Social Science

Social and Political Life – III

Textbook for Class VIII

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Foreword

The National Curriculum Framework (NCF), 2005, recommends that children's life at school must be linked to their life outside the school. This principle marks a departure from the legacy of bookish learning which continues to shape our system and causes a gap between the school, home and community. The syllabi and textbooks developed on the basis of NCF signify an attempt to implement this basic idea. They also attempt to discourage rote learning and the maintenance of sharp boundaries between different subject areas. We hope these measures will take us significantly further in the direction of a child-centred system of education outlined in the National Policy on Education (1986).

The success of this effort depends on the steps that school principals and teachers will take to encourage children to reflect on their own learning and to pursue imaginative activities and questions. We must recognise that given space, time and freedom, children generate new knowledge by engaging with the information passed on to them by adults. Treating the prescribed textbook as the sole basis of examination is one of the key reasons why other resources and sites of learning are ignored. Inculcating creativity and initiative is possible if we perceive and treat children as participants in learning, not as receivers of a fixed body of knowledge.

These aims imply considerable change in school routines and mode of functioning. Flexibility in the daily timetable is as necessary as rigour in implementing the annual calendar so that the required number of teaching days is actually devoted to teaching. The methods used for teaching and evaluation will also determine how effective this textbook proves for making children's life at school a happy experience, rather than a source of stress or boredom. Syllabus designers have tried to address the problem of curricular burden by restructuring and reorienting knowledge at different stages with greater consideration for child psychology and the time available for teaching. The textbook attempts to enhance this endeavour by giving higher priority and space to opportunities for contemplation and wondering, discussion in small groups, and activities requiring hands-on experience.

The National Council of Educational Research and Training (NCERT) appreciates the hard work done by the textbook development committee responsible for this book. We wish to thank the Chairperson of the advisory group in Social Sciences, Professor Hari Vasudevan, the Chief Advisor, Sarada Balagopalan and the Advisor, Dipta Bhog for guiding the work of this committee. Several teachers contributed to the development of this textbook; we are grateful to their principals for making this possible. We are indebted to the institutions and organisations which have generously permitted us to draw upon their resources, material and personnel. We are especially grateful to the members of the National Monitoring Committee, appointed by the Department of Secondary and Higher Education, Ministry of Human Resources Development under the Chairpersonship of Professor Mrinal Miri and Professor G.P. Deshpande, for their valuable time and contribution. As an organisation committed to systemic reform and continuous improvement in the quality of its products, NCERT welcomes comments and suggestions which will enable us to undertake further revision and refinement.

Director
National Council of Educational
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New Delhi
30 November 2007

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Several students at the Srijan School, Delhi and Sarvodaya Kanya Vidyalaya, Delhi drew pictures for the book on the theme of religious tolerance. We thank their teachers, Natasha Dutta and Jyoti Sethi for facilitating this. We would also like to thank Farah Farooqi for sharing with us her daughter Ainee's essay and allowing us to use it in this book. Arundhati Rajesh, a Class VIII student at Sardar Patel Vidyalaya also gave us feedback on our last Unit and we thank her for her inputs.

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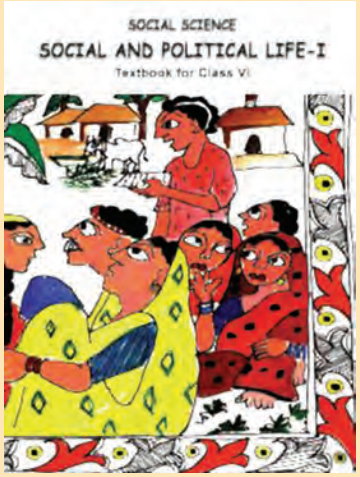
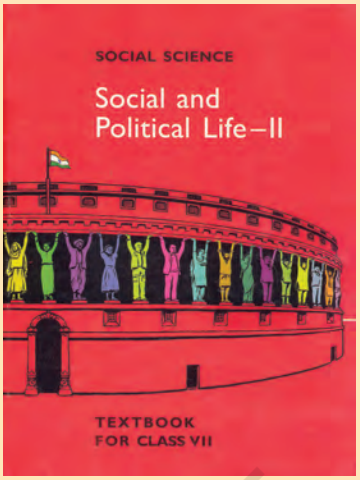
Introductory Note for Teachers





This is the third and final textbook on Social and Political Life. In the higher classes, the students will continue to learn some of what we have discussed within the subject areas of political science and economics. In our 'Introductory Note' over the past two years, we had emphasised what this new subject area was about. This year's note is more personal as we write about what motivated us to create these textbooks in this manner and the central role that teachers play in transacting them.

Often teachers feel overwhelmed by frequent revisions in the curriculum. These are revisions that they seldom have any role in drafting but have to implement in the classroom space. Often teachers do not understand the basis for the changes. This results in some amount of frustration and cynicism about the effectiveness of any change. This skepticism can in some cases result in teachers not taking the new subject area very seriously. It may also lead to teachers' unwillingness to adopt new teaching practices that the new subject area relies upon. We hope that through sharing with you what has compelled us to develop these textbooks differently, over the past three years, you will recognise the significant role that teachers have in realising the pedagogic goals of Social and Political Life.

In hindsight, it appears we took up quite an exciting, though daunting, task three years ago when we decided that we would help flesh out a new subject area in middle-school social science. The task was exciting because quite a few of us had been involved with the teaching of Civics in school and knew how tedious the subject was to students. Or, we had done an analysis of civics textbooks and were dismayed by their limited understanding of Indian democracy. We were particularly troubled by two factors: one, the textbook's lack of any concrete examples to highlight the functioning of democracy in people's lives in India and two, its tendency to portray institutions and processes as if they functioned exactly in the ways in which the Constitution intended.

In addition, some of us had been part of a research project that showed that students were often confused between processes, institutions and individuals in government. For example, they were often not able to distinguish between the legislature and the executive. As teachers, you probably

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often reflect upon such limitations of civics textbooks. We were also motivated by the fact that contemporary social and political issues did not have any space in the middle-school curriculum. Though civics had tried to raise these through a focus on the government, a new subject area was an opportunity to enlarge this focus and make it more exciting to teach without losing sight of the government's role.

We were confronted by three different types of questions. The first of these was: how can we get students to understand contemporary social and political concerns? The first question brought forth the following tentative ideas: one, we would need content that was grounded in the lives of students; two, students needed to understand that 'democracy' is not limited to the functioning of government institutions but depends primarily on the role played by ordinary persons; and three, change in content would simultaneously require a different pedagogic style.

The second question that struck us concerned the choice of themes within the subject area. Here we have explored many new themes, trying to balance what is appropriate for the middle school with a certain depth of analysis. It is unfortunate that social science has increasingly come to be viewed by students a box full of general knowledge facts to be learnt by rote. This existing understanding is completely opposed to what social science is meant to do, i.e. to provide a lens through which to analyse the world around us. This ability to analyse social issues is increasingly being viewed as a necessary and desirable skill to possess even amongst those who teach 'Science' in Universities. As social science teachers, we should be proud of our subject area and the opportunity it provides to build in the student a critical and informed way of looking at their contemporary world.

The third question related to the role that we expected teachers to play in this new subject area. This was more within the realm of pedagogy and we had the following thoughts on this: one, that as often as possible we would not provide definitions for concepts that we discussed, two, that we would use stories and other forms of creative expression including storyboards to help the students empathise with the issues being raised, and three, that the in-text and end-text questions we asked would make students engage analytically with the material presented. The visuals that the book used, whether they be storyboards, photos or photo essays, were integral to the content and could be used for further analysis of issues. These should not be seen as decorative.

Quite naturally for all of these ideas to materialise within the space of the classroom, we had to rely on more than the textbook. A national textbook, we recognised, would always fall short of providing particular content that was grounded in the vast diversity of students' lives in this country. As far as possible, we have tried to spread the case studies across regions and social groups. Secondly, since contemporary concerns would necessarily highlight the inequalities that were woven into our social fabric, there was a need for mediation of information and opinion in the classroom space. And, this role is best played by teachers. So your role is not just to transact the content of the textbook but you have been expected from the start to bring in different, more local, examples and help students develop their own analysis of important issues. These textbooks also mark a departure from earlier ones precisely because they name and identify specific forms of inequality. These caste, religious and gender distinctions are also realities that are present in the classroom and therefore, our expectation is also that you will handle these situations with the necessary sensitivity.

Paulo Freire, the Brazilian educator (who characterised rote learning as akin to depositing money in a bank) wrote that teachers should attempt to, "live part of their dreams within their educational space (i.e. in schools)". And, we hoped that the social and political life classroom would serve quite easily as this space for teachers because the topics discussed in the textbooks

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were deeply connected to people's struggles for justice, equality and dignity. We hoped that the teachers' strong identification with the topics discussed would allow them to guide students to critically pose questions on contemporary issues.

We also realised that this critical lens we wanted students to develop would need to be linked to a larger vision. This was needed for them to make a more informed analysis as well as not develop a cynicism when confronted with stark realities of social and political life in India. We wanted them to be critical and positive at the same time. And, although this might sound contradictory to you, we were quite sure that we did not want one without the other. For students to be confronted by only unequal realities without having any idea about how matters could be better, would have been frustrating. And on the flip side, to have them to learn about India only as an ideal democracy, in order that they remain positive, would have been misleading, given that their everyday realities are constantly telling them a different story.

Luckily for us, the country has a visionary document as well as a history of people's struggles. It is these two tools that we deliberately decided to draw upon to help make a critical analysis simultaneously a hopeful and positive experience for students. The Indian Constitution is a visionary document and has been used as such by several individuals and social movements to address issues of injustice and oppression. We have used the Constitution to serve as the moral compass for this new subject area. In addition, the book also utilises social movements to meaningfully show students that the existence of the Constitution does not in and of itself guarantee equality and dignity but that people continuously struggle to realise these in their lives.

As we developed this last book, we were also aware that in the future changes will be made to the social and political life curriculum as well as these textbooks. We hope that sharing the above reasons – why we developed these texts as well as what we hope the teacher and student will bring to the analyses presented – will allow you to deepen your commitment to this subject area. We hope that it will allow you to recognise that as the only subject area that deals with contemporary social and political issues in middle-school classes, *Social and Political Life* series provides you with a great opportunity to explore the ways in which your students' lives are tied to broader societal issues. We would like for you to use this opportunity to begin to change the ways in which students are forced to learn information by rote in the classroom space. Since the information provided in these textbooks provides enough room to introduce connected local concerns and to develop an analysis based on this, you need to exercise an active role in making the classroom space exciting as well as safe for students of all backgrounds to air their opinions without feeling left out, ridiculed or silenced.

The task of establishing a new subject area through a textbook is not easy. *Social and Political Life* because of its focus on the contemporary will also be controversial at times. We can't run away from this. While you would allow a variety of opinions to be expressed, this would be based on a large amount of trust in your sense of justice and dignity for all. If you believe that schools can help build in the child a sense of a just society, then *Social and Political Life* provides you a great opportunity to do this. It is our keen hope that you take up our offer.

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What are the issues included in the Class VIII book?

The Class VIII book has a focus on rule of law and social justice. The units are devoted to the following topics: the Indian Constitution, the Parliament, the Judiciary, Social Marginalisation and the Economic Presence of Government. Each unit consists of two chapters. In this book, students learn what law is and what is meant by rule of law. They also learn that often laws are not enough and people continue to struggle to have their fundamental rights realised long after laws have been passed to guarantee these. The book ends with a note on the 'Constitution as a Living Ideal'. This note serves the function of tying together the main ideas raised in the book.

What elements does the Class VIII book utilise to explain selected issues?

Storyboards: We have received feedback that the storyboards that we introduced last year worked well in the classroom with both students and teachers. This year, we have continued to use this visual medium to discuss narratives that are fictional but based on real events. We hope students will be drawn into the narrative and this will help them better understand the concepts and processes that the storyboard depicts.

Glossary: The glossary words are highlighted in the chapters. The glossary is not a dictionary. Instead, it explains the context or sense in which the words or phrases have been used in the chapter. The glossary is a tool to be used for understanding the text further and not something that needs to be memorised.

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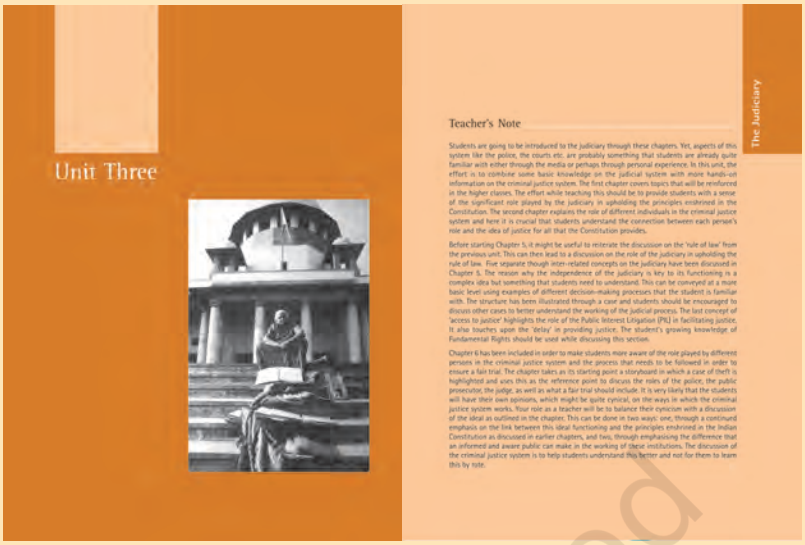
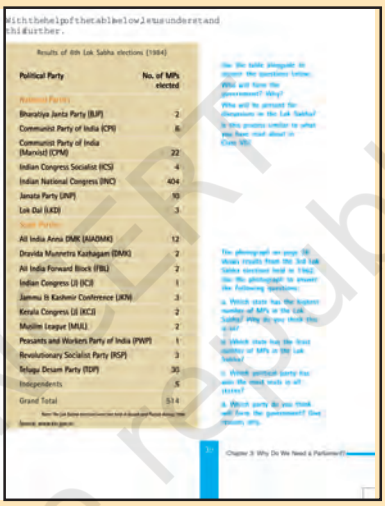
Teacher's Page: Again like we did last year, each of the units begins with a separate Teacher's Page.This highlights the main conceptual points that the chapter raises with the teacher in order to facilitate the teaching of these in the classroom space.



In-text and End-text Questions: As with the books in the two previous years, this year's book also includes in-text and end-text questions. These combine different kinds of questions, testing the ability to reason, to contrast and compare, to infer and extrapolate, to analyse and to read and create visual material. The end-text questions usually revise the main conceptual points raised in the chapter in addition to asking students to often use their creative abilities. It is crucial that students answer these questions in their own words.



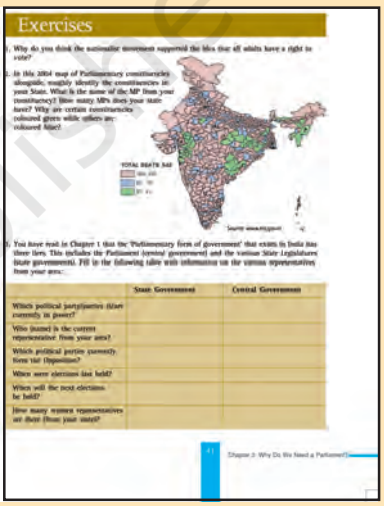


Photo Essay: Last year's book had a photo essay on the women's movement. This year, we have a photo essay on the Bhopal gas tragedy. A photo essay is to enable a student to learn about a particular situation through reading visuals. Each of the photos have been chosen with great care to mark particular moments in the history of the issue being highlighted. Students should be encouraged to read and discuss the photo essays and not gloss over them.

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Unit One

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Teacher's Note

The Indian Constitution has been regularly referred to in the previous two *Social and Political Life* textbooks. Unlike the previous two books, where little space was devoted to discussing the Constitution itself, this year the chapters in Unit 1 take the Constitution as its main focus.

Chapter 1 begins with a discussion of the principles that underlie a liberal constitution. Three short storyboards have been used to familiarise the student with the ideas that are being discussed. The storyboards use incidents located within a classroom-setting to illustrate three complex constitutive principles. The storyboards should be used to aid the student's understanding of these constitutive principles.

The discussion on the Indian Constitution is situated within a historical context. This has been done with the express intent that students become aware of the major influence that our anti-colonial struggle had on Indian democracy. In discussing the Constitution, we have had to use several new, and often difficult terms, to explain certain key features. While teaching these, please keep in mind that the student will continue to study these key features in greater depth in higher classes. Therefore, the attempt here is to familiarise the student with a very basic understanding of the significance of these features within the working of democracy in India.

Chapter 2 discusses secularism. The most prevalent definition of secularism is that it refers to the separation between Religion and the State. The chapter uses this definition as the foundation and then proceeds to elucidate two complicated ideas: the first points to why this separation is important and the second to what is particular to Indian secularism.

There are two main reasons why the separation between Religion and State is important. The first is to prevent the domination of one religion over another, i.e. *inter-religious* domination. The second is to oppose the various types of domination that can happen within a religion, i.e. *intra-religious* domination. For example, the chapter discusses untouchability in Hindu religious practice which allowed 'upper castes' to dominate members of some 'lower castes'. Secularism's opposition to institutionalised religion means that it promotes freedom and equality between and within religions.

The second major conceptual idea that the chapter deals with is the unique nature of Indian secularism. Indian secularism does protect the religious freedom of individuals by maintaining a separation from religion. But it also provides room for the reform of religions, for example, the abolishing of untouchability, child marriage, etc. Therefore, in its attempt to achieve religious equality (both between as well as within religions) the Indian secular State both maintains a separation as well as intervenes in religion. This intervention can either be in terms of a ban (like that on untouchability) or in terms of providing assistance to religious minorities. The chapter explains this and refers to it as 'principled distance'. This means that any interference in religion by the State has to be based on the ideals laid out in the Constitution.

Several of the above points are quite complex. It is crucial that you understand these points clearly before teaching this chapter. It is very likely that students will come up with several suggestions for why the government should intervene or not intervene in religious affairs. While discussion is to be encouraged, it is important to mediate this and ensure that it does not reinforce stereotypes of religious minorities.

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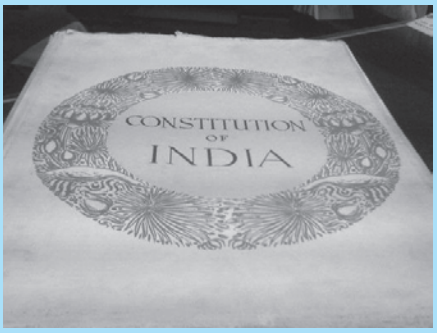
Chapter 1

The Indian Constitution



In this chapter, we are going to begin with football, a game many of you have probably heard of, or even played. As the name suggests, this is a game that involves the players' feet. According to the rules of football, if the ball touches the arm of any player (except the goalkeeper), then this is considered a foul. So if players start holding the football in their hands and passing it around, then they are not playing football any more. Similarly other games, such as hockey or cricket, also have rules according to which they are played. Each of these rules helps define the game, and helps us distinguish one game from another. As these are fundamental to the game, we can also call them the constitutive rules of the game. Like these games, a society also has constitutive rules that make it what it is and differentiate it from other kinds of societies. In large societies in which different communities of people live together, these rules are formulated through consensus, and in modern countries this consensus is usually available in written form. A written document in which we find such rules is called a Constitution.

We have looked at the Indian Constitution in Classes VI and VII in our *Social and Political Life* textbooks. Have you ever wondered why we need a Constitution or been curious about how the Constitution got written, or who wrote it? In this chapter, we will discuss both these issues and also look at the key features of the Indian Constitution. Each of these features is crucial to the working of democracy in India and some of these will be the focus of different chapters in this book.

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Why Does a Country Need a Constitution?

In 1934, the Indian National Congress made the demand for a Constituent Assembly. During the Second World War, this assertion for an independent Constituent Assembly formed only of Indians gained momentum and this was convened in December 1946. The photo on page 2 shows some members of the Constituent Assembly.

Between December 1946 and November 1949, the Constituent Assembly drafted a constitution for independent India. Free to shape their destiny at last, after 150 years of British rule, the members of the Constituent Assembly approached this task with the great idealism that the freedom struggle had helped produce. You will read more about the work of the Constituent Assembly later in the chapter.

The photo alongside shows Prime Minister Jawaharlal Nehru addressing the Constituent Assembly.

Today most countries in the world have a Constitution. While all democratic countries are likely to have a Constitution, it is not necessary that all countries that have a Constitution are democratic. The Constitution serves several purposes. First, it lays out certain ideals that form the basis of the kind of country that we as citizens aspire to live in. Or, put another way, a Constitution tells us what the fundamental nature of our society is. A country is usually made up of different communities of people who share certain beliefs but may not necessarily agree on all issues. A Constitution helps serve as a set of rules and principles that all persons in a country can agree upon as the basis of the way in which they want the country to be governed. This includes not only the type of government but also an agreement on certain ideals that they all believe the country should uphold.

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The country of Nepal has witnessed several people's struggles for democracy. There was a people's struggle in 1990 that established democracy that lasted for 12 years until 2002. In October 2002, King Gyanendra, citing the Maoist uprising in the countryside as his reason, began taking over different aspects of the government with the army's assistance. The King then finally took over as the head of government in February 2005. In November 2005, the Maoists joined other political parties to sign a 12-point agreement. This agreement signalled to the larger public an imminent return to democracy and peace. In 2006, this people's movement for democracy began gaining immense force. It repeatedly refused the small concessions that the King made and finally in April 2006 the King restored the Third Parliament and asked the political parties to form a government. In 2008, Nepal became a democracy after abolishing the monarchy. The above photos show scenes from the people's movement for democracy in 2006.

Let us try and understand what we mean by this through two contrasting situations in the recent history of Nepal, a country that borders India on the north. Until recently, Nepal was a monarchy. The previous Constitution of Nepal, which had been adopted in 1990, reflected the fact that the final authority rested with the King. A people's movement in Nepal fought for several decades to establish democracy and in 2006 they finally succeeded in putting an end to the powers of the King. The people had to write a new Constitution to establish Nepal as a democracy. The reason that they did not want to continue with the previous Constitution is because it did not reflect the ideals of the country that they want Nepal to be, and that they have fought for.

As in the game of football, in which a change in the constitutive rules will change the game altogether, Nepal, by moving from a monarchy to a democratic government, needs to change all its constitutive rules in order to usher in a new society. This is why, the people of Nepal adopted a new Constitution for the country in 2015. The caption alongside elaborates Nepal's struggle for democracy.

Discuss with your teacher what you understand by the term 'constitutive'. Provide one example of 'constitutive rules' from your everyday life.

Why did the people of Nepal want a new Constitution?

The second important purpose of a Constitution is to define the nature of a country's political system. For example, Nepal's earlier Constitution stated that the country was to be ruled by the King and his council of ministers. In countries that have adopted a democratic form of

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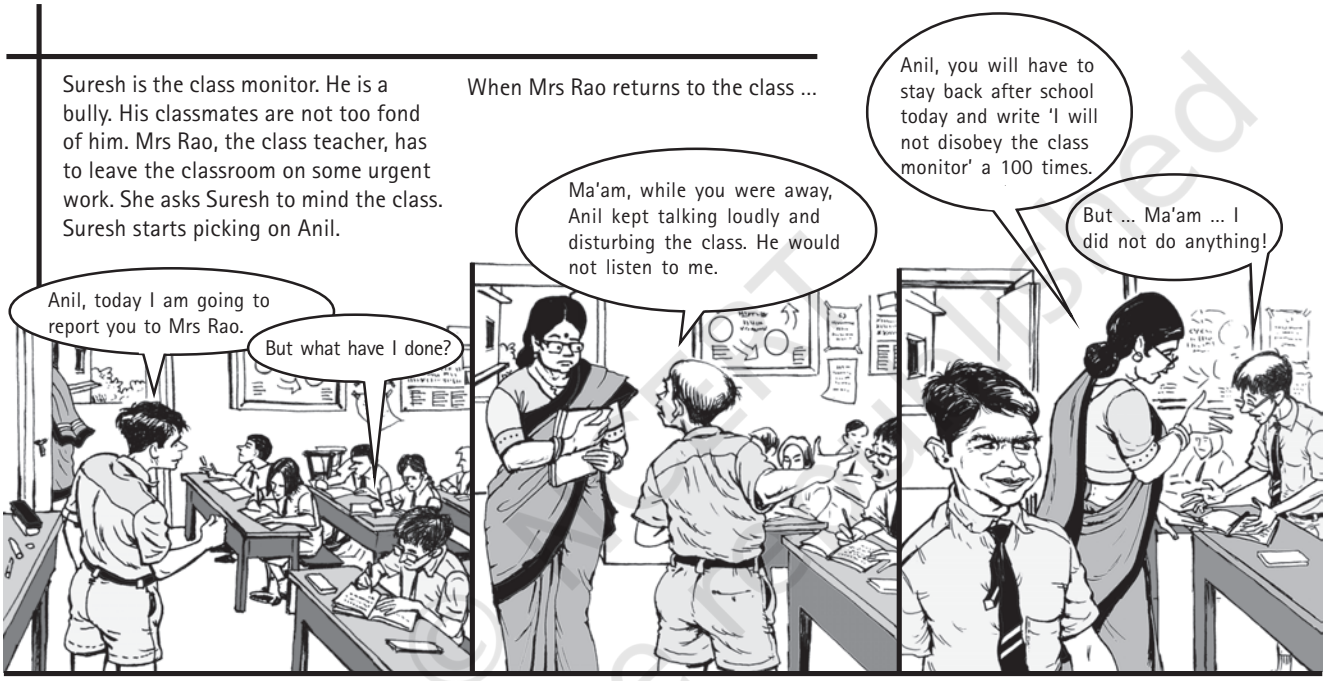
government or polity, the Constitution plays a crucial role in laying out certain important guidelines that govern decision-making within these societies.

In a democracy, we choose our leaders so that they can exercise power responsibly on our behalf. However, there is always the possibility that these leaders might misuse their authority and the Constitution usually provides safeguards against this. This misuse of authority can result in gross injustice as demonstrated in the classroom situation below:



In democratic societies, the Constitution often lays down rules that guard against this misuse of authority by our political leaders. In the case of the Indian Constitution, about which you will read more later in this chapter, many of these laws are contained in the section on Fundamental Rights. Do you recall the chapter on the Dalit writer, Omprakash Valmiki's experiences in school from your Class VII book? In that chapter, we talked about the discrimination Omprakash faced because he was a Dalit. You read about how the Indian Constitution guarantees the right to equality to all persons and says that no citizen can be discriminated against on grounds of religion, race, caste, gender, and place of birth. The Right to Equality is one of the Fundamental Rights guaranteed by the Indian Constitution.

1. In what way is the class monitor misusing his power?

2. In which of the following situations is a minister misusing his power:
a) refuses to sanction a project of his ministry for sound technical reasons;
b) threatens to send his security staff to rough up his neighbour;
c) calls up the police station asking them not to register a complaint that is likely to be filed against his relative.

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Another important function that a Constitution plays in a democracy is to ensure that a dominant group does not use its power against other, less powerful people or groups. The storyboard below demonstrates one such situation in the classroom.

Such unhealthy situations can occur in democratic societies too, where a majority can continuously enforce decisions that exclude minorities and go against their interests. As the above storyboard illustrates, every society is prone to this tyranny of the majority. The Constitution usually contains rules that ensure that minorities are not excluded from anything that is routinely available to the majority. Another reason why we have a Constitution is precisely to prevent this tyranny or domination by the majority of a minority. This can refer to one community dominating another, i.e. inter-community domination, or members of one community dominating others within the same community, i.e. intra-community domination.

Who is in a minority in the above storyboard? In what way is this minority being dominated by the decision taken by the majority?

