely wins enough seats in the legislature to form government.
- several parties combine forces to obtain a majority and form a coalition government to direct the nation's affairs.
- Coalition government established by multiple party systems is often fragile and unstable. Example: Israel.

Interest Groups

- Interest groups are associations on the basis of the free will of individuals.
- Consistent with the freedom of association granted to citizens in democracies, democratic states are characterized by the emergence and operation of several kinds of interest groups.
- Interest groups are organizations or groups of people, which are autonomous from government or political parties, with the objective of influencing government.
- In democracies we find several interest groups who are attempting to promote and influence the policies of government.
- interest groups are regarded as essential transmission belts between people and government.

Public Opinion

- Public opinion is made up with citizens or specific groups that reflect on their community and express their criticisms, their proposals or their agreement to influence the construction of political will.
- It is not possible to talk about only one, but of several public opinions because in a plural society, there are always several stands.
- Public opinion is then a tool to control the politicians that lead the country.
- On the one hand, this is important for the opposition as the latter is only potentially active in front of the government through this public opinion.

Mass Media

- The mass media refers institution and to the methods of communication which can reach large number of people at the same time.
- It includes newspapers, television, radio, books, posters, magazines, and cinema etc.
- Media plays a role in the political training of citizens and democratic culture by informing them of the scope of public policies, the management and conduct of affairs by those responsible at both the State and grass-roots level, by providing and offering the members of the community the means of communicating with each other.
- if the media is to perform those functions, it must be free and independent; it must have sufficient material and human resources to deal with all the important problems of society.
- The importance of the mass media in a country is not dependent on the number of newspapers or private radio and television stations but on the quality of the information provided to the public.

Principles and Values of Democracy

- Whether a given political system is democratic or undemocratic it could be measured in terms of the major principles of democracy and their practice.
- the mere inclusion of the major democratic principles in a constitution does not necessarily make a given government or state democratic, It is the level of implementation or practice of these principles that makes a government democratic or undemocratic.
- There are a number of principles and values of democracy. Some of them are the following:

1. Popular Sovereignty
2. Free, Fair and Periodic Election
3. Majority Rule and Minority Rights
4. Multi-party System
5. Human and Democratic Rights
6. The Rule of Law
7. Equality Before the Law
8. Accountability and Transparency

Human Rights

Human rights

- Human rights are those basic freedoms and rights that belong to every individual or people purely by virtue of their being human beings.
- To be free from fear, deprivation and to have the opportunity to achieve all that we deserve and are capable of is a basic human aspiration.
- human rights constitute sometimes called natural rights.
- Human rights can also be defined as those basic standards without which people cannot live in dignity as human beings.
- Human rights are the foundation of freedom, justice and peace, the existence of which allows the individual and the community to fully develop.
- Human rights are **universal, inalienable, and indivisible and interrelated.**

- Human rights are **universal** that shall be enjoyed by all human beings regardless of their sex, age, race, class, language, national origin, or political beliefs.
- We are all born free and equal, in dignity and rights.
- Human rights are also called **universal** because their core ideas are common to all major religions, faiths, moral codes and cross-national and cultural boundaries.
- Another reason for their being universal is that they belong not only to individuals but also to communities. For example, a community of tribal people has the right to speak its own language and preserve its way of life, provided these do not violate the human rights of their individuals or groups.
- Human rights are **inalienable** that cannot be taken away; no one has the right to legitimately deprive another person of these rights for any reason

- People have human rights even when the laws of their countries do not recognize them, or when they violate them. For example, when slavery was practiced, slaves still had human rights even though these rights were being violated.
- Human rights are **indivisible & interrelated**. This means that all the rights together form a set that cannot be divided into smaller groups of rights.
- To live in dignity, all human beings are entailed to freedom, security and decent standards of living concurrently. Though they are called by different names and sometimes separated into different categories, every right depends on another for its fulfillment.
- No right can really be put into practice without other rights.
- For example, the right to education is classified as a social right but it would not be possible for all people to get that right if there was no right to equality, or if there was no court to uphold that right.

Categories of Human Rights

- Though human rights are indivisible and interrelated, they are often put into different categories for better understanding of the characteristics and significance of each right in relation with others.
- There are various classifications of human rights; but commonly human rights are classified into three broad categories:

Civil and Political Rights (first generation rights, also called liberty rights):-

- these are liberty – oriented rights that include; the rights to life, liberty and security of the individual; freedom from torture and slavery; political participation; freedom of opinion, expression, thought, conscience and religion; freedom of association and assembly.

Economic and Social Rights (second generation rights, also called equality rights)

- these are security –oriented rights that concern the production, development, and management of material for the necessities of life.
- Rights that give people social and economic security include the rights to work, education, a reasonable standard of living, food, shelter and health care.

Environmental, Cultural and Developmental Rights (third generation rights)

- these include the right to live in an environment that is clean and protected from destruction, and rights to cultural, political and economic development.
- These rights are sometimes also called solidarity or development rights, as they focus on peace, more equitable socio-economic order, solidarity and a sustainable environment.

