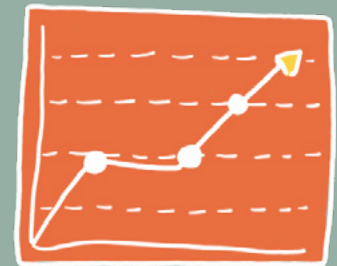
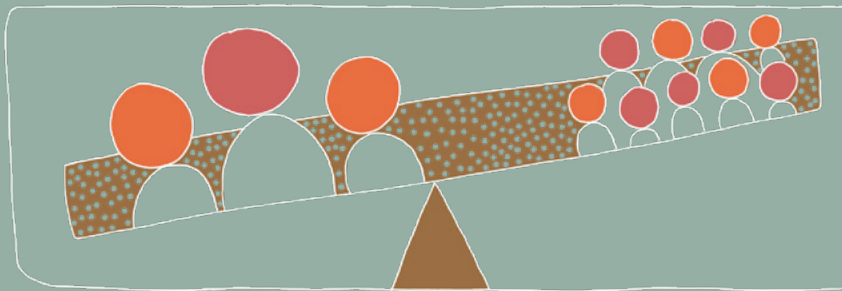




# Law



# and



# Everyday

HONESTLY



# Life

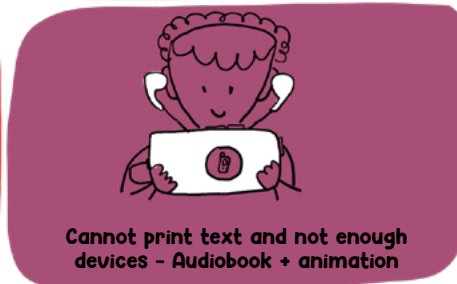
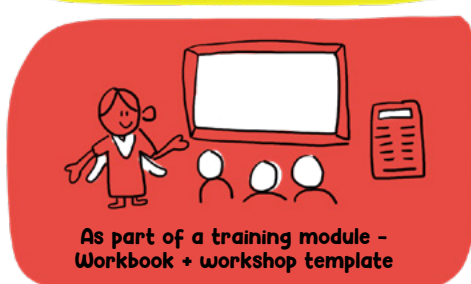
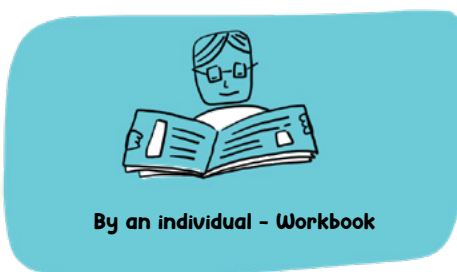
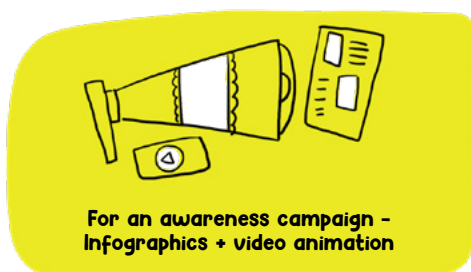




# Editors' Note

The impetus for framing the question of legal awareness as one of the everyday lived experiences of young Indians came from the introduction of legal studies as a high school subject such as in CBSE schools. We noted that law as a subject within formal education continued to be structured and geared towards professional training or academic qualification rather than increasing civic capacity. We therefore set out to explore how a school curriculum could be brought alive and outside of school textbooks to meet readers and learners in their lived experiences. Recognising that encounters with law start early in life, this toolkit speaks to young Indians and their experiences of the Indian legal system. While there is no universally recognised definition of youth, and understanding that the transition from childhood to adulthood varies with varying socioeconomic contexts, the series speaks to the broad age group between 15 and 24 years.

We found that hurdles to effective citizen engagement and realisation of rights go beyond a mere lack of knowledge. Understanding the law in the context of everyday life would help address the other hidden gaps to learning - of motivation, communication, practice and environment. (Dirksen 2001). To address these gaps, we developed the idea of a “toolkit” which would have constituent parts. - A workbook (also available as an audiobook) which forms the foundation, accompanied with a workshop template with activities based on the principles discussed in each of the chapters. An infographic series breaks down the information into even more easily consumable and shareable pieces. The toolkit with its different constituents is aimed at CSOs, NGOs, legal aid societies, organisations that work on the ground and typically with those outside of formal education system. Various combinations of the elements can be used depending on context. Some ideas could be:



Going through all the available content of a given module will give you a better sense of what will work for you. The idea is that you should be able to mix and match per your requirements! We recommend that regardless of where and how the content is being used that you go through the introductory chapter to get a sense of how the workbook is to be used and what to expect from the content.

The content of this toolkit was the product of many hands and many voices involving different stages. We wanted to create something that would be both accessible and relevant. To decide what should be the content and how it should be made available we conducted a survey and held focus group discussions with civil society organizations. These organisations were working with different demographics in different locations whose work was not necessarily law centered but had a social justice bent. The focus areas of the toolkit, its modular format and the emphasis on active learning all were a direct result of that first round of discussions. We then brought onboard legal domain experts to create technical notes that would form the basis for the various elements of the toolkit. In conversation with those experts the technical notes were translated into the different elements. Finally that content was shared with the earlier set of discussants so as to finetune what has been created.

Finally, we depart with the disclaimer that the toolkit is not without its limitations. While it covers initial fundamentals of the law, since the focus was on combining principles with actionable activities, it is limited in what it covers. In addition, the workbook does assume that the user has some level of social awareness and is already aware of the justice system to a certain degree. The facilitator may have to account for this when making use of the toolkit. We have aimed to make the language as accessible as possible but have also tried to ensure its nuance remains.

After using this toolkit our hope is that you come away with the conviction that the law is not something intimidating and overwhelming. We want you to be able to see that the law is not something that happens to you but something you can actively engage with and empower yourself with. Most importantly, we want you to enjoy the process of learning and become excited about what the law can do for you.

Aparna and Naomi



# Note for facilitators

A “toolkit” approach to learning - The project aims to provide actionable knowledge to young readers about the law. In an effort to bridge the gap between theory and practice, we have developed a toolkit approach where different elements of the toolkit can be combined to make learning engaging, interactive and fun. The idea is to give agency to the reader and encourage them to apply the theory in their specific contexts. Facilitation should ideally pursue two end goals of bringing the law closer to the classroom or discussion embedding learners in the hypothetical and communicating legal concepts in an easy, conversational manner.

## **Educational Aims:**

1. To locate legal questions encountered by young persons in their everyday life
2. To enable readers to identify, access and exercise their rights in everyday situations
3. To facilitate a better understanding of rights, procedures and institutions to ensure active civic engagement.

## **Gaps sought to be addressed:**

1. Motivation gap - Are young people interested in the law?
2. Knowledge gap - Are young people able to locate legal questions in everyday life?
3. Communication gap - Is the youth engaging in conversations around the law?
4. Practice gap - Are young people able to apply legal knowledge in practical contexts?
5. Environment gap - Are there spaces that support such learning and engagement?

## **Learning Outcomes:**

1. Learners will have a grounding in basic concepts of law and legal institutions
2. Learners will have the ability to discern legal questions in everyday contexts
3. Learners will be equipped to understand the principles behind their rights and how to go about enforcing them
4. Learners will have a better understanding of public institutions and how to navigate them without feeling intimidated

# Table of Contents

## 1 Our Spaces, My Rights

Just as we take on different roles in the different spaces we move through in our lives - students, employees, citizens, children - so too does the law. The law will find us in our schools, in our workplaces and even in our homes; seeking to make these spaces safer, just, and more equal.

In this introductory chapter, learners will understand the hurdles to effective learning and consequently effective legal engagement. It is in this context that learners will be introduced to the workbook and how to use it. Through a series of interactive activities and thought experiments, learners will be able to understand their everyday lives in their legal contexts. Finally, learners will understand the scope of the workbook and the different facets of effective citizen engagement.

*Questions to consider*

1. How do we frame our everyday lives in its legal context?
2. What are “spaces” when understood from a legal perspective?
3. What are the hurdles to effective engagement with the law?
4. How can we use this workbook?

**Authors: Aparna Mehrotra, Naomi Jose and Siddharth de Souza**

## 2 The Constitution and You

The Indian Constitution plays both a political and legal role in Indian society. In the aftermath of the freedom struggle, the Constitution helped shape the Indian identity. It also provided the framework that laid out the fundamental political and institutional landscape of the country. The role we take on within our civic space is guided, shaped and demarcated by the principles in the Indian Constitution.

This chapter traces the structure of the Indian Constitution, the principles its rooted in and offers different thought experiments to understand the role of the Constitution and process of Constitution making. Learners will understand the theoretical basis and ethos behind their basic rights as well as locate specific provisions that relate to the Indian youth.

*Questions to consider*

1. What role did the Constitution writers envision for the document?
2. What does the Preamble to the Indian Constitution say?
3. How can lay persons relate to the Indian Constitution?
4. Which provisions of the Constitution carry the primary objective of safeguarding the basic rights?
5. How does one go about understanding fundamental rights?

**Author: Sumedha Ray Sarkar**

## 3 Court of Law - Enforcing your Rights

Following an introduction on Constitutional guarantees, this chapter introduces writ remedies and related procedures to enforce fundamental rights. The Courts play an instrumental role in expanding or shrinking our civic spaces. The chapter seeks to familiarise learners with the courtroom and the world of lawyers. Through practical activities and dialogues, the chapter traverses the composition of the Indian Supreme Court and the High Court as well as glimpses into different legal documents. It will address some practical concerns that young persons, including minors, might face when they are considering approaching the courts.

### *Questions to consider*

1. What are your remedies in the event of a breach of your fundamental rights?
2. What are the procedures, persons and institutions that you will have to navigate as you go about enforcing your fundamental rights?
3. How can young persons seek remedies through the Courts?

**Author: Talha Abdul Rahman**

## 4 The Long Arm of the Law - Police Powers and Law Enforcement

Criminal law restricts personal liberties in order to protect the larger public good. However, when the heavy hand of the state comes down upon those that are perceived to be in conflict with the law, there are certain procedural safeguards to prevent that excessive or arbitrary intrusion by the State. The criminal law framework can thus both protect or restrict our civic spaces. This chapter focuses on criminal procedures of arrest, bail, detention and rights of an accused person. It will map out the protections that an individual is entitled to from the moment the state machinery is triggered against them and provide the principles that undergird the constitutional guarantee of due process.

### *Questions to consider*

1. What are your rights when you find yourself in conflict with the law?
2. What are the procedures to safeguard and ensure your rights when you find yourself in conflict with the law?
3. What steps can you take should you find yourself a victim of a crime?
4. What are the principles that undergird criminal procedure and practice?

**Author: Abhinav Sekhri**

# 5 Electing and Working with your Representatives - Becoming an Engaged Citizen

While there are many different avenues to engaging with our political representatives, partaking in elections is the most direct. This chapter will take learners through the lawmaking process in India right from the starting point - voting for representatives. The chapter will locate relevant legislations and Constitutional provisions that embolden citizen participation. It will further explore legislations that support such engagement.

## *Questions to consider*

1. What are the institutions and processes that govern voting in India?
2. What is the lawmaking process in India and what role can you play?
3. What does an engaged citizen look like?

**Author: Maansi Verma**

**Editors:** Aparna Mehrotra and Naomi Jose

**Design and Illustration by:** Siddhi Gupta

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# Chapter 1: Our Spaces, My Rights

**By Aparna Mehrotra,  
Naomi Jose and  
Siddharth de Souza**



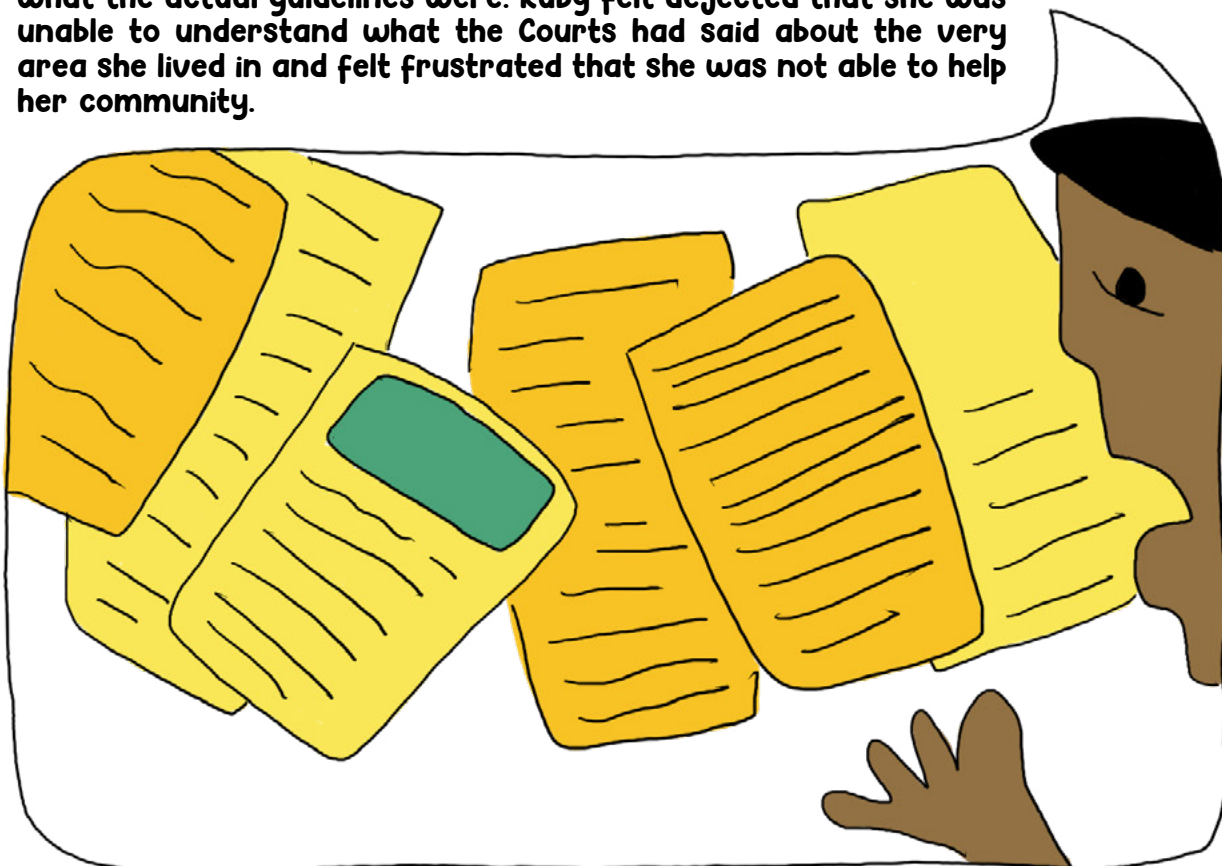


# Introduction

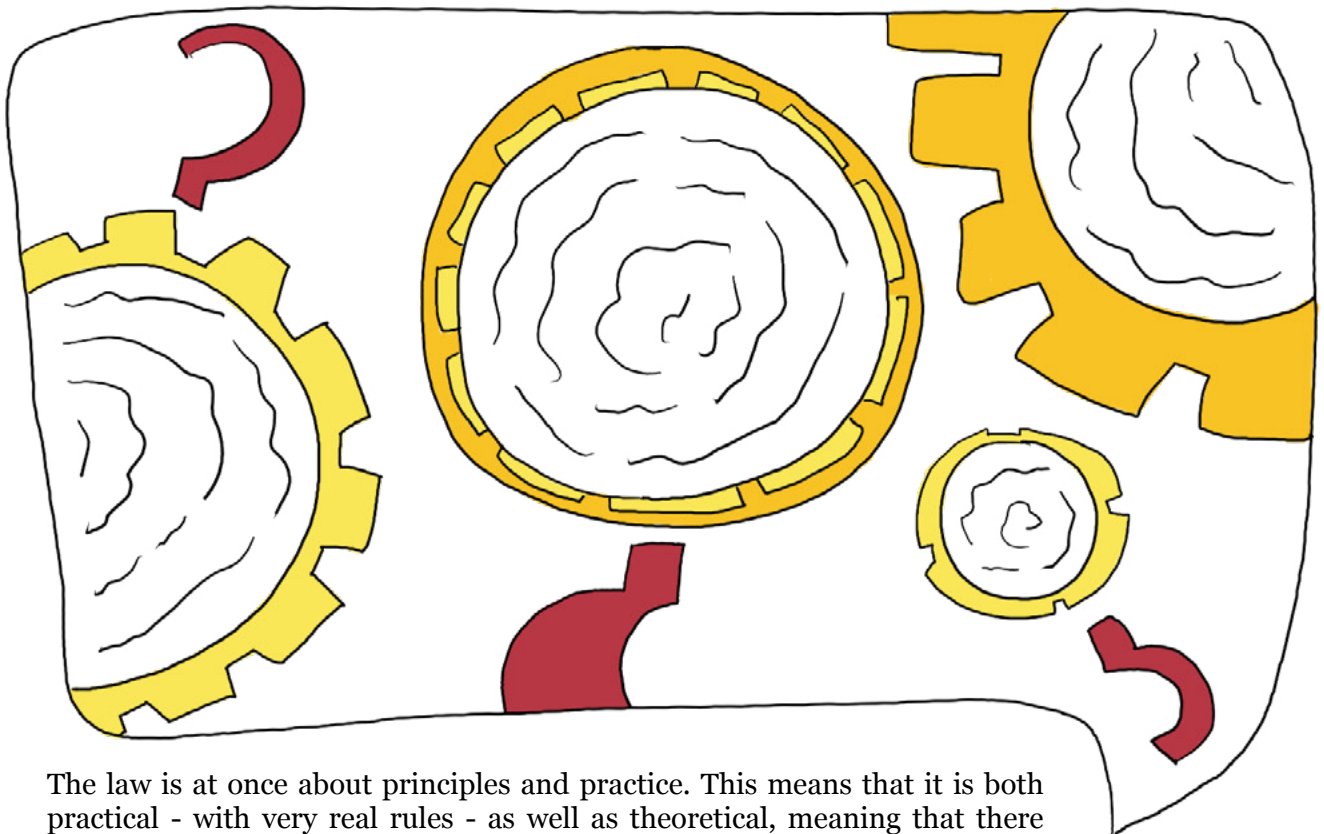
Why do we study law? Most people either study law to practice it professionally, to become lawyers, while others might be studying it to become teachers. Yet others are interested in research questions about law, or maybe even reshaping policy or taking part in government as politicians. But what if we don't do any of the above? Or don't know how to go about doing any of the above? Is there any point in reading about, thinking about or listening to the law? And if none of the above applies to us, when is the right time to start thinking about the law?

Consider Ruby's story.

**Ruby is a young and enterprising girl of 14. In her community, which are traditionally from a forest dwelling tribe, she is the first one to be educated formally in a school. Village elders often call upon her to read and explain important looking documents. Recently, the High Court in their State issued certain guidelines about some forest areas being designated as elephant corridors which had implications for the growing number of commercial homestays and resorts. The community was keen to understand the guidelines and the extent of their rights in this context. The young children were especially excited because it possibly meant that they could have valuable open spaces back. Ruby was able to obtain a copy of the judgment from her friend's uncle who practices in the High Court. However, the judgment ran into 6-pages, with complicated language such that it was confusing what the actual guidelines were. Ruby felt dejected that she was unable to understand what the Courts had said about the very area she lived in and felt frustrated that she was not able to help her community.**



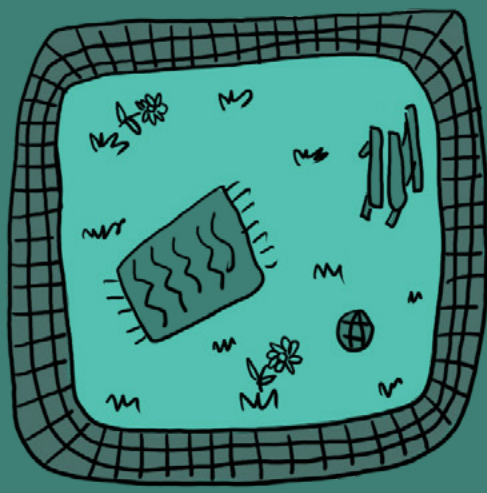
**Ruby is not alone in feeling isolated by the law in this way. We should all be able to understand the details and consequences of things that impact us. In the next few pages, you will meet others like Ruby. You will meet Manoj, who struggles and then manages to get relief in the form of crop insurance for his community through the courts. You will meet Salim, a young prize-winning photographer who gets into trouble with the authorities while doing his job photographing a protest. You will also meet Dhruvika, who has to navigate the criminal justice procedure as she falls prey to financial fraud.**



The law is at once about principles and practice. This means that it is both practical - with very real rules - as well as theoretical, meaning that there is some reasoning for those rules. For example, the law prohibits entering someone's private property without permission and you can be punished for the offense of trespassing for doing this. The principle behind this restriction is that your freedom to move around may end when someone's right to safeguard their property begins. Even though the law is both these things together, they often get separated. In our schools and universities we are often only studying the principles and in our daily life we are often only following or practising the rules without thinking much about the principles. What Ruby, Manoj, Dhruvika and Salim face are practical problems. However, in order for them to mobilise - to take action - they need to understand the principles behind each of these practical problems.