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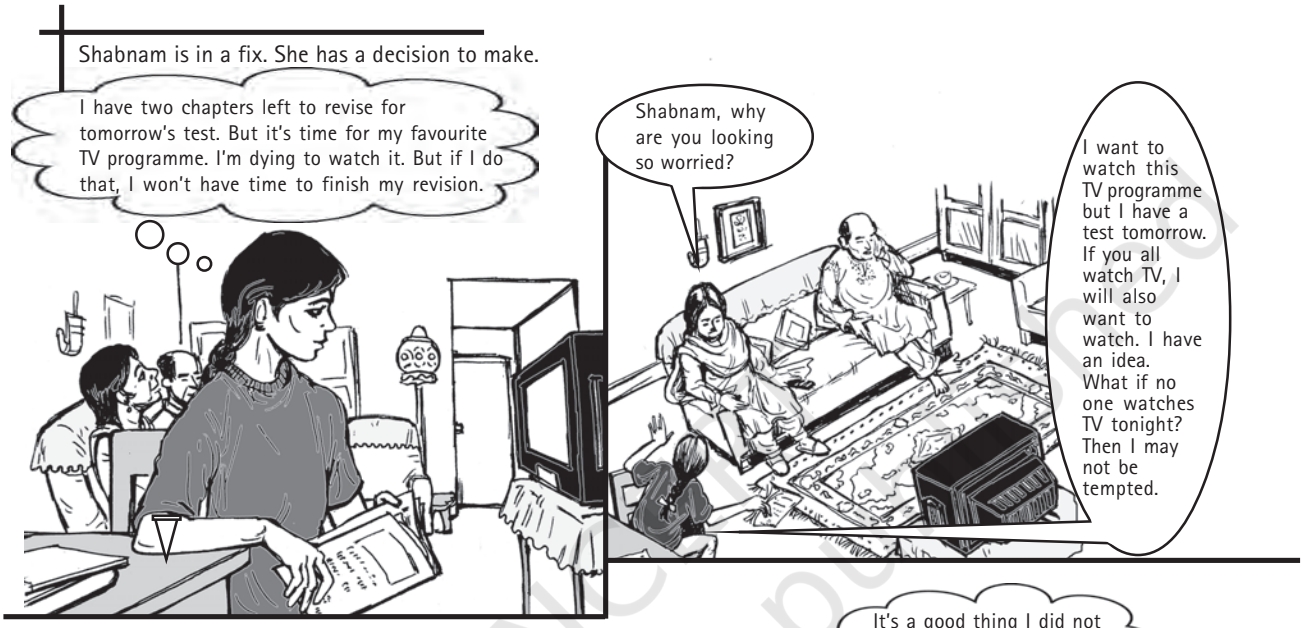
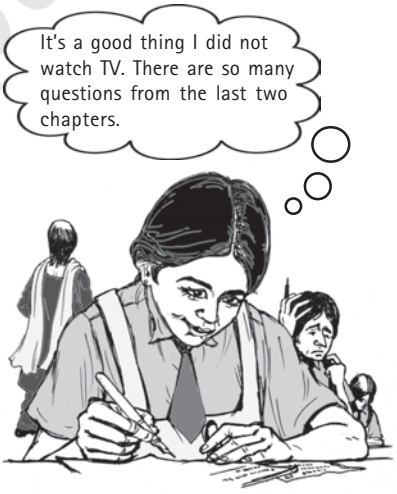
The third significant reason why we need a Constitution is to save us from ourselves. This may sound strange but what is meant by this is that we might at times feel strongly about an issue that might go against our larger interests and the Constitution helps us guard against this. Look at the storyboard below to understand this better:



Similarly, the Constitution helps to protect us against certain decisions that we might take that could have an adverse effect on the larger principles that the country believes in. For example, it is possible that many people who live in a democracy might come to strongly feel that party politics has become so acrimonious that we need a strong dictator to set this right. Swept by this emotion, they may not realise that in the long run, dictatorial rule goes against all their interests. A good Constitution does not allow these whims to change its basic structure. It does not allow for the easy overthrow of provisions that guarantee rights of citizens and protect their freedom.



Why was Shabnam happy that she had not watched TV? What would you have done in a similar situation?

From the above discussion, you will understand that the Constitution plays a very important role in democratic societies.

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Let us recap the reasons why the Constitution plays an important role in democratic societies by recalling the constitutive rules that you have read about through these examples:

Example	Constitutive Rules
The people of Nepal adopted a new Constitution after the success of the people's movement for democracy.	It lays down ideals that define the kind of country that we want to live in.
Suresh, the class monitor wrongly picks on Anil, his classmate.	
The girls do not get to play basketball because the boys are a majority in class.	
Shabnam decides to revise her chapters instead of watching TV.	

Now let us try and understand the ways in which the above points get translated into certain ideals and rules by studying some key features of the Indian Constitution.

The Indian Constitution: Key Features

By the beginning of the twentieth century, the Indian national movement had been active in the struggle for independence from British rule for several decades. During the freedom struggle the nationalists had devoted a great deal of time to imagining and planning what a free India would be like. Under the British, they had been forced to obey rules that they had had very little role in making. The long experience of authoritarian rule under the colonial state convinced Indians that free India should be a democracy in which everyone should be treated equally and be allowed to participate in government. What remained to be done then was to work out the ways in which a democratic government would be set up in India and the rules that would determine its functioning. This was done not by one person but by a group of around 300 people who became members of the Constituent Assembly in 1946 and who met periodically for the next three years to write India's Constitution.

There was an extraordinary sense of unity amongst the members of the Constituent Assembly. Each of the provisions of the future constitution was discussed in great detail and there was a sincere effort to compromise and reach an agreement through consensus. The above photo shows Sardar Vallabhbhai Patel, a prominent member of the Constituent Assembly.

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These members of the Constituent Assembly had a huge task before them. The country was made up of several different communities who spoke different languages, belonged to different religions, and had distinct cultures. Also, when the Constitution was being written, India was going through considerable turmoil. The partition of the country into India and Pakistan was imminent, some of the Princely States remained undecided about their future, and the socio-economic condition of the vast mass of people appeared dismal. All of these issues played on the minds of the members of the Constituent Assembly as they drafted the Constitution. They rose to the occasion and gave this country a visionary document that reflects a respect for maintaining diversity while preserving national unity. The final document also reflects their concern for eradicating poverty through socio-economic reforms as well as emphasising the crucial role the people can play in choosing their representatives.

Baba Saheb Dr Ambedkar is known as the Father of the Indian Constitution.
Dr Ambedkar believed that his participation in the Constituent Assembly helped the Scheduled Castes get some safeguards in the draft constitution. But he also stated that although the laws might exist, Scheduled Castes still had reason to fear because the administration of these laws were in the hands of 'caste Hindu officers'. He, therefore, urged Scheduled Castes to join the government as well as the civil services.

Listed below are the key features of the Indian Constitution. While reading these, keep in mind the above-mentioned concerns of diversity, unity, socio-economic reform and representation that the authors of this document were grappling with. Try and understand the ways in which they tried to balance these concerns with their commitment to transforming independent India into a strong, democratic society.

1. Federalism: This refers to the existence of more than one level of government in the country. In India, we have governments at the state level and at the centre. Panchayati Raj is the third tier of government and you have read about this in your Class VI book. We looked at the functioning of the state government in your Class VII book and this year we will read more about the central government.

The vast number of communities in India meant that a system of government needed to be devised that did not involve only persons sitting in the capital city of New Delhi and making

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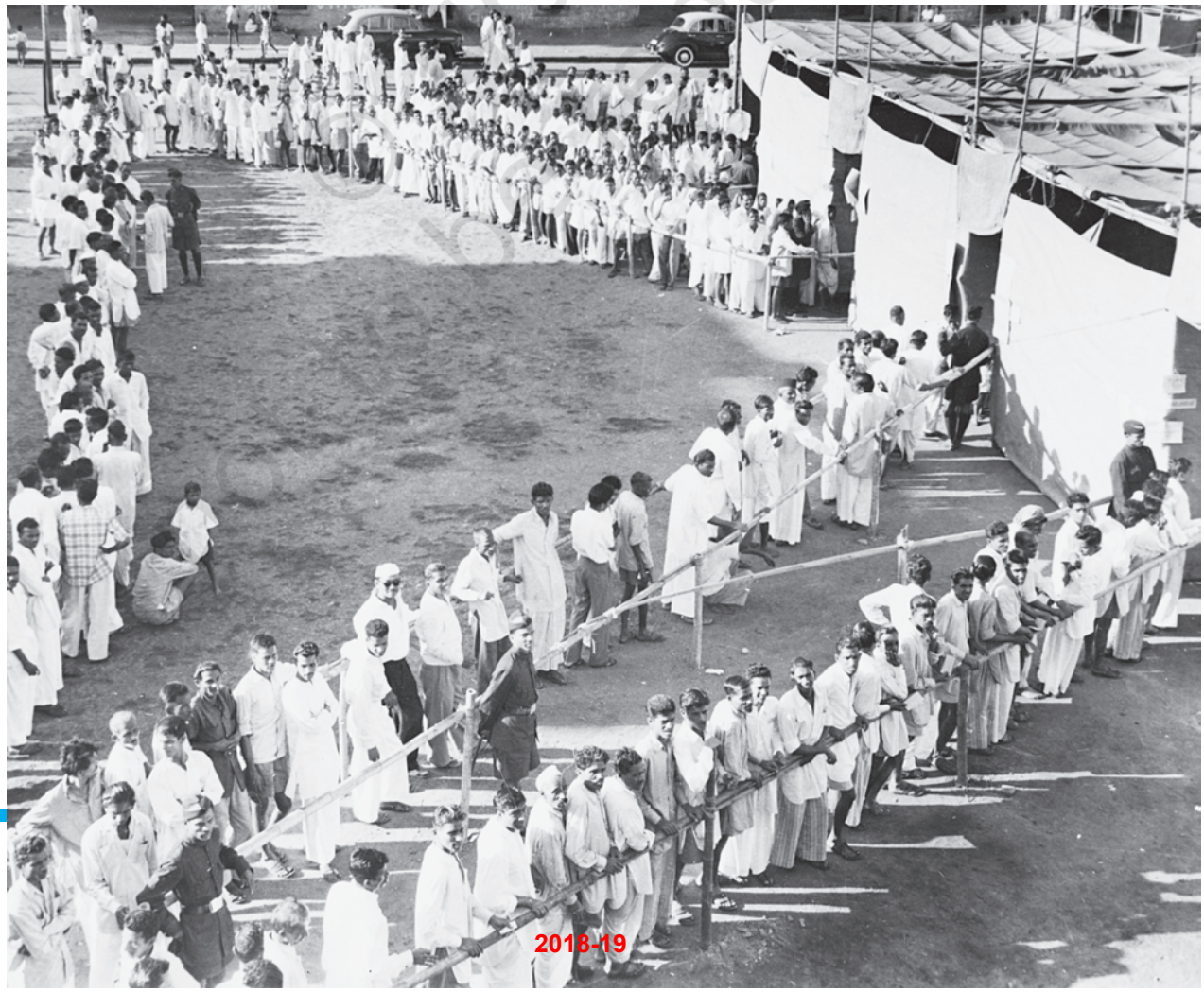
decisions for everyone. Instead, it was important to have another level of government in the states so that decisions could be made for that particular area. While each state in India enjoys autonomy in exercising powers on certain issues, subjects of national concern require that all of these states follow the laws of the central government. The Constitution contains lists that detail the issues that each tier of government can make laws on. In addition, the Constitution also specifies where each tier of government can get the money from for the work that it does. Under federalism, the states are not merely agents of the federal government but draw their authority from the Constitution as well. All persons in India are governed by laws and policies made by each of these levels of government.

When the Constituent Assembly adopted the principle of universal adult franchise, Shri A.K. Ayyar, a member, remarked that this was done, "with an abundant faith in the common man and the ultimate success of democratic rule, and in the full belief that the introduction of democratic government on the basis of adult suffrage will bring enlightenment and promote the well-being, the standard of life, the comfort, and the decent living of the common man".

Austin, G. 1966. *The Indian Constitution: Cornerstone of a Nation*. Clarendon Press, Oxford.

2. Parliamentary Form of Government: The different tiers of government that you just read about consist of representatives who are elected by the people. Your Class VII book began with the story of Kanta who was standing in line to vote during an election. The

The photo below shows people standing in line to cast their votes.



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Constitution of India guarantees universal adult suffrage for all citizens. When they were making the Constitution, the members of the Constituent Assembly felt that the freedom struggle had prepared the masses for universal adult suffrage and that this would help encourage a democratic mindset and break the clutches of traditional caste, class and gender hierarchies. This means that the people of India have a direct role in electing their representatives. Also, every citizen of the country, irrespective of his/her social background, can also contest in elections. These representatives are accountable to the people. You will read more about why representation is crucial to democratic functioning in Unit 2 of this book.

3. Separation of Powers: According to the Constitution, there are three organs of government. These are the legislature, the executive and the judiciary. The legislature refers to our elected representatives. The executive is a smaller group of people who are responsible for implementing laws and running the government. The judiciary, of which you will read more in Unit 3 of this book, refers to the system of courts in this country. In order to prevent the misuse of power by any one branch of government, the Constitution says that each of these organs should exercise different powers. Through this, each organ acts as a check on the other organs of government and this ensures the balance of power between all three.

Members of the Constituent Assembly feared that the executive might become too strong and ignore its responsibility to the legislature. The Assembly, therefore, included a number of provisions in the Constitution to limit and control the action taken by the executive branch of government as a whole.

The word 'State' is often used in this chapter. This does NOT refer to state governments. Rather when we use State, we are trying to distinguish it from 'government'. 'Government' is responsible for administering and enforcing laws. The government can change with elections. The State on the other hand refers to a political institution that represents a sovereign people who occupy a definite territory. We can, thus, speak of the Indian State, the Nepali State etc. The Indian State has a democratic form of government. The government (or the executive) is one part of the State. The State refers to more than just the government and cannot be used interchangeably with it.

Discuss the difference between State and Government with your teacher.

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The Fundamental Rights in the Indian Constitution include:

1. **Right to Equality:** All persons are equal before the law. This means that all persons shall be equally protected by the laws of the country. It also states that no citizen can be discriminated against on the basis of their religion, caste or sex. Every person has access to all public places including playgrounds, hotels, shops etc. The State cannot discriminate against anyone in matters of employment. But there are exceptions to this that you will read about later in this book. The practice of untouchability has also been abolished.
2. **Right to Freedom:** This includes the right to freedom of speech and expression, the right to form associations, the right to move freely and reside in any part of the country, and the right to practise any profession, occupation or business.
3. **Right against Exploitation:** The Constitution prohibits human trafficking, forced labour, and employment of children under 14 years of age.
4. **Right to Freedom of Religion:** Religious freedom is provided to all citizens. Every person has the right to practise, profess and propagate the religion of their choice.
5. **Cultural and Educational Rights:** The Constitution states that all minorities, religious or linguistic, can set up their own educational institutions in order to preserve and develop their own culture.
6. **Right to Constitutional Remedies:** This allows citizens to move the court if they believe that any of their Fundamental Rights have been violated by the State.

4. Fundamental Rights: The section on Fundamental Rights has often been referred to as the 'conscience' of the Indian Constitution. Colonial rule had created a certain suspicion of the State in the minds of the nationalists and they wanted to ensure that a set of written rights would guard against the misuse of State power in independent India. Fundamental Rights, therefore, protect citizens against the arbitrary and absolute exercise of power by the State. The Constitution, thus, guarantees the rights of individuals against the State as well as against other individuals.

Moreover, the various minority communities also expressed the need for the Constitution to include rights that would protect their groups. The Constitution, therefore, also guarantees the rights of minorities against the majority. As Dr Ambedkar has said about these Fundamental Rights, their object is two-fold. The first objective is that every citizen must be in a position to claim those rights. And secondly, these rights must be binding upon every authority that has got the power to make laws.

In addition to Fundamental Rights, the Constitution also has a section called Directive Principles of State Policy. This section was designed by the members of the Constituent Assembly to ensure greater social and economic reforms, and to serve as a guide to the independent Indian State to institute laws and policies that help reduce the poverty of the masses.

Which Fundamental Rights will the following situations violate:

- If a 13-year old child is working in a factory manufacturing carpets.
- If a politician in one state decides to not allow labourers from other states to work in his state.
- If a group of people are not given permission to open a Telugu-medium school in Kerala.
- If the government decides not to promote an officer of the armed forces for being a woman.

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5. Secularism: A secular state is one in which the state does not officially promote any one religion as the state religion. We will read more about this in the following chapter.

You now understand the ways in which a country's history often determines the kind of Constitution that a country adopts for itself. The Constitution plays a crucial role in laying out the ideals that we would like all citizens of the country to adhere to, including the representatives that we elect to rule us. Just like in the game of football, a change of constitutive rules will affect the game. Indian Constitution has been amended over the years to reflect new concerns of the polity. Often a major change in the Constitution means a change in the fundamental nature of the country. We saw this in the case of Nepal and how it needed to adopt a new Constitution after it became a democracy.

The different features of the Indian Constitution outlined above, involve complicated ideas that are often not easy to grasp. Don't worry too much about this for the moment. In the rest of the book as well as in your higher classes, you will read more about these different features of the Indian Constitution and understand more substantively what they mean.

The above photos show various members of the Constituent Assembly signing a copy of the Constitution at its final session on 24 January 1950. The first photo (from top) shows Prime Minister Pandit Jawaharlal Nehru signing. The second photo is of Dr Rajendra Prasad, President of the Constituent Assembly. The last photo shows the following persons (from right to left): Shri Jairamdas Daulatram, Minister for Food and Agriculture; Rajkumari Amrit Kaur, Health Minister; Dr John Mathai, Finance Minister; Sardar Vallabhbhai Patel, Deputy Prime Minister and behind him Shri Jagjivan Ram, Labour Minister.

The Constitution also mentions Fundamental Duties. Find out with the help of your teacher what these include and why it is important for citizens in a democracy to observe these.

Illustrate each of the 11 Fundamental Duties with drawings, pictures, poems or songs and discuss them in the classroom.

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Exercises

1. Why does a democratic country need a Constitution?

2. Look at the wordings of the two documents given below. The first column is from the 1990 Nepal Constitution. The second column is from the more recent Constitution of Nepal.

1990 Constitution of Nepal **Part 7: Executive**	**2015 Constitution of Nepal** **Part 7: Federal Executive**
Article 35: Executive Power: The executive power of the Kingdom of Nepal shall be vested in His Majesty and the Council of Ministers.	Article 75: Executive Power: The executive power of Nepal shall, pursuant to this Constitution and law, be vested in the Council of Ministers.

What is the difference in who exercises 'Executive Power' in the above two Constitutions of Nepal?

3. What would happen if there were no restrictions on the power of elected representatives?

4. In each of the following situations, identify the minority. Write one reason why you think it is important to respect the views of the minority in each of these situations.

   (a) In a school with 30 teachers, 20 of them are male.

   (b) In a city, 5 per cent of the population are Buddhists.

   (c) In a factory mess for all employees, 80 per cent are vegetarians.

   (d) In a class of 50 students, 40 belong to more well-off families.

5. The column on the left lists some of the key features of the Indian Constitution. In the other column write two sentences, in your own words, on why you think this feature is important:

Key Feature	Significance
Federalism	
Separation of Powers	
Fundamental Rights	
Parliamentary Form of Government	

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6. Write down the names of the Indian States, which share borders with the following neighbouring nations:

   (a) Bangladesh

   (b) Bhutan

   (c) Nepal

GLOSSARY

Arbitrary: When nothing is fixed and is instead left to one's judgment or choice. This can be used to refer to rules that are not fixed, or decisions that have no basis etc.

Ideal: A goal or a principle in its most excellent or perfect form.

Indian national movement: The Indian national movement emerged in nineteenth-century India and saw thousands of men and women coming together to fight British rule. This culminated in India's independence in 1947. You will learn about this in greater detail in your history textbook this year.

Polity: A society that has an organised political structure. India is a democratic polity.

Sovereign: In the context of this chapter it refers to an independent people.

Human Trafficking: The practice of the illegal buying and selling of different commodities across national borders. In the context of Fundamental Rights discussed in this chapter, it refers to illegal trade in human beings, particularly women and children.

Tyranny: The cruel and unjust use of power or authority.

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Chapter 2

Understanding Secularism

Imagine yourself as a Hindu or Muslim living in a part of the United States of America where Christian fundamentalism is very powerful. Suppose that despite being a US citizen, no one is willing to rent their house to you. How would this make you feel? Would it not make you feel resentful? What if you decided to complain against this discrimination and were told to go back to India. Would this not make you feel angry? Your anger could take two forms. First, you might react by saying that Christians should get the same treatment in places where Hindus and Muslims are in a majority. This is a form of retaliation. Or, you might take the view that there should be justice for all. You may fight, stating that no one should be discriminated against on grounds of their religious practices and beliefs. This statement rests on the assumption that all forms of domination related to religion should end. This is the essence of secularism. In this chapter, you will read more about what this means in the Indian context.

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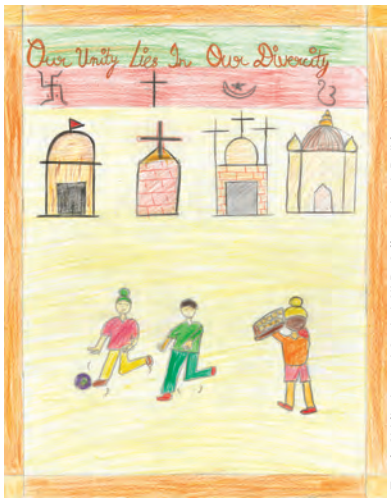
History provides us with many examples of discrimination, exclusion and persecution on the grounds of religion. You may have read about how Jews were persecuted in Hitler's Germany and how several millions were killed. Now, however, the Jewish State of Israel treats its own Muslim and Christian minorities quite badly. In Saudi Arabia, non-Muslims are not allowed to build a temple, church etc., and nor can they gather in a public place for prayers.

Re-read the introduction to this chapter. Why do you think retaliation is not the proper response to this problem? What would happen if different groups followed this path?

In all of the above examples, members of one religious community either persecute or discriminate against members of other religious communities. These acts of discrimination take place more easily when one religion is given official recognition by the State at the expense of other religions. Clearly no one would wish to be discriminated against, because of their religion nor dominated by another religion. In India, can the State discriminate against citizens on the grounds of their religion?

What is Secularism?

In the previous chapter, you read about how the Indian Constitution contains Fundamental Rights that protect us against State power as well as against the tyranny of the majority. The Indian Constitution allows individuals the freedom to live by their religious beliefs and practices as they interpret these. In keeping with this idea of religious freedom for all, India also adopted a strategy of separating the power of religion and the power of the State. Secularism refers to this separation of religion from the State.



Tanvi, Abhilasha and Snehal, VI B, Srijan School, Delhi.

The three drawings in this chapter were done by students of your age. They were asked to draw on religious tolerance.

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Akshita Jain, V, Srijan School, Delhi.

Why is it Important to Separate Religion from the State?

As discussed above, the most important aspect of secularism is its separation of religion from State power. This is important for a country to function democratically. Almost all countries of the world will have more than one religious group living in them. Within these religious groups, there will most likely be one group that is in a majority. If this majority religious group has access to State power, then it could quite easily use this power and financial resources to discriminate against and persecute persons of other religions. This tyranny of the majority could result in the discrimination, coercion and at times even the killing of religious minorities. The majority could quite easily prevent minorities from practising their religions. Any form of domination based on religion is in violation of the rights that a democratic society guarantees to each and every citizen irrespective of their religion. Therefore, the tyranny of the majority and the violation of Fundamental Rights that can result is one reason why it is important to separate the State and religion in democratic societies.

Another reason that it is important to separate religion from the State in democratic societies is because we also need to protect the freedom of individuals to exit from their religion, embrace another religion or have the freedom to interpret religious teachings differently. To understand this point better, let us take the practice of untouchability. You might feel that you dislike this practice within Hinduism and therefore, you want to try and reform it. However, if State power were in the hands of those Hindus who support untouchability, then do you think that you would have an easy task to try and change this? Even if you were part of the dominant religious group, you might face a lot of resistance from fellow members of your community. These members who have control of State power might say that there is only one interpretation of Hinduism and that you do not have the freedom to interpret this differently.

Discuss in class: Can there be different views within the same religion?

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Pinky, VI G, Sarvodaya Kanya Vidyalaya , Delhi.

What is Indian Secularism?

The Indian Constitution mandates that the Indian State be secular. According to the Constitution, only a secular State can realise its objectives to ensure the following:

1. that one religious community does not dominate another;
2. that some members do not dominate other members of the same religious community;
3. that the State does not enforce any particular religion nor take away the religious freedom of individuals.

The Indian State works in various ways to prevent the above domination. First, it uses a strategy of distancing itself from religion. The Indian State is not ruled by a religious group and nor does it support any one religion. In India, government spaces like law courts, police stations, government schools and offices are not supposed to display or promote any one religion.

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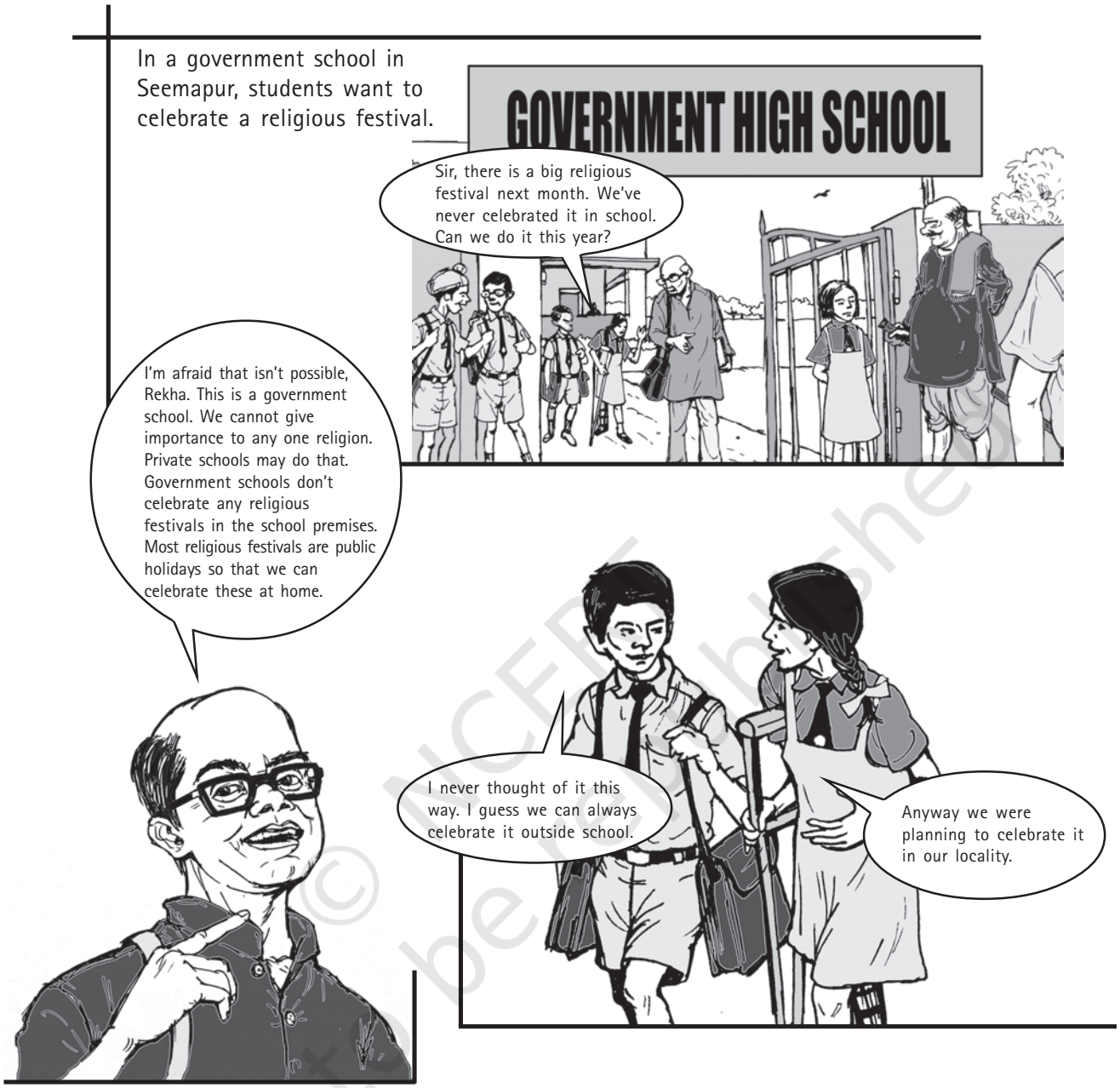

In the above storyboard, discuss the answer given by the teacher.

In the above storyboard, the celebration of the religious festival within the school would have been a violation of the government's policy of treating all religions equally. Government schools cannot promote any one religion either in their morning prayers or through religious celebrations. This rule does not apply to private schools.