History of human rights

- The basis of human rights: - such as respect for human life and human dignity- is a value as old as humanity that can be found in most religions and philosophies.
- The concept of human rights, which is an ethical concept, has developed throughout history as a result of negative conditions that befell the humanity, such as the World War II.
- The emergence of this concept as an ethical value, which embodies human dignity, can be traced in history of all world religions, as the basis, which guides human relations among individuals, communities and groups.

- This value is developed because it is related to fundamental human needs.
- the development of human rights has its roots in the human needs and struggle for freedom and equality everywhere in the world.
- The belief that everyone, by virtue of her or his humanity, is entitled to certain rights and freedoms is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures.
- Throughout much of history, people acquired rights and responsibilities through their membership in a group – a family, nation, religion, class, community, or state.
- Though human rights were codified in the twentieth century, human rights values are rooted in religious teachings, traditional values, and wisdom literature of most cultures. Most societies have traditions, whether in oral or written, that address questions of people's duties, rights and

- For example, the Bible, the Koran, the Hindu Vedas, the Babylonian code of Hammurabi, and the Analects of Confucius are five of the oldest written sources, which served as sources of standards of proper behavior (morally and socially acceptable), as systems of justice and ways of ensuring the health and well-being of their societies.
- Many charters and bills asserting individual rights had also been enacted long before the twentieth century.
- Some example of such written documents (precursors to today's human rights documents) is the Charter of Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791).
- The contemporary idea of human rights, however, emerged stronger after and necessitated by the horrible experiences of World War II.

- The extermination by Nazi Germany of over six million Jews, Sinti and Romani (Gypsies), homosexuals and persons with disabilities horrified the world.
- After the war, trials of Nazi officials from the defeated countries were held in Nuremberg and Tokyo, which resulted in their punishment for committing war crimes, crimes against peace and crimes against humanity.
- Subsequently, governments committed themselves to establishing the United Nations, with the primary goal of promoting international peace and preventing conflict.
- There was a common desire then to ensure that never again would anyone be unjustly denied life, freedom, food, shelter and nationality.
- The global call for human rights standards to protect citizens from abuses by their governments, standards against which nations could be held accountable for the treatment of those living within their borders eventually led to the emergence of the United Nations Charter.

- Adopted by 50 of the 51 original member countries on 26 June 1945 and entered in to force on 24 October 1945 in San Francisco (U.S.A), the United Nations Charter is an initial document that forms and establishes the international organization called the United Nations, and setting forth its goals, functions and responsibilities.
- The charter states that one of the aims of the UN is to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

- the UN commission on Human Rights was established and charged with creating an International Bill of Human Rights.
- The international bill of human rights consists of:
 - the Universal Declaration of Human Rights (UDHR),
 - The International Covenant on Civil and Political Rights (ICCPR), and
 - the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The Universal Declaration of Human Rights

- The (UDHR) was adopted by the General Assembly of the United Nations, which consisted of 56 member countries including Ethiopia, on December 10, 1948.
- The UDHR, the first international human rights instrument, serves to define the basic human rights and freedoms to which all individuals are entitled.
- It is the most widely accepted statement of human rights in the world, a statement of principles to base a new world order so that all the death, destruction and sufferings that took place in the two world wars would never happen again.

- The core idea of the UDHR is the inherent value of every human being.
- The UDHR sets out a list of basic rights for everyone in the world whatever is his/her race, color, sex, language, religion, political or other opinion, national or social origin, class or other status.
- It states that governments have promised to uphold certain rights, not only for their own citizens, but also for people in other countries. In other words, national borders are not barriers to help others achieve their rights.

The International Covenant on Civil and Political Rights

- (ICCPR) reiterates some of the rights specified in the UDHR.
- It articulates the specific, liberty-oriented rights that a state may not take from its citizens, such as freedom of expression, freedom of religion, freedom of movement, and the rights to life and liberty.
- These include the rights to self-determination, being free from discrimination, equality of men and women in the enjoyment of civil and political rights, and the rights to equality before the law.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

- addresses those provisions in the UDHR that define an individual's rights to basic necessities, such as food, housing, education and health care, which a state should provide for its citizens in so far as it is able.
- the inherent dignity of the human person, equal and inalienable rights of all members of the human family being the foundation of freedom, justice and peace in the world, the right to self-determination, the right to use and dispose of natural wealth and resources, men and women being equally entitled to the enjoyment of all economic, social and cultural rights

Subsequent Human Rights Documents

- In addition to the covenants in the international Bill of Human rights, the United Nations has adopted more than 20 principal treaties further elaborating human rights.
- These include conventions to prevent and prohibit specific abuses like torture and genocide and to protect especially vulnerable populations, such as
 - Convention Relating to the Status of Refugees 1951,
 - Convention on the Elimination of All Forms of Discrimination Against Women 1979, and
 - Convention on the Rights of the Child 1989.