In all the stories you encounter, you will see legal questions arise out of everyday life, you will find young people seeking to exercise their rights and you will find these in the context of civic spaces. This workbook is aimed at making you take a relook at your surroundings and think about the law in these three contexts.

Let us now think about each of these in some detail.



# Law and everyday life

When you enter a school building, a cinema or even a bus or a metro you will see notices that tell you about the do's and don'ts of being in that area. For instance, when you enter a school building, you might see a poster about using your mobile phone, or about smoking or even chewing gum. These are rules that are used to govern spaces that we interact with and as a result influence how we behave as well as conduct ourselves. What are the kinds of rules that emerge in our daily lives? Is law just about rules that we need to follow or is it also about rights that we must have to lead a fulfilling life?

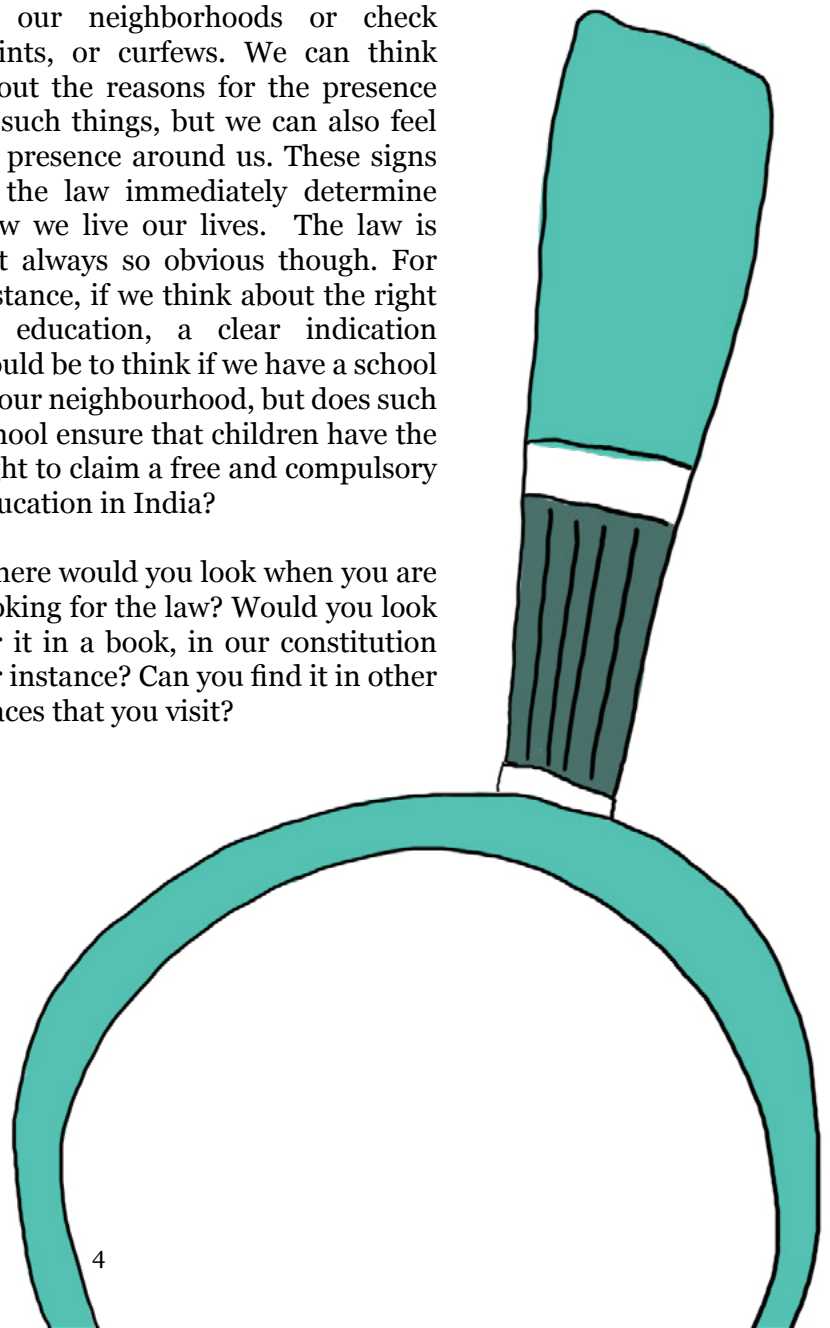
If it is about more than rules, let's go back to the school building example. Do we also have rights to a school that ensures certain safety procedures, hygienic standards, or facilities regarding play and affordable education?

These are questions that we would like to delve into in this workbook. We would like to explore how the law emerges in our everyday interactions. This is because, we want to introduce the idea of law not as something that is abstract, that is far away, and something that is only required in courts, parliaments, and government offices but law as

something that we can also touch and feel. What do you think? Is law something that is only a matter to think about, or is it something that we also feel? Something that impacts us?

Many of us may see the law more prominently than others for instance if there are police patrols in our neighborhoods or check points, or curfews. We can think about the reasons for the presence of such things, but we can also feel its presence around us. These signs of the law immediately determine how we live our lives. The law is not always so obvious though. For instance, if we think about the right to education, a clear indication would be to think if we have a school in our neighbourhood, but does such school ensure that children have the right to claim a free and compulsory education in India?

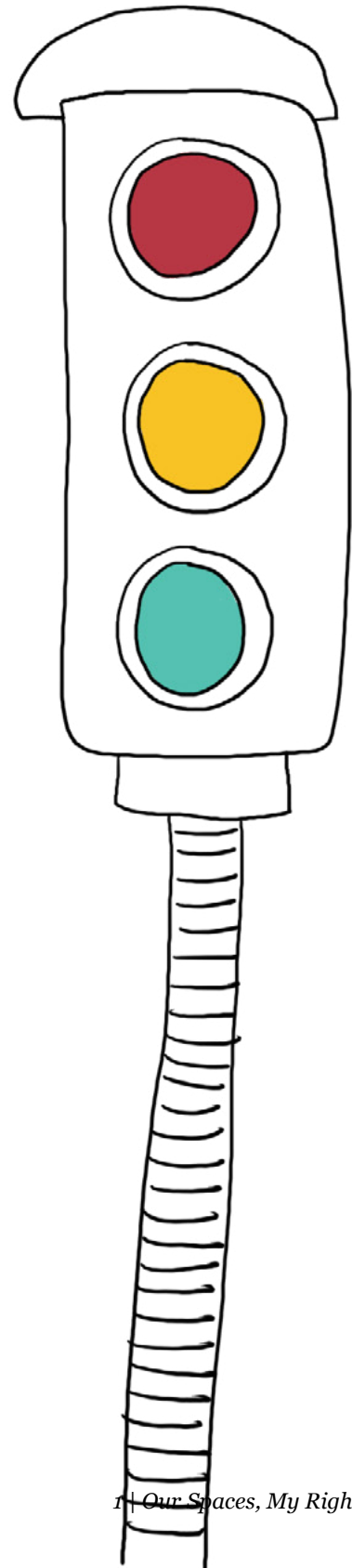
Where would you look when you are looking for the law? Would you look for it in a book, in our constitution for instance? Can you find it in other places that you visit?







The next time you take a bus, or you take a metro, have a look around and see what forms the law takes. Let's take an example. Does having CCTV cameras at the metro require a law? Can we think about their purpose? Some may argue that having such cameras are important to ensure the safety and security of people on the metro and thereby important so that people have the right to movement in a city. Others may counter this and say that such a right to movement can be provided without having to infringe upon people's privacy and without the government monitoring all our movements. We would like you to think about where you see other aspects of the law as you move from home, to school, to work, to a movie theater, to the hospital or when you go to play.



This workbook is an invitation to think about the law not just as something that emerges in books but also as something that emerges in the spaces we live in. In doing so, we would like you to look around for materials such as notices or objects such as traffic lights, or places where we can have a picnic or protest, and think about why it is that these different materials, objects and spaces produce meanings that make us think about how we should act or how we should make demands in a particular space.



# Young people and the law

Think about the following scenario.

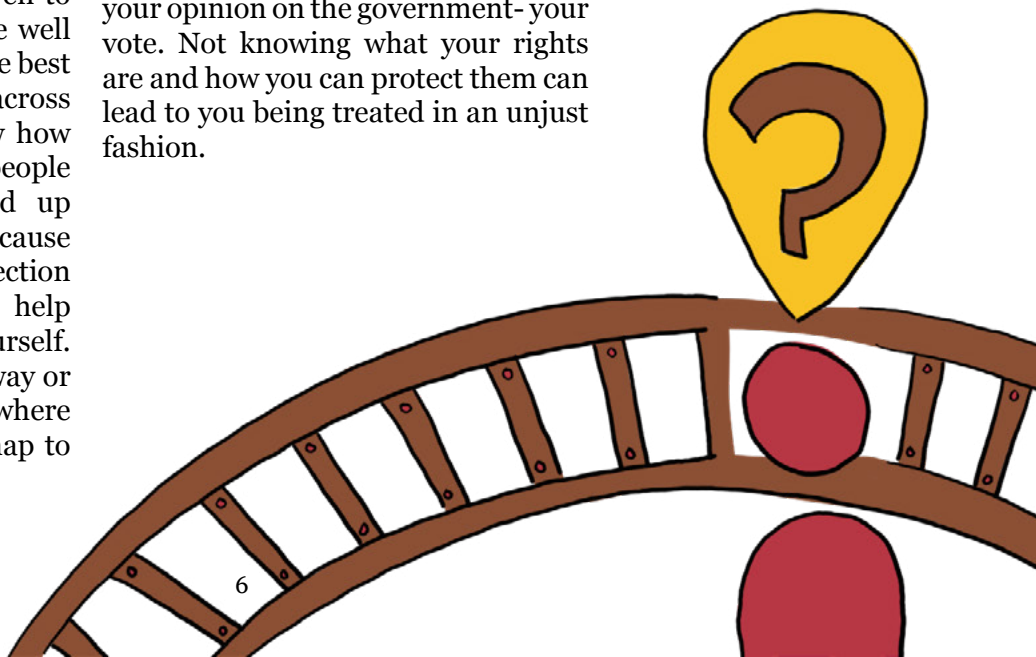
You have to get from the center of a city to the main train station. All you know is where you are currently located and where you finally need to be but you do not know how to get there. What would be most helpful?

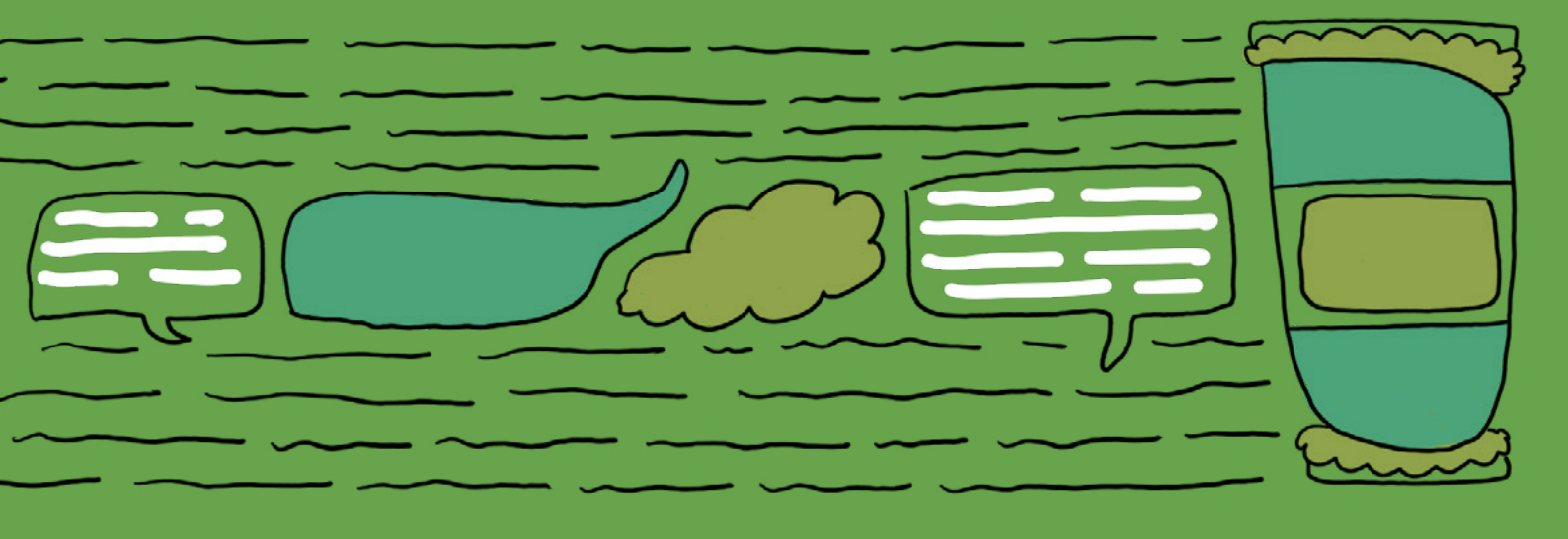
- ✿ Having somebody explain the directions to you at the start of your journey
- ✿ Asking people along the way as you travel
- ✿ Having a map of your own with the route clearly marked out

While the first two would be of use they may not be reliable. You might forget the directions given to you or that person may not be well informed enough to give you the best directions or you may come across some roadblock and not know how to get around it. If you rely on people along the way you may end up taking up much more time because people might not know the direction either. Having a map would help you choose the best way for yourself. Even if there is a block in the way or if people are unable to tell you where you are you would have the map to help you.

Knowledge of the law and knowing where you can find out more about it is the most powerful tool you can have for yourself. Being aware of your rights and your duties is like having the map for you to be able to protect yourself from injustice. Other experts like lawyers can help but unless you are able to clearly identify what the problem is and where you should seek help you may get lost in that journey of justice.

Imagine if you did not know that the right to equality is a fundamental right guaranteed to you by the constitution of India. What could happen? You may not know that an employer cannot discriminate against you on the basis of caste, religion, gender etc. You would not know that you can approach the court in case somebody does discriminate against you. Supposing you did not know that every Indian citizen above the age of 18 has the right to vote. You would not know that you can participate in the election and so would not use the most important role for you to express your opinion on the government- your vote. Not knowing what your rights are and how you can protect them can lead to you being treated in an unjust fashion.

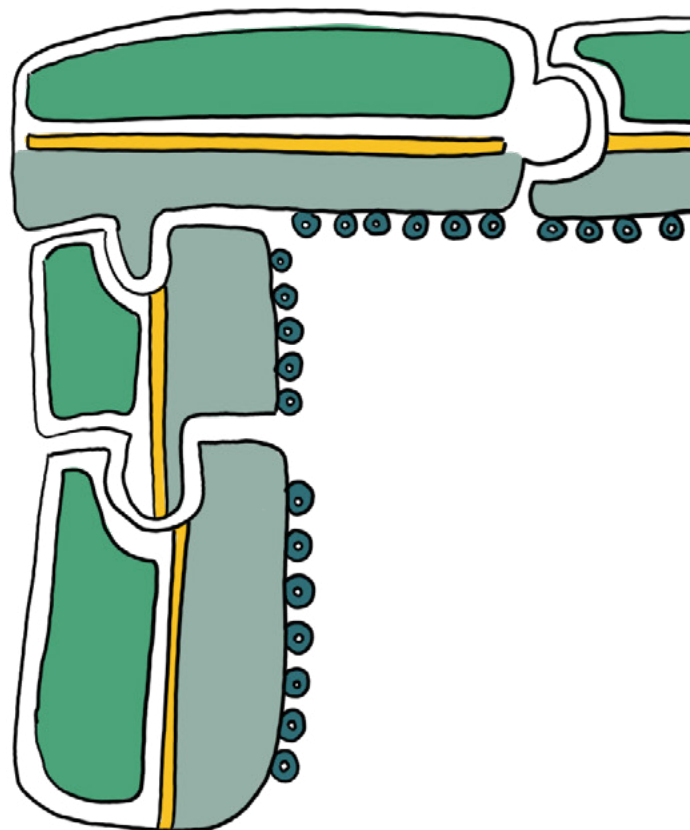




The law seems to be something meant for grown ups. But is it something that only impacts older people? How can young people relate to the law? It is relevant for all of us no matter our circumstances, no matter our age. For instance, the right to equality is something guaranteed to all of us. As a fourteen-year-old, if you are not allowed to join a particular school because of your religion you can take that school to court. When you get your first job, if you are a woman and you face any form of sexual harassment you can appeal to the internal complaints committee of your organisation, which they are required to have by law. You do not need to wait till you become an adult or till you have achieved a certain status in life before you demand your rights. Because you are an Indian citizen by birth you are entitled to these rights under our constitution

This also works the other way - the law does not wait till a certain age before it begins to apply to you. If you do not follow the law you can be punished. If a policeman catches you speeding and you claim you did not know the speed limit and have only just started learning to drive the policeman can still fine you. If you are a juvenile that is if you are under the age of 18 that will be taken into account. but you will still be held responsible for any damage that may occur because you drove rashly. We are all required to follow the law regardless of our background.

The law is also not a dead thing. The Right to Education Act for instance only passed in 2004. You may not be directly part of the process of a bill becoming an act when it passes through parliament. But you do not have to be above the age of 18 to participate in public discussions around the bill, what is referred to as pre-legislative public consultation. You can join with your friends and campaign for laws that are more just and reflect the needs of more people. Once you are of the age to vote you can play a role in deciding who is going to represent your voice in the parliament. Provided you know what your rights and duties are, what it is that you are owed, you can make a difference.





# Our civic spaces

So, we are now thinking about the law in our everyday life. But what is everyday life? We move through different scenarios through any day. Think about yourself in relation to your surroundings. Are you the same person in every different space that you occupy? Are you the same person at home, in school, on the sports field, at your workplace or your local administrative office? Just as we take on different roles as we move through spaces, so too does the law. One useful way to understand the law is understanding it in the context of spaces.

Some identifiable spaces may be your home, your school or your workplace. This workbook limits itself to thinking about the law as it shapes your public life and public participation in civic spaces.

What are civic spaces?

Think of civic spaces as an extension of a community. A physical space where one can express oneself and be active members of the community. Civic spaces can be used to organise, express, protest and bring about change. Let's interrogate your surroundings and see how these spaces can be understood as civic spaces.

Civic spaces are about action. It is a legal, political and social sphere which calls upon us to:

Be informed 

Be aware 

Be a participant 

Identify these three common areas around you - think about their everyday purpose and then think about how they might be transformed as civic spaces.

**PARK**

**In everyday life**  
Morning walks, sports, picnics with friends and family

**As civic spaces**  
A space for a group of students to organise a petition signing to make a representation to the local community head or resident welfare association  
A space for a resident to set up a legal awareness stall to assist with Aadhar registration



**MONUMENT**

**In everyday life**  
Sightseeing, tourism and school tours

**As civic spaces**  
A site to organise and host a protest against an unjust law or executive action.



**SCHOOL**

**In everyday life**  
Classes, learning, student teacher interaction

**As civic spaces**  
A space which turns into an election booth for your local municipal elections



But its not as simple. Civic spaces also need to be protected. These are places where all citizens, irrespective of their background, age, caste, religion, colour can come out to exercise their rights. This means that these need to be safe spaces. This workbook looks at major legal questions that will help you understand civic spaces, your role in it and how to action that role.

# Using this workbook

In the next few chapters, you will undertake a journey in understanding the important legal structures that facilitate your civic space. You will take a closer look at:



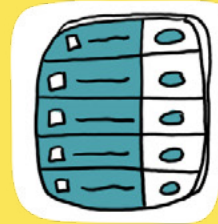
**The Constitution**  
What are its basic principles? How do these principles become the basis for our laws?



**The Courts**  
How are our courts structured? How does one go about accessing them?





**The Criminal Justice System**  
What happens when we find ourselves in conflict with the law? How do we navigate systems when we fall prey to a crime?



**The Electoral System**  
What does formal participation in the government look like? What are the principles and systems that can facilitate this?

However, you must remember one rule of thumb. We are trying to close the gap between theory and practice. So each principle will be accompanied with activities and at each point, you will be encouraged to think about YOUR context.

When you see  symbol, get ready to look around - you need to think of your immediate surroundings, or action what you are reading.

When you see  symbol, pause. This is the point for you to stop and take special note. See this as a top tip or a hack - something to remember.

Be sure to refer to each chapter glossary, browse further information and travel beyond this workbook. The further information may not always be in simple language but it will help you dig deeper and travel much beyond this workbook.

Ultimately, this workbook is about facilitating agency. We are addressing what often seem like insurmountable problems and breaking them down into small manageable pieces. The idea is to relook at your surroundings, restore agency and reignite hope.

## So what can we expect to be different once we have been through the workbook?

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

✿ Identify the presence of the law in your everyday life and immediate surroundings.

✿ Think about the law in your specific context instead of something far away.

✿ Understand the principles and reasoning behind institutions, actors and procedures.

✿ See your civic spaces as clear and actionable spaces.

Talk simply and easily about the law!

# Chapter 2: The Constitution and You

By Sumedha Ray Sarkar





# Introduction

Look at any newspaper- any day, any month, any year. Circle news of people protesting for their rights - be that on issues of farming, cinema, protection for sportspersons, increased prices, cancellation of licenses, school uniforms, or discussions on reservations. Circle also, reports on any action by the government - state or national elections, a criminal trial, a decision by any court or investigative agency, building of roads or bridges, changing political parties, police raids, introduction of any new development scheme. Finally circle any story on the history of India - resurrection of monuments, changing of road names, contents of history textbooks, commemoration of past leaders and luminaries, and celebration of festivals.

