

CIVICS

Chapter 2: Understanding Laws



Understanding Laws

Laws

When we say that the Constitution is the foundation of all laws, we do not mean that nothing in it can be changed or that no new law can be made. What we mean is that any new law that is made must abide by the spirit of the Constitution. We will discuss the role played by the judiciary in ensuring this in the next chapter. In this chapter, we will discuss how laws are made and what role the people play in this process.

THE CONSTITUTION, PARLIAMENT AND LAWS

The Constitution is the foundation of all laws in our country. When we adopted our Constitution, we retained many of the laws that were in use under the British. But it would be incorrect to say that we adopted the entire legal system that was in use. We adopted what suited us and rejected what did not. Even the idea of equality before the law evolved through the freedom struggle. We were definitely not equal under the British and many of their laws were heavily biased against us.

Know a Little More

The Sedition Act of 1870 was one of the most unfair laws used by the British. Under this law anyone could be imprisoned without a proper trial. The law was used to arrest great leaders such as Mahatma Gandhi, Bal Gangadhar Tilak and Annie Besant. This law is still used in India. Anyone who "brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the government..." may be arrested on the charge of sedition.

Q. There has been considerable debate on the use of the sedition law in recent years. Find out what people have to say about it.

HOW LAWS ARE MADE

Parliament is the supreme law-making body in our country. The state legislatures can also make some laws, but these laws are applicable only in the state concerned. Besides, the state legislatures can make laws only on some limited matters that are mentioned in the State List (law and order, healthcare, transport, etc.) and the Concurrent List (education, electricity, drugs and poisons, etc.). Only the Union legislature can make laws on the subjects mentioned in the Union List (defense, foreign relations, railways, etc.). It can also make laws on matters covered in the Concurrent List, and under special conditions, it can make laws on matters in the State List. Under its residuary powers, it can make laws on any matter that is not covered in any of the lists.

Process of law-making

A bill, as we have learnt in the preceding chapter, is a proposal for a new law (or to change an old one). Bills are of three types-ordinary bills, money bills and constitutional amendment bills. Money bills relate to money matters, such as tax laws. All other bills that are not related to changing the Constitution are ordinary bills.

Some amendments to the Constitution

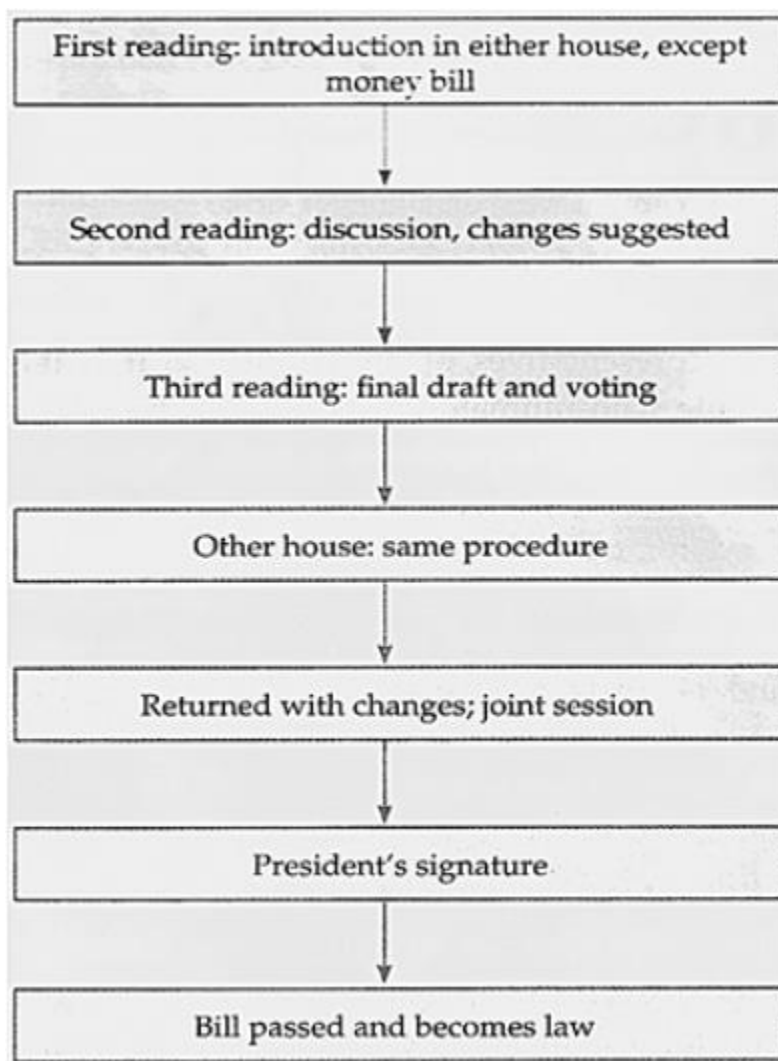
- Reorganization of states on linguistic lines and introduction of Union territories (1956)
- Incorporation of Dadra and Nagar Haveli after acquiring these from Portugal (1961)
- Incorporation of Goa, Daman and Diu after acquisition from Portugal (1961)
- Incorporation of Pondicherry (1962)
- Abolition of the privy purses paid to the former rulers of princely states (1971)
- Increasing the strength of Parliament from 525 to 545 (1973)
- Formation of the state of Sikkim (1975)
- Curtailing the Fundamental Rights, adding Fundamental Duties and making India a "socialist secular" republic (1976)
- Providing safeguards for human rights and mechanisms to prevent the abuse of legislative and executive authority (1978)
- Reducing the voting age from 21 to 18 (1989)
- Providing the Right to Education until the age of 14 (2002)
- Exchanging enclave territories (pockets of one country inside another country) with Bangladesh and granting citizenship to the residents of the enclaves (2015)

