

# THE CONSTITUTION AND FUNDAMENTAL RIGHTS AND DUTIES

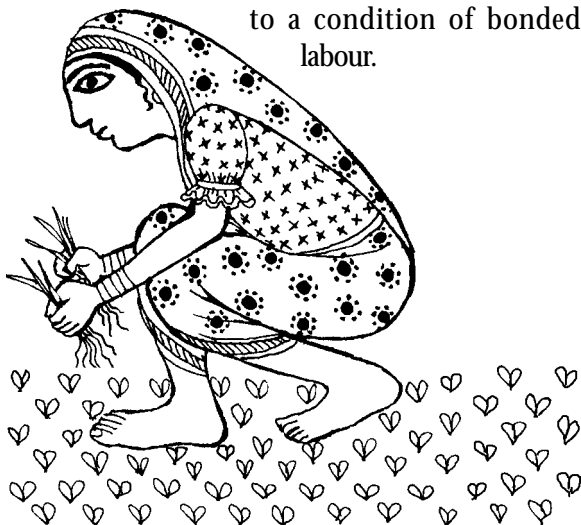
(PART 2)

## 3. “Right against Exploitation”

***Begaar* “and other similar forms of forced labour are prohibited.”**

You read in some of the history chapters that some people were forced to do '*begaar*' (*bazaar*) i.e. to work without any wages. If any landlord or contractor today forces a person to work without any wages or at very low wages, it would be a violation of the fundamental right against exploitation. Such a person can file a case in the court. Similarly, if a person is forced to work as a bonded labourer it would also be a violation.

For example, suppose a labourer borrowed money from a moneylender in a village and she is unable to pay it back. If the moneylender forces her to work in his fields so that she can pay back the loan through this work, then it would amount to a condition of bonded labour.



ASIAD stadium

Bonded labour is a violation of the right against exploitation because workers are **forced** to work under the landlord or the contractor.

In 1982, the ASIAD Games were held in Delhi. A contractor brought many labourers from Bihar, Madhya Pradesh and Uttar Pradesh to build the stadium and facilities. They were forced to work at very low wages. A case was filed in the Supreme Court that this was in violation of people's Fundamental Right against exploitation. It was also in violation of the right to life and personal liberty.

While making an order in this case the Supreme Court made it clear that if someone is forced to work at low wages because of poverty, then it shall be considered a violation of the Fundamental Right against exploitation. Thus it is the responsibility of the government to see that no one is forced to

work for low wages or under bondage. If the government fails to do so, the labourers have the right to file cases against the employers.

There have been many instances in Chhattisgarh, Bihar and U.P. where bonded labourers have been identified and released from their bondage.

These cases have been fought and won within the context of the 'right against exploitation'. In one such order, in 1980, the Supreme Court directed the then government of Madhya Pradesh to make provisions for the resettlement of almost 700 wage labourers. It ordered that all labourers be given Rs. 4000 each as compensation.

## “Prohibition of employment of children in factories”

The Constitution states, “no child below the age of 14 shall be employed to work in any factory or mines or engaged in any other hazardous employment.” Accordingly, laws have been made that prohibit children from making matches, crackers, beedis and carpets, or doing printing and dyeing etc.



A young girl illegally employed in a silk factory

*Can you explain why people become bonded labourers?*

*Ask your teacher to find out from your Labour Office what the minimum wage is for someone doing casual labour in the city or agricultural work in the fields.*

*What is the difference between 'begaar' and 'being forced to work at low wages because of poverty'?*

*Do you think this right has been made available to children in the villages and cities in your area?*

*Which of the principles in the Preamble to the Constitution does the Fundamental Right against Exploitation address?*

## 4. “Right to Freedom of Religion”

All individuals are free to follow their conscience and practise any religion. No one can be prohibited from following his or her religious practices as an individual. This also means that a person can decide to change his or her religion.

However, there are many restrictions in practising this freedom of religion. For example, among some communities there is a practice of killing a girl-child at birth (female infanticide). Suppose someone claimed that they killed their baby because it was part of their religious practices. This would not be acceptable. One cannot commit a crime like infanticide in the name of religion. Similarly the practice of Sati cannot be committed in the name of religious freedom.

