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## Chapter One: Understanding Civics and Ethics

### Defining Civics, Ethics, Morality

#### Civic Education

- human beings have to respect certain fundamental **principles** and **values** to live together
- **Johan Stuart Mill**: progressive and peaceful setting subsists in a given society as far as that society develops the **qualities** of its members and generates **good citizens**
- **Aristotle**: citizens of a State should always be **educated** to **suit** the **constitution** of a State
- different **terms used** to describe the educational experiences that deal with the task of developing democratic minded citizens
  - **Right Education** - in **South Africa**
  - **Citizenship Education** - in **USA and Germany**
  - **Citizenship and Character Education** - in **Singapore**
  - **Civics and Ethical Education** - in **Ethiopia**
- most cited **definition** of civic education
  - ✓ an education that studies about the **rights and responsibilities of citizens** of a politically organized group of people
  - ✓ the **knowledge, means, and activities** designed to encourage students to participate actively in democratic

life, accepting and exercising their rights and responsibilities.

- maximal and a minimal civic education

- 1) minimal concept of civic education

- ✓ content-led
- ✓ teacher-based
- ✓ whole-class teaching
- ✓ examination-based assessment

- 2) maximal concept of civic education

- ✓ comprised of knowledge, values and skills
- ✓ prepare students for active, responsible participation
- ✓ extends learning beyond the curriculum and classroom
- ✓ highly dependent on interactive teaching, which requires discussion, debate

### Definition and Nature of Ethics and Morality

- ethics is used interchangeably with morals precise usage would apply
  - term's morals and moral - to the conduct itself
  - terms ethics and ethical - refer to the study of moral conduct
- morality is related to praxis, but ethics is related to theory

➤ Ethics:

- branch of philosophy
- explores the meaning and the ranking of different ethical values: honesty, autonomy
- establish the standards, norms, or codes to be followed by human beings
- set of normative rules of conduct

- may share common ground with: law, religious belief, popular opinion, professional codes BUT broader than all of these and offers a set of tools and values against which their appropriateness can be evaluated
- Ethical questions are not concerned with what one would do (an essentially psychological concern) but what one ought to do
- specific set of principles, values and guidelines for a particular group or organization
- usually associated with a certain conduct within a profession
- critical examination and evaluation of what is good, evil, right and wrong in human conduct
- Judgments about such decisions are generally expressed with words like
  - ✓ right and wrong
  - ✓ should and ought
  - ✓ obligation and duty
- ethics as divided into two fields; normative ethics and non-normative ethics

➤ morality:

- dictionary definition: Latin “moralitas” - manner, character, proper behavior
- the degree to which an action conforms to a standard or norm of human conduct
- code of conduct one follows accepted in a society, or within a subgroup of society
- more general term: character of individuals and community

- it becomes **ambiguous** when defined by different ethnic groups, especially in the **multicultural society**
- **Morality** is, **at the very least**, the **effort to guide one's conduct by reason** to do what there are the **best reasons for doing** while giving equal weight to the **interest of each individual who will be affected by one's conduct**

## Ethics and Law

### ➤ Laws

- norms, formally **approved** by **state**, power or national or international political bodies
- **to promote well-being, resolve conflicts** of interest, and promote social harmony
- **reasons why ethics is not law:**
  - 1) **some actions that are illegal may not be unethical.**
    - ✓ E.g ethical obligation to break the speed limit in order to transport someone to a hospital
  - 2) **some actions that are unethical may not be illegal**
    - ✓ E.g lying is unethical but lying is only illegal under certain conditions
  - 3) **laws can be unethical or immoral**
    - ✓ E.g United States had laws permitting slavery in the 1800s
  - 4) **we use the coercive power of government to enforce laws** like imprisoned, BUT not for who violate ethical or moral standards

## Importance/Goal of Moral and Civic Education

- make **individuals responsible** and **efficient** member of their community
- teaches the values and sense of commitment that define an **active and principled citizen**
- producing **self-confident citizens** who decides on issues based on reason
- creating a generation who has the **capability to shoulder family and national responsibility**
- Generally, the **necessity of delivering the course emanates from:**

### 1) The need to instill citizens about their rights and duties

- ✓ **rights and duties co-exist**
- ✓ what the ideal society needs and wants to be cannot be secured by coercion, but only through its members (citizens) who have a **balanced understanding of rights and duties**
- ✓ **four issues to look into the interplay between rights and duties:**
  - I. **one's right implies the other's duty**
  - II. **one's right implies one's duty to recognize similar rights of others**
    - every exercise of right is subject to restrictions. E.g one has the freedom of speech and expression, but in no way affects the rights of others.
  - III. **one should exercise his rights for the promotion of social good**
  - IV. **the State being a nucleus organ needs to take care of the social and legal interests of all its individuals.**

- State has the obligation to discharge duties towards its citizens
- As the State guarantees and protects the rights of everybody, one has a duty to support the State in its legal endeavors
- there must be a balance between citizenship rights and obligations

## 2) The Need for Participant Political Culture

- ✓ Generally, political culture defines the roles which an individual may play in the political process
- ✓ three political cultures:
  - I. parochial cultures
    - citizens have low cognitive, affective, and evaluative orientation regarding the political systems
    - role of citizens in the political sphere of their countries is insignificant
  - II. subject cultures
    - high cognitive, affective, and evaluative orientation towards the political system and policy output
    - BUT orientations towards input objects (like political parties) and the self as active participants are minimal
    - relatively detached, passive relationship on the part of the citizen
    - most compatible with centralized, authoritarian political structures
  - III. participant cultures

- high cognitive, affective, and evaluative orientation to the political system, the input objects, the policy outputs, and
- recognize the self as an active participant in the polity
- compatible with democratic political structures
- ✓ qualities and attitudes of citizens determine the health and stability of a country's democracy
- ✓ challenges the democracy and democratization process of countries including Ethiopia
  - many citizens lack the competences and knowledge to deal with the tensions between individually and socially centered norms and obligations
  - small parts of the population support the norm that a citizen should be politically active
  - most citizens still rely on voting only
- ✓ people in a democratic country are supposed to have
  - in-depth understanding on democratic behavior and able to behave democratically
  - ability to tolerate and work together with others who are different from themselves
  - desire to participate in the political process in order to promote the public good and hold political authorities accountable

### 3) The Need for Relevant Knowledge, Skills and Positive Attitudes

- ✓ Relevant knowledge is a type of knowledge which is useful in dealing with a particular problem at a period of time
- ✓ knowledge would remain inert unless:

- it is functional or put into practice
- the person equipped with right attitudes and requisite skills
- ✓ skillful manpower is a pre-requisite for every nation that wishes to develop but a **skillful manpower without positive attitudes to work is likely to result in counter production like; corruption, bribery**
- ✓ civics and ethics can be a useful cure for the “**social ills**” often associated with young people: that is, **tendencies for anti-social behavior and political apathy** among young people, or, what describe “**youth deficit**”

#### 4) The issue of fostering intercultural societies

- ✓ subject helps **overcome discrimination** and to **nurture genuine, inclusive dialogue among cultural groups.**
- ✓ **tolerating** or celebrating each other
- ✓ nurturing dynamic exchanges based on interaction, **openness** and **effective solidarity.**
- The issue of inclusiveness
  - ✓ Civics and ethics as a subject nurture new and inclusive relations and practices in both public and private spaces that recognize gender differences while ensuring inclusiveness and equity

#### 5) The issue of peace-building

- ✓ it can make a valuable contribution to create the **subjective conditions for more peaceful situations**
- ✓ includes the **development of competencies** for **peacemaking, conflict resolution, healing, reconciliation** and **reconstruction**
- ✓ understanding of **nonviolent civil disobedience philosophies, strategies and skills**

- Moral and Civics Education is based on and seeks to promote in students core moral, ethical, democratic, and educational **values**, such as:
  - Respect for life
  - Respect for reasoning
  - **Fairness**
  - Concern for the **welfare** of others
  - Respect for **diversity**
  - **Peaceful** resolution of conflict
- citizens need to have a combination of knowledge, skills, attitudes, and values at their disposal enabling them to become an active citizen
- In sum the **goals of teaching civics** and ethics at any level of educational institutions is to **produce competent, high moral standard society** and **responsible citizens**

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## Chapter Two: Approaches to Ethics

### Introduction

- there are only three basic kinds of prescriptive moral theories: **teleological** theories, **deontological** theories & **virtue-based** theories

### 2.3. Normative Ethics

- Contain theory of obligation, theory of moral value, theory of nonmoral value
- normative theory of obligation goal is **guide** us in the making of **decisions and judgments** about actions in particular situations
- **Offers** theories or accounts of the **best way to live** by evaluate actions in a systematic way
- Includes ethical theories or approaches such as:
  - ✓ Utilitarianism
  - ✓ Deontology
  - ✓ virtue ethics
  - ✓ principlism
  - ✓ narrative ethics
  - ✓ feminist ethics

#### 2.3.1. Teleological Ethics (Consequentialist)

- referred as —the **end justifies the means**

- stress that the **consequences of an action** determines the morality or immorality of a given action
- action is judged as right or wrong, moral or immoral depending on **what happens because of it**
  - **teleological theory**
    - the basic or ultimate **criterion or standard** of what is morally right, wrong, obligatory, etc., is the **non-moral value** that is brought into being
    - an **act is right** if and only if it or the rule under which it falls produces, will probably produce, or is intended to produce at least as **great a balance of good over evil** ( comparative amount of good produced )
    - the moral quality or value of actions, persons, or traits of character, is **dependent on the comparative nonmoral value of what they bring about** or try to bring about
    - the **morally good dependent on the nonmorally good**
    - In order to know whether something is right, ought to be done, or is morally good, one must first know what is **good in the nonmoral sense** and whether the thing in question promotes or is intended to promote what is good in this sense.
    - Teleologists have often been:
      - ❖ **Hedonists** - identifying the **good with pleasure and evil with pain**, and concluding that the right course or rule of action is that which produces at least as **great a balance of pleasure over pain** as any alternative would
    - there is one and only one basic or ultimate **right-making characteristic**, namely, the **comparative value**

(nonmoral) of what is, probably will be, or is intended to be brought into being

- Teleologists differ on the question of whose good it is that one ought to try to promote:

### 1. Ethical egoism

- ✓ one is always to do what will promote his own greatest good
- ✓ an act or rule of action is right if and only if it promotes at least as great a balance of good over evil for him
- ✓ This view was held by Epicurus, Hobbes, and Nietzsche

### 2. Ethical universalism/ utilitarianism

- ✓ the ultimate end is the greatest general good
- ✓ an act or rule of action is right if and only if it is, or probably is, conducive to at least as great a balance of good over evil in the universe as a whole as any alternative would be
- ❖ utilitarians Jeremy Bentham and John Stuart Mill are hedonists, but some utilitarians are not hedonists, for example, G. E. Moore and Hastings Rashdall, and so have been called "Ideal" utilitarians
- ❖ It would also be possible, of course, to adopt teleological theories intermediate between ethical egoism and utilitarianism
- ❖ pure ethical altruist might even contend that the right act or rule is the one that most promotes the good of other people

### ➤ Deontological theories

- deny what teleological theories affirm
- principle of maximizing the balance of good over evil, no matter for whom, is either not a moral criterion or standard at all, or, at least, it is not the only basic or ultimate one
- assert that there are other considerations that may make an action or rule right or obligatory besides the goodness or badness of its consequences -- certain features of the act itself other than the value it brings into existence
- example: the fact that it keeps a promise, is just, or is commanded by God or by the state

## 2.3.2. Egoism: Ethical and psychological Egoism

### 1) Ethical Egoism

- focus on the consequences of actions because believe that those consequences justify actions
- Although theory is indeed Consequentialist, it does not qualify as utilitarian, because it doesn't have the common good as its ultimate end
- It is a normative theory about how we ought to behave that advocates egoism as a moral rule
- The theory implies that we ought to be
  - ✓ Selfish
  - ✓ self-interested
- Example, case: Good Samaritan stopped to help a man whose car had broken down on the freeway. The man shot and killed the Samaritan, stole his car.

