

Гражданское общество и правовое государство

Гражданское общество – это...



совокупность всех граждан данного государства.

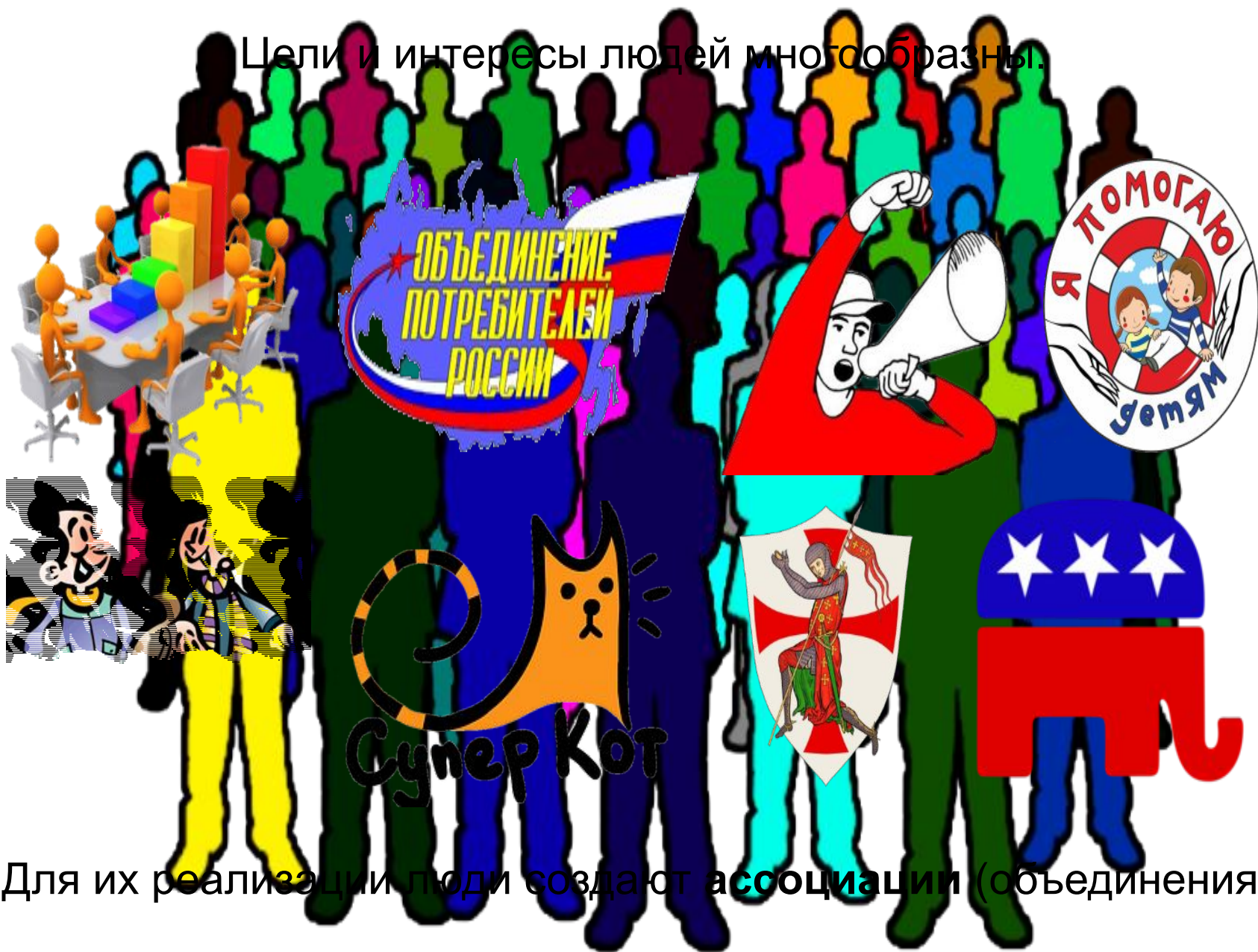


общество невоенное или общество светское.

