CHAPTER I

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There has always been an awareness of man's special dignity, but it is difficult exact to say at what point of time a beginning was made towards recognition of the equal rights of all individuals. Rousseau believed that it came about as soon as men began to value one another, and the idea of consideration had got a footing in the mind.

One of the earliest democratic ideas was the Covenant, or agreement, which the ancient Hebrews made with their God—the first known compact between ruler and ruled. In return for God's promise regarding a peaceful, bountiful land, the people promised to obey His ethical commandments. The bond between them was one of justice and in later years when the Hebrews had an earthly king the essence of the old compact still applied. Their king was obliged to rule with justice according to the original covenant between the people and God.¹

In most ancient countries, however, there was no written law, no set of rules to limit the authority of kings, yet slowly, efforts were made to correct this injustice. In the Sumerian city-states of Mesopotamia (now Iraq) 2500 years before the birth of Christ civil laws were reorganised and put into writing. In ancient Babylon, king Hammurabi wrote down a set of laws which would assure equal...
subjects known as Hammurabi's code.

The meaning of word "democracy" can be summed up in the phrase 'Government by the people'. A democracy is a political system in which not only are the people entitled to make basic determining decisions but in which they also actually make such decisions. It is by virtue of this feature that one can distinguish systems that are not in fact democracies despite the presence of the forms of democracy. The possession of the entitlement and the ability to make the basic determining decisions constitute supreme power. The very essence of democratic government consists in the absolute sovereignty of the majority; for there is nothing in democratic states which is capable of resisting it.

(a) **Meaning & Scope of Democracy**

The phrase 'power of the people' is an elliptical expression. Power is exercised over somebody, and governing presupposes the existence of the governed. The question is: power of the people over whom? Who are the subjects of popular sovereignty? If the formula is expanded, it reads: 'Democracy is the power of the people over the people'.

The literal concept of democracy indicates what we expect and require from a democratic form: namely, a free society that is not exposed to arbitrary and uncontrolled political power, nor dominated by a closed, inaccessible oligarchy. Democracy then, exists to the degree that there
is an 'open society', in which the relation between the governors and the governed is consistent with the principle that the state is at the service of the citizens and not the citizens of the state, that the government exists for the people and not vice versa. In short, democracy implies that society takes precedence over the State, that demos precedes cracy.  

Jefferson opines: 'The first principle of republicanism is, that the lex majoris parties is the fundamental law of every society of individuals of equal rights; to consider the will of the society announced by the majority of a single vote, as sacred as if unanimous, is first of all lessons in importance."  

Democracy is born from the vindication of the principle that the unjust rule of the non-elected (those who exercise power by right of heredity or conquest) to be replaced by the rule of the selected. Men wanted to choose the person who was to rule them, and they demanded the right to substitute ability which is a criteria based on value-for chance, which is not a value criterion. In respect to the limiting ideal of leadership depending on worth and ability, the democratic principle is that no one can decide by himself that he is better than others; it is the others who must decide this; and the method for ascertaining who is erkennt, who is outstanding, is election. "Eiect" comes from eligere, and express the idea of selecting by choice, not by chance.  

Although democracy in the political sense represents the oldest and most persistent connotation of the idea of democracy, its long historical record only confirms
that political democracy is a most disappointing realization. As a political form democracy has to reduce the manifold will of millions of scattered people to a single authority, and this means that the conditions under which it has to work are but a remote approximation to the optimum conditions found in primary groups and small integrated communities. Between a face to face democracy and a large-scale democratic system, there is a yawning gap. Mankind had to suffer for more than two thousand years in order to build a bridge between the two sides. And in passing from the small democratic communities where all the people take part, to the democracy of the large numbers who cannot take part, that is, to the present nationwide democratic systems, many of the requisite conditions for an authentically democratic society are bound to disappear on the way.

Democracy is not a way of governing, whether by majority or otherwise, but primarily a way of determining who shall govern and broadly to what ends... The people, let us repeat, do not and can not govern; they control the government. As a minimum, democracy is a system of government, a set of institutions, that fulfills at least two essential requirements. It must, first, be able to elicit as accurately as possible the opinion of as many people as possible on who shall be their representatives and on how the country ought to be governed. This means as a minimum, universal suffrage, political parties, and the organisation of free voting in uncorrupt elections at relatively frequent intervals. Second,
who took the oath of the office only assumes the solemn obligation which every patriotic citizen—on the farm, in the workshop, in the busy marts of trade, and everywhere—should share with him. The Constitution which prescribes his oath, my countrymen, is yours, the suffrage which executes the will of free men is yours, the laws and the entire scheme of our civil rule, from the town Meeting to the state capitals and the national capital is yours.

