

HISTORY & GOVERNMENT FORM 2 NOTES

Democracy and
Human Rights

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Enhanced by:



Atika School

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DEMOCRACY & HUMAN RIGHTS DEFINITION

Democracy

- ❑ Democracy is the rule of the people. It's a form of government where political decisions are directly in the hands of the citizens.
- ❑ Abraham Lincoln defines democracy as the government of people, by the people and for the people.

DEMOCRACY & HUMAN RIGHTS DEFINITION

Human rights

- These are entitlements or the legal claims that universally belong to the people from the time they are born regardless of sex, race, tribe, language, place of origin, age or political beliefs. Can also be defined as powers of free action. Every individual must, by his or her very nature, have certain powers of free action.

Aspects/ components of Democracy

- ❑ **Political** - a system of governing in which the whole population is free to participate
- ❑ **Social** - relating to the dignity and worth of the individual
- ❑ **Economic** - ensuring equal opportunities for all citizens and prevention of exploitation of some individuals by others.

Types of democracy

1) **Direct/pure democracy**

This is a system where people in a state are allowed to freely participate in decision making process forums. It is exercised through physical presence in important meetings, referendum, plebiscite, recall and initiative

Types of democracy

2) **Constitutional democracy**

This is a system where the rights and powers of the majority are exercised within the limits of the constitution. The rights of the minorities are also guaranteed.

Types of democracy

3) Indirect democracy

This is a system where citizens exercise their democratic rights through representatives' e.g. parliamentary, presidential and composite.

Principles of democracy

- 1) Freedom of speech, debate and inquiry
- 2) Participation of people in their government on a perpetual basis
- 3) An open and accountable mass media
- 4) Economic democracy to empower people with means of creating and controlling their own wealth
- 5) Equality before the law- equal chance to seek and receive justice

Principles of democracy

- 6) Openness/ accountability and transparency the government and those elected
- 7) Political tolerance. People's political views be accommodated
- 8) Education - to create awareness through education among the citizens on their rights and duties.
- 9) Good leadership - wise, competent enlightened principled, financially and morally upright leaders
- 10) Consent of the people - people are the controlling power
- 11) Regular free and fair elections

Principles of democracy

- 12) National unity - a prerequisite for stability democracy
- 13) Patriotism - citizens become an integral part government and are concerned about their try's welfare
- 14) Tradition - a country to develop its own democratic traditions and ethos.
- 15) Bill of rights - where rights and freedoms of citizens are guaranteed in the constitution
- 16) Co-existence - i.e.. international understanding and peaceful co-existence among countries
- 17) Balance between the liberty of the individual and the power of the state.

Advantages/Merits of Democracy

- 1) Founded on the consent of the people and therefore popular
- 2) Recognizes equality of all people
- 3) Has a moral and educative value since it develops an individual's personality and initiative
- 4) Balances the liberty of the individual with the power of the state
- 5) Promotes patriotism
- 6) Enhances peace.

Disadvantages/Demerits of Democracy

- 1) Difficult to elect leaders who are honest, wise and morally upright
- 2) Can promote dictatorship by the majority at the expense of interests of the minority
- 3) It is the elected minority who rule
- 4) May promote incompetence on the basis of leaders chosen
- 5) It is often slow and wasteful since consultations have to be made before decisions are made
- 6) Can encourage class struggle and corruption.

Human Rights

Justification for Rights

- 1) They are inherent to human beings. They belong to all people by virtue of their being human beings
- 2) Take into account minorities and other disadvantaged groups
- 3) Enhance national unity and thus minimize conflicts, both internal and external
- 4) Protect democracy e.g.. right to vote
- 5) Guide organs of state with regard to exercise of their power
- 6) Empower citizens by giving them a voice in decision making
- 7) Enable human beings to achieve a dignified life, satisfy their physical and spiritual needs as well as fulfill their potential.

Characteristics of Human Rights

- 1) Are universal - apply equally to all people worldwide
- 2) Are indivisible therefore one right is inapplicable if the others don't exist
- 3) Have limitations as an individual enjoys their right, they should respect and hence not interfere with the rights of others.
- 4) Application of human rights may be suspended under certain circumstances e.g.. during war; due to disease outbreak etc...

The Bill of Rights

- A. Statement of human rights in a constitution or convention
- B. Explains the rights of an individual by virtue of being a human being
- C. International Bill of Rights is contained in the international covenant on civil and political rights.

