



Doc. 1

## CONSTITUTIONAL DEMOCRACY

This outline attempts to set forth the essential elements or characteristics of constitutional democracy. Democracy is government of, by, and for the people. It is government of a community in which all citizens, rather than favoured individuals or groups, have the right and opportunity to participate. In a democracy, the people are sovereign. The people are the ultimate source of authority.

In a Constitutional democracy the authority of the majority is limited by legal and institutional means so that the rights of individuals and minorities are respected. This is the form of democracy practiced in France, Great Brittan, Germany, Japan, the United States, and other countries.

This framework is intended to assist interested persons in various nations in establishing or improving curricular programs which foster an understanding of and support for constitutional democracy. The outline must be adapted to fit the circumstances and needs of individual political communities.

### I- THE ESSENTIAL CHARACTERISTICS & PRINCIPLES OF CONSTITUTIONAL DEMOCRACY

Constitutional democracy is the antithesis of arbitrary rule, it is characterized by:

**A. Popular sovereignty:** The people are the ultimate source of the authority of the government which derives its right to govern from their consent.

**B. Majority rules and minority rights:** Although "the majority rules," the fundamental rights of individuals in the minority are protected.

**C. limited government:** The powers of government are limited by law and a written or unwritten constitution which those in power obey.

**D. institutional and procedural limitations of powers:** There are certain institutional and procedural devices which limit the powers of government. These may include:

**1. Separated and shared powers:** Powers are separated among different agencies or branches of government. Each agency or branch has primary responsibility for certain functions such as legislative, executive, and judicial functions. However, each branch also shares these functions with the other branches.

**2. Checks and balances:** Different agencies or branches of government have adequate power to check the powers of other branches. Checks and balances may include the power of judicial review the power of courts to declare actions of other branches of government to be contrary to the constitution and therefore null and void.

**3. Due process of law:** Individual rights to life, liberty, and property are protected by the guarantee of due process of law.

**4. Leadership succession through elections:** Elections insure that key positions in government will be contested at periodic intervals and that the transfer of governmental authority is accomplished in a peaceful and orderly process.

### II- THE FUNDAMENTAL VALUES OF CONSTITUTIONAL DEMOCRACY

The fundamental values of constitutional democracy reflect a paramount concern with human dignity and the worth and value of each individual.

**A. Basic rights:** Protection of certain basic or fundamental rights is the primary goal of government. These rights may be limited to life, liberty, and property, or they may be extended to include such economic and social rights as employment, health care and education. Documents such as the Universal Declaration of Human Rights (UDHR), the United Nations Convention on the Rights

of the Child (UNCRC), and the African Charter on Human and People's Rights (ACHPR) enumerate and explain these rights.

**B. Freedom of conscience and expression:** A constitutional democracy includes among its highest purposes the protection of freedom of conscience and freedom of expression. These freedoms have value both for the healthy functioning and preservation of constitutional democracy and for the full development of the human personality.

**C. Privacy and civil society:** Constitutional democracies recognize and protect the integrity of a private and social realm comprised of family, personal, religious, and other associations and activities. This space of uncoerced human association is the basis of a civil society free from unfair and unreasonable intrusions by government.

**D. Justice.** A constitutional democracy promotes:

- **Distributive justice.** The fair distribution of the benefits and burdens of society.
- **Corrective justice:** Fair and proper responses to wrongs and injuries.
- **Procedural justice:** The use of fair procedures in the gathering of information and the making of decisions by all agencies of government and, most particularly, by law enforcement agencies and the courts.

**E. Equality:** A constitutional democracy promotes:

- **Political equality:** All citizens are equally entitled to participate in the political system.
- **Equality before the law:** The law does not discriminate on the basis of unreasonable and unfair criteria such as gender, age, race, ethnicity, religious or political beliefs and affiliations, class or economic status. The law applies to the governors as well as the governed.
- **Economic equality:** Constitutional democracies have differing conceptions of the meaning and importance of economic equality. At the very least, they agree that all citizens should have the right to an equal opportunity to improve their material wellbeing. Some constitutional democracies also attempt to eliminate gross disparities in wealth through such means as progressive taxation and social welfare programs.