- Although most people would admire the Good Samaritan for what he did the ethical egoist would say that, the Samaritan did the wrong thing
- For ethical egoism there is **only one rule. Look after yourself**
- Ethical egoist insisted that if you don't **take advantage of a situation**, you are foolish
- It **twisted version of the Golden Rule** (Do un to others as you would have them do unto you).
  - ✓ It is rewriting of the Golden Rule, because, obviously, it is not always the case that you will get the same treatment from other that you give to them
  - ✓ The **Golden Rule usually emphasizes others, but for the ethical egoist it emphasizes the self**
- **argument** for ethical egoism **follows immediately from the theory of psychological egoism**: If I am psychologically programmed to act only in my own best interest, then I can never be obligated to perform altruistic
  1. **We all always seek to maximize our own self-interest** (definition of psychological egoism)
  2. **If one cannot do an act, one has no obligation to do that act**
  3. **Altruistic acts involve putting other people's interests ahead of our own** (definition of altruism)
  4. **But, altruism contradicts psychological egoism and so is impossible** (by premises 1 and 3)
  5. **Therefore, altruistic acts are never morally obligatory** (by premises 2 and 4)

- suggests that other people's interests are of no importance
  - ✓ from the moral point of view, only one's own welfare counts, and others' does not

### Notice

- Ethical egoism does not forbid one to help others, or require one to harm others/ deliberately neglect their interests
  - If you might advance your own interests by helping others, then by all means help others but only if you are the main beneficiary
- Ethical egoism does not say that one ought always to do what is most pleasurable, or enjoyable
  - It suggests that one should do what will be of long term benefit to one self like exercising, eating healthy food
  - It acknowledges that one's own self-interest may occasionally require pain or sacrifice

## 2) Psychological Egoism

- The main argument that has been used as a basis for ethical egoism is a psychological one, an argument from human nature.
- ethical egoism has generally presupposed what is called psychological egoism -- that each of us is always seeking his own greatest good - whether this is conceived of as pleasure, happiness, knowledge, power, self-realization, or a mixed life

- one always seeks one's own advantage or welfare, or always does what he thinks will give him the greatest balance of good over evil
- "self-love" is the only basic "principle" in human nature
- "ego-satisfaction" is the final aim of all activity or that "the pleasure principle" is the basic "drive" in every individual
  - ❖ we must recognize this fact in our moral theory and infer that our basic ethical principle must be that of self-love

### Notice

- ✓ one cannot logically infer an ethical conclusion from a psychological premise
- ✓ if human nature is as described, it is simply unrealistic and even unreasonable to propose that we ought basically to do anything but what is for our own greatest good
- ✓ psychological argument for ethical egoism is at least reasonable, even if it is not logically compelling

### 2.3.3. Utilitarianism: Producing the best consequences

- That action is best, which procures the greatest happiness for the greatest numbers
- Unlike ethical egoism, utilitarianism is a universal teleological system.
- It calls for the maximization of goodness in society—that is, the greatest goodness for the greatest number—and not merely the good of the agent

Note this points:

- ✓ A more promising strategy for solving dilemmas is that of definite moral rules.
- ✓ Principles are important in life
  - Example: if you act on the principle of keeping promises, then you adhered to a type of moral theory called deontology
- ✓ In consequentialist ethics the **center of value is the outcome or consequences of the act**
  - Example: example, a Teleologists would judge whether lying was morally right or wrong by the consequences it produced

## Utilitarianism Types

### Classic Utilitarianism

- In our normal lives we use utilitarian reasoning all the time
- seeds of utilitarianism were sewn by the ancient Greek philosopher **Epicurus**:
  - ✓ he stated that “**pleasure is the goal that nature has ordained for us**; it is also the standard by which we judge everything good.”
  - ✓ his theory focused largely on the **individual’s personal experience of pleasure and pain**
  - ✓ he advocated a **version of ethical egoism**
- Nevertheless, Epicurus inspired a series of eighteenth-century philosophers who emphasized the notion of general happiness—that is, the pleasing consequences of actions that impact others and not just the individual
- classical expressions of utilitarianism, though, appear in the writings of two English philosophers and social reformers:
  - Jeremy Bentham
  - John Stuart Mill

## Jeremy Bentham: Quantity over Quality

- main features of utilitarianism, both of which Bentham articulated:
  - The **consequentialist principle** (or its **teleological** aspect):
    - ✓ rightness or wrongness of an act is determined by the goodness or badness of the results that flow from it
    - ✓ the **end counts**
    - ✓ end justifies the means
  - The **utility principle** (or its **hedonic** aspect)
    - ✓ the only thing that is good in itself is some specific type of state (for example, pleasure, happiness, welfare)
- **Hedonistic utilitarianism**
  - views **pleasure** as the **sole good** and **pain** as the only **evil**
  - act is right if it either brings about **more pleasure** than pain or **prevents pain**
  - an act is wrong if it either brings about **more pain** than pleasure or **prevents pleasure** from occurring
  - **hedonic calculus**:
    - ✓ scheme for **measuring pleasure and pain**
    - ✓ **quantitative score** for any pleasure or pain experience is obtained by summing the **seven aspects of a pleasurable or painful experience**, which are:
      - **intensity**
      - **duration**
      - **certainty**
      - **nearness**
      - **fruitfulness**

- purity
  - extent
- ✓ Adding up the amounts of pleasure and pain for each possible act gives **hedons** (units of happiness).
- ✓ The amount of hedons would enable us to decide which act to perform
- In Bentham's utilitarianism,
  - there is only **one principle** to apply: Maximize pleasure and minimize suffering
  - morality really is about reducing suffering and promoting benevolence
  - It is **scientific**: Simply make quantitative measurements and apply the principle impartially

### John Stuart Mill: Quality over Quantity

- Bentham's successor, John Stuart Mill, sought to distinguish happiness from mere sensual pleasure
- His version of the theory is often called **eudaimonistic utilitarianism**
  - ✓ from the Greek **eudaimonia**, meaning "happiness"
- eudaimonistic utilitarianism
  - defines **happiness in terms of**
    - certain types of higher-order pleasures or satisfactions
    - minimal suffering
  - **two types of pleasures:**
    - 1. lower, or elementary**
      - eating, drinking, sexuality, resting, and sensuous titillation
      - the lower pleasures are more **intensely gratifying**

- lead to pain when overindulged in

## 2. higher

- high culture, scientific knowledge, intellectuality, and creativity
- higher pleasures tend to be more long term, continuous, and gradual
- higher, or more refined, pleasures are superior to the lower ones: “It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied
  - The point is: the quality of the higher pleasures is better
- what is better pleasure? The formula:
  - Happiness is not a life of rapture; but moments made up of
    - ✓ few and transitory pains
    - ✓ many and various pleasures, with a decided predominance of the active over the passive
    - ✓ foundation of the whole
      - not to expect more from life than it is capable of bestowing.
- Mill is clearly pushing the boundaries of the concept of “pleasure” by emphasizing higher qualities such as
  - knowledge, intelligence, freedom, friendship, love, and health
  - In fact, his litmus test for happiness really has little to do with actual pleasure and more to do with a non-hedonic cultivated state of mind

## Act- And Rule-Utilitarianism

- two classical types of utilitarianism:

- Act-utilitarianism

- ✓ an act is right if and only if it results in as much good as any available alternative
- ✓ act-utilitarians, such as Bentham
- ✓ practical problem with act-utilitarianism
  - First: we cannot do the necessary calculations to determine which act is the correct one in each case, for often we must act spontaneously and quickly
  - Second: it seems to fly in the face of fundamental intuitions about minimally correct behavior

- Rule-utilitarianism

- ✓ An act is right if and only if it is required by a rule that is itself a member of a set of rules whose acceptance would lead to greater utility for society than any available alternative
  - ✓ Human beings are rule-following creatures
  - ✓ we don't have time to decide which action produce more utility so we need a more specific rule that passes the test of rational scrutiny
- Utilitarianism might be construed as offering a three-step action formula for action:
    1. I must project the consequences of each alternative option open to me (e.g., taking different kinds of actions or taking no action)

2. Calculate how much happiness, or balance of happiness over unhappiness, is likely to be produced by anticipated consequences of each action or none.
3. Select that action which, on balance, will produce the greatest amount of happiness for the greatest number of people affected

### The Strengths of Utilitarianism

- It has three very positive features

#### ➤ First

- it is a single principle, an absolute system with a potential answer for every situation: Do what will promote the most utility!
- have a simple, action-guiding principle that is applicable to every occasion

#### ➤ Second

- utilitarianism seems to get to the substance of morality
- Rather it has a material core: we should promote human (and possibly animal) flourishing and reduce suffering
- It has two virtues:
  - ✓ First: It gives us a clear decision procedure in arriving at our answer about what to do
  - ✓ Second: it appeals to our sense that morality is made for people and that morality is not so much about rules as

about helping people and alleviating the suffering in the world

➤ **Third**

- it is particularly **well suited to address the problem of posterity**—namely, why we should **preserve scarce natural resources for the betterment of future generations**
- utilitarians have one overriding duty: to **maximize general happiness**
- As long as the quality of life of future people promises to be positive, we have an obligation to continue human existence, to produce human beings, and to take whatever actions are necessary to ensure that their quality of life is not only positive but high

**Criticism of Utilitarianism**

standard objections to utilitarianism

**Problems with Formulating Utilitarianism**

- The first set of problems occurs in the very **formulation** of utilitarianism: “The **greatest happiness for the greatest number.**”
- Notice that we have **two “greatest” things** in this formula: “happiness” and “number.”
- Whenever we have two variables, we **invite problems of determining which of the variables to rank first** when they seem to conflict

- should we worry more about total happiness or about highest average?

### The Comparative Consequences Objection

- it seems to require a superhuman ability to look into the future and survey a mind-boggling array of consequences of actions
- we normally do not know the long-term consequences of our actions
- life is too complex and the consequences go on into the indefinite future.

### The Consistency Objection to Rule-Utilitarianism

- An often-debated question about rule-utilitarianism is whether, when pushed to its logical limits, it must either become a deontological system or transform itself into act-utilitarianism
- it is an inconsistent theory that offers no truly independent standard for making moral judgment
- Imagine that following the set of general rules of a rule-utilitarian system yields (x) hedons (positive utility units) However, We could always find a case where breaking the general rule would result in additional hedons without decreasing the sum of the whole
  - ✓ It would seem that we could always improve on any version of rule-utilitarianism by breaking the set of rules whenever we judge that by doing so we could produce even more utility than by following the set

### The No-Rest Objection

- According to utilitarianism, one should always do that act that promises to promote the most utility
- But there is usually an infinite set of possible acts to choose from
- Following utilitarianism, I should get little or no rest, and, certainly, I have no right to enjoy life when by sacrificing I can make others happier. Peter
  - ✓ For example, when I am about to go to the cinema with a friend, I should ask myself if helping the homeless in my community wouldn't promote more utility

### The Publicity Objection

- It is usually thought that moral principles must be known to all so that all may freely obey the principles
- But utilitarians usually hesitate to recommend that everyone act as a utilitarian, especially an act-utilitarian, because it takes a great deal of deliberation to work out the likely consequences of alternative courses of action
- Thus, utilitarianism seems to contradict our requirement of publicity.

### The Relativism Objection

- people accuse rule-utilitarianism of being relativistic because it seems to endorse different rules in different societies
- But this is not really conventional relativism because the rule is not made valid by the community's choosing it but by the actual situation

## Criticism of the Ends Justifying Immoral Means

- utilitarian ends might justify immoral means
- There are many dastardly things that we can do in the name of maximizing general happiness: deceit, torture, slavery, even killing off ethnic minorities
- The general problem can be laid out in this argument:
  1. If a moral theory justifies actions that we universally deem impermissible, then that moral theory must be rejected
  2. Utilitarianism justifies actions that we universally deem impermissible.
  3. Therefore, utilitarianism must be rejected

## The Lying Objection

- William D. Ross has argued that utilitarianism is to be rejected because it leads to the counterintuitive endorsement of lying when it serves the greater good
- If it turned out that lying really promoted human welfare, we'd have to accept it. But that's not likely. Our happiness is tied up with a need for reliable information (that is, truth)

## The Justice Objection

- Utilitarian suggest that we should reconsider whether truth telling and personal integrity are values that should never be compromised
- The situation is intensified, though, when we consider standards of justice that most of us think should never be dispensed with

- ✓ imagine that you are a utilitarian physician who has five patients under your care. All need different kind of organ transplant.
  - Through a utility-calculus, you determine that, without a doubt, you could do the most good by using a healthy man organs to save your five other patients.
- ✓ This **careless views of justice** offend us
- The very fact that utilitarians even consider such actions— that they would **misuse the legal system** or the medical system to carry out their schemes—seems frightening
- **Justice is just one more lower-order principle within utilitarianism.**
- Judgment calls like these highlight utilitarianism's difficulty in handling issues of justice

## Generally

- utilitarianism is a moral theory which takes into account how the consequences of an act will affect all the parties involved
- The **fundamental principle of utilitarianism is the principle of utility**
  - ✓ morally right action is the one that produces the best overall consequences with regard to the utility or welfare of all the affected parties.
  - ✓ Jeremy Bentham's: right act or policy is the one that causes 'the greatest happiness of the greatest

number' – that is, maximize the total utility or welfare of the majority of all the affected parties

## Altruism

- In altruism an action is right if the **consequences of that action are favorable to all except the actor**
- psychological altruism:
  - we have an **inherent psychological capacity to show benevolence to others**
  - Psychological altruism holds that all human action is necessarily other centered and other motivated
- Altruists are people who:
  - ✓ act so as to increase **other people's pleasure**
  - ✓ They will act for the sake of someone else **even if it decreases their own pleasure and causes themselves pain**
- differentiate egoistic and altruistic desires
  - One's desire is egoistic if (and only if) it concerns (what one perceives to be) the **benefit of oneself and not anyone else**
  - one's desire is altruistic if (and only if) it concerns (what one perceives to be) the **benefit of at least someone other than oneself**
- Altruists reject the theory of psychological egoism and argue instead that humans are instinctively benevolent.
  - ✓ instinctive benevolence is the feature of our human nature which is the basis of our altruistic moral obligations

### 2.3.4. Deontological Ethics (Non- Consequentialist)

- rightness or wrongness of moral action is determined, at least partly with **reference to formal rules of conduct** rather than consequences or result of an action
- It is referred as “**the means justifies the end**”
- In many respects, deontological moral theory is diametrically the **opposite of utilitarianism**
  - ✓ It is a **duty based** and according to this theory, the **consequences or results of our action have nothing to do with their rightness or wrongness**
- It is coined as “**deontics**”
- It emphasis on the **intentions, motives, moral principles** or performance of duty rather than results
- German philosopher **Samuel Pufendorf**, classified **dozens of duties** under three headings:
  1. Concerning our **duties towards God**
    - there are two kinds:
      - I. a **theoretical duty** to **know** the existence and nature of God
      - II. a **practical duty** to both inwardly and outwardly **worship** God.
  2. Concerning our **duties towards oneself**
    - There are two sorts:
      - i. **duties of the soul**, which involve **developing one's skills and talents**
      - ii. **duties of the body**, which involve **not harming our bodies**
  3. Concerning our **duties towards others**

### a. Absolute duties

- absolute duties, which are **universally binding** on people
- three sort
  - avoid wronging others
  - treat people as equals
  - promote the good of others

### b. Conditional duties

- involve various types of agreements
- the principal one of which is the duty is to **keep one's promises**