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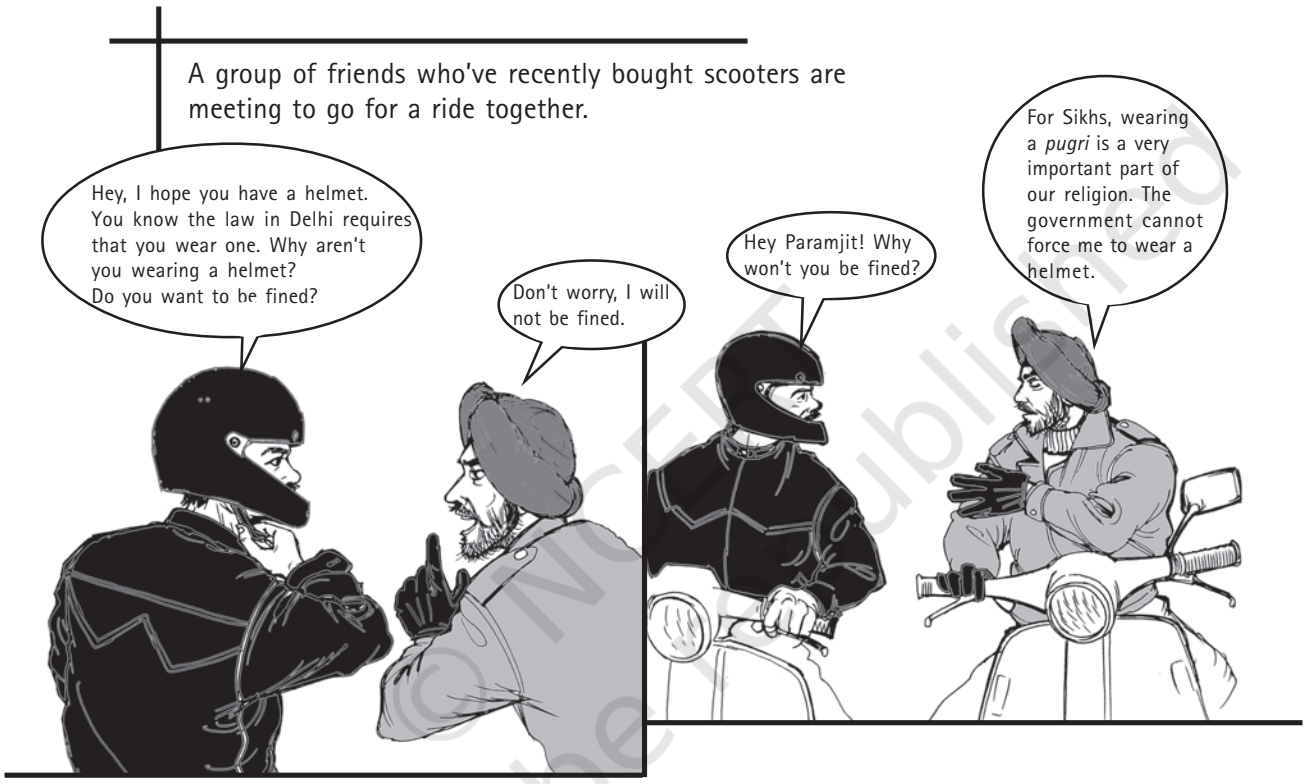
The second way in which Indian secularism works to prevent the above domination is through a strategy of non-interference. This means that in order to respect the sentiments of all religions and not interfere with religious practices, the State makes certain exceptions for particular religious communities.

Government schools often have students from different religious backgrounds. Re-read the three objectives of a secular State and write two sentences on why it is important that government schools do not promote any one religion?



In the above storyboard, Paramjit, the Sikh youth, does not have to wear a helmet. This is because the Indian State recognises that wearing a *pugri* (turban) is central to a Sikh's religious practice and in order not to interfere with this, allows an exception in the law.

The third way in which Indian secularism works to prevent the domination listed earlier is through a strategy of intervention. You read earlier in this chapter about untouchability. This is a good example where members of

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the same religion ('upper-caste' Hindus) dominate other members (some 'lower castes') within it. In order to prevent this religion-based exclusion and discrimination of 'lower castes', the Indian Constitution bans untouchability. In this instance, the State is intervening in religion in order to end a social practice that it believes discriminates and excludes, and that violates the Fundamental Rights of 'lower castes' who are citizens of this country. Similarly, to ensure that laws relating to equal inheritance rights are respected, the State may have to intervene in the religion-based 'personal laws' of communities.

The intervention of the State can also be in the form of support. The Indian Constitution grants the right to religious communities to set up their own schools and colleges. It also gives them financial aid on a non-preferential basis.

In what way is Indian secularism different from that of other democratic countries?

In the United States of America, most children in government schools have to begin their school day reciting the 'Pledge of Allegiance'. This Pledge includes the words "under God". It was established more than 60 years ago that government school students are not required to recite the Pledge if it conflicts with their religious beliefs. Despite this, there have been several legal challenges objecting to the phrase "under God" saying that it violates the separation between church and State that the First Amendment of the US Constitution guarantees.

The above photo shows students taking the 'Pledge of Allegiance' in a government school in the U.S.A.

Some of the above objectives are similar to those that have been included in the Constitutions of secular democratic countries in other parts of the world. For example, the First Amendment of the U.S. Constitution prohibits the legislature from making laws "respecting an establishment of religion" or that "prohibit the free exercise of religion". What is meant by the word 'establishment' is that the legislature cannot declare any religion as the official religion. Nor can they give preference to one religion. In the U.S.A. the separation between State and religion means that neither the State nor religion can interfere in the affairs of one another.

There is one significant way in which Indian secularism differs from the dominant understanding of secularism as practised in the United States of America. This is because unlike the strict separation between religion and the State in American secularism, in Indian secularism the State can intervene in religious affairs. You have read about how the

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Indian Constitution intervened in Hindu religious practices in order to abolish untouchability. In Indian secularism, though the State is not strictly separate from religion it does maintain a principled distance vis-à-vis religion. This means that any interference in religion by the State has to be based on the ideals laid out in the Constitution. These ideals serve as the standard through which we can judge whether the State is or is not behaving according to secular principles.

The Indian State is secular and works in various ways to prevent religious domination. The Indian Constitution guarantees Fundamental Rights that are based on these secular principles. However, this is not to say that there is no violation of these rights in Indian society. Indeed it is precisely because such violations happen frequently that we need a constitutional mechanism to prevent them from happening. The knowledge that such rights exist makes us sensitive to their violations and enables us to take action when these violations take place.

Can you think of a recent incident, from any part of India, in which the secular ideals of the Constitution were violated and persons were persecuted and killed because of their religious backgrounds?

In February 2004, France passed a law banning students from wearing any conspicuous religious or political signs or symbols such as the Islamic headscarf, the Jewish skullcap, or large Christian crosses. This law has encountered a lot of resistance from immigrants who are mainly from the former French colonies of Algeria, Tunisia and Morocco. In the 1960s, France had faced a shortage of workers and, therefore, had provided visas for these immigrants to come and work in the country. The daughters of these immigrants often wear headscarves while attending school. However, with the passing of this new law, they have been expelled from their school for wearing headscarves.

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Exercises

1. List the different types of religious practice that you find in your neighbourhood. This could be different forms of prayer, worship of different gods, sacred sites, different kinds of religious music and singing etc. Does this indicate freedom of religious practice?

2. Will the government intervene if some religious group says that their religion allows them to practise infanticide? Give reasons for your answer.

3. Complete the following table:

Objective	Why is this important?	Example of a violation of this objective
One religious community does not dominate another.		
The State does not enforce any particular religion nor take away the religious freedom of individuals.		
That some members do not dominate other members of the same religious community.		

4. Look up the annual calendar of holidays of your school. How many of them pertain to different religions? What does this indicate?

5. Find out some examples of different views within the same religion.

6. The Indian State both keeps away from religion as well as intervenes in religion. This idea can be quite confusing. Discuss this once again in class using examples from the chapter as well as those that you might have come up with.

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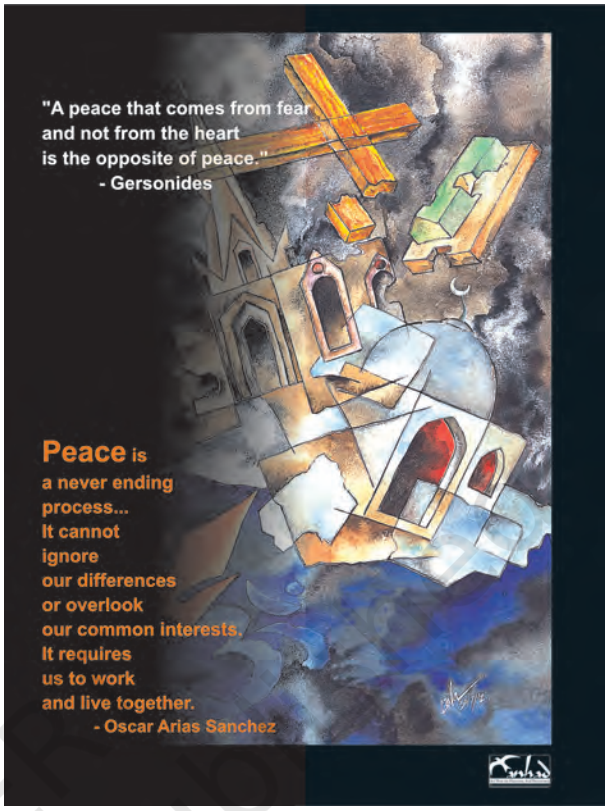
7. This poster alongside highlights the need for 'Peace'. It says, "Peace is a never-ending process....It cannot ignore our differences or overlook our common interests." Write in your own words what you think the above sentences are trying to convey? How does it relate to the need for religious tolerance?



This chapter had three drawings on religious tolerance made by students of your age. Design your own poster on religious tolerance for your peers.

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GLOSSARY

Coercion: To force someone to do something. In the context of this chapter, it refers to the force used by a legal authority like the State.

Freedom to interpret: The independence that all persons shall have to understand things in their own way. In the context of this chapter, it refers to a person's liberty to develop their own understanding and meaning of the religion they practice.

Intervene: In the context of this chapter, it refers to the State's efforts to influence a particular matter in accordance with the principles of the Constitution.

Chapter 4

Understanding Laws

You may be familiar with some laws such as those that specify the age of marriage, the age at which a person can vote, and perhaps even the laws dealing with buying and selling of property. We now know that the Parliament is in charge of making laws. Do these laws apply to everyone? How do new laws come into being? Could there be laws that are unpopular or controversial? What should we as citizens do under such circumstances?

Do Laws Apply to All?

Read the following situation and answer the questions that follow.

A government official helps his son go into hiding because his son has been given a ten-year jail sentence by a District Court for a crime that he has committed.

Do you think that the government official's actions were right? Should his son be exempt from the law just because his father is economically and politically powerful?

The above is a clear case of the violation of law. As you read in Unit 1, members of the Constituent Assembly were agreed there should be no arbitrary exercise of power in independent India. They, therefore, instituted several provisions in the Constitution that would establish the rule of law. The most important of these was that all persons in independent India are equal before the law.

The law cannot discriminate between persons on the basis of their religion, caste or gender. What the rule of law means is that all laws apply equally to all citizens of the country and no one can be above the law. Neither a government official, nor a wealthy person nor even the President of the country is above the law. Any crime or violation of law has a specific punishment as well as a process through which the guilt of the person has to be established. But was it always like this?

In ancient India, there were innumerable and often overlapping local laws. Different communities enjoyed different degrees of autonomy in administering these laws

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among their own. In some cases, the punishment that two persons received for the same crime varied depending on their caste backgrounds, with lower castes being more harshly penalised. This slowly began to change as this system of law began to further evolve during the colonial period.

It is often believed that it was the British colonialists who introduced the rule of law in India. Historians have disputed this claim on several grounds, two of which include: first that colonial law was arbitrary, and second that the Indian nationalists played a prominent role in the development of the legal sphere in British India. One example of the arbitrariness that continued to exist as part of British law is the Sedition Act of 1870. The idea of sedition was very broadly understood within this Act. Any person protesting or criticising the British government could be arrested without due trial.

Indian nationalists began protesting and criticising this arbitrary use of authority by the British. They also began fighting for greater equality and wanted to change the idea

Another example of British arbitrariness was the Rowlatt Act which allowed the British government to imprison people without due trial. Indian nationalists including Mahatma Gandhi were vehement in their opposition to the Rowlatt bills. Despite the large number of protests, the Rowlatt Act came into effect on 10 March 1919. In Punjab, protests against this Act continued quite actively and on April 10 two leaders of the movement, Dr Satyapal and Dr Saifuddin Kitchlew were arrested. To protest these arrests, a public meeting was held on 13 April at Jallianwala Bagh in Amritsar. General Dyer entered the park with his troops. They closed the only exit and without giving any warning General Dyer ordered the troops to fire. Several hundreds of people died in this gunfire and many more were wounded including women and children. This painting shows troops firing on the people during the Jallianwala Bagh massacre.

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of law from a set of rules that they were forced to obey, to law as including ideas of justice. By the end of the nineteenth century, the Indian legal profession also began emerging and demanded respect in colonial courts. They began to use law to defend the legal rights of Indians. Indian judges also began to play a greater role in making decisions. Therefore, there were several ways in which Indians played a major role in the evolution of the rule of law during the colonial period.

With the adoption of the Constitution, this document served as the foundation on which our representatives began making laws for the country. Every year our representatives pass several new laws as well as revise existing ones. In your Class VI book, you read about the Hindu Succession Amendment Act 2005. According to this new law, sons, daughters and their mothers can get an equal share of family property. Similarly, new laws have been enacted to control pollution and provide employment. How do people come to think and propose that a new law is necessary? You will read more about this in the next section.

The word 'arbitrary' has been used earlier in this book and you've read what the word means in the Glossary of Chapter 1. The word 'sedition' has been included in the Glossary of this chapter. Read the Glossary descriptions of both words and then answer the following questions:

State one reason why you think the Sedition Act of 1870 was arbitrary? In what ways does the Sedition Act of 1870 contradict the rule of law?

How Do New Laws Come About?

The Parliament has an important role in making laws. There are many ways through which this takes place and it is often different groups in society that raise the need for a particular law. An important role of Parliament is to be sensitive to the problems faced by people. Let us read the following story to understand how the issue of domestic violence was brought to the attention of the Parliament and the process adopted for this issue to become law.

Domestic violence refers to the injury or harm or threat of injury or harm caused by an adult male, usually the husband, against his wife. Injury may be caused by physically beating up the woman or by emotionally abusing her. Abuse of the woman can also include verbal, sexual and economic abuse. The Protection of Women from Domestic Violence Act 2005 extends the understanding of the term 'domestic' to include all women who 'live or have lived together in a shared household' with the male member who is perpetrating the violence.

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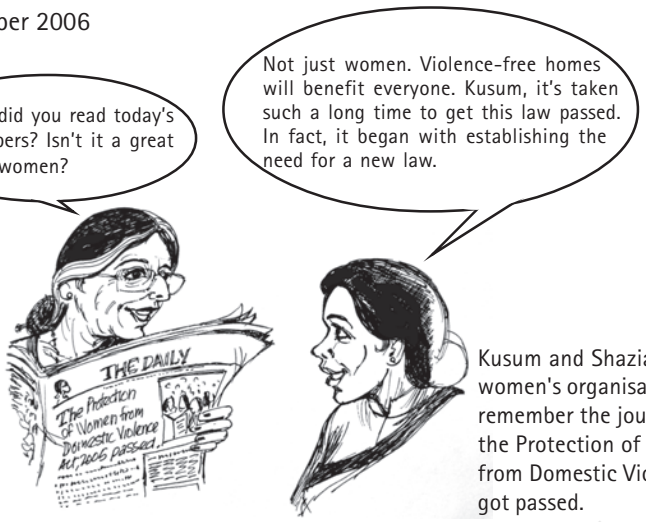
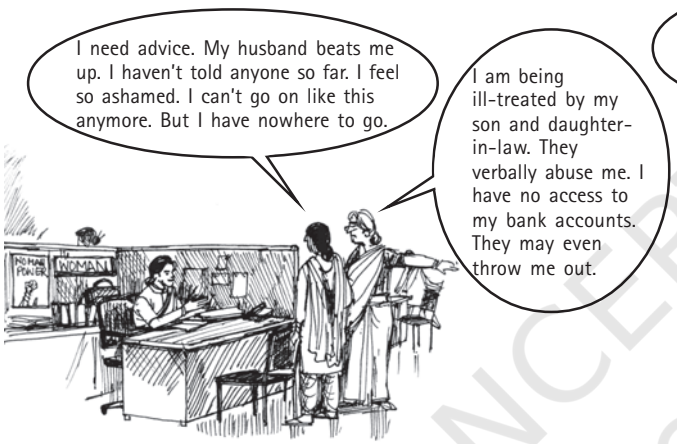
October 2006

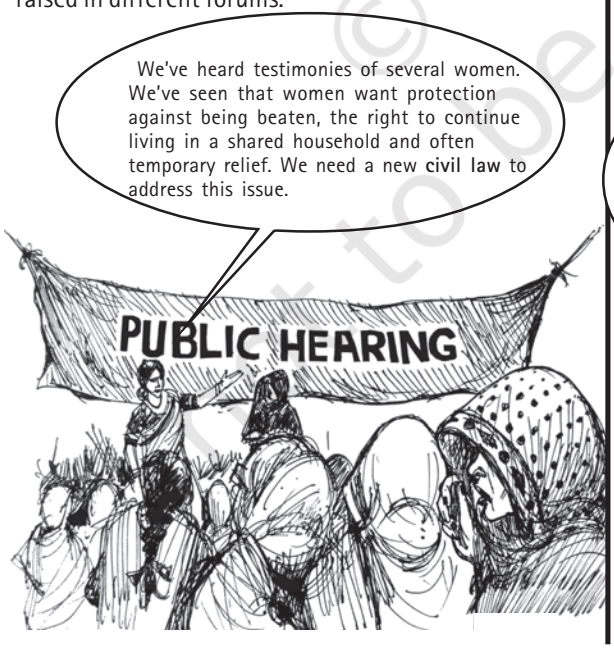


Kusum and Shazia work for a women's organisation. They remember the journey of how the Protection of Women from Domestic Violence Act got passed.

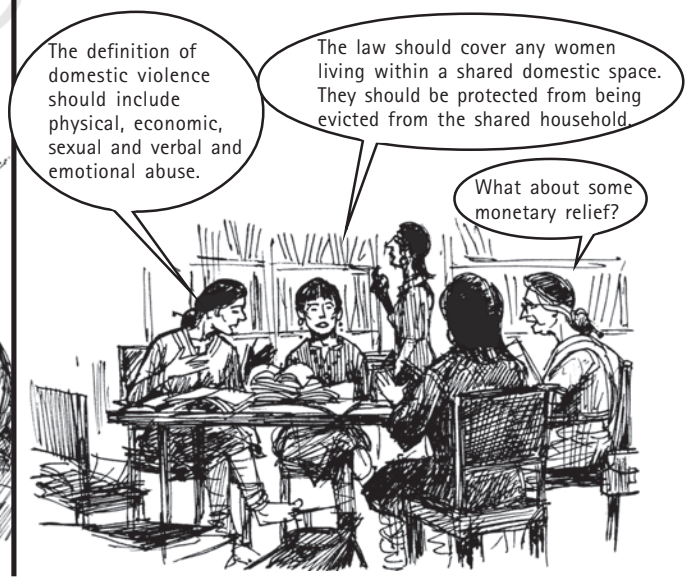
April 1991: A typical day at their office...



Throughout the 1990s, the need for a new law was raised in different forums.



In 1999, Lawyers Collective, a group of lawyers, law students and activists, after nation-wide consultations took the lead in drafting the Domestic Violence (Prevention and Protection) Bill. This draft bill was widely circulated.



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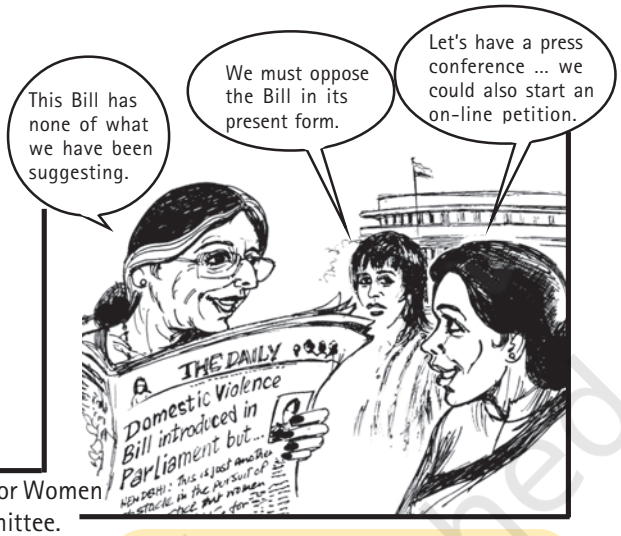
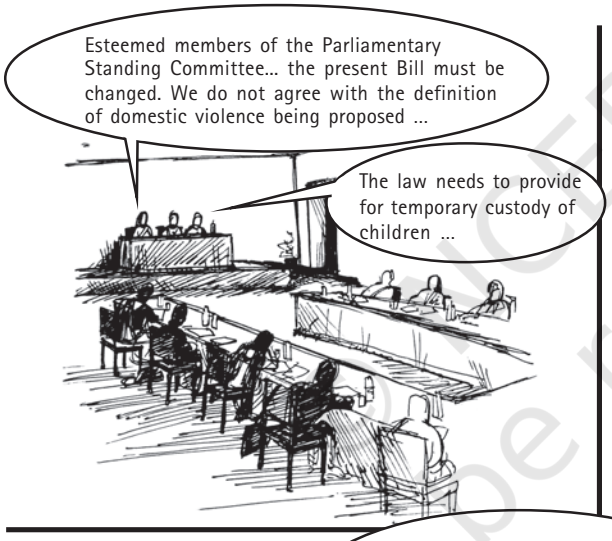
Meetings were held with different organisations.

Finally, the Bill was introduced in Parliament in 2002 but ...

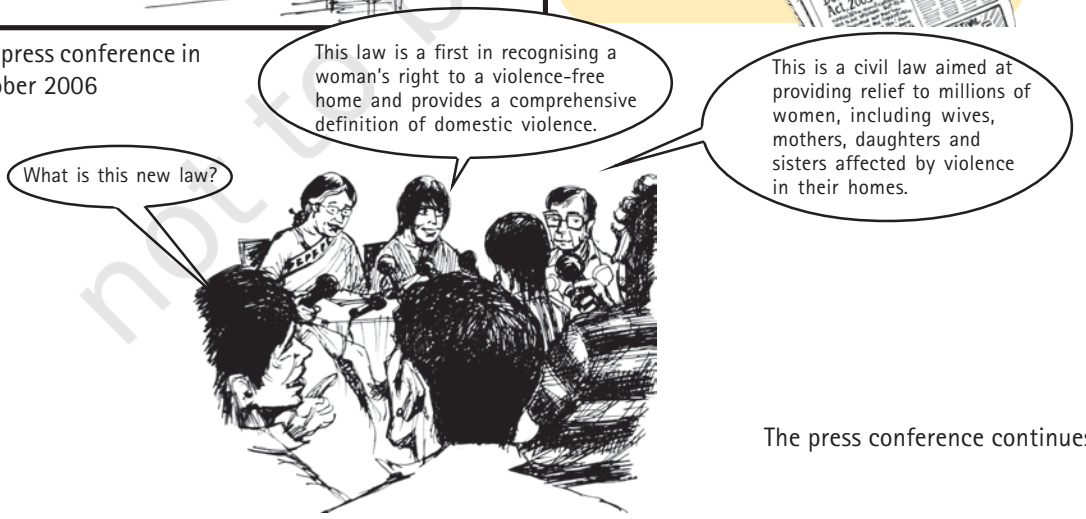


Several women's organisations, National Commission for Women made submissions to the Parliamentary Standing Committee.



In December 2002, the Standing Committee submitted its recommendations to the Rajya Sabha and these were also tabled in the Lok Sabha. The Committee's report accepted most of the demands of the women's groups. Finally a new bill, was reintroduced in Parliament in 2005. After being passed in both houses of Parliament, it was sent to the President for his assent. The Protection of Women from Domestic Violence Act came into effect in 2006.

At a press conference in October 2006



The press conference continues...

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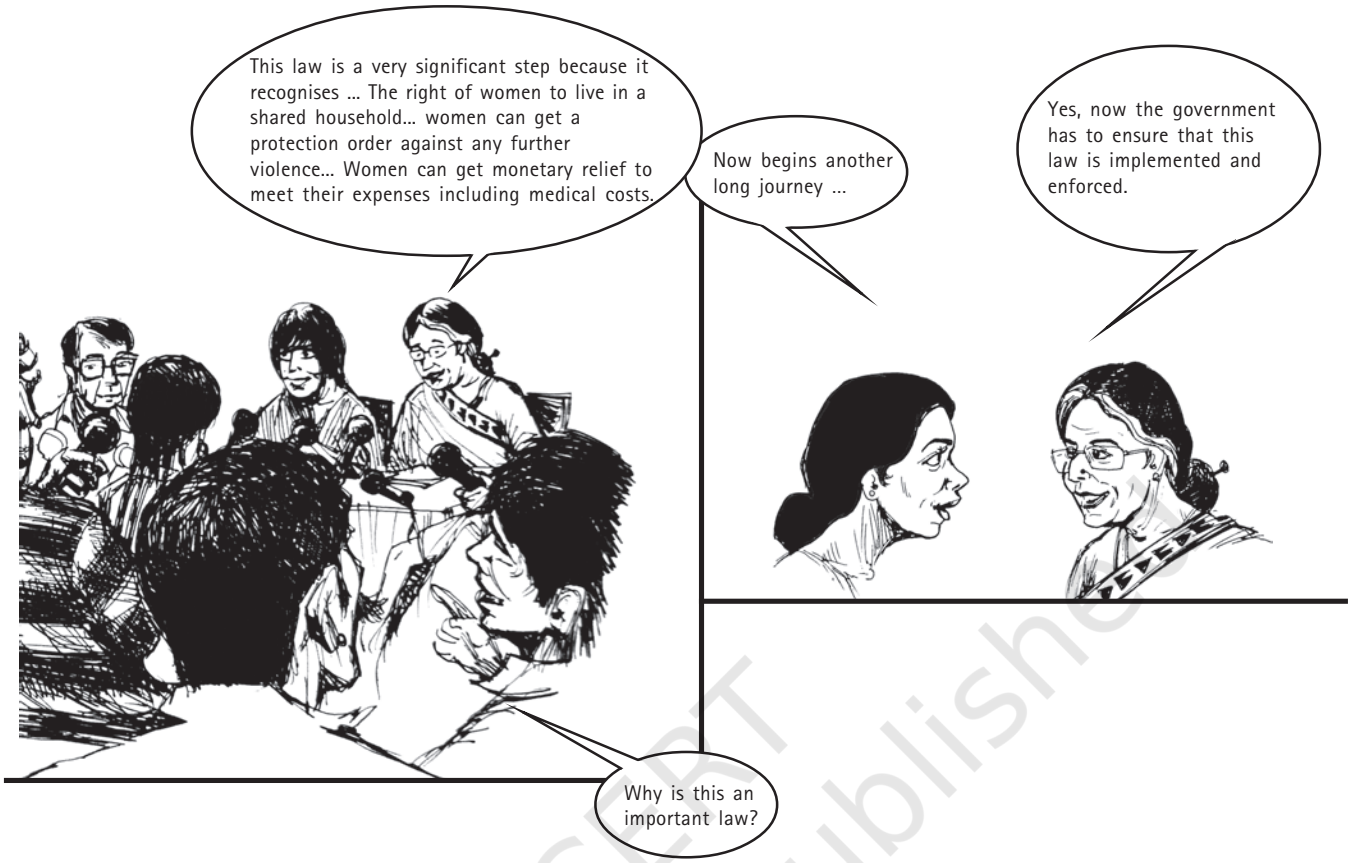
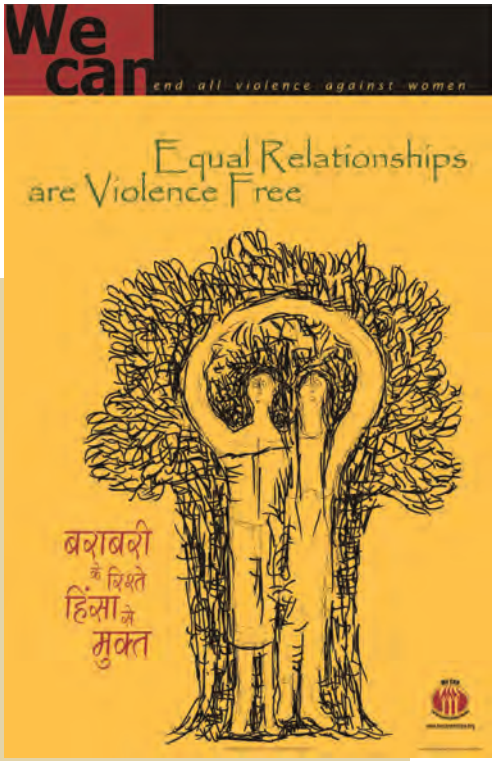


What do you understand by 'domestic violence'? List the two rights that the new law helped achieve for women who are survivors of violence.

Can you list one process that was used to make more people aware of the need for this law?

From the above storyboard, can you list two different ways in which people lobbied Parliament?



In the following poster, what do you understand by the phrase 'Equal Relationships are Violence Free'?

Often women who face violence or are abused are seen as victims. But women struggle in several different ways to survive these situations. Therefore, it is more accurate to refer to them as survivors rather than as victims.

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As the above example shows, the role of citizens is crucial in helping Parliament frame different concerns that people might have into laws. From establishing the need for a new law to its being passed, at every stage of the process the voice of the citizen is a crucial element. This voice can be heard through TV reports, newspaper editorials, radio broadcasts, local meetings - all of which help in making the work that Parliament does more accessible and transparent to the people.

Unpopular and Controversial Laws

Let us now look at the situation where the Parliament passes laws that turn out to be very unpopular. Sometimes a law can be constitutionally valid and hence legal, but it can continue to be unpopular and unacceptable to people because they feel that the intention behind it is unfair and harmful. Hence, people might criticise this law, hold public meetings, write about it in newspapers, report to TV news channels etc. In a democracy like ours, citizens can express their unwillingness to accept repressive laws framed by the Parliament. When a large number of people begin to feel that a wrong law has been passed, then there is pressure on the Parliament to change this.

