



FUNDAMENTAL RIGHTS & DUTIES

In Our Constitution



AN EKLAVYA PUBLICATION

FUNDAMENTAL RIGHTS & DUTIES

IN

OUR CONSTITUTION

A module on

SOCIAL STUDIES

AN EKLAVYA PUBLICATION



Fundamental Rights and Duties in our Constitution

A module developed under the Social Science Teaching Programme of Eklavya

Illustration and Design - Karen Haydock

September 2005 / 3000 copies
Printed on 80 gsm Maplitho & 170 gsm Art Card (Cover)
ISBN : **81-87171-62-6**
Price Rs. 20.00

Published by : **EKLAVYA**
E-7 / 453 HIG, Arera Colony
Bhopal (MP) 462 016
Phone (0755) 246 3380
Fax (0755) 246 1703
email: eklavyamp@mantrafreenet.com



Printed by Rajkamal Offset Printers, Bhopal Ph. 268 7589

FUNDAMENTAL RIGHTS AND DUTIES

IN OUR CONSTITUTION

(PART 1)

The Constituent Assembly

Lessons in history tell us about India's struggle for freedom and how different groups were protesting against the British rule. They wanted the British to leave India. They wanted India to be a free country.

What were the grievances that the Indians had about the way they were ruled under the British System of Administration? Find out from your history chapters.



"At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom." This was how Jawaharlal Nehru addressed the midnight session of the Constituent Assembly in Delhi on the night of 14th August 1947.

Along with this struggle for freedom there was another question discussed by people involved in the Freedom Movement. This was: "What should be the form of government after the British leave? Should we go back to the rule of the kings, as some of our old rulers are suggesting?"

While most people agreed that we should have our own rule, people had different opinions about what kind of government we should have. Some people thought that most of the powers should be with the Panchayats. Others believed that the Prime Minister or the President should have more power. Should we have elections? Should we have the same rules for everyone? How should we collect

taxes? What kind of life do we want for everyone in the country?

In order to decide on such questions and visualise the future of our country, a group of people, called the Constituent Assembly, was elected. Its task was to write the **Constitution** – the document that gives the basic laws and principles by which the country will be governed. The Constituent Assembly had 299 members from all parts of the country. You may have heard about some of these like Sarojini Naidu, Jawaharlal Nehru, Vijaylaxmi Pandit, Maulana Abul Kalam Azad, M.V. Kamath, etc. They held long discussions on every point that was to be put in the Constitution. These discussions went on for three years.



Would you like to find out how the people in the Constituent Assembly decided what the Constitution should say? And why it took so long? Many different committees had been set up within the Constituent Assembly to work on different subjects. The committee on Fundamental Rights submitted its report and a discussion took place after that. The document containing this discussion is called CONSTITUENT ASSEMBLY OF INDIA VOLUME-III. You can read an excerpt from that document below.

Tuesday, the 29th April, 1947

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at half past Eight of the Clock, Mr. President (The Hon'ble Dr. Rajendra Prasad) in the Chair.

The Hon'ble Sardar Vallabhbhai Patel: ...There were two schools of thought in the Committee and there was a large number of very eminent lawyers who could scrutinise every word of every sentence, even commas and semi-colons, from a very critical point of view. These two schools viewed the matter from two different angles. One school considered it advisable to include as many rights as possible in this Report - rights which could straightaway be enforceable in a court of law, rights in regard to which a citizen may without difficulty go straightaway to a court of law and get his rights enforced. The other school of thought considered it advisable to restrict fundamental rights to a few very essential things that may be considered fundamental. Between the two schools there was considerable amount of discussion and finally a mean was drawn, which was considered to be a very good mean. . . . the two schools of thought . . . studied not the fundamental rights of one country alone but of almost every country in the World. They studied all the Constitutions of the world and they came to the conclusion that in this Report we should include as far as possible rights which may be considered to be reasonable. On that there may be difference of opinion in this House and this House is entitled to consider every clause from a critical point of view and to suggest alterations, modifications or omissions...

Mr. Promatha Ranjan Thakur: Sir, ... [A] point to which I wish to refer is in relation to clause 6 regarding 'untouchability' where it is said that-

"Untouchability in any form is abolished and the imposition of any disability only on that account shall be an offence."

I do not understand how you can abolish untouchability without abolishing the very caste system. Untouchability is nothing but the symptom of the disease, namely, the caste system.... Unless we can do away with the caste system altogether there is no use tinkering with the problem of untouchability superficially.

S. C. Banerjee: Mr. President, the word 'untouchability' actually requires clarification. We have been accustomed to this word for the last 25 years, still there is a lot of confusion as to what it connotes. Sometimes it means merely taking a glass of water and sometimes it has been used in the sense of admission of 'Harijans' into temples, sometimes it meant inter-caste dinner, sometimes inter-caste marriage. Mahatma Gandhi who is the main exponent of 'untouchability', has used it in various ways and on different occasions with different meanings. So when we are going to use the word 'untouchability', we should be

very clear in our mind as to what we really mean by it. What is the real implication of this word?