(b) KINDS OF DEMOCRACY

Democracies are divided into two categories: direct democracy and indirect democracy. Presently, except in Switzerland, all our democracies are indirect. Indirect democracies are representative democracies in which we are governed by delegates, not by ourselves. In a direct democracy the citizens themselves exercise political power. In the Polis (ancient Greek city-state) as in its medieval imitations, the system of government was based on the personal, actual participation of all the citizens, of the city. There, then, we had a really self-governing democracy. The direct democracy can be successful only in small states. It cannot be of much importance in vast countries like India.

In direct democracy there is continuous participation of the people in the direct exercise of power, whereas indirect democracy amounts to a system of limitation and control of power. In our democracies, there are those who govern and those who are governed; there is the State on one side and the citizens on the other.
Modern democracies hinge on majority rule—those who obtain the mandate of the people, and those who have the most seats in Parliament, rule. This means that the section of the people who count are above all those who constitute the victorious voting majority. A series of mechanism modifies and reduces the degree of control that is left in the hands of the governed, who are farther and farther removed from the levers of authority. It is not possible to construct a different democratic system. 12 No political system at any time, democratic or not, has ever provided for all the people even to choose the government, much less to exercise governmental powers. In different times and in different countries, citizenship has been restricted on a number of grounds—age, sex, literacy, property, social status and some time colour and religion, have all at one time or another barred certain people from enjoyment of political rights enjoyed by others. 13 In Great Britain and France women did not have full suffrage rights until 1929 and 1945 respectively.

Democracy is an elective polyarchy, and we must say 'elective' because some polyarchal systems are not based on popular suffrage. In that case the system will be competitive without being democratic. There will be a leader-leader relationship, but hardly a leader-led relationship other than as a unidirectional all-to-one relation. That is to say that in a non-elective polyarchy we will find a reciprocal control among leaders, but no reliable kind of control of leaders, or upon leaders. In order that the non-leaders may be able to restrain, influence and control leaders, they must have the
power to choose them—that is regular elections must regularly occur.  

Democracy does not come to life at the stroke of a pen or by proclamation. It must live in the hearts and minds of the people and their leaders. To accept democratic ideal is to incur a responsibility of imposing an internal discipline upon one’s self. The leader who repeats the ideals—liberty, equality, fraternity does not by this act promote the democratic way of life unless he at the same time provides opportunities for demonstrating those varieties of conduct which when followed, produce tendencies of liberalizing, equalising and fraternizing.

It is a political system in which the influence of the majority is assured by elective and competitive minorities to whom it is entrusted. This definition not only stresses that if we cannot expect citizens always to check leaders... then we are forced to rely heavily on checks exerted by other leaders. But also has the virtue of bringing out the vital role of leadership, as it implies that minorities are a sine qua non condition of the system. Democracy is indeed a complicated form. And our definitions cannot make it simpler than it is; they can only trick us into making it seem simple. It is easy to say that democracy is the 'People's Power'. The question is to understand how this is possible, and in what way the people's will can make itself usefully felt.

The core of democracy is choice among a number of
ideas. Its essence is hospitality to a plurality of ideas and its method consists in holding together a number of different ideas with a view to comparison and composition of their differences. Another argument is associated with utilitarian democratic theory. That is the idea that whether or not common men-or all individuals are wiser than the select few in some absolute sense, it is at least the case that each individual knows his own interest better than anyone else. The utilitarian justification of democracy builds on this conception to reach the conclusion that democracy is the best form of government since it secures the greatest happiness of the greatest number. In short, democracy on a large scale is not the sum of many little democracies. Political democracy is, in primis, a method or procedure by which, through a competitive struggle for sanctioned authority, some people are chosen to lead the political community. Democracy, then is the product, or the sequence of effects (secondary and composite) that result from the adoption of that method.