## The Divine Command Theory

- **ethical principles:**
  - ✓ are simply the **commands of God**
  - ✓ derive their **validity from God's** commanding them
- Without God, there would be no universally valid morality
- analyze the DCT into three separate theses:
  1. **Morality originates with God**
  2. **Moral rightness** simply means “**willed by God,**” and **moral wrongness** means “**being against the will of God.**”
  3. Because morality essentially is based on divine will, not on independently existing reasons for action, **no further reasons for action are necessary**
- four propositions:
  1. Act A is wrong if and only if it is contrary to the command of God

2. Act A is right (required) if and only if it is commanded by God
  3. Act A is morally permissible if and only if it is permitted by the command of God
  4. If there is no God, then nothing is ethically wrong, required, or permitted
- an act is right in virtue of being permitted by the will of God, and an act is wrong in virtue of being against the will of God

## Rights Theory

- Most generally, a "right" is a justified claim against another person's behavior
- **Correlativity** of rights and duties: Rights and duties are related in such a way that the rights of one person imply the duties of another person.
- **John Locke:**
  - ✓ argued that the laws of nature mandate that we should not harm anyone's life, health, liberty or possessions
- **Thomas Jefferson:**
  - ✓ United States Declaration of Independence authored by Thomas Jefferson recognizes three foundational rights
    - Life
    - Liberty
    - pursuit of happiness
  - ✓ Jefferson and others rights theorists maintained that we deduce other more specific rights from

these, including the rights of property, movement, speech, and religious expression

- four features traditionally associated with moral rights

❖ Rights are

1. **Natural** - not invented or created by governments
2. **Universal** - do not change from country to country.
3. **Equal** - rights are the same for all people, irrespective of gender, race, or handicap.
4. **Inalienable** - one cannot hand over his/her rights to another person

## Kant's Categorical Imperative

### Recall deontology

- ✓ **Not consequences** which determine the rightness or wrongness of an act, but, rather, the **intention** of the person who carries out the act
- ✓ The **emphasis is on the correctness of the action**, regardless of the possible benefits or harm it might produce
- ✓ There are **some moral obligations** which are **absolutely binding, no matter what consequences are produced**

### The Categorical Imperative

- Kant's **duty-based theory** is emphasizes a single principle of duty
- There is a more **foundational principle of duty** that encompasses our particular duties. It is a **single, self-evident principle of reason** that he calls the "**categorical imperative**"
  - ✓ different from **hypothetical imperatives** that hinge on some **personal desire** that we have
  - ✓ which means best achieve our ends

- For example, “If you want to get a good job, then you ought to go to college.”
  - ✓ categorical imperative simply **mandates an action, irrespective of one’s personal desires**, such as “You ought to do X.”
- Kant emphasizes the idea of **good intention**
  - **nothing was good in itself except a “good will”**
  - Intelligence, judgment and all other facets of the human personality are perhaps good and desirable, but only if the will that makes use of them is good
  - **Will** - the uniquely human capacity to **act according to the concepts behind laws**, that is, principles presumably operating in nature
- Kant a **will could be good without qualification** only if it always had in view one principle:
  - ❖ **whether the maxim of its action could become a universal law**
- there was **just one command or imperative** that was **categorical**, that is, one that presented an action as necessary of itself, without regard to any other end
- **Kant’s categorical imperative states that we should act in such a way that the maxim or general rule governing our action could be a universal law**
  - ✓ Kant thought that when a moral action is being considered, one should ask the following questions;
    - ❖ what would happen if everyone in the world did this, all the time? And would that be the kind of world I’d like to live in?
- Kant gives at least three versions or formulations of the categorical imperative

- ✓ His categorical imperative is based on the idea that there are certain objective ethical rules in the world
- ✓ **Kant's version** is possibly the most well-known, and relies heavily on his idea that all people are fundamentally capable of reasoning in the same manner and on the same level
- ✓ **Kantianism** focuses more on intent **and action in itself**, as opposed to the consequentialist focus of utilitarianism
- person cannot decide whether conduct is "right," or moral, through **empirical means**. Such judgments must be reached a priori, using **pure practical reason**
  - ✓ Moral questions are determined independent of reference to the particular subject posing them
  - ✓ Kant's theory is hinged by his beliefs on **autonomy** and his formulation of **categorical imperatives**. He believed that, unless a person freely and willingly makes a choice, their action has no meaning (and certainly no moral value)
  - ✓ **Autonomy** - one's own beliefs, independence, and government: acting without regard for anyone else
  - ✓ **Heteronomy** - acting under the influence of someone else
- Kant believed that each individual is rational and capable of making free choices; thereby relies on autonomous thinking
- Kant thought that **every man, if using reason** when looking at moral dilemmas, **would agree with what he called the Categorical Imperative**
- moral proposition that is true must be one that is **not tied to any particular conditions**, including the identity of the person making the moral deliberation/ The **Intent behind the action matter**

## formulation of the categorical imperative:

### 1. The Principle of Universality

- "Act only according to **that maxim** whereby you can at the same time will that it **should become a universal law without contradiction**"
- Kant divides the duties imposed by this formulation into two subsets
  - **Perfect duties**
    - ✓ blameworthy if not met and are the basic requirements for a human being
    - ✓ **not to act by maxims that result in logical contradictions when we attempt to universalize them.**
    - ✓ Example: moral proposition: "**It is permissible to steal**" **would result in a contradiction** upon universalization
    - ✓ **Example of perfect duty** is the avoidance of suicide
  - **Imperfect duties**
    - ✓ do not achieve blame, rather they **receive praise if completed**
    - ✓ they are **circumstantial duties**
    - ✓ Example: cultivating talent
    - ✓ is not as strong as a perfect duty, but it is still morally binding
    - ✓ imperfect duties are those duties **that are never truly completed**
      - perfecting the ability to write and produce works

### 2. The Principle of Humanity as an End, Never as Merely a Means

- not use humanity of ourselves or others **as a means to an end**

- People, as rational beings, **are ends in themselves and should never be used merely as means to other ends**
- We may use physical things as means, but **when we use people simply as means**, as in **slavery, prostitution, or commercial exploitation, we degrade them and violate their innermost beings as people**
- Example **Suicide would be wrong** since one would be treating his/her life as a means to the alleviation of their misery
- Person has perfect duty **not to use the humanity of themselves or others merely as a means** to some other end

### 3. The Principle of Autonomy

- we should **consider ourselves to be members in the universal realm of ends**
- every rational being must so act as if he were through his maxim always a **legislating member in the universal kingdom of end**
- Kant presents the notion of the **hypothetical Kingdom of Ends** , We should consider our actions to be of consequence to everyone else in that our actions affect not only ourselves but that of others

### **main problem with the categorical imperative - its rigidity**

- **Example:** It suggest to tell a truth to a potential attacker where a person is found just knowing he/she will harm him and having a relation with the person in attack
- **Morality is simply too complex, too full of exceptions for these theories to ever fully work**

## Ross's Prima Facie Duties or Moral Guidelines

- The term **prima facie** means “**at a first sight**” or “**on the surface**”
  - ✓ duties that dictate **what we should do when other moral factors are not considered**

Example:

- An example of a prima facie duty is the duty to keep promises Unless stronger moral considerations override, one ought to keep a promise made
- prima facie duties are duties that generally obligate us; that is, **they ordinarily impose a moral obligation but may not in a particular case because of circumstances**
  - ✓ **actual duty** - action that one ought to perform after considering and weighing all the prima facie duties involved
  - ✓ When faced with a situation that presents conflicting prima facie duties, Ross tells us, the more obligatory, our actual duty. **The actual duty has the greatest amount of prima facie rightness over wrongness**

Example:

- Suppose you observe an elderly neighbor collapse with what might be a heart attack. You are a block away from the nearest phone from which you could call for help. A child’s bike is close at hand and no one but you and the collapsed elderly person is around. One or more duties seem to say "take the bike and go

call for help," while others seems to say "taking the bike is wrong." On the "don't take" side are justice and non-injury (it seems unjust to the owner of the bike and an injury to him or her). On the "take" side lies harm-prevention. It is widely known that people die from heart attacks that are not treated quickly. (Note that this seems to be a case of harm-prevention rather than beneficence in the strict sense.) The solution might be to recognize that in this circumstance, harm-prevention takes priority over what on the surface looks like injustice and injury. So the *actual duty* is probably to take the bike and get help. Besides, it should not be difficult to make up the temporary bike loss to its owner, that is, there might be an *actual duty* of reparation

- W.D. Ross, Ross's list the following **categories of prima facie duties**
  1. **Duties of Fidelity** - duty to keep **promises** and the **obligation not to lie**
  2. **Duties of Reparation** - duty to **make up** for the injuries one has done to others. the duty to **compensate** others when we harm them
  3. **Duties of Gratitude** - duty to **thank** those who help us. Example, I am duty bound to **do all I can help** this individual, who in the past had acted so selflessly toward me.
  4. **Duties of Justice** - one act in such a way that one **distributes benefits and burdens fairly**. Ross himself emphasizes the **negative aspect of this duty**. the duty of

justice includes the duty, insofar as possible, to **prevent an unjust distribution of benefits or burdens**

5. **Duties of Beneficence** - duty to **improve the conditions of others**

6. **Duties of Self-improvement** - to act so as to **promote one's own good**

7. **Duties of Non-maleficence** - duty of non-injury. duty **not to harm others physically or psychologically**

✓ he does insist that we acknowledge and willingly accept the seven categories without argument. His appeal for their acceptance does not rely primarily on reason and argument but on **intuition**

- **Note** - The term "duty" in "prima facie duty" is slightly misleading. The **prima facie duties are understood as guidelines, not rules without exception**. If an action does not correspond to a specific guideline, one is not necessarily violating a rule that one ought to follow. However, not following the rule one ought to follow in a particular case is failing to do one's (actual) duty

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## Chapter Three: Ethical Decision Making and Moral Judgments

### 3.1 Chapter Introduction

#### function of morality

- **How to make a right or correct decision** and by what standard that one decision is right and another wrong **is always a puzzle**
  - ✓ functions of morality is to **give guidance in dealing with these puzzles**
- Another function of morality is to **provide principles and rules** that are acceptable to everyone and **encourage people to live together peacefully and cooperatively**

### 3.2. Chapter Objectives

### 3.3. How Can We Make Ethical Decisions and Actions?

- In life, we may get difficulties to always do the right thing. **What we often considered as right and correct might put us in difficult condition**
- Individuals could give their own justification to testify that they are Right or correct
- The **ethical nature of our action and decision**, however, is very much **dependent upon our notion of “Good” and “Bad”, “Right” and “wrong”**

## What things are good or bad

### ➤ instrumental good

- ✓ things which we consider good or desirable for their result for what they lead to
- ✓ they are instruments towards the attainment of the other things which are considered good not simply as instruments

### ➤ intrinsic good

- ✓ things which we consider good not because of what they lead to but because of what they are in themselves
- ✓ worth having or perusing because of their own intrinsic nature

### ➤ instrumentally bad and intrinsically bad

- ✓ Some things can fulfill both qualities/ unethical or bad or evil practices
- ✓ Female Genital Mutilation, early marriage, poverty, corruption

## Task of ethics

- analyze and critically consider the values we hold and the claims we make
- evaluate the adequacy of reasons that we give for our actions
  - whether the reasons offered to support a particular course of action are based on sound evidence and/or logical argument

- The **tasks of weighing ethical values** and evaluating different ethical arguments are **unlike many other kinds of human tasks**
  - ✓ Ethical values are usually **not as easy to understand as other kinds of values**
    - it is easier to test a person's blood pressure than it is to determine whether or not they are virtuous
- **Aim of ethics** then, is not, despite popular opinion, to take the high moral ground and tell people what to do, but, rather, to **offer tools for thinking about difficult problems**
- As complex as ethical situations may be, however, **there is still an obligation on everyone involved in ethically challenging situations to resolve any problems that arise in the most sincere, reasonable, and collaborative way possible**

### 3.3.1. Ethical Principles and Values of Moral Judgments

- The **branch of philosophical study ethics** is concerned with studying and/or **building up a coherent set of 'rules or principles by which people ought to live**
- In place of systematically examined ethical frameworks, **most people instead carry around a useful set of day-to-day 'rules of thumb'** that influence and govern their behavior
  - commonly, these include **rules such as 'it is wrong to steal', 'it is right to help people in need', and so on**
- But **sometimes the vicissitudes and complexities of life mean that these simple rules are sometimes put to the test. Consider the idea that it is wrong to kill**

- We need to examine these questions in more detail; and we need theoretical frameworks that can help us to analyze complex problems and to find rational, coherent solutions to those problems
  - ✓ philosophers attempt to find general answers that can be used by everyone in society

### 3.3.2. Moral intuitions and Critical Reasoning

- The study of ethics involves reasoning about our feelings
  - making sense of and rationalising our intuitions about what is 'right' or 'good'
- Our moral sentiments and ethical reasoning about these sentiments gives us our moral principles.
  - The integration of these moral sentiments and principles is our conscience
  - Our moral conscience, then, is based on emotions, but should also be supported by reason
- All societies are characterized by their own ethical ideas expressed in terms of attitudes and beliefs
  - ✓ Some of those ethics are formalised in the laws and regulations of a society influence the consciences and the moral sentiments of those living in a society
  - ✓ Philosophical ethics, however, asks us to take a step back from these influences and instead to reflect critically on our sentiments and attitudes

### 3.3.2.1. Rationalisation

- Studying ethics involves attempting to find **valid reasons for the moral arguments that we make**
- an **argument is not simply about our beliefs or opinions**; instead, **it is about the reasons underlying those beliefs or opinions**
  - ✓ real value of discussing and debating ethical questions is not to 'win the argument' or to 'score points' against the other person
- **One common fault** with many arguments about what is 'right' or 'wrong' – and – involves what is known as a rationalization

#### **Rationalization**

- occurs when we **use what at first glance seem to be rational or credible motives to cover up our true (and perhaps unconscious) motives**
- Example: **landowner seeks to build a plastic recycling plant**
  - states that this is driven by a desire **to create local employment opportunities**
  - **their true motive is to make a profit**
  - however, they argue that they want to make a personal profit and create local jobs, then they may be giving two true reasons for their motives

### 3.3.2.2. Types of reasoning

### ➤ Reasoning by analogy

- ✓ explains one thing by comparing it to something else that is similar, although also different
- ✓ good analogy, the similarity outweighs the dissimilarity and is clarifying
- ✓ Example: animals are like and unlike humans
  - Is the similarity sufficiently strong to support the argument that we should ascribe rights to nonhuman animals as we do to humans?