I think we should make no distinction between untouchability and caste distinction, because as Mr. Thakur has said, untouchability is merely a symptom, the root cause is caste distinction and unless and until the root cause, that is caste distinction is removed, untouchability in some form or other is bound to exist and when we are going to have an independent India, we should expect everyone to be enjoying equal social conditions.

Srijut Rohini Kumar Chaudhury: ...[For] defining untouchability, it may be clearly stated that: 'Untouchability' means any act committed in exercise of discrimination on grounds of religion, caste or lawful vocation of life . . .

Mr. K. Munshi: Sir, I oppose this amendment. The definition is so worded that if it is accepted, it will make any discrimination even on the ground of place of birth or caste or even sex 'untouchability'.

Mr. Dharendra Nath Datta : Sir, it seems to me that whether the definition suggested by Mr. Rohini Kumar Chaudhury is accepted or not, it is necessary that there should be some definition put in. Here it is said that 'untouchability' in any form is an offence. A magistrate or a judge dealing with offences shall have to look to the definition. One magistrate will consider a particular thing to be untouchability, while another magistrate may hold a different thing to be untouchability, with the result there will be no uniformity on the part of the magistracy in dealing with offences. It will be very difficult for the judge to decide cases.

Moreover, untouchability means different things in different areas. In Bengal, untouchability means one thing, while in other provinces, it means an entirely different thing.

Mr. President: I should like to draw the attention of the House to clause 24 which says ...[that the] Union Legislature shall make laws to give effect to those provisions of this part which require such legislation. . . [Therefore,] I take it that the Union legislature will define the word 'untouchability' so that the courts might prescribe proper punishment.

[Eventually it was decided to leave the definition of untouchability up to future law makers.]

Sardar Patel



Finally, the Constitution was adopted by members of the Constituent Assembly on behalf of all the people of India.

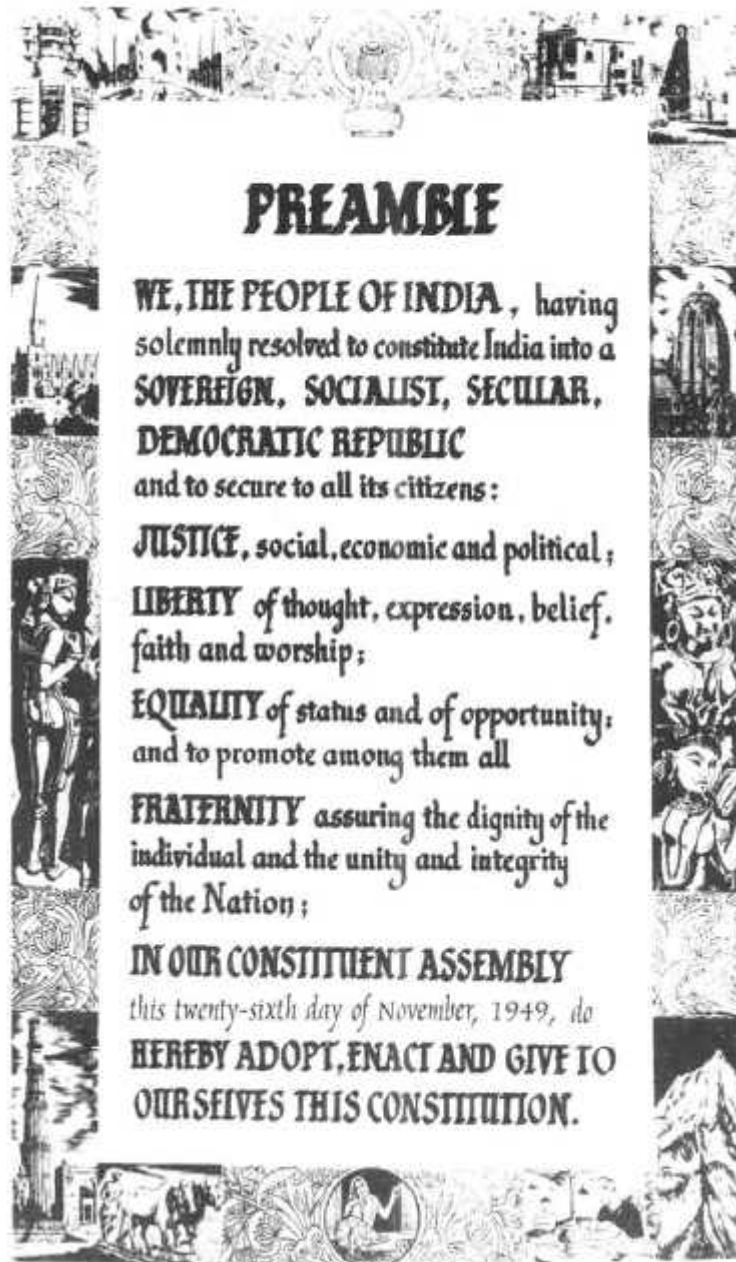
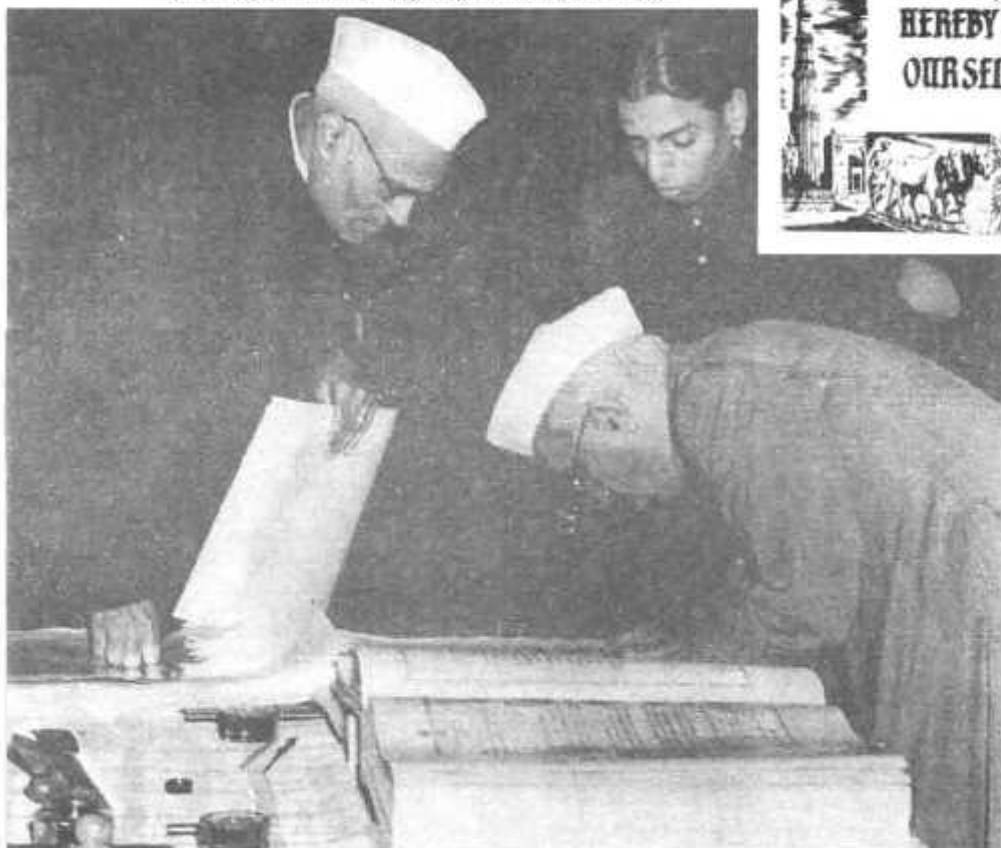
The Constitution of India