**F. Openness:** Constitutional democracies are based on a political philosophy of openness or the free marketplace of ideas, the availability of information through a free press, and free expression in all fields of human endeavor.

### III- COMMON WAYS OF CONSTITUTIONAL DEMOCRACY'S ORGANIZATION

**A. Unitary, federal and confederate system:** Unitary and federal systems are the most common ways of organizing constitutional democracies. There also are associations of states called confederations.

**1. Unitary system:** In a unitary system central government has full power, which it may delegate to subordinate governments.

**2. Federal system:** In a federal system power is shared between a central government which has full power over some matters and a set of subordinate provincial or state governments that have power over other matters.

**3. Confederations:** In a confederation, a league of independent states, which retain full sovereignty, agrees to allow a central government to perform certain functions, but the central government may not make laws applicable to individuals without the approval of the member states.

**B. Checks and balances:** These are constitutional mechanisms by which each branch of government shares power with the other branches so that no branch can become absolute. Each branch "checks" the others, because it is balanced against another source of power.

**C. Separated and shared powers:** All constitutional democracies use separation of powers as an important means of limiting the exercise of political power. This separation is typically among legislative, executive, and judicial functions. Although primary responsibility for each of these powers may be placed with one or more specific agencies or branches of government, other agencies and branches share the powers. For example, although one branch may have primary responsibility for creating laws, other branches may draft proposed laws, interpret their meaning, or manage disputes over them.

**D. Parliamentary and presidential systems:** Governments can be organized as parliamentary or as presidential systems. In a few countries, the two systems are combined and called a "dual executive" system.

1. In **parliamentary system**: the chief executive, usually called the prime minister, is chosen from among the members of the legislature. While law fixes the maximum interval between elections, parliamentary governments may end sooner. If a majority of parliament votes for a motion of "**no confidence**" in a government, it is obliged **to resign**. In this case, the government is said to "fall" and new elections are held.

Parliamentary systems require that members of the prime minister's cabinet be members of the legislature (parliament). The prime minister is the head of government but not the head of state. A separate **office holder**, either a constitutional monarch or "president," is head of state.

2. In **presidential system or system of shared powers**: executive power is separated from the legislative power. The chief executive or head of government is not a member of the legislature. He or she serves a term fixed by the constitution and can be removed only in extraordinary circumstances such as impeachment and **trial proceedings**. The president also is chief of state and represents the policy on **ceremonial occasions**.

In presidential systems, the separation of legislative and executive powers may be incomplete. The executive may exercise some power over the legislature, and vice versa. Thus, the executive may be able to veto legislation passed by the legislature while the legislature may be able **to curtail** actions of the executive by cutting off funds for specific executive activities.

Although the political system of the United States and other constitutional democracies have been called presidential systems, this term does not reflect the reality of these complex systems with their **dispersed** and shared powers. Contemporary scholars have increasingly referred to such nations as possessing systems of shared powers, a more accurate description.

#### IV- CHARACTERISTICS OF CITIZENS ENABLE CONSTITUTIONAL DEMOCRACY TO FLOURISH

A. **Citizenship in constitutional democracy**: There is a difference between being a citizen in a constitutional democracy and being a subject in **an authoritarian** or **totalitarian** regime. In a democracy, each citizen is a full and equal member of a self-governing community **endowed** with certain fundamental rights, as well as with certain responsibilities. A subject, in contrast to a citizen, is obliged to obey the commands of others. The relation of the subject to the state is not dependent upon consent.

B. **Knowledge and skills**: Constitutional democracy requires informed and effective participation by citizens who understand and have a reasoned **commitment** to its fundamental principles and values, as well as a familiarity with its political processes.

1. **Civic knowledge**: Citizens, of course, cannot know everything they would or should in an ideal democracy, but they should have some understanding of the following:

- **History**: Citizens should be familiar with the political, economic, and social history of their own country, how the modern world came to be, including how constitutional democracy developed, and the major events, issues and ideas of others of the **contemporary** world.