Principles outlined in the Bill of Rights

1. People have a right to self-determination
2. Respect for all individuals without any discrimination
3. Equal rights for both men and women
4. No group or person is allowed to destroy any of the rights
5. Every human being has the inherent right to life
6. No one should be subjected to torture, to cruel, inhuman or degrading treatment

7. Freedom from slavery and forced labour
8. Freedom from arbitrary search and entry
9. Freedom of movement
10. Freedom from discrimination
11. Freedom of assembly and association
12. Right to property
13. Right to liberty and security
14. Freedom of expression
15. Right to fair trial

16. Freedom of thought, conscience and religion

17. Right to participation in governance

18. Equality of all before the law

19. Right of minorities to enjoy their culture, practice their own religion and use their language

20. In times of public emergency that threatens the life of a nation, a state can take appropriate measures derogating from their obligations under the present covenant, provided such measures are not inconsistent with their obligations under international law and do not involve discrimination on any ground be it race, religion, colour, sex etc.

Classification of Human Rights

Classical Human Rights/Political and Civil Rights

- 1) Right to life
- 2) Protection against cruel, inhuman or degrading treatment
- 3) Right to security and privacy
- 4) Right to personal liberty
- 5) Protection from slavery
- 6) Right to a fair trial
- 7) Freedom of thought, conscience and religion

- 9) Protection from arbitrary arrest, search or detention
- 10) Freedom of movement
- 11) Freedom of assembly and association
- 12) Right to vote
- 13) Right to have access to information
- 14) Right to a nationality
- 15) Right to own property
- 16) Right to emigration
- 17) Freedom of expression
- 18) Freedom from discrimination
- 19) Right to participation in the governance of one's country.

Economic, Social and Cultural Rights

- ☐ Right to work
- ☐ Right to found a family
- ☐ Right to education
- ☐ Right to fair wages
- ☐ Right to physical and mental health
- ☐ Right to an adequate standard of living
- ☐ Right to health etc...
- ☐ Right to education
- ☐ Right to participate in the cultural life of one's community
- ☐ Right to social security
- ☐ Right to own property
- ☐ Right to rest and leisure
- ☐ Freedom from hunger

Third Generation/Solidarity Rights

- 1) Right to clean, healthy and sustainable environment free from pollution, destruction or degradation
- 2) Right to self determination in cultural affairs
- 3) Right to political and economic advancement
- 4) Right to national and international peace security
- 5) Right to permanent sovereignty over national resources.

The UN Charter on Human Rights

Are contained in the Universal Declaration of H Rights,
adopted by the UN General Assembly 10th December 1948

They include:-

- 1) All human beings are born free and equal in dignity and rights.
- 2) Everyone is entitled to all the rights freedoms set forth in this Declaration, without distinction of any kind, such as race colour, sex, language, religion, political or other opinion, national or social on; property, birth or other status
- 3) Everyone has the right to life, liberty and security of person

- 4) No one shall be subjected to torture or to cruel or inhuman, degrading treatment or punishment.
- 5) No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
- 6) Everyone has the right to recognition as person before the law.
- 7) All are equal before the law and are entitled without any discrimination to equal protection of the law.
- 8) Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- 9) No one shall be subjected to arbitrary detention or exile.

- 10) Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.
- 11) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty
- 12) No one shall be subjected to arbitrary interference with their privacy, family, home or correspondence, nor to attacks upon their honour and reputation.
- 13) Everyone has the right to freedom of movement and residence within the borders of each state.
- 14) Everyone has the right to leave any country, including their own, and to return to their country.

15. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
16. Everyone has the right to a nationality.
17. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family.
18. Everyone has the right to own property alone as well as in association with others.
19. Everyone has the right to freedom of thought, conscience and religion.

20. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
21. Everyone, as a member of society, has the right to social security.
22. Everyone has the right to freedom of opinion and expression.
23. Everyone has the right to freedom of peaceful assembly and association.
24. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

25. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

26. Everyone has the right to a standard of living adequate for the health and well-being of themselves and of their family, including food, clothing, housing and medical care and necessary social services.

27. Everyone has the right to education.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.

- 28) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- 29) Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.
- 30) Duty to the community. Despite the rights stated above, every person has various duties to the communities in which they live

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Importance of the UN Charter on human rights

- 1) Reaffirms that human beings are born free and equal in dignity and rights
- 2) Serves as a driving force behind many human rights-based legislations
- 3) Has inspired creation of subsequent international documents such as international bill of rights and the convention on the elimination of all forms of racial discrimination
- 4) Makes the protection of human rights an important part of international law
- 5) Serves as a basis for human rights observers like amnesty international to refer to
- 6) Sets a standard of achievement for all nations to strive for
- 7) Serves as a moral conscience to the world community by providing international norms and standards
- 8) to which the world community is expected to adhere.