More importantly, no government office, school or institution can adopt any particular religious practice. According to the law, worshipping gods, offering *namaz*, singing *bhajans* or *gurbani* is prohibited in government schools and institutions. In schools that are not run by the government but are recognised by it, religious practices may be followed. Yet, even in such a case, no one can be forced to take part in religious instruction or attend religious worship if they do not want to (or, if they are below 18, if their parents do not want them to).

According to the Constitution, the government does not have any religion. It should treat all religions as equal, as mentioned earlier. This is what the Preamble means when it says that India is **secular**.

*How does the practice of Sati violate fundamental rights?*

*Do people necessarily have to follow the religion of their parents?*

*Why is there a restriction on religious instruction in government schools?*

## 5. "Cultural and Educational Rights"

The Constitution says, "All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."

Minority groups are usually thought of in terms of language and religion. Whether or not someone is a minority depends on where they live. For example Marathi speaking people would not be a minority in Maharashtra but they would be in West Bengal.



They have the freedom to establish and run institutions in order to protect their culture and language. For example if Kannada speaking people wish to run a Kannada medium school in M.P. in order to preserve their culture and language they cannot be prevented from doing so.

The government also has to recognise and provide grants to such institutions if they fulfil other essential conditions. In the above example, if such a school is affiliated with the M.P. State Board and fulfils the Board's conditions, then it can receive grants from the state government just like any other aided private school.

## 6. "Right to Constitutional Remedies"

People have the Fundamental Right to approach the High Courts and Supreme Court if there is any violation of their Fundamental Rights. When such rights are violated, they can be restored by the courts giving specific directions or orders.

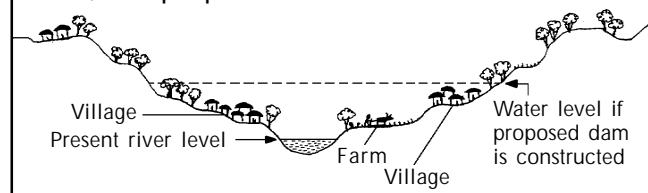
It is the responsibility of the government to protect the people against any violation of their Fundamental Rights. A case can be filed against the government if it fails to do so.

*How does this right ensure that all other Fundamental Rights are protected? Explain, using examples of the cases you have read about in this chapter.*

If the rights of a group of people are being denied, each affected person does not have to file a separate case. Any person (or organisation) can file a case against the government on behalf of this group of people. This kind of case is called a **Public Interest Litigation (PIL)**.

### An Example of a Public Interest Litigation

Suppose the government decides to construct a dam on a river. And suppose there are around 50,000 people whose fields would be flooded if the dam is built. They would lose their land and livelihood. Their way of life would be seriously affected. This is a violation of their fundamental rights to freedom of life, freedom to settle in any part of the country and freedom to pursue any occupation of their liking. In such a situation, a case can be filed in the Supreme Court to protect the Fundamental Rights of these people. One case can be filed on behalf of all 50,000 people.



# "FUNDAMENTAL DUTIES"

Our country's ideals are stated in the Preamble to the Constitution, using the words **Justice, Liberty, Equality and Fraternity**. To achieve these ideals, Fundamental Rights as well as Fundamental Duties are outlined in the Constitution.

Just as we have rights, we have some responsibilities too. These responsibilities are towards other people living around us. Naturally no one can have complete liberty if their actions cause problems for other people.

Let us discuss the responsibilities and expectations of citizens, as outlined in the section of the Constitution on Fundamental Duties.

