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Democratic System as Right

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1. Introduction

Democracy means a system of government by the whole population or all the eligible members of a state, typically through elected representatives. The word democracy came from the Greek language: demos (the people) and kratos (govern). In other words it is a type of state as well as an order of society. Democracy having a moral principle, its means that every man has value. It enshrines the truth that government does not exist for its own sake, but for the enrichment of personality. No government has a right to be called a democracy if it does not bring out the best in man. In short, democracy is the institutionalization of freedom.

Democratic system can be of two types:- Direct and Indirect democracy. In a direct democracy, the legal and political sovereignty vests in the people. In the indirect system of democracy, it is the representative of the people who exercise the power of legal as well as political sovereignty. On 8th November 2007, the General Assembly proclaimed 15th September as the International Day of Democracy.

2. Democracy at International level

The United Nations Charter includes the word "democracy", the opening words of the charter, "We the Peoples", reflect the fundamental principle of democracy, that the will of the people is the source of legitimacy of sovereign states and therefore of the United Nations as a whole bunch. This brings home the fact that democracy is one of the universal and indivisible core values and principles of the United Nations. It is based on the freely expressed will of people and closely linked to the rule of law and exercise of human rights and fundamental freedoms.

The Universal Declaration of Human Rights, adopted by the General Assembly in 1948, clearly projected the concept of democracy by stating "the will of the people shall be the basis of the authority of government". The Declaration spells out the rights that are essential for effective political participation. Since its adoption, the Declaration has inspired Constitution-making around the World and has contributed greatly to the global acceptance of democracy as a universal value of principle. The link between democracy and human rights is captured in Article 21(3) of the Universal Declaration of Human Rights which States: "The will of the people shall be the basis of the authority of Government; this shall be held by secret vote or by equivalent free voting procedures"

International Covenant on Civil and Political Rights, 1966 lays the basis for the principles of democracy under international law, particularly:

Article 19 – the right to freedom of opinion and expression;

Article 21 – the right of peaceful assembly;

Article 22 – the right to freedom of association with others;

Article 25 – the right and opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives.

International Covenant on Economic, Social and Cultural Rights 1966 covers the rights of certain groups like indigenous peoples, women, minorities, people with disabilities and migrant workers etc, are

equally essential for democracy as they ensure inclusivity for all groups including equality, equity in respect of access to civil and political rights.

Convention on The Elimination of All Forms of Discrimination Against Women, 1979

Women are half of the Worlds population and as such their voice should be heard in the democratic process. It is through democratic representation that women's interests can be represented and their voices heard. Article 7 in this convention reiterates the importance of women's representation in the political life of their countries

“...ensure to women, on equal terms with men, the right:

To vote in all elections and public referenda and to be eligible for election to all publically elected bodies,

To participate in the formulation of Government policy and the implementation thereof and to hold public office and preform all public functions at all levels of government”

American Convention on Human Rights, 1978 Article 23 of the American Convention on Human Rights provide the right of citizens to vote and be elected in genuine periodic elections.

American Declaration of the Rights and Duties of Man, 1948 Article 20 of the American Declaration of the Rights and Duties of Man guarantee the right of citizens to vote and be elected in genuine periodic election.

Charter of the Organization of American States (OAS), 1948 establishes in its preamble, "representative democracy is an indispensable condition for the stability, peace and development of the region", and establishes that one of its purposes is "to promote and consolidate representative democracy, with due respect for the principle of non-intervention". In the 1991 the General Assembly of the Organization of American States established a process by which the OAS will take action if the democratic order is interrupted in any member country. In 1992, the Protocol of Washington, (in ratification), defending democracy.

African charter on Human and people's Rights, 1981. Article 13(1) of the African Charter on Human and Peoples Rights provides that every citizen shall have the right to participate freely in their Government.