The Constitution describes how India is divided into States and Union Territories. There are governments at both levels. One at the Centre (Delhi) for the entire country and the other in each State or Union Territory for that particular State or Union Territory.

This was done because the members of the Constituent Assembly felt that India was a large country and one government at the Centre would not be able to solve the problems and look after the interests of all the people and the different regions.

The Constitution, therefore, also provides specific powers for the government at the Centre and at the State level.

Jawaharlal Nehru signing the Constitution



PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, social, economic and political, **LIBERTY** of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity, and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

Above is the Preamble (introduction) to the Constitution. Don't worry if you don't understand all the difficult words in the Preamble. We will discuss some of them later.

Republic Day

The Constitution came into force on 26 January 1950, which has been celebrated as Republic Day ever since.

In a **democracy**, people should participate in the making and changing of governments. Thus, every adult has the same power to vote. Whether a person is rich or poor or belongs to a particular social background does not matter. The Freedom Movement had highlighted the idea that all people are equal.

**demos (people) + kratos (rule) =
democracy, meaning rule by the people.**

Thus, the Constitution states that governments in India are to be formed through elections. These elections are based on the principle of **universal adult franchise**. All elections in India for forming governments at any level have to follow this principle, since it is stated in the Constitution.

Universal Adult Franchise

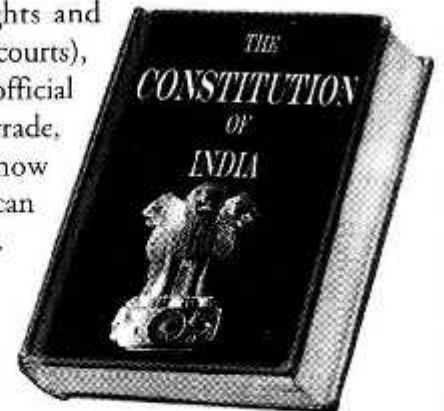
Franchise means the right to vote.

Universal means applying to all. Here it means that this right applies to all adults in all of India.

The Constitution is to be followed by all the people of India. In a democracy no individual should be considered to be above the law, no matter how high or important that person is. Therefore whether it is the Prime Minister, Chief Justice, President or any other high official, they all have to follow the laws. They also have to make sure that these laws are followed by all. The Constitution tells in detail how these officials should function.