For example, various municipal laws on the use of space within municipal limits often make hawking and street vending illegal. No one will dispute the necessity for some rules to keep the public space open so that people can walk on the pavements easily. However, one also cannot deny that hawkers and vendors provide essential services cheaply and efficiently to the millions living in a large city. This is their means of livelihood. Hence, if the law favours one group and disregards the other it will be controversial and lead to conflict. People who think that the law is not fair can approach the court to decide on the issue. The court has the power to modify or cancel laws if it finds that they don't adhere to the Constitution.

As you read in the earlier section on the rule of law, Indian nationalists protested and criticised arbitrary and repressive laws being enforced by the British. History provides us with several examples of people and communities who have struggled to end unjust laws. In your Class VII book, you read of how Rosa Parks, an African-American woman, refused to give up her seat on a bus to a white man on 1 December 1955. She was protesting the law on segregation that divided up all public spaces, including the streets, between the whites and the African-Americans. Her refusal was a key event that marked the start of the Civil Rights Movement, which led to the Civil Rights Act in 1964, which prohibited discrimination on the basis of race, religion or national origin in the U.S.A.

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Read the newspapers/watch news on TV for a week and find out if there are any unpopular laws that people in India or around the world are currently protesting.

Do you remember the photo essay on the women's movement in the Class VII book? The photos there showed the different ways in which citizens can protest, campaign and show solidarity. The following pictures point to other ways in which people protest unjust laws:

List the three forms of protest that you see in the above photos.

We need to remember that our role as citizens does not end with electing our representatives. Rather, it is then that we begin to use newspapers and the media to carefully chart the work that is being done by our MPs and criticise their actions when we feel it is required. Thus, what we should bear in mind is that it is the extent, involvement and enthusiasm of the people that helps Parliament perform its representative functions properly.

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Exercises

1. Write in your own words what you understand by the term the 'rule of law'. In your response include a fictitious or real example of a violation of the rule of law.

2. State two reasons why historians refute the claim that the British introduced the rule of law in India.

3. Re-read the storyboard on how a new law on domestic violence got passed. Describe in your own words the different ways in which women's groups worked to make this happen.

4. Write in your own words what you understand by the following sentence on page 44-45: They also began fighting for greater equality and wanted to change the idea of law from a set of rules that they were forced to obey, to law as including ideas of justice.

GLOSSARY

Criticise: To find fault with or disapprove of a person or thing. In the context of this chapter, it refers to citizens finding fault with the functioning of government.

Evolution: Process of development from a simple to a complex form and is often used to discuss the development of a species of plants or animals. In the context of this chapter it refers to the way in which protecting women against domestic violence developed from an urgently-felt need to a new law that can be enforced throughout the country.

Sedition: This applies to anything that the government might consider as stirring up resistance or rebellion against it. In such cases, the government does not need absolute evidence in order to arrest persons. Under the Sedition Act of 1870, the British had a very broad interpretation of what constituted sedition, and what this meant was that they could arrest and detain any person they wanted under this Act. The nationalists considered this law arbitrary because persons were arrested for a variety of reasons that were seldom clarified beforehand as well as because those arrested were often kept in jail without a trial.

Repressive: To control severely in order to prevent free and natural development or expression. In the context of this chapter it refers to laws that brutally control persons and often prevent them from exercising their Fundamental Rights including Right to Speech and Assembly.

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Unit Three

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Teacher's Note

Students are going to be introduced to the judiciary through these chapters. Yet, aspects of this system like the police, the courts etc. are probably something that students are already quite familiar with either through the media or perhaps through personal experience. In this unit, the effort is to combine some basic knowledge on the judicial system with more hands-on information on the criminal justice system. Chapter 5 covers topics that will be reinforced in the higher classes. The effort while teaching this should be to provide students with a sense of the significant role played by the judiciary in upholding the principles enshrined in the Constitution. Chapter 6 explains the role of different individuals in the criminal justice system and here it is crucial that students understand the connection between each person's role and the idea of justice for all that the Constitution provides.

Before starting Chapter 5, it might be useful to reiterate the discussion on the 'rule of law' from the previous unit. This can then lead to a discussion on the role of the judiciary in upholding the rule of law. Five separate though inter-related concepts on the judiciary have been discussed in Chapter 5. The reason why the independence of the judiciary is key to its functioning is a complex idea but something that students need to understand. This can be conveyed at a more basic level using examples of different decision-making processes that the student is familiar with. The structure has been illustrated through a case and students should be encouraged to discuss other cases to better understand the working of the judicial process. The last concept of 'access to justice' highlights the role of the Public Interest Litigation (PIL) in facilitating justice. It also touches upon the 'delay' in providing justice. The student's growing knowledge of Fundamental Rights should be used while discussing this section.

Chapter 6 has been included in order to make students more aware of the role played by different persons in the criminal justice system and the process that needs to be followed in order to ensure a fair trial. The chapter takes as its starting point a storyboard in which a case of theft is highlighted and uses this as the reference point to discuss the roles of the police, the public prosecutor, the judge, as well as what a fair trial should include. It is very likely that the students will have their own opinions, which might be quite cynical, on the ways in which the criminal justice system works. Your role as a teacher will be to balance their cynicism with a discussion of the ideal as outlined in the chapter. This can be done in two ways: one, through a continued emphasis on the link between this ideal functioning and the principles enshrined in the Indian Constitution as discussed in earlier chapters, and two, through emphasising the difference that an informed and aware public can make in the working of these institutions. The discussion of the criminal justice system is to help students understand this better and not for them to learn this by rote.

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Chapter 5

Judiciary

A glance at the newspaper provides you a glimpse of the range of work done by the courts in this country. But can you think of why we need these courts? As you have read in Unit 2, in India we have the rule of law. What this means is that laws apply equally to all persons and that a certain set of fixed procedures need to be followed when a law is violated. To enforce this rule of law, we have a judicial system that consists of the mechanism of courts that a citizen can approach when a law is violated. As an organ of government, the judiciary plays a crucial role in the functioning of India's democracy. It can play this role only because it is independent. What does an 'independent judiciary' mean? Is there any connection between the court in your area and the Supreme Court in New Delhi? In this chapter, you will find answers to these questions.

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What is the Role of the Judiciary?

Courts take decisions on a very large number of issues. They can decide that no teacher can beat a student, or about the sharing of river waters between states, or they can punish people for particular crimes. Broadly speaking, the work that the judiciary does can be divided into the following:

Dispute Resolution: The judicial system provides a mechanism for resolving disputes between citizens, between citizens and the government, between two state governments and between the centre and state governments.

Judicial Review: As the final interpreter of the Constitution, the judiciary also has the power to strike down particular laws passed by the Parliament if it believes that these are a violation of the basic structure of the Constitution. This is called judicial review.

Upholding the Law and Enforcing Fundamental Rights: Every citizen of India can approach the Supreme Court or the High Court if they believe that their Fundamental Rights have been violated. For example, in the Class VII book, you read about Hakim Sheikh, an agricultural labourer who fell from a running train and injured himself and whose condition got worse because several hospitals refused to admit him. On hearing his case, the Supreme Court ruled that Article 21 which provides every citizen the Fundamental Right to Life also includes the Right to Health. It, therefore, directed the West Bengal government to pay him compensation for the loss suffered as well as to come up with a blueprint for primary health care with particular reference to treatment of patients during an emergency [*Paschim Banga Khet Mazdoor Samity vs State of West Bengal (1996)*].

The above photo shows the Supreme Court of India. The Supreme Court was established on 26 January 1950, the day India became a Republic. Like its predecessor, the Federal Court of India (1937–1949), it was earlier located in the Chamber of Princes in the Parliament House. It moved to its present building on Mathura Road in New Delhi in 1958.

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With the help of your teacher, fill in the blank spaces in the table below.

Type of Dispute	Example
Dispute between centre and the state	
Dispute between two states	
Dispute between two citizens	
Laws that are in violation of the Constitution	

What is an Independent Judiciary?

Imagine a situation in which a powerful politician has encroached on land belonging to your family. Within this judicial system, the politician has the power to appoint and dismiss a judge from his office. When you take this case to court, the judge is clearly partial to the politician.

Do you think that any ordinary citizen stands a chance against a politician in this kind of judicial system? Why not?

The control that the politician holds over the judge does not allow for the judge to take an independent decision. This lack of independence would force the judge to make all judgments in favour of the politician. Although we often hear of rich and powerful people in India trying to influence the judicial process, the Indian Constitution protects against this kind of situation by providing for the independence of the judiciary.

One aspect of this independence is the 'separation of powers'. This, as you read in Chapter 1, is a key feature of the Constitution. What this means here is that other branches of government – the legislature and the executive – cannot interfere in the work of the judiciary. The courts are not under the government and do not act on their behalf.

For the above separation to work well, it is also crucial that all judges in the High Court as well as the Supreme Court are appointed with very little interference from these other branches of government. Once appointed to this office, it is also very difficult to remove a judge.

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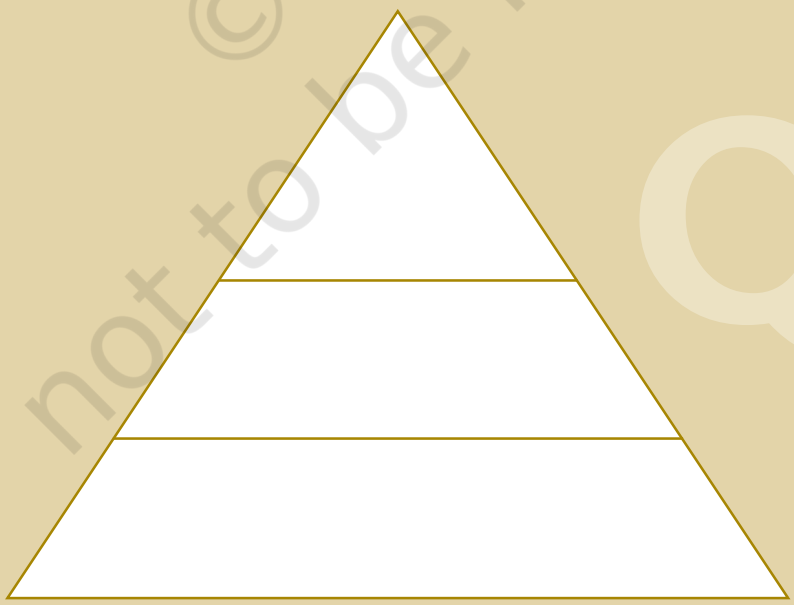
It is the independence of the judiciary that allows the courts to play a central role in ensuring that there is no misuse of power by the legislature and the executive. It also plays a crucial role in protecting the Fundamental Rights of citizens because anyone can approach the courts if they believe that their rights have been violated.

List two reasons why you believe an independent judiciary is essential to democracy.

What is the Structure of Courts in India?

There are three different levels of courts in our country. There are several courts at the lower level while there is only one at the apex level. The courts that most people interact with are what are called subordinate or district courts. These are usually at the district or *Tehsil* level or in towns and they hear many kinds of cases. Each state is divided into districts that are presided over by a District Judge. Each state has a High Court which is the highest court of that state. At the top is the Supreme Court that is located in New Delhi and is presided over by the Chief Justice of India. The decisions made by the Supreme Court are binding on all other courts in India.

The structure of the courts from the lower to the highest level is such that it resembles a pyramid. Having read the description above, can you fill out which type of courts would exist at what level in the following diagram?



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High Courts were first established in the three Presidency cities of Calcutta, Bombay and Madras in 1862. The High Court of Delhi came up in 1966. Currently there are 24 High Courts. While many states have their own High Courts, Punjab and Haryana share a common High Court at Chandigarh, and four North Eastern states of Assam, Nagaland, Mizoram and Arunachal Pradesh have a common High Court at Guwahati. Andhra Pradesh and Telangana have a common High Court at Hyderabad. Some High Courts have benches in other parts of the state for greater accessibility.

High Court of Madras

Are these different levels of courts connected to each other? Yes, they are. In India, we have an integrated judicial system, meaning that the decisions made by higher courts are binding on the lower courts. Another way to understand this integration is through the appellate system that exists in India. This means that a person can appeal to a higher court if they believe that the judgment passed by the lower court is not just.

High Court of Patna

Let us understand what we mean by the appellate system by tracking a case, *State (Delhi Administration) vs Laxman Kumar and Others (1985)*, from the lower courts to the Supreme Court.

High Court of Karnataka

In February 1980, Laxman Kumar married 20-year-old Sudha Goel and they lived in a flat in Delhi with Laxman's brothers and their families. On 2 December 1980 Sudha died in hospital due to burns. Her family filed a case in court. When this case was heard in the Trial Court, four of her neighbours were called in as witnesses. They stated that on the night of December 1, they had heard Sudha scream and had forced their way into Laxman's flat. There they saw Sudha standing with her sari in flames. They extinguished the fire by wrapping Sudha in a gunny bag and a blanket. Sudha told them that her mother-in-law Shakuntala had poured kerosene oil on her and that her husband Laxman had lit the fire. During the trial,

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members of Sudha's family and a neighbour stated that Sudha had been subjected to torture by her in-laws and that they were demanding more cash, a scooter and a fridge on the birth of the first child. As part of their defence, Laxman and his mother stated that Sudha's sari had accidentally caught fire while she was heating milk. On the basis of this and other evidence, the Trial Court convicted Laxman, his mother Shakuntala and his brother-in-law Subash Chandra and sentenced all three of them to death.

In November 1983, the three accused went to the High Court to appeal against this verdict of the Trial Court. The High Court, after hearing the arguments of all the lawyers, decided that Sudha had died due to an accidental fire caused by the kerosene stove. Laxman, Shakuntala and Subash Chandra were acquitted.

You may remember the photo essay on the women's movement in your Class VII book. You read about how, in the 1980s, women's groups across the country spoke out against 'dowry deaths'. They protested against the failure of courts to bring these cases to justice. The above High Court judgment deeply troubled women and they held demonstrations and filed a separate appeal against this High Court decision in the Supreme Court through the Indian Federation of Women Lawyers.

Write two sentences of what you understand about the appellate system from the given case.

In 1985, the Supreme Court heard this appeal against the acquittal of Laxman and the two members of his family. The Supreme Court heard the arguments of the lawyers and reached a decision that was different from that of the High Court. They found Laxman and his mother guilty but acquitted the brother-in-law Subash because they did not have enough evidence against him. The Supreme Court decided to send the accused to prison for life.

The subordinate court is more commonly known by many different names. These include the Trial Court or the Court of the District Judge, the Additional Sessions Judge, Chief Judicial Magistrate, Metropolitan Magistrate, Civil Judge. Alongside is a photograph of the District Court in Raipur, Chhattisgarh.

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What are the Different Branches of the Legal System?

The above case of the dowry death falls within what is considered a 'crime against society' and is a violation of criminal law. In addition to criminal law, the legal system also deals with civil law cases. You read in Chapter 4 of how a new civil law was passed in 2006 to protect women against domestic violence. Look at the following table to understand some of the significant differences between criminal and civil law.

No.	Criminal Law	Civil Law
1.	Deals with conduct or acts that the law defines as offences. For example, theft, harassing a woman to bring more dowry, murder.	Deals with any harm or injury to rights of individuals. For example, disputes relating to sale of land, purchase of goods, rent matters, divorce cases.
2.	It usually begins with the lodging of an First Information Report (FIR) with the police who investigate the crime after which a case is filed in the court.	A petition has to be filed before the relevant court by the affected party only. In a rent matter, either the landlord or tenant can file a case.
3.	If found guilty, the accused can be sent to jail and also fined.	The court gives the specific relief asked for. For instance, in a case between a landlord and a tenant, the court can order the flat to be vacated and pending rent to be paid.

Fill in the table given below based on what you have understood about criminal and civil law.

Description of Violation	Branch of Law	Procedure to be Followed
A group of girls are persistently harassed by a group of boys while walking to school.		
A tenant who is being forced to move out files a case in court against the landlord.		

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Does Everyone Have Access to the Courts?

In principle, all citizens of India can access the courts in this country. This implies that every citizen has a right to justice through the courts. As you read earlier, the courts play a very significant role in protecting our Fundamental Rights. If any citizen believes that their rights are being violated, then they can approach the court for justice to be done. While the courts are available for all, in reality access to courts has always been difficult for a vast majority of the poor in India. Legal procedures involve a lot of money and paperwork as well as take up a lot of time. For a poor person who cannot read and whose family depends on a daily wage, the idea of going to court to get justice often seems remote.

In response to this, the Supreme Court in the early 1980s devised a mechanism of Public Interest Litigation or PIL to increase access to justice. It allowed any individual or organisation to file a PIL in the High Court or the Supreme Court on behalf of those whose rights were being violated. The legal process was greatly simplified and even a letter or telegram addressed to the Supreme Court or the High Court could be treated as a PIL. In the early years, PIL was used to secure justice on a large number of issues such as rescuing bonded labourers from inhuman work conditions; and securing the release of prisoners in Bihar who had been kept in jail even after their punishment term was complete.

Did you know that the mid-day meal that children now receive in government and government-aided schools is because of a PIL? See the photos on the right and read the text below to understand how this came about.

1

2

3

4

Photo 1. In 2001, the drought in Rajasthan and Orissa meant that millions faced an acute shortage of food.

Photo 2. Meanwhile the government godowns were full of grain. Often this was being eaten away by rats.

Photo 3. In this situation of 'hunger amidst plenty' an organisation called the People's Union of Civil Liberties or PUCL filed a PIL in the Supreme Court. It stated that the fundamental Right to Life guaranteed in Article 21 of the Constitution included the Right to Food. The state's excuse that it did not have adequate funds was shown to be wrong because the godowns were overflowing with grains. The Supreme Court ruled that the State had a duty to provide food to all.

Photo 4. It, therefore, directed the government to provide more employment, to provide food at cheaper prices through the government ration shops, and to provide mid-day meals to children. It also appointed two Food Commissioners to report on the implementation of government schemes.

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For the common person, access to courts is access to justice. The courts exercise a crucial role in interpreting the Fundamental Rights of citizens and as you saw in the above case, the courts interpreted Article 21 of the Constitution on the Right to Life to include the Right to Food. They, therefore, ordered the State to take certain steps to provide food for all including the mid-day meal scheme.

However, there are also court judgments that people believe work against the best interests of the common person. For example, activists who work on issues concerning the right to shelter and housing for the poor believe that the recent judgments on evictions are a far cry from earlier judgments. While recent judgments tend to view the slum dweller as an encroacher in the city, earlier judgments (like the 1985 Olga Tellis vs Bombay Municipal Corporation) had tried to protect the livelihoods of slum dwellers.

The judgment of the Olga Tellis vs Bombay Municipal Corporation established the Right to Livelihood as part of the Right to Life. The following excerpts from the judgment point to the ways in which the judges linked the issue of the Right to Life to that of livelihood:

The sweep of the Right to Life, conferred by Article 21 is wide and far reaching. 'Life' means something more than mere animal existence. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the Right to Life. An equally important facet of that right is the right to livelihood because no person can live without the means of living, that is, the means of livelihood.

That the eviction of a person from a pavement or slum will inevitably lead to the deprivation of his means of livelihood, is a proposition which does not have to be established in each individual case .... In the present case that facts constituting empirical evidence justify the conclusion that the petitioners live in slums and on pavements because they have small jobs to nurse in the city and for them there is nowhere else to live. They choose a pavement or a slum in the vicinity of their place of work and to loose the pavement or the slum is to loose the job. The conclusion therefore is that the eviction of the petitioners will lead to deprivation of their livelihood and consequently to the deprivation of life.

Olga Tellis vs Bombay Municipal Corporation (1985) 3 SCC 545

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Another issue that affects the common person's access to justice is the inordinately long number of years that courts take to hear a case. The phrase 'justice delayed is justice denied' is often used to characterise this extended time period that courts take.

In a speech made on 26 November 2007, the Chief Justice of India K.G. Balakrishnan noted that, "The Indian judiciary consists of one Supreme Court with 26 judges, 21 High Courts with a sanctioned strength of 725 judges (working strength of 597 as on 1 March 2007) and 14,477 Subordinate courts/judges (working strength of 11,767 as on 31 December 2006)."

The above photo shows the family members of some of the 43 Muslims of Hashimpura, Meerut, killed on 22 May 1987. These families have been seeking justice for over 20 years. Due to long delay in the commencement of the trial, the Supreme Court in September 2002 transferred the case from the State of Uttar Pradesh to Delhi. The trial is ongoing and 19 Provincial Armed Constabulary (PAC) men are facing criminal prosecution for alleged murder and other offences. By 2007, only three prosecution witnesses had been examined. (photo was taken at Press Club, Lucknow, 24 May 2007)

Number of Judges in India

No.*	Name of the Court	Sanctioned strength	Working strength	Vacancies
A	Supreme Court	31	25	6
B	High Courts	1,079	687	392
C	District and Subordinate Courts	21,320	16,383	4,937

** Data in A and B (as on 1 December 2017); C (as on 30 June 2016)*

Discuss the impact of the shortage of judges on the delivery of justice to the litigants.

However, inspite of this there is no denying that the judiciary has played a crucial role in democratic India, serving as a check on the powers of the executive and the legislature as well as in protecting the Fundamental Rights of citizens. The members of the Constituent Assembly had quite correctly envisioned a system of courts with an independent judiciary as a key feature of our democracy.

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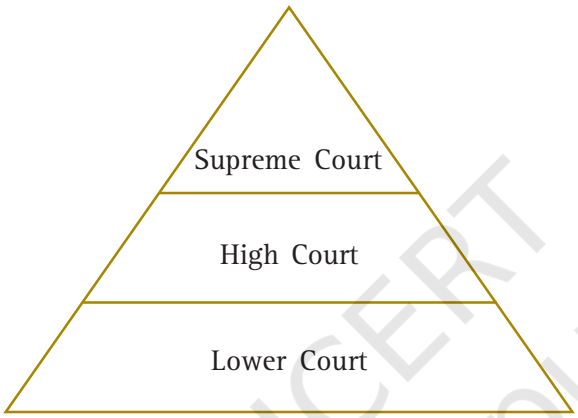
Exercises

1. You read that one of the main functions of the judiciary is 'upholding the law and Enforcing Fundamental Rights'. Why do you think an independent judiciary is necessary to carry out this important function?

2. Re-read the list of Fundamental Rights provided in Chapter 1. How do you think the Right to Constitutional Remedies connects to the idea of judicial review?

3. In the following illustration, fill in each tier with the judgments given by the various courts in the Sudha Goel case. Check your responses with others in class.



4. Keeping the Sudha Goel case in mind, tick the sentences that are true and correct the ones that are false.

   (a) The accused took the case to the High Court because they were unhappy with the decision of the Trial Court.

   (b) They went to the High Court after the Supreme Court had given its decision.

   (c) If they do not like the Supreme Court verdict, the accused can go back again to the Trial Court.

5. Why do you think the introduction of Public Interest Litigation (PIL) in the 1980s is a significant step in ensuring access to justice for all?

6. Re-read excerpts from the judgment on the *Olga Tellis vs Bombay Municipal Corporation* case. Now write in your own words what the judges meant when they said that the Right to Livelihood was part of the Right to Life.

7. Write a story around the theme, 'Justice delayed is justice denied'.

8. Make sentences with each of the glossary words given on the next page.

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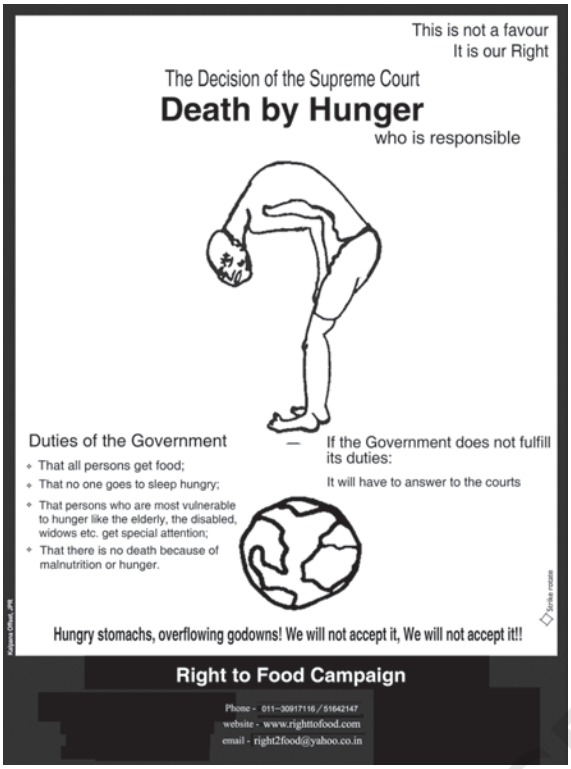
9. The following is a poster made by the Right to Food campaign.



Read this poster and list the duties of the government to uphold the Right to Food.

How does the phrase "Hungry stomachs, overflowing godowns! We will not accept it!!" used in the poster relate to the photo essay on the Right to Food on page 61?

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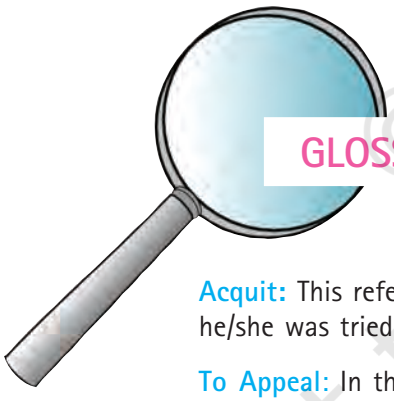


GLOSSARY

Acquit: This refers to the court declaring that a person is not guilty of the crime which he/she was tried for by the court.

To Appeal: In the context of this chapter this refers to a petition filed before a higher court to hear a case that has already been decided by a lower court.

Compensation: In the context of this chapter this refers to money given to make amends for an injury or a loss.

Eviction: In the context of this chapter this refers to the removal of persons from land/ homes that they are currently living in.

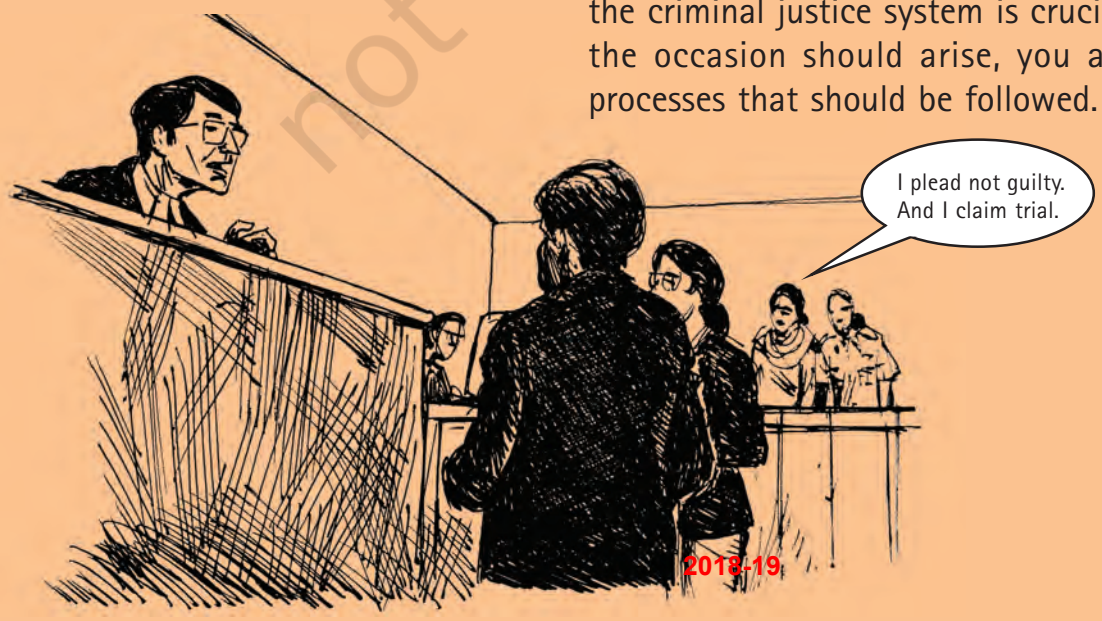
Violation: In the context of this chapter it refers both to the act of breaking a law as well as to the breach or infringement of Fundamental Rights.

Chapter 6

Understanding Our Criminal Justice System

When we see someone violating the law, we immediately think of informing the police. You might have seen, either in real life or in the movies, police officers filing reports and arresting persons. Because of the role played by the police in arresting persons, we often get confused and think that it is the police who decide whether a person is guilty or not. This, however, is far from true. After a person is arrested, it is a court of law that decides whether the accused person is guilty or not. According to the Constitution, every individual charged of a crime has to be given a fair trial.

Do you know what it means to get a fair trial? Have you heard of an FIR? Or, do you know who a public prosecutor is? In this chapter, we use a fictional case of theft to try and highlight the process as well as the role of different individuals in the criminal justice system. Most cases go through a process that is similar to the one discussed in our fictional case. Therefore, understanding these processes as well as the role that different persons should play within the criminal justice system is crucial, so that if ever the occasion should arise, you are aware of the processes that should be followed.