Democracy is not a way of governing, whether by majority or otherwise, but primarily, a way of determining who shall govern and broadly, to what ends. The only way in which people, all the people, can determine who shall govern is by referring the question to public opinion and accepting on each occasion the verdict of the polls. Apart from this activity of the people there is no way of distinguishing democracy from other forms of government. Any kind of government can claim to rest on 'the will of the people', whether it be oligarchy or dictatorship or monarchy. One kind of government
alone rests on the constitutional exercise of the will of the people. Every other kind prevents the minority or the majority—from freely expressing opinion concerning the policies of government, or at the least from making that opinion the free determinant of government. Quite possibly, in a totalitarian regime, a large, proportion of the people approves and supports its government than may be found in democratic countries to support their governments. 17 H.B. Mayo lays down four principles: The one institutional embodiment of the principle universally regarded as indispensable in modern democracies is that of choosing the policy makers (representatives) at elections held at more or less regular intervals. The second principle of democracy is that of political equality, which in turn is institutionalised as the equality of all adult citizens in voting. The third may be stated either in terms of effectiveness of popular control or in terms of political freedoms. The fourth principle is that when the representatives are divided, the decision of the majority prevails. 18

Lincoln in his Gettysburg address of 1863, characterized democracy in words that seem to express its very spirit: 'government of the people, by the people, for the people.' Though this aphorism defies analysis and poses problems of interpretation. The phrase 'government of the people' conveys all the following assumptions (i) Government of the people meaning a self governing people, a direct democracy (ii) conversely, that the people are the object of government that they are governed, (iii) that the government
belongs to the people, (iv) that government is chosen and
guided by the people, (v) that government emanates from
the people in the sense that it derives its legitimacy from
the people's consent and (vi) that the government is respon-
sible to the people. Only the final phrase 'government for
the people' is not ambiguous in that it meant, in the people's
interest, for their benefit.

The democratic creed would include the following
assurances of and respect for, the rights and liberties of
human person; limitations upon the power of the state,
functioning of political authority in the spirit of constitutio-

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nalism and public accountability, exclusion of resort to
political violence including revolutions; belief in laws
which act as instruments of directed social change through
their prime emphasis on equality not just in intergroups or
intragroup, relations but also in relations between citizen
and the State (political justice) and the spirit of mutual
tolerance and respect for the freedom of conscience and religion.

The basic idea is that a democracy allows the
opinions of the common man to prevail. From the Greeks onwards
one of the reasons traditionally given for regarding this as
a good thing is the contention that true opinion on political
and normal matters is the privilege of the common man. Accord-
dingly power in a community should reside with him; and this
it does only in a democracy. Hence the superiority of
democracy. 20 Democracy enlarges the scope of our experience by
enabling us to acquire insight into the needs, drives, and
aspirations of others. Learning to understand how life is organised by other centres of experience is both a challenge and a discipline of our imagination. In aiding the growth of others, we aid our own growth.

The democratic way of life makes possible the widest forms of mutual consultation and communication. Conclusions reached by these processes have a quality that can never be found where conclusions are imposed by force or authority—even if they are our own. Who among us would forego the methods of public discussion, criticism, arguments, and rejoinder for a philosophical consensus imposed from without? Democracy as a way of life differs from its alternatives in that it makes possible the extension of these methods of reaching reasonable conclusions from the fields of professional science and philosophy to all areas of human experience in which genuine problems arise.

John Dewey said; 'In social and moral matters, equality does not mean mathematical equivalence. It means rather the inapplicability of considerations of greater and less, superior and inferior. It means that no matter how great the quantitative differences of ability, strength, position wealth, such differences are negligible in comparison with something else—the fact of individuality, the manifestation of something irreplaceable. It means, in short, a world in which an existence must be reckoned with on its own account, not something as capable of equation with and transformation into something else. It implies, so to speak, a metaphysical
mathematics of the incommensurable in which each speaks for itself and demands consideration on its own behalf.  

The basic elements of democratic principles, as observed above, have been adopted in the Indian Constitution. Throughout it runs the democratic ideal, specifically the Preamble, Fundamental Rights, the Directive Principles of State policy with the provision for Independent Judiciary and autonomous Election Commission with the Universal adult franchise are there to strengthen the Parliamentary democracy.