The Constitution lays down the guidelines for all laws made by the Central and State governments. All laws must be in line with the Constitution.

Our Constitution is very long. It has 395 Articles, divided into 22 Parts. It has parts that discuss the Fundamental Rights and Duties, the Judiciary (courts), elections, citizenship, official languages, finance and trade, etc. It also describes how the Constitution itself can be changed (amended).



Dr. B. R. Ambedkar played a major role in writing the Constitution. In this photo Dr. Ambedkar is seen with a group of dalit women and children.



“FUNDAMENTAL RIGHTS”

The third part of the Constitution is very important because it states our Fundamental Rights. It is the responsibility of the government to make sure that no one's Fundamental Rights are violated.

If you feel that someone or some organisation (or the government) has violated your Fundamental Rights, then you can file a case against the government in the High Court or Supreme Court. You can charge the government with failing to protect your Fundamental Rights.

These rights form the basis for many laws. Sometimes someone feels that a law has been passed by the Central or State Government that is in violation of the Fundamental Rights stated in the Constitution. S/he can then file a case against the government in the High Court or the Supreme Court. The courts must then decide whether or not the law is according to the Constitution.

The Constitution has divided the Fundamental Rights into six sections. Let us study each one of them.



The Supreme Court (in New Delhi).

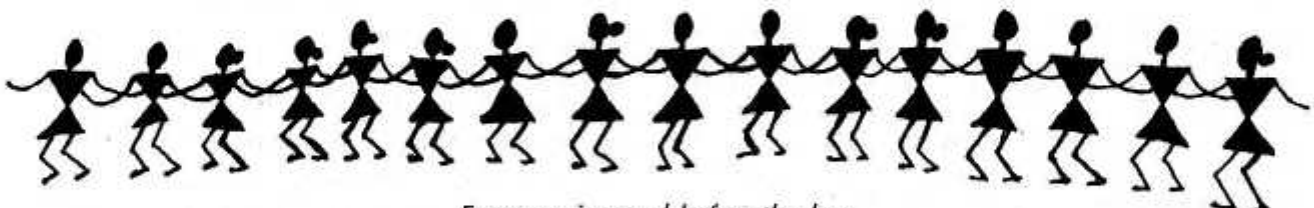
1. “Right to Equality”

The Constitution says that the government “shall not deny to any person equality before the law or equal protection of the laws.” This means that the laws apply in the same manner to all, regardless of a person's income, status, background, etc.

For example, if some official is found guilty of a crime, then he or she should be given the same punishment as applies to any other person. No one can claim special treatment because of his or her class or background.

The Constitution also says that we should not show any preference or treat some one unfavourably because “of religion, race, caste, sex or place of birth.” It also specifies that no one should be stopped from using public places such as hotels, shops, film halls, public wells, tanks and bathing *ghats* or stopped from offering prayers in a place of public worship.

Thus, people of any one religion have the same rights as the people of any other religion.



Everyone is equal before the law.

The Constitution specifies that there should be “equality of opportunity for all citizens in matters relating to employment” and that no one should be discriminated against on the grounds of religion, caste, sex, place of birth, etc. This means, for example, that girls cannot be denied training as airplane pilots even though some employer may feel that girls are not suited for the job of pilots.

The Constitution clearly states, “Untouchability is abolished and its practice in any form is forbidden.”

What kinds of rights to equality does the Constitution ensure? Give examples. What does the Preamble to the Constitution say about equality?

Discuss whether you think each of the following is a violation of the Fundamental Right to Equality. Also discuss whether you think it is right or wrong to do such things.

- In some homes separate utensils are kept to be used by people of certain communities.
- While filling water from a public source some people object if the vessel of another person touches their pots.
- In some villages particular communities cannot organise a baraat procession through the main streets of the village.
- If you want to rent a house, the houseowners are keen to know your caste and religion.
- Some communities are never provided a place to live within the village but always outside.
- In some schools, certain children are not allowed to serve water because they belong to a particular caste.
- Members of some communities do not go to many places of worship because they fear that they will be ill treated or beaten up.

DALITS

It is necessary to identify which castes and tribes are discriminated against so that their rights can be defended. The Constitution refers to the names of these groups (whom we usually call dalits) in a special list or schedule. The castes and tribes in this list are called Scheduled Castes and Scheduled Tribes.

The following is an actual example of the widespread discrimination that dalit students face.

Getting a Job

Manoharlal's son recently cleared his B.Tech. examination from Kurukshetra Regional Engineering College and stood 6th in his college.

Many large computer companies came to his college for campus interviews and he applied for many jobs.

However, he was not selected for any job.