The Kenyan bill of rights

This is a statement of human rights in a constitution. Some of the general provisions that relate to the bill of rights include:

1. Application of the bill of rights
2. Implementation of rights and fundamental freedoms
3. Enforcement of the bill of rights
4. Authority of the court to uphold and enforce the bill of rights
5. Limitations of rights or fundamental freedoms
6. Rights and freedoms that may not be limited

7. Rights and fundamental freedoms i.e

- ☐ Right to life
- ☐ Equity
- ☐ Freedom from discrimination
- ☐ Gender
- ☐ Older members of society
- ☐ Youth
- ☐ Children
- ☐ Family
- ☐ Persons living with disabilities
- ☐ Minorities and marginalized groups
- ☐ Human dignity
- ☐ Freedom and security of the person
- ☐ Slavery, servitude and forced labour
- ☐ Privacy
- ☐ Access to information

Application of the Kenyan bill of rights to specific groups of people in Kenya

1) Children.

Every child has a right;

- i) To a name and nationality from birth.
- ii) To free and compulsory basic education
- iii) To basic nutrition, shelter and healthcare.
- iv) To be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour.
- v) To parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not.

VI. Not to be detained , except as a measure of last resort, and when detained, to be held-

- ☐ For the shortest appropriate period of time.
- ☐ Separate from adults and in conditions that take account of the child's sex and age.
- ☐ A child's best interests are of paramount importance in every matter concerning the child.

PERSONS WITH DISABILITIES

A person with any disability is entitled;

- 1) To be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning.
- 2) To access educational institutions and facilities for persons with disabilities that are integrated into society to the person's interest.
- 3) To reasonable access to all places, public transport and information.
- 4) To use Sign language, Braille or other appropriate means of communication.
- 5) To access materials and devices to overcome constraints arising from the person's disability.
- 6) The State shall ensure that at least five percent of the members of public in elective and appointive bodies are persons with disabilities.

YOUTH

The State shall take measures, including affirmative action programmes, to ensure that the youth-

- Access relevant education and training.
- Have opportunities to associate, be represented and participate in political, social, economic and other spheres of life.
- Access employment.
- Are protected from harmful cultural practices and exploitation.

MINORITIES AND MARGINALISED GROUPS

The State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups-

- 1) Participate and are represented in governance and other spheres of life.
- 2) Are provided special opportunities in educational and economic fields.
- 3) Are provided special opportunities for access to employment.
- 4) Develop their cultural values, languages, and practices.
- 5) Have reasonable access to water, health services and infrastructure.

OLDER MEMBERS OF SOCIETY

The State shall take measures to ensure the rights of older persons-

1. To fully participate in the society's affairs.
2. To develop themselves.
3. To live in dignity and be free from abuse.
4. to receive reasonable care and assistance from their family and State.

Rights of Arrested Persons.

An arrested person has the right;

1. To be promptly informed of the reason for the arrest, his/her right to remain silent and the consequences of remaining silent.
2. To remain silent.
3. To communicate with an advocate and other people whose assistance is necessary.
4. Not to be forced to make a confession or admission that can be used against him/her as evidence.
5. To be held separately from people who are serving a sentence.

6. To be arraigned in court as soon as reasonably possible though not later than twenty four hours. Also, if the twenty four hours end after ordinary court hours or on a day that is not an ordinary court day, before the end of the next court day.
7. To be charged or informed of the reason for the continuing detention at the first court appearance or, to be released.
8. To be released on bond or bail on reasonable conditions while waiting for a charge or a trial. Unless there are compelling reasons not to do so.
9. A person shall be remanded in custody if his/her offence is punishable by a fine only or by imprisonment for not more than six months.