Every piece of news that you have read, and any question that may have arisen in your mind, all relates to one document - the Constitution of India, 1950.

India's Constitution or for that matter, any constitution, is the document which governs all action in a country. It has three primary functions:

- ✿ It recognises rights that belong to us, and lays down rules for the government to respect and protect them;
- ✿ it sets up Legislature, Executive and the Judiciary, the relationship between them and their duties;
- ✿ and finally, it pays homage to the cultural, social, and political history of this country.

## What is a Constitution?

A Constitution is a **basic charter of governance**. What does this mean? When people decide to coexist, rules of how they will live together are required. This in turn means that there will be someone to enforce those rules and make sure they are followed.

Additionally, it is also necessary that those in charge, cannot break the rules themselves. This is where a Constitution comes in. A constitution sets out **all the rules** for a society, and a country to function in harmony - these are the rules, both the people and their "rulers" have to follow. In other words, it is the **highest law of the land**.



Now, a Constitution can seem like a high and mighty document, which we rarely see, or even hear about. It can also seem like it has nothing to do with us - after all, it was written 75 years ago by a small group of people. But imagine the following three scenarios -



Suppose you have a government job which you hold based on your performance. One fine day, you are removed from that job - but no one has told you why. Do you have a right to know why you've been removed?



Suppose you are in school writing an exam. Your "friend" throws a chit towards you which you have no interest in seeing. The teacher, however, notices the chit near your feet, thinks that you are cheating and cancels your exam without listening to you. Is what happened fair?



Suppose you go to a peaceful protest against a new law. Shortly after, the police comes and lathi charges the crowd, and disperses it in the interest of security. Were the police justified in their action?

You will notice that quite naturally, your answers may be as such:

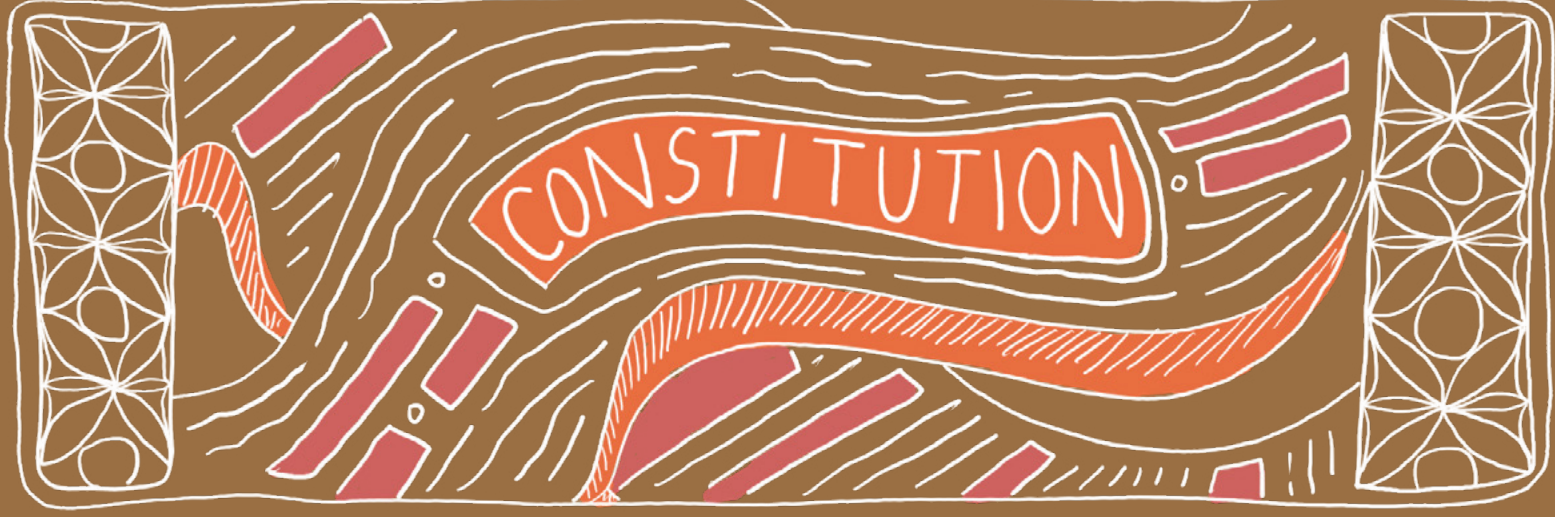
- ✿ Yes, I need to know if I've done something wrong. If I haven't, I shouldn't have to lose my source of income.
- ✿ No, it's not fair. The teacher should have heard me and let me tell her I wasn't cheating.
- ✿ No, the police were not justified. The people should have a right to protest against what they perceive to be an injustice, and the police cannot act violently towards them.

Each of your answers actually relates back to a provision or an **"article"** in the Constitution of India.

The first and second answers are based in Article 14, which is the Right to Equality, and Article 21, which is the Right to Life.

The third answer relates to Article 19(1)(a), which is the Freedom of Speech and Expression.

What this goes to show is that the Constitution is very close to us all and our everyday life.



# General Structure of the Constitution of India

The Constitution of India has 25 Parts, 448 Articles and 12 schedules, making it the longest constitution in the world.

It is intimidating for anyone to study the longest constitution in the world, so where does one start? Start like any other book - from the index. Take your time to skim through the index - depending on your interests, certain parts will stand out to you.

## Preamble

The Preamble to the Constitution can be thought of as a 'vision statement', 'blueprint', or a 'mood board'. It identifies the essential values the Constitution will ultimately embrace in its specific provisions. For India, the Preamble began as the Objectives Resolution in 1946 which was introduced by Pandit Nehru.



**Read just the Preamble – can any of us take any exception to any of the words used in it? Can you build a case to change any of them today? Do you think any of the terms no longer apply? What would you add if you could?**



**Fun fact, while going through the index, you'll see that the last article is Article 395, not 448. Can you guess why? The answer is in the index itself.**



**Think about this additional fact - In 1978, the Preamble was amended to include the words "socialist" and "secular".**



# Constituent Assembly Debates

Imagine that you are going to make some rules for your class along with your class monitor. These are rules that will impact you for the entire academic year – rules about deadlines, penalties for late assignments, number of days you can be absent etc. Now there are 100 people in your class. Your monitor drafts some rules and puts them up for vote. Your class votes and all three rules are approved as follows:

| Rule   | For | Against |
|--|-----|---------|
| In a classroom discussion, every student can speak no more than two times.   | 90  | 10      |
| The name of your classroom is Wonderland.  | 70  | 30      |
| There is no official language of the classroom. Students can converse with each other in any language they are comfortable in. | 55  | 45      |

Now answer the following question:

Which of these rules are likely to last the longest through the academic year, and which rule do you think, though passed, is likely to change?

A similar rule-making exercise was carried out by the Constituent Assembly of India which was tasked with drafting the Constitution of India. The Constituent Assembly Debates began on 9th December 1946, and went on to 24th January 1950. For over three years, the writers of the Constitution discussed, debated, wrote and rewrote multiple drafts of each article of the Constitution, striving to come to an agreement to the greatest possible extent before the text of a particular provision was cemented.

Consensus building was a very important part of the process of drafting the Constitution. The framers were careful to not come to simple majority decisions. There is a good reason for this.



**Read the Constituent Assembly Debates on either Language or Article 1 of the Constitution. What do you think about the conversation and the process of discussing a draft of an article? What does it teach you, if anything, about political dialogue and decision-making?**

# Basic Concepts and Key to the Constitution of India

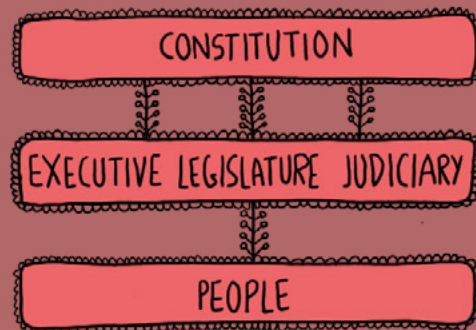
Understanding the Constitution of India essentially comes down to two concepts. These principles are not unique to India, but are instead features of nearly every modern constitution. These are:

- ✿ Constitutionalism
- ✿ Separation of Powers
  - ☞ Horizontal
  - ☞ Vertical (Federalism)

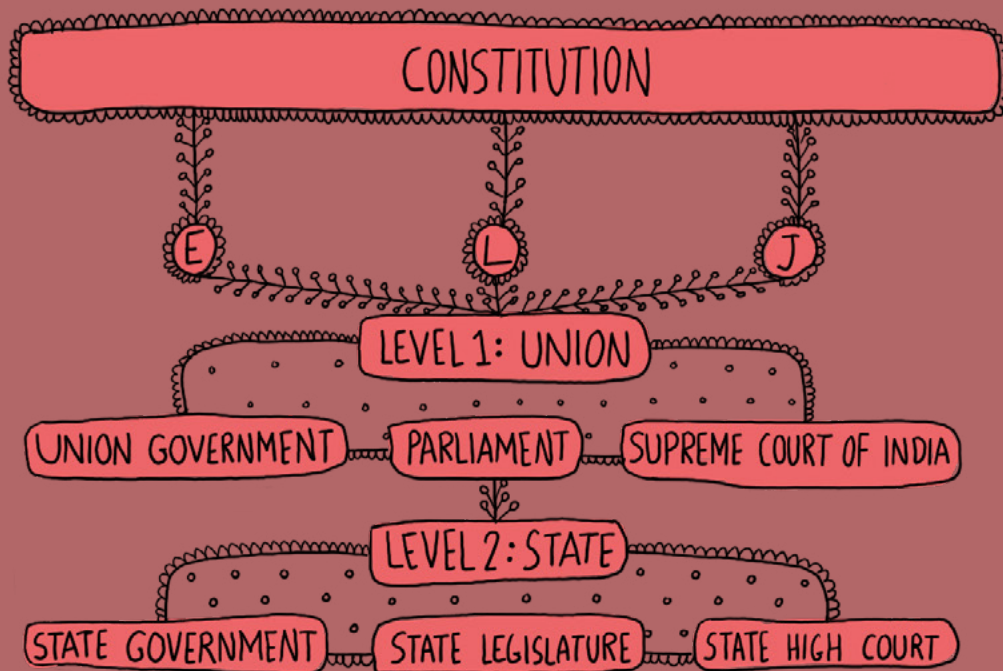
In the simplest of terms, **constitutionalism is the idea of keeping limits on power.** This requirement is based on the fact that **no power can be unlimited.** If power is unlimited that limits the freedom of the people who are under that power. When a basic document of governance, i.e., a constitution, has limits on the powers it confers on people, then that constitution is said to have constitutionalism.

**Separation of Powers is a way of limiting power.** Governance is a complex activity with multiple aspects. These include the identification of social issues, how one is to deal with these issues, and then finally the resolution of any dispute that arises. If all of these functions, and corresponding powers are given to one person, then (a) the power is unlimited and (b) it's impossible for one person to effectively discharge all of these functions.

Therefore, most constitutions including India's, create three institutions - the executive (creates policies), the legislature (creates law) and the judiciary (resolves disputes). By doing so, the powers of governance are distributed amongst three branches of the state. This distribution therefore avoids concentration of power. Separation of powers in the Indian context also includes a concept called checks and balances which means that while no branch can take on the functions of another branch (Judiciary cannot legislate or the Parliament cannot adjudicate disputes as a general rule) each branch can and should keep the other in check.



**Federalism is another way of distributing power.** In countries such as India, which are socio-politically and economically diverse, the concentration of power in only one layer of government is not advisable. **Hence, powers are distributed at two levels between the state and union government.** Therefore, we have the Union Government which has a Parliament, an Executive, and a Supreme Court of India, and we have state governments such as those of Maharashtra, Kerala, Uttar Pradesh, West Bengal, each of which has a State Legislature, a State Government, and a High Court. This way, people from different parts of the country, are represented not only at the State level, but also at the Union level.



How is this reflected in the Constitution of India?

Laws are required to be made on many different subjects. However, according to Article 246 these subjects are divided between the Parliament and the State Legislatures. If you read this provision, it will take you to the Seventh Schedule, which is home to three 'lists.' List I is the Union List – look at the subjects – all these are under the Parliament. List II is the State List – all these are under the State Legislature'. And finally, List III – which is shared by the Parliament and the States.

# Fundamental Rights

Now that we have understood the broad structure of the Constitution and the principles that govern it, let's move to the most important and complex section of the Constitution - Part III.



Consider taking these steps:

Identify how many articles are there in Part III. You can go to the Index or flip through the Articles till you reach Part IV.  
(Articles 12-35)

Read the "headings" of all the articles in this Part. Think of these as the 'topics' of each provision. In legal parlance, the heading is called the 'marginal note.'

**First Reading:** Read the text of each article, but stop at Article 32. Don't worry about the long sentences and the otherwise complicated language. Just try to understand the gist of what each article is on.

**Second Reading:** Read the text of each article again, very slowly this time, and mark out any words that feel unfamiliar and/or important.

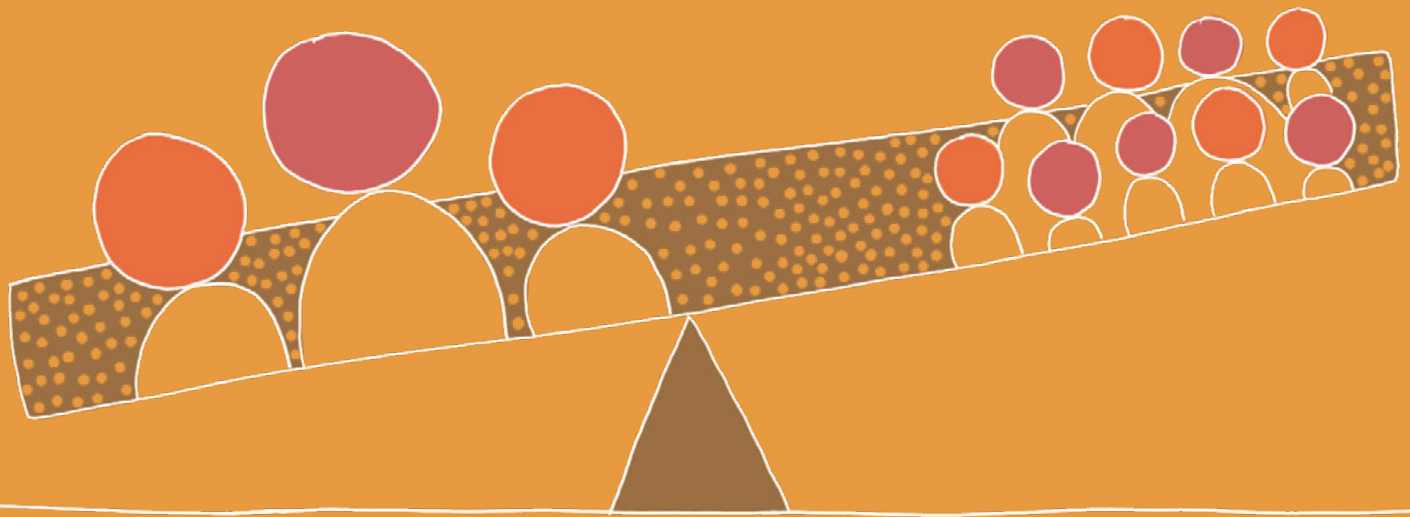


Now answer these questions:

Do you feel that the rights are to be read separately, or are they interconnected in any way?

Is there any pattern to how the rights have been written or framed?

Think about yourself. Which right(s) do you feel is the most meaningful to you? Now think about your neighbors. How likely is it that they will answer in the exact same way as you did above? What would happen if your most valued right clashed against their most valued right?



## The Equality Code - Articles 14-18

In this section, we delve into the Equality Code in the Constitution.

Let's begin with a simple question – what does the word equal mean to you? When we say two things are equal, we mean that they are the same in some respect. In mathematics, this is very simple –  $2 = 2$ . However, when it comes to recognising and treating two people as equals, mathematical precision is impossible – and neither is it desirable.

Let's begin with the fundamental idea that all people are essentially born equal. However, this fundamental premise is disturbed greatly by the realities of lived experiences. In reality, the caste, class, sex, religion amongst many other things, that one is born into, are determinants of **where** one stands in society, **who** are treated as equals and **what** one's rights are. So how does the Constitution deal with this?

Article 14 states:

**Equality before Law – The State shall not deny to any person equality before law or the equal protection of the laws within the territory of India.**

Equality before law means that every person operates under the law's regime and that there are no exceptions to this. This is a fairly straightforward principle. However, the second point – equal protection of the laws, is a bit more complicated.

Let's start easy. Think about this situation:

“classes” as school years – 1st, 2nd, 3rd, 4th. Would you give a 4th standard math problem to a 1st standard student?

This is essentially called the **doctrine of classification**. This means that equality is not a fixed concept where all persons or things are treated the same irrespective of their circumstances and means. For example, if I earn 1000 Rupees and you earn 1,00,000 Rupees, would it be fair for the government to tax us both 30% of our incomes?

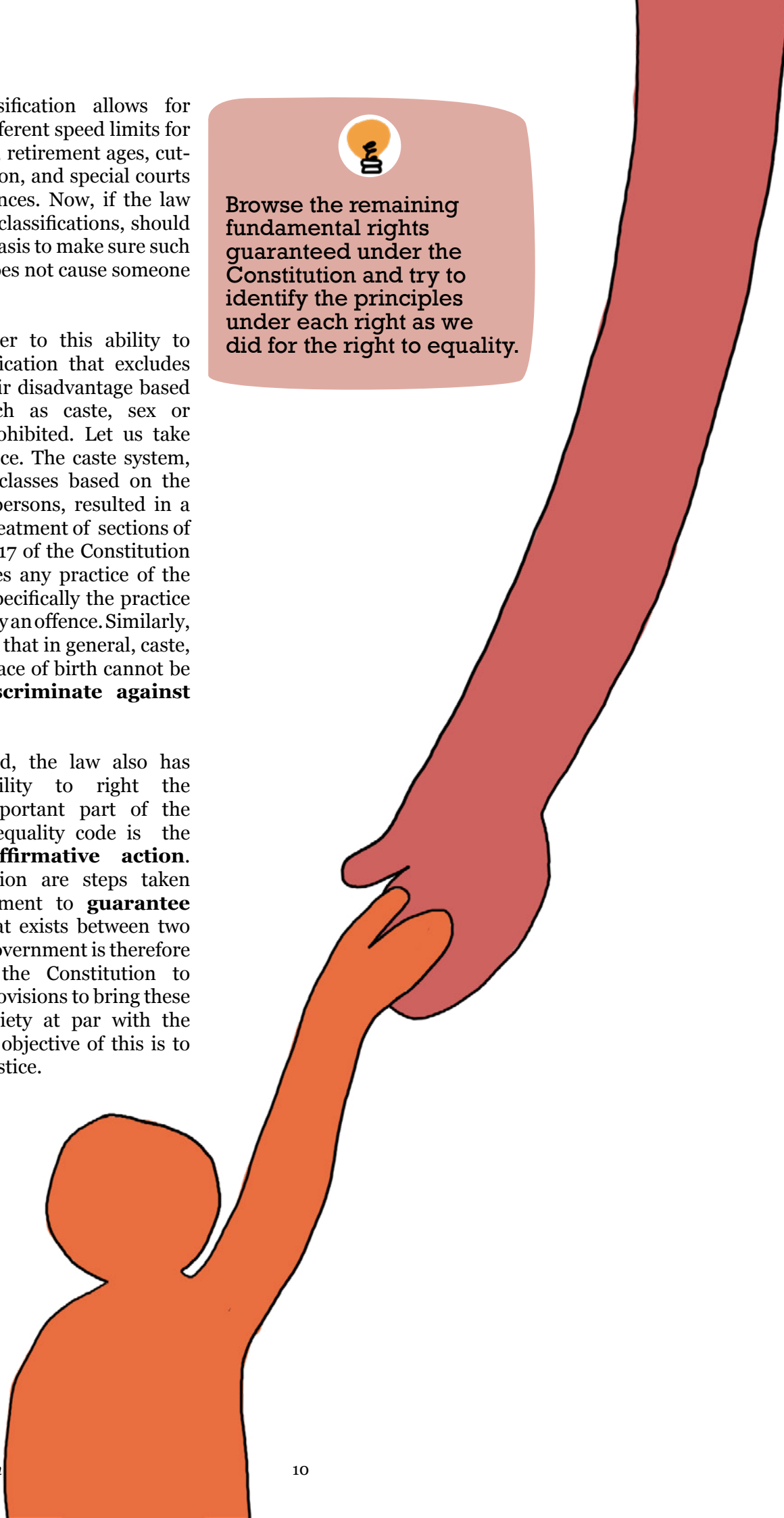
Similarly, classification allows for laws such as different speed limits for trucks and cars, retirement ages, cut-offs for admission, and special courts for special offences. Now, if the law can make such classifications, should there be some basis to make sure such classification does not cause someone disadvantage?

There is a rider to this ability to classify. Classification that excludes a person to their disadvantage based on factors such as caste, sex or religion are prohibited. Let us take caste for instance. The caste system, which created classes based on the occupation of persons, resulted in a hugely unfair treatment of sections of society. Article 17 of the Constitution therefore, makes any practice of the caste system, specifically the practice of untouchability an offence. Similarly, Article 15 states that in general, caste, sex, religion, place of birth cannot be reasons to **discriminate against anyone**.