- **Geography**: Citizens should be familiar with the geography of their own country and of the world in order to be able to incorporate geographical factors into their thinking about political, social, and economic events.

- **Basic political ideas**: Citizens should be familiar with such fundamental concepts as popular sovereignty, constitutionalism, individual rights, and the common good.

- **Political system**: Citizens should be familiar with both formal political institutions and with civil society, and they should understand the influence of the one upon the other. They also should be familiar with the purposes of government and with the principal individual and organizational actors in the political life of their country.

- **Legal system**: Citizens should be familiar with the operation of the legal system and the rights and obligations of citizens under it.

- **Basic economic ideas**: Citizens should be familiar with basic concepts and principles of economics, the economic policies of their own country, and its economic relations with the rest of the world.

- **How nations interact**: Citizens need to know how the world is organized politically, as well as the role of international governmental and non-governmental organizations.

- **Sources of information**: Citizens should understand the significance of the mass media in a free society and the ways in which the media influences public opinion.

**2. Civic skills:** Competent and responsible citizenship requires not only knowledge and understanding, but the development of intellectual and participatory skills essential to civic life.

**a. Intellectual skills:** include the capacity to:

- think critically about information, arguments, and commentaries on public affairs
- make thoughtful judgments about government and public policy
- read, write, and speak effectively in forums appropriate to civic life and public affairs.

**B. Participatory skills:** include the capacity to:

- Monitor the manner in which issues are dealt with in the political process and by government
- Influence policies and decisions by:
  - ❖ clearly articulating interests and making them known to key decision and policy makers.
  - ❖ building coalitions, negotiating, deliberating, compromising, and seeking consensus.

**C. Traits of civic character:** Certain traits of public and private character help constitutional democracy to flourish: While there is no universally agreed upon list of traits of civic character essential to constitutional democracy, the following traits are commonly accepted.

**1. Civility:** which means treating others with respect as individuals inherently worthy of consideration regardless of their positions on political issues. Civility means adhering to commonly accepted standards of discourse while taking part in public debate, refraining from vituperation and personal attacks, and respecting the right of others to be heard.

**2. Individual responsibility:** which means that citizens understand the importance for themselves and for society of fulfilling their personal responsibilities. These responsibilities include taking care of one's self, supporting one's family, friends, and community; adhering to one's moral principles and considering the rights and interests of others.

**3. Self-discipline:** which means that citizens freely adhere to the fundamental values and principles of constitutional democracy without requiring the imposition of external authority.

**4. Civic-mindedness:** which means that citizens are concerned about the common good and not just their own private affairs. Tensions between private interests, including the interests of the extended family, and the common good are bound to occur. Citizens need to understand how to reconcile their personal interests with the needs of the larger community.

**5. Open-mindedness:** which means that citizens are receptive to different ideas and arguments. They consider opposing positions, but reject unsupported generalizations and dogmatism.

**6. Compromise:** which means that citizens sometimes must make accommodations or concessions in the political process. Compromise may be appropriate when the alternative is political stalemate, indecision, or, in extreme cases, violence.

**7. Toleration of diversity:** which means that citizens should respect the right of others to differ about ideas, ways of life, customs, and beliefs. Citizens should appreciate the benefits of having people of diverse beliefs and ethnic and racial backgrounds as a part of their community, as well as an understanding of how and why diversity can exacerbate tensions.

**8. Patience and persistence:** which means that citizens understand that developing or changing public policy usually require time and persistent effort. Delays or failure to immediately attain goals appropriate to constitutional democracy should not lead them to abandon their efforts.

**9. Compassion:** which means that citizens empathize with others and demonstrate concern for their welfare.

**10. Generosity:** which means that citizens should be willing to expend their time, effort, and resources for the benefit of others and the community at large.

**11. Loyalty to principles and ideals:** which means that citizens act in accord with the fundamental principles of constitutional democracy. Citizens also should be committed to working toward narrowing the gap between democratic ideals and reality.

#### Ⓞ QUESTIONS:

- TRANSLATE THE UNDERLINED TERMS INTO ARABIC.
- GIVE AN ABSTRACT (IN ARABIC) TO THE TOPIC.