Q what was the situation in the country when the Constitution was amended in 1976? What happened after that? Surf the Internet to find out.

A bill can be introduced in either house by any member. The only exception is a money bill, which can be introduced only in the Lok Sabha by a member of the government. The member who introduces the bill makes a speech explaining the purpose of the bill and a copy of the bill is distributed among all the members so that they can become acquainted with it. This is called the first reading of a bill.

During the second reading, members discuss the bill thoroughly and make suggestions for change. The final form of the bill, after incorporating the necessary changes, is presented before the house during the third reading and the bill is put to vote. If the majority of the members present in the house vote in favour of the bill, the bill is passed. It is then sent to the other house, where it goes through the same stages.

The second house may pass the bill, in which case the bill is sent to the President for his/her approval. The second house may also send the bill back to the house where it originated with suggestions for change. If these suggestions are not acceptable to that house, the President summons a joint session of the two houses



And the bill is put to vote. If the majority of the members present vote in favour of the bill, the bill is passed and sent to the President.

In the case of a money bill, the suggestions made by the Rajya Sabha are not binding on the Lok Sabha and no joint session is summoned. So, the Lok Sabha is more powerful in this case.

Once a bill is passed by both the houses, it is sent to the President. The President may suggest some changes and send the bill back. However, if Parliament does not accept these changes and returns it to the President, the President has no option but to sign it. After the President signs a bill, it becomes an Act, or a law.

ROLE OF THE PEOPLE IN LAW-MAKING

Every society feels the need to make new laws and change old laws to keep pace with the changing

times. We too have made many new laws and amendments to the Constitution since 1950.

Q. Hunger strikes are a form of protest. Can you name one instance when Mahatma Gandhi went on a hunger strike?

We have discussed how laws are made in Parliament. But the members of Parliament are representatives of the people, so it is the people who ultimately make laws. This is not mere theory. The people have made their voices heard time and again when they have felt the need for new laws or have found some law unfair. How can the people bring pressure upon the legislature? They can hold public meetings and organise protest marches. They can also voice their opinions through the media, NGOs and other organisations, such as labour unions and lawyers' forums.

Laws made with the people's efforts

The Protection of Women from Domestic Violence Act (2005)

The Protection of Women from Domestic Violence Act (2005) is an example of how the people can put pressure on Parliament to enact a law. The need for such a law had been felt by women all over the country for a long time. After a decade-long struggle, with women's organisations and the Lawyers Collective (comprising lawyers and law students) at the forefront, the bill was introduced in Parliament in 2002. The law defines domestic violence as any kind of ill-treatment, including physical violence, mental cruelty and being deprived of property. It recognises a woman's right not only to be protected from violence, but also to not being thrown out of a shared home by her husband, son, brother or other relatives or people she is living with. This law, in fact, is an example of how special laws are needed to protect the rights of the weaker sections of society.



A protest against domestic violence

The Right to Information Act (2005)

The Right to Information Act (2005) is another piece of legislation that came about due to pressure from the people. Under this law, any citizen can ask a public official (or department) for information regarding the functioning of the government. Armed with this law, people can find out why a government dispensary does not have medicines, or why a ration shop does not have supplies, or

why roads and bridges are out of repair, etc. In short, they can question public officials and check corruption.

The Street Vendors Act (2014)

For thousands of poor people who live in cities, street vending is the only means of livelihood. However, though they provide useful services at a lower rate, street vendors are often harassed by the police and civic authorities and thrown out because they set up their stalls in parks, street corners, etc. and inconvenience people.

Through the years, street vendors organized themselves into trade unions and associations and got the backing of several NGOs. In many cases filed before courts, they got judgments in their favour because the courts felt that the Right to Livelihood is a part of the Right to Life. In 2010, the Supreme Court recognized street vending as a source of livelihood and directed the government to work out a law to protect street vendors from harassment and to demarcate vending zones. The law was passed in 2014. Under the law, civic authorities are supposed to provide licences to street vendors and demarcate vending zones where vendors can offer their services to the public.



Protests against unpopular laws

People can also protest against laws that they find unfair. One of the ways of protesting against a