**"It shall be the duty of every citizen of India-**

## a) "to abide by the Constitution . . ."

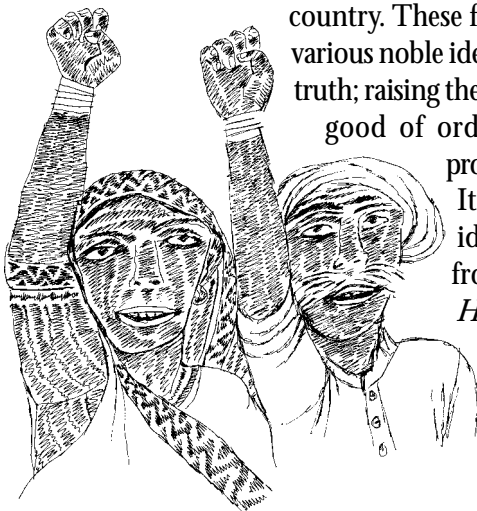
It is our fundamental duty to obey the rules of the Constitution. We should not insult either the National Anthem or the National Flag.

*Which colours are used in the flag of India? Draw a flag and colour it.*

## b) "to cherish and follow the noble ideals which inspired our national struggle for freedom;"

Many lakhs of Indians fought against British rule in our country. These freedom fighters stood for various noble ideals such as fighting for the truth; raising their voice for the welfare and good of ordinary and poor people; protesting against injustice etc.

It is our duty to follow such ideals. These lines of a song from the film *'Phir Subah Hogi'* (1958) inspire us to follow the ideals of the freedom movement.



== "Edu  
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 VE° EEE Ed +EBeE fEEEnE  
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 VE° BEo +xEEEO nE°EE Ed  
 °EEnEEnU = E-CVEEBNO  
 iia°Ee/pEq;Eo iia+EBMO...  
 °EE/pE

**c) “to maintain the unity and sovereignty of India;”**

It is our duty to see that all of India remains united as one country. We should keep India free from foreign rule.

**d) “to defend the country . . .”**

**e) “to bring harmony and peace amongst people of different languages and religions, and to refrain from insulting the dignity of women;”**



A protest in Delhi against dowry deaths.

Today, there is a great need for communal harmony. Over the past few years we have seen riots between different communities in many places. It is our duty to prevent rumours and situations that give rise to such riots.

It is our responsibility to voice our protest if women are insulted. It is necessary to protest against the dowry system, and beating of women. It is necessary to see that those who encourage such acts are brought before the law.

**Discuss :** Why do both boys and girls feel pressurised to follow the dowry system? In what way can these pressures be overcome?



Trees, by Rabindranath Tagore

**f) “to protect and improve the natural environment . . .”**

It is our duty to see that our rivers, lakes, forests etc are not polluted or destroyed. Thus if a factory pollutes a river or if a dam destroys the environment or forest, it is our duty to do something to prevent it. It is also the duty of the government to follow these obligations. For example, a case was filed against the government because quarrying in a certain region was damaging the environment, causing deforestation and erosion. The court issued orders to the government to stop the quarrying.

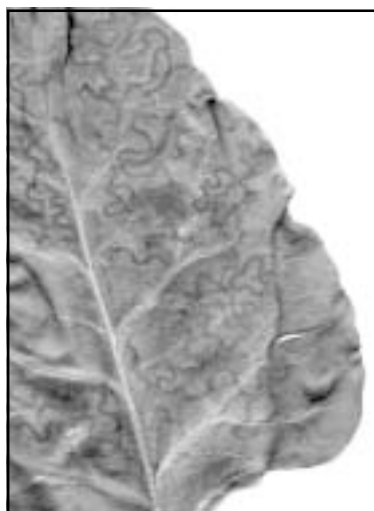
**g) “to value and preserve the rich heritage of our composite culture;”**

Our music and art traditions are influenced by many cultures (picture from the Chamba Hills, circa 1730).



**h) “to develop the scientific temper, humanism and the spirit of inquiry and reform;”**

Scientific temper means people will be curious about the world around them. They will ask questions, search for answers and reach conclusions based on observations, critical examination and trial and error. Humanists are concerned about the needs, welfare and well being of human beings. The Constitution encourages people to adopt such attitudes and try to bring about positive changes in society.