European Convention for The Protection of Human Rights and Fundamental Freedoms, 1953 Article 3 of protocol of the Convention parties undertake to hold free elections at reasonable intervals by secret ballot” under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”

Article 9,10,and 11 of this Convention also ensure the right to freedom of through, the right right to freedom of expression, and the right to freedom of peaceful assembly.

3. Democracy as Right in U.S. : Access to information laws reflect the fundamental premise that Government is support to serve the people.

Article 19 has described information as “the oxygen of democracy” information is essential to democracy at a number of levels. Elections can never meet their goal-described under international law as ensuring that “the will of the people shall be the basis of the authority of Government” if the electorate lacks access to information which enables it to form an opinion. Democracy is also about accountability and good governance. The public has a right to scrutinize the actions of its leaders and to engage in full and open debate about those actions.

4 .Democracy as Right in India : We were ruled by British, and they had Democratic system (Of course Monarch is notional head). So the British tried to form a government system for India on England. And then Many Acts were passed to gradually increase the democratic system, this can seen from Government

of India Act of 1861 and then finally Government of India Act 1935. Our present day system of democracy is largely based upon Government of India Act 1935, so it can be said as bedrock of our democratic system. At that time voting rights used to be conferred upon on basis of Property Holdings, Educational Background etc. at the time of independence we were very familiar with democratic system so our constitutional fathers chose Democracy over Monarch.

India is the largest democracy in the world. Ruled by various kings and emperors and colonized by the Europeans for centuries, India became a democratic nation post its independence in the year 1947. Thereafter, the citizens of India were given the right to vote and elect their leaders. The second most populous country and the seventh largest country by area, India is the largest democracy in the world. Indian democratic government was formed after the nation attained independence in 1947. The parliamentary and state assembly elections are held every 5 years to elect the Central and state governments.

Democracy in India gives its citizens the right to vote irrespective of their caste, color, creed, religion and gender. It has five democratic principles – sovereign, socialist, secular, democratic and republic various political parties stand for elections at the state as well as national level periodically. They propagate about the tasks accomplished in their previous tenure and also share their future plans with the people. Every citizen of India, above the age of 18 years, has the right to vote. The government is making continuous efforts to encourage more and more people to cast their vote. People must know everything about the candidates standing for the elections and vote for the most deserving one for good governance.

In Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal, Every citizen has a fundamental right to impart as well as receive information through the electronic media. It ruled that frequencies or airwaves are public property, and that the government enjoys no monopoly over broadcasting. Court ordered the government to take immediate steps to set up an independent and autonomous public authority to regulate frequencies. Freedom of speech and expression (Article 19 (1) & 19(2)) played an important role in this decision.

In Brij Bhushan V. State of Delhi,

The validity of censorship previous to the publication of an English weekly of Delhi, the Organizer was questioned. The court struck down the section 7 of the East Panjab Sefty Act, 1948, which directed the editor and publisher of a newspaper “to submit for security, in duplicate, before the publication, till the further orders, all communal matters and news and views about Pakistan, including photographs, and cartoon”, on the ground that it was a restriction on the liberty of the press. Similarly, prohibiting newspaper from publishing its own views or views of correspondents about a topic has been held to be a serious encroachment on the freedom of speech and expression.

5. Conclusion

In 2000, the Commission recommended a series of important legislative, institutional and practical measures to consolidate democracy. Since its establishment in 2006, the Human Rights Council has adopted a number of resolutions highlighting the interdependent and mutually reinforcing relationship between democracy and human rights. in transitional democracies and countries emerging from conflict, OHCHR collaborates with national governments and other actors to confront the past in order to rebuild public confidence and restore peace and the rule of law. United Nations electoral assistance has been a crucial and successful component in peacekeeping, peacebuilding and in establishing and deepening democratic governance. The UN is committed to acting on that, and ensuring that young people have their democratic say. In the words of the UN Secretary General’s Envoy on

Youth, Ahmad Alhendawi : "As a young person, you don't need to carry UN badge to work for the UN. You just need to carry its values in your heart".

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