On the other hand, his class-mates with lower grades

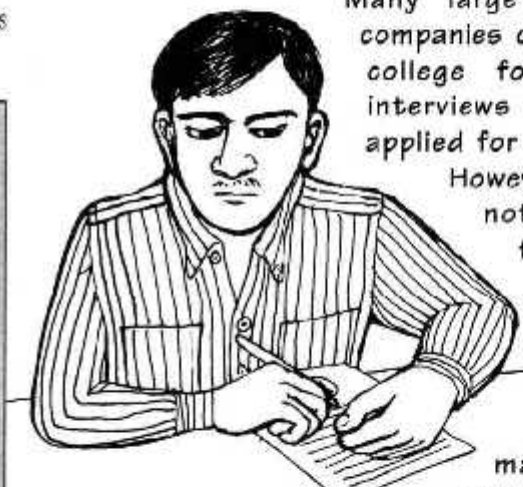
were easily selected. Manoharlal looked at his son's bio-data. It showed an excellent record. After some thought, he advised his son to remove the mention of his scheduled caste status. His son made the change and sent his application to more companies. This time many of the companies that interviewed him offered a job!

Source: The Bhopal Document, Govt. of M.P.

Reservation

Why does the Constitution try to prevent discrimination on the basis of caste? Because people's abilities and merits are not determined by their caste. A baby born in a dalit family is no different from a baby born in any other family. Both children should therefore have an equal opportunity to lead a good life. The Constitution guarantees this right.

However, many years after the Constitution had guaranteed this right, there is still a lot of discrimination based on caste. For example, most dalit children are not able to get an education.





IF WE ARE ABLE TO GO TO SCHOOL, WE MAY NOT BE TREATED AS WELL AS OTHER STUDENTS, JUST BECAUSE WE ARE DALITS. EVEN IF WE MANAGE TO FINISH SCHOOL AND POST GRADUATION, AND DO WELL IN EXAMS, WE DON'T GET AS HIGH PAYING JOBS AS OTHERS.

In order to overcome discrimination on the basis of caste, the government has made laws for reservation of jobs and seats in higher education for the Scheduled Castes and Tribes. For example, medical colleges must admit a certain percentage of students who belong to the Scheduled Castes and Tribes.

Reservation has been made in order to give people belonging to the Scheduled Castes and Tribes the same opportunities that other people have. Without reservation they would have almost no chance of getting certain kinds of jobs. Thus, reservation does not give people belonging to the Scheduled Castes and Tribes an advantage over others - it merely removes a disadvantage.

However, the laws for reservation are not always enforced. Discrimination has persisted. For example, even though 24% of the total population belongs to the Scheduled Castes and Tribes, only 13% of the best jobs in government and only 2% of all university and college teachers' posts are held by people from these sections.

2. "Right to Freedom"

The Constitution lists many kinds of things that we as individuals are "free" to do. This means that no one should stop us from having these freedoms. However, along with freedoms there are some restrictions, i.e. some things that we are not supposed to do. Let us discuss some of these freedoms and restrictions.

Freedom "of speech and expression;"

Citizens are free to express their views in many ways such as through meetings, publications, plays, paintings, etc. However, there are some restrictions, too. For example, there are laws forbidding people to publicly tell others to rebel against the government. Laws also forbid people to publicly defame others (to publicly say false and mean things about someone that will damage that person's reputation).

Freedom "to assemble peacefully and without arms;"

People have the right to come together or assemble for many reasons such as to hold meetings about their rights, to discuss their problems or business issues, to exchange ideas and share views, etc. Everyone also has the right to carry out demonstrations, public meetings and rallies. However, there are some restrictions on this right - for example, any assembly should be conducted in a peaceful manner without the display or use of arms. Similarly, whenever a demonstration or a rally is organised, prior permission from the administration needs to be taken.

A peaceful rally of people demanding the right to be rehabilitated before being displaced from their villages due to the construction of a dam.