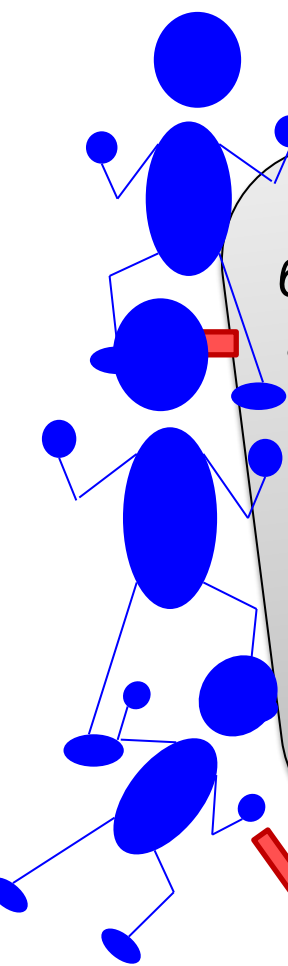


совокупность отношений между людьми, их добровольными объединениями, выражающими их интересы, в которые государство напрямую не вмешивается.

Цели и интересы людей многообразны.

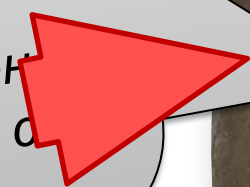
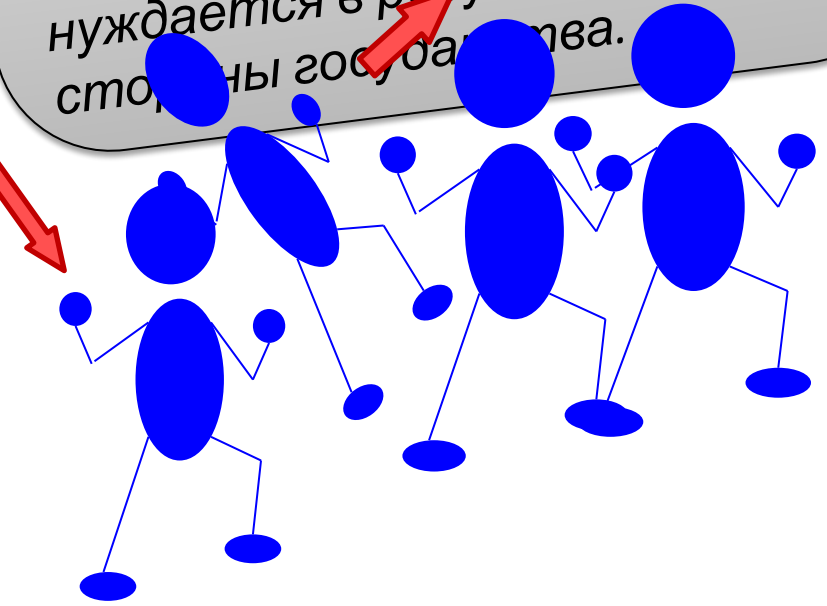


Для их реализации люди создают ассоциации (объединения).



Гражданское общество –
благо,
а государство – неизбежное
зло.

Чем совершеннее
гражданское
общество, тем более оно
саморегулируется и тем менее
нуждается в регулировании со
стороны государства.



Местное самоуправление



Земство обедает (худ. Г. Мясоедов)

Местное самоуправление



Статья 12

В Российской Федерации признается и гарантируется местное самоуправление.

Местное самоуправление в пределах своих полномочий самостоятельно. Органы местного самоуправления не входят в систему органов государственной власти.

Местное самоуправление



Статья 131

Местное самоуправление осуществляется в городских, сельских поселениях и на других территориях с учетом исторических и иных местных традиций. Структура органов местного самоуправления определяется населением самостоятельно.

Местное самоуправление



Статья 130

Местное самоуправление осуществляется гражданами путем референдума, выборов, других форм прямого волеизъявления, через выборные и другие органы местного самоуправления.

ГРАЖДАНСКОЕ ОБЩЕСТВО



граждане самостоятельно, без
вмешательства
государства



реализуют свои частные интересы



лично или объединяясь в союзы, партии,
общества



ГОСУДАРСТВО

Как
соотносятся
эти понятия?