That being said, the law also has the responsibility to right the wrong. An important part of the Constitution's equality code is the concept of **affirmative action**. Affirmative action are steps taken by the government to **guarantee** the equality that exists between two persons,. The government is therefore permitted by the Constitution to make special provisions to bring these sections of society at par with the privileged. The objective of this is to ensure social justice.



Browse the remaining fundamental rights guaranteed under the Constitution and try to identify the principles under each right as we did for the right to equality.





# Thumb Rules and Thought Exercises

In the preceding sections, you have thought about what a constitution means for a country, what it does and the principles governing its most important section on Fundamental Rights. As you explore the Constitution, keep in mind the following thumb rules and then think about the thought exercises that follow -

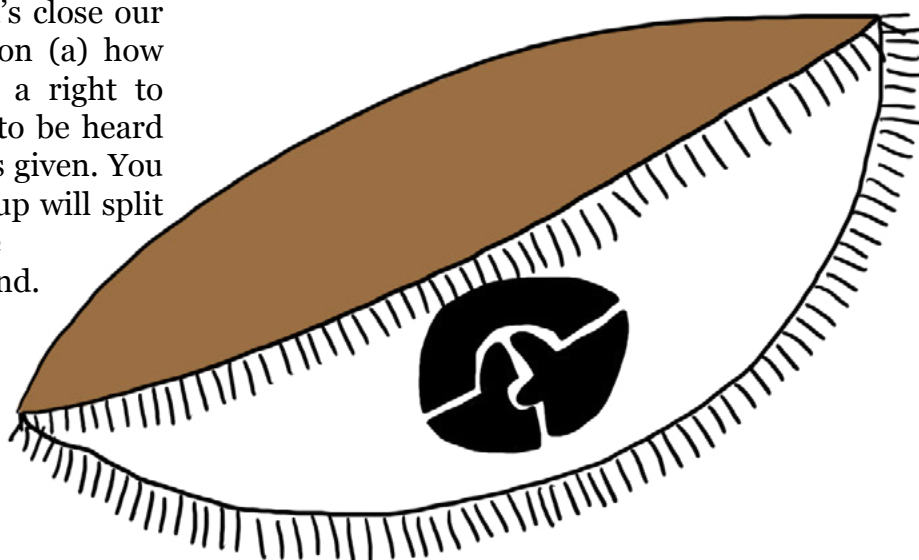
🌀 Reading and understanding Fundamental rights under the Indian Constitution is understanding that law-making is a question of balancing between competing interests of the individual, the society and the state. These do not always align, and for times that there is a conflict, go back to the vision board - the Preamble - to understand where 🌀 started.

What is just, fair and reasonable is often open for debate, however, luckily for us, there is a concept called **Natural Justice**. Natural Justice is a set of self-evident truths on how people facing any penal action that results in the loss of life or liberty, want to be treated. To explain the concept of a self-evident truth let's close our eyes and take a poll on (a) how many people support a right to die and (b), the right to be heard before a punishment is given. You will find that your group will split in the first case, and be unanimous in the second.

We leave you with these questions to discuss:

- 🌀 Is the Constitution static? Should it be so? Or should it evolve with time?
- 🌀 Is it more than just the words you read?
- 🌀 How does one decide what these words mean?
- 🌀 Who gets to decide?

As you explore the chapters ahead you will see the Constitution in action - in Courts, with law enforcement and with lawmakers. Keep coming back to this chapter to check if the principles we talk about here find a place in the other chapters.



# Chapter Glossary

## **Articles of the Constitution:**

They are numbered sections that outline various aspects of the government, fundamental rights, and citizens' duties.

## **Schedules of the Constitution:**

These are attachments to the Constitution containing details about various administrative and legislative matters.

## **Socialist:**

A principle that the government should work to reduce economic inequality and ensure the well-being of all citizens.

## **Secular:**

Another fundamental principle of the Constitution that states that India doesn't have an official state religion and promotes religious freedom and tolerance.

## **Fundamental Rights:**

A set of basic rights and freedoms that are protected and guaranteed to every citizen such as the right to equality, freedom of speech, and right to life.

## **Executive:**

The branch of government responsible for enforcing laws and running the country. It includes the President, the Prime Minister, and the Council of Ministers.

## **Legislature:**

The body responsible for making and passing laws. In India, it comprises the two houses of Parliament - the Lok Sabha and the Rajya Sabha, and state legislatures.

## **Judiciary:**

The branch responsible for interpreting and upholding the law. In India, the judiciary includes the Supreme Court, High Courts, and all other courts.

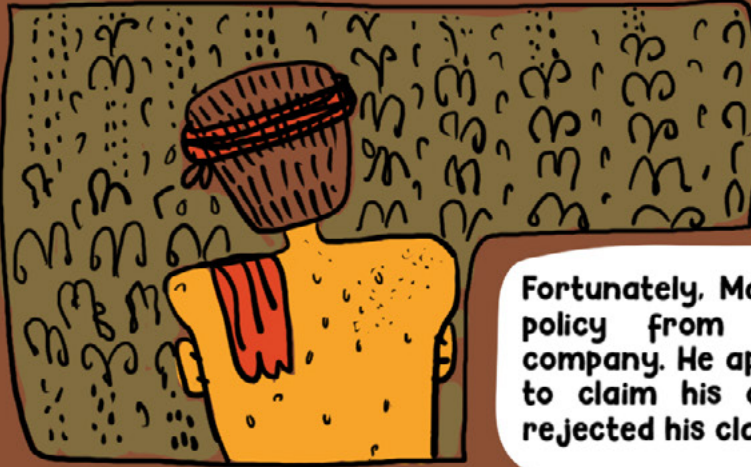
# Chapter 3: Court of law

## Enforcing your rights

**By Talha Abdul Rahman**



Once upon a time, there was a farmer named Manoj from a small village in Northern India. He worked hard on his farm and invested a lot of time and money in cultivating his crops. Unfortunately, that year, due to adverse weather conditions, Manoj's crops were destroyed, and he suffered a significant financial loss.



Fortunately, Manoj had taken a crop insurance policy from a government-run insurance company. He approached the insurance company to claim his compensation, but the company rejected his claim, citing some technical reasons.



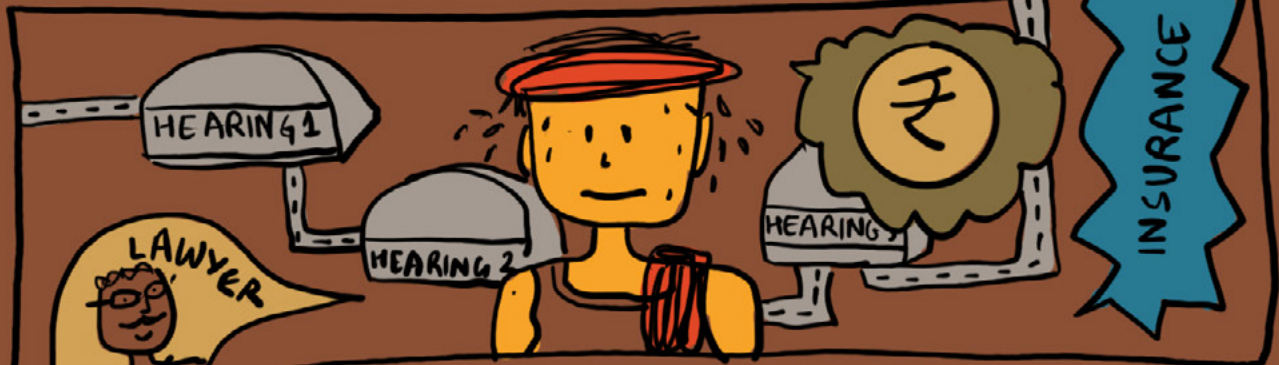
Feeling cheated and helpless, Manoj found himself in a difficult spot. Seeing Manoj in trouble and sulking in a corner under the peepal tree, Vivek - a student at local school - reached out to him and asked him if he could help in any way. Manoj narrated the story to Vivek.



Not knowing what to do, Vivek also felt helpless. Vivek mentioned this incident to his school headmaster who told him about availing legal options against the government run-insurance company. Vivek did not know where to start, so the headmaster asked Manoj to meet his school friend who worked a court assistant in the local court. Vivek met him the next day and gathered information. Vivek then counseled Manoj and requested Manoj to visit the local court.



After meeting a few lawyers in the court, Manoj felt confident and decided to seek justice through the courts. He filed a case in the local consumer forum, seeking compensation for his losses and action against the insurance company for wrongfully repudiating his insurance. Initially, Manoj faced many difficulties, including a lack of funds and the long judicial process. But he was determined to fight for his rights and hired a lawyer to represent him in court. Vivek was also thrilled at being useful for Manoj.

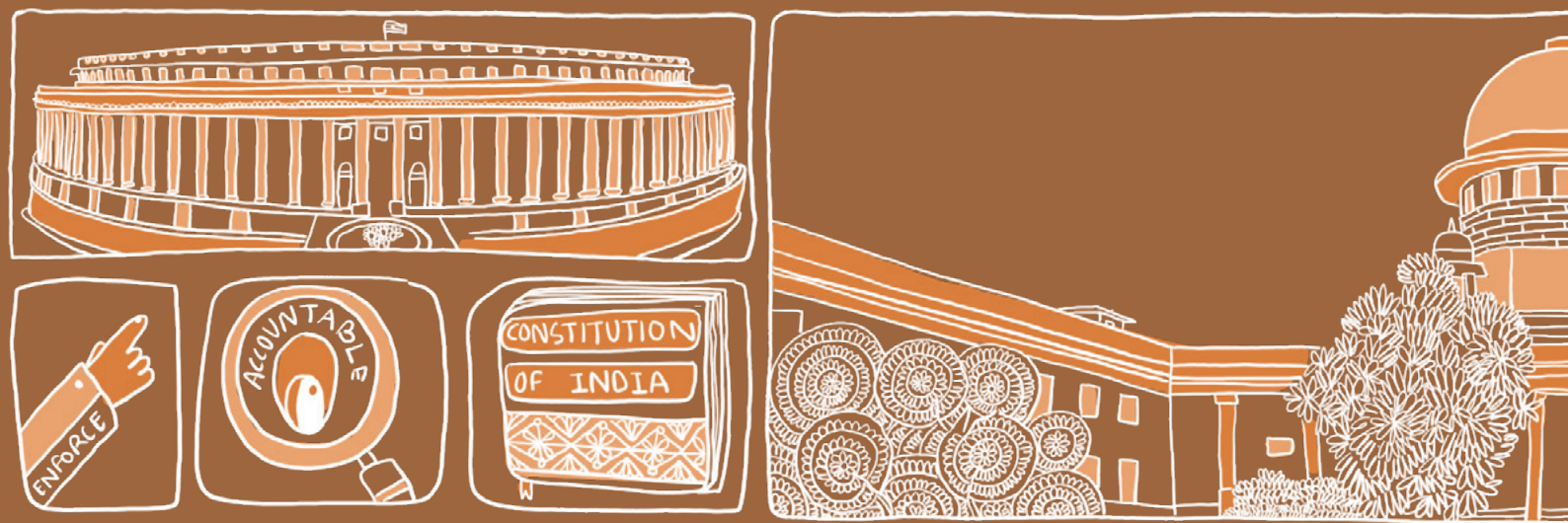


After months of litigation, the court recognized the plight of the farmer and the injustice he had suffered. The judge ordered the insurance company to pay the compensation to Manoj. The insurance company tried to appeal the decision, but the higher court upheld the judgment of the district court, and the company was ordered to pay the compensation to Manoj.



Manoj's victory was not just a personal triumph, but it set a legal precedent for other farmers who were also facing similar issues with crop insurance claims. Manoj's case became a shining example of how the rights conferred by the law and the Indian judicial system could be a powerful tool for justice. It also gave a lot of impetus to Vivek who now runs an NGO to provide legal assistance to farmers and other persons from underprivileged groups.





# An introduction to Courts

Manoj's story is inspirational but it also raises many questions - could Vivek as a minor approach the Courts? Could Vivek have filed a case on behalf of Manoj? Could this have been a case filed in public interest? What is a case in public interest?

Courts as an institution can be intimidating. If you ever visit one, you'll notice that everyone looks busy and important - there are many rules and restrictions and it is difficult for an outsider - especially young people - to be taken seriously. Do you not belong there?

Courts are a part of the framework that helps build a vibrant and inclusive democracy. The rights and the relationship between the citizens inter se and the citizen and the government is mediated through the law and the courts are responsible for the enforcement of the law. The people are expected to hold the Government and the elected representatives accountable through the instruments of the courts. Courts do this by reviewing the actions of the government, issuing writs, enforcing fundamental rights, and allowing citizens to approach the courts through public interest litigation. These mechanisms ensure that the government acts following

the law and the Constitution and protects the rights of citizens. It is the function of the Government to make the law and it is the function of the courts to ensure that the laws are implemented. In no sense is the court a partner of the Government; and is expected to operate independently. By upholding the rule of law and protecting the rights of citizens, the courts can help to promote democratic values and ensure that everyone has equal access to justice.

But how do these principles play out in everyday life? One can feel as lost as Vivek. A few basics can help us find our way...

## Article 39A

Before proceeding to know about the courts, do remember that the right to legal aid is a fundamental right enshrined in the Indian Constitution. Under Article 39A of the Constitution, the state is directed to provide free legal aid to ensure that justice is not denied to any person on the grounds of economic or other disabilities.

The right to legal aid in India is available to all citizens, including women, children, members of scheduled castes and tribes, and other marginalized sections of society who cannot afford legal services. The legal aid





may include free legal advice, representation, and assistance in all stages of the judicial process, from the police station to the Supreme Court.

The Legal Services Authorities Act, 1987, further gives effect to this constitutional mandate by providing a statutory framework for the provision of legal aid. The act establishes legal services authorities at the national, state, and district levels to provide legal aid to those in need. In criminal cases, if an accused person is unable to afford a lawyer, the court may appoint a lawyer to represent them. In civil cases, legal aid is provided to those who are unable to bear the expenses of litigation.



Can you identify the legal services authority that provides legal aid in your state, district or tehsil?

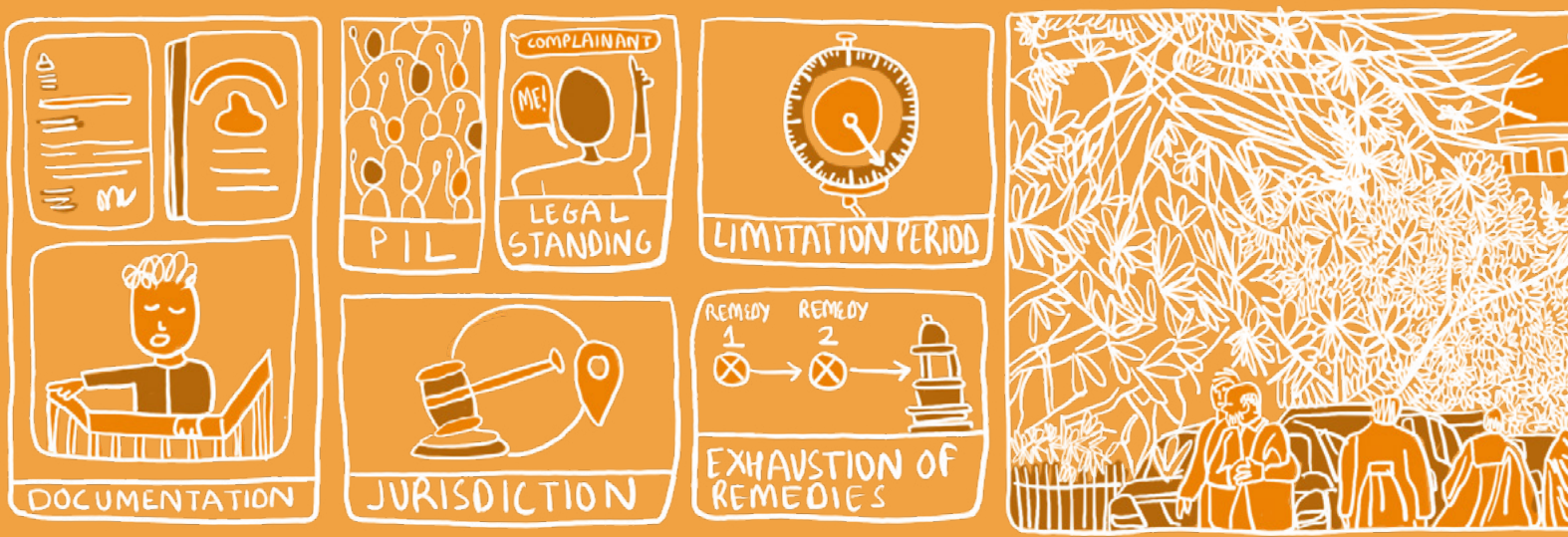
## Papers, People, Procedures

So you're about to approach a court of law. How do you prepare?

**a) Documentation:** One of the most challenging tasks is to maintain documentation for establishing your case before the court. Many times, cases will not be based on written documents and for those instances, it is important to remember who the witnesses would be and what could their testimony prove. Therefore, before approaching the lawyer, if it is possible, collect all necessary papers on which you want to rely. In cases against the Government where an action is expected from a government official, it is important to also move a letter or an application to the government officer (by designation) asking them to perform the duty imposed upon them before you approach the Court. Do remember that after having made such a request, the law also expects you to approach the courts in a reasonable time if the grievance remains unredressed.

**b) Legal Standing:** Despite the liberalisation of the rule of standing as to who can approach the court, in matters concerning property, personal loss, crimes and service-job-related matters, courts expect the complainant themselves to approach the court. Any third person can only approach if there is some larger public interest involved. For example, in a village, if a public school building is being captured by someone else for storing grain then any person can approach the court.

**c) PIL or Public Interest Litigation** has been accepted as a



feature in the Indian legal system that allows an ordinary person, having no personal interest in the matter, to approach the High Court or the Supreme Court to seek directions. This has been used by litigants in the context of the environment, internet shutdowns, validity of legislation, judicial independence, donations to political parties, identity-based crimes, cases of corruption etc.

**d) Jurisdiction:** The next condition to remember is which court to approach. There are two ways to look at it. First, depending on the remedy, one needs to decide whether to approach the local court the High Court or any tribunal. Secondly, depending on the location and amount involved, which court will have jurisdiction to hear the case. As a simple example, for a property situated in Lucknow, it is not possible to sue in Bangalore.

**e) Limitation Period:** There is a specific period within which a case can be filed, known as the limitation period. The law expects that the case must be filed within the prescribed period; otherwise, it may be time-barred and cannot be entertained by the court.

**f) Exhaustion of Remedies:** In some cases, it is necessary to exhaust other remedies before approaching the court. For example, in a labour dispute, the parties may be required to attempt mediation or arbitration before filing a case in court.



**There is no bar on minors approaching the Court but the case will have to be filed through a legal guardian or next friend.**

**In order to overcome the issues of access to justice and courts, the courts have devised “letter petition” method. Under the letter petition jurisdiction, the High Court or the Supreme Court can take cognizance of the matter, conduct an investigation or inquiry into the matter, and pass appropriate orders or directions to the concerned authorities or individuals to address the issue.**





## Which Court?

The Court system in India can appear to be a complicated web but there is an order to the chaos. Each Court follows an important hierarchy which sets out the rules for the kind of cases that are heard and if and where they can be appealed.

Most courts are established under and follow the procedure from The Code of Civil Procedure, 1908, The Criminal Procedure Code or the Constitution of India unless they have been constituted under some special Act.

