

Unit 2

Rule of Law

Introduction

In the previous unit on democracy, you learnt about your rights and obligations, the role of the government and its limits in exercising its power. In this unit, you will have a discussion on basic principles of rule of law which helps you to equally implement your democratic rights and your obligations.

Lessons

1. Constitution
2. Rule of Law
3. Power of Government
4. Rule of Law and Corruption

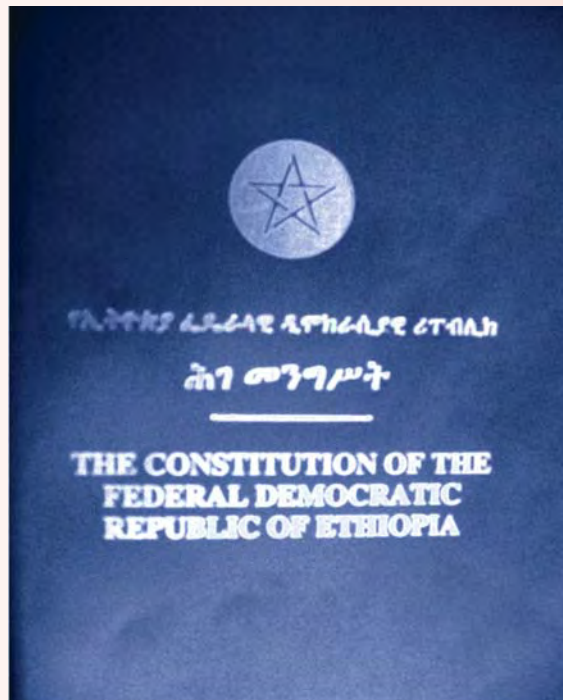
What you will learn

You will:

- recognize the essence of rule of law.
- realize the concept of rule of law.

Key words and concepts

- Abuse of power
- Accountability
- Constitution
- Corruption
- Domestic laws
- Embezzlement
- International convention
- Limited government
- Nepotism
- Rules
- Rule of law
- Rule of men
- Unlimited government
- Unwritten constitution
- Written constitution



LESSON

1

Constitution

By the end of this lesson, you should be able to:

- define what a constitution is.
- explain basic function of a constitution.
- describe the forms of a constitution.
- explain the history of a constitution in Ethiopia.

- What is a constitution?
- What is the importance of a constitution?

A constitution is a document that lists the basic principles by which a group of people or state is governed. The constitution explains the duties, responsibilities and rights of all people living in a country. Citizens, the government bodies and all other laws, rules and regulations are subordinate to the basic principles of the constitution.

You and your parents and people whose mother or father is Ethiopian, are citizens of Ethiopia. You, your parents, government officials like police, judges, teachers, directors and all other people living in the country have rights, duties and responsibilities which are clearly written in the constitution. Therefore, everyone living in the country must respect and act according to the country's constitution.

In democratic countries, the constitution is the embodiment of the will of the people. That means, it guarantees the basic rights, duties

and responsibilities of citizens and governs the relationship between the government and the people.

For example, a constitution states the duties and responsibilities of government officials, such as the president and the prime minister, or government bodies such as the executive, the legislature and the judiciary. It also defines the election system of the government bodies. The constitution also sets the basic principles of the structure of the government and the distribution of state power.

Generally the basic functions of the constitution include:

- Protecting the rights of citizens;
- Limiting the power of officials/elected individuals;
- Stating the obligations of citizens;
- Maintaining peace and security in the country.

In Ethiopia, the constitution is the law of the land which contains basic principles and values that direct the internal and external affairs of the country.

There are two forms of modern constitution. Though Ethiopia has a written constitution, some countries like England do not have their constitution in a written and documented form. A **written constitution** is a compiled document

Constitution


that is handy and easy to read. Whereas, an **unwritten constitution** refers to a set of rules, regulations, declarations and laws passed by either a parliament or another competent government body at a different time. They are not compiled in a single document but all the citizens abide by the basic rules adopted as constitutional laws.