ОБЩЕСТВО



ГРАЖДАНСКОЕ
ОБЩЕСТВО

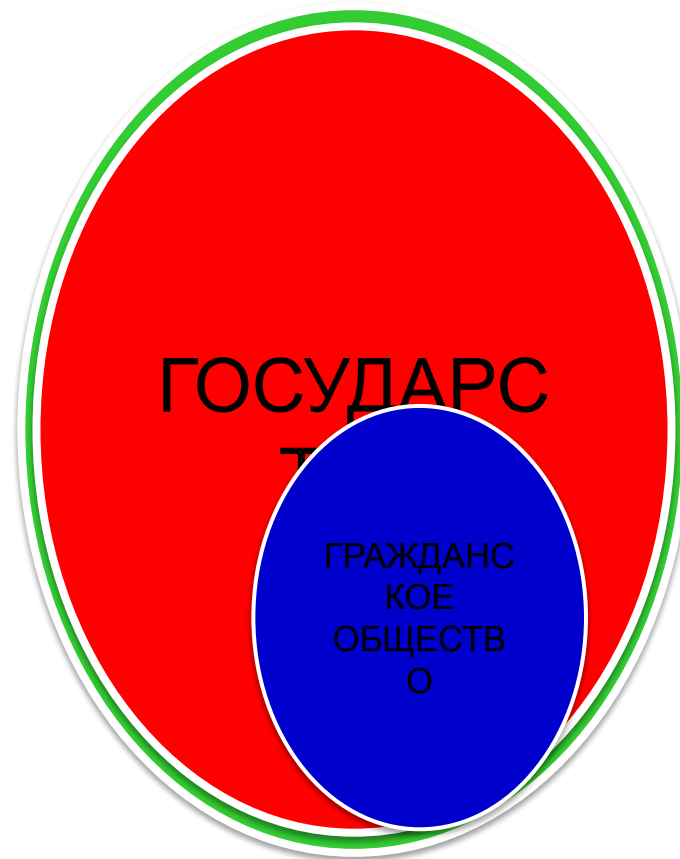
Государство – особая организация управления обществом.



Отношения по поводу государственной власти – один из видов общественных отношений.

При **тоталитарном режиме** государство контролирует все сферы общественной жизни.

Гражданам разрешено всё, что не запрещено законом.



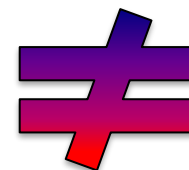
В демократическом государстве полномочия органов власти определены законом.

ГОСУДАРСТВО

Государство принимает **законы**,
которые регулируют
общественные отношения.

ГРАЖДАНСКОЕ
ОБЩЕСТВО

У граждан есть **политические**
интересы, они создают
политические партии.



АНАРХИЯ

ПОЛИТИЧЕСКИЕ ПАРТИИ



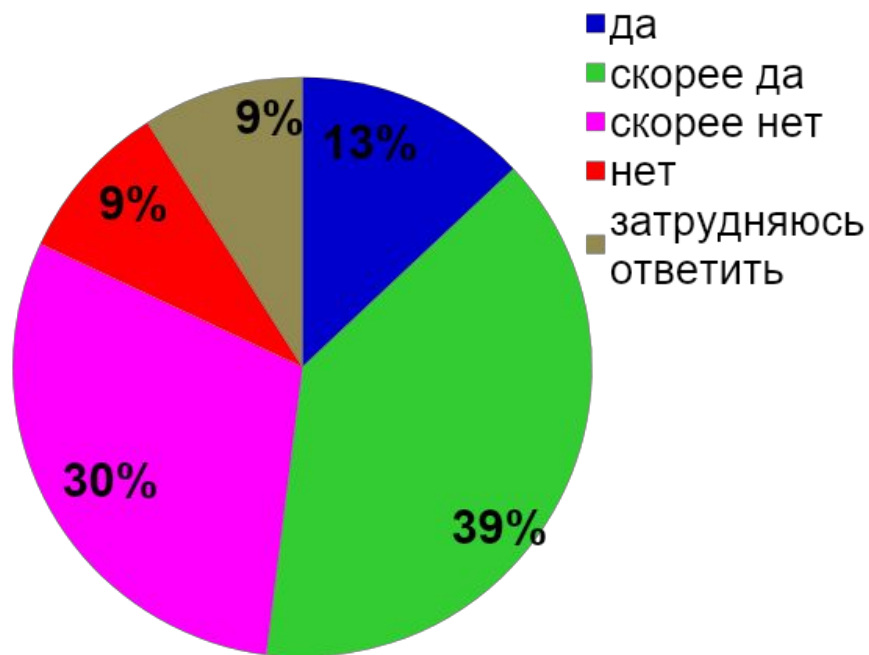
Гражданское общество в Российской Федерации