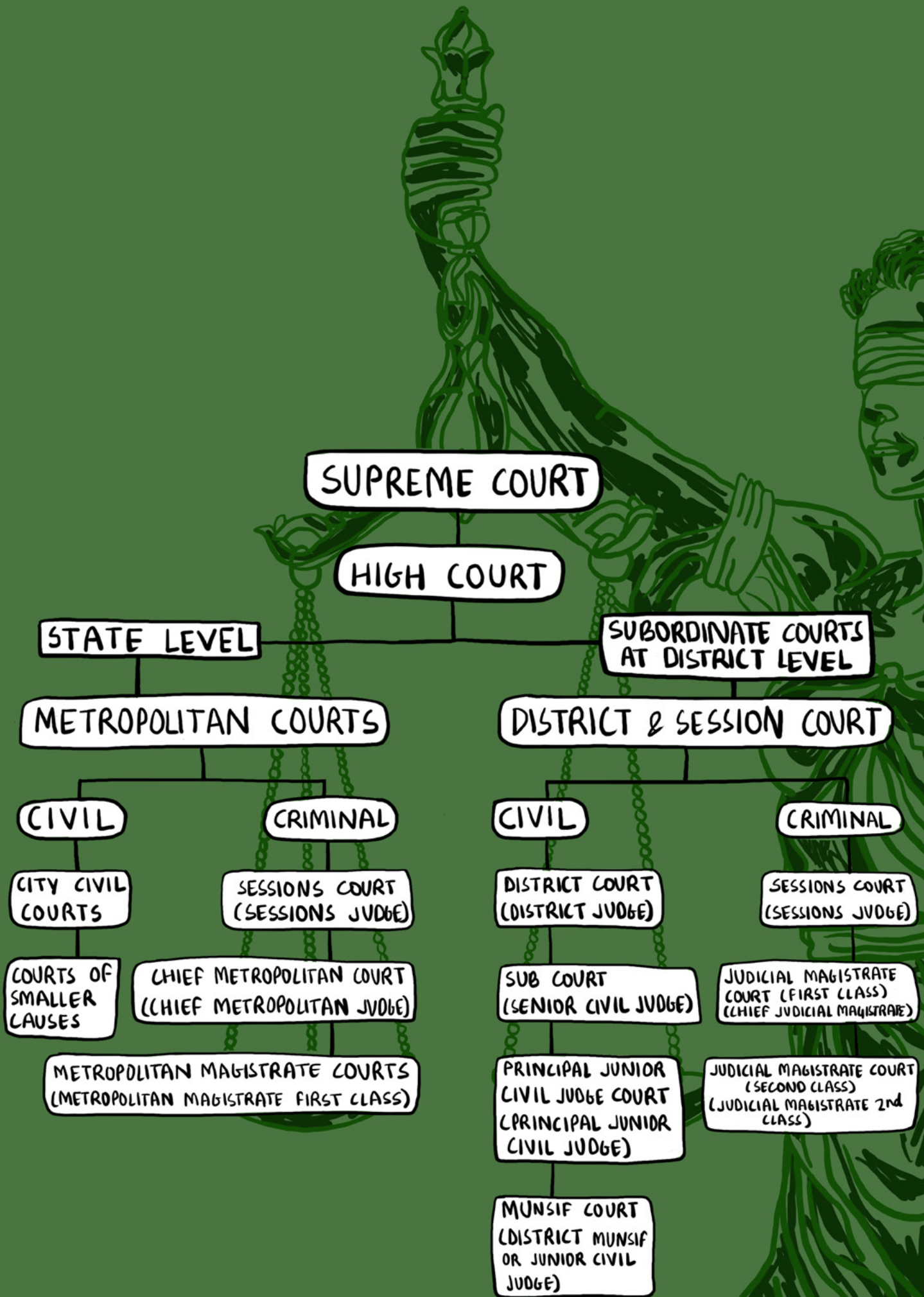
While the High Courts and the Supreme Courts are the Constitutional Courts in the Country, meaning that they have the very wide powers to ascertain whether laws violate fundamental rights or not - other courts created under Special Acts perform a very specific function and will relate to specific subject areas such as family matters, bankruptcy, insurance etc.



**Tribunals are quasi-judicial in nature and are set up to deal with specific subject-matters. They were instituted to overcome pendency and ensure efficiency within the Court system. Tribunals cover areas such as Tax, Land Reforms, Rent and Tenancy Rights and even Environmental matters.**



**Take a walk in your neighbourhood and speak to people about the nearest court to you. You could even take the help of the internet. Which Court do you find nearest to you and where does it fall within the hierarchical web of courts below? High Courts supervise all Courts below them - under which High Court does this court fall?**



# Writs, Rights and Remedies

The High Court and the Supreme Court have been given a very important place in the Constitution. In addition to the appellate jurisdiction, the High Court and the Supreme Court also have the power to issue writs. Writs are like special directions issued by the Courts in respect of Governmental functions which any citizen can demand. This is a significant improvement from the previous British regime where any citizen can invoke the jurisdiction of the High Court and the Supreme Court to seek remedy against the Government.

The High Court has the power to interpret the Constitution and determine the constitutional validity of laws and executive actions. This is an important role, as it ensures that laws and actions are consistent with the Constitution and protects the fundamental rights of citizens. For example, when Maneka Gandhi's right to foreign travel was restricted by revoking her passport she approached the Supreme Court to have the law declare that the right to travel is a fundamental right and the Government cannot restrain that right without following the due process of law.

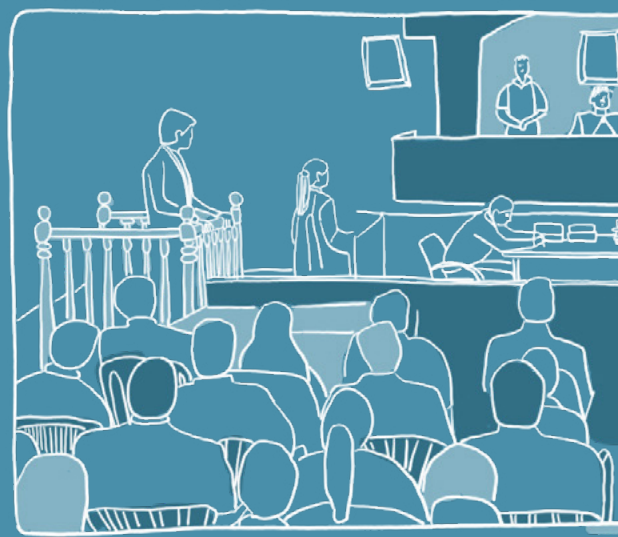


Go back to the chapter on the Constitution and read the section on Fundamental Rights to identify which rights accrue for the issuance of writs.

**Habeas Corpus:** No person can be detained in custody except after following the law. If any person is detained in custody whether by a private person or by a government agency without the authority of law, you can seek a writ of habeas corpus. In hearing of such writs before the High Court, the police is expected to produce the person in court after finding or locating him. However, this writ cannot be sought where a person has been arrested by the police under powers under the Code of Criminal Procedure, 1973, or preventively detained.

**Mandamus:** This writ is used to force government officials or organizations to do their jobs properly or to carry out their duties as required by the law. If there is a duty imposed by law then you can approach the High Court or the Supreme Court seeking to compel the person to perform his or her duty. As a pre-condition of filing a writ petition seeking a writ of mandamus, you should remember that before approaching the High Court or the Supreme Court, you





have to first approach such a person and request him to perform his duty.

**Certiorari:** This writ is used to challenge the decisions made by authorities or subordinate courts or tribunals and ask the higher courts to review and correct them. Do remember that you cannot approach the High Court if there is any other statutory remedy created to seek a review of the decision made. For example, generally speaking, the decision of a district consumer forum cannot be challenged before the High Court in writ jurisdiction as an appeal lies to the State Consumer Grievance Redressal Commission.

**Prohibition:** This writ is used to stop lower courts or tribunals from making decisions that go beyond their legal authority.

**Quo Warranto:** This writ is used to question the authority of public officials and ask them to prove that they have the right to hold their positions. For example, if a person has been appointed to a particular post but does not meet the criteria, then you can approach the High Court seeking a writ of quo warranto against the person. Of all the Writs, the rules of standing are relaxed when it comes to the writ of quo warranto.

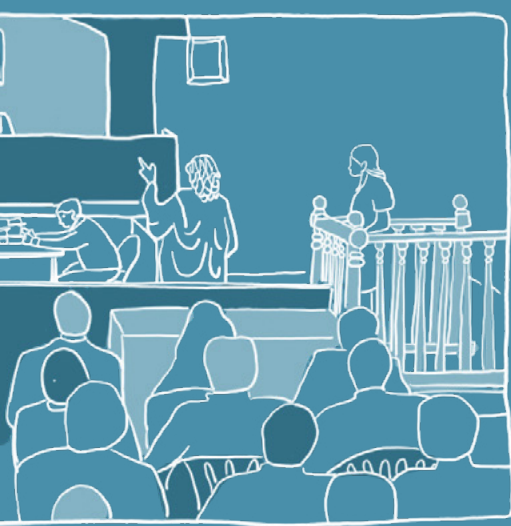
## Meeting a lawyer

Lawyers are knowledgeable persons and sometimes are very busy. Meeting lawyers can be intimidating as well. If you are meeting a lawyer for the first time, do remember the following:

- a) The lawyers' role is to help you and keep your case before the court. They can help you only if you help them. So you have to be honest with your lawyer and answer their questions carefully.
- b) You should proactively share all the documentation that you have, and it is not for you but the lawyer to decide relevance.
- c) Do share your vision of the case as to what you want from the case with the lawyer.
- d) Sometimes lawyers will also point out weaknesses in your case. It is a good sign because the lawyer is taking interest in your case and is also being honest with you.
- e) Don't hesitate to consult another lawyer if you can afford it.



If you cannot afford a lawyer but at the same time do not want to avail of the legal aid, then you can become "Litigant in Person". Litigant in person are people who otherwise are coherent and can place their problems in a legal framework before the court.



## Entering the Courtroom

Courtrooms are places where the conversation about the case will happen between the judge and the lawyers. Normally, the client or the litigant is excluded from this conversation. Unless courts ask you a question, it is not advisable to speak out of turn. One is required to show utmost respect and maintain decorum inside the courtroom. You could remember the following:

- a) Dress appropriately.
- b) Respect time
- c) Do not speak out of turn;
- d) Speak with permission of the court and under intimation to your lawyer;
- e) Remain calm.
- f) Listen carefully;

One of the biggest problems of the judicial system in India is 'delay' in adjudication.

## Obstacles/ risks

**Financial:** The financial obstacle to litigation is obviated in India through the provision of legal aid to those who cannot afford to pay for legal services. The right to legal aid is enshrined in the Indian

Constitution and is also provided for in the Legal Services Authorities Act, 1987. Under this Act, legal services authorities have been established at the national, state, and district levels to provide legal aid to those in need. However, the legal aid system in India continues to be under great strain which in turn causes a paucity in good and effective legal services.

**Time and Delay in the Justice System:** Delay in Indian courts is a significant risk and threat to access to justice. The delays can be due to a variety of reasons, including inadequate infrastructure, lack of resources, an overburdened court system, and lengthy procedures. Therefore, while there is a right to approach the court, the right can often feel meaningless because of the delay. The courts also encourage parties to resort to alternative dispute resolution mechanisms to resolve their disputes.

**Procedural Obstacles:** Every court has a mechanism to ensure that the applications and pleadings filed before the court reach the judge and proper shape and size. Therefore, while filing a case, expect that there would be some objection on form as well as substance. For example, while filing a case in the Supreme Court, it is not permissible to annex any vernacular document except when it is also accompanied by an official English translation. Many other procedural requirements are there.



# Chapter

## Glossary

### **Affidavit:**

A legal document on which facts are stated by persons on oath. An Affidavit confirms certain facts before the court. In Manoj's story, an affidavit could have been used as a legal document where Manoj stated the facts about his insurance claim on oath before the court.

### **Civil Cases:**

Legal disputes between people or organisations about things like contracts or property. Manoj's dispute with the insurance company over his crop insurance claim is an example of a civil case, where he sought legal resolution for a contractual matter.

### **Hierarchy of courts:**

The ranking of courts, with some having more authority than others. Courts that are further up in the hierarchy have the power to review the orders of the lower courts and set them aside or confirm their ruling.

### **Jurisdiction:**

A court's power to hear and decide certain cases. The court where Manoj filed his case had the jurisdiction to hear and decide matters related to insurance claims.

### **Limitation:**

The time limit for filing a legal case.

### **Minor:**

According to the Majority Act, 1875, anyone under 18 years old is considered a minor in India.

### **Notary:**

Also known as "public notary", these are persons that are authorised to witness and sign documents to confirm their legal validity. Notaries can be lawyers or simply authorised officers. Notaries can be found in all court premises where you can take documents and get them signed and stamped, i.e. "notarised".

### **Precedent:**

A past court decision that can help decide similar cases in the future. Manoj's victory in court set a legal precedent, providing guidance for similar cases in the future, especially for other farmers facing issues with crop insurance claims.

### **Rules:**

Rules are a guidebook that helps us understand and follow the laws better. Since there are so many different situations, lawmakers can't make laws for everything. So, they create "Rules" for this. These Rules are made by government departments and provide details on how to follow the main laws properly. It's like adding extra information to make sure everyone knows exactly what to do to follow the laws correctly.

### **Statutes:**

Written laws made by lawmakers. Also known as legislations, these are contained in books known as "Bare Acts". The laws are divided into chapters which are further divided into Sections and sub-clauses.

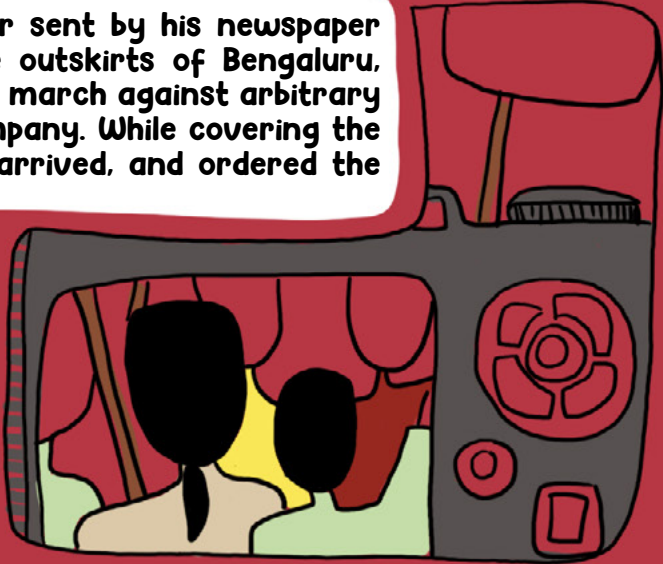
# Chapter 4: The Long Arm of the Law

Police powers and  
law enforcement

By Abhinav Sekhri



Salim was a prize-winning photographer sent by his newspaper to cover a protest in a hamlet at the outskirts of Bengaluru, where contract workers were staging a march against arbitrary termination of their contracts by a company. While covering the protest, Salim saw that the police had arrived, and ordered the protestors to disperse.



The ensuing chaos was being captured on film by Salim, but a police official objected to this and took him into custody and brought him to the nearest police station. There his phone and camera were taken from him, he was forced to give his passwords to the same during his questioning at the station which went on for hours. Finally, later that night, he was released by the police but only after signing an undertaking.

Dhruvika regularly worked two jobs to try and make ends meet. She had various loans that were owed by her late father, not to mention her own educational loans, besides helping her mother out with managing the house. Understandably, her ears perked up when she received a phone-call from a Rohit claiming to be an executive in a small-loans company that was willing to disburse INR 15 Lakhs to her within an hour as a loan at throwaway interest rates. She was hooked, and eagerly agreed to share her PAN card and bank details for one of her bank accounts that had approximately INR 7 Lakhs - her liquid savings. Rohit informed her that she will receive a message from her bank confirming receipt shortly and the loan documents will also be sent via a link which she must click to access the papers.



Once she clicked the link, her phone hung, but did lead her to a page with various documents which she began to see. She also received messages from her bank which she thought indicated disbursement of money. They did not - instead, the message said that INR 6.5 Lakhs had been withdrawn from her account and transferred to 'Hello Kitty'. Not knowing what to do, she immediately called the bank, who said they would reverse the transaction but failed to take any action. When she visited the branch the next morning, the manager asked her to file a police complaint.

The stories of Salim and Dhruvika are only mild exaggerations of what happens in daily life across India.

The criminal process is a maze which appears impossible to understand, let alone navigate.

POLICE



Police, courts, and lawyers, all appear as figures of authority only to be obeyed or trusted but not to be questioned.



Not choosing to question what we don't know is, naturally, not the wisest course of action.



Which is where this discussion is meant to help, by giving you the necessary building blocks to ensure that interactions with the law can be grappled with effectively.





# The philosophy behind the procedure

It can feel at times as if the criminal process is operating on an endless loop, with the same questions being asked and answered at different points of time. There is some truth to this feeling, because ultimately the process is geared to answer a binary formulation — whether X did or did not commit the alleged offence — which we will call ‘The Question’.

The law’s engagement with The Question keeps getting more refined as the process moves further. This initial stage is followed by a more in-depth scrutiny of the materials while framing charge, including looking at whether the material is legally admissible, but without doubting its genuineness at all. Assume everything is true, and if you think it is groundless to proceed further, then stop proceedings and discharge the accused. If not, then frame charge and proceed to a trial where witnesses will come and give testimony on oath. The fullest answering of The Question takes place at the end of this trial, where the court is invited to test everything and ask itself whether the prosecution has established its case beyond a reasonable doubt. If yes, the accused is convicted and is heard

on the quantum of sentence. If no, she stands acquitted of all charges. Of course, travelling from the filing of an FIR to the final verdict of guilt or acquittal ordinarily takes years to pass.

In this chapter, we set out on this journey to understand these steps a little better, in the end, we deboard to take a closer look at one of the actors that form part of the criminal justice system.



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## The Law

Just as all journeys need maps, we look to what the law is to guide our journey through the criminal process. We all know that the Constitution is the most important legal document. When it comes to criminal laws, the Constitution is given stiff competition by the triumvirate of the Indian Penal Code 1860, Criminal Procedure Code 1973, and Indian Evidence Act 1872. These statutes form the essence of the entire criminal process and are the daily currency for the criminal process. At present, the government has come up with new draft laws to replace these three statutes, and the same are being considered by Parliament. The new draft laws do not drastically change the landscape so as to hinder our understanding of the process through this chapter.





The Indian Penal Code (or IPC) is a mammoth text containing more than five hundred provisions. It details many kinds of offences, ranging from crimes against the human body, to crimes against property, and crimes against administration of justice. The IPC is what is called a general law of crimes and is complemented by various other statutes that create offences and form the special law of crimes.

Together with this substantive law of crime stand the Criminal Procedure Code 1973 [CrPC] and the Indian Evidence Act 1872 [IEA]. The CrPC is perhaps the most important of the lot, laying out the details of procedures followed during investigation and trials of offences. In a system where finishing trials takes considerable time, the rules regarding arrest and bail, as specified in the CrPC and interpreted by courts, become the real focus of the process. Besides investigations and trials, the CrPC also details the rules regarding police powers to issue temporary orders to deal with 'emergent threats' such as riots or demonstrations.



**Can you identify some Constitutional safeguards that apply specifically to criminal contexts?**



**In addition to statute books, Courts through their judgments also create guidelines that are binding on the criminal process and become a part of the ecosystem of the criminal justice system.**

# Setting the wheels in motion

**Step 1:** Ordinarily a criminal investigation by police begins with the registration of a 'First Information Report' (FIR). It will list the different offenses made out on the bare reading of your complaint and list out the names of accused persons (if there are any persons clearly named). It will specify which officer has been marked as the 'Investigating Officer' for the case and will require you to affix your signature to affirm its correctness.

As a victim, you are entitled to a copy of the FIR, free of cost. In theory, any information lodged with the police that discloses commission of an offence that police can investigate without prior permission, requires an FIR be registered by them. In practice, there is no such automatic registration of an FIR.

**Step 2:** If an FIR is registered, the police begin investigating a case. Investigation technically refers to the steps taken by police to collect proof of the allegations in an FIR. Arrests, searches, seizures, questioning witnesses – all of these are steps taken to gather evidence. There is no time limit on how long an investigation can take, except where the suspect has been arrested and in custody. This initial stage is followed by a more in-depth examination of the evidence while framing charge, including looking at whether the material is legally admissible, but without doubting its genuineness at all. If everything is true, but the evidence is not enough the investigations are stopped and the accused is discharged.



A First Information Report will have a unique number which you should note along with its date and name of police station for all future reference about the case.



**Step 3:** Whenever the police conclude an investigation, it files a report with the court giving its recommendation on whether the case should proceed for a trial. When the police make a positive recommendation, the report is called a 'Chargesheet'.

The police are only making a recommendation on whether a case should proceed. The decision to go ahead with a case ultimately rests with the court which can disagree with the police' recommendation and not call upon a person to face trial.

**Step 4:** The fullest answering of 'The Question' takes place at the end of this trial, where the court is invited to test everything and ask itself whether the prosecution has established its case beyond a reasonable doubt. If yes, the accused is convicted. If no, she stands acquitted of all charges.



Note that contrary to some countries, both kinds of verdicts, of guilty or not guilty, can be appealed against in India.



Remember 'The Question'? This is the first of many stages at which the process asks 'The Question'. Only, here, if the evidence demonstrates on a first reading itself that the action committed is, in fact, an offense, does it proceed to a trial where witnesses will come and give testimony on oath.



From this point on in the journey, you must choose between two options and explore the steps involved in each situation through the criminal process. These are:

- A) If you are facing charges or**
- B) If you wish to prosecute the case**

# A) If you are Facing Charges

The Indian criminal process does confer rights to the person accused of a crime, but it would be wise to know and remember that the police hold all the cards, and one must pick one's battles. Let us look at the pre-trial stages and then at the trial stages.

Facing a police investigation in India carries a huge element of risk to personal liberty as police have wide powers of arrest without requiring judicial warrants, and many offences are designated as 'non-bailable' i.e. where bail is not available upon arrest as a matter of right, but is a matter of discretion for the concerned court. To better assess the risk to one's liberty, it is necessary to obtain and study the FIR filed against you.

To guard oneself against the threat of arrest, the CrPC provides for a remedy of 'Anticipatory Bail'. The result is that, in effect, the police will not be able to detain you in custody. Again, this remedy is not available as a matter of course. The court will decide each case on its own facts. It is important to talk to a lawyer and figure out what the best next steps are.



**Remember that police in many states now share FIR copies online, and otherwise steps can be taken to obtain a copy from the local jurisdictional court.**



**If you are arrested, the police have a right to detain you in custody for up to 24 hours, but for any detention longer than that they need a court's permission.**

Where you are arrested for a 'bailable' offence, you are entitled to release if you express a willingness to comply with the nominal conditions that the court or police may impose for release. If it is a 'non-bailable' offence that you are prosecuted for, however, that makes bail contingent on whether the judge thinks it is a fit case or not.