The 1995 Ethiopian Constitution

Article 9

Supremacy of the Constitution

1. *The Constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect.*
2. *All citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the Constitution and to obey it.*
3. *It is prohibited to assume state power in any manner other than that provided under the Constitution.*
4. *All international agreements ratified by Ethiopia are an integral part of the law of the land.*

 Study the above article of the Ethiopian Constitution in different groups. Present a summary of your interpretation of one of these sub-articles to the class.

The need for a constitution came into effect with the conviction that there should be a governing code by which governments could rule.

Constitutional practices have passed through centuries in various countries. In the following section, we will try to see the emergence, nature and development of constitutions in Ethiopia

under different regimes.

In Ethiopian history, monarchs claimed to be elected by God since election was considered as a divine process. This helped the monarchs to establish absolute power over their subjects by monopolizing legislative, executive and judiciary powers.

Monarchs also used religious institutions, like churches, as instruments for legitimizing and maintaining their power. Documents such as *Kebe Negest* (Glory of Kings) and *Fetha Negest* (Law of Kings) that state the divine power of Ethiopian monarchs are used as evidence. This idea continued even after the introduction of the first written constitution in 1931.

With the introduction of a modern political system, the first constitution was written in 1931. This constitution kept the unquestioned and unlimited power of the king, but it brought about the parliamentary system and freedom of movement and security.

The monarch had absolute power to appoint members of the legislative body (the Chamber of Senate or *Ye-Hig Mewesegna Mekir Bet*); appoint or dismiss high-ranking civil and military officials including ministers; declare and end wars.

The first constitution was revised in 1955, partly to include the administration of the newly acquired territory of Eritrea. It also made some other small adjustments including the introduction of freedom of speech and freedom of the press and the people's right to elect or be elected as members of the Chamber Senate. Though a few ideas of liberty, freedom of expression and assembly were included in the revised constitution, it was an open secret that they were not supposed to be implemented in practice. In both constitutions of 1931 and 1955, the different nations, nationalities

Constitution

and peoples of Ethiopia were considered mere subjects of the Emperor.

The suppression of the people's economic, social and political rights, however, provoked nationwide opposition against the monarchy. Students, soldiers, peasants and workers, teachers and other members of society, joined together to fight for their rights. This led to the downfall of the imperial system and its replacement by a military council called 'Derg'. The constitution of the Derg, in 1987, gave the military unquestioned and unlimited power. In this constitution, the major shift is in the fact that state was clearly separated from the church and ended the myth of transfer of power through bloodline. However, this constitution allowed only one party rule and, quite naturally, did not lead to a political transformation towards a truly democratic system. Fundamental questions of the different nations, nationalities and peoples of Ethiopia were left unresolved.

Again, the absence of democracy and denial of basic human rights led to an armed struggle, the downfall of the military Derg and the emergence of the 1995 Constitution. The 1995 Constitution

differs from the previous ones. It established a federal structure of the state and included civil, social and political rights of groups and individual rights — the rights of nations, nationalities and peoples.

The Constitution of the Federal Democratic Republic of Ethiopia:

- serves as the supreme law of the nation;
- establishes the Federal and Democratic state structure;
- states the powers and functions of the federal and regional states;
- outlines the economic, social, political and cultural rights of citizens;
- outlines the principles of external relations;
- states the sovereign authority of the state and its peoples;
- limits the power of government.



Identify as many differences as possible among these constitutions. You can add information from your previous studies and readings.

REMEMBER

- ❑ The Constitution is a document of fundamental law of an entity, containing the basic principles on the structure and distribution of power.
- ❑ The Constitution provides a framework for a government of a country. It also provides rules and regulations on relationships between a government and its citizens. Generally speaking, it protects citizens from abuse by limiting the government's power and setting out citizens' rights and obligations to maintain peace and stability.
- ❑ The Constitution of a country can be in written or unwritten forms. However, citizens of a country that has a written constitution have better access to information about their rights and duties.