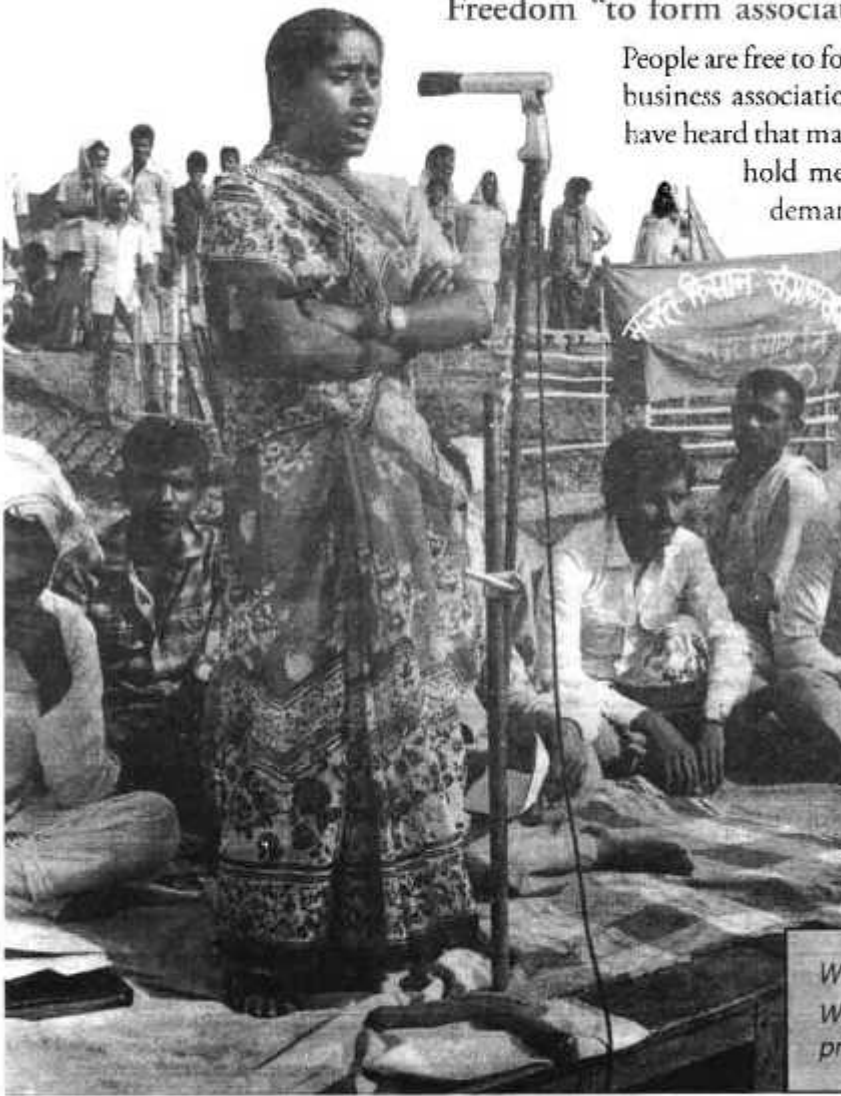


Freedom “to form associations or unions;”

People are free to form many kinds of associations - cultural groups, business associations, trade unions, etc. For example, you may have heard that many factories have workers’ unions. These unions hold meetings to discuss their problems. They make demands to the officers of the factory and at times may also organise a strike in the factory. Thus, the union protects the rights of the workers.

In spite of the right to form associations, in many factories the employers do not allow the workers to do so. In some cases they make workers sign a bond that they will not join a union. Workers may also face the threat of being fired. Since so many people in our country are unemployed or do not find enough work, no one would like to lose a regular factory job. Hence many people do not protest against this loss of freedom.

An activist of a farm workers’ union called Mazdoor Kisan Sangram Samiti delivering a speech in Arwal, Bihar.



*What associations are there in your area?
Why are workers’ unions formed? What
problems do they face?*

Freedom “to move freely throughout the territory of India;”

Citizens are free to move in any part of the country. However, the government may impose some restrictions. For example, in some border areas the government thinks that free movement is posing problems for the security of the country. In such a situation restrictions on movement may be imposed.

Freedom “to reside and settle in any part of the territory of India;”

Any Indian can reside or seek employment in any part of the country. Let us read an example of a case related to this freedom.

What about Slum Dwellers?

There are many cities like Mumbai, Kolkata, and Delhi where large numbers of people from far off villages come in search of jobs. They do not get jobs very easily. They usually work as daily wage labourers wherever they find work. Since they do not find proper places to stay, they live on roadside pavements or places near railway tracks.

Many years back, the Mumbai Municipal Corporation tried to remove some 50,000 people who had been living on the pavements. It began to destroy their shelters. In 1982 a case was filed in the Supreme Court against this action. While the case was pending, the people could not be removed.

Here is what the lawyers for the slum dwellers argued, “The slum dwellers should not be



Homes next to railroad tracks in Mumbai

removed from their homes until they are given an alternative space to settle. A large number of construction workers come from outside the city and provide labour to build houses. It is the responsibility of the Municipal Corporation to provide space for people to settle. Since nearly fifty percent of the population of Mumbai lives on unauthorised and there is a great failure on the part of the planning authorities to provide adequate and lawful space for people. If they are forcibly removed from the pavements then it is a violation of their fundamental right of freedom to settle in any place in India."

In 1985 the Supreme Court reached a decision, saying "... We hold that no person has the right to encroach, by erecting a structure or otherwise on footpaths, pavements or any other place reserved or earmarked for a public purpose." However, it further ordered the government to make provisions for those people who had been living there for a long time to be settled in a different place before destroying their pavement dwellings.

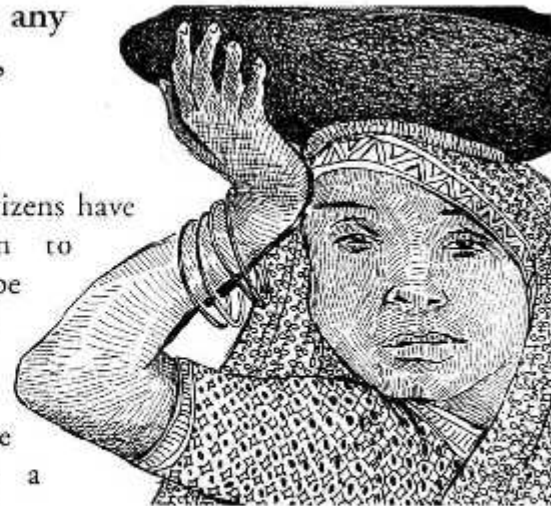
Why do people want to move and settle in various parts of the country?