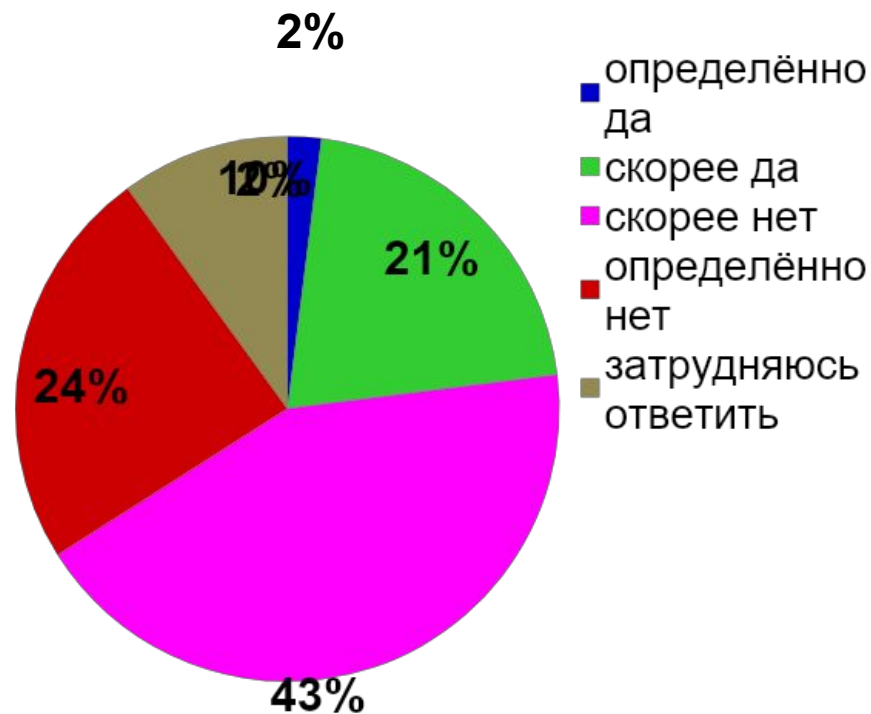
Статья 34: Каждый имеет право на свободное использование своих способностей и имущества для предпринимательской и иной не запрещенной законом экономической деятельности.

Статья 30: Каждый имеет право на объединение, включая право создавать профессиональные союзы для защиты своих интересов. Свобода деятельности общественных объединений гарантируется.

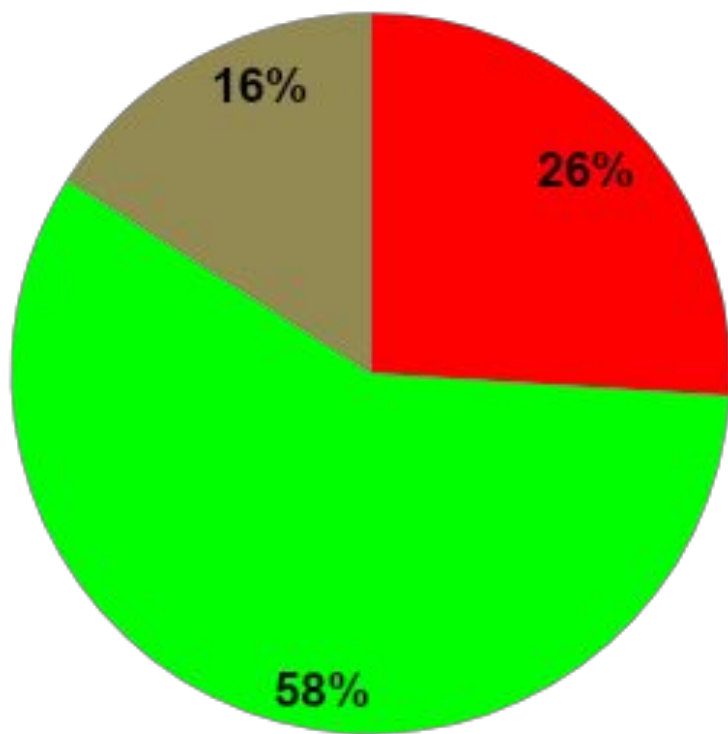
Чувствуете ли Вы себя в нашем обществе свободным человеком?