LESSON

2

Rule of Law

By the end of this lesson, you should be able to:

- define the rule of law.
- explain sources of rule of law.
- respect the rule of law.

- What do you know about rule of law?
- What do think the relationship is between rule of law and constitution?

Rules are prescribed standards, or a guide, for our conduct in a society or in an organization, like school. Rules are principles and they help us to follow basic values.

We come across rules all the time. As you walk to school there are several rules that you need to consider. For example, you have to wear your uniform properly, and you must not push people around, however much you are in a hurry. These rules guide society. We are all supposed to respect the well-being of citizens in our society.

Laws and regulations, on the other hand, are written standards of action endorsed by authority. They are binding and you will be punished if you break them. In our example above, the school rules are the law of the school because they have been endorsed. Every member of the school has to respect the school rules and act in accordance with the standards set by them.

In a country the same principle works. Every citizen of Ethiopia should obey the laws and, if he/she fails to do so, be punished equally, as prescribed by the law. The government body which sets the laws is parliament and members of the parliament are also expected to follow the law just as you or your teacher and family do. Therefore, the main feature of the basic principles of the rule of law is that society is governed according to widely known and accepted rules, followed by both the citizens and authorities.

The sources of rule of law include constitution, domestic laws and international laws. Constitution, as stated earlier, is a supreme law of a nation. In democratic countries constitutions are the basic sources of rule of the law.

Collections of specific laws that are used to regulate social and economic interaction of a given people are referred to as Domestic Laws. They are very important for the maintenance of rule of law. Domestic laws include civil codes (laws that govern the relationships between people), criminal laws (laws that deal with crime), family law (laws that are concerned with family issues), commercial (relating to business) and administrative laws (dealing with employment issues).

Equality before the courts is one of the manifestations of the rule of law.

Rule of Law

Article 25

Right to Equality

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, color, sex, language, religion, political or other opinion, property, birth or other status.

? Study this article of the Ethiopian Constitution in different groups and provide a simple interpretation. Each group will present their opinions to the class.

International laws are products of the consents of different nations that govern the relationship

between countries. International conventions (laws or treaties) play a significant role in the maintenance of global peace and order.

The Ethiopian Constitution adopted many articles that conform with these international laws for the protection of human rights, civil and political rights, prevention and punishment of the criminals of genocide and other matters related to foreign policy. Moreover, international conventions endorsed by Ethiopia are made part of the Federal Constitution.

As you have seen, Article 9 clearly states that the Constitution is the source of the rule of law. The FDRE Constitution clearly endorses the principle of the rule of law.

REMEMBER

- ❑ Society is governed according to a set of well known rules, the law, which ordinary citizens as well as the authorities have to obey. We call this the rule of law and everyone is subject to the country's laws. Everyone is equal in the eyes of the law.
- ❑ The basic principle of the rule of law is that society is governed according to widely known and accepted rules followed by both the citizens and authorities.
- ❑ The major source of rule of law in a country is the constitution of the country. Other domestic laws also reflect this principle as they derive their principles from the constitution and therefore serve as a source of rule of law.
- ❑ Collections of specific laws that are used to regulate the social and economic interaction of a given people are referred to as domestic laws.
- ❑ International laws are products of the consents of different nations that govern the relationship of countries. International laws play a significant role in the maintenance of global peace and order.

LESSON 3

Power of Government

By the end of this lesson, you should be able to:

- distinguish between the power of limited and unlimited government.

➤ What characteristics does a good class monitor need?

CASE STUDY

The Experienced monitor versus the Accountable monitor

The monitor elected for Grade 9 Section A is Tikikil Zewedu - for Section B it is Kedir Dendro.

Section A

Tikikil is an outstanding student who is always neat and tidy and who does her work well. She usually has the right solution for most of the students' problems. Not only students but also teachers sometimes ask for her opinion before making a decision. She served the junior high school board as a student representative and was a success.