Rights of persons detained/imprisoned/in custody

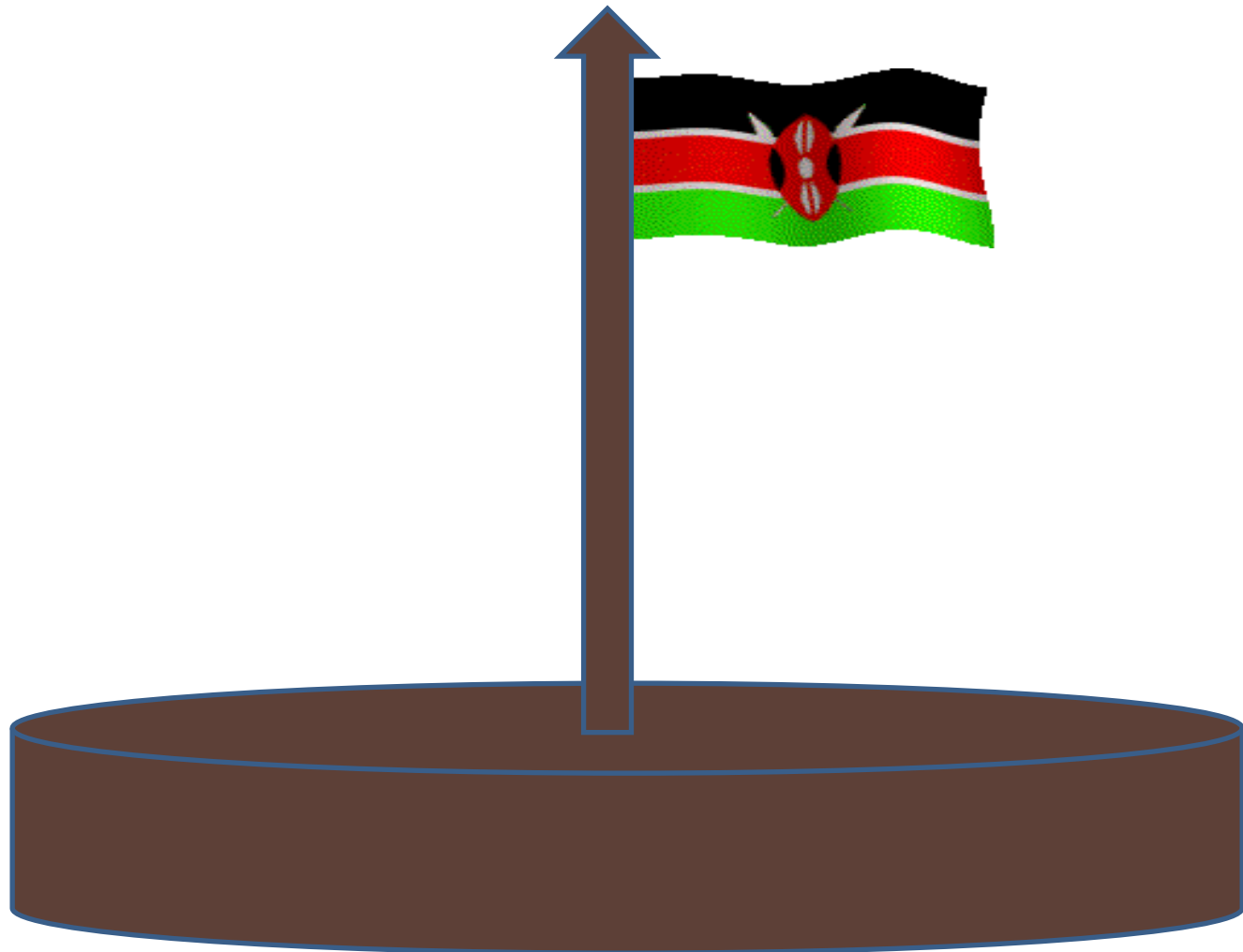
- 1) A person who is detained retains all rights and fundamental freedoms in the Bill of Rights except if such a right is clearly incompatible with the fact that he/she is detained.
- 2) A detainee is entitled to petition for an order of habeas corpus.
- 3) Provides for humane treatment of detainees.

Functions of the Kenya National Human Rights and Equality Commission

- 1) To protect and promote human rights
- 2) To investigate and provide redress to human rights violations in Kenya
- 3) To research and monitor the compliance of human rights norms and standards
- 4) Provide education, training and campaign on the preservation of human rights
- 5) As a watchdog, it monitors government institutions regarding human rights observance and possible violations of the same
- 6) As an advisory body, it gives advice to the government on how to enhance the promotion and protection of human rights
- 7) Monitors the enactment of legislation in Kenya to ensure they are human rights compliant and recommends for review of older legislations for the same purpose.

REVISION QUESTIONS

- 1) Give the meaning of democracy and Human rights
- 2) Identify the types of democracy
- 3) Discuss the principles of democracy
- 4) State the functions of the UN Charter on Human rights
- 5) Discuss the Kenya Bill of Rights
- 6) Discuss how the Kenya Bill of Rights applies to specific groups of people in Kenya
- 7) State the functions of the Kenya National Human Rights and Equality Commission.



LAST TOPIC FORM TWO WORK



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F r e e O n l i n e A c a d e m y