**Find out if your local police station shares copies of the FIRs online. What elements do you identify as common across FIRs?**







There are no statutory rules or guidelines which courts follow while making these decisions, except for a broad rule of thumb that in cases punishable with a maximum of seven years imprisonment an arrest should ordinarily not be carried out. Beyond this, every case stands on its own merits, and the quality of your legal representation will greatly determine the outcome of your bail application.

Arrest and custody are usually sought to interrogate the accused, which brings us to examining what rights does one have in respect of this process of questioning by the police in an investigation.



The Constitution guarantees a right against being compelled to be a witness against oneself. This only offers protection against force being used to get answers, where the burden lies upon the accused to later establish that she was forced into speaking.



**Grab a copy of the IPC and identify some common bailable and non-bailable offences**

Rejections of bail orders do not close the chapter forever – you can move for bail again before the same court in some time and try to show that circumstances have changed since the first round of litigation. Or you can move a superior court (all the way to the Supreme Court) against your initial rejection of bail and try and convince the superior court that the earlier orders were incorrect.

The right to legal advice during questioning whilst outside custody is almost non-existent, and barely existent for persons suffering custodial questioning. What mitigates some of the concerns is that any statement given to the police by any person whether in custody or not is not admissible as evidence of the truth of its contents, including confessions.

The right to legal advice during questioning whilst outside custody is almost non-existent, and barely existent for persons suffering custodial questioning. What mitigates some of the concerns is that any statement given to the police by any person whether in custody or not is not admissible as evidence of the truth of its contents, including confessions.



In respect of trials, perhaps the most important elements from a rights' perspective are that an accused has:

- ✿ the right to question all witnesses,
- ✿ has a duty to answer questions posed by the court,
- ✿ and a right to choose whether to appear as a witness or not.

Exercising all or any of these rights, and discharging the duty to answer a court's questions, are matters which require legal assistance to fully understand the consequences of the choices being made.



Check out the fourth chapter of the Legal Services Authority Act of 1987 to see who qualifies for legal aid.

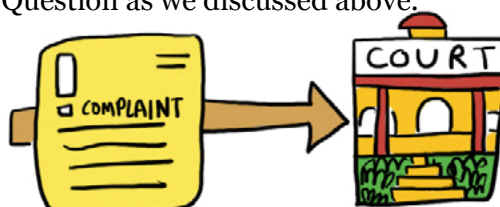


On legal assistance itself, there is a constitutional right to consult an advocate of one's choice and where a person cannot afford legal representation the Legal Service Authority Act of 1987 provides that such persons can avail of free legal assistance at the expense of the government. The process for availing free legal aid is different across all states and the court where an accused person is being produced has a duty to inform her of her right to free legal aid.

## B) If you wish to Prosecute a Case

Imagine if you were Dhruvika and must turn to the criminal process for seeking justice for the wrongs you have suffered. There are some choices to be made at the start itself. If you think you have all the evidence necessary to prove your case, are not under any immediate threat to your life from the accused, and do not need an FIR or some such document for other purposes (for instance, many insurance companies today require a police case to process insurance in cases of car thefts), then

you may wish to not go to the police at all and file a complaint straightaway in court. The court examines the complainant and if it thinks there is sufficient grounds to proceed to trial, it summons the accused and then we begin the process of answering The Question as we discussed above.



If you cannot go directly to court, your only other option is moving the police by filing a complaint. Filing a complaint is usually just the first step, which is followed by visits to the police station to explain the facts to the concerned officer and hope that it leads to registering an FIR. If not, you must write to the superior officer at the district level, and if that does not bring about any results, the last resort is filing an application before the concerned court asking that the police be directed to lodge an FIR.

Once an FIR is lodged, the police take over the investigation and your role as a victim is

- ⚙️ to offer whatever support you can to help them bring the case to court
- ⚙️ handing over available evidence,
- ⚙️ giving your statement to police and, if necessary, to a court (which is assumed as being more reliable).

You have

- ⚙️ the right to oppose any applications for bail that an accused might file
- ⚙️ the right to seek compensation.



**While the CrPC provides compensation upon conclusion of trial, many states have rules offering interim compensation before conclusion of the trial as well.**



**Look up the relevant rules in your state on compensation**

If the police upon concluding an investigation conclude that no case was made out, the law demands a victim be heard before the case is fully closed and the court must give you a fair opportunity to show why the case should go ahead to trial. At trial, if the case was instituted on your own complaint to court, then you remain fully in charge of the prosecution in most cases. If the trial began from an investigation lodged by the police, then the prosecutor is the lead counsel, and a victim can assist the prosecutor through the trial.



# The Many Sites of the Criminal Justice System

Knowing about your rights and the law is not enough without knowing anything about the physical spaces that we have to navigate while making our way through the criminal justice system. This includes, and is not limited to, the courtroom and court complex, the police station, a lawyer's office, and a prison.

In this section, we focus on the police station. Since matters of policing and law enforcement are ordinarily within the governance of India's many states, there is no single representation of what a police station looks like, its many actors, or its many functions. Nevertheless, there are some broad commonalities that we can identify wherever we turn.

Every state is divided into smaller districts for administrative purposes, and within each district is a host of police stations divided across imaginary territorial boundaries drawn for convenience by the authorities.



Knowing which police station governs which area is an important task because this is where you will have to go to lodge a complaint if ever in need of assistance.



Call the helpline (100 or 112) to confirm which local police station covers the area you reside in.

Every local police station is helmed by what the law calls a 'Station House Officer', more familiar by the acronym 'SHO'. This is usually an Inspector level officer (three stars on the shoulder lapel). The SHO is supported by Sub-Inspectors or 'SI' (two stars on the shoulder lapel), Assistant Sub-Inspectors or ASI (one star on the shoulder lapel), Head Constables (two chevron style marks on the upper arm), and Constables. Investigations are usually supervised by officers of the ASI rank or above.



Continuing with the similarities, every police station ordinarily has a 'lock-up' section which is where a person can be detained for up to 24 hours in connection with a case — or longer if such detention is authorised by a competent court. Every police station must also have at least one female police officer.

If you are aggrieved and have come to report a case, you are likely to be directed to the desk of the 'Duty Officer', a police official who is responsible for maintaining the 'General Diary' or 'Daily Diary' and is located near the entrance of the police station. This Diary is the official record of all goings-on in the Police Station, noting down every victim's visit, every officer's movement, and every case registration. The Duty Officer is likely to ask you to record your complaint in writing and hand it over, or s/he may ask you to narrate it and then make an entry based on the narration.

This process results in your complaint being given a formal serial number in the register, which becomes the first official record of your complaint and is commonly known as the 'Diary Number'. It becomes one reference for all future communication about your complaint. Getting a Diary Number is not the same as getting a First Information Report — there are still some hoops to go through, as we see below.

Depending upon what is the alleged crime that you disclosed, your complaint will probably be marked to one of the more senior officials in the police station for some kind of verification. The verification process is also called a 'Preliminary Inquiry' and can, at times, take weeks to complete. If the police official does find enough merit in your complaint, the verification results in the registration of a 'FIR'.



**Based on this section, prepare a checklist of persons, procedures and papers you are likely to encounter. Visit your local police station to see how many of these you are able to identify.**



# Postscript

During the time that this document was being prepared, the triumvirate of India's criminal laws was replaced by new legislation in the form of the Bharatiya Nyaya Sanhita 2023 (BNS) [replacing the Indian Penal Code 1860], the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS) [replacing the Criminal Procedure Code 1973] and the Bharatiya Sakshya Adhiniyam 2023 (BSA) [replacing the Indian Evidence Act 1872]. While these laws have been passed by Parliament, they have not yet been brought into force. The government may bring the laws into force in one go, or as is more likely, by a staggered process by notifying only some parts at a time.

The coming of these new laws throws up important questions. The biggest one for us being: Is the document I read redundant? Thankfully, the answer to that is a clear 'no'. The new laws have not changed the structure and functioning of the criminal process by a great deal at all, and till such time as they are brought into force, life as we know will remain governed by the existing trinity of the IPC, Cr.P.C., and IEA. Even after the new laws are brought in force, any process that began at a time when the earlier laws were present, would continue to be governed by the earlier set of laws.

In respect of the changes to the criminal process brought about by the new laws, let us deal with them by adopting the same approach as the document, of first looking at what happens if we are ensnared by the process, and then turning to what happens if we must register a case ourselves to seek redressal.

The BNSS has introduced time limits for some parts of investigations and trials in the expectation that this may speed up the process. There are no changes to the structure of

how investigations and trials are conducted, however. Similarly, there are no changes to police powers of arrest, but there appears to be some expansion of the power with judges to order detention of persons during a pending investigation.

For victims, the BNSS has introduced relaxations in terms of where cases can be filed, reducing the need for us to call up 100 / 112 to find out which police station covers which parts of the city to decide where to lodge our case. The time-limits expected to speed up the process naturally will help victims too. But at the same time, there are some new hurdles for a victim seeking justice. In case you file a complaint straightaway in court and do not go to police, BNSS now requires that the accused must be heard even before the court decides to take any action on your complaint.

If you are more interested in exploring the differences and similarities between the old laws and the new ones, check out the entries under 'India' on the Modern Criminal Law Review website which has collected various materials under one roof [<https://crimlrev.net/mclr-resources-2/>].

# Chapter

# Glossary

## **‘Anticipatory Bail’:**

A person aware that allegations have been made against her regarding commission of an arrestable (cognizable) and non-bailable offence can apply for this remedy, which results in a direction to the police to necessarily grant bail if they wish to arrest.

## **Cognizable offences:**

Crimes for which the police have the authority to arrest a person without needing a warrant. The police have the power to arrest a person without needing a warrant for certain serious crimes like the one Nisha was accused of.

## **Judicial warrants:**

are legal documents that authorize the police to arrest, search, or seize someone or something. They are issued by a magistrate or a judge after examining the evidence and finding probable cause. Judicial warrants in India can be of different types, such as arrest warrants, search warrants, production warrants, or remand warrants.

## **Prosecution:**

The legal proceedings and actions taken against a person accused of committing a crime. The term is used to describe both, the process of holding a trial as well as the legal side which will argue and present the case to the judge that the accused of a crime is guilty.

# Workshop Template

## Find Your Local Police Station

Knowing which police station governs which area is an important task because this is where you will have to go to lodge a complaint if ever in need of assistance.

**Discover  
5 minutes**

| Structure of Workshop   | Resources  | Takeaways   | Possible Obstacles   |
|---|--|---|--|
| <p>Call the helpline 112 to confirm which is the police station for your area. This relates to your residential address and pincode so make sure you have that detail.</p> <p>Extra:<br/>Run an online search of [your state] police station and take a look at their official website. Find out the Police Control Room number for your state.</p> | <p><b>Persons</b><br/>Solo activity</p> <p><b>Resources</b><br/>Phone</p> <p><b>References</b><br/>Look at section 'Many Sites of the Criminal Justice System' in the module 'The Long Arm of the Law for more information about persons in a police station</p> | <p>You will know where and who to approach in the case of any criminal grievance</p> <p>If you look at your state police website you will also learn what are the other services and information offered by your state police</p> | <p>You may not be able to communicate effectively with the operator either due to a poor connection or because you are not clear when providing information. Make sure you have your details at hand and speak clearly</p> |



## Think like an FIR

The filing of a First Information Report is the crucial first step for any victim. The FIR registration number is what will be used in reference to the case going forward

**Discover  
40 minutes**

| Structure of Workshop   | Resources   | Takeaways   | Possible Obstacles  |
|---|---|---|---|
| <p><b>Step 1 (5 Minutes)</b></p> <ul style="list-style-type: none"> <li>Look up the CBI webpage to view FIRs. The link is given. Select the CBI branch of your state.</li> </ul> <p><b>Step 2 (15 minutes)</b></p> <ul style="list-style-type: none"> <li>Select any of the FIRs and note down the details that are required.</li> </ul> <p><b>Step 3 (20 minutes)</b></p> <ul style="list-style-type: none"> <li>Look in the newspaper for a case that the CBI is involved in. Based on your notes make a mock version of the FIR that may have been filed for that case.</li> </ul> | <p><b>Persons</b></p> <p>Can be done by 1-3 persons.</p> <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>Internet-Enabled Devices</li> <li>News paper</li> <li>Pen, paper</li> </ul> <p><b>References</b></p> <ul style="list-style-type: none"> <li><a href="#">Link to CBI FIR website</a></li> <li>Look at the general overview in the section 'Interacting with the police in the module 'The Long Arm of the Law'.</li> <li>You can also refer to the Graphic Law Library of JA on <a href="#">how to file an FIR.</a></li> </ul> | <p>You will become familiar with the details required for an FIR</p> <p>You will have a sense of what kind of offences are take up by the CBI</p> | <p>The CBI FIRs are all in English as is the website. The facilitator may have to provide a working translation of the document</p> <p>If the facilitator is able to access copies of FIRs from the local police station that may be more effective but it depends on how willing the police are to cooperate</p> |





## Decoding the Indian Penal Code

The IPC details many kinds of offenses, ranging from crimes against the human body, to crimes against property, and crimes against administration of justice. Without knowing what kind of offences are listed you may not know what you can file a case for.

**Discover  
40 minutes**

| Structure of Workshop  | Resources   | Takeaways  | Possible Obstacles  |
|--|---|--|---|
| <p><b>Step 1 (10 minutes)</b></p> <ul style="list-style-type: none"><li>Read the newspaper of the day and identify one criminal activity mentioned.</li></ul> <p><b>Step 2 (10 minutes)</b></p> <ul style="list-style-type: none"><li>Take a look at the Indian Penal Code. It is available online but you can also check your local library or court, Look at the index of the code to see where the offence is mentioned.</li></ul> <p><b>Step 3 (20 minutes)</b></p> <ul style="list-style-type: none"><li>Read the relevant portion and identify the following details<ul style="list-style-type: none"><li>Which section of the Code is it in?</li><li>Is it a bailable or nonbailable offence?</li><li>What are the consequences of breaking this law?</li></ul></li></ul> | <p><b>Persons</b></p> <p>Can be done by 1-3 persons</p> <p><b>Resources</b></p> <ul style="list-style-type: none"><li>Internet-Enabled Devices</li><li>News paper</li><li>Pen, paper</li></ul> <p><b>References</b></p> <ul style="list-style-type: none"><li><a href="#">Indian Penal Code</a></li></ul> | <p>Reading through the index you will get a sense of the different kinds of offences</p> <p>You will also get a sense of what the scope of the powers of the police are</p> <p>You will be able to do a basic scan of the IPC and identify essential information</p> | <p>The language of the IPC is not direct and can be confusing. The participants may get lost in the details. It's important that you limit yourself to the information required</p> <p>The IPC reference given here is in English. The facilitator will have to be fluent in English and be able to understand the information. They may need to have to do the exercise by themselves beforehand and simply demonstrate it to participants</p> |



# Chapter 5: Electing and working with your representatives

Becoming an engaged citizen

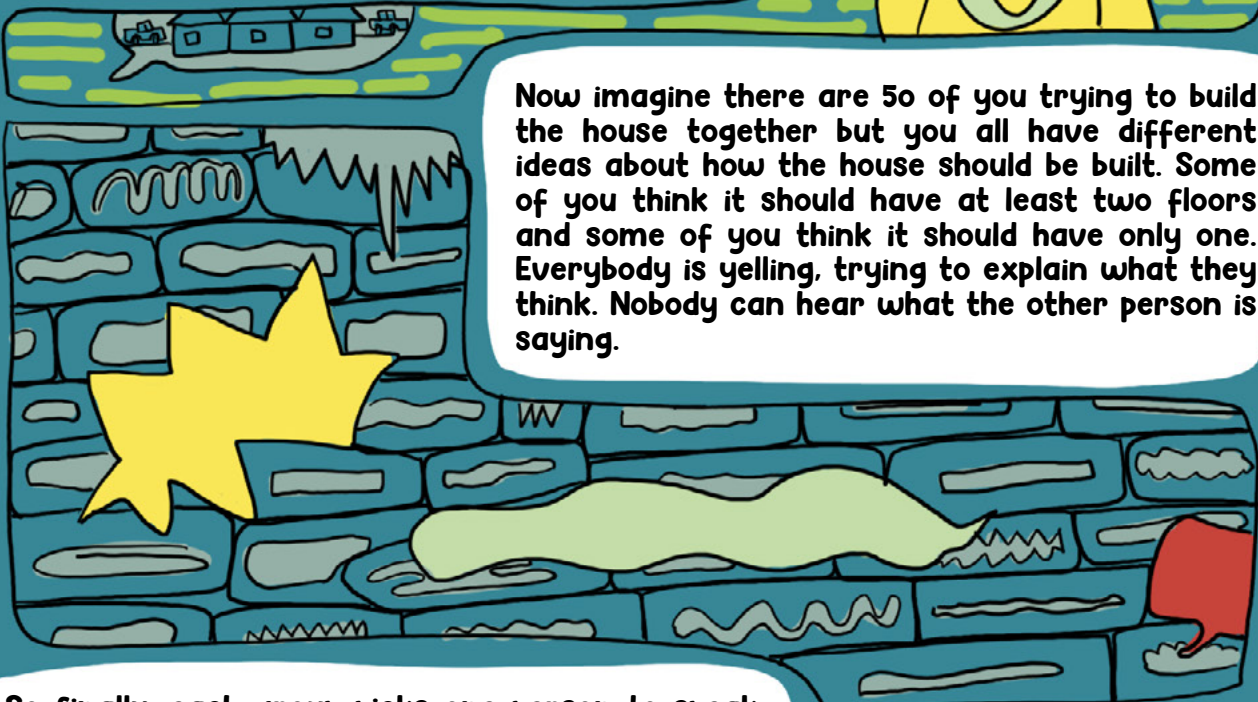
By Maansi Verma



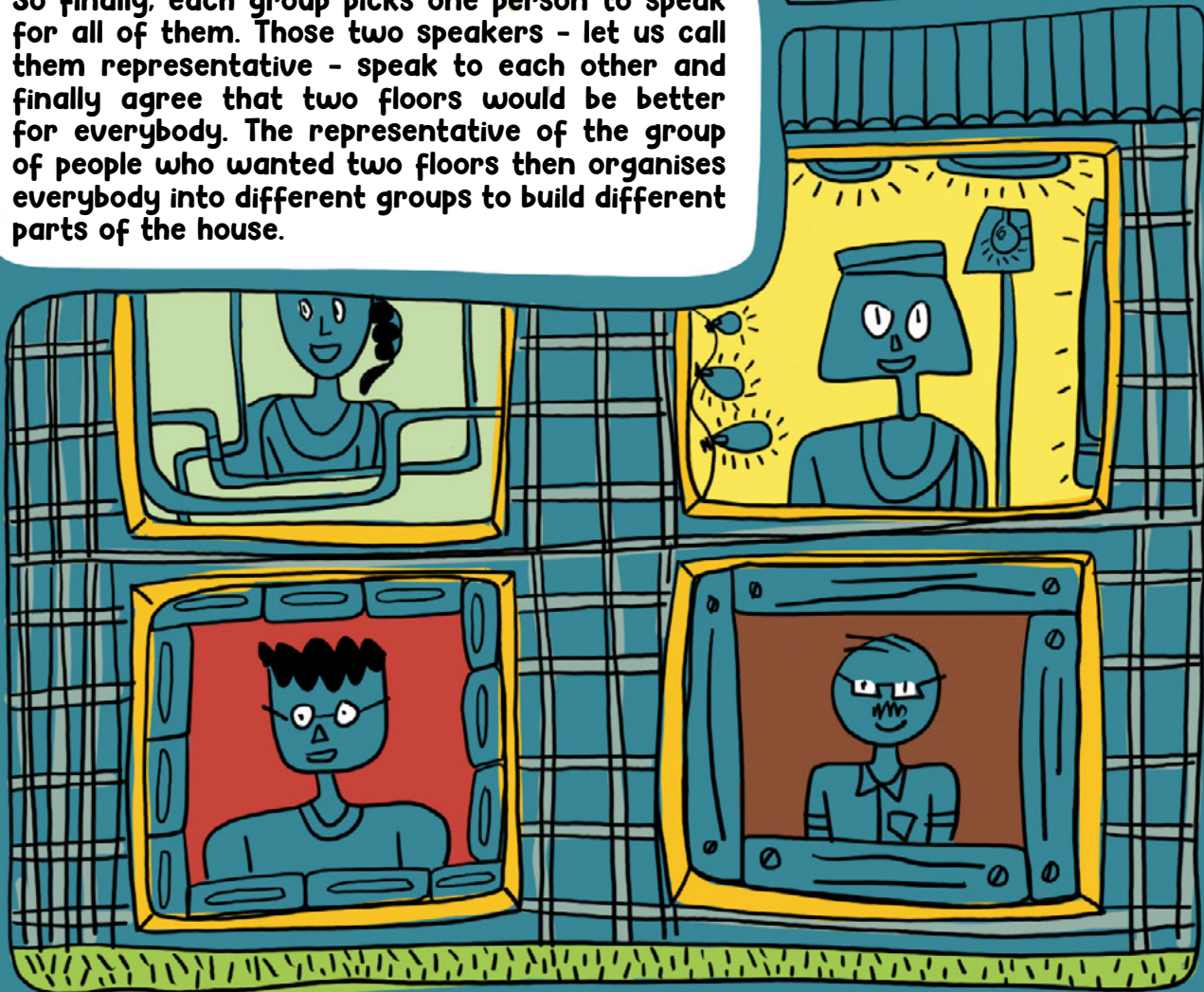
Imagine you need to build a house. Obviously, you cannot build it on your own. You call your friends and convince them to help you build the house, promising that each of them can stay in the house if they help.