What is the responsibility of the government to workers who are able to find some work in the city but don't have a proper place to live?

If there were no slums in cities, how might this affect the lives of city dwellers?

Freedom to "practice any profession or carry on any occupation, trade or business."

All Indian citizens have the freedom to choose the type of job they wish. No one should force someone to take up a particular job.



"Protection against arrest and detention in certain cases?"

The police may arrest a person if they think the person has committed a serious crime. However, it is everyone's fundamental right to know why they have been arrested and to be produced in court within 24 hours. It is the duty of the police to inform them of the reasons for their arrest.

What is the difference between the role of the police and that of the court?

Why is it essential that an arrested person be produced in a court within 24 hours?

“Right to Education.”

The Parliament has recently passed a new addition to the Constitution (an amendment), the fundamental right to education. It has made education for all children from the age of 6 to 14 a fundamental right. This makes it necessary for the government to arrange for schools and for parents to see to it that their children attend schools regularly. This right has been added because people feel that all children should have the opportunity to study, learn about the world around them, acquire skills to express themselves and make creative contributions to society, and have more opportunities for their future.

What are the different types of schools you see in your area? Why do you think there are such different types of schools?

Are there some children who don't go to school at all? Why?

Are all schools available to all children?

Do all children who live around your area really have an equal opportunity to be educated in a similar manner? Discuss.

“Protection of life and personal liberty?”

Every individual has a right to live and a right to be free. This right is guaranteed in the Constitution as a fundamental right. It is the responsibility of the government to protect the life of all individuals. When there is a threat to our lives, for example in a riot or dacoity, the police have to provide protection. If the police fail to do so we all have the right to fight against this in the court.

Along with protection of life we have the freedom to live our life as we desire. This is the right to personal liberty. However, according to the laws, personal liberty can sometimes be taken away – for example by arresting people, by putting people in jails, etc. In extreme cases, even life can be taken away by a judge awarding a death sentence to a person who has committed murder.

This class in a rural school is being held outdoors because of a shortage of classrooms. Do these children have a right to a classroom?

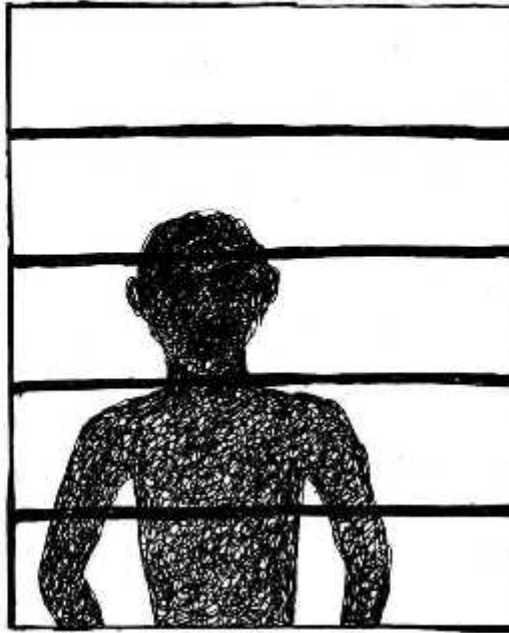


Let's read about an actual situation where the right to personal liberty had been violated.

A Case Against Violation of Life and Personal Liberty

A sessions judge was hearing a case against a person by the name Bhoma Charan Oraon. Suspecting that Bhoma was suffering from a mental illness, he was sent to a mental asylum for treatment. After Bhoma's stay in the mental asylum for six months, the superintendent of the asylum informed the court that he was well enough to be discharged. The judge however did not take necessary steps to release him. Bhoma had to live there for six more years.

A case was filed in the Supreme Court against Bhoma's detention. It was proved in the court



that there was a violation of Bhoma's right to life and personal liberty. The Supreme Court ordered the state government to pay Rs. 15,000 as compensation to Bhoma. The Supreme Court also said in its judgment that "none of these compensations can actually compensate the six years of life that had been lost to Bhoma - who has been turned to a 'living dead' situation."

Discuss the meaning of the following phrases in your class:

personal liberty; mental asylum; living dead.

Write in your own words: How was there a violation of Bhoma Charan's right to life and personal liberty?

The Preamble to the Constitution says that the Government has to make sure all citizens have certain kinds of liberty. After reading about some of the fundamental rights to freedom, can you explain what the Preamble means by "liberty"?