### ➤ Deductive reasoning

- ✓ applies a principle to a situation
- ✓ Example: if every person has human rights, and you are a person, then you have human rights like every person

### ➤ Inductive reasoning

- ✓ providing evidence to support a hypothesis
- ✓ The greater the evidence for a hypothesis, the more we may rely on it
- ✓ Example: moral duty to reduce carbon emissions

### 3.3.2.3. Ethics and Religious Faith

- For many people, morality and religious faith go hand in hand
  - ❖ people view actions as being right or wrong in terms of whether they are commanded by a god

- Some moral philosophers do not view arguments based on religious faith as being rationally defensible
  - we are able to know what is right or wrong without relying on any divine commandments, as we can use rational reflection
- faith-based arguments are relevant to moral philosophy for several reasons
  - ✓ people do not always agree on what is right or wrong It is not therefore clear that we can determine what is right and wrong simply through rational reflection
  - ✓ Many people in the world do look to religion for moral guidance
    - we should not underestimate the ability of 'the moral teachings of a religious tradition [...] to persuade the public to embrace a higher moral standard
- moral principles and decisions should be justified by rational arguments, and thus consideration of religious arguments should not be excluded from the study of ethics

### 3.3.2.4. Testing moral arguments

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

- It is important and useful to develop the ability to test your own arguments and those of others

## Three ways to test a moral argument

### ➤ Factual accuracy

- we should not derive an 'ought' from an 'is'
- we cannot say that something is wrong or right simply based on how things are
- the accuracy of the factual content of a discussion is very important otherwise their moral argument would lose its force

### ➤ Consistency

- Arguments need to be consistent
- you have to show that there is a moral difference between the two. Otherwise, your arguments are inconsistent
  - Example: moral argument that debts owed by poorer nations to international lenders should be cancelled.
    - What about poor people owe money to banks should also have their debts cancelled?

### ➤ Good will

- While arguments may be factually correct and consistent, they also need to 'exemplify good will'
- This involves resorting to our intuitions and emotions, which are notoriously difficult to integrate with rigorous theoretical debate

### 3.3.3. Thinking Ethically: A framework for Moral Decision Making

- first step in analyzing moral issues is **Get the facts, but having the facts is not enough**. Facts by themselves only tell us what is; they do not tell us what ought to be
- Although **ethics** deals with right and wrong, it **is not a discipline that always leads everyone to the same conclusions**
  - ✓ Deciding an ethical issue can be equally difficult for conservatives and liberals
- **To guide our reflection on such difficult questions**, philosophers, religious teachers and other thinkers have shaped various approaches to ethical decision-making
  - Fairness and Justice
  - the common Good
  - the Utilitarian (remember this idea is discussed previously),
  - the Rights
  - the Virtues

#### 3.3.3.1. Fairness and Justice Approach

- its roots in the teachings of the ancient Greek philosopher Aristotle who said that  
“**equals should be treated equally and unequal's unequally**”
- The basic moral question in this approach is:
  - ✓ **How fair is an action?**
  - ✓ **Does it treat everyone in the same way**, or does it show

favoritism and discrimination?

- Favoritism gives benefits to some people without a justifiable reason for singling them out
- discrimination imposes burdens on people who are no different from those on whom the burdens are not imposed
  - Both favoritism and discrimination are unjust and wrong
- ethical knowledge is not precise knowledge, like logic and mathematics, but general knowledge like knowledge of nutrition and exercise
- it is a practical discipline rather than a theoretical one
  - ❖ in order to become "good", one could not simply study what virtue is; one must actually be virtuous/ practices it
- everything was done with some goal in mind and that goal is 'good.'
  - ✓ The ultimate goal called the Highest Good: happiness
  - ✓ finds happiness "by ascertaining the specific function of man"
    - human's function is to do what makes it human, to be good at what sets it apart from everything else: the ability to reason or logos
- humans belonged to one of four categories:
  - ✓ the virtuous
  - ✓ the continent

- ✓ the incontinent
- ✓ the vicious
- this approach focuses on how fairly or unfairly our actions distribute benefits and burdens among the members of a group
- The principle states:
  - “Treat people the same unless there are morally relevant differences between them.”

### 3.3.3.2. The Common Good Approach

- Greek philosophers: life in community is a good in itself and our actions should contribute to that life
- interlocking relationships of society are the basis of ethical reasoning
  - ✓ respect and compassion for all others especially the vulnerable are requirements of such reasoning
- approach also calls attention to the common conditions that are important to the welfare of everyone
  - system of laws
  - effective police and fire departments
  - health care, a public educational system
  - peace among nations
  - an unpolluted environment
- ethicist John Rawls defined the common good as
  - ✓ "certain general conditions that are equally to everyone's advantage"

- While respecting and valuing the freedom of individuals to pursue their own goals, the common good approach challenges us also to recognize and further those goals we share in common
- The principle of the common good approach states;  
“What is ethical is what advances the common good”

### 3.3.3.3. The Rights Approach

- roots in the philosophy of the 18th century thinker Immanuel Kant and others like him who focused on the individual's right to choose for her or himself
- what makes human beings different from mere things is that people have dignity based on their ability to choose freely what they will do with their lives, and they have a fundamental moral right to have these choices respected
  - ❖ People are not objects to be manipulated; it is a violation of human dignity to use people in ways they do not freely choose
- related rights exist besides this basic one
  - The Right to the Truth
    - We have a right to be told the truth and to be informed about matters that significantly affect choices
  - The Right of Privacy
    - right to do, believe, and say whatever we choose in our personal lives so long as we do not violate the rights of others

➤ The Right not to be injured

- the right **not to be harmed or injured** unless we freely and knowingly do something to deserve punishment, or we freely and knowingly choose to risk such injuries

➤ The Right to what is agreed

- the right to **what has been promised** those with whom we have freely entered into a contract or agreement
- In deciding whether an action is moral or immoral using this approach, we must **ask**

❖ **does the action respect the moral rights of everyone?**

### 3.4. To Whom or What Does Morality Apply?

#### 3.4.1. Religious Morality

- refers to a human being in **relationship to a supernatural being or beings**
- In the Jewish and Christian traditions, for example, the **first three of the Ten Commandments** (See the figure below) **pertain to this kind of morality**
- These commandments **deal with a person's relationship with God, not with any other human beings**
  - ✓ **violating any of these three commandments**, a person could, according to this particular code of ethics, **act immorally toward God without acting immorally toward anyone else**
    - I am the Lord; Your God do not worship false gods.
    - Do not take the name of God in vain.

- Keep holy the Sabbath Day

### 3.4.2. Morality and Nature

- refers to a human being in relationship to nature
- Natural morality has been prevalent in all primitive cultures
- Some see nature as being valuable only for the good of humanity, but many others have come to see it as a good in itself, worthy of moral consideration
- In Robinson Crusoe desert-island example
  - ✓ he could be considered either moral or immoral, depending upon his actions toward the natural things around him

### 3.4.3. Individual Morality

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

### 3.4.4. Social Morality

- concerns a human being in relation to other human beings
- It is probably the most important aspect of morality, in that it cuts across all of the other aspects and is found in more ethical systems than any of the others
- In Robinson Crusoe desert-island example
  - ✓ He is incapable of any really moral or immoral action except toward himself and nature

### 3.5. Who is Morally/Ethically Responsible?

- Morality **pertains to human beings and only to human beings; all else is speculation**
  - ✓ If attribute morality to supernatural beings - one has to do so solely on faith
  - ✓ If attribute morality to animals or plants - one has to ignore most of the evidence that science has given us concerning the instinctual behavior of such beings and the evidence of our own everyday observations
    - most evidence seems to indicate that animals, as and plants should be classified as either **non-moral or amoral** - that is, they should be considered either as **having no moral sense or as being out of the moral sphere altogether**
- **only human beings can be moral or immoral**, and therefore only human beings should be held morally **responsible for their actions and behavior**

#### 3.5.1. Moral Judgments

- refer to **deciding what is right and what is wrong in human relations**

Moral judgments are:

- have to do with the **actions of human beings** and, in particular, with **voluntary actions** - those **actions freely chosen**
- **Evaluative**; because they **place value on things or relation or human actions; determine what is right or wrong**, good or bad
- **Normative**; because they evaluate or assess the moral worth of something **based on some norms or standards**
- **We can have no algorithm for judgment**, since every

application of a rule would itself need supplementing with further rules

- ✓ moral principles do not provide us with an “auto-pilot” for life and that “judgment” is always needed in using or following – and in flouting – rules or principles

**In judging conduct or action, we have to consider**

➤ **Motives:**

- ✓ motive refers to the intention or why an action is done
- ✓ It basic for a determination of morality
- ✓ A good motive is a prerequisite to conduct that we approve without qualification
  - ❖ Kant state - Nothing can possibly be conceived in the world, or even out of it, which can be called good without qualification, except a good will
- ✓ rational being strives to do what he or she ought to do and this is to be distinguished from an act that a person does from either inclination or self-interest
  - ❖ a person must act out of duty to the moral law - that is, ought what one to do
    - the good will acts out of a sense of duty

➤ **Means**

- ✓ There may be many means for achieving something
- ✓ The term means can be defined - as an agency, instrument, or method used to attain an end
- ✓ we expect people to use the best available means to carry out their purposes condemn them if their choice of means impresses us as unjust, cruel, or immoral
  - there is a danger in proposing that any means may be used, provided the end is good, or that — the end justifies the means

### ➤ Consequences

- ✓ the effects or results of a moral decision based on a value
- ✓ Ordinarily, when people ask, - what is right? they are thinking about the consequences of the action
  - Kant agrees to the good motive, utilitarians to the result
- society judges conduct “right” if it
  - proceeds from a good motive
  - through the use of the best available means
  - to consequences that are good

### ➤ The Moral Situation

- ✓ It involves moral agents - human beings who act, are empowered to make choices, and consciously make decisions
  - As moral agents, demands are made on us and place us under obligations: we have both duties and rights
- ✓ We are faced with moral alternatives, and we can better weigh those alternatives when we have an understanding of the ingredients of the moral situation

### 3.5.2. What Makes an Action Moral?

- Sometimes we think of “moral” means morally good
  - But, philosophically, it refers to an action which comes within the scope of morality
  - an action which is morally significant either in positive way (because it is good or right) or in a negative way (because the action is good or bad)
- Not all actions have a moral sense
  - ✓ putting on a raincoat, sharpening a pencil, or counting apples...
  - ✓ are not in themselves either good or bad acts - Such

actions are **morally neutral or non-moral**  
**features that make an action moral**

➤ **A moral act involves an agent**

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

➤ **A moral act involves intention**

- ✓ **intention here refers to our motives**
- ✓ If an **action is done accidentally**, it may be counted as a **morally neutral action**
  - **However, some unintentional acts, such as those done through negligence, can be moral.** Neglecting our duties, even accidentally, make us morally culpable

➤ **A moral act affects others**

- ✓ Moral action is an action that **has harmful (be it physical, psychological, emotional, or depriving others of happiness) or beneficial consequences for others.**
- ✓ Confusion about the content of morality arises because morality is not always distinguished from religion

**Generally, a moral action is one which**

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

### 3.6. Why Should Human Beings Be Moral?

- There can be no society without moral regulation; man is man only because he lives in a society
  - **Argument from Enlightened Self-Interest**
    - ✓ generally better to be good rather than bad and to create a world and society that is good rather than one that is bad
    - ✓ if everyone tried to do and be good and tried to avoid and prevent bad, it would be in everyone's self-interest
      - For example, if within a group of people no one killed, stole, lied, or cheated, then each member of the group would benefit
  - **Argument from Tradition and Law**
    - ✓ because traditions and laws, established over a long period of time, govern the behavior of human beings
    - ✓ these traditions and laws urge human beings to be moral rather than immoral, there are good reasons for being so
      - most of us probably learned morality through being confronted with this argument, the religious argument, and the experiences surrounding it
  - **Common Human Needs**
    - ✓ that all human beings have many needs, desires, goals, and objectives in common
      - Example: people generally seem to need friendship, love, happiness, freedom, peace, creativity
    - ✓ in order to satisfy these needs, people must establish and follow moral principles that encourage them to cooperate with one another and that free them from fear

- why should human beings be moral?
  - ❖ generally, can best be answered by the statement that adhering to moral principles enables human beings to live their lives as peacefully, happily, creatively, and meaningfully as is possible
- “Why be moral?” Among the more common answers are these:
  - ✓ Behaving morally is a matter of self-respect
  - ✓ People won’t like us if we behave immorally
  - ✓ Society punishes immoral behavior
  - ✓ God tells us to be moral
  - ✓ Parents need to be moral role models for their children
- There are two distinct components to the question “Why be moral?”
  - Why does society need moral rules?
  - Why should I be moral?
- From Hobbes’s perspective, morality consists of a set of rules such that, if nearly everyone follows them, then nearly everyone will flourish
  - ✓ These rules restrict our freedom but promote greater freedom and wellbeing
- The five social benefits of establishing and following moral rules accomplish the following:
  1. Keep society from falling apart
  2. Reduce human suffering
  3. Promote human flourishing
  4. Resolve conflicts of interest in just and orderly ways
  5. Assign praise and blame, reward and punishment, and guilt
- Morality is a social activity: It has to do with society, not the individual in isolation
  - ❖ Morality is thus a set of rules that enable us to reach our collective goals



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## Chapter Four: State, Government and Citizenship

### 4.1. Chapter Introduction

### 4.2. Chapter Objectives

### 4.3. Understanding State

#### 4.3.1. Defining State

- state has been understood in four quite different ways.