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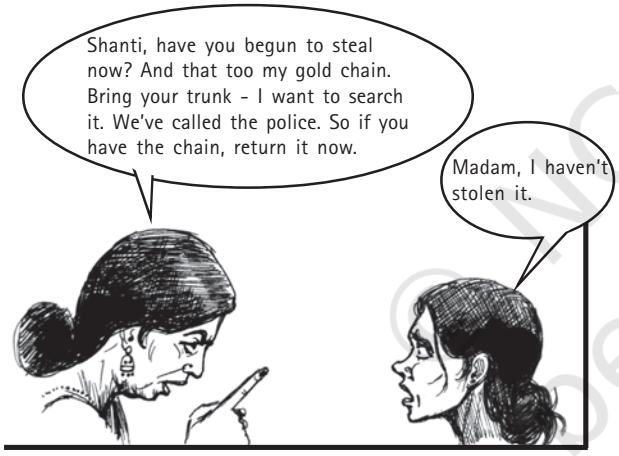
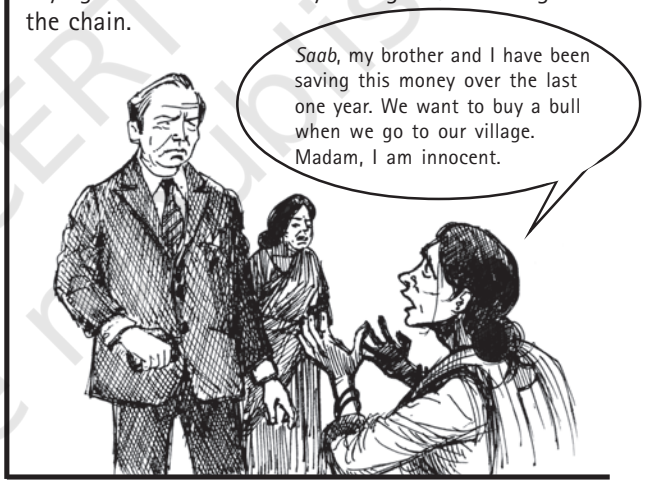
18.7.06

At their apartment in Mumbai Mrs Shinde is getting dressed. She has been frantically searching for her gold chain for over an hour.

Shanti Hembram has been working in the house for the past three years.



Mr Shinde searches Shanti's trunk and finds an envelope with Rs.10,000 in it. He screams at Shanti saying that this is the money she's got from selling the chain.



Mr Shinde has come to the police station.

Sub inspector (S.I.) Rao records Mr Shinde's FIR.

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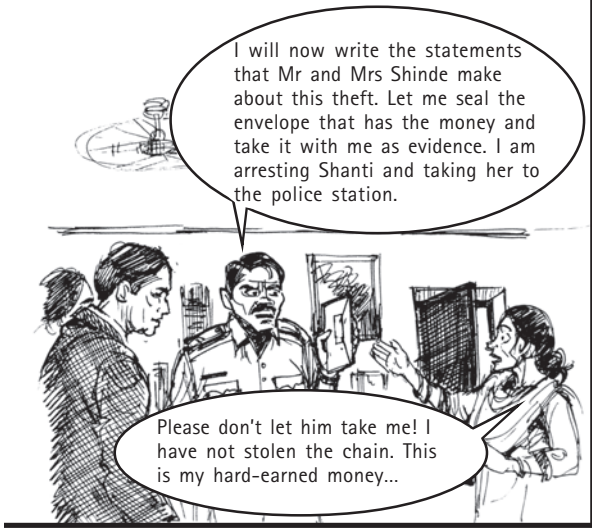
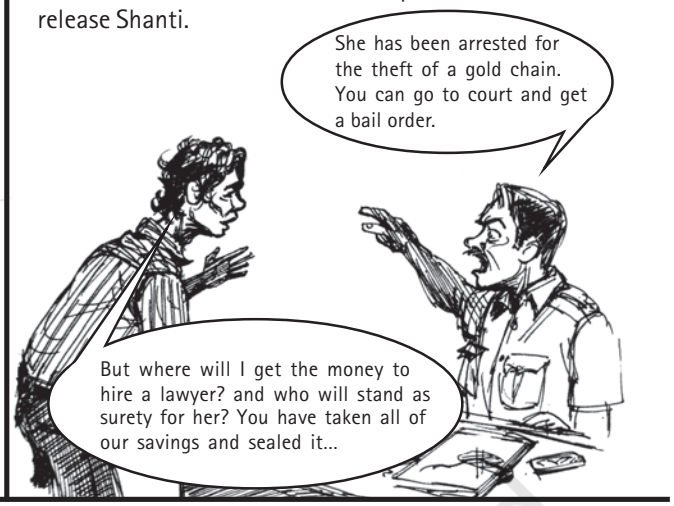
Mr Shinde returns with Sub Inspector Rao.



19.7.06

Sushil, Shanti's brother arrives and pleads with S.I. Rao to release Shanti.



S.I. Rao forcibly keeps Sushil in the police station for two days. Sushil is abused and beaten by S.I. Rao and other police constables. They try and make him confess that he and his sister Shanti head a gang of domestic servants that have stolen jewellery from other homes. There have been other complaints of theft of jewellery from Shinde's neighbourhood. As Sushil keeps repeating that he is an innocent factory worker, the police let him go after two days.

23.8.06

Although the court granted bail to Shanti after a month, she was unable to get anyone to stand surety for her for Rs 20,000. She, therefore, continued to be in jail. She is very traumatised. She is worried about what will happen during the trial.

14.9.06

The police files a chargesheet in the Magistrate's Court. The court gives a copy of the chargesheet including statements of witnesses to Shanti. Shanti tells the court that she has no lawyer to defend her against this false case of theft.

The Magistrate appoints Advocate Kamla Roy as Shanti's defence lawyer at the government's expense.

According to Article 22 of the Constitution, every person has a Fundamental Right to be defended by a lawyer. Article 39A of the Constitution places a duty upon the State to provide a lawyer to any citizen who is unable to engage one due to poverty or other disability.

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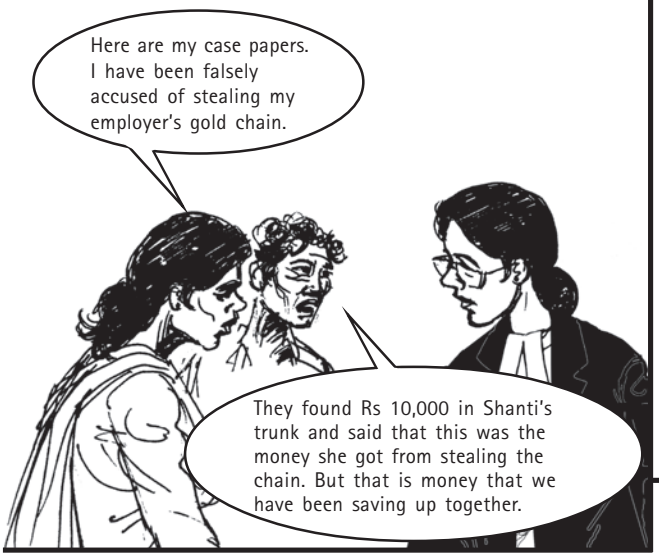
Advocate Kamla Roy meets Shanti in the court



11.12.06

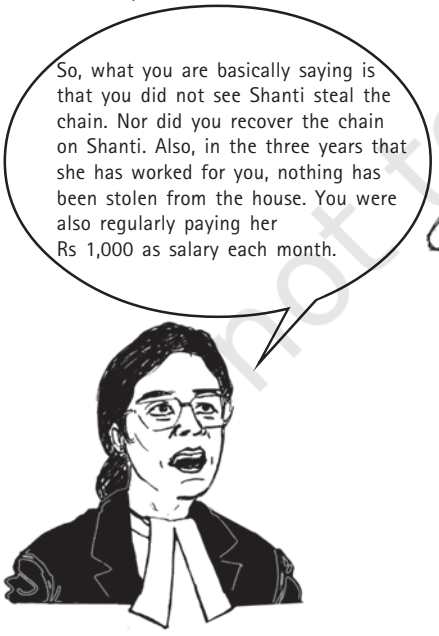
The court frames a charge of theft of Mrs Shinde's gold chain and possession of money Rs 10,000 got from selling stolen property against Shanti.

The trial before the Magistrate begins...

8.3.07

The Public Prosecutor appears in the case on behalf of the State. He presents Mrs and Mr Shinde as a key witnesses.

Next, Advocate Roy cross-examines the prosecution witness Mrs Shinde.



20.4.07

Advocate Roy examines Sushil and his employer as defence witnesses. Through their testimonies, she is able to show that the Rs 10,000 found in Shanti's trunk could well be the earnings of Sushil and Shanti.

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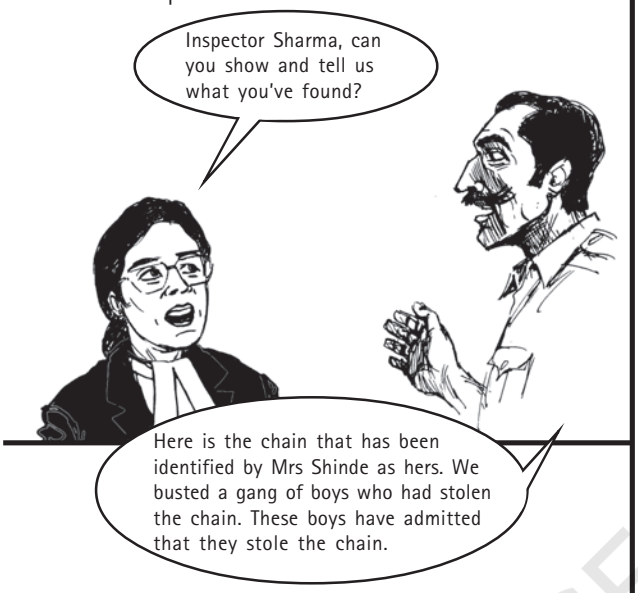
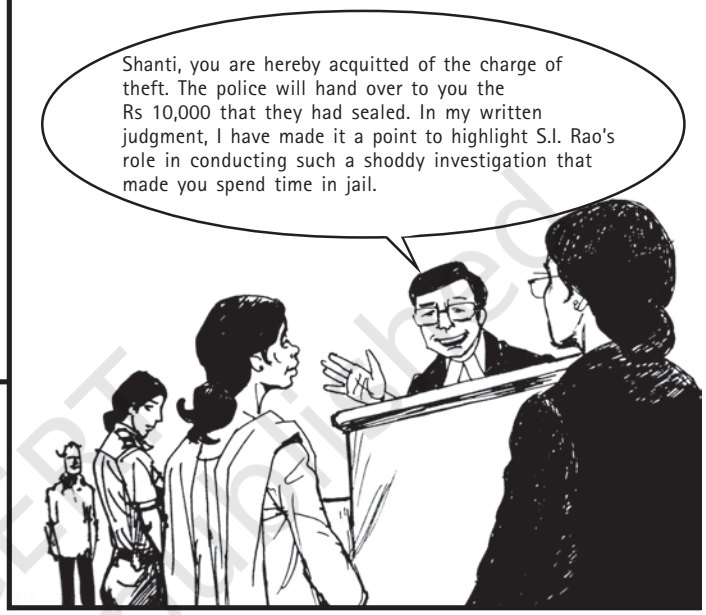
14.5.07

As the trial is nearing completion, Sushil learns that Inspector Sharma has busted a gang of young men who have been stealing jewellery from the Shinde's neighbourhood. Some of Mrs Shinde's son's friends are part of this gang. Mrs Shinde's chain has been found on them. Sushil tells Advocate Roy about this. Advocate Roy now calls Inspector Sharma as a defence witness.



15.7.07

The judge hears the testimony of all the witnesses. After the testimony of Inspector Sharma, Advocate Roy argues before the judge that it has now been established that Shanti is innocent and should be acquitted.



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From the above incident, you can see that the four key players in the criminal justice system are the **police**, the **Public Prosecutor**, the **defence lawyer** and the **judge**. You have seen the roles each of them played in the above case. Now let us try and understand their roles more generally.

What is the Role of the Police in Investigating a Crime?

One important function of the police is to investigate any complaint about the commission of a crime. An investigation includes recording statements of witnesses and collecting different kinds of evidence. On the basis of the investigation, the police are required to form an opinion. If the police think that the evidence points to the guilt of the accused person, then they file a chargesheet in the court. As stated at the beginning of this chapter, it is not the job

of the police to decide whether a person is guilty or innocent, that is for the judge to decide.

You read in Unit 2 about the rule of law, which means that everyone is subject to the law of the land. This includes the police. Therefore, police investigations always have to be conducted in accordance with law and with full respect for human rights. The Supreme Court has laid down guidelines that the police must follow at the time of arrest, detention and interrogation. The police are not allowed to torture or beat or shoot anyone during investigation. They cannot inflict any form of punishment on a person even for petty offences.

Article 22 of the Constitution and criminal law guarantee to every arrested person the following Fundamental Rights:

- The Right to be informed at the time of arrest of the offence for which the person is being arrested.
- The Right to be presented before a magistrate within 24 hours of arrest.
- The Right not to be ill treated or tortured during arrest or in custody.
- Confessions made in police custody cannot be used as evidence against the accused.
- A boy under 15 years of age and women cannot be called to the police station only for questioning.

Why do you think there is a rule that confessions made during police custody cannot be used as evidence against the accused?

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The Supreme Court of India has laid down specific requirements and procedures that the police and other agencies have to follow for the arrest, detention and interrogation of any person. These are known as the D.K. Basu Guidelines and some of these include:

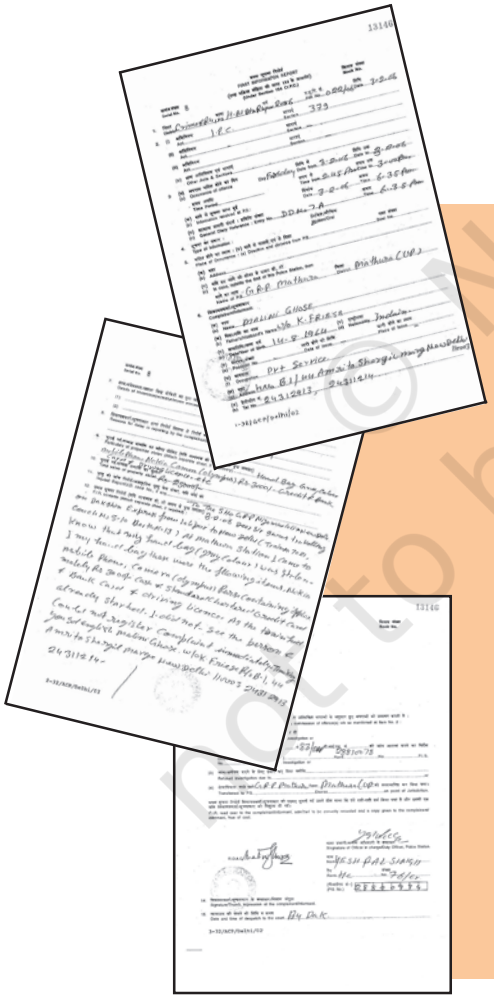
- The police officials who carry out the arrest or interrogation should wear clear, accurate and visible identification and name tags with their designations;
- A memo of arrest should be prepared at the time of arrest and should include the time and date of arrest. It should also be attested by at least one witness who could include a family member of the person arrested. The arrest memo should be counter-signed by the person arrested.
- The person arrested, detained or being interrogated has a right to inform a relative, friend or well-wisher.
- When a friend or relative lives outside the district, the time, place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest.

1. Now let us return to the story of Shanti and answer the following questions:

   a) When Shanti was arrested for theft, S.I. Rao also kept her brother Sushil in the police lock up for two days. Was it legal for the police to detain him? Does it violate the D.K. Basu guidelines?

   b) Did S.I. Rao do enough to question witnesses and compile evidence before arresting Shanti and filing a case against her? In keeping with the duties of the police as stated above, what else do you think S.I. Rao could have done as part of his investigation?

2. Now let us take a slightly different scenario. Shanti and her brother Sushil go to the police station to complain that Mr Shinde's 20-year old son had stolen Rs 15,000 that they had been saving up. Do you think that the officer in charge of the Police Station will promptly lodge an FIR? List a few factors that in your opinion may influence the decision of the police to register or not register an FIR.



First Information Report (FIR):

It is with the registration of an FIR that the police can begin their investigations into a crime. The law states that it is compulsory for an officer in charge of a police station to register an FIR whenever a person gives information about a cognizable offence. This information can be given to the police either orally or in writing. The FIR usually mentions the date, time and place of the offence, details the basic facts of the offence, including a description of the events. If known, the identity of the accused persons and witnesses is also mentioned. The FIR also states the name and address of the complainant. There is a prescribed form in which the police registers an FIR and it is signed by the complainant. The complainant also has a legal right to get a free copy of the FIR from the police.

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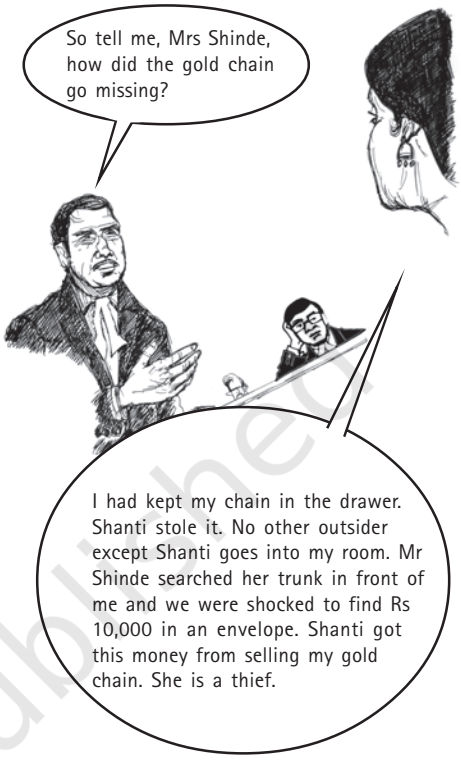
What is the Role of the Public Prosecutor?

A criminal offence is regarded as a public wrong. What is meant by this is that it is considered to have been committed not only against the affected victims but against society as a whole. Do you remember the case of the dowry death of Sudha that we read about in the previous chapter? The case against the accused Laxman and his family was presented by the State. That is why the case was called *State (Delhi Administration) vs Laxman Kumar and Others*. Similarly the above case can be called 'State vs Shanti Hembram' and not Mrs Shinde vs Shanti Hembram.



In court, it is the Public Prosecutor who represents the interests of the State. The role of the Prosecutor begins once the police has conducted the investigation and filed the chargesheet in the court. He/she has no role to play in the investigation. The Prosecutor must conduct the prosecution on behalf of the State. As an officer of the court, it is his/her duty to act impartially and present the full and material facts, witnesses and evidence before the court to enable the court to decide the case.

What is the Role of the Judge?

The judge is like an umpire in a game and conducts the trial impartially and in an open court. The judge hears all the witnesses and any other evidence presented by the prosecution and the defence. The judge decides whether the accused person is guilty or innocent on the basis of the evidence presented and in accordance with the law. If the accused is convicted, then the judge pronounces the sentence. He may send the person to jail or impose a fine or both, depending on what the law prescribes.

What did the judge say in Shanti's case after hearing the testimony of all the witnesses?

What is a Fair Trial?

Let us for a moment imagine what might have happened if the judge decided to try Shanti's case very differently. What if the court did not give a copy of the chargesheet and

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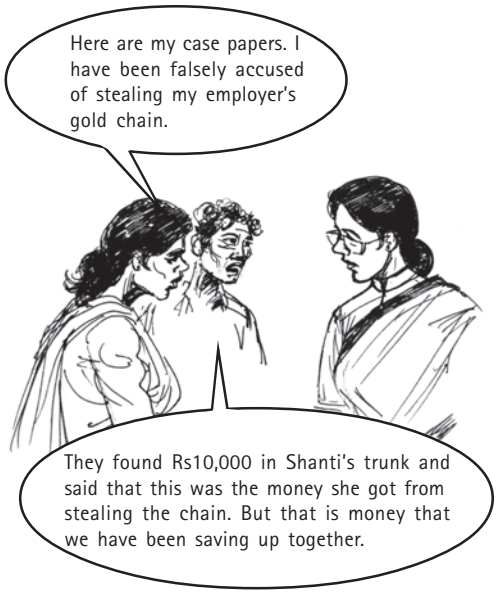
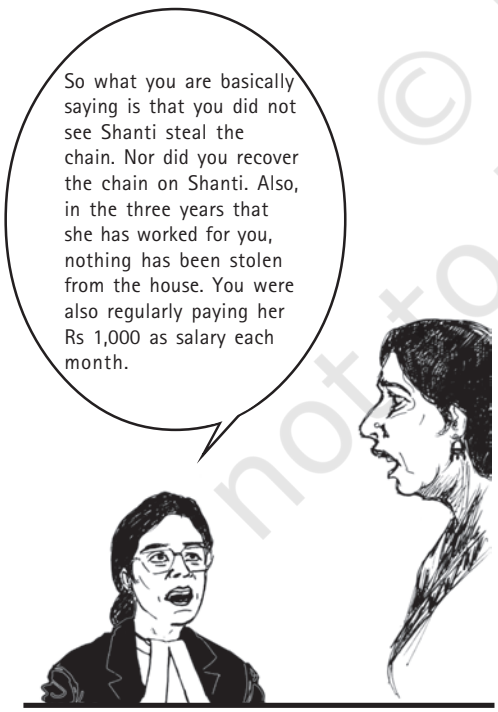


statements of witnesses to Shanti? What if he held the trial in a secret location where neither Shanti nor Sushil were present? What if he did not give Shanti's lawyer, Advocate Roy enough time to question the witnesses of the prosecution such as Mrs Shinde and instead had already decided that Shanti was guilty? If this had happened, then it would be a case of an unfair trial. This is because for a trial to be fair, several different procedures have to be observed. Article 21 of the Constitution that guarantees the Right to Life states that a person's life or liberty can be taken away only by following a reasonable and just legal procedure. A fair trial ensures that Article 21 of the Constitution is upheld. Let us now return to Shanti's case as described in the storyboard and identify the essential elements of a fair trial:

Firstly, Shanti was given a copy of the chargesheet and all other evidence that the prosecution presented against her. Shanti was charged with the offence of theft that was defined as a crime in the law. The trial was held in an **open court**, in public view. Her brother, Sushil could attend the court hearings. The trial was held **in the presence of the accused**. Shanti was **defended by a lawyer**. Shanti's lawyer, Advocate Roy was given an **opportunity to cross-examine all the prosecution witnesses. Advocate Roy was given an opportunity to present witnesses in Shanti's defence.**



Although the police filed a case of theft against Shanti, the judge **assumed her to be innocent**. It was the responsibility of the prosecution **to prove beyond reasonable doubt** that Shanti was guilty. In this case the prosecution failed to do so.

It is significant that the judge decided the matter only on the **basis of the evidence** before the court. The judge did not jump to the conclusion that Shanti was the thief just because she was a poor maidservant. Instead, the judge remained **impartial** and since the evidence showed that some young men and not Shanti was the thief, he set Shanti free. In Shanti's case, justice was finally done to her because she was given a **fair trial**.

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The Constitution and the law both state that all of the persons that we have discussed in this chapter should carry out their roles in a proper manner. What this means is that they all need to work to ensure that every citizen, irrespective of their class, caste, gender, religious and ideological backgrounds gets a fair trial when accused. The rule of law which says that everyone is equal before the law would not make much sense if every citizen were not guaranteed a fair trial by the Constitution.

All of the processes, written in bold on page 74, are crucial to a fair trial. Write in your own words what you understand of the following processes based on the above description of Shanti's case.

a. Open Court:
b. Basis of Evidence:
c. Cross-examination of Prosecution Witnesses:

Discuss in class what might have happened in Shanti's case if the following procedures had not been observed.

a. If she were not defended by a lawyer.
b. If the court had not assumed her to be innocent.

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Exercises

In a town called Peace Land, the supporters of the Fiesta football team learn that the supporters of the Jubilee football team in the nearby city about 40 km away have damaged the ground on which the Final between both teams is to be held the following day. A crowd of Fiesta fans armed with deadly weapons attacks the homes of the supporters of the Jubilee football team in the town. In the attack, 10 men are killed, 5 women are gravely hurt, many homes are destroyed and over 50 people injured.

Imagine that you and your classmates are now part of the criminal justice system. First divide the class into the following four groups of persons:

1. Police 2. Public Prosecutor 3. Defence lawyer 4. Judge

The column on the right provides a list of functions. Match these with the roles that are listed on the left. Have each group pick the functions that it needs to perform to bring justice to those who were affected by the violence of the Fiesta fans. In what order, will these functions be performed?

Roles	Functions
Police	hear the witnesses
	record the statements of witnesses
Public Prosecutor	cross examine the witnesses
	take photographs of burnt homes
Defence Lawyer	record the evidence
	arrest the Fiesta fans
Judge	writes the judgment
	argue the case for the victims
	decide for how many years the accused will be put in jail
	examine the witnesses in court
	pass the judgment
	get the assaulted women medically examined
	conduct a fair trial
	meet the accused persons

Now take the same situation but ask one student who is a supporter of the Fiesta Club to perform all the functions listed above. Do you think the victims would get justice if only one person performed all of the functions of the criminal justice system? Why not?

State two reasons why you believe that different persons need to play different roles as part of the criminal justice system.

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GLOSSARY

Accused: In the context of this chapter this refers to the person who is tried by a court for a crime.

Cognizable: In the context of this chapter this refers to an offence for which the police may arrest a person without the permission of the court.

Cross-examine: In the context of this chapter this refers to the questioning of a witness who has already been examined by the opposing side in order to determine the veracity of his/her testimony.

Detention: In the context of this chapter this refers to the act of being kept in illegal custody by the police.

Impartial: The act of being fair or just and not favouring one side over another.

Offence: Any act that the law defines as a crime.

To be charged of a crime: This refers to the trial judge informing the accused, in writing, of the offence for which he/she will face trial.

Witness: In the context of this chapter this refers to the person who is called upon in court to provide a first-hand account of what he/she has seen, heard or knows.

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Unit Four

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Teacher's Note

Equality is a value and right that we have tried to understand in the *Social and Political Life* series. Over the three years, we have deepened our conceptual understanding of equality. We have distinguished the idea of formal equality from that of substantive equality and the need to move towards establishing the latter. Kanta's story, in the Class VII book, is an example of this. We have also established that to understand equality it is important to delve into how inequality is experienced and manifested. We have, thus, examined the connections between discrimination and inequality through the childhood experiences of Dr Ambedkar and Omprakash Valmiki in Class VI and VII books. The impact of inequality on access to resources was looked at in the context of women's access to education. Rashsundari Devi and Rokeya Begum's writings point to women's struggles to overcome this denial. We have often pointed to the Fundamental Rights enshrined in our Constitution to highlight why equality and the idea of dignity that it contains is crucial to the functioning of democracy in India.

This unit looks more closely at the ways in which inequality affects different groups and communities by introducing the concept of marginalisation or exclusion from the mainstream. The Unit focuses on three groups, namely the Adivasis, the Muslims and the Dalits. These three groups have been chosen because the causes that contribute to each group's marginalisation are different and they sometimes experience marginalisation in different ways. In teaching this unit, the aim should be to help students identify the factors that contribute to marginalisation as well as be able to recognise and empathise with the marginalised. You could help children identify the marginalised communities in your region. In Chapter 7, we look at the experiences of Adivasi and Muslim communities. Chapter 8 discusses ways in which the government as well as these communities themselves have tried to address marginalisation through various struggles. The government does this through its law-making function and through different policies and schemes that specifically target these communities as beneficiaries.

We have used a variety of pedagogic tools in this unit – data, poems, a storyboard and a case-study. Use the storyboard to discuss processes of marginalisation experienced by the Adivasis. The case study on Dalits should lead to a discussion on the importance of the SC/ST Act as well as the ways in which this law reflects the Constitution's commitment to Fundamental Rights. To understand the situation of the Muslim community, we have used data from different sources, which can be analysed in the class. Songs and poems have been used in this unit to break down the boundaries created between social science and language textbooks and to establish that, in the everyday lives of communities, this separation does not exist. Moreover, struggles for justice have produced memorable poetry and songs that often do not find a place in textbooks.

This chapter does contain several issues that may lead to contentious discussions within the classroom space. Children are aware of such issues and we have to find a mature way of discussing these. You play a crucial role in facilitating these discussions in order to ensure that no child or group of children feel discriminated against, ridiculed or left out from these discussions.

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Chapter 7

Understanding Marginalisation

What Does it Mean to be Socially Marginalised?

To be marginalised is to be forced to occupy the sides or fringes and thus not be at the centre of things. This is something that some of you have probably experienced in the classroom or playground. If you are not like most people in your class, that is, if your taste in music or films is different, if your accent marks you out from others, if you are less chatty than others in your class, if you don't play the same sport that many of your classmates like, if you dress differently, the chances are that you will not be considered to be 'in' by your peers. So, often, you end up feeling that you are 'not with it' – as if what you say, feel and think and how you act are not quite right or acceptable to others.