The students of Grade 9 Section A were happy to find such a monitor and agreed that they didn't need standard rules for the conduct of a monitor since their monitor had good experience of how the school functioned. They agreed that being a class monitor was a very simple task for her as she has high level management skills and is familiar with the operations of the school. This is much more complicated than being a class monitor.

Section B

On the other hand, Section B monitor, Kedir, is also well known in his school for his active involvement in



extra-curricular activities and his friendly attitude. He treats everybody well and is a good communicator. Unlike Section A students, Section B students decided to write down the rules for the standards of conduct for the monitor. They set detailed procedures of how he should carry out his duties and ways of reporting to the students and the teachers. They also set a maximum period to serve as a monitor. They have also agreed on, and made a list of, reasons which might lead to the monitor's removal.

? If you were to assign a monitor for your class, do you think there should be standards of conduct. Why?

Discuss this in the class.

Power of Government

In the previous case study, Section B monitor is accountable to the students, while Section A monitor's power is unlimited and she does not have to listen to what they think.

If we apply this to a country, Section A is called **unlimited government** with no rules of accountability to the people. These governments do not want to know what the people want — they simply do what they want. Ethiopia's monarchs and the military regime were examples of governments with unlimited power.

The opposite is **limited government**. Section B is an example of those whose powers, duties and

responsibilities are established by the people before they over take power. The law is respected and the government is accountable to the citizens.

- ?**
- Why do the two pictures below symbolise limited and unlimited governments?
 - List some of the characteristics of unlimited and limited governments, with reference to the Ethiopian constitutions included in Lesson 2.
 - Why do you think having a limited government is good for the citizens?

REMEMBER

- ❑ Almost all governments these days get their power from their people.
- ❑ Even in countries which get their power from the people, elected government can end up behaving like an unlimited government if the rules, regulations and laws are not well designed to promote accountability.



Unlimited Government
Mengistu Haile Mariam
representation by an individual figure



Limited Government
Members of Parliament — HF
— the true representatives of the nations,
nationalities and peoples of Ethiopia

LESSON 4

Rule of Law and Corruption

By the end of this lesson, you should be able to:

- explain the nature of corruption.
- describe the effects of corruption on development.

➤ Think of some real examples of corruption which you have heard about and tell the rest of the class about them.

➤ Discuss what you think the effect of corruption can be on your school, kebele and the country at large.

Corruption is a wrong doing by government officials and other people engaged in different roles to get unjust benefits. Corruption means acting **dishonestly** in return for money or personal gain at the expense of others.

Corruption can exist in different ways.

CASE STUDY

The Corrupt Factory Manager

Ato Abebe is a manager of a government owned factory. The factory is bankrupt and it is going to be sold. However, Abebe is becoming very rich. After the inspection by Anti Corruption Commission it was known that he and his department heads took some of the property from the factory.

What do you call this kind of corruption? It is

The other form of corruption is **embezzlement**. This is an act of using money placed in one's care wrongly, especially in order to benefit oneself. Some people commit this crime in their capacity as cashiers, auditors and supervisors. Embezzlement is committed individually or collectively. Embezzlement may be committed by producing false receipts or approvals.

Nepotism is another manifestation of corruption. Nepotism is the action taken by government officials who favour their own

called **abuse of power**. Abuse of power is one of the major manifestations of corruption. It is a wrong and excessive use of one's power to benefit oneself.

? Discuss in a group some abuses of power that you heard or read about in the media. Present a summary of your discussion to the class.

relatives, often at the expense of others. For example, when the manager appoints his/her own family members to work in the office rather than advertising and selecting fairly from other candidates.

Bribery is to give or receive money or something of value in return for a favour. For instance, paying someone in authority to give you priority on a hospital waiting list or to be selected as a candidate for employment are forms of bribery. The giver and the person receiving

Rule of Law and Corruption

the bribe are both guilty. Bribery is a criminal offence and morally wrong and, as such, retards the development of the country.