EXERCISES

1. How and when was the Constitution written?
2. Find out why the Constitution of India was put into force on 26 January 1950.
3. What does the Constitution discuss besides the Fundamental Rights?
4. Suppose someone has built a house by encroaching on land which is a part of a road. Can that person claim that the house should not be destroyed by the municipal corporation because everyone has a right to settle anywhere in India?
5. Suppose the government got a new well dug in a village. If some *dalits* are stopped from using this well, which Fundamental Rights are being violated?
6. What do you think would happen if the Fundamental Right to equality was not in the Constitution?
7. A number of years ago some Indian airline companies had a rule that air hostesses (women who take care of the needs of passengers on aeroplanes) would lose their jobs if they got married. Was this against their Fundamental Rights? Explain.
8. Make a table to compare and explain the "Right to Equality" and the "Right to Liberty".

FUNDAMENTAL RIGHTS AND DUTIES

IN

OUR CONSTITUTION

(PART 2)

3. “Right against Exploitation”

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

You must have read in your history lessons that some people were forced to do *begaar* 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.

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 beggar and "being forced to work at low wages because of poverty"?

"Prohibition of employment of children in factories"

The Constitution states, "no child below the age of fourteen years shall be employed to work in any factory or mine 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.



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 carried out 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 eighteen years, 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 some people are a minority depends on where they live. For example, Marathi speaking people would not be a minority in Maharashtra but they would be so 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.



6. "Right to Constitutional Remedies"

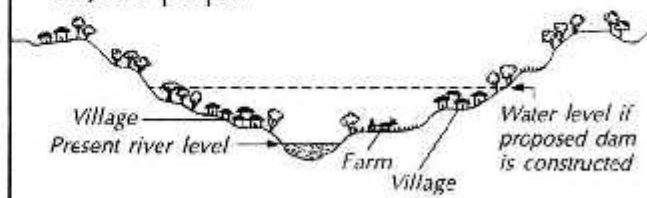
People have the Fundamental Right to approach the High Courts and Supreme Court if there is any violation of their Fundamental Rights. It is the responsibility of the government to protect the people against any violation of their Fundamental Rights. A case can be filed against the government if it fails to do so. When such rights are violated, they can be restored by the courts giving specific directions or orders.

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 the Fundamental Duties.

“It shall be the duty of every citizen of India-

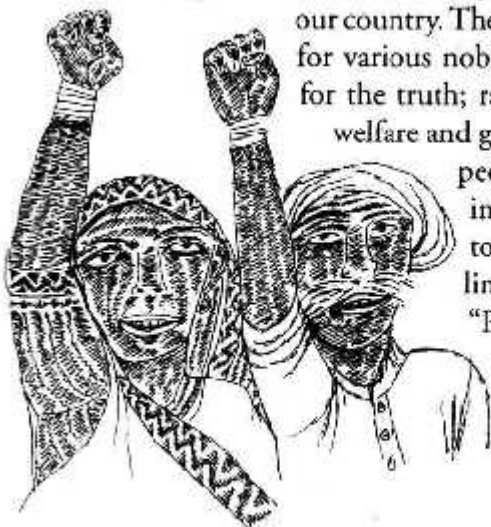
a) “to abide by the Constitution . . .”

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.



उम्मीद

वो सुबह कभी तो आएगी
इन काली सदियों के सर से
जब रात का आँचल ढलकेगा
जब दुख के बादल पिघलेंगे
जब सुख का सागर छलकेगा
जब अम्बर झूम के नाचेगा
जब धरती नगमे जाएगी
वो सुबह कभी तो आएगी

बीतेंगे कभी तो दिन आखिर
ये भूख के और बेकारी के
टूटेंगे कभी तो बुत आखिर
दौलत की इजारेदारी के
जब एक अनोखी दुनिया की
बुनियाद उठाई जाएगी
वो सुबह कभी तो आएगी...

साहिर

c) “to uphold the sovereignty, unity and integrity 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 promote 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.



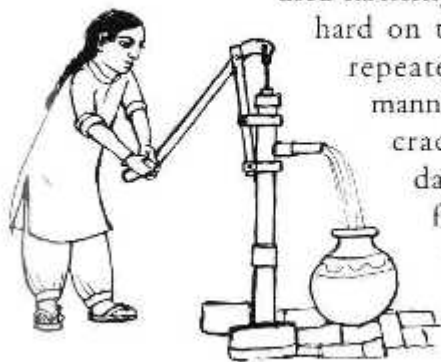
For example, some years ago, during the rainy season, people noticed wavy lines on the leaves of many vegetable plants. Some people spread the rumour that the vegetables had come under a curse. Many people stopped eating vegetables. However, some girl students from Dhar, M.P. questioned whether this 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 provide education to 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. The Fundamental duties cannot be enforced in this manner. If someone does not perform a fundamental duty then we cannot go to court. However, there are laws like the Anti-Dowry Act to ensure that the fundamental duties are followed.

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, who belonged to a different community, 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 15-17 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.

बीतेगे कभी तो दिन आखिर
ये भूख के और बेकारी के
टूटेंगे कभी तो बुत आखिर
दौलत की इजारेदारी के
जब एक अनोखी दुनिया की
बुनियाद उठाई जाएगी
वो सुबह कभी तो आएगी...

- साहिर