##### 1. Idealist perspective

- Hegel identified three moments of social existence

##### ➤ Family

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

##### ➤ Civil society

- ✓ Seen as a **sphere of 'universal egoism'** in which individuals place their own interests before those of others

### ➤ **State**

- ✓ **ethical community underpinned by mutual sympathy – 'universal altruism'**

- **drawback of idealism**

- it fosters an **uncritical reverence** for the state
- by defining the state in ethical terms, fails to distinguish clearly between institutions that are part of the state and those that are outside the state

## **2. Functionalist approach/perspective**

- focus on the **role or purpose of state institutions**
- **central function of the state** is invariably seen as the **maintenance of social order**
- **state - set of institutions that uphold order and deliver social stability.**
- state as a mechanism through which class conflict is ameliorated to ensure the long-term survival of the capitalist system
- **weakness of the functionalist**

- tends to **associate any institution** that maintains order (such as the family, mass media, trade unions and the church) **with the state itself**

### 3. Organizational view/perspective

- **State - set of institutions that are recognizably ‘public’, in that they are responsible for the collective organization of social existence and are funded at the public’s expense**
- It **distinguishes clearly between the state and civil society**
- The organizational approach allows us to talk about ‘rolling forward’ or ‘rolling back’ the state, in the sense of expanding or contracting the responsibilities of the state, and enlarging or diminishing its institutional machinery

### 4. International approach/perspective

- **State - primarily actor on the world stage; indeed, as the basic ‘unit’ of international politics**
- dualistic structure of the state, its two faces:
  - **state’s inward-looking face**
    - ✓ its relations with the individuals and groups that live within its borders, and its **ability to maintain domestic order**
  - **state’s outward-looking face**

- ✓ its relations with other states and, therefore, its ability to provide protection against external attack
- Classic definition of the state in international law is found in the Montevideo Convention on the Rights and Duties of the State (1933)
- According to Article 1 of the **Montevideo Convention**, the **state has four features**

#### A. Population

- without population there can be no state
- states of the world vary in terms of demographic strength
  - ✓ population of greater than 1 billion - China and India
  - ✓ constituency of few thousand people - Vatican and San Marino
- ❖ No exact number can be given to how much people constitute state
- **Homogeneity** - commonness of religion, or blood, or language or culture and the like
  - ✓ it makes the task of national integration easy
  - ✓ Homogeneity is not must

#### B. Defined Territory

- territory of a state includes land, water, and airspace
- territorial authority of a state also extends to

- ✓ ships on high seas under its flag
- ✓ its embassies
- ✓ legations/diplomat's residence in foreign lands
- size of a state's territory cannot be fixed
- boundary lines of a state must be well marked out
  - geographical make up - division by the seas, rivers, mountains, thick forests, deserts, etc
  - artificial divisions - digging trenches or fixing pointed wire fencing

### C. Government

- It the soul of the state
  - ✓ It implements the will of the community
  - ✓ protects the people against conditions of insecurity
  - ✓ maintain law and order and makes 'good life' possible
- the machinery that terminates the condition of anarchy
  - ✓ if there is no government, there is anarchy and the state is at an end
- form of government may be
  - ✓ monarchical, oligarchic, democratic, dictatorial, etc

### D. Sovereignty

- It is the ***highest power of the state that distinguishes it from all other associations of human beings***
- Sovereignty is the **principle of absolute and unlimited power**
- It has two aspects
  - **Internal Sovereignty**
    - inside the state there can be no other authority that may claim equality with it
    - state is the final source of all laws internally
  - **External sovereignty**
    - state should be free from foreign control of any kind
- state may willingly accepts some international obligations
- existence of **sovereign authority appears in the form of law**
- sovereign state is legally competent to issue any command that is **binding on all citizens and their associations**

### **recognition**

- ✓ the contemporary political theorists and the UN considered recognition as the **fifth essential attribute of the state**

- ✓ state should be recognized as such by a significant portion of the international community
- ✓ for a state to be legal actor in the international stage; **other actors must recognize it as a state**

## 4.4. Rival Theories of State

### 4.4.1. The Pluralist State

- It has a very clear **liberal lineage**
- It stems from the belief that the **state acts as an 'umpire' or 'referee' in society**
- The origins of this view of the state can be traced back to the social-contract theories of thinkers such as Thomas Hobbes and John Locke
  - ✓ **state had arisen out of a voluntary agreement, or social contract, made by individuals** who recognized that only the establishment of a sovereign power could safeguard them from the insecurity, disorder and brutality of the state of nature
- In liberal theory
  - state - **a neutral arbiter** amongst the competing groups and individuals in society - **protecting each citizen from the encroachments of fellow citizens**
- **Hobbes' view**

- ❖ stability and order could be secured only through the establishment of an **absolute and unlimited state, with power** that could be neither challenged, nor questioned
- **Locke, on the other hand**
  - ❖ developed a more typically **liberal** defense of the limited state
    - ✓ In his view, the **purpose of the state is very specific**: it is restricted to the defense of a set of 'natural' or God-given individual rights; namely, life, liberty and property
    - ✓ since the state may threaten natural rights as easily as it may uphold them, **citizens must enjoy some form of protection against the state**, which Locke believed could be **delivered only through the mechanisms of constitutional and representative government**
- pluralism holds that the state is neutral
  - ✓ state is **not biased**
  - ✓ It **does not have an interest of its own** that is separate from those of society
  - ✓ state is 'the **servant of society** and not its master'
- Two key assumptions underlie this view
  - state is effectively **subordinate to government**
    - ✓ Non-elected state bodies (civil service, judiciary, police) are strictly impartial and are subject to the authority of their political masters

- the democratic process is meaningful and effective
  - ✓ party competition and interest-group
  - ✓ state is only a weather vane that is blown in whichever direction the public-at-large dictates
- **Modern pluralists/ neo-pluralist theory of the state**
  - By theorists such as Robert Dahl and Charles Lindblom
  - modern industrialized states are both more complex and less responsive to popular pressures than classical pluralism suggested
    - ✓ for instance business enjoys a 'privileged position' in relation to government that other groups clearly cannot rival
    - ✓ business is bound to exercise considerable sway over any government,
  - state can, and does, forge its own sectional interests
    - ✓ state elite pursue either the bureaucratic interests of their sector of the state, or the interests of client groups

#### 4.4.2. The Capitalist State

- **Marxist** notion of a capitalist state offers a clear alternative to the pluralist image of the state as a neutral arbiter or umpire
- The state cannot be understood separately from the economic structure of society

- state is nothing but an instrument of class oppression: the state emerges out of, and in a sense reflects, the class system
- In a general sense, he believed that the state is part of a 'superstructure' that is determined or conditioned by the economic 'base'
- Two theories of the state can be identified in Marx's writings
  - The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie
    - ✓ state as an instrument for the oppression of the exploited class
  - The state could enjoy what has come to be seen as 'relative autonomy' from the class system
    - ✓ the autonomy of the state is only relative, in that the state appears to mediate between conflicting classes, and so maintains the class system itself in existence
  - ❖ Both these theories emphasize that the state cannot be understood except in a context of unequal class power
    - ✓ state arises out of, and reflects, capitalist society
- ❖ Marx's attitude towards the state was not entirely negative
  - ✓ He argued that - the state could be used constructively during the transition from capitalism to communism in the form of the 'revolutionary dictatorship of the proletariat'
- ❖ In describing the state as a proletarian 'dictatorship'

- ✓ Marx see the state as an instrument through which the **economically dominant class** (by then, the proletariat) could repress and subdue other classes
- ✓ 'dictatorship of the proletariat' was seen as a means of **safeguarding the gains of the revolution** by preventing counter-revolution mounted by the dispossessed bourgeoisie
- ❖ **Marx did not see the state as a necessary or enduring social formation**
  - He predicted that, as **class antagonisms faded**, the state would 'with away', meaning that a fully communist society would also be stateless
- ❖ **modern Marxists, or neo-Marxists**
  - ✓ emphasized the degree to which the **domination of the ruling class is achieved by ideological manipulation**, rather than just open coercion
  - ✓ **bourgeois domination is maintained largely through 'hegemony': that is, intellectual leadership or cultural control**, with the state playing an important role in the process
    - Rather than being an 'instrument' wielded by a dominant group or ruling class, the **state is thus a dynamic entity that reflects the balance of power within society at any given time, and the ongoing struggle for hegemony**
- ❖ Therefore state cannot but act to perpetuate the social system in which it operates.

### 4.4.3. The Leviathan State

- The image of the state as a 'leviathan' is one associated in modern politics with the New Right.
- ❖ New Right, or at least its neoliberal wing, is distinguished by
  - ✓ a strong antipathy towards state intervention in economic and social life, born out of the belief that - the **state is parasitic growth that threatens both individual liberty and economic security**
  - ✓ the state, instead of being, as pluralists suggest, an impartial umpire or arbiter, **is an overbearing 'nanny', desperate to interfere or meddle in every aspect of human existence**
  - ✓ the state **pursues interests that are separate from those of society**
- New Right theorists **explain the expansionist dynamics of state power by reference to both demand-side and supply-side pressures**
  - **Demand-side pressures**
    - emanate **from society itself** through the mechanism of electoral democracy
    - electoral competition encourages **politicians to 'outbid' one another by making promises of increased spending and more generous government programs**, regardless of the long-term damage
  - **Supply-side pressures**

- those that are **internal to the state** - the institutions and personnel of the state apparatus
- public decisions are made on the assumption that the **individuals involved act in a rationally self-interested fashion**
- ❖ While Marxists argue that the state reflects broader class and other social interests, the **New Right portrays the state as an independent or autonomous entity that pursues its own interests**
  - ✓ bureaucratic self-interest invariably supports 'big' government and state intervention

#### 4.4.4. The Patriarchal State

- It is **implications of feminist theory**
- **concentrate on the deeper structure of male power centered on institutions** such as the family and the economic system
- ❖ **Liberal feminists**
  - believe that sexual or gender equality can be brought about through incremental reform, have tended to **accept an essentially pluralist view of the state**
  - They recognize that, if women are denied legal and political equality, and especially the right to vote, the state is biased in favor of men

- believe that all groups (including women) have potentially equal access to state power, and that this can be used impartially to promote justice and the common good
- Liberal feminists usually viewed the state in positive terms, seeing state intervention as a means of **redressing gender inequality and enhancing the role of women**

### ❖ **Radical feminists**

- more **critical and negative view of the state**
- argue that **state power reflects a deeper structure of oppression in the form of patriarchy**
- There are a number of similarities between Marxist and radical feminist views of state power
  - Whereas **Marxists place the state in an economic context, radical feminists place it in a context of gender inequality**, and insist that it is essentially an institution of male power
- In common with Marxism, distinctive instrumentalist and structuralist versions of this feminist position have been developed
  - **Instrumentalist**
    - ✓ State as little more than an **agent or 'tool' used by men to defend their own interests and uphold the structures of patriarchy**

- ✓ patriarchy - men dominating public while women are confined to private' spheres of life

- ✓ in this view, the state is run by men, and for men

➤ **structuralist**

- ✓ Emphasize the degree to which state institutions are embedded in a wider patriarchal system

- ✓ Modern radical feminists have paid particular attention to the emergence of the welfare state

- Welfare - a transition from private dependence (in which women as 'home makers' are dependent on men as 'breadwinners') to a system of public dependence in which women are increasingly controlled by the institutions of the extended state
- For instance, women have become increasingly dependent on the state as clients or customers of state services (such as childcare institutions, nursery education and social work) and as employees, particularly in the so-called 'caring' professions (such as nursing, social work and education)

## 4.5. The Role of the State

### 4.5.1. Minimal States

- is the ideal of classical liberals

- It is **rooted in social-contract theory**, but it nevertheless advances an essentially 'negative' view of the state
  - ✓ the **value of the state** is to prevent individuals encroaching on the rights and liberties of others
- **state is merely a protective body**, its core function being to provide a **framework of peace and social order**
- state acts as a **night watchman**, whose services are called upon only when **orderly existence** is threatened
- the 'minimal' or 'night watchman' **state with three core functions**
  1. **maintain domestic order**
  2. ensures that **contracts or voluntary agreements made between private citizens are enforced**
  3. provides **protection against external attack**
- **institutional apparatus** of a minimal state is thus limited to a **police force, a court system and a military of some kind**
- **Economic, social, cultural, moral and other responsibilities belong to the individual, and are therefore firmly part of civil society**

☞ *The best historical examples of minimal states were those in countries such as the UK and the USA during the period of early industrialization in the nineteenth century*

### 4.5.2. Developmental States

- As a general rule **the later a country industrializes, the more extensive will be its state's economic role**
  - ✓ for instance In Japan and Germany state assumed a more active 'developmental' role from the outset
- A developmental **state is one that intervenes in economic life with the specific purpose of promoting industrial growth and economic development**
  - This does not amount to an attempt to replace the market with a 'socialist' system of planning and control
  - It is an **attempt to construct a partnership between the state and major economic interests**
- The classic example of a developmental state is Japan
- A similar model of developmental intervention has existed in France
- In countries such as Austria and, to some extent, Germany, economic development has been achieved through the construction of
  - **'partnership state'** a **close relationship between the state and major economic interests**, notably big business and organized labor
- More recently, economic globalization has fostered the emergence of
  - **'competition states'**, examples the tiger economies of East Asia

- ✓ recognized the need to strengthen education and training as the principal guaranteeing economic success in a context of intensifying transnational competition

