

# UNDERSTANDING LAWS

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## INTRODUCTION

For carrying out its activities effectively and efficiently, every community, society and state must formulate some laws. Without law there would be no peace and order. Without it there would be chaos and confusion in every walk of life. Laws provide systems to regulate activities to derive the maximum benefit from all types of resources.

The concept of the term 'law' is compared to a diamond which provides different views seen from different angles. The word law is derived from a Latin word 'lag' which implies something definite, fixed, followed, regulated, stable and uniform.

## WHY ARE LAWS REQUIRED ?

Laws are required to prevent people from several unjust social practices. The practice of untouchability was the cause of suffering for millions of people, who, in the past were forced to do work which was both demeaning and polluting in nature. When people lack will to change, the government has to take the initiative to force the change to implement the provisions of the constitution.

## DO LAWS APPLY TO ALL ?

- (i) Members of the Constituent Assembly had consensus that there should be no arbitrary exercise of power in independent India. They, therefore, instituted several provisions in the constitution that would establish the rule of law. The most important of these was that all persons in independent India are equal before the law i.e. Equality of law without any discrimination between persons on the basis of their religion, caste or gender.
- (ii) The rule of the law means is that all laws apply equally to all citizens of the country

and no one can be above the law. Neither a government official, nor a wealthy person nor even the President of the country is above the law. Any crime or violation of law has a specific punishment as well as a process through which the guilt of the person has to be established. The law cannot discriminate between persons on the basis of genetics, religion or caste.

- (iii) In ancient India, there were innumerable and often overlapping local laws. In some cases, the punishment that two persons received for the same crime varied depending on their caste backgrounds, with lower castes being more harshly penalised. This slowly began to change as this system of law began to further evolve during the colonial period.

**(A) Rule of law in India during British period :**

- (i) It is often believed that it was the British colonialists who introduced the rule of law in India. Historians have disputed this claim on several grounds, two of which include: first that colonial law was arbitrary, and second that the Indian nationalists played a prominent role in the development of the legal sphere in British India.
- (ii) One example of the arbitrariness that continued to exist as part of British law is the Sedition Act of 1870. The idea of sedition was very broadly understood within this Act.

- (iii) Another example of British arbitrariness was the Rowlatt Act which allowed the British government to imprison people without due trial. Indian nationalists including Mahatma Gandhi were vehement in their opposition to the Rowlatt bill. Despite the large number of protests, the Rowlatt Act came into effect on 10 March 1919.

**(B) Protest against the arbitrary use of authority by the British :**

Indian nationalists began protesting and criticising the arbitrary use of authority by the British. They also began fighting for greater equality and wanted to change the idea of law from a set of rules that they were forced to obey, to law as including ideas of justice. By the end of the nineteenth century, the Indian legal profession also began emerging and demanded respect in colonial courts. They began to use law to defend the legal rights of Indians. Indian judges also began to play a greater role in making decisions.

**(C) Making of Law in Independent India :**

With the adoption of the Constitution, it served as the foundation on which our representative began making laws for the country. Every year our representatives pass several new laws as well as revise existing ones. For example, the Hindu Succession Amendment Act 2005. According to this new law, sons, daughters and their mothers can get

an equal share of family property. Similarly, new laws have been enacted to control pollution and provide employment.



#### HOW DO NEW LAWS COME ABOUT ?

- (i) The Parliament has an important role in making laws. There are many ways through which this takes place and it is often different groups in society that raise the need for the particular law. An important role of Parliament is to be sensitive to the problems faced by people.
- (ii) Let us understand how the issue of domestic violence was brought to the attention of the Parliament and the process adopted for this issue to become law. Domestic violence against women is a major concern for our society. Throughout the 1990s, the need for a new law was raised in different forums demanding protection of women against being beaten, the right to continue living in a shared household and often temporary relief. In 1999, Lawyers Collective, a group of lawyers, law students and activists, after nation-wide consultations took the lead in drafting the Domestic Violence (Prevention and Protection) Bill. This draft bill was widely circulated, meetings were held with different organisations. Finally, the Bill was introduced in parliament in 2002 but the women organisations were not satisfied with the bill in its present form. Several women's

organisations, National Commission for Women made submissions to the Parliamentary Standing Committee asking for a change in the format of the present bill. In December 2002, the Standing Committee submitted its recommendations to the Rajya Sabha and these were also tabled in the Lok Sabha. The Committee's report accepted most of the demands of the women's groups.

Finally a new bill, was reintroduced in Parliament in 2005. After being passed in both houses of Parliament it was sent to the President for his assent. The protection of Women from Domestic Violence act came into effect in 2006. The Act recognizes the right of women to live in a shared household. Women can get a protection order against any further violence, women can get monetary relief to meet their expenses including medical costs.

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

- (iv) The role as citizen does not end with electing the representatives. Rather, it is the duty of the citizen to use newspapers and the media carefully chart the work that is being done by our PMs and criticize their actions when we feel it is required.

### ➤ **NON POPULAR & CONTROVERSIAL LAW**

- (i) Many a times the Parliament passes laws that turn out to be very unpopular. Sometimes a law can be constitutionally valid and hence legal, but it can continue to be unpopular and unacceptable to people because they feel that the intention behind it unfair and harmful. Hence, people might criticize this law, hold public meetings, write about it in newspapers, report to TV news channels etc. In a democracy like ours, citizens can express their unwillingness to accept repressive laws framed by the parliament and can put pressure on the Parliament to change this .
- (ii) If some laws favour one group and disregards the other, it will be controversial and lead to conflict. People who think that the law is not fair can approach the court to decide on the issue. The court has the power to modify or cancel laws if it finds that they don't adhere to the Constitution.
- (iii) The role of citizens does not end with electing their representatives. Rather, it is then that the Citizens begin to use newspapers and the media to carefully chart the work that is being

the done by their MPs and criticize their actions when the citizen feel it is required. Thus, what the citizens should bear in mind is that it is the extent, involvement and enthusiasm of the people that helps Parliament perform its representatives functions properly.