As in the classroom, in the social environment too, groups of people or communities may have the experience of being excluded. Their marginalisation can be because they speak a different language, follow different customs or belong to a different religious group from the majority community. They may also feel marginalised because they are poor, considered to be of 'low' social status and viewed as being less human than others. Sometimes, marginalised groups are viewed with hostility and fear. This sense of difference and exclusion leads to communities not having access to resources and opportunities and in their inability to assert their rights. They experience a sense of disadvantage and powerlessness vis-a-vis more powerful and dominant sections of society who own land, are wealthy, better educated and politically powerful. Thus, marginalisation is seldom experienced in one sphere. Economic, social, cultural and political factors work together to make certain groups in society feel marginalised.

In this chapter, you will read about two communities that are considered to be socially marginalised in India today.

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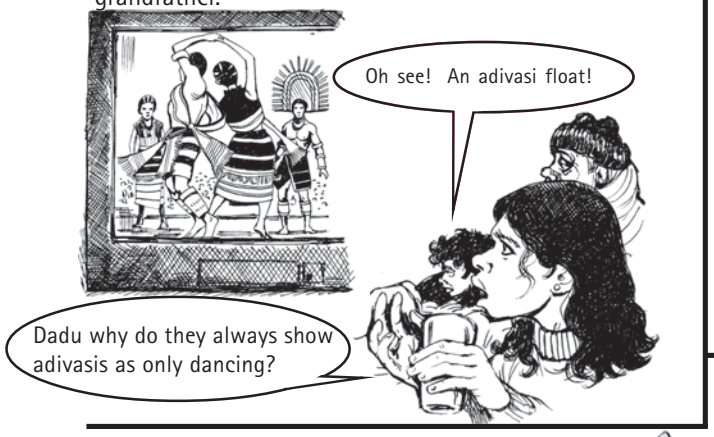
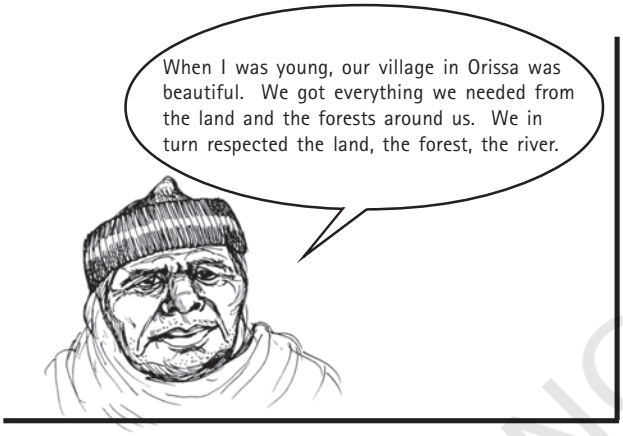
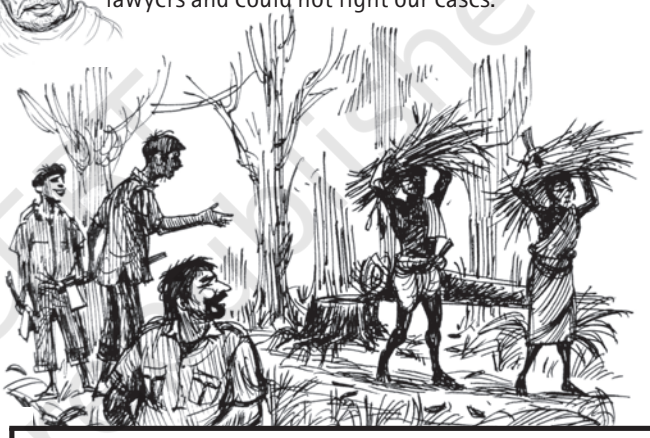
Adivasis and Marginalisation

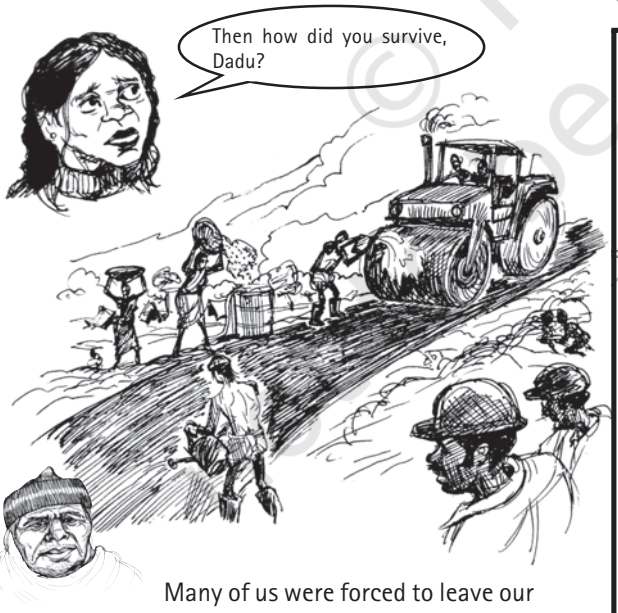
An Adivasi Family in Delhi Soma and Helen are watching the Republic Day parade on TV with their grandfather.





Suddenly we were told that the forest was not ours. Forest officials and contractors cut down large parts of it. If we protested they beat us and then took us to court, where we did not have our lawyers and could not fight our cases.





Many of us were forced to leave our homes and find seasonal work in nearby towns.

Then the companywallahs came. They said there was iron ore under our land, they wanted to mine it. They promised jobs and money, if we sold our land to them. Some villagers were excited. Others said this would destroy our lives and we would get nothing. Some gave thumbprints, not realising they were selling their lands off. Only a few were given token jobs. But most of us did not sell...

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You just read about how Dadu was forced to leave his village in Orissa. Dadu's story is similar to the lives of millions of Adivasis in India. You will read more about the marginalisation of this community in this chapter.

Explain at least three different reasons why groups may be marginalised.

Why was Dadu forced to leave his village in Orissa?

Who are Adivasis?

Adivasis – the term literally means 'original inhabitants' – are communities who lived, and often continue to live, in close association with forests. Around 8 per cent of India's population is Adivasi and many of India's most important mining and industrial centres are located in Adivasi areas – Jamshedpur, Rourkela, Bokaro and Bhilai among others. Adivasis are not a homogeneous population: there are over 500 different Adivasi groups in India. Adivasis are particularly numerous in states like Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa, Gujarat, Maharashtra, Rajasthan, Andhra Pradesh, West Bengal and in the north-eastern states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. A state like Orissa is home to more than 60 different tribal groups. Adivasi societies are also most distinctive because there is often very little hierarchy among them. This makes them radically different from communities organised around principles of *jati-varna* (caste) or those that were ruled by kings.

Tribals are also referred to as Adivasis.

You may have heard the term Scheduled Tribes. Scheduled Tribes is the term used for Adivasis used by the Indian government in various official documents. There is an official list of tribes. Scheduled Tribes are often grouped together with Scheduled Castes in the category Scheduled Castes and Scheduled Tribes.

Adivasis practise a range of tribal religions that are different from Islam, Hinduism and Christianity. These often involve the worship of ancestors, village and nature spirits, the last associated with and residing in various sites in the landscape – 'mountain-spirits', 'river-spirits', 'animal-spirits', etc. The village spirits are often worshipped at specific sacred groves within the village boundary while the ancestral ones are usually worshipped at home. Additionally, Adivasis have always been influenced by different surrounding religions like Shakta, Buddhist, Vaishnav, Bhakti and Christianity. Simultaneously, Adivasi religions themselves have influenced dominant religions of the empires around them,

In your own city or village, who would you think are the marginalised groups? Discuss.

Can you name some Adivasi communities that live in your state?

What languages do they speak?

Do they live close to the forest?

Do they migrate to other regions looking for work?

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The above two images of tribal communities in their traditional costumes are often the only ways in which Adivasi communities are represented. This then leads us to think of them as being 'exotic' and 'backward'.

for example, the Jagannath cult of Orissa and Shakti and Tantric traditions in Bengal and Assam. During the nineteenth century, substantial numbers of Adivasis converted to Christianity, which has emerged as a very important religion in modern Adivasi history.

Adivasis have their own languages (most of them radically different from and possibly as old as Sanskrit), which have often deeply influenced the formation of 'mainstream' Indian languages, like Bengali. Santhali has the largest number of speakers and has a significant body of publications including magazines on the internet or in e-zines.

Adivasis and Stereotyping

In India, we usually 'showcase' Adivasi communities in particular ways. Thus, during school functions or other official events or in books and movies, Adivasis are invariably portrayed in very stereotypical ways – in colourful costumes, headgear and through their dancing. Besides this, we seem to know very little about the realities of their lives. This often wrongly leads to people believing that they are exotic, primitive and backward. Often Adivasis are blamed for their lack of advancement as they are believed to be resistant to change or new ideas. You will remember that you read in Class VI book how stereotyping particular communities can lead to people discriminating against such groups.

Adivasis and Development

As you have already read in your history textbook, forests were absolutely crucial to the development of all empires and settled civilisations in India. Metal ores like iron and copper, and gold and silver, coal and diamonds, invaluable timber, most medicinal herbs and animal products (wax, lac, honey) and animals themselves (elephants, the mainstay of imperial armies), all came from the forests. In addition, the continuation of life depended heavily on forests, that help recharge many of India's rivers and, as is becoming clearer now, crucial to the availability and quality of our

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air and water. Forests covered the major part of our country till the nineteenth century and the Adivasis had a deep knowledge of, access to, as well as control over most of these vast tracts at least till the middle of the nineteenth century. This meant that they were not ruled by large states and empires. Instead, often empires heavily depended on Adivasis for the crucial access to forest resources.

This is radically contrary to our image of Adivasis today as somewhat marginal and powerless communities. In the pre-colonial world, they were traditionally ranged hunter-gatherers and nomads and lived by shifting agriculture and also cultivating in one place. Although these remain, for the past 200 years Adivasis have been increasingly forced – through economic changes, forest policies and political force applied by the State and private industry – to migrate to lives as workers in plantations, at construction sites, in industries and as domestic workers. For the first time in history, they do not control or have much direct access to the forest territories.

What metals are important in present-day India? Why? Where do they come from? Are there Adivasi populations there?

List five products that you use at home that come from the forest.

By whom were the following demands being made on forest land?

- **timber for construction of houses and railways**
- **forest land for mining**
- **forest land for agriculture by non-tribal people**
- **reserved by government as wildlife parks**

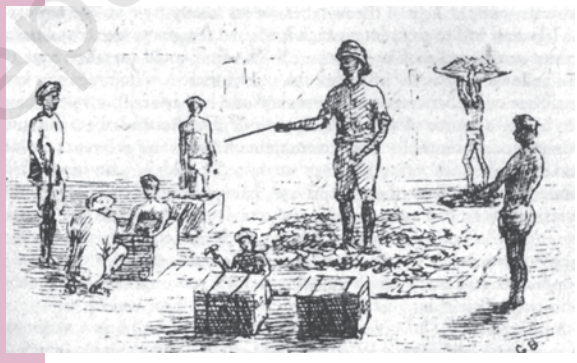
In what ways would this affect tribal people?

From the 1830s onwards, Adivasis from Jharkhand and adjoining areas moved in very large numbers to various plantations in India and the world - Mauritius, the Caribbean and even Australia. India's tea industry became possible with their labour in Assam. Today, there are 70 lakh Adivasis in Assam alone. The story of this migration is full of extreme hardship, torture, heartbreak and death. For example, in the nineteenth century alone five lakh Adivasis had perished in these migrations. The song below captures the hopes of the migrants and the reality they faced in Assam.

Come Mini, let's go to Assam
Our country has so much suffering
The country of Assam, oh Mini
Has tea gardens full of greenery...

The Sardar says work, work
The Babu says catch and bring them in
The Saheb says I'll take off the skin of your back
Hey Jaduram, you deceived us by sending us to Assam .

Source: Basu, S. *Jharkhand Movement: Ethnicity and Culture of Silence*



What do you think this poem is trying to convey?

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This is a photo of Niyamgiri Hill located in Kalahandi district of Orissa. This area is inhabited by Dongarria Konds, an Adivasi community. Niyamgiri is the sacred mountain of this community. A major aluminium company is planning to set up a mine and a refinery here which will displace this Adivasi community. They have strongly resisted this proposed development and have been joined by environmentalists as well. A case against the company is also pending in the Supreme Court.

Forest lands have been cleared for timber and to get land for agriculture and industry. Adivasis have also lived in areas that are rich in minerals and other natural resources. These are taken over for mining and other large industrial projects. Powerful forces have often colluded to take over tribal land. Much of the time, the land is taken away forcefully and procedures are not followed. According to official figures, more than 50 per cent of persons displaced due to mines and mining projects are tribals. Another recent survey report by organisations working among Adivasis shows that 79 per cent of the persons displaced from the states of Andhra Pradesh, Chhattisgarh, Orissa and Jharkhand are tribals. Huge tracts of their lands have also gone under the waters of hundreds of dams that have been built in independent India. In the North east, their lands remain highly militarised and war-torn. India has 54 national parks and 372 wildlife sanctuaries covering 1,09,652 sq km. These are areas where tribals originally lived but were evicted from. When they continue to stay in these forests, they are termed encroachers.

Adivasis use around 10,000 plant species – approximately 8,000 species are used for medicinal purposes; 325 are used as pesticides; 425 as gums, resins and dyes; 550 as fibres; 3,500 are edible. This entire knowledge system gets wiped out when Adivasis lose their rights over forest lands.

Losing their lands and access to the forest means that tribals lose their main sources of livelihood and food. Having gradually lost access to their traditional homelands, many Adivasis have migrated to cities in search of work where they are employed for very low wages in local industries or at building or construction sites. They, thus, get caught

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in a cycle of poverty and deprivation. 45 per cent of tribal groups in rural areas and 35 per cent in urban areas live below the poverty line. This leads to deprivation in other areas. Many tribal children are malnourished. Literacy rates among tribals are also very low.

In your opinion, why is it important that Adivasis should have a say in how their forests and forest lands are used?

When Adivasis are displaced from their lands, they lose much more than a source of income. They lose their traditions and customs – a way of living and being. "They took our farming land. They left some houses. They took the cremation ground, temple, well and pond. How will we survive?" says Gobindha Maran, who was displaced due to a refinery project in Orissa.

As you have read, there exists an interconnectedness between the economic and social dimensions of tribal life. Destruction in one sphere naturally impacts the other. Often this process of dispossession and displacement can be painful and violent.

Minorities and Marginalisation

In Unit 1, you read that the Constitution provides safeguards to religious and linguistic minorities as part of our Fundamental Rights. Why do you think these minority groups have been provided these safeguards? The term minority is most commonly used to refer to communities that are numerically small in relation to the rest of the population. However, it is a concept that goes well beyond numbers. It encompasses issues of power, access to resources and has social and cultural dimensions. As you read in Unit 1, the Indian Constitution recognised that the culture of the majority influences the way in which society and government might express themselves. In such cases, size can be a disadvantage and lead to the marginalisation of the relatively smaller communities. Thus, safeguards are needed to protect minority communities against the possibility of being culturally dominated by the majority. They also protect them against any discrimination and disadvantage that they may face. Given certain conditions, communities that are small in number relative to the rest of society may

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Why do we need safeguards for minorities?

feel insecure about their lives, assets and well-being. This sense of insecurity may get accentuated if the relations between the minority and majority communities are fraught. The Constitution provides these safeguards because it is committed to protecting India's cultural diversity and promoting equality as well as justice. As you have already read in Chapter 5, the judiciary plays a crucial role in upholding the law and enforcing Fundamental Rights. Every citizen of India can approach the courts if they believe that their Fundamental Rights have been violated. Now let us understand marginalisation in the context of the Muslim community.

Muslims and Marginalisation

According to 2011 census, Muslims are 14.2 per cent of India's population and are considered to be a marginalised community in India today because in comparison to other communities, they have over the years been deprived of the benefits of socio-economic development. The data in the three tables below, derived from different sources, indicate the situation of the Muslim community with regard to basic amenities, literacy and public employment. Read the tables below. What do you think these tables tell us about the socio-economic status of the Muslim community?

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I. Access to Basic Amenities, 2008–2009

Religious Community	*Pucca* House	Electricity	Tap Water
Hindu	65.4	75.2	43.7
Muslim	63.8	67.5	35.8
Christian	69.3	86.2	48.0
Sikh	91.3	96.0	49.3

Source: *India Human Development Report 2011: Towards Social Inclusion*, Oxford University Press for Institute of Applied Manpower Research, Planning Commission, Government of India, New Delhi, p. 346, 389, 392.

Which of these communities have the most and the least access to basic amenities?

II. Literacy Rate by Religion, 2011 (percentages)

All	Hindus	Muslims	Christians	Sikhs	Buddhists	Jains
74	63	57	74	67	71	86

Source: *Census of India 2011*

Which of these communities have the highest and the lowest literacy rate?

III. Public Employment of Muslims (percentages)

Population	IAS	IPS	IFS	Central Public Sector Unit (PSU)	State PSU	Banks & RBI
13.5	3	4	1.8	3.3	10.8	2.2

Source: *Social, Economic and Educational Status of the Muslim Community of India,* Prime Minister's High Level Committee Report 2006

What do these figures convey?

Recognising that Muslims in India were lagging behind in terms of various development indicators, the government set up a high-level committee in 2005. Chaired by Justice Rajindar Sachar, the committee examined the social, economic and educational status of the Muslim community in India. The report discusses in detail the marginalisation of this community. It suggests that on a range of social, economic and educational indicators the situation of the Muslim community is comparable to that of other marginalised communities like Scheduled Castes and Scheduled Tribes. For example, according to the Report the average years of schooling for Muslim children between the ages of 7-16 is much lower than that of other socio-religious communities (page 56).

Read the data related to schooling provided by the Sachar Committee Report:

- **25 per cent of Muslim children in the 6–14 year age group have either never been enrolled in school or have dropped out. This percentage is much higher than that of any other socio-religious community (page 58).**

Do you think special measures are required to address this situation?

Economic and social marginalisation experienced by Muslims has other dimensions as well. Like other minorities, Muslim customs and practices are sometimes quite distinct from what is seen as the mainstream. Some –

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Muslim women are an important part of the women's movement in India.

not all – Muslims may wear a *burqa*, sport a long beard, wear a *fez*, and these become ways to identify all Muslims. Because of this, they tend to be identified differently and some people think they are not like the 'rest of us'. Often this becomes an excuse to treat them unfairly, and discriminate against them. Do you remember reading in your Class VII book about how the Ansaris were finding it difficult to rent a house? This social marginalisation of Muslims in some instances has led to them migrating from places where they have lived, often leading to the ghettoisation of the community. Sometimes, this prejudice leads to hatred and violence.

I live in a Muslim-dominated area. Some days back during Ramzan there was some disturbance that started taking a communal outlook. My brother and I had gone for an Iftar party in the neighbourhood and were dressed in traditional clothes, that is sherwani and salwar kameez respectively. On returning home, my brother and I were asked to change our clothes to jeans and T-shirt.

Now when everything is fine I wonder what was the reason that we were asked to change our clothes and why I didn't find it odd. Were our clothes giving away our identity and is that identity linked to all kinds of fears and discrimination?

Ainee A. Farooqi

The above essay has been written by a child around your age. What do you think she is trying to convey?

In the above section of this chapter, we saw how in the case of the Muslim community there is a link between economic and social marginalisation. Earlier in this chapter, you read about the situation of Adivasis. In your Class VII book, you read about the unequal status of women in India. The experiences of all these groups point to the fact that marginalisation is a complex phenomenon requiring a variety of strategies, measures and safeguards to redress this situation. All of us have a stake in protecting the rights defined in the Constitution and the laws and policies framed to realise these rights. Without these, we will never be able to protect the diversity that makes our country unique nor realise the State's commitment to promote equality for all.

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Conclusion

In this chapter, we have tried to understand what it means to be a marginalised community. We have tried to look at this through the experiences of different marginalised communities. There are different reasons for each of these communities being marginalised. Each experiences marginalisation in different ways. We have also seen that marginalisation is linked to experiencing disadvantage, prejudice and powerlessness. In India there are several more marginalised communities, like Dalits, of whom you will read more in the next chapter. Marginalisation results in having a low social status and not having equal access to education and other resources.

The Sachar Committee Report also debunked other prevalent myths about Muslims. It is commonly believed that the Muslims prefer to send their children to Madarsas. The figures show that only 4 per cent of Muslim children are in Madarsas, where as 66 per cent attend government schools and 30 per cent private schools. (page 75)

Yet, the lives of marginalised people can and do change. Thus, no one is marginalised all the time in exactly the same way. If we go back to the two examples of marginalisation we have discussed, we will see that each of these groups has a long history of struggle and resistance. Marginalised communities want to maintain their cultural distinctiveness while having access to rights, development and other opportunities. In the next chapter, we will read about how different groups have confronted marginalisation.

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Exercises

1. Write in your own words two or more sentences of what you understand by the word 'marginalisation'.

2. List two reasons why Adivasis are becoming increasingly marginalised.

3. Write one reason why you think the Constitution's safeguards to protect minority communities are very important?

4. Re-read the section on Minorities and Marginalisation. What do you understand by the term minority?

5. You are participating in a debate where you have to provide reasons to support the following statement: 'Muslims are a marginalised community'. Using the data provided in this chapter, list two reasons that you would give.

6. Imagine that you are watching the Republic Day parade on TV with a friend and she remarks, "Look at these tribals. They look so exotic. And they seem to be dancing all the time". List three things that you would tell her about the lives of Adivasis in India.

7. In the storyboard you read about how Helen hopes to make a movie on the Adivasi story. Can you help her by developing a short story on Adivasis?

8. Would you agree with the statement that economic marginalisation and social marginalisation are interlinked? Why?

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GLOSSARY

Hierarchy: A graded system or arrangement of persons or things. Usually persons at the bottom of the hierarchy are those who have the least power. The caste system is a hierarchical system and Dalits are considered to be at the lowest end.

Ghettoisation: A ghetto is an area or locality that is populated largely by members of a particular community. Ghettoisation refers to the process that leads to such a situation. This may occur due to various social, cultural and economic reasons. Fear or hostility may also compel a community to group together as they feel more secure living amongst their own. Often a 'ghettoised' community has few options of moving out, which may lead to them becoming alienated from the rest of the society.

Mainstream: Literally this refers to the main current of a river or stream. In this chapter it is used to refer to a cultural context in which the customs and practices that are followed are those of the dominant community. In connection with this, mainstream is also used to refer to those people or communities that are considered to be at the centre of a society, i.e. often the powerful or dominant group.

Displaced: In the context of this chapter this refers to people who are forced or compelled to move from their homes for big development projects including dams, mining etc.

Militarised: An area where the presence of the armed forces is considerable.

Malnourished: A person who does not get adequate nutrition or food.

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Chapter 8

Confronting Marginalisation

In the previous chapter, we read about two different groups and their experiences of inequality and discrimination. Though powerless, such groups have fought, protested and struggled against being excluded or dominated by others. They have attempted to overcome their situation by adopting a range of strategies in their long history. Religious solace, armed struggle, self improvement and education, economic uplift – there appears to be no one way of doing things. In all cases, the choice of struggle has depended on the circumstances that the marginalised find themselves in.

In this chapter, we will read about some of the ways in which groups and individuals challenge existing inequalities. Adivasis, Dalits, Muslims, women and other marginal groups argue that simply by being citizens of a democratic country, they possess equal rights that must be respected. Many among them look up to the Constitution to address their concerns. In this chapter, we will see why the Constitution of India is something that marginalised groups invoke in the course of their struggles. As part of this, we will look at how rights are translated into laws to protect groups from continued exploitation and we will also look at the government's efforts to formulate policies to promote the access of these groups to development.

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Invoking Fundamental Rights

The Constitution, as you have learnt in the first chapter of this book, lays down the principles that make our society and polity democratic. They are defined in and through the list of Fundamental Rights that are an important part of the Constitution. These rights are available to all Indians equally. As far as the marginalised are concerned, they have drawn on these rights in two ways: first, by insisting on their Fundamental Rights, they have forced the government to recognise the injustice done to them. Second, they have insisted that the government enforce these laws. In some instances, the struggles of the marginalised have influenced the government to frame new laws, in keeping with the spirit of the Fundamental Rights.

Article 17 of the Constitution states that untouchability has been abolished – what this means is that no one can henceforth prevent Dalits from educating themselves, entering temples, using public facilities etc. It also means that it is wrong to practise untouchability and that this practice will not be tolerated by a democratic government. In fact, untouchability is a punishable crime now.

There are other sections in the Constitution that help to strengthen the argument against untouchability – for example, Article 15 of the Constitution notes that no citizen of India shall be discriminated against on the basis of religion, race, caste, sex or place of birth (you learnt a lot about this in your Class VII textbook in the chapter on Equality). This has been used by Dalits to seek equality where it has been denied to them.

The term Dalit, which means 'broken' is used deliberately and actively by groups to highlight the centuries of discrimination they have experienced within the caste system.

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The poem below is written by Soyrabai, the wife of the well-known Bhakti poet Chokhamela from fourteenth century Maharashtra. They belonged to the Mahar caste, which was at that time considered untouchable.

A body is unclean, they say
Only the soul is untainted
But the impurity of the body
Is born within the body
...By which ritual does the body become pure?
Not a creature has been born except in a bloody womb.
This is the glory of God,
Defilement exists within.
The body is polluted from within,
Be sure of it says the Mahari Chokha

Quoted in Uma Chakravarti, *Gendering Caste: Through a Feminist Lens*, Stree, 2003, p. 99

Soyrabai is questioning the idea of purity and arguing that since every human is born in the same manner, there is nothing that makes one body less or more pure than the other. She is possibly also trying to say that pollution, a key tool of the caste system to separate or deny people access to spaces, work, knowledge and dignity, occurs not through the nature of work done, but 'from within'- from your thoughts, values and beliefs.

Therefore, Dalits can 'invoke' or 'draw on' a Fundamental Right (or Rights) in situations where they feel that they have been treated badly by some individual or community, or even by the government. They have drawn the attention of the government of India to the Constitution, demanding that the government abide by it and do justice to them.

Likewise, other minority groups have drawn on the Fundamental Rights section of our Constitution. They have particularly drawn upon the right to freedom of religion and cultural and educational rights. In the case of cultural and educational rights, distinct cultural and religious groups like the Muslims and Parsis have the right to be the guardians of the content of their culture, as well as the right to make decisions on how best this content is to be preserved. Thus, by granting different forms of cultural rights, the Constitution tries to ensure cultural justice to such groups. The Constitution does this so that the culture of these groups is not dominated nor wiped out by the culture of the majority community.

Laws for the Marginalised

As you have read, the government makes laws to protect its citizens. Yet, this is not the only way in which it takes action. There are specific laws and policies for the marginalised in our country. There are policies or schemes that emerge through other means like setting up a committee or by undertaking a survey etc. The government then makes an effort to promote such policies in order to give opportunities to specific groups.

Promoting Social Justice

As part of their effort to implement the Constitution, both state and central governments create specific schemes for implementation in tribal areas or in areas that have a high Dalit population. For example, the government provides for free or subsidised hostels for students of Dalit and Adivasi communities so that they can avail of education facilities that may not be available in their localities.

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In addition to providing certain facilities, the government also operates through laws to ensure that concrete steps are taken to end inequity in the system. One such law/policy is the reservation policy that today is both significant and highly contentious. The laws which reserve seats in education and government employment for Dalits and Adivasis are based on an important argument- that in a society like ours, where for centuries sections of the population have been denied opportunities to learn and to work in order to develop new skills or vocations, a democratic government needs to step in and assist these sections.

How does the reservation policy work? Governments across India have their own list of Scheduled Castes (or Dalits), Scheduled Tribes and backward and most backward castes. The central government too has its list. Students applying to educational institutions and those applying for posts in government are expected to furnish proof of their caste or tribe status, in the form of caste and tribe certificates. (Many government and educational institutions also ask for candidates to mention their caste/tribe status.) If a particular Dalit caste or a certain tribe is on the government list, then a candidate from that caste or tribe can avail of the benefit of reservation.

For admission to colleges, especially to institutes of professional education, such as medical colleges, governments define a set of 'cut-off' marks. This means that not all Dalit and tribal candidates can qualify for admission, but only those who have done reasonably well and secured marks above the cut-off point. Governments also offer special scholarships for these students. In your Class IX Political Science textbook, you will read more on reservations for the backward classes.

State one reason why you think reservations play an important role in providing social justice to Dalits and Adivasis?

List of schemes	What is this scheme about?	How do you think it will help promote social justice?
Scholarships for students		
Special police stations		
Special schemes for girls in government schools		

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You may have read Kabir's poems in your language textbooks. Kabir was a fifteenth century poet and weaver who also belonged to the Bhakti tradition. Kabir's poetry spoke about his love for the supreme being free of ritual and priests. It also expresses his sharp and pointed criticism of those he saw as powerful. Kabir attacked those who attempted to define individuals on the basis of their religious and caste identities. In his view every person had the ability to reach the highest level of spiritual salvation and deep knowledge within themselves through their own experience. His poetry brings out the powerful idea of the equality of all human beings and their labour. He writes about valuing the work of the ordinary potter, the weaver and the woman carrying the water pot – labour that in his poetry becomes the basis of understanding the entire universe. His direct, courageous challenge inspired many and even today Kabir's poetry is sung and appreciated by Dalits, marginalised groups and those critical of social hierarchies in U.P., Rajasthan, Punjab, Madhya Pradesh, Bengal, Bihar and Gujarat.