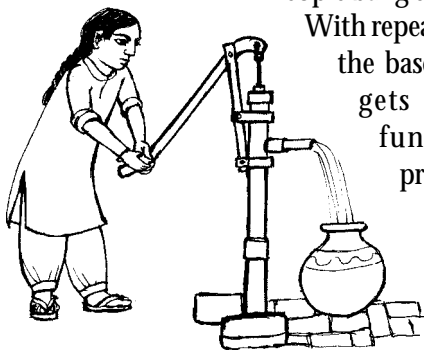
For example, some years ago, during the rainy season, people noticed wavy lines on the leaves of many vegetable plants. Some people spread the rumour that the vegetables had come under a curse. Many people stopped eating vegetables. However, some girl students from Dhar, M.P. questioned whether this could really be true. They showed remarkable scientific sense. They took a few leaves and dissected them with a needle.

They could see insects crawling around inside tunnels in the leaves. They told their friends and relatives that the lines were actually just the tunnels made by these insects.

**i) “to safeguard public property . . .”**

It is our responsibility to see that all public properties such as wells, handpumps, buses, trains or hospitals are well maintained and not damaged. For example, handpumps are often used carelessly.

People bang too hard on the handle. With repeated use in this manner the base develops cracks and gets damaged. It is our fundamental duty to prevent such careless use.



**j) “to**

**strive towards excellence in all spheres . . .”**

People should work towards achieving excellence in all fields - agriculture, industry, education, science and sports. This will ensure that our nation develops in all aspects.

**k) “to educate our children.”**

It is the responsibility of parents to make sure that their children get an education so that they can develop to the best of their potential.

There is a difference between fundamental rights and duties. If there is a violation of a fundamental right then one can approach the court whether or not there is a particular law related to the case and seek justice to correct the situation. Fundamental duties cannot be enforced in this manner. If someone does not perform a fundamental duty then we cannot go to the court. However, there are other laws like the Anti-Dowry Act to ensure that the fundamental duties are followed.

Three children ready for school



# Exercises

1. Look through this chapter and the previous one and make a list of the six Fundamental Rights in the Constitution.
2. Are your Fundamental Rights being violated in each of the following cases? If so, which Fundamental Right or Rights? Discuss with your classmates.
  - a) Suppose you are kept in a police station for 4 days without being told what law you broke.
  - b) Suppose your neighbour tries to claim some of your land as her own.
  - c) Suppose your parents do not allow you to go to school. They make you take up a job in a match factory instead, because they cannot afford to feed you properly.
  - d) Suppose your brother refuses to give you the land that you have inherited from your father.
  - e) Suppose, while you are visiting your friend's house, she gets angry and asks you to go away.
  - f) Suppose you are not religious and you are made to pray at the assembly in your school, even though your parents had already told the school principal that they do not want you to pray.
3. Suppose you are an advocate. How would you argue the case for a group of people who come to you with the following request:

*"The river in our area is getting very polluted by the factories upstream. We get our drinking water from the river. People in our villages keep falling ill because of the polluted water. We have complained to the government but there has been no action from their side. This is surely a violation of our Fundamental Rights."*
4. How and when can a Public Interest Litigation (PIL) be filed? Who can file a PIL? Against whom does such a case get filed?
5. Megha's father told her that she might get cancer if she visited her classmate, Anisha, who is in hospital with cancer. Praveen knew that cancer is not contagious. She heard Megha's father but kept quiet. Megha questioned her father, "Is it really true that cancer is contagious?" Monica told Praveen that Megha should believe whatever her father says. Who is following their fundamental duties best, Praveen, Megha or Monica? Explain.
6. Suppose someone tells people of one religious community that they should not go to certain shops in the market because they are owned by people of a different religious community. Which fundamental duty is this person violating?
7. Fearing the communal riots that were occurring in many places, a group of women from one religious community in a village went to the police station. They wanted to file a written complaint and ask for police security or a safe place to stay. The inspector belonged to a different community. He did not register a First Information Report (FIR). The police did not provide any protection either. The next day a mob burnt down the houses of these women. Discuss which fundamental rights were denied in this case.
8. Some of the Fundamental Duties on pages 97-99 have been illustrated with pictures and poems. Find, draw, or compose more pictures, poems or songs to illustrate and give examples of the Fundamental Duties.