#### 4.5.3. Social Democratic (Welfare) States

- Social-democratic states intervene with a view to bringing about broader social restructuring, usually in accordance with principles such as fairness, equality and social justice
- In countries such as Austria and Sweden, state intervention has been guided by both developmental and social democratic priorities
  - ✓ Nevertheless, developmentalism and social democracy do not always go hand-in-hand, Example UK failed to evolve into a developmental state
  - ✓ **social-democratic state** is that there is a shift from a 'negative' view of the state to a positive view of the state - as a means of enlarging liberty and promoting justice
  - ✓ social-democratic state is thus the ideal of both modern liberals and democratic socialists
- the social-democratic state is **an active participant; in particular, helping to rectify the imbalances and injustices of a market economy**
  - focus less upon the generation of wealth and more upon what is seen as the equitable or just distribution of wealth
  - It is an attempt to eradicate poverty and reduce social inequality

- twin features of a social democratic state are therefore Keynesianism and social welfare
  - Keynesian economic policies
    - ✓ The aim is to 'manage' or 'regulate' capitalism with a view to promoting growth and maintaining full employment
  - welfare policies
    - ✓ responsibilities have extended to the promotion of social well-being amongst their citizens
    - ✓ The social-democratic state is an 'enabling state', dedicated to the principle of individual empowerment

#### 4.5.4. Collectivized States

- Collectivized states **bring the entirety of economic life under state control**
- Best examples were in orthodox communist countries such as the USSR and throughout Eastern Europe
- It sought to **abolish private enterprise altogether, and set up centrally planned economies administered by a network of economic ministries and planning committees**
- The justification for state collectivization stems from a fundamental socialist preference for **common ownership over private property**

#### 4.5.5. Totalitarian States

- It is The **most extreme and extensive form of interventionism**

- It is the construction of an **all-embracing state, the influence of which penetrates every aspect of human existence**
  - ✓ economy, education, culture, religion, family life and so on
  - ✓ **best examples - Hitler's Germany and Stalin's USSR**, although modern regimes such as **Saddam Hussein's Iraq**
- central pillars of such regimes are a **comprehensive process of surveillance and terroristic policing, and a pervasive system of ideological manipulation and control**
  - ✓ totalitarian states effectively **extinguish civil society and abolish the private sphere of life altogether**
  - ✓ This is a goal that only **fascists**, who wish to **dissolve individual identity within the social whole**, are prepared openly to endorse

#### 4.5.6. Religious States

- countries such as Norway, Denmark and the UK, 'established' or state religions have developed
- ❖ Far from regarding political realm as inherently corrupt, **fundamentalist movements have typically looked to seize control of the state and to use it as an instrument of moral and spiritual regeneration**
  - ✓ for instance, in the process of 'Islamization' introduced in Pakistan under General Zia-ul-Haq after 1978

- ✓ establishment of an 'Islamic state' in Iran as a result of the 1979 revolution
- Although, strictly speaking, **religious states are founded on the basis of religious principles**, and, in the Iranian model, contain explicitly theocratic features, in other cases religiously-orientated governments operate in a context of constitutional secularism

## 4.6. Understanding Government

### 4.6.1. What is Government?

- **Government refer to the formal and institutional processes that operate at the national level to maintain public order and facilitate collective action**
  - ✓ one of the **most essential components** and also an **administrative wing of the state**
- government applies both to the governments of national states, and to the governments of subdivisions of national states
- ❖ government, to be stable and effective, must possess **two essential attributes**
  - 1. Authority**
    - It implies the **ability to compel obedience, defined as 'legitimate power'**

- ✓ While power is the ability to influence the behavior of others, authority is **the right to do so**
- It is **based on an acknowledged duty** to obey rather than on any form of coercion or manipulation
- It is the **legitimacy, justification and right to exercise that power**

## 2. Legitimacy

- Legitimacy, from Latin word *legitimare* - meaning 'to declare lawful'
- It broadly means **rightfulness**
- legitimacy is the **popular acceptance of a governing regime or law as an authority**
- Legitimacy is considered as a basic condition to rule; **without at least a minimal amount of legitimacy, a government will deadlock or collapse**
- legitimacy is gained through the acquisition of power in accordance with recognized or accepted standards or principles
- legitimate government will 'do the right thing' and therefore deserves to be respected and obeyed
- **legitimacy differs from legality in the sense that**
  - the term **legality does not necessarily guarantee that a government is respected or that its citizens acknowledge a duty of obedience**

#### 4.6.2. Purposes and Functions of Government

- different governments may serve various purposes and functions
- the **major purposes and functions of government** include the following

- ❖ **Self-Preservation**

- ✓ as their **first and primary purpose and function**, governments are responsible to **Prevail order, predictability, internal security, and external defense**

- ❖ **Distribution and Regulation of Resources**

- ✓ determine whether resources are going to be controlled by the public or private sector
  - **socialist states** - decide to be **controlled by the public**
  - **capitalist states** - decide to be **controlled by the private sector**
  - other states may place in between - controlled by both the public and private

- ❖ **Management of Conflicts**

- ✓ supervision and resolution of conflicts that may arise in society

- ❖ **Fulfillment of Social or Group Aspirations**

- ✓ fulfill the goals and interests of the society
- ✓ These aspirations may include the **promotion of human rights, common good, and international peace**

- ❖ **Protection of Rights of Citizens**

### ❖ Protection of Property

- ✓ police and the court systems that protect private and public property

### ❖ Implementations of Moral Conditions

- ✓ to shape citizens character in accordance with some standard of morality

### ❖ Provision of Goods and Services

- ✓ Some governments, especially those of the poor countries, participate heavily in the provision of goods and services for the public

## 4.7. Understanding Citizenship

### 4.7.1. Defining Citizenship

#### Citizen

- the **person who is a legal member of a particular State and one who owes allegiance to that State**
- a person who is legally recognized as member of a particular, officially sovereign political community, **entitled to whatever prerogatives and encumbered with responsibilities**

#### citizenship

- **The means by which we determine whether a person is legal member of a particular State or otherwise**

- refers to the rules regulating the legal/formal relations between the State and the individual with respect to the acquisition and loss of a given country's nationality
- Several countries refer to the term citizenship in their national language as expressing merely the judicial relationship between the citizen and the State while others denote it with the social roles of citizens in their society

### i. **Citizenship as a Status of Right**

- mere fact of being a citizen makes the person a creditor of a series of rights
- Hohfeld discovered four components of rights known as 'the Hohfeldian incidents

#### **a. Liberty Right**

- ✓ is a freedom given for the right-holder to do something
- ✓ The beholder got benefits from liberty rights without obliging others
- ✓ no one including the State has any legitimate authority to interfere with the citizen's freedom except to prevent harm to others
- ✓ Example: every citizen has the right to movement

#### **b. Claim Rights**

- ✓ Are the inverse of liberty rights since it entails responsibility upon another person or body

- ✓ claim rights are rights enjoyed by individuals when others discharge their obligations
- ✓ Example: unemployment and public service benefits
- ❖ Liberty and claim rights termed as primary rules, rules requiring that people perform or refrain from doing particular action
- ❖ The remaining two are secondary rules specify how agents/beholders can introduce, change and alter the primary rules (liberty and claim rights)

### c. Powers Rights

- ✓ The holder of a power, be it a government or a citizen, can change or cancel other people and his/her own entitlements
- ✓ Examples
  - The right to renounce citizenship/nationality

### d. Immunity Rights

- ✓ allow bearers escape from controls and thus they are the opposite of power rights
- ✓ entail the absence of a power in other party to alter the right-holder's normative situation in some way
- ✓ Examples
  - civil servants have a right not to be dismissed from their job after a new government comes to power

- Witness in the court has a right not to be ordered to incriminate himself/herself

## ii. Membership and Identity

- Citizenship is associated with membership of a political community
- implies integration into that community with a specific identity that is common to all members who belongs to it
- However, nowadays, we often use citizenship to signify not just membership in some group but certain standards of proper conduct
  - ✓ It obviously implies that only 'good' citizens are genuine citizens in the full meaning of the term

## iii. Participation

- individuals differ in what approaches they find important – some people focus on their private affairs while others actively participate in the life of the society, including politics
- There are two approaches
  - A minimalist approach to citizenship - kind of basic **passive** compliance with the rules of a particular community/State
  - maximalist approach - **active**, broad participation of citizens engagement in the State

- Ferguson asserts, people cannot realize their rights if they fail to exercise their democratic rights to participation in decision-making that affect, directly or indirectly, their affairs

#### iv. Inclusion and Exclusion

- All individuals living in a particular state do not necessary mean that all are citizens
- aliens, therefore, have rights just like the Ethiopian citizens such as the right to life, movement, and protection of the law, and also have shared responsibilities
- However, citizens are fundamentally different from aliens in enjoying privileges and shouldering responsibilities
  - There are some political and economic rights that are reserved to and duties to be discharged by citizens only, example
    - ✓ Ethiopian citizen has the right to get access to land, vote and to be elected and get Ethiopian passport
- Citizenship status, however, is not only restricted to persons. Organizations and [endemic] animals could also be considered as citizens
  - The term "corporate citizenship" (CC) has been used increasingly by corporations

- Just like citizens, corporations and private organizations do have the **right, duty**, and beyond the formal responsibilities, they have also **corporate social responsibility (CSR)**.
- ❖ In the era of globalization, it has become increasingly customary to use 'citizen' in a different way to indicate **membership of a person beyond a particular political community**, the State
  - ✓ Terms like '**global citizen**' or '**cosmopolitan citizen**' are commonly used to **refer to every human living in the earth planet**

#### 4.7.2. Theorizing Citizenship

- Citizenship **is not an eternal essence** rather a **cultural artifact mold by people through time**
- there are different **approaches to citizenship**, the most contemporary are following four approaches

##### 4.7.2.1. Citizenship in Liberal Thought

- In liberalism the **primary political unit as well as the initial focus of all fundamental political inquiry is the individual person**
- Liberals insist that individuals should be free to decide on their own conception of the good life, and applaud the **liberation of individuals from any ascribed or inherited status**
- Locke argued that natural law and the reason to apprehend compel individuals to consider their own and others interests, to enter into civil and

political society, act in the community and thus to value social cooperation and self-restraint

- **the individual is morally prior to the community**: the community matters only because it contributes to the well-being of the individuals who compose it
- **citizenship and other political institutions in a given State are means that are accepted only conditionally** – i.e., as long as they, in the individual's calculations, foster the maximization of the citizen's preferences/benefits
- the role of the State is to protect and create convenient environment to help citizens enjoy and exercise of their rights; the State has an instrumental function
  - ✓ According to Mill, individual liberty and State action tend to be opposed to each other
  - ✓ Increasing the power of the State means reducing individual liberty
- individuals have the right to choose their level of participation in the community in order to fulfill and maximize their own self-interest. If they choose not to do so, their citizenship is not jeopardized
- There are three fundamental principles which a liberal government must provide and protect
  - **Equality** - government has to treat individuals who are similarly situated in the same way and afford them the same rights

- **due process** - government is required to treat individuals over whom it exercises power fairly
- **mutual consent** - membership in the political community rests on the **consensual relationship between the individual and the state**
- ❖ By protecting these three values, the government ensures that it provides protection for individuals' rights and liberties, so they can effectively participate in the political sphere
- the bedrock principles of liberal theory of citizenship are
  - ☞ individuals are free to form their own opinions, pursue their own projects, and transact their own business untrammelled by the State's political agenda and coercive power, except in so far as individual actions implicate the interests of other members of society
- **Citizenship cannot be defined based on shared identity or a common culture; the individual chooses his own affections**, and any identification with other individuals is rather a product of their legal status as citizens

### **Critics of Liberal Theory of Citizenship**

- 1) The most common problems related with advocating individualism are **free-riders problem and the tragedy of the commons**
  - **free raiders problem**

- ✓ occurs when **those who benefit from resource or service do not pay for it**, which results in an under provision of the resource/service
- ✓ Particularly it occurs when property rights are not clearly defined and imposed

➤ **tragedy of the commons**

- ✓ a dilemma arises when **individuals act independently and rationally consulting their own self-interest ultimately deplete shared limited environmental resources**, Since no one owns the commons

2) liberalists affirmatively **valorize the privatization of personality, commitment, and activity**, the problem has to do with is the ways in which individuals and their ideas are framed

- ✓ The preferences and insights of autonomous individuals might originate from impure process, **the information they were provided might be biased or meaningless, or their preferences might have arisen from a fit of anger**

3) individuals have absolute freedom either to actively engage in politics or ignore at all, **liberal societies tend to be less egalitarian**

- ✓ if many citizens are not willing to devote time or give attention to politics, **power will become an instrument of the few** rather than of the many, therefore diminishes the social prestige

- 4) For several reasons, liberalism may actually increase economic and other kinds of inequalities rather than reduce them
- ✓ The persistence of inequalities among liberal citizens and between them and aliens are bound to engender much social and political unrest and tensions
  - ✓ More fundamentally, liberalism contrives to keep the State weak and permeable to private interests
- 5) liberalism posits a State that maintains substantial normative neutrality
- ✓ The issues of how liberal State's role remains modest become a matter of great controversy and of course history has proved impossibility of the State to maintain neutral

#### 4.7.2.2. Citizenship in Communitarian Thought

- Communitarianism is as an approach emphasizes on the importance of society in articulating the good
- communitarian (also known as the nationalist) model argue that the identity of citizens cannot be understood outside the territory in which they live, their culture and traditions, arguing that the basis of its rules and procedures and legal policy is the shared common good
- rather than viewing group practices as the product of individual choices, communitarians view individuals as the product of social practices

- communitarians often deny that the interests of communities can be reduced to the interests of their individual members
  - ✓ Privileging individual autonomy is seen as destructive of communities
  - ✓ healthy community maintains a balance between individual choice and protection of the communal way of life and seeks to limit the extent to which the former can erode the latter
- Communitarianism claims that an individual's sense of identity is produced only through relations with others in the community that nourish him/her
- All in all, the two defining features of communitarian perspective are
  - no individual is entirely self-created; instead the citizen and his/her identity is deeply constructed by the society where he/she is a member
    - ✓ It is only when an individual successfully assimilates to the society that the society achieve its common goals and become effective
  - as a consequence of assimilation, a meaningful bond is said to occur between the individual person and his/her community
    - ✓ individual understands that what is good for the community is good for him as well