Как Вы считаете, совпадают ли сейчас интересы власти и общества?



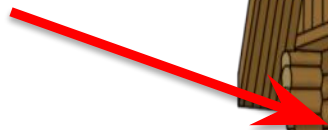
В чём сейчас больше нуждается Россия: в укреплении власти или в том, чтобы власть была поставлена под контроль общества



- В укреплении власти
- В том, чтобы власть была поставлена под контроль общества
- Затрудняюсь ответить

Правовое государство

ДЕМОКРАТИЯ



**ПРАВОВОЕ
ГОСУДАРСТВО**



Правовое государство – это государство, в котором есть право.



Законы царя Хаммурапи – XVIII век до н. э.

ПРАВОВОЕ ГОСУДАРСТВО

ГОСУДАРСТВО, В КОТОРОМ ГРАЖДАНЕ И
ГОСУДАРСТВЕННЫЕ ОРГАНЫ
ДЕЙСТВУЮТ В РАМКАХ ЗАКОНА И РАВНЫ ПЕРЕД
ЗАКОНОМ



ВЕРХОВЕНСТВО
ПРАВА



РАЗДЕЛЕНИЕ
ВЛАСТЕЙ



НЕЗЫБЛЕМОСТЬ
ПРАВ ЧЕЛОВЕКА



Статья 15

Органы государственной власти, органы местного самоуправления, должностные лица, граждане и их объединения обязаны соблюдать Конституцию Российской Федерации и законы.

Статья 19

Все равны перед законом и судом.

*Принцип
верховенства
права: граждане
и
государственные
органы должны
действовать в
рамках закона,
все
равны перед
законом.*

Dura lex, sed
lex.



**Суров закон, но это
закон.**

**Закон должен
быть:**

- X** справедливым;
- X** доступным;
- X** недвусмысленным;
- X** непротиворечивым,
- X** выполнимым.
- X**



Dura lex, sed
lex.



**Суров закон, но это
закон.**

«Хороший» закон должен
отвечать нескольким
требованиям.

**Закон должен
быть:**

- X** справедливым;
- X** доступным;
- X** недвусмысленным;
- X** непротиворечивым,
- X** выполнимым.
- X**



ПРАВОВОЕ ГОСУДАРСТВО



ВЗАИМНАЯ ОТВЕТСТВЕННОСТЬ ГРАЖДАНИНА И ГОСУДАРСТВА



Человеку разрешено
всё, что не запрещено
законом.

Государству запрещено
всё, что не разрешено
законом.



ПРАВА ЧЕЛОВЕКА



ТЕОРИЯ
ПОЗИТИВНОГО
ПРАВА

ТЕОРИЯ
ЕСТЕСТВЕННОГО
ПРАВА



ПРАВА ПРАВА



*Принцип
незыбле-
мости прав и
сво-
бод человека:*



UNIVERSAL DECLARATION Human Rights

and of the equal and human person and in the equal rights of men and women and have determined family is the foundation of to promote social progress and better standards of life in larger freedom.

Preamble Striven for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Article 1 It is essential, if men are not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Article 2 It is essential to promote the development of friendly relations between nations.

Article 3 The peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the

Preamble Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Preamble A common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Section I THE GENERAL ASSEMBLY

Article 1 Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 11 All nations have a duty to see that equal and adequate rights are given to all. They are entitled to have and to exercise and to teach their children in a spirit of freedom.

Article 12 Everyone has the right to be free from interference with his privacy, family, home or correspondence, or attack on his honor and reputation. Legal safeguards shall be afforded to safeguard these freedoms, to prevent the disclosure of any confidential communications, to prohibit the arbitrary intrusion into his private life of officials of the government.