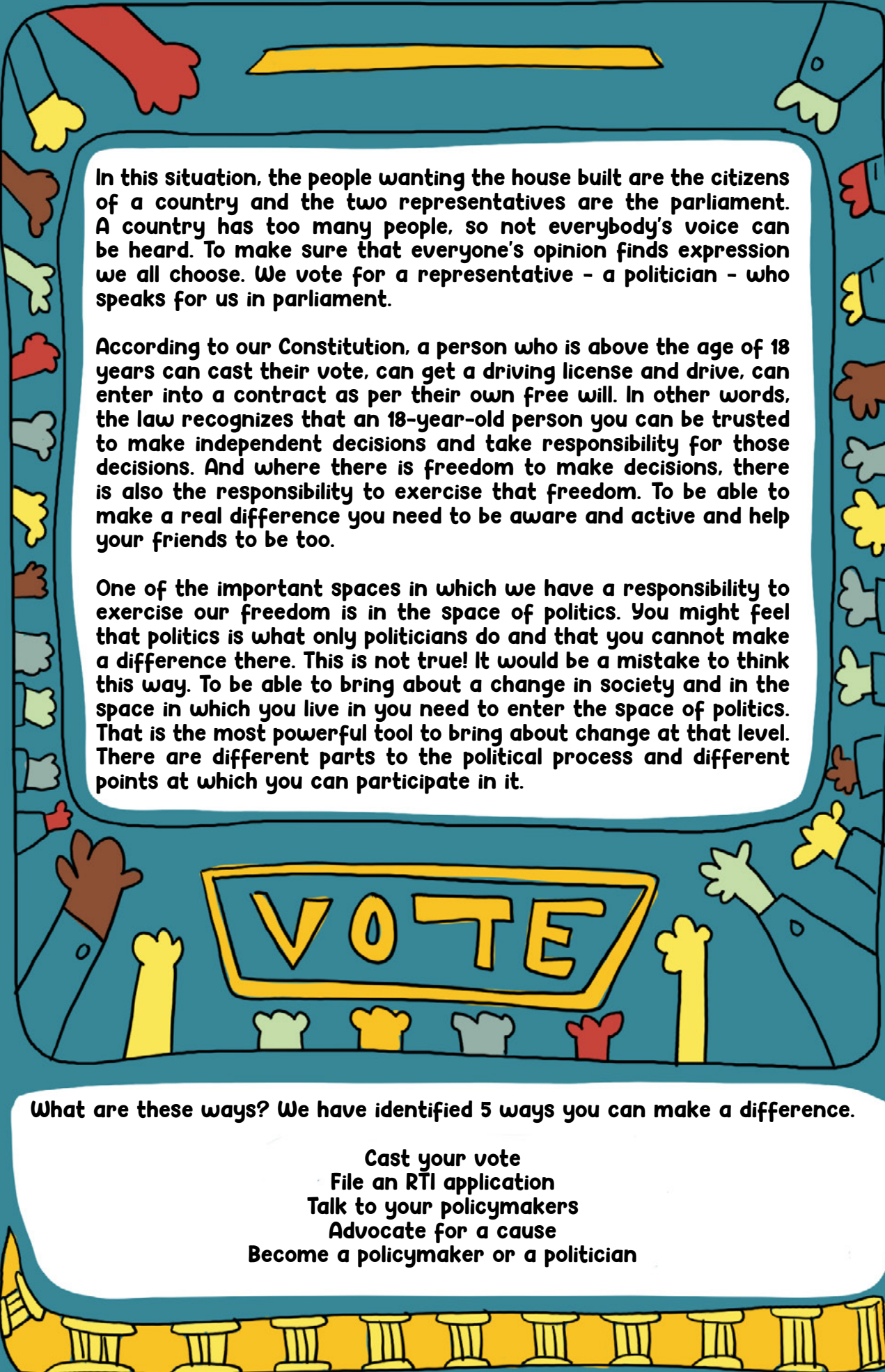
Now imagine there are 50 of you trying to build the house together but you all have different ideas about how the house should be built. Some of you think it should have at least two floors and some of you think it should have only one. Everybody is yelling, trying to explain what they think. Nobody can hear what the other person is saying.



So finally, each group picks one person to speak for all of them. Those two speakers - let us call them representative - speak to each other and finally agree that two floors would be better for everybody. The representative of the group of people who wanted two floors then organises everybody into different groups to build different parts of the house.







In this situation, the people wanting the house built are the citizens of a country and the two representatives are the parliament. A country has too many people, so not everybody's voice can be heard. To make sure that everyone's opinion finds expression we all choose. We vote for a representative - a politician - who speaks for us in parliament.

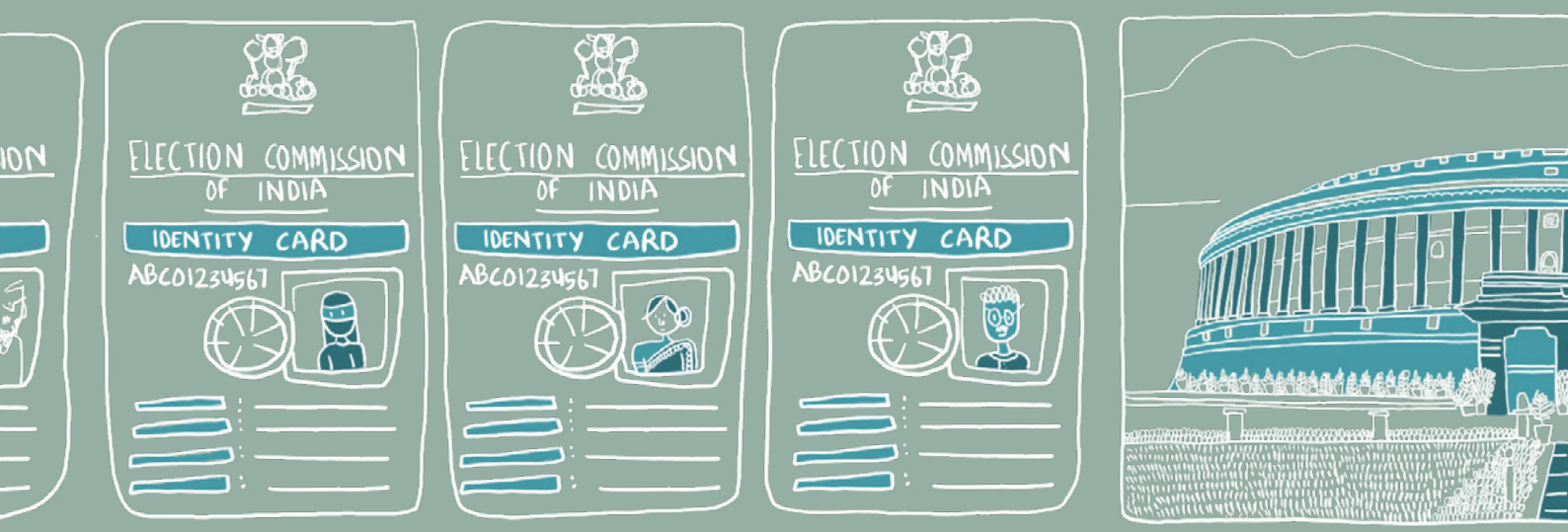
According to our Constitution, a person who is above the age of 18 years can cast their vote, can get a driving license and drive, can enter into a contract as per their own free will. In other words, the law recognizes that an 18-year-old person you can be trusted to make independent decisions and take responsibility for those decisions. And where there is freedom to make decisions, there is also the responsibility to exercise that freedom. To be able to make a real difference you need to be aware and active and help your friends to be too.

One of the important spaces in which we have a responsibility to exercise our freedom is in the space of politics. You might feel that politics is what only politicians do and that you cannot make a difference there. This is not true! It would be a mistake to think this way. To be able to bring about a change in society and in the space in which you live in you need to enter the space of politics. That is the most powerful tool to bring about change at that level. There are different parts to the political process and different points at which you can participate in it.

What are these ways? We have identified 5 ways you can make a difference.

- Cast your vote
- File an RTI application
- Talk to your policymakers
- Advocate for a cause
- Become a policymaker or a politician





## Who can vote?

The power of the Parliament comes from you and all the citizens of India - it comes from your vote! Your gender, caste, religion or any other identity does not matter. Are you above the age of 18 and an Indian citizen? You have the right and duty to vote.



Do not know how to register to be on the rolls? Check Election Commission of India's website - <https://eci.gov.in/voter/voter-registration/>

Commission with the control and supervision on such elections.

Article 325 – this Article provides that an electoral roll will have to be prepared for every constituency by the Election Commission of India. An electoral roll contains the record of all eligible voters in a constituency. The Article further says that no one can be denied to have their names included in the electoral roll on the grounds only of religion, race, caste, sex or any of them. This means that if you approach the election authorities to have your name included in the electoral roll and they refuse to do so citing your caste, religion, gender or race as an excuse, then that authority will be acting against the Constitution!

Article 326 – this Article provides that every person who is a citizen of India, above 18 years of age and not otherwise disqualified, through a law, will be entitled to be registered as a voter.

## Our right to vote - What does the Constitution of India say?

Article 324 – this Article makes the Election Commission of India responsible for conducting elections to the Offices of President, Vice President, both Houses of Parliament and of State Assemblies. This Article also provides the Election



By choosing to give everyone above the age of 18 the right to vote from the moment of independence, India was doing something radical. It is a fact that at that time, in several other advanced nations, women, blacks or people from minority religions were excluded from voting. Therefore, when you head out to vote for the first time, you are reliving this historic decision by the Constituent Assembly.



The Representation of People's Act, 1950 is pretty important as it lays down how the electoral rolls are to be prepared and what are the reasons somebody may not be.

So who can't vote?

- Somebody who is not a citizen of India.
- Somebody the court has said is mentally not capable.
- Somebody who has been convicted for corrupt practices or other election related offences

Here are some of the things you need to remember from it to make sure you are not disqualified from voting.

- Have yourself registered as a voter in only one constituency.
- Do not register multiple times as a voter for a constituency.
- Make sure you are registered in the constituency that you live in sufficiently in advance of the upcoming elections.



Look up which are the next round of elections and when? These could be general elections, State Assembly elections, Municipal/panchayat or local body elections or even by-polls.

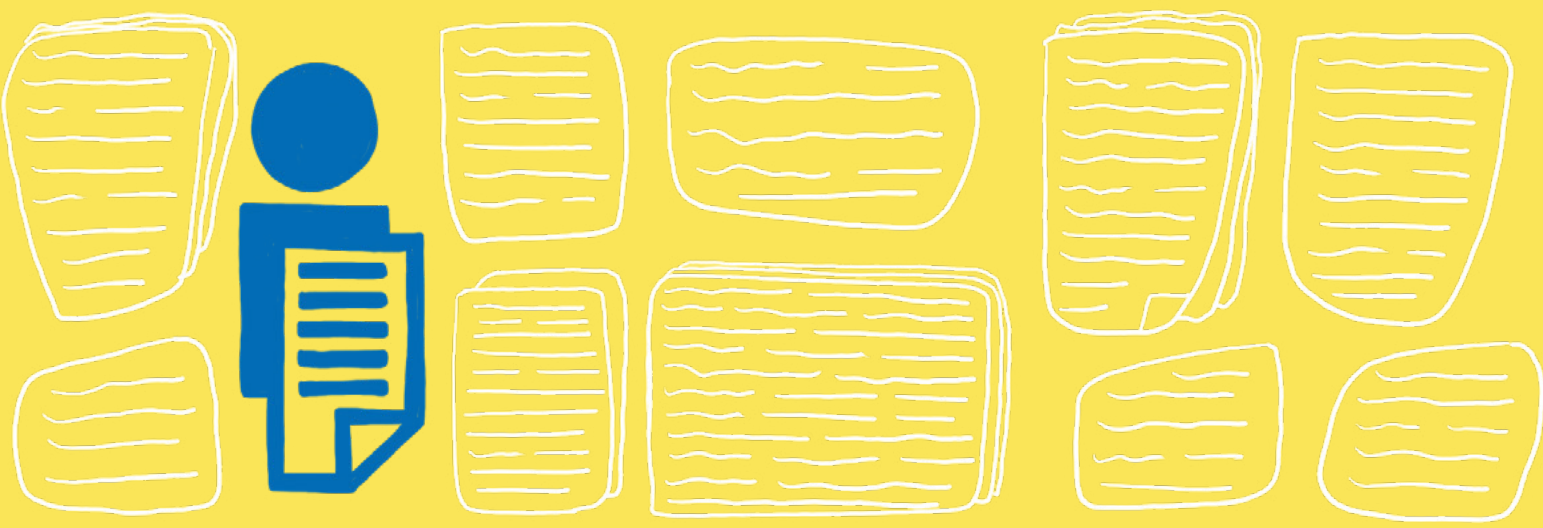
## Registering to vote

It is one of the jobs of the Election Commission of India to make sure that everybody who has the right to vote is not stopped from doing so. But it is your responsibility to make sure that you are registered to vote. The electoral registration officer will look at your application and only then will you be added to the electoral roll.

According to the Election Commission at the time of the Lok Sabha election in 2014, only 45% of the 5.04 cr Indians in the 18-19 age group were registered to vote. That means 27310000 young Indians could not and did not vote in that election. That means the voices of 2.73cr young Indians were not heard in parliament.




It is important to note this because the Preamble starts with the words 'We the people of India' and ends with 'give unto ourselves this Constitution'. It is we the people who by participating in the process of voting, protect our democracy.



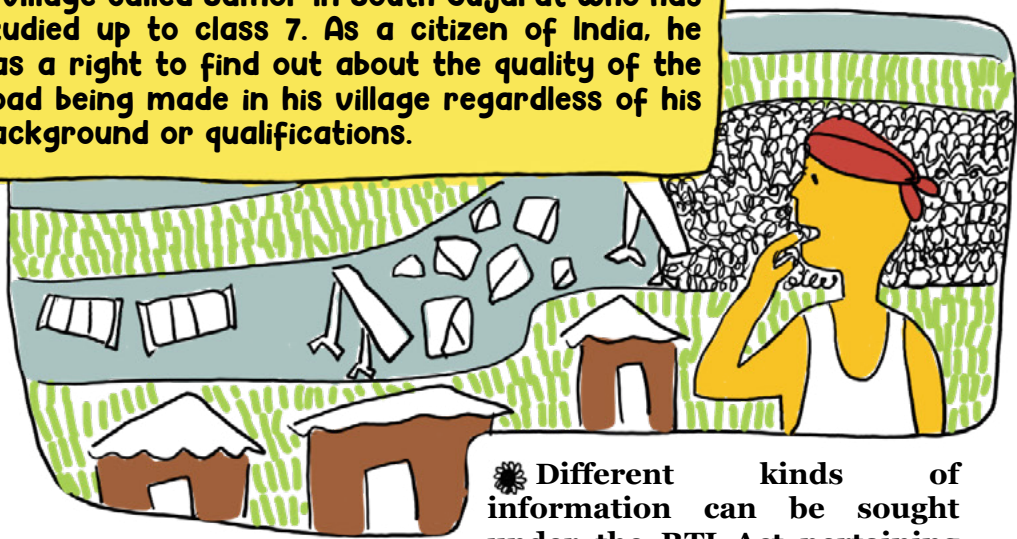
The power of the Parliament comes from you and all the citizens of India - it comes from your vote! Your gender, caste, religion or any other identity does not matter. Are you above the age of 18 and an Indian citizen? You have the right and duty to vote.

## What is the RTI act?

✿ The Act states that **all citizens have the right to information.** All citizens can seek information from any public authority.

 The RTI Act, 2005 is a culmination of a long movement by activists and journalists and is a glowing example of civil society action – look up the history of how this Act came to be.

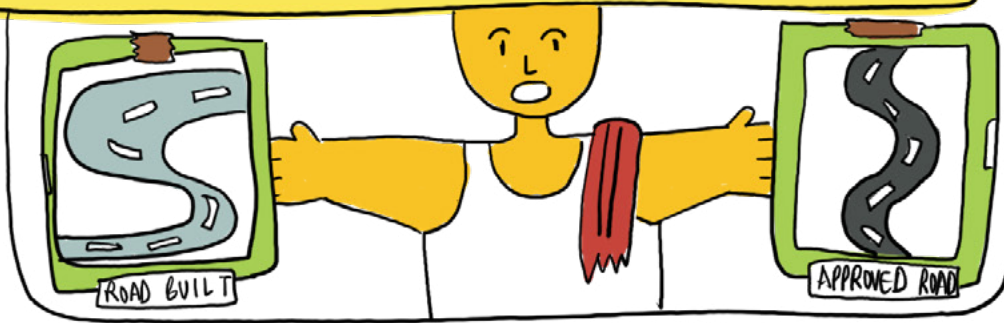
**For instance, Bharsingh Vasava is a tribal from a village called Samor in South Gujarat who has studied up to class 7. As a citizen of India, he has a right to find out about the quality of the road being made in his village regardless of his background or qualifications.**



✿ Different kinds of information can be sought under the RTI Act pertaining to any Act, policy or decision pertaining to a public authority. This could be internal memos, emails, opinions, advice, press releases, circulars, orders, papers regarding official proceedings, samples etc.



**When Vasava realised that the material used to build the road in his village was of poor quality, he filed an RTI application to find out what kind of material was supposed to have been used, what the inspection report by the engineer had said and who it was that supervised the work. The details he was given contradicted the reality of the kind of road that had been made. With this information he was able to go to the State Vigilance Commission and order an inquiry. Action was then taken against the contractor responsible, and his licence was suspended for a year.**



Remember that...

- ✿ You can ask for a copy of the information to be given in electronic form like in a CD or pen drive. You can also ask to go and inspect records and take notes yourself.

- ✿ The Act also requires all public authorities to themselves proactively provide all the information that concerns the public on its website in an accessible manner.

- ✿ When sending an RTI request you do not need to provide any reason for asking for that information.

- ✿ The public authority is required by law to provide the information asked for within 30 days.

- ✿ If the public authority doesn't respond within 30 days or rejects the request or gives incomplete or unsatisfactory response, the citizen requesting for information can appeal against it. For this, appeals can be filed with the State Information Commissions which have been established in every State and further to the Central Information Commission.

**When the Gram Sabha failed to give the information Vasava had asked for, regarding what action had been taken about complaints submitted to the Gram Sabha, he approached the Gujarat Information Commission to file a complaint. After this, the Gram Sabha of Samor followed up on the complaints that had been made.**



- ✿ If any public authority violates the right to information or provisions of the Act, they can be penalised.



# How to file an RTI ?

Filing an RTI is a very simple and cost-effective process.

Identify the correct public authority and Public Information Officer who can provide the information you seek<sup>1</sup>.

Write the application. The language needs to be simple and clear. The following need to be mentioned:

Name

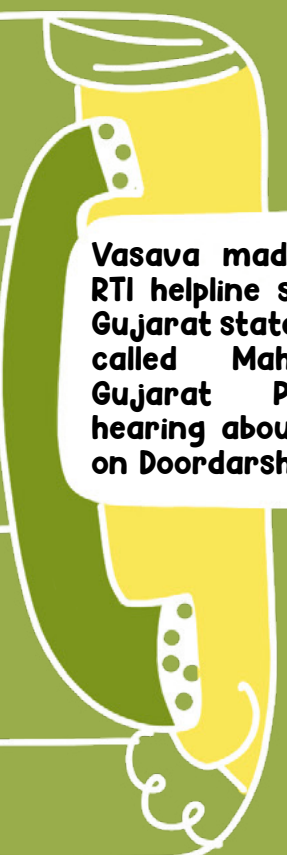
Address

Mode of payment

Contact details if you wish to inspect the records or require a copy of the records, mention it in your application

Pay Rs 10 for the application either online or through a money order from any post office. This can be exempted in some cases, for instance for people who are below poverty line (BPL). To claim such exemption, proof of belonging to BPL needs to be provided.

Submit the application. This can be filed offline, through post or online through a government portal.



Vasava made use of an RTI helpline set up by the Gujarat state government called Mahiti Adhikar Gujarat Pahel after hearing about the RTI act on Doordarshan.