Corruption is one of the factors that affect the prevalence of rule of law. Corruption causes many social and economic problems. Among other things:

- It creates inequality among citizens;
- It causes lack of faith and disregard for the law;
- It allows government officials to extract public money for themselves and their families;
- It affects economic growth and reduces the social services that citizens receive from government.



In groups list more problems that corruption will create in your community. What is your role in fighting corruption? Present the summary of your discussion to the class.



REMEMBER

- ❑ Corruption means acting dishonestly in return for money or personal gain at the expense of others.
- ❑ Embezzlement is an act of using money placed in one's care wrongly, especially in order to benefit oneself.
- ❑ Nepotism is the actions of government officials who favour their own relatives, often at the expense of others.
- ❑ Bribery is to give or receive money or something of value in return for a favour.
- ❑ Abuse of power is a wrong and excessive use of one's power to benefit oneself.

UNIT SUMMARY

In democratic countries, the constitution is the embodiment of the will of the people. That means it guarantees the basic rights, duties and responsibilities of the whole population equally. Therefore, the concept of the rule of law is based on the principles of constitutionalism.

In democratic states the power of the government is limited as per the constitution. Society is governed according to a set of well known rules, the law, which ordinary citizens as well as the authorities have to obey. It is this fact that we call rule of law. Everyone is subject to the country's laws. Everyone is equal in the eyes of the law.

The principle of the rule of law is very important for the prevalence of democracy. In most cases rule of law and democracy are interrelated concepts. In many countries of the world rule of law and democracy are affected by corruption. Since corruption is a very dangerous act against the well-being of the society, we all have to combat against corruption and its manifestations like abuse of power, embezzlement, nepotism, and other wrong doings on the property of the public.

GLOSSARY

| | |
|----------------------------------|--|
| Accountability: | Is answerability of an elected government for its wrongdoing. |
| Constitution: | A document containing fundamental laws: a document or statute outlining the basic laws or principles by which a country or organization is governed (ruled). |
| Corruption: | Wrong-doing of government officials, political officials or employees who seek unjust personal gain through actions such as bribery, nepotism, patronage and embezzlement. |
| Dishonesty: | Is acting without honesty, cheating, lying or being deliberately deceptive. |
| Domestic laws: | Law at the national, state, provincial, territorial, regional or local levels. |
| Embezzlement: | Dishonestly appropriating goods, usually money, by one to whom they have been entrusted. |
| International convention: | International laws, treaties, agreements or consents of different nations that govern the relationship of countries. |
| Limited government: | A government that functions according to the law and is accountable to the people. |
| Nepotism: | Showing of favouritism towards relatives and friends, based upon that relationship, rather than on an objective evaluation of ability or suitability. |
| Rules: | Principles governing conduct to guide behaviour or action. |
| Rule of law: | The principle that no one is above the law. |

- Unlimited government:** A government that has one dictator that makes up all the laws and the citizens have no power over him/her.
- Unwritten constitution:** A fundamental set of rules, regulations, declarations and laws passed by either a parliament or other competent government body at different time which are not compiled in a single document.
- Written constitution:** A statement of written fundamental laws outlining the basic laws or principles by which a country or organization is governed.

UNIT REVIEW EXERCISES

Do these review exercises in your exercise book.

Part I – True or false

1. Rule of law can be respected under authoritarian governments.
2. Citizens of a country that has a written constitution have better access to know about their rights and duties.
3. Corruption is one of the factors that affect the prevalence of rule of law.
4. Unlimited governments with no rules of law are accountable to the people.

Part II – Multiple choice

1. The Constitution of FDRE gives a law making power to the:
 - (a) judiciary
 - (b) legislature

- (c) Supreme Court
- (d) executive
2. The major source of law in a democratic country is based on the:
 - (a) will of the government
 - (b) will of the elders and religious leaders
 - (c) will of the people
 - (d) will of the politicians

Part III – Short answers and missing words

1. Corruption causes many social and economic problems. List three of them.
2. Governments whose powers, duties and responsibilities are established by the people before they take power are called governments.
3. A constitution which is not compiled in a single document is called