Hence, it is essential to examine to what extent the Constitutional provisions have enabled the country to go ahead with democratic rule. What is the structure and how the goals have been managed to be achieved? Is it functioning smoothly as desired. The means to reach the goals by different organs of the government—the executive, legislature and judiciary are democratic. Our Judiciary has, at times, upheld the onward march to democratic path and endorsed the intention of the framers of the Constitution who desired the emergence of a mighty sovereign Democratic Republic of India. Therefore, in different parts the important requirements of the ideals have been dealt as under:
CHAPTER - I:

It being pertinent to know what is democracy, Chapter I introduces the topic giving meaning, concept and kinds of democracy in short. At the root lies the recognition of man's dignity which ultimately brought sovereignty of the people. This has been slow but constant struggle between ruler and ruled starting with the Hebrews' Covenant and Hammurabi's Code, that is how we have come to universal Declaration of Human Rights 1948.

CHAPTER - II:

In Chapter II an attempt has been made to find out the origin and growth of democratic ideals in different countries. How persons individually and in groups struggled against tyrannical powers to get justice and gradually for having certain basic human rights? It took centuries to develop the notion of equality. By modern standards the Athenian democracy was imperfect and limited but it was a beginning. Manu and Kautilya prescribe the aid and advice of Minister to King, through Magna Carta, Bill of Rights, Glorious Revolution of 1688, Declaration of Independence 1776, Declaration of the Rights of the Man and Citizen 1789, India's Independence 1947, Universal Declaration of Human Rights 1948, democratic thinking and ideas travel a
long distance. Why the ideals are growing and expanding further encompassing distant people in different nations?

CHAPTER - III:

For demonstrating democratic conscience in the Constitution of India, it is necessary to know and analyse the contents of the preamble. Therefore, in third chapter an attempt has been made to trace the meaning of the watchwords of the preamble to find out what objects have been set before the nation. For an insight how these goals are to be achieved, parliamentary democracy, as it works, has been dealt along with adult franchise which forms the very basis of the system. The preamble itself reflects the determination of the Indian people to unite themselves in a common adventure of building up a new sovereign democratic republic. What is the outline of the plan? How justice, liberty, equality and fraternity are envisaged?

CHAPTER - IV:

In fourth chapter it has been tried to have a view of two most important chapters of the Constitution - The Fundamental Rights and Directive Principles. What are positive and negative rights? Having the Consideration of the limit of time and space only democratic aspect has been touched. How the constitution lays equal emphasis on
the individual freedoms as well as the societal needs? The establishment of a welfare state is the goal to be achieved. This aimly demonstrates the instilling of democratic conscience throughout with universal adult franchise and a system of free and fair elections. The individual and public interests have been harmonised and balanced. Whereas fundamental rights are enforceable through law courts, directives are fundamental in the governance of the country. Why the aim of framers of the Constitution has been to bring a social revolution?

CHAPTER - V

Fifth chapter is devoted to judicial system. Why independent judiciary is indispensable for a democratic system? How our judicial system has maintained a balance by harmonising the individual liberty with socio economic interests? Enhancing the dignity of the person, requirements of downtrodden have always been given priority. While interpreting the concept of locus standi the scope of public interest litigation has been expanded to cover new areas, for giving relief to pavement dwellers, under trial prisoners languishing in jails, bonded labourers, ricksha pullers. What does life mean and include? To what extent the activist role of judiciary is welcome?
CHAPTER - VI :

In Chapter VI the election system and its efficacy has been dealt. Election being the key to democratic rule it is desirable to know how elections are held in our country. Why the role and functions of electoral machinery are important for free and fair elections? Timely, impartial elections are a must to operate the motor of democracy properly. How the Participation of people through their representatives in the shaping of policies and their execution becomes possible through elections?

CHAPTER - VII :

The Seventh Chapter deals with the development of opposition. Has the political system in India developed an effective opposition? The existence of at least two strong political parties is essential otherwise the exercise of democratic rights can not be made according to true spirit. How the process, though slowly but surely is proceeding ahead and what are the main problems have come in outline. What is the use of franchise and election if there be no alternative enjoying the confidence of the voter?

CHAPTER - VIII :

The Eighth and last Chapter is of conclusion and suggestions. Here an effort has been made to examine how our Parliamentary Democracy can function in an effective
and better way. What we lack? Why crisis of values? How
imbibing of certain qualities as a way of life in ourselves
we can strengthen this great democratic nation to get and
give better opportunities? The sense of moral and constitu-
tional values in the countrymen constitute the core of
the problem. Hence humble suggestions for improvement
come at the end.
Foot Notes

7. Supra note 2 p. 103.
10. Supra note 2 p. 55.
11. Ibid p. 252.
13. Supra note 2 p. 9.
16. Supra note 2 p. 126.
17. Supra note 8 p. 148.