Protecting the Rights of Dalits and Adivasis

In addition to policies our country also has specific laws that guard against the discrimination and exploitation of marginalised communities. Let us read the following case-study, adapted from a real-life account, to understand how Dalits use the protection that laws provide.

The villagers of Jakmalgur are gearing up for a big festival. Once in five years, the local deity is honoured and priests from 20 neighbouring villages come for this five-day event. The ceremony begins with a member of the Dalit community washing the feet of all the priests and then bathing in the water used for this. In Jakmalgur, the person who performed this task belonged to Rathnam's family. His father and grandfather had both performed the same task before him. Though they were never allowed to enter the temple, this ritual was viewed as a great honour bestowed on them on this special occasion. Now it was Rathnam's turn. Rathnam was all of 20 years, studying engineering in a nearby college. He refused to perform the ritual.

He said that he had no faith in this practice and that his family members were forced to perform this ritual because they were Dalits. Rathnam's refusal angered both the powerful castes in the village and some families from his own community. The powerful castes were shocked that such a young boy had the guts to refuse. They believed that it was Rathnam's education which allowed him to imagine that he could start comparing himself with them.

Those from Rathnam's own caste were fearful of angering the powerful. Many worked on their fields as daily-wage labourers. If the dominant castes decided to not call them, then what would they earn? How would they survive? They also declared that the wrath of the local deity would strike them if they refused to give in. Rathnam argued that given that not a single Dalit had ever entered the temple, how could the deity be angry with them?

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The powerful castes decided to teach Rathnam a lesson. His community was ordered to ostracise him and his family, and everyone was told that no one should speak or do any work for them or with them. One night some men entered their part of the village and set his hut on fire. He managed to escape with his mother. Rathnam, then went to file a case in the local police station under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Other Dalit families still did not come out in his support as they were scared that a similar fate might await them if they spoke out. The case was picked up by the local media that led to many journalists visiting the village. Rathnam was written about as a symbol of Dalit action. The ritual was called off, but his family was forced to move out as they continued to be ostracised by the powerful castes in the village.

In your opinion does the force put on Rathnam to perform this ritual violate his Fundamental Rights?

Why do you think the Dalit families were afraid of angering the powerful castes?

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

Rathnam sought the support of law, filing his complaint under the above Act to protest against the domination and violence of the powerful castes in his village.

This Act was framed in 1989 in response to demands made by Dalits and others that the government must take seriously the ill treatment and humiliation Dalits and tribal groups face in an everyday sense. While such treatment had persisted for a long time, it had acquired a violent character in the late 1970s and 1980s. During this period, in parts of southern India, a number of assertive Dalit groups came into being and asserted their rights – they refused to perform their so-called caste duties and insisted on being treated equally; like Rathnam they refused to follow practices located in the humiliation and exploitation of Dalits. This resulted in the more powerful castes unleashing violence against them. In order to indicate to the government that untouchability was still being practised and in the most hideous manner, Dalit groups demanded new laws that would list the various sorts of violence against dalits and prescribe stringent punishment for those who indulge in them.

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Pandit, Look in your heart for knowledge
Tell me where untouchability
Came from, since you believe in it.
Mix red juice, white juice and air
A body bakes in a body ...
We eat by touching, we wash
by touching, from a touch
the world was born.
So who's untouched, asks Kabir?
Only she
Who is free from delusion

In this poem, Kabir is challenging the priest by directly questioning at him about where untouchability came from. He asks the priest to look for knowledge in his heart and not in the scriptures. Kabir goes on to describe how every human body is made of blood and air and has spent nine months in the mother's womb. And that everything in the world is created by touching something whether it be a pot, a human being or a painting.

He takes the word untouchable and gives it a very different meaning. He claims that untouchability is the highest state of knowledge: it means not be touched by narrow limiting ideas. Therefore, Kabir finally turns the idea of untouchability on its head- from the lowest to the highest state that a human being can achieve!

Likewise, throughout the 1970s and 1980s Adivasi people successfully organised themselves and demanded equal rights and for their land and resources to be returned to them. They too had to face the anger of powerful social groups and were subject to a great deal of violence.

This is why this Act contains a very long list of crimes, some of which are too horrible even to contemplate. The Act does not only describe terrible crimes, but also lets people know what dreadful deeds human beings are capable of. In this sense, laws such as these seek to both punish as well as influence the way we think and act.

The Act distinguishes several levels of crimes. Firstly, it lists *modes of humiliation* that are both physically horrific and morally reprehensible and seeks to punish those who (i) force a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance; … (iii) forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him or her naked or with painted face or body or commits any similar act which is derogatory to human dignity…

Secondly, it lists *actions that dispossess Dalits and Adivasis* of their meagre resources or which force them into performing slave labour. Thus, the Act sets out to punish anyone who (iv) wrongfully occupies or cultivates any land owned by, or allotted to, … a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

At another level, the Act recognizes that *crimes against Dalit and tribal women* are of a specific kind and, therefore, seeks to penalise anyone who (xi) assaults or uses force on any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour her …

Can you list two different provisions in the 1989 Act?

Look up the glossary and write in your own words what you understand by the term 'morally reprehensible'.

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The Scourge of Manual Scavenging

Manual scavenging refers to the practice of removing human and animal waste/excreta using brooms, tin plates and baskets from dry latrines and carrying it on the head to disposal grounds some distance away. A manual scavenger is the person who does the job of carrying this filth. This job is mainly done by Dalit women and young girls. According to the Andhra Pradesh-based Safai Karamchari Andolan, an organisation working with manual scavengers, there are one lakh persons from Dalit communities who continue to be employed in this job in this country and who work in 26 lakh private and community dry latrines managed by municipalities.

Manual scavengers are exposed to subhuman conditions of work and face serious health hazards. They are constantly exposed to infections that affect their eyes, skin, respiratory and gastro-intestinal systems. They get very low wages for the work they perform. Those working in urban municipalities earn ₹ 200 per day and those working privately are paid much less.

As you have read earlier in this book, the practice of untouchability has been abolished by the Indian Constitution. However, manual scavengers in different parts of the country, the Bhangis in Gujarat, Pakhis in Andhra Pradesh and the Sikkaliars in Tamil Nadu, continue to be considered untouchable. They often live in separate settlements on the outskirts of the village and are denied access to the temple, public water facilities etc.

In 1993, the government passed the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act. This law prohibits the employment of manual scavengers as well as the construction of dry latrines. In 2003, the Safai Karamchari Andolan and 13 other organisations and individuals, including seven scavengers, filed a PIL in the Supreme Court. The petitioners complained that manual scavenging still existed and it continued in government undertakings like the railways. The petitioners sought enforcement of their Fundamental Rights. The court observed that the number of manual scavengers in India had increased since the 1993 law. It directed every department/ministry of the union government and state governments to verify the facts within six months. If manual scavenging was found to exist, then the government department has to actively take up a time-bound programme for their liberation and rehabilitation. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act came into force on 6 December 2013.

A manual scavenger at work

Members of the Safai Karamchari Andolan demolishing a dry latrine.

What do you understand by manual scavenging?

Re-read the list of Fundamental Rights provided on page 14 and list two rights that this practice violates?

Why did the Safai Karamchari Andolan file a PIL in 2003? What did they complain about in their petition?

What did the Supreme Court do on hearing their case in 2005?

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The central government passed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The introduction to the final Act states that this Act is meant to undo the historical injustices meted out to forest dwelling populations in not recognising their rights to land and resources. This Act recognises their right to homestead, cultivable and grazing land and to non-timber forest produce. The Act also points out that the rights of forest dwellers includes conservation of forests and bio-diversity.

Adivasi Demands and the 1989 Act

The 1989 Act is important for another reason – Adivasi activists refer to it to defend their right to occupy land that was traditionally theirs. As you read in the previous chapter Adivasis are often unwilling to move from their land and are forcibly displaced. Activists have asked that those who have forcibly encroached upon tribal lands should be punished under this law. They have also pointed to the fact that this Act merely confirms what has already been promised to tribal people in the Constitution – that land belonging to tribal people cannot be sold to or bought by non-tribal people. In cases where this has happened, the Constitution guarantees the right of tribal people to re-possess their land.

C.K. Janu, an Adivasi activist, has also pointed out that one of the violators of Constitutional rights guaranteed to tribal people are governments in the various states of India – for it is they who allow non-tribal encroachers in the form of timber merchants, paper mills etc, to exploit tribal land, and to forcibly evict tribal people from their traditional forests in the process of declaring forests as reserved or as sanctuaries. She has also noted that in cases where tribals have already been evicted and cannot go back to their lands, they must be compensated. That is, the government must draw up plans and policies for them to live and work elsewhere. After all, governments spend large sums of money on building industrial or other projects on lands taken from tribals – so why should they be reluctant to spend even very modest amounts on rehabilitating the displaced?

Conclusion

As we can see, the existence of a right or a law or even a policy on paper does not mean that it exists in reality. People have had to constantly work on or make efforts to translate these into principles that guide the actions of their fellow citizens or even their leaders. The desire for equality, dignity and respect is not new. It has existed in different forms throughout our history as you have seen in this chapter. Similarly, even in a democratic society, similar processes of struggle, writing, negotiation and organising need to continue.

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Exercises

1. List two Fundamental Rights in the Constitution that Dalits can draw upon to insist that they be treated with dignity and as equals. Re-read the Fundamental Rights listed on page 14 to help you answer this question.
2. Re-read the story on Rathnam as well as the provisions of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Now list one reason why you think he used this law to file a complaint.
3. Why do Adivasi activists, including C.K. Janu, believe that Adivasis can also use this 1989 Act to fight against dispossession? Is there anything specific in the provisions of the Act that allows her to believe this?
4. The poems and the song in this Unit allow you to see the range of ways in which individuals and communities express their opinions, their anger and their sorrow. In class, do the following two exercises:
   (a) Bring to class a poem that discusses a social issue. Share this with your classmates. Work in small groups with two or more poems to discuss their meaning as well as what the poet is trying to communicate.
   (b) Identify a marginalised community in your locality. Write a poem, or song, or draw a poster etc to express your feelings as a member of this community.

GLOSSARY

Assertive: An assertive person or group is one that can express themselves and their views strongly.

Confront: To come face to face or to challenge someone or something. In the context of this chapter, this refers to groups challenging their marginalisation.

Dispossessed: To possess is to own something and to be dispossessed is to have to give up ownership or to give up authority.

Ostracise: This means to exclude or banish an individual or a group. In the context of this chapter, it refers to a social boycott of an individual and his family.

Morally reprehensible: This refers to an act that violates all norms of decency and dignity that a society believes in. It usually refers to a hideous and repugnant act that goes against all the values that a society has accepted.

Policy: A stated course of action that provides direction for the future, sets goals to be achieved or lays out principles or guidelines to be followed and acted upon. In this chapter, we have referred to government policies. But other institutions like schools, companies, etc. also have policies.

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Unit Five

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Teacher's Note

This unit discusses the role of the government in providing public facilities as well as in implementing laws that apply to market, factory and the working conditions of people. The aim is to allow students to understand the ways in which this role of the government is linked to concerns addressed in our Fundamental Rights. It is this link to rights that provides a connection to similar issues raised in earlier chapters. Also the discussion in the Class VI and VII textbooks on livelihoods and markets respectively can also be used to provide a context for discussions in Chapter 10.

Chapter 9 uses water as the primary example to discuss public facilities. It is important that the student understand quite clearly what is meant by the idea of public facilities and why the government needs to play a crucial role in their provision and, therefore, take overall responsibility. The idea of equity, or the equal availability, affordability and quality of water for all, is one of the key issues related to public facilities that the chapter highlights. In the classroom discussion, it is crucial to separate the discussion on the importance of the government's role in providing public facilities from their current unequal provision. This means that the fact that persons currently get different amounts of water should not be viewed as a reason for the government not being able to provide public facilities.

Chapter 10 discusses the central role of the government in regulating economic activities. This is largely done through laws and the chapter focuses on the importance of implementing existing laws as well as making new laws to protect the rights of workers, consumers and producers in the market. The Bhopal gas tragedy is discussed as an example of the lax enforcement of the laws. It is quite likely that students might have not heard of this tragedy and it would be helpful to have them research this and perhaps create a wallpaper or skit on this for the entire school. The websites indicated at the end of the book could be used for additional reference material. The Bhopal gas tragedy also marked the moment in which 'environmental' issues became intrinsically linked to laws on the economy and the chapter briefly discusses this as well. The idea of accountability of the manufacturer as well as the government to the workers and the citizens at large is one of the key ideas underlying this chapter.

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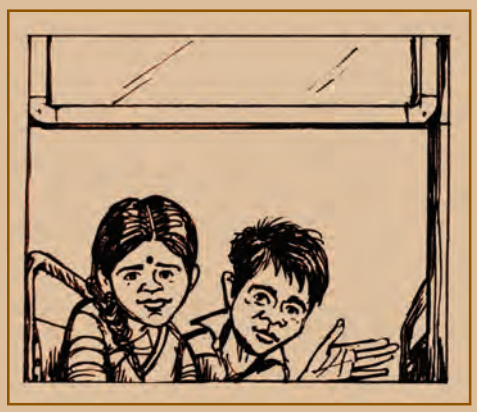
Chapter 9

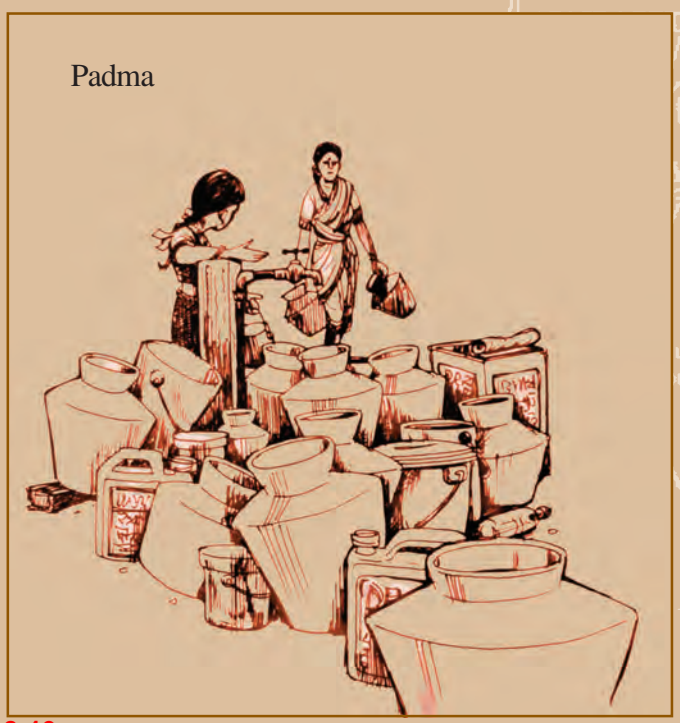
Public Facilities



Amu and Kumar are travelling through Chennai in a bus. As they go round the city, they observe the water facilities available in different parts of Chennai...

ANNA NAGAR

SAIDAPET



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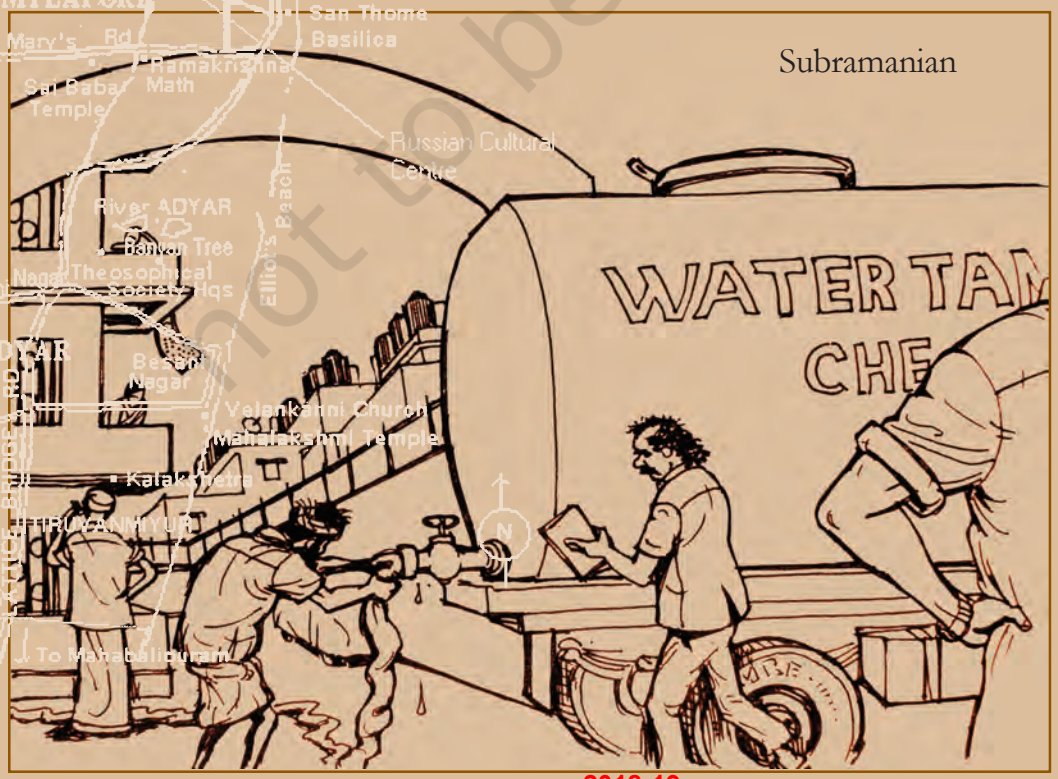
MAD PAKKAM

Siva

MYLAPORE



Subramanian

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1. You have seen the four situations illustrated above. Based on these, what impression do you get of the water situation in Chennai?

2. Pick out the various sources of water for household use from the description alongside.

3. What, in your view, is similar, and what is different in Subramanian's and Padma's experiences.

4. Write a paragraph describing the water supply situation in your area.

5. Why does water flow in a trickle in summer in most places in India? Find out.

Discuss: Is there a general shortage of water for everyone in Chennai? Can you think of two reasons why different people get varying amounts of water?

Water and the People of Chennai

Senior government officials like Mr Ramagopal live in Anna Nagar, Chennai. This area looks lush and green with lawns maintained by a generous spraying of water. Bungalows here have tap water for major part of the day. On days when the water supply is inadequate, Mr Ramagopal speaks to a senior official whom he knows in the municipal water board and a water tanker is easily arranged for his house.

Like most areas of the city, Subramanian's apartments in Mylapore suffers from water shortage. This area gets municipal water once in two days. A private borewell meets some of the residents' water needs. Borewell water is, however, brackish so the residents use it in their toilets and for washing. For other uses, water is purchased from tankers. Subramanian spends upto Rs 500-600 per month on buying water from the tankers. For drinking water, residents have installed water purification systems in their homes.

Siva lives on rent on the first floor of a house in Madipakkam and gets water once in four days. Shortage of water is one major reason why Siva can't bring his family to Chennai. For drinking, Siva buys bottled water.

Padma works as a domestic help in Saidapet and lives in the nearby slum. She pays a rent of Rs 650 for the hutment, which has neither a bathroom nor a tap connection. For 30 such hutments there is a common tap at one corner, in which water comes from a borewell for 20 minutes twice daily. A family gets to fill a maximum of three buckets within this time. The same water is used for washing and drinking. In summer, the flow becomes a trickle, so that one family gets water only at the cost of another. People have to wait long hours for water tankers.

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Water as Part of the Fundamental Right to Life

Water is essential for life and for good health. Not only is it necessary for us to be able to meet our daily needs but safe drinking water can prevent many water-related diseases. India has one of the largest number of cases of diseases such as diarrhoea, dysentery, cholera. Over 1,600 Indians, most of them children below the age of five, reportedly die *everyday* because of water-related diseases. These deaths can be prevented if people have access to safe drinking water.

The Constitution of India recognises the right to water as being a part of the Right to Life under Article 21. This means that it is the right of every person, whether rich or poor, to have sufficient amounts of water to fulfil his/her daily needs at a price that he/she can afford. In other words, there should be universal access to water.

There have been several court cases in which both the High Courts and the Supreme Court have held that the right to safe drinking water is a Fundamental Right. More recently, in 2007, the Andhra Pradesh High Court restated this while hearing a case based on a letter written by a villager of Mahbubnagar district on the contamination of drinking water. The villager's complaint was that a textile company was discharging poisonous chemicals into a stream near his village, contaminating ground water, which was the source for irrigation and drinking water. The judges directed the Mahbubnagar district collector to supply 25 litres of water to each person in the village.

> "... right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use"
>
> United Nations (2002)

Public Facilities

Like water, there are other essential facilities that need to be provided for everyone. Last year you read about two other such facilities: healthcare and sanitation. Similarly, there are things like electricity, public transport, schools and colleges that are also necessary. These are known as **public facilities**.

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The Indian Constitution guarantees the Right to Education for all children between the ages of 6-14 years. Equity in the schooling facilities available to all children is an important aspect of this Right. However, activists and scholars working on education have documented the fact that schooling in India continues to be highly unequal.

The important characteristic of a public facility is that once it is provided, its benefits can be shared by many people. For instance, a school in the village will enable many children to get educated. Similarly, the supply of electricity to an area can be useful for many people: farmers can run pumpsets to irrigate their fields, people can open small workshops that run on electricity, students will find it easier to study and most people in the village will benefit in some way or the other.

The Government's Role

Given that public facilities are so important, someone must carry the responsibility of providing these to the people. This 'someone' is the government. One of the most important functions of the government is to ensure that these public facilities are made available to everyone. Let us try and understand why the government (and only the government) must bear this responsibility.

We have seen that private companies operate for profit in the market. You read about this in the chapter on the 'Story of a Shirt' in your Class VII book. In most of the public facilities, there is no profit to be had. For example, what profit can accrue to a company for keeping the drains clean or running an anti-malaria campaign? A private company will probably not be interested in undertaking such work.

The government needs to play an active role in providing adequate access to proper health facilities for the entire population. This includes the eradication of preventable diseases like polio as shown in the above photograph.

But, for other public facilities such as schools and hospitals, private companies may well be interested. We have many of these, particularly in large cities. Similarly, if you are living in a city, you will have seen private companies supplying water through tankers or supplying drinking water in sealed bottles. In such cases, private companies provide public facilities but at a price that only some people can afford. Hence, this facility is not available to all at an affordable rate. If we go by the rule that people will get as much as they can pay for then many people who cannot afford to pay for such facilities will be deprived of the opportunity to live a decent life.

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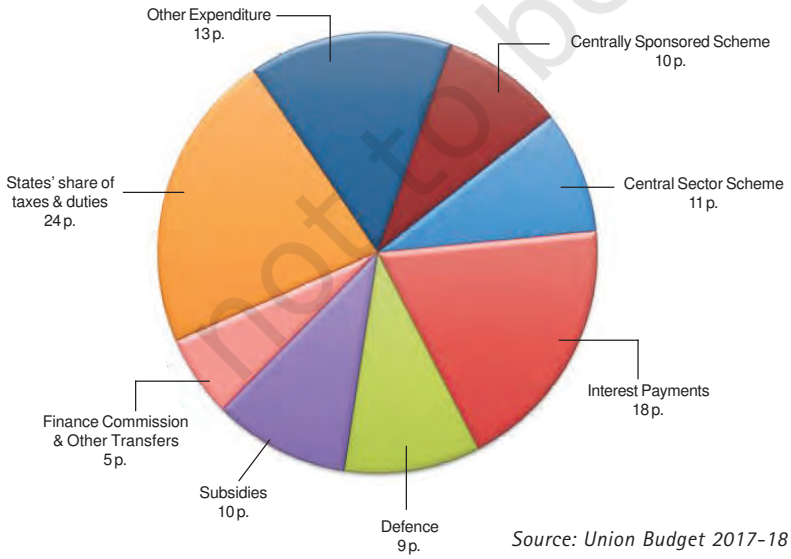
Clearly, this is not a desirable option. Public facilities relate to people's basic needs. Any modern society requires that these facilities are provided so that people's basic needs are met. The Right to Life that the Constitution guarantees is for all persons living in this country. The responsibility to provide public facilities, therefore, must be that of the government.

Where does the government get money for public facilities?

Every year you must have heard the government budget being presented in the Parliament. This is an account of the expenses the government has made on its programmes in the past year and how much it plans to spend in the coming year.

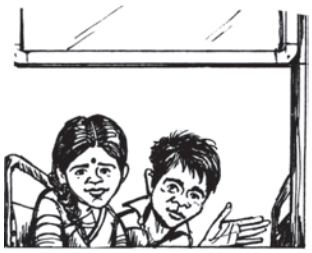
In the budget, the government also announces the various ways in which it plans to meet these expenses. The main source of revenue for the government is the taxes collected from the people, and the government is empowered to collect these taxes and use them for such programmes. For instance, to supply water, the government has to incur costs in pumping water, carrying it over long distances, laying down pipes for distribution, treating the water for impurities, and finally, collecting and treating waste water. It meets these expenses partly from the various taxes that it collects and partly by charging a price for water. This price is set so that most people can afford a certain minimum amount of water for daily use.

Central Government Spends Money on
Rupee Goes To



Source: Union Budget 2017-18

As Amu and Kumar ride around Chennai...



Amu: Did you notice that the roads in Saidapet were so bumpy and without streetlights? I wonder what the place is like at night.

Kumar: What better can you expect in a slum!

Amu: Why should slums be like that? Shouldn't they have public facilities?

Kumar: I think public facilities are for all those who live in proper houses in colonies. They are the people who pay taxes.

Amu: Why do you say that! Slum dwellers are also citizens and they have rights too.

Kumar: Arrey! The government will go bankrupt this way!

Amu: Well, it has to find a way. Can you imagine what it would be like to live in a slum without proper roads, water, electricity?

Kumar: Err....

Amu: Our Constitution recognises many of the public facilities as being a part of the Right to Life. The government must see that these rights are protected so that everyone can lead a decent life.

Whose point of view do you agree with?

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1. What are public facilities? Why should the government be responsible for providing public facilities?

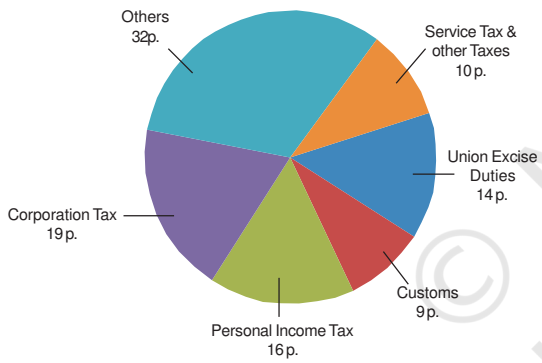
2. The government can get private companies to deliver some of the public facilities. For instance, contracts for building roads are given to private contractors. Distribution of electricity in Delhi is done by two private companies. However, the government must keep a close watch on these and ensure that they fulfil their commitment to reach these facilities to all people and at affordable prices.

Why do you think the government must assume the overall responsibility for public facilities even when it gets private companies to do part of the job?

3. Look at your water bill and find out what the minimum rate is for municipal water in your area. Does the rate increase as the use of water increases? Why do you think the government charges a higher rate for greater use of water?

4. Find out the various kinds of taxes people pay to the government by talking to a salaried person, a person running his or her own factory/business and a shopkeeper. Share your findings in the classroom with your teacher.

Tax Revenue of Central Government Rupee Comes From



Source: Union Budget 2017-18

Buses are the most important forms of public transport over short distances. It is the main link to the workplace for majority of the working people. With rapid urbanisation, the public bus system even in the major cities has not been able to keep up with the demand.

As an alternative, the government has planned ambitious metro rail projects for Delhi and other metropolitan cities. Rs 11,000 crore was spent from the government budget for the construction of the first segment of the metro-rail in Delhi using the latest technology. People have pointed out that this massive expenditure could have been avoided if only a fraction of this amount was spent on upgrading the public bus system. Would you agree? What do you think could be the solution for other regions of India?

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Water Supply to Chennai: Is it Available to All?

While there is no doubt that public facilities should be made available to all, in reality we see that there is a great shortage of such facilities. In the rest of this chapter, we will read about the provision of water, which as we have seen, is a public facility of great importance.

In rural areas, water is needed both for human use and for use by the cattle. The sources of water are wells, handpumps, ponds and sometimes overhead tanks. Much of these are privately owned. Compared to the urban areas, there is an even greater shortage of public water supply in rural areas.

Water supply in Chennai, as we saw at the beginning of the chapter, is marked by shortages. Municipal supply meets only about half the needs of the people of the city, on an average. There are areas which get water more regularly than others. Those areas that are close to the storage points get more water whereas colonies further away receive less water.