### Critics of Communitarian citizenship

- Communitarianism is hostile towards individual rights and autonomy – even that it is authoritarian since it melts the self into the society

- communities are dominated by power elites or that one group within a community will force others to abide by its values

#### 4.7.2.3. Citizenship in Republican Thought

- Republican citizenship theory put emphasis on both individual and group rights
  - ✓ It attempts to incorporate the liberal notion of the self-interested individual within the communitarian framework of egalitarian and community belonging
- Citizenship should be understood as a common civic identity, shaped by a common public culture
- It requires citizens to bring together the facets of their individual lives as best they can and helps them to find unity in the midst of diversity
  - However, republicans don't pressurize individuals to surrender their particular identities like the communitarian thought. It encourages people to look for the common ground
- Just like liberal citizenship though, republican school advocate self-government. Yet, republican thought do not agree with the case that all forms of restraints deprive people's freedom
  - ✓ In contrast to liberalism, individuals must overcome their personal inclinations and set aside their private interests when necessary to do what is best for the public

- ✓ Republicans, thus, **acknowledge the value of public life**
- there are two essential elements of the republican citizenship: publicity and self-government
  - **Publicity**
    - **refers to the condition of being open and public**
    - public affairs such as politics, as the common concern of the public, must be conducted openly in the public for reasons of convenience
  - **Self-government**
    - **without citizens who are willing to take an active part in the government, a republic State could not survive**
    - The rule of law thus requires not only active and public-spirited participation in public affairs – the civic virtue of the republican citizen – but also the proper form of government

### Critics of republican citizenship

- republican conception of citizenship is **no longer realistic**
  - ✓ Republican citizenship is an irredeemably nostalgic ideal in this age of globalization
  - ✓ The Internet and satellite television are unlikely to inspire this sense of community on a global basis
- the conception **poses a threat to an open, egalitarian, and pluralistic society**

- ✓ republican attempts because in practice **republican politicians enforced homogeneity by excluding from citizenship all those defined as different**
- ✓ the search for common ground serves to justify the **dominance of a particular – and typically male – group**
- concerns the claim that citizenship involves a false ideal of impartiality

#### 4.7.2.4. Multicultural Citizenship

- the **conception of citizenship in a modern State should be expanded to include cultural rights and group rights within a democratic framework**
- multicultural citizenship **appropriate to highly diverse societies and contemporary economic trends**
- Recognition of group difference implies departing from the idea of all citizens as simply equal individuals and instead seeing them simultaneously as **having equal rights as individuals and different needs and wants as members of groups with specific characteristics and social situations**
- focus of multicultural citizenship discuss **four principles of multicultural citizenship**
  1. **Taking equality of citizenship rights as a starting point**
    - ✓ all members of society are formally included as citizens, and enjoy equal rights and equality before the law
  2. Recognizing that **Formal equality of rights does not necessarily lead to equality of respect, resources, opportunities or welfare**

- ✓ Formal equality can mask and legitimize disadvantage and discrimination
- ✓ multicultural school of thought envisage the need for additional rights for vulnerable minority groups, in order for such groups to sustain themselves amidst the dominant culture(s)
- 3. Establishing mechanisms for group representation and participation
  - ✓ Despite formal equality, disadvantaged groups are often excluded from decision-making processes
  - ✓ It is necessary to make arrangements to ensure the participation of people directly affected, wherever important decisions are made
- 4. Differential treatment for people with different characteristics, needs and wants
  - ✓ Treating people equally, despite the fact that past actions have made them unequal, can perpetuate inequality
  - ✓ Government should take measures to combat barriers based on gender, sexual preference, age, disability, location, Aboriginality, ethnicity, religion, area of origin and culture
  - ✓ **multicultural citizenship allows for marginalized voices to be heard**
- ❖ Critics of differentiated citizenship worry that if groups are encouraged by the very terms of citizenship to turn inward and focus on their 'difference'

- ✓ Citizenship will cease to be a device to cultivate a sense of community and a common sense of purpose. Nothing will bind the various groups in society together and prevent the spread of mutual mistrust or conflict
- ✓ Critics also worry that differentiated citizenship would create a "politics of grievance."

#### 4.7.3. Modes/Ways of Acquiring and Loosing Citizenship

- Citizenship right guaranteed to individuals by the Universal Declaration of Human Rights adopted in 1948, Article 15

##### 4.7.3.1. Ways of Acquiring Citizenship

- the common ways of acquiring citizenship can be grouped in to two: citizenship by birth and citizenship through naturalization/law

##### i. Citizenship from birth/of Origin

- individuals can get citizenship status of a particular State either
  - ✓ because he/she is born in the territorial administration of that state
  - ✓ or his/her mother and/or father are citizens of the State in question
- there are two principles of citizenship from birth commonly known as
  - **Jus Soli (law/right of the soil)**
    - Obtain citizenship because he/she was born in the territorial administration of that country
  - **Jus Sanguinis (law/right of blood)**

- citizenship acquired claiming one's parents citizenship status
  - ❖ However, jus soli could not apply to children born from diplomats and refugees live in a host State
  - ❖ jus soli could not apply to children born from diplomats because of two special principles ( international diplomatic immunities )
    - ✓ extraterritoriality and inviolability principles

## ii. Citizenship by Naturalization/Law

- It is legal process by which foreigners become citizens of another country
- common sub-principles of acquiring citizenship
  - Political case (secession, merger and subjugation)
    - a) particular territory is merged to or subjugated by another country, people domiciled in that territory would acquire a new citizenship
    - b) in cases of secession option may be given to individuals to choose either country's citizenship
  - grant on application
  - marriage
  - legitimatization/adoption
  - reintegration/restoration

### 4.7.3.2. The Modes of Acquiring Ethiopian Citizenship

- in 1930 Ethiopia adopted a legal document named as “Ethiopian Nationality Law”
  - ✓ replaced by another legal document called “**Ethiopian Nationality Proclamation NO. 378/2003**” which was adopted in 2003 by the House of People’s Representatives
- It affirmed that a person can acquire **Ethiopian citizenship either by birth or naturalization**

### 1. Acquisition by Descent

- **Article 3** of the 2003 nationality proclamation ascribed two principles under the acquisition of Ethiopian citizenship by decent
  - Any person shall be an Ethiopian national by descent where **both or either of his/her parent is Ethiopian**
  - An infant who is found abandoned in Ethiopia shall, unless proved to have a foreign nationality, shall acquire Ethiopian nationality
    - ❖ **any person can’t acquire Ethiopian citizenship through the principle of Jus Soli (law of soil)**

### 2. Grant on Application (registration)

- aliens can get Ethiopian citizenship. Under naturalization, there are various ways of acquiring Ethiopian citizenship
  - a) **Grant on Application (registration)** | **Article 5** of the 2003

- Ethiopia, do not simply grant citizenship status to those who apply unless they fulfill certain requirements:
  - ✓ reach the age of **majority, 18 years**
  - ✓ lived in Ethiopia for a total of **at least four years**
  - ✓ sufficient and **lawful source of income**
  - ✓ able to **communicate any of indigenous languages**
  - ✓ has a **good character**
  - ✓ has **not recorded criminal conviction**
  - ✓ has been **released from his/her previous nationality** or the possibility of obtaining such a release
  - ✓ **takes the oath of allegiance** indicated in Article 12

#### b) Cases of Marriage | Article 6

- **alien who is married to an Ethiopian citizen have the possibility of acquiring Ethiopian citizenship**
- **Preconditions:**
  - ✓ **marriage shall be thru** in accordance with the laws of Ethiopia or the State where the marriage is contracted
  - ✓ marriage shall **lapse at least for two years**
  - ✓ the **alien have to live in Ethiopian for at least one year** preceding the submission of the application

- ✓ alien have to reach the **age of majority, morally good person & lastly take the oath of allegiance**

#### c) Cases of Adoption (Legitimizing) | [Article 7](#)

- child adopted by and grown **under the caretaker of Ethiopian citizen** has the right to acquire Ethiopian citizenship
  - ✓ But adopted **child has not attained the age of majority**
  - ✓ **lives in Ethiopia together with his/her adopting parent**
  - ✓ has been **released from his/her previous nationality**, or he/she is a stateless person
  - ✓ If one of his/her adopting **parents is a foreigner, in writing, such a parent has to express his/her agreement** that his/her adopted child gain Ethiopian nationality

#### d) Citizenship by Special Cases | [Article 8](#)

- alien who has made an **outstanding contribution** in the interest of Ethiopia may be conferred with Ethiopian nationality by law **without undergoing the pre-conditions stated in Article 5**

#### e) [Re-Admission to Ethiopian Nationality](#) | [Article 22](#) (Reintegration/Restoration)

- person who has lost Ethiopian citizenship status may get back Ethiopian nationality

### **Examining and Deciding upon an Application to acquire Ethiopian Citizenship**

- An application shall be submitted to the Security, Immigration and Refugee Affairs Authority
- Then, the application shall be examined by the Nationality Affairs Committee, which comprises five members
  - representative of the Security, Immigration and Refugee Affairs Authority (chairperson)
  - representative of the Ministry of Foreign Affairs (member)
  - representative of the Ministry of Justice (member)
  - representative of the Federal Police Commission (member)
  - representative of the Authority (member and secretary)
- If the committee's recommendation got approval of the Authority, the applicant shall take the oath of allegiance

#### **4.7.3.3. Dual Citizenship**

- condition of being a citizen of two nations
- Duality/multiplicity arises because of the clash among the Jus Soli, Jus Sanguini and naturalization
- Example:
  - ✓ baby born to a French family visiting the United States would acquire U.S. citizenship by Jus Soli and French citizenship by Jus Sanguinis

- ✓ child born from a mother and father of two different countries could acquire dual citizenship through decent
- On the other hand
  - ✓ State may allow its naturalized citizens to keep their original citizenship
  - ✓ State may refuse its citizen to revoke his/her citizenship for various reasons which are cause for dual/multiple citizenship
- **Ethiopia prohibits its citizens to have dual citizenship, Article 20(1) of the 2003**

#### 4.7.4. Ways of Loosing Citizenship

- Citizenship can be lost when a State provides for lapse or withdrawal of citizenship under certain conditions, or when a citizen voluntary renounces it
- denationalization grounds into three categories
  - allegiance - lack of allegiance, active disloyalty (for example, treason)
  - punishment - country may seek to deny such benefits to people it believes are unworthy of enjoying them
  - public order
- commonly discussed ways of losing citizenship are
  - 1. Deprivation**
    - ✓ **involuntary** loss of citizenship which arises while **government authorities or court take a decision** to nullify an individual's citizenship

- ✓ for reasons of uncovering national secrets, non-compliance with citizenship duties (duty of loyalty), loss of genuine link with his/her , becoming naturalized in another country etc

❖ **Article 17, the 2003 Ethiopian nationality proclamation prohibits the possibility of losing Ethiopian nationality through deprivation**

## **2. Lapse/expiration**

- ✓ Person loses his/her citizenship because of his/her permanent residence or long term residence abroad beyond the number of years permitted by the country in question
- ✓ Example: Indian, 7 years limit

❖ **is not applicable to Ethiopia**

## **3. Renunciation**

- ✓ **voluntary** way of losing citizenship
- ✓ An **Ethiopian national has the full right to renounce his/her Ethiopian nationality if he/she wishes**
- ✓ **indelible allegiance** - the person who has renounced a country's nationality may not be actually released from that status until he/she has discharged his/her obligations towards that particular State or accused of a crime

## **4. Substitution**

- ✓ when the original citizenship is substituted by another state, where it is acquired through naturalization
- ✓ when a particular territory is annexed by another state; the inhabitants' citizenship within the annexed territory will be replaced by the citizenship of the subjugator
  - ❖ **Ethiopian citizen can lose his/her Ethiopian nationality through renunciation and upon acquisition of other country's nationality**

#### 4.7.4.1. Statelessness

- the condition of having citizenship of any country and with no government from which to ask protection
- Statelessness **almost always** results when state failure leads people to from their home country
- Individuals could also become stateless persons **because of deprivation and when renouncing their citizenship without gaining nationality in another State**
- Some people become stateless as a result of government action

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## Chapter Five: Constitution, Democracy and Human Rights

### 5.1 Chapter Introduction

### 5.2 Chapter Objectives

### 5.3 Constitution and Constitutionalism

#### 5.3.1 Conceptualizing Constitution

- The word 'constitution' is used mainly in many senses
  - ✓ In a **political sense**, it signifies **the constitution of the state**
  - ✓ the term has attained a **normative connotation** and has become **another term for a 'democratic political order'**
- Constitution is figuratively defined as
  - the **fundamental or basic law of a state** which sets out the structure of the state
  - **lists the rights of citizens alongside the limits on the power exercise of a government**
- It is a **blue print placed on top the hierarchy of laws** on constitutional governments
- It is **collection of principles** according to which the powers of the government, the rights of the governed, and the relation between the two are adjusted

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

### 5.3.2. Peculiar Features of Constitution

- constitutional documents and traditions take the general form of a contract or an agreement between the ruled and the rulers
  - ✓ Limitations on the rulers are exacted by the ruled in exchange for allowing the rulers to preserve some elements of their right to govern and for preserving the stability of the governing system itself

### distinctive features of a constitution

#### ➤ Generality

- provides the general principle of a state and carry on foundation and sets out general framework of the law and the government
- constitutional law announces principles while other laws apply or implement what the constitution announce their respective spheres of fields
- other laws provide the details BUT constitution is always the most general in the sense, short and brief
- The generality is very important because it give the constitution a feature of elasticity through interpretation thereby to accommodate various questions