- In Europe, Americas, and Africa, regional documents for the protection and promotion of human rights extend the international Bill of Human Rights.
 - the African Charter on Human and People's Rights (1981)
 - the Cairo Declaration on Human Rights (1990).
- The dramatic changes in Eastern Europe, Africa, and Latin America since 1989 have powerfully demonstrated a surge in demand for respect of human rights.

The African Charter on Human and Peoples' Rights

- The African charter on Human and Peoples' Rights contains most of the rights in the UDHR, and ICCPR.
- It also includes the rights to equality of all peoples and the duties of individuals, such as respect for the family and individuals, protecting the family and the country.
- Almost all of the rights provided in the UDHR are also enumerated in constitutions of many African countries, such as Ethiopia, South Africa, and Uganda.
- Despite the ratification of most international and regional treaties, the state of human rights protection is bad in most African countries.

- The rights to property, the right to speedy and fair trial, the right to privacy, the right to free expression, the right to work, the right to education and health services are often violated.
- Some prisoners are tortured or ill treated; discrimination and domestic violence also prevail.
- The major causes for the violation of rights and abuses include:- poverty, bad governance, monopoly of power by certain groups, ethnic and religious diversity and misunderstandings, ignorance of rights and responsibilities, corruption, and mal-distribution of resources (political and administrative positions, land, money).
- Some of the conditions often considered as constituting violation of human rights by the African states are the following:-

1. Failing to take steps stated in the constitution and in international and regional instruments.
2. Failing to remove obstacles to the fulfillment of rights.
3. Willfully failing to meet generally accepted international minimum standards for the treatment of people.
4. Applying limitations to the rights recognized in various human rights documents.
5. Deliberately retarding or halting the progressive realization of the rights.
6. The government itself committing various violations of rights.
7. Failing to protect the right of others from violation by community members, organizations, employers or others

- The task of promoting and protecting human rights and thereby preventing human rights violations in Africa, like anywhere else, is a formidable challenge.
- education is considered as the basic and crucial tool for the promotion and protection of human rights and fundamental freedoms.
- education must be directed toward the strengthening of the respect for human rights, the full development of human personality and the sense of its dignity, the promotion of understanding; tolerance, gender equality, and friendship among all nations, indigenous people, racial, ethnic, and religious groups .

Universality/Relativity of Human Rights

- Some debates exist regarding the universality or relativity of the international human rights standards and the instruments ratified by most countries of the world.
- With the growing concerns for human rights in the international community and the development of international law in the field, many people have regarded that human rights are universal in nature and the same for all people regardless of their race, language, culture or country of origin.
- in recent decades especially among the Asian countries such as China and Singapore, it has been argued that human rights are relative rather than universal, and that the traditional concept of human rights which places emphasis on political and civil rights must be adapted to such emerging concepts as the right to development.

- These scholars argue that the human rights standards are based on western (American and European) cultures, rather than on universal values, and thus are not fully applicable to countries in other continents, such as Africa and Asia.
- The controversy over the universality and relativity of human rights seems to have developed into a contention between the West and the East.
- While many Western nations support the former notion, many Asian countries argue for the latter. However, neither of the two arguments seems flawless and/or pointless.

The Universality of Human Rights

- Arguments for and by proponents of the universality of human rights are mainly based on at least one major premise; that human rights are inherent in human beings and human values, and therefore are universal in nature.
- Accordingly, the concept of human rights is made up of various intrinsic human values that are interrelated and interdependent. These values need to be looked at in a holistic manner so as to have a complete understanding of their meaning and their intended end result—the well-being of human society.
- A large number of advocates of human rights regard economic equity, quality of opportunity, democratic participation, and freedom of person, sustaining and sustainable environment, responsibility and accountability as forming the central values of human rights.

- Human rights are in principle based on the philosophy of humanism.
- Humanism is a broad category of ethical philosophy that affirms the dignity and worth of all people, based on the ability to determine right and wrong by appeal to universal human qualities- particularly rationality or the ability to reasoning.
- Humanism entails a commitment to the search for truth and morality through human means in support of human interests and rights.
- Humanists endorse universal morality based on the commonality of the human condition, suggesting that solutions to human social and cultural problems cannot be localized or limited to a certain country or people

The Relativity of Human Rights

- Proponents of the relativity theory of human rights argue that from the empirical study of human history, as well as the contemporary world, human rights are relative as they are not held and guaranteed in all places and at all times.
- It was argued that human rights are relative because human beings are constrained within limit of their own existence, which could be in terms of culture, religion, economy, ethnicity, class and so on.
- These values must be respected and it is not permissible to impose universal values upon them.
- The core human values will be universal in nature but their development into practical principles for guidance of individual and collective life would necessarily be culture specific.

- Though the theoretical conflicts between a universal and relativist approach to human rights remain unresolved, the former has become codified in international agreements, and seems to have won wider support.
- The latest consensus among the UN member states on the universality of human rights values, within the context of cultural diversity, was expressed in the 1993 Vienna Declaration on Human rights.
- Article 5 of the Declaration states all human rights are universal, indivisible, interdependent, and interrelated.

- The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis.
- While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems.

THANK YOU !