The burden of shortfalls in water supply falls mostly on the poor. The middle class, when faced with water shortages, are able to cope through a variety of private means such as digging borewells, buying water from tankers and using bottled water for drinking.

Apart from the availability of water, access to 'safe' drinking water is also available to some and this depends on what one can afford. Once again, the wealthy have more choices, thanks to the booming market in bottled water and water purifiers. People who can afford it have safe drinking water, whereas the poor are again left out. In reality, therefore, it seems that it is only people with money who have the right to water – a far cry from the goal of universal access to 'sufficient and safe' water.

Taking water from farmers

The shortage of water has opened up opportunities for private companies in a big way. Many private companies are providing water to cities by buying it from places around the city. In Chennai, water is taken from nearby towns like Mamandur, Palur, Karungizhi and from villages to the north of the city using a fleet of over 13,000 water tankers. Every month the water dealers pay farmers an advance for the rights to exploit water sources on their land. This is water taken away not just from agriculture but also from the drinking water supplies of the villagers. Ground water levels have dropped drastically in all these towns and villages as a result.

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In Search of Alternatives

The situation in Chennai is not unique. A similar scenario of shortages and acute crisis during the summer months is common to other cities of India. The shortage in municipal water is increasingly being filled by an expansion of private companies who are selling water for profit. Also common are the great inequalities in water use. The supply of water per person in an urban area in India should be about 135 litres per day (about seven buckets) – a standard set by the Urban Water Commission. Whereas people in slums have to make do with less than 20 litres a day per person (one bucket), people living in luxury hotels may consume as much as 1,600 litres (80 buckets) of water per day.

A shortage of municipal water is often taken as a sign of failure of the government. Some people argue that since the government is unable to supply the amount of water that is needed and many of the municipal water departments are running at a loss, we should allow private companies to take over the task of water supply. According to them, private companies can perform better.

Discuss: Do you think this would be a right step? What do you think would happen if the government withdraws from the task of supplying water?

Consider the following facts:

1. Throughout the world, water supply is a function of the government. There are very few instances of private water supply.
2. There are areas in the world where public water supply has achieved universal access. (see Box below)

Public Water Supply in Porto Alegre

Porto Alegre is a city in Brazil. Though there are many poor people in this city, what is remarkable is that it has a far lower number of infant deaths as compared to most other cities of the world. The city's water department has achieved universal access to safe water and this is the main reason behind the lower number of infant deaths. The average price of water is kept low, and the poor are charged half the basic rate. Whatever profit the department makes is used to improve the water supply. The working of the water department is transparent and people can have a direct say in deciding which projects the department should take up. Through a process of public meetings, people hear what the managers have to say and also vote on their priorities.

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3. In a few cases, where the responsibility for water supply was handed over to private companies, there was a steep rise in the price of water, making it unaffordable for many. Cities saw huge protests, with riots breaking out in places like Bolivia, forcing the government to take back the service from private hands.

4. Within India, there are cases of success in government water departments, though these are few in number and limited to certain areas of their work. The water supply department in Mumbai raises enough money through water charges to cover its expenses on supplying water. In Hyderabad, a recent report shows that the department has increased coverage and improved performance in revenue collection. In Chennai, the department has taken several initiatives for harvesting rain water to increase the level of groundwater. It has also used the services of private companies for transporting and distributing water but the government water supply department decides the rate for water tankers and gives them permission to operate. Hence they are called 'on contract'.

Discuss the main ideas in the above section. What do you think can be done to improve water supply?

Do you think it is also important to conserve resources like water and electricity, and to use more public transport?

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Mumbai's suburban railway is well-functioning public transport system. It is the densest route in the world, attending to 65 lakh passengers daily. Extending over a distance of 300 kilometers, these local trains allow people living far away from Mumbai to find work in the city. Note that the high cost of housing in cities makes it impossible for an average worker to live in the city.

Extending Sanitation Facilities

"'Latrines for us!' they exclaimed in astonishment.

'We go and perform our functions out in the open.'

Latrines are for you big people."

Mahatma Gandhi recounting untouchables' grievances,
Rajkot Sanitation Committee, 1896

Besides safe drinking water, sanitation is a must in prevention of water-borne diseases. However, the sanitation coverage in India is even lower than that of water. Official figures for 2001 show that 68 percent of the households in India have access to drinking water and about 36 percent have access to sanitation (toilet facilities within the premises of residence). Once again, it is the poor both in the rural and urban areas who lack access to sanitation.

Sulabh, a non-government organisation, has been working for three decades to address the problems of sanitation facing low-caste, low-income people in India. It has constructed more than 7,500 public toilet blocks and 1.2 million private toilets, giving access to sanitation to 10 million people. The majority of the users of Sulabh facilities are from the poor working class.

Sulabh enters into contracts with municipalities or other local authorities to construct toilet blocks with government funds. Local authorities provide land and funds for setting up the services, whereas maintenance costs are sometimes financed through user charges (for example, Re 1 is charged for use of the latrines in the cities).

Next time you see a Sulabh toilet, you might want to find out yourself how it functions!

Do you think that lack of access to proper sanitation facilities affects peoples' lives? How?

Why do you think that this would impact women and girls more acutely?

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The Census of India, 2001 puts rural household electrification at 44 per cent, leaving around 78 million households still in the dark.

Conclusion

Public facilities relate to our basic needs and the Indian Constitution recognises the right to water, heath, education etc as being a part of the Right to Life. Thus one of the major roles of the government is to ensure adequate public facilities for everyone.

But, progress on this front has been far from satisfactory. There is a shortage in supply and there are inequalities in distribution. Compared to the metros and large cities, towns and villages are under-provided. Compared to wealthy localities, the poorer localities are under-serviced. Handing over these facilities to private companies may not be the answer. Any solution needs to take account of the important fact that every citizen of the country has a right to these facilities which should be provided to her/him in an equitable manner.

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Exercises

1. Why do you think there are so few cases of private water supply in the world?

2. Do you think water in Chennai is available to and affordable by all? Discuss.

3. How is the sale of water by farmers to water dealers in Chennai affecting the local people? Do you think local people can object to such exploitation of ground water? Can the government do anything in this regard?

4. Why are most of the private hospitals and private schools located in major cities and not in towns or rural areas?

5. Do you think the distribution of public facilities in our country is adequate and fair? Give an example of your own to explain.

6. Take some of the public facilities in your area, such as water, electricity, etc. Is there scope to improve these? What in your opinion should be done? Complete the table.

	Is it available?	How can it be improved?
Water		
Electricity		
Roads		
Public Transport		

7. Are the above public facilities shared equally by all the people in your area? Elaborate.

8. Data on some of the public facilities are collected as part of the Census. Discuss with your teacher when and how the Census is conducted.

9. Private educational institutions – schools, colleges, universities, technical and vocational training institutes are coming up in our country in a big way. On the other hand, educational institutes run by the government are becoming relatively less important. What do you think would be the impact of this? Discuss.

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GLOSSARY

Sanitation: Provision of facilities for the safe disposal of human urine and faeces. This is done by construction of toilets and pipes to carry the sewerage and treatment of waste water. This is necessary so as to avoid contamination.

Company: A company is a form of business set up by people or by the government. Those that are promoted and owned by individuals or groups are called private companies. For example, Tata Steel is a private company whereas Indian Oil is a company run by the government.

Universal access: Universal access is achieved when everyone has physical access to a good and can also afford it. For instance, a tap connection at home will allow physical access to water, and if the price of water is low or is provided free, everyone will be able to afford it.

Basic needs: Primary requirements of food, water, shelter, sanitation, healthcare and education necessary for survival.

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Chapter 10

Law and Social Justice

Do you recall the 'Story of a shirt' from your Class VII book? We saw there that a chain of markets links the producer of cotton to the buyer of the shirt in the supermarket. Buying and selling was taking place at every step in the chain.

Many of the people directly or indirectly involved in the production of the shirt - the small farmer producing cotton, the weavers of Erode or the workers in the garment - exporting factory - faced exploitation or an unfair situation in the market. Markets everywhere tend to be exploitative of people – whether as workers, consumers or producers.

To protect people from such exploitation, the government makes certain laws. These laws try to ensure that the unfair practices are kept at a minimum in the markets.

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Let us take a common market situation where the law is very important. This is the issue of workers' wages. Private companies, contractors, businesspersons normally want to make as much profit as they can. In the drive for profits, they might deny workers their rights and not pay them wages, for example. In the eyes of the law it is illegal or wrong to deny workers their wages. Similarly to ensure that workers are not underpaid, or are paid fairly, there is a law on minimum wages. A worker has to be paid not less than the minimum wage by the employer. The minimum wages are revised upwards every few years.

Why do we need a law on minimum wages?

Find out:

a) What is the minimum wage for a construction worker in your state?

b) Do you think the minimum wage for a construction worker is adequate, low or high?

c) Who sets the minimum wages?

As with the law on minimum wages, which is meant to protect workers, there are also laws that protect the interests of producers and consumers in the market. These help ensure that the relations between these three parties – the worker, consumer and producer - are governed in a manner that is not exploitative.

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Workers in a textile mill in Ahmedabad. Faced with greater competition from power looms, a majority of the textile mills closed down during the 1980s and 1990s. Power looms are small units with 4-6 looms. The owners operate them with hired and family labour. It is well known that conditions of work in the power looms are far from satisfactory.

Table 1 provides some important laws relating to the protection of these various interests. Columns (2) and (3) in Table 1 state why and for whom these laws are necessary. Based on discussions in the classroom, you have to complete the remaining entries in the table.

Table 1

Law	Why is it necessary?	Whose interests does the law protect?
Minimum Wages Act specifies that wages should not be below a specified minimum.	Many workers are denied fair wages by their employers. Because they badly need work, workers have no bargaining power and are paid low wages.	This law is meant to protect the interests of all workers; particularly, farm labourers, construction workers, factory workers, domestic workers, etc.
Law specifying that there be adequate safety measures in workplaces. For example, alarm system, emergency exits, properly - functioning machinery.		
Law requiring that the quality of goods meet certain prescribed standards. For example, electrical appliances have to meet safety standards.	Consumers might be put to risk by the poor quality of products such as electrical appliances, food, medicines.	
Law requiring that the prices of essential goods are not high - For example, sugar, kerosene, foodgrains.		The interests of the poor who will otherwise be unable to afford these goods.
Law requiring that factories do not pollute air or water.		
Laws against child labour in workplaces.		
Law to form **workers unions**/associations	By organising themselves into unions, workers can use their combined power to demand fair wages and better working conditions.	

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But merely making laws is not enough. The government has to ensure that these laws are implemented. This means that the law must be enforced. Enforcement becomes even more important when the law seeks to protect the weak from the strong. For instance, to ensure that every worker gets fair wages, the government has to regularly inspect work sites and punish those who violate the law. When workers are poor or powerless, the fear of losing future earnings or facing reprisals often forces them to accept low wages. Employers know this well and use their power to pay workers less than the fair wage. In such cases, it is crucial that laws are enforced.

Through making, enforcing and upholding these laws, the government can control the activities of individuals or private companies so as to ensure social justice. Many of these laws have their basis in the Fundamental Rights guaranteed by the Indian Constitution. For instance, the Right against Exploitation says that no one can be forced to work for low wages or under bondage. Similarly, the Constitution lays down "no child below the age of 14 years shall be employed to work in any factory or mines or engaged in any other hazardous employment."

How are these laws played out in practice? To what extent do they address the concerns of social justice? These are some of the questions that this chapter will now go on to explore.

According to the 2011 census, over 4 million children in India aged between 5 and 14 work in various occupations including hazardous ones. In 2016, Parliament amended the Child Labour (Prohibition and Regulation) Act, 1986, banning the employment of children below the age of 14 years in all occupations and of adolescents (14-18 years) in hazardous occupations and processes. It made employing these children or adolescents a cognizable offence. Anyone found violating the ban must be penalized with a punishment ranging from a jail term of six months to two years and/or fine of ₹ 20,000 to ₹ 50,000. The central government had asked state governments to develop plans to rescue and rehabilitate children who are working.

An online portal, https://pencil.gov.in, Platform for Effective Enforcement for No Child Labour (PENCIL) has become functional in 2017. It is meant for filing of complaint, child tracking, implementation and monitoring of National Child Labour Project (NCLP).

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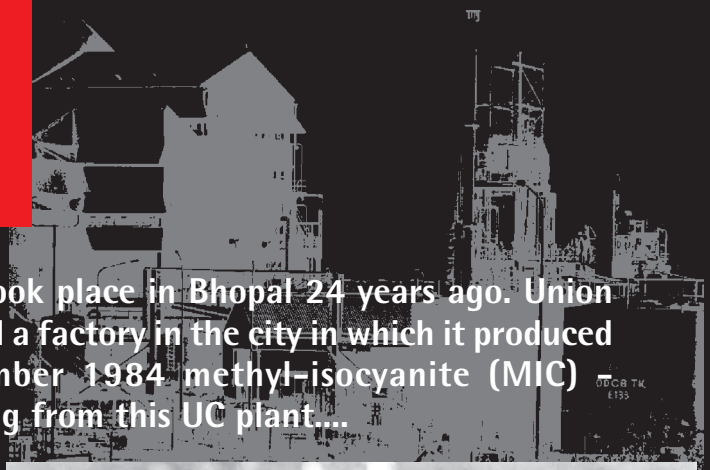
Bhopal Gas Tragedy



The world's worst industrial tragedy took place in Bhopal 24 years ago. Union Carbide (UC) an American company had a factory in the city in which it produced pesticides. At midnight on 2 December 1984 methyl-isocyanite (MIC) – a highly poisonous gas – started leaking from this UC plant....

The next morning

Remembers Aziza Sultan, a survivor: "At about 12.30 am I woke to the sound of my baby coughing badly. In the half-light I saw that the room was filled with a white cloud. I heard people shouting 'run, run'. Then I started coughing, with each breath seeming as if I was breathing in fire. My eyes were burning."

Mass cremations

Within three days, more than 8,000 people were dead. Hundreds of thousands were maimed.

A child severely affected by the gas

Most of those exposed to the poison gas came from poor, working-class families, of which nearly 50,000 people are today too sick to work. Among those who survived, many developed severe respiratory disorders, eye problems and other disorders. Children developed peculiar abnormalities, like the girl in the photo.

The disaster was not an accident. UC had deliberately ignored the essential safety measures in order to cut costs. Much before the Bhopal disaster, there had been incidents of gas leak killing a worker and injuring several.

Members of UC Employees Union protesting

Gas victims with the Gas Relief Minister

Despite the overwhelming evidence pointing to UC as responsible for the disaster, it refused to accept responsibility.

In the ensuing legal battle, the government represented the victims in a civil case against UC. It filed a $3 billion compensation case in 1985, but accepted a lowly $470 million in 1989. Survivors appealed against the settlement but the Supreme Court ruled that the settlement amount would stand.

UC stopped its operations, but left behind tons of toxic chemicals. These have seeped into the ground, contaminating water. Dow Chemical, the company who now owns the plant, refuses to take responsibility for clean up.

Bags of chemicals lie strewn around the UC plant

The struggle for justice goes on...

24 years later, people are still fighting for justice: for safe drinking water, for health-care facilities and jobs for the people poisoned by UC. They also demand that Anderson, the UC chairman who faces criminal charges, be prosecuted.

Accidents are common to construction sites. Yet, very often, safety equipment and other precautions are ignored.

What is a Worker's Worth?

If we are to understand the events leading to Bhopal disaster, we have to ask: why did Union Carbide set up its plant in India?

One reason why foreign companies come to India is for cheap labour. Wages that the companies pay to workers, say in the U.S.A., are far higher than what they have to pay to workers in poorer countries like India. For lower pay, companies can get longer hours of work. Additional expenses such as for housing facilities for workers are also fewer. Thus, companies can save costs and earn higher profits.

Cost cutting can also be done by other more dangerous means. Lower working conditions including lower safety measures are used as ways of cutting costs. In the UC plant, every safety device was malfunctioning or was in short supply. Between 1980 and 1984, the work crew for the MIC plant was cut in half from 12 to 6 workers. The period of safety training for workers was brought down from 6 months to 15 days! The post of night-shift worker for the MIC plant was abolished.

Read the following comparison between UC's safety system in Bhopal and its other plant in the US:

At West Virginia (U.S.A.) computerised warning and monitoring systems were in place, whereas the UC plant in Bhopal relied on manual gauges and the human senses to detect gas leaks. At the West Virginia plant, emergency evacuation plans were in place, but nonexistent in Bhopal.

Why are there such sharp differences in safety standards across countries? And even after the disaster happened, why was the compensation to the victims so low?

One part of the answer lies in what is perceived as the worth of an Indian worker. One worker can easily replace another. Since there is so much unemployment, there are many workers who are willing to work in unsafe conditions in

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return for a wage. Making use of the workers' vulnerability, employers ignore safety in workplaces. Thus, even so many years after the Bhopal gas tragedy, there are regular reports of accidents in construction sites, mines or factories due to the callous attitude of the employers.

Enforcement of Safety Laws

As the lawmaker and enforcer, the government is supposed to ensure that safety laws are implemented. It is also the duty of the government to ensure that the Right to Life guaranteed under Article 21 of the Constitution is not violated. What was the government doing when there were such blatant violations of safety standards in the UC plant?

First, the safety laws were lax in India. Second, even these weak safety laws were not enforced.

Government officials refused to recognise the plant as hazardous and allowed it to come up in a populated locality. When some municipal officials in Bhopal objected that the installation of an MIC production unit in 1978 was a safety violation, the position of the government was that the state needs the continued investment of the Bhopal plant, which provides jobs. It was unthinkable, according to them, to ask UC to shift to cleaner technology or safer procedures. Government inspectors continued to approve the procedures in the plant, even when repeated incidents of leaks from the plant made it obvious to everybody that things were seriously wrong.

This, as you know, is contrary to what the role of a law-making and enforcement agency should be. Instead of protecting the interests of the people, their safety was being disregarded both by the government and by private companies.

This is obviously not at all desirable. With more industries being set up both by local and foreign businesses in India, there is a great need for stronger laws protecting workers' rights and better enforcement of these laws.

Why do you think enforcement of safety laws is important in any factory?

Can you point to a few other situations where laws (or rules) exist but people do not follow them because of poor enforcement? (For example, over-speeding by motorists). What are the problems in enforcement? Can you suggest some ways in which enforcement can be improved?

Recently a large travel agency was asked to pay Rs 8 lakh as compensation to a group of tourists. Their foreign trip was poorly managed and they missed Disneyland and shopping in Paris. Why did the victims of Bhopal gas tragedy then get so little for a lifetime of misery and pain?

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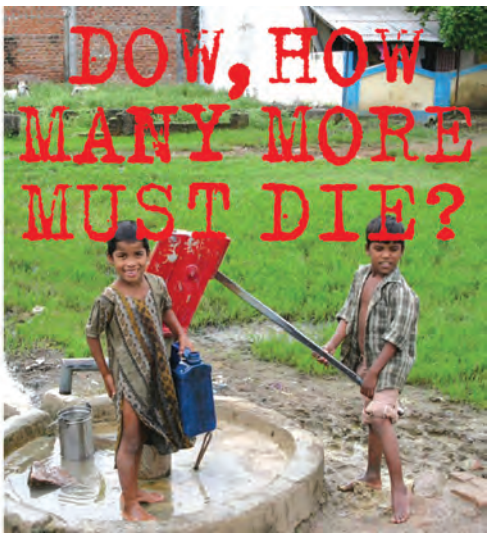
New Laws to Protect the Environment



Pumps at contaminated wells are painted red by the government around the UC factory in Bhopal. Yet, local people continue to use them as they have no other accessible source of clean water.

In 1984, there were very few laws protecting the environment in India, and the there was hardly any enforcement of these laws. The environment was treated as a 'free' entity and any industry could pollute the air and water without any restrictions. Whether it was our rivers, air, groundwater - the environment was being polluted and the health of people disregarded.

Thus, not only was UC a beneficiary of lower safety standards, it didn't have to spend any money to clean up the pollution. In the U.S.A., this is a necessary part of the production process.

The Bhopal disaster brought the issue of environment to the forefront. Several thousands of persons who were not associated with the factory in any way were greatly affected because of the poisonous gases leaked from the plant. This made people realise that the existing laws, though weak, only covered the individual worker and not persons who might be injured due to industrial accidents.

In response to this pressure from environmental activists and others, in the years following the Bhopal gas tragedy, the Indian government introduced new laws on the environment. Henceforth, the polluter was to be held accountable for the damage done to environment. The environment is something that people over generations will share, and it could not be destroyed merely for industrial development.

A 'clean environment is a public facility.' Can you explain this statement?

Why do we need new laws?

Why are companies and contractors able to violate environmental laws?

The courts also gave a number of judgments upholding the right to a healthy environment as intrinsic to the Fundamental Right to Life. In *Subhash Kumar vs. State of Bihar (1991)*, the Supreme Court held that the Right to Life is a Fundamental Right under Article 21 of the Constitution and it includes the right to the enjoyment of pollution-free water and air for full enjoyment of life. The government is responsible for setting up laws and procedures that can check pollution, clean rivers and introduce heavy fines for those who pollute.

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Environment as a Public Facility

In recent years, while the courts have come out with strong orders on environmental issues, these have sometimes affected people's livelihoods adversely.

For instance, the courts directed industries in residential areas in Delhi to close down or shift out of the city. Several of these industries were polluting the neighbourhood and discharge from these industries was polluting the river Yamuna, because they had been set up without following the rules.

But, while the court's action solved one problem, it created another. Because of the closure, many workers lost their jobs. Others were forced to go to far-away places where these factories had relocated. And the same problem now began to come up in these areas – for now these places became polluted. And the issue of the safety conditions of workers remained unaddressed.

Recent research on environmental issues in India has highlighted the fact that the growing concern for the environment among the middle classes is often at the expense of the poor. So, for example, slums need to be cleaned as part of a city's beautification drive, or as in the case above, a polluting factory is moved to the outskirts of the city. And while this awareness of the need for a clean environment is increasing, there is little concern for the safety of the workers themselves.

The challenge is to look for solutions where everyone can benefit from a clean environment. One way this can be done is to gradually move to cleaner technologies and processes in factories. The government has to encourage and support factories to do this. It will need to fine those who pollute. This will ensure that the workers livelihoods are protected and both workers and communities living around the factories enjoy a safe environment.

Emissions from vehicles are a major cause of environmental pollution. In a series of rulings (1998 onwards), the Supreme Court had ordered all public transport vehicles using diesel were to switch to Compressed Natural Gas (CNG). As a result of this move, air pollution in cities like Delhi came down considerably. But a recent report by the Center for Science and Environment, New Delhi, shows the presence of high levels of toxic substance in the air. This is due to emissions from cars run on diesel (rather than petrol) and a sharp increase in the number of cars on the road.

Workers outside closed factories.
Thrown out of work, many of the workers end up as small traders or as daily-wage labourers. Some might find work in even smaller production units, where the conditions of work are even more exploitative and the enforcement of laws weaker.

Do you think everyone got justice in the case cited above?

Can you think of other ways in which the environment can be protected? Discuss in class.

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Advanced countries are relocating the toxic and hazardous industries to developing countries to take advantage of the weaker laws in these countries and keep their own countries safe. South Asian countries – particularly India, Bangladesh and Pakistan – play hosts for industries producing pesticides, asbestos or processing zinc and lead.

Ship-breaking is another hazardous industry that is growing rapidly in South Asia. Old ships no longer in use, are sent to ship-yards in Bangladesh and India for scrapping. These ships contain potentially dangerous and harmful substances. This photo shows workers breaking down a ship in Alang, Gujarat.

Conclusion

Laws are necessary in many situations, whether this be the market, office or factory so as to protect people from unfair practices. Private companies, contractors, business persons, in order to make higher profits, resort to unfair practices such as paying workers low wages, employing children for work, ignoring the conditions of work, ignoring the damage to the environment (and hence to the people in the neighbourhood) etc.

A major role of the government, therefore, is to control the activities of private companies by making, enforcing and upholding laws so as to prevent unfair practices and ensure social justice. This means that the government has to make 'appropriate laws' and also has to enforce the laws. Laws that are weak and poorly enforced can cause serious harm, as the Bhopal gas tragedy showed.

While the government has a leading role in this respect, people can exert pressure so that both private companies and the government act in the interests of society. Environment, as we saw, is one example where people have pushed a public cause and the courts have upheld the right to healthy environment as intrinsic to the Right to Life. In this chapter, we have argued that people now must demand that this facility of healthy environment be extended to all. Likewise, workers' rights (right to work, right to a fair wage and decent work conditions) is an area where the situation is still very unfair. People must demand stronger laws protecting workers' interests so that the Right to Life is achieved for all.

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Exercises

1. Talk to two workers (For example, construction workers, farm workers, factory workers, workers at any shop) to find out if they are receiving the minimum wages laid down by law.
2. What are the advantages to foreign companies in setting up production in India?
3. Do you think the victims of the Bhopal gas tragedy got justice? Discuss.
4. What do we mean when we speak of law enforcement? Who is responsible for enforcement? Why is enforcement so important?
5. How can laws ensure that markets work in a manner that is fair? Give two examples to support your answer.
6. Imagine yourself to be a worker working in a chemical factory, which has received orders from the government to move to a different site 100 kms away from the present location. Write about how your life would change? Read out your responses in the classroom.
7. Write a paragraph on the various roles of the government that you have read about in this unit.
8. What are the sources of environmental pollution in your area? Discuss with respect to (a) air; (b) water and (c) soil. What are the steps being taken to reduce the pollution? Can you suggest some other measures?
9. How was environment treated earlier? What has been the change in perception? Discuss.

It's really cruel burdening kids like this. I had to hire that boy to help my son!

10. What do you think the famous cartoonist R.K. Laxman is trying to convey in this cartoon? How does it relate to the 2016 law that you read about on page 123?

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11. You have read about the Bhopal gas tragedy and the on-going struggle. Students from countries across the world have come together to support this struggle for justice. From protest marches to awareness campaigns, you can read about their activities on the website www.studentsforbhopal.com. The website also has resources such as photos, posters, documentaries, victims' statements, etc.

    Use this and other sources to make a wallpaper/exhibition on the Bhopal gas tragedy for your classroom. Invite the whole school to see and talk about it.

GLOSSARY

Consumer: An individual who buys goods for personal use and not for resale.

Producer: A person or organisation that produces goods for sale in the market. At times, the producer keeps a part of the produce for his own use, like a farmer.

Investment: Money spent to purchase new machinery or buildings or training so as to be able to increase/ modernise production in the future.

Workers' unions: An association of workers. Workers' unions are common in factories and offices, but might be also found among other types of workers, say domestic workers' unions. The leaders of the union bargain and negotiate with the employer on behalf of its members. The issues include wages, work rules, rules governing hiring, firing and promotion of workers, benefits and workplace safety.

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The Constitution as a Living Ideal

The Right to Life is a Fundamental Right that the Constitution guarantees to all the citizens of this country. As you have read in this book, over the years this right, or Article 21, has been used by ordinary citizens to include issues to make this Right more meaningful and substantial. So for example, you have read of how the case of the injured farmer Hakim Sheikh established the right to health as part of the Right to Life. Similarly, you read of how the case of the slum-dwellers being evicted from Mumbai established the right to livelihood as part of the Right to Life. In this chapter, you have read about how the court ruled in favour of a person's Right to the "enjoyment of pollution free water and air for full enjoyment of life" as part of the Right to Life. In addition to these cases, the courts have also ruled to include the right to education and the right to shelter within this expanded understanding of Article 21.

The above expanded understanding of the Right to Life was achieved through the efforts of ordinary citizens to get justice from the courts when they believed that their Fundamental Rights were being violated. As you read in several instances in this book, these Fundamental Rights have also served time and again as the basis for the making of new laws and establishing certain policies to protect all citizens. All of this is possible because our Constitution contains certain constitutive rules that work towards protecting the dignity and self-respect of all citizens of India and guard against all forms of possible violations. What these should include is spelt out in the various provisions on Fundamental Rights and the rule of law.

But as the above cases highlight, there is also an intrinsic flexibility to our Constitution that allows for a continually expanding list of issues to be included within the idea of dignity and justice that the Constitution guarantees. This flexibility allows for new interpretations and, therefore, the Constitution can be considered to be a living document. Thus, the right to health, the right to shelter etc, are issues that were not present in written form in the Constitution that members of the Constituent Assembly had presented in 1949. But they were present in spirit, i.e. the democratic ideals that the Constitution established allowed for persons to use the political process to continually ensure that these ideals became a reality in the lives of ordinary citizens.

As the chapters in this book discuss, much has been done in this process of making Constitutional ideals into a reality. But as these chapters also point out, a lot still remains to be done. Several struggles by people in different parts of the country serve as a continual reminder that serious issues of equality, dignity and self-respect remain to be realised in the lives of the majority. These struggles, as you read in your Class VII book, are often not covered by the media. But this does not in any way diminish the attention that they deserve.

The various chapters in this book have tried to make clear to you the democratic ideals that the Constitution contains and the ways in which it affects people's daily lives. We have done this with the intent that this might provide you the tools with which you can critically begin to understand and examine the world around you, and participate in it as the Constitution prescribes.

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