Make sure that you:

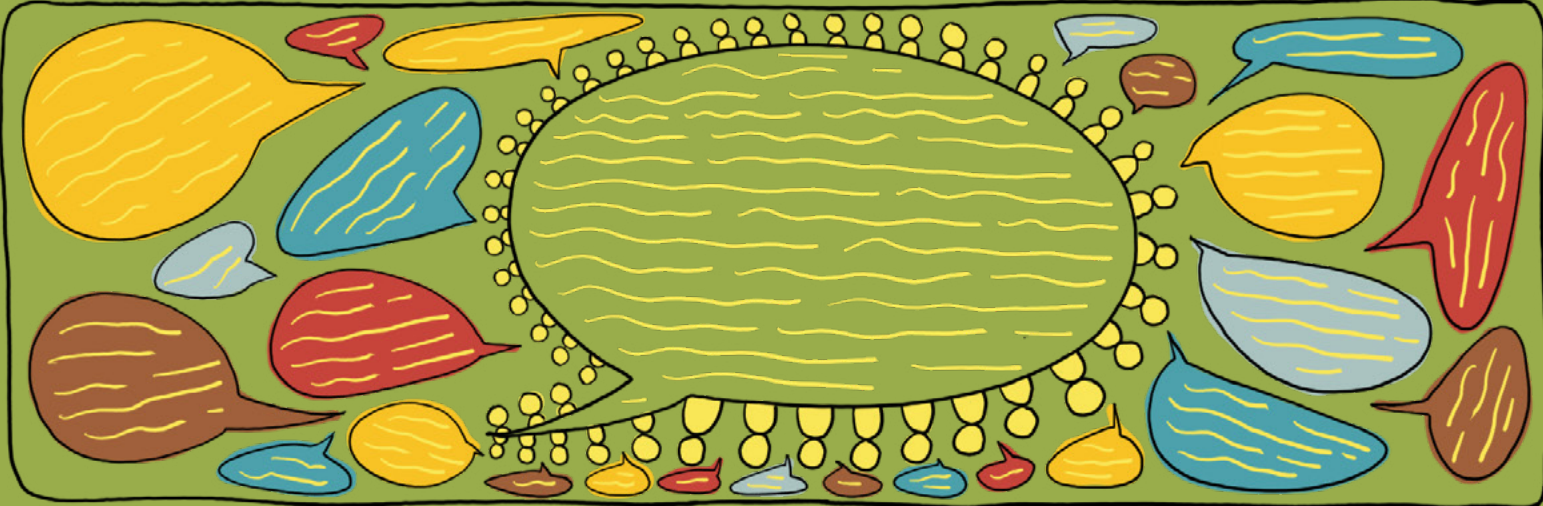
- Avoid seeking information that is exempted from disclosure under section 8 or 9 of the RTI Act, 2005.
- Check if the information you seek is already available in the public domain or on the website of the public authority
- Seek only such information that is held by or under the control of the public authority
- Seek only such information that can be provided within the stipulated time limit and does not cause undue burden on the public authority
- Seek only such information that is related to some public interest or activity
- Avoid filing frivolous, vexatious, or malicious applications.

## Obstacles in using RTI

Public authorities can deny information by citing one ground of exemption or another.

Public authorities can delay or provide incomplete information. Even when appeals are filed by citizen, there can be delay in responding as there is huge backlog of appeals.





Vasava is a real RTI warrior but what makes him an effective warrior is that he did not stop at getting the information. Based on the information he got he would approach the relevant authority to ensure that whatever problem he had identified was addressed. Being informed is an important step but it has to be followed by the next step- taking action! As citizens, we may not be able to get a road made but we can talk to the people who are responsible for it and follow up about it.

Just like one needs to know who to approach to file an RTI, you also need to know who you need to approach to fix a civic problem you may have. So who are the people you have to talk to to make a difference?

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## Who makes policy and law?

The legislatures are the law-making bodies. In the example of the building of a house, these are the people who represent everybody and make the final decision about the number of floors to be built and the general structure of the house. The legislative bodies that have been provided for in our Constitution are:

- ☀️ The Parliament of India including the two Houses – Lok Sabha and Rajya Sabha
- ☀️ the Legislative Assembly in each State and the Legislative Council in some states

- ☀️ the Municipal Council or the Panchayat at the local level

- ☀️ They are required to make laws for us through democratic processes- that means they have to talk with the stakeholders when making the law. For this purpose, legislative bodies set up Committees which invite comments from people on proposed laws and policies.



For instance, in 2021, the Parliament Committee on Women and Youth Affairs invited comments on the proposal to increase marriageable age of girls to 21 years and received many inputs from youth and women groups.



## Who executes policy and law?

The executive or government is the body responsible for executing or implementing the laws made by the legislature and carrying out governance work. In the house building for example, these are the people who actually build the house as it has been decided by the representatives. The government prepares schemes, programs, rules and regulations which enable it to implement the laws.



For instance, the Government of India carried out widespread consultations on the New Education Policy. It received more than 2 lakhs suggestions on the same, which were taken into account before shaping the final policy revealed in 2020.

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## Participate in Public Consultation

With the Pre-Legislative Consultation Policy (PLCP) put forward by the Government in 2014 there has been a greater effort to carry out public consultations before preparing any Bill, rule, scheme etc. The Policy specifically recognises that carrying out public consultations helps make the government more transparent and better informed. It also helps build consensus and there will be less resistance when the law or scheme is being implemented. Public consultations ensure that voices of different stakeholders are taken into consideration before a law or policy is framed.

# Why is public consultation important?

1. Our elected representatives learn what other people think
2. voices of different stakeholders are taken into consideration
3. Based on these inputs the best possible law or scheme can be framed.



Are you aware of any law, policy or scheme on which the government invited comments? If so, which law, policy or scheme was it?  
Have you ever participated in public consultation on any proposed law, policy or scheme? How was your experience? What process did you follow to participate in the consultation, how did you prepare for it?  
What was the outcome of the exercise, were your feedback and inputs incorporated into the law or scheme?  
Will you participate in any future public consultation on any proposed law, policy or scheme?  
How will you convince others around you, other youths to also become engaged citizens?

## How to learn the skills of becoming engaged citizens?

Interact with experts to form your opinion.  
Watch sessions of Parliament and assemblies  
Follow up on news related to laws, schemes being drafted

*These days many government departments also engage youths through fellowships to directly work with administration in implementing different laws and schemes. For instance, through Chief Ministers Urban Leader Fellowship, youths can work with various Ministers in Delhi Government etc.*

## Obstacles to contributing to policy making

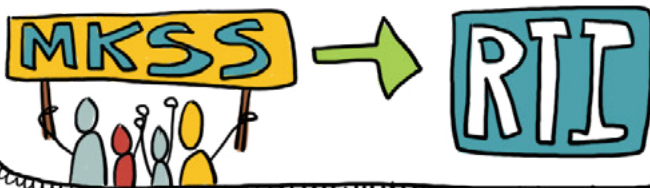
- ❁ Our elected representatives or the government may not be interested in undertaking public consultation.
- ❁ Some laws and schemes on which consultation is undertaken may be too technical for common citizens or youth groups to understand.
- ❁ The language and the manner in which consultation is undertaken can also exclude many people from participating in it.
- ❁ Many a times people and youths are not able to contribute to policy making because they do not know how to or where to find the information or may be too busy with everyday struggles of their lives that they might not be able to pay attention to such initiatives.





What is advocacy?.

**In 1990 workers and peasants from villages in central Rajasthan came together to form a People's organisation, Mazdoor Kisan Shakti Sangathan (MKSS). The original struggle was against a landlord who was illegally holding on to community land. This struggle eventually evolved into a struggle for minimum wage. However, they realised that for their struggle to be truly effective they would need access to financial records of the local government organisations including the Panchayats. Thus started the demand for information so that they could hold the government accountable. What was initially a local struggle became a nation wide one culminating in the introduction of the Right to Information Act in 2005. And all of this because people came together to raise their voices to demand their rights!**



This story indicates that for change to come, people need to come together, struggle, demand change in laws and work to bring that change. This is why advocacy is important because nobody will speak for us if we don't speak for ourselves.

## Plan for a cause

Below we've given some suggestions about strategies you can use to advocate for a cause. No single strategy will necessarily work on its own so you may have to use a combination of them. It depends on what resources you have, what your issue is and who do you have to address.

**Writing petitions, letters to policy makers** – These petitions and letters usually contain a description of the issue along with some evidence and suggest a course of action, a policy change that can help address the issue.



**In 2020, Government invited comments on the Draft Environment Impact Notification which required an assessment of impact of development projects on environment before clearance can be given. The Notification was only made available in English and Hindi and less number of days were given to send comments. Some environment groups led by youths like Fridays For Future got together to mobilise lakhs of youths to send their comments to the Ministry on the Notification expressing concern and suggesting changes. Eventually, the government extended the deadline and published the notification in 22 languages!**

**Create a collective** - Youths can also start their own groups, societies, initiatives and organisations to work with policymakers and contribute to policy making.

**Organise meetings, seminars, discussions** – These can be organised to build awareness among a bigger and broader group of citizens, to create networks of support groups for your advocacy efforts and to generate evidence and research that will strengthen your cause.

**Start online signature campaigns**– this is also a commonly used method of advocacy where a petition can be started on a platform like Change.org on which signatures can be gathered from other concerned citizens to create a pressure on the policy makers to act.

**Create media and social media campaigns** – through press conferences, articles in newspapers, interviews in news channels, creating campaigns on social media which can be shared by supporters etc., visibility and awareness around the policy issue can be created and it can help generate support and encourage policy makers to act.


**Use art, culture to bring change** – many campaigns write poems, create songs, posters and other forms of creative content to engage other citizens and policymakers with their demands.

**Carry out peaceful protests** – these are widely used as a legitimate form of expressing discontent or disagreement with a policy or highlighting a policy issue demanding change. In 2011 a movement, largely driven by young people was started under the banner of India Against Corruption to demand a strong law to set up a body called Lokpal to investigate cases of corruption against government officials. After nationwide protests, the Parliament eventually passed the Lokpal Bill in 2013.

**Petition the court** – sometime to bring a policy change, it is important to approach the courts which in turn can lay down some policy guidelines and also encourage the government to act on the same.

**A Bangalore based citizens campaigning organisation largely run by youths called Jhatkaa started a petition urging the Government of Karnataka to bring a law to deal with issues pertaining to urban mobility. They met several MLAs and submitted their petitions who in turn urged the government to bring a Bill in this direction. Finally, the Bengaluru Metropolitan Land Transport Authority Bill was brought before the Assembly in 2022.**





Can you think of any policy issue on which you would like to undertake advocacy? If yes, what steps will you take and what will be your strategy?

Have you ever participated in any protest demanding a policy change? If yes, on what issue? How did it make you feel and what was the outcome of the protest?

Is it a fundamental right to carry out peaceful protests against any policy of the government? If yes, what kind of restrictions can be placed on such a right?

# Become a Policymaker

While working and engaging with policy making and policy makers, undertaking advocacy are also powerful ways to bring change and become engaged citizens, it is only by contesting elections and becoming policymakers that one can influence change from within the system.

Concerned about the health and livelihood issues that her community was facing from mining operations, 21 years old Laxmi Bhil decide to contest for Sarpanch and became the Sarpanch of Kabra Village Council, Bhilwara Rajasthan. The young Adivasi political leader now wants to inspire other young people to come forward to run the Panchayat Administration.

## Who can become a policymaker?

- Anyone above the age of 25 years can contest elections for Lok Sabha and State Assemblies.

- In Panchayats and Municipalities, the minimum age to contest elections is 21 years.



In 2021, two 21-years-old young girls created history in Kerala. 21 years old Arya Rajendran and Reshma Mariam Roy became the youngest ever elected Mayor and Panchayat President in India.

In some recently held State Assembly elections we saw good participation of youths and in some State Assembly elections, we saw poor participation of youths. For instance, in the Nagaland Assembly election held in 2023, only 10.32% of all candidates were below 40 years of age. But in the Gujarat elections held in 2022, almost 34% of all candidates were below 40 years of age. In the Punjab Assembly election held earlier in 2022, 27% of all candidates were below 40 years of age and some such candidates defeated senior political leaders. For instance, a 35-years-old youth working at a mobile phone repair shop managed to defeat the sitting Chief Minister of Punjab in the 2022 elections.

# Starting young through student politics

• Many people who become active politicians later in life started their participation in politics from their student days.

• As school or college students, getting involved in politics by joining some student political groups, participating in political activities or agitations or contesting elections helps one gain experience of how politics can be used for a good cause.

• Student political groups are often instrumental in ensuring that students get proper facilities in colleges, that there is no unwarranted increase in fee, that the college or university administration work properly etc.

• Through student politics, youths interested in politics also get experience in managing and running political campaigns, advocating for policy changes etc. which helps them become active citizens even if they don't contest elections again in future.

## Obstacles in youth participation in politics

• Often young people consider politics to be a risky profession and concern for their safety may keep them away from getting involved in politics.

• Many youths do not come forward to contest elections because they are not able to gather the financial and human resources required to contest elections.

• They might also not get support from their friends and family who might discourage them from contesting. They are instead asked to focus on studies and building their careers.

• Political parties may not consider youths as winnable candidates and do not give them tickets.



Do you think more youths should contest elections? Why or why not? What will make more youths to consider contesting elections?

Has any young person around you ever contested an election? What was the outcome and how was their experience?

Have you ever contested any election? How was your experience?

Would you want to contest any election before you turn 40? Why or why not?



# Chapter Glossary

## **By-polls:**

Elections that take place when a seat-holder of a particular constituency dies, resigns or is disqualified before the completion of their term.

## **Constituency:**

An area where people vote for their representative. There are different types of constituencies for different levels of government.

## **Electoral Roll:**

A register containing the names of eligible voters within a specific geographical area

## **Public authority:**

Any body, authority or institution which is directly or indirectly related to the government or funded by the government.

## **Pre-Legislative Consultation Policy (PLCP):**

Is a process of seeking feedback from the public and stakeholders on draft bills or rules before they are introduced in the parliament or notified by the government.

## **State Vigilance Commission:**

A government body responsible for investigating corruption and misconduct.

# Workshop Template

**Become a RTI Activist**  
 RTIs are a way for us to find out information we may need to know more about what the government has done and how it has been working. Your RTI can be a way to hold authorities accountable when they have not done the work they need to.

**Discover  
45 minutes**

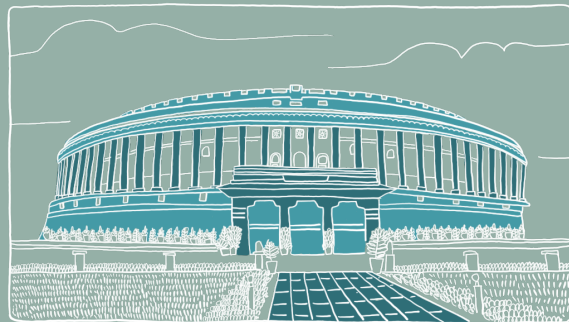
| Structure of Workshop   | Resources  | Takeaways   | Possible Obstacles   |
|---|--|---|--|
| <p><b>Step 1 (10-15 Minutes)</b></p> <ul style="list-style-type: none"> <li>You can start your journey by searching for ‘RTI Online’ to access the Union Government’s website. For state-specific information, add your state or union territory name after ‘RTI Online,’ such as ‘RTI Online [state or UT name].’</li> <li>Once on the platform, explore the ‘How to Submit Request’ section, where you can file your request in Hindi or English.</li> <li>Ensure you read and understand the provided guidelines before proceeding.</li> </ul> <p><b>Step 2 (10-15 Minutes)</b></p> <ul style="list-style-type: none"> <li>Your next task is to identify the right authority and the relevant department—Think of it as an essential step in your RTI quest.</li> </ul> <p><b>Step 3 (5-10 Minutes)</b></p> <ul style="list-style-type: none"> <li>Now, it’s time for some paperwork. Prepare your RTI application by entering your details and selecting your payment method.</li> </ul> <p><b>Step 4 (5-7 Minutes) (Optional)</b></p> <ul style="list-style-type: none"> <li>You can pay a Rs 10 application fee if you’re ready to submit the RTI (unless you qualify for an exemption, like if you’re under the BPL category). After that, you can go ahead and submit your application online. Your request is now on its way!</li> </ul> <p>Extra:<br/>           If you prefer a more traditional approach, there’s always the option of filing your RTI request in person.</p> | <p><b>Persons</b><br/>Solo activity</p> <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>Internet access (if filing online)</li> <li>Access to a payment method (Internet Banking, Credit or Debit Card / RuPay Card, UPI) (Optional)</li> </ul> <p><b>References</b></p> <ul style="list-style-type: none"> <li><a href="#">Website link for RTI Online</a></li> <li>Read the section ‘File an RTI’ in the module ‘Be an Engaged Citizen’</li> <li>Another JA reference is from the Graphic Law Library outlining the <a href="#">procedure</a>.</li> </ul> | <p>You will understand the key elements of an RTI application.</p> <p>You will become familiar with the payment process and exemptions</p> <p>You will know what information can be requested and what to avoid.</p> <p>The more frequently you do it the better you will develop the skill to create meaningful and effective RTI applications</p> | <p>Keep in mind that only Indian citizens can file RTI applications.</p> <p>The RTI website of the Union government offers options in either Hindi or English. This means that people who only know their regional language might face difficulties.</p> <p>Remember, the portal mentioned is meant for filing RTI applications with Union government authorities. If you want to file with State Governments, including the Government of NCT Delhi, you will need to do a little research about how you can do so.</p> <p>Sometimes, figuring out which department to contact can be a bit tricky. The facilitator can try doing a quick search on Google to see which department or ministry deals with your question.</p> <p>In some states or Union territories, you might have to go through extra login steps. Be prepared for some differences in the process.</p> |

## Become an Active Citizen, Not a Passive Viewer

The power of the Parliament comes from you and all the citizens of India- it comes from your vote! Your gender, caste, religion or any other identity does not matter. Are you above the age of 18 and an Indian citizen? You have the right and duty to vote.

**Interact**  
**25 minutes**

| Structure of Workshop   | Resources  | Takeaways   | Possible Obstacles   |
|---|--|---|--|
| <p><b>Step 1 (5 Minutes)</b></p> <ul style="list-style-type: none"> <li>First, log in to the voter service portal. You'll need your mobile number or the details of an already registered voter with their EPIC number. If you're new to the voter list, click on "Form-6."</li> </ul> <p><b>Step 2 (20 Minutes)</b></p> <ul style="list-style-type: none"> <li>You'll be guided to a form where you can fill in all the required information and upload necessary documents..</li> </ul> <p><b>Step 3 (Optional)</b></p> <ul style="list-style-type: none"> <li>Once you're done with the form, you can verify and submit to the Electoral Registration Officer (ERO)</li> </ul> | <p><b>Persons</b></p> <p>Can be done as a solo activity</p> <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>Internet Enabled Devices</li> <li>Identification documents (Passport size photo scan, Any official identification document for age and address )</li> <li>Pens and paper</li> </ul> <p><b>References</b></p> <ul style="list-style-type: none"> <li><a href="#">Link to Voter Registration website</a></li> </ul> | <p>If you have not registered already you will now be ready to participate in the next election and make your voice count</p> <p>If you have registered before this is a good reminder of the information the government requires for this document. Now you know why your voter ID such an important document!</p> | <p>The website has a timeout feature, so if you take too long (around 30-45 minutes), you might need to log in again and start from the beginning. To avoid this, make sure you have a few things ready before you start the registration process:</p> <ul style="list-style-type: none"> <li>You'll need a passport photo with specific dimensions (4.5 cm X 3.5 cm) and a white background.</li> <li>Have your scanned attested documents ready for proof of residence and age if you want to register. However, if it's for educational purposes, you can just choose the "no document available" option.</li> </ul> <p>You will need a stable internet connection to ensure the process is seamless. The form does not allow you to save details and return to the form.</p> |



## Be the Change You Want to See

You don't need to be a politician to make a difference. Just by making sure your voice is heard you can start a change and that means using your voice effectively. Creating a campaign is a helpful way to do so as it ensures you connect with a large number of people and are not doing it on your own.

**Interact | Reflect**  
**70 minutes**

| Structure of Workshop   | Resources   | Takeaways   | Possible Obstacles   |
|---|---|---|--|
| <p><b>Step 1: Group Formation (5 minutes)</b></p> <ul style="list-style-type: none"> <li>Divide participants into small groups of 2-4.</li> </ul> <p><b>Step 2: Campaign Topic: Brainstorming and Planning (25 minutes)</b></p> <ul style="list-style-type: none"> <li>Give each group a fictional campaign topic relevant to their needs. You can share with them images from some of the campaigns given as examples here for them to understand. Give each group 35 minutes to brainstorm and plan their campaign. Encourage creativity and appoint a leader.</li> </ul> <p><b>Step 3: Campaign Presentation Preparation (10 minutes)</b></p> <ul style="list-style-type: none"> <li>Instruct groups to prepare a brief presentation (5-7 minutes).</li> </ul> <p><b>Step 4: Group Presentation (30 minutes)</b></p> <ul style="list-style-type: none"> <li>Each group presents their campaign idea.</li> <li>Allow time for questions and feedback after each presentation</li> </ul> | <p><b>Persons</b></p> <p>To be done as a group activity for 6-12 persons.</p> <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>Pen, Paper, Supplies</li> </ul> <p><b>References</b></p> <p>Examples of campaigns:</p> <ul style="list-style-type: none"> <li><a href="#">Beti Bachao, Beti Padhao</a></li> <li><a href="#">Khelo India</a></li> <li><a href="#">Digital India</a></li> <li><a href="#">Swatchh Bharat</a></li> <li><a href="#">Amche Mollem</a></li> <li>Read the section 'Advocate for Yourself' in the module 'Be an Engaged Citizen.'</li> <li>Another JA reference is the '<a href="#">Design a Campaign Manual</a>'</li> </ul> | <p>You will learn what the features of a campaign are</p> <p>You will hear what others have to say about the same issue and learn to listen to other voices</p> <p>You will come away with a broader understanding of the issue discussed having heard the opinions of others</p> | <p>Participants might not know how to plan campaigns. The facilitator should provide examples of campaign strategies.</p> <p>Some could dominate discussions, while others stay quiet. The facilitator can assign roles like leader, timekeeper, and note-taker for balanced participation</p> <p>Participants might struggle with creative ideas. The facilitator can use the examples as prompts to spark creativity.</p> <p>Disagreements can arise within groups. Encourage open discussions and explain that disagreements can improve campaigns.</p> |