Article 13 Everyone has the right to free movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14 Everyone has the right to seek and to enjoy in other countries asylum from persecution. This right may not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15 Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16 (1) Men and women of full age, without any limitation of race, nationality, ethnicity or religion, have the right to marry and to found a family. This right is realized in accordance with the national laws. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17 Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.

Article 18 Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion, to worship and observe rites and customs through worship and observance of rites.

Article 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without restriction and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20 Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.

Article 21 (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right to equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be held by secret ballot and equal suffrage and shall be held by the most extensive franchise possible.

Article 22 Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and for the free development of his personality.

Article 23 (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family.

Article 24 Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay. (2) Everyone has the right to fair and favorable conditions of work.

Article 25 (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26 (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27 (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific achievements and its benefits. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration may be fully realized.

Article 29 (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing the recognition and respect for the rights and freedoms of others. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30 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, or to engage in any such practice, whether or not it is authorized by law.

Article 11 (1) Everyone has the right to work in other countries and have the right to work in their own country. (2) This right may not be invoked in the case of prosecution genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 12 (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

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Article 21 (1) Everyone has the right to rest and leisure, to reasonable limitation of working hours and to periodic holidays with pay. (2) Everyone has the right to fair and favorable conditions of work.

Article 22 (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

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Принцип незыблемости прав и свобод человека: никакие законы, никакие действия государства не должны покушаться на естественные права человека.

Всеобщая Декларация прав человека, 10 декабря 1948 г.

ВЫБОРНОСТЬ
СУДЕЙ



СУД
ПРИСЯЖНЫХ

НЕЗАВИСИМОСТЬ
СУДЕЙ ОТ
ИСПОЛНИТЕЛЬНОЙ
ВЛАСТИ

Соблюдение принципа равенства в правах, максимальная реализация прав человека возможны лишь при наличии независимого суда.

СУД ПРИСЯЖНЫХ



Присяжные принимают решение о виновности подсудимого.



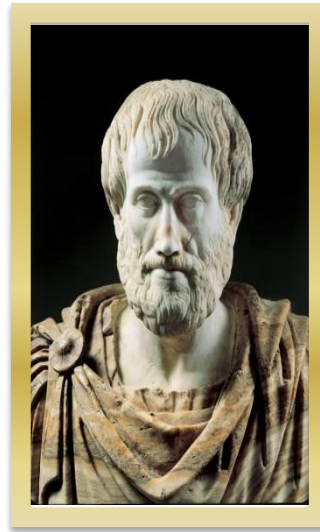
В Российской империи суд присяжных вводился по судебной реформе 1864 г.

В РФ суд присяжных введён в 1993 г.

*Соблюдение принципа равенства в правах, максимальная реализация прав человека возможны лишь при наличии **независимого суда.***



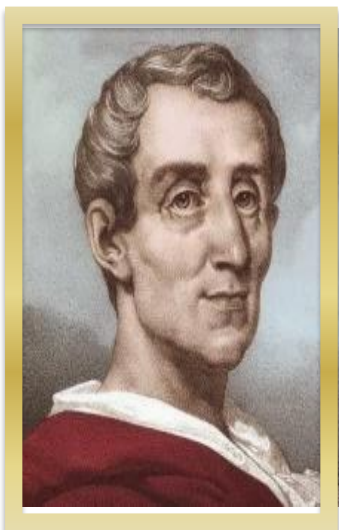
Во всяком
государстве
этих состав-
ных частей
три...



Вот эти три части: первая – зако-
новещательный орган, рассма-
тривающий дела государства,
вторая – должности, третья – су-
дебные органы.

*Принцип
разделения
властей:*

ЭПОХА ПРОСВЕЩЕНИЯ



Шарль Луи
Монтескьё



Принятие
Конституции
США, 1787 г.

*Принцип
разделения
властей:
полномочия
законо-
дательной,
исполни-
тельной и
судебной
властей должны
быть
разграничены.*

*Система сдержек
и
противовесов.*

Россия – правовое государство?



Статья 1

Российская Федерация – Россия есть демократическое федеративное правовое государство с республиканской формой правления.