### ➤ Permanency

- It is made for undefined period of time; serve for a long lap of ages
- purposely made to be stable and permanent
  - ✓ other laws are tentative, occasional and in the nature of temporary existence

### ➤ Supremacy

- taking precedence over all others, and defining how all the others should be made
- It is original because it is directly made by the people as the direct expression of the will of the people
  - ✓ other laws are secondary or derivate being commands of representatives of the sovereign

### ➤ Codified document

- written down; often in a single document that presents the constitution in a systematic manner
- constitutions are not intended to be perfect is evidenced by expressly stated processes for revising or amending them

### ➤ Allocation of powers

- It outline the proper relations between institutions and offices of the state, and between government and citizens
- most crucial part because it allocates powers and functions to government

### 5.3.3 Major Purposes and Functions of Constitution

#### ✚ Serves as a framework for Government

- ✓ It is a plan for organizing the operation of government which in turn effectively guides the functions and powers of bodies of government

#### ✚ Limits the Powers of Government

- ✓ In a constitutionally limited government, officials are always abided by the constitution
- ✓ there is no decision or action that will be undertaken arbitrarily and spontaneously rather
  - every decision, act, or behavior is entertained according to rules and laws that originate from the constitution
- ✓ A constitutional Government is neither too powerful nor too weak
  - constitutions shall grant Governments enough powers to effectively and consistently undertake their functions and responsibilities
  - But at the same time must put limits on their powers to make sure that they are not in a position to endanger the rights and freedoms of citizens

#### ✚ Protects individual and collective rights of citizens

#### ✚ Serves as the Supreme (Highest) Law of a Country

- ✓ Constitution is the source of and supreme over all laws in a country

- ✓ No specific law will be valid if it contradicts the constitution
- ✓ constitution of state is referred to as “the law behind other laws” or “the Mother of all laws” of a country

#### ✚ Provides Government legitimacy/stability

- ✓ provide mechanisms through which any potential conflicts can be adjudicated and resolved
- ✓ It provide the vital function of introducing a measure of stability, order, and predictability of government
  - It gives governments a legitimate/legal right to rule or govern and by doing so it serves as the weapon for legitimizing regimes

#### ✚ It is Blue Prints for establishing Values and Goals

- ✓ fundamental aims (objectives) and principles are described or accomplished explicitly in preambles to constitutional documents, which often function as statements of national ideals and values
  - Example: preamble of the FDRE Constitution

### 5.3.4. Classification of Constitutions

- Constitutions are classified into different categories using different criteria

#### A. Constitution based on form

- ✓ in view of the breadth of written provisions; based on form/appearance constitutions

##### ➤ Written Constitution

- is one whose provisions are written in detail

- embodied in a single formal written instrument or instruments
- written constitution is a formal document in a codified form
  - Example, India, Kenya, Ethiopia, USA, Germany, Brazil

### Merits of Written Constitution

- ✓ easily accessible to citizens that - enable them to monitor the behavior of their government
- ✓ Citizens can easily learn about their rights and duties
- ✓ full of clarity and definiteness because the provisions are written in detail
- ✓ has the quality of stability

### Demerits of written constitution

- ✓ It creates a situation of rigidity - leads to the development of a conservative attitude
- ✓ It becomes difficult to change it easily quickly as per the requirements of time - possibilities of mass upheaval are increased
- ✓ becomes a play thing in the hands of the lawyers and the courts - Different interpretations come up from time to time that unsettle the judicial thought of the country
- ✓ not easily adapted to a new situation or changing circumstances. It needs be continuously amended to be adapted to a new situation

### ➤ Unwritten Constitution

- fundamental principles and powers of the government are not written down in any single document
- written provisions are very brief and most of the

rules of the constitution exist in the form of usages and customs

- Example: British constitution

### Merits of Unwritten Constitution

- ✓ has the quality of elasticity and adaptability
- ✓ so dynamic that it prevents the chances of popular uprisings
- ✓ can absorb and also recover from shocks that may destroy a written constitution

### Demerits of Unwritten Constitution

- ✓ not easily accessible to the public to determine which aspects of the constitution are violated and when it is violated
- ✓ difficult to create awareness through education
- ✓ It leads to situations of instability - always in a state of flux as per the emotions, passions and fancies of the people.
- ✓ It leads to the state of confusion
- ✓ It certainly does not suit a democracy where people are always conscious and suspicious of constitutional provisions - may be suitable to a monarchical or aristocratic system

## B. Constitution based on complexity of amending process

### ➤ Rigid Constitution

- the process of amendment is difficult
- special procedure is followed to make a change in any rule of the constitution
  - A constitutional amendment bill must be passed by the parliament by special majority
- A more difficult procedure of constitutional amendment is the one which requires a national referendum

- **Referendum** - the process of **direct voting by citizens to support or rejects at constitutional amendment or other major national issues**
- does not adapt itself to changing circumstances immediately and quickly
  - **Example: USA, Australia, Denmark and Switzerland**

### ➤ **Flexible Constitution**

- **simple amendment procedure** and there is as such **no special required procedure** for amending a constitution
  - absolute majority (two thirds support) in the parliament
- **adapts easily and immediately** to changing circumstances
  - **Example: Constitutions of United Kingdom and New Zealand**

## **C. Constitution based on degree of practice**

- ✓ On the basis of the **degree to which constitution of state observed in practice**

### ➤ **Effective Constitution**

- **government/citizens practices correspond to the provisions of the constitution**
- **requires not merely the existence of constitutional rules** and laws but also the **capacity of those rules and laws to constrain or limit government behavior and activities**, and establish Constitutionalism

### ➤ **Nominal constitution**

- constitution accurately describes government'/citizens' limits **yet in practice either or both fail to behave accordingly**
- constitution **only remains to have paper value** or

when there is **absence of constitutionalism**

- a nominal Constitution is **not observed in practice but in form**

#### **D. Based on the kind of state structure**

✓ based on the kind of state structure made by the constitution

##### **➤ Federal Constitution**

- **distributes power among the different units** of a state administration
- **Some** constitutions purely **classify and decentralize power between the central government and regional/local units**
- The powers divided between the federal government and states or provinces will be **clearly set down in the constituent document**

##### **➤ Unitary Constitution**

- state power is **concentrated in the hands of the central government**
- central government **can establish or abolish the lower levels of government; determine their composition, and their power and functions**
  - local government has **no guarantee for their existence**

#### **5.4. Constitutionalism**

- refers to a doctrine that **governments should be faithful to their constitutions**
- It is being **subject to limitations** and that **citizens and governments operate in accordance with the general rules and laws** rather than arbitrary
  - ✓ This is because the rules and laws so provided are all that can protect citizens' rights from arbitrary actions and decisions of the government

- constitutionalism is the belief that constitution is the best arrangement of affairs in a society
- essential elements for constitutionalism are constitution and its effective implementation
- It is another name for the concept of a limited and civilised government
- constitutionalism does not merely require the existence of constitution
  - ✓ constitutionalism checks whether the act of government is legitimate and whether officials conduct their public duties in accordance with laws pre-determined in advance

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

### 5.5.1. Traditional Constitution (Pre- 1931)

- Ethiopia has a very little experience with a written constitution in spite of its long history of state formation.
  - ✓ first written form of constitution promulgated in Ethiopia in 1931
- Such lack of written constitution does not necessarily implicate the total absence of constitutional rules and principles
- Beginning in the 13th Century until the early 20th Century the Ethiopian Orthodox Church was the chief legitimator of monarchical rule
- documents like the Kebra Nagast, the Fatha Nagast and serate mengest from the 13th Century until the early 20th Century were the precursors to the formal written Ethiopian national constitutions of the modern era

### Fetha Negest – (The Law of Kings)

- ✓ a religious and secular legal provision than being a definite constitution
- ✓ It was originally written in Arabic by the Coptic Egyptian writer Abu-l Fada'il Ibn al-Assal

- ✓ designed by monks in the Church the same time Kibre 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
  - 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 was fundamental laws upon which the government and the administration were based and the king vested with absolute power
  - It contains the idea of divine rights of kings with the assumption that rules have a God given power

### **Kibre Negest – (The Glory of Kings)**

- ✓ written to document for the first time the mythical origins of the royal house
- ✓ written by six Tigrean clerics and completed in the early 14th Century
- ✓ important traditional document that even defined who should become king in Ethiopia
  - It was the principal sources of legitimacy for the kings
- ✓ Based on this the document determined that any king in Ethiopia must descend from the Solomonic dynasty or must have such blood relationship with the dynasty

### **Ser'ate Mengist**

- ✓ provided certain administrative protocol and directives in the 19th century
- ✓ hardly be considered to be a document of Constitutional Law in its widest sense
- ✓ it is the first document known to have been used for allocating power among the Crown, its dignitaries and the

## Church

- ✓ tried to lay out a pattern of succession to power, though the problem of primogeniture was more theoretical than practical

### 5.5.2. The 1931 First Written Constitution

- With promulgation of first written form of constitution on July 16, 1931 by Emperor Haile Selassie, the era of unwritten form of constitution came to an end
- The constitution reinforced the traditional position of the emperor as 'Siyume Egziabiher, Niguse Negast Za Ethiopia' which literally means: Elect of God, King of Kings of Ethiopia
  - ✓ However, on the other marked the end of the role of the nobility or at least the gradual reduction of their role in local leadership, the traditional check against the power of the king of kings, to insignificance
- The constitution unequivocally declared that the sole basis of legitimate authority was the emperor, and that all titles and appointments descended from him - Article 6
- both internal and external factors forced the development of the 1931 constitution

## External Factors

- ✓ It was the result of the growing interaction between Ethiopia and the external world, particularly the western European countries
  - Emperor Haile Selassie developed strong aspiration to view Ethiopia as a modern state to the rest of the world
- ✓ The emperor had to convince the world that his country was modernizing and taking her place among the civilized states
- ✓ However, the 1931 constitution was failed to achieve external goals as intended by the emperor

## Internal Factors

- ✓ It was intended to provide a legal framework for the suppression of the powerful traditional nobilities to the emperor
- ✓ The emperor has a deep interest of centralizing the state power in the internal politics of the country
  - This was effectively done by absolutist nature of the constitution

### 5.5.3. The Revised Constitution of 1955

- Ethiopian politics were profoundly affected by World War II and its aftermath. The emperor had been driven into exile when beginning in 1935 the Italian Fascists occupied the country for just over five years
  - ✓ the Ethiopian Orthodox Church and the traditional aristocracy were severely weakened
- the emperor was restored to the throne by the British in 1941
- the world had also been profoundly changed by the War. Ethiopia was surrounded by African colonies which were rapidly gaining their independence and left by the departing colonialists with varying forms of democratic institutions. This trend led to pressures for reform on the Imperial Crown from younger Ethiopians
- There were constellations of social and political events that urged the revision of the 1931 constitution
- The Revised Constitution continued to reinforce the process of centralization
- The Constitution spent one chapter settling the issue of succession on the rule of male primogeniture.
- Detailed provisions vested in the Emperor wide powers over the military, foreign affairs, local administration and so forth
  - ✓ He was both the head of state and of the government and he continued to oversee the judiciary through his Chilot (Crown Court)

- it also contained an elaborate regime of civil and political rights for the subjects. In theory, the Constitution was the supreme law of the land governing even the Emperor
- It was revised because of internal and external factors mainly to cope up with the social and political dynamics of the then period, global politics, and Ethio-Eritrean federation
- revised version comes with a slight modification in the structure of the system of governance, limiting the power of the emperor to a certain extent and a relatively better recognition of rights and freedoms
- The federation of Eritrea with Ethiopia led to the addition of two new documents in to the Ethiopia legal system
  - ✓ the federal act and the Eritrean constitution
  - ✓ Both documents were far modern and better than the existing traditional 1931 constitution of the imperial government. Thus, the emperor was forced to revise the 1931 Constitution

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

- Immediately after came to power, the Dergue setup the Provisional Military Administrative Council (PMAC) type of temporary government
- The PMAC presented itself for elections through a new party- the Workers' Party of Ethiopia. The party became the vanguard communist party
- After coming to power the Dergue issued a series of decrees and proclamations that was used as legal rules until the adoption of 1987 constitution
- However, these, decrees and proclamations cannot be given a constitutional status because it does not touch basic constitutional issues
  - ✓ the time from 1974-1987 was a period vacuum in Ethiopia

## of constitutional

- The People's Democratic Republic Ethiopia constitution (1987) was different from the 1931 and the 1955 imperial constitutions in that constitution
  - ✓ State and religion were separated – secularism
  - ✓ State the political power and sovereignty were declared to be the preserve of the working people of Ethiopia
  - ✓ contains provisions on democratic and human rights
  - ✓ recognized the different cultural identities and the equality of Nation and Nationalities
  - ✓ Introduced a party system by giving recognition to the workers party of Ethiopia
    - leading to a transition from a none party system to a single party system
  - ✓ aimed at the principles of Marxist and Leninist ideology
  - ✓ Aimed at giving power to the peoples so that they exercise through referendum, local and national assembly
- Practically, however, the 1987 constitution was not different from the 1931 and 1955 constitutions

### 5.5.5. The 1995 (FDRE) Constitution

- The FDRE constitution has a wider coverage of both human and democratic rights. one third (approximately 33 articles) is devoted to the discussion of rights

#### Features

- ✓ introduction of a federal form of governance
- ✓ assignment of the competence of determining constitutionality to the second chamber of the parliament
- ✓ embody many of the core egalitarian principles including the principle of self- determination of collectivities, rule of law, democracy e.t.c
- In the second chapter, the Constitution gives recognition to five fundamental principles

- ✓ principles of popular sovereignty (art. 8)
- ✓ constitutionalism and constitutional supremacy (art. 9)
- ✓ sanctity of human rights (art. 10)
- ✓ secularism (art. 11)
- ✓ accountability and transparency of government (Art.12)

## **5.6. Democracy and Democratization**

### **5.6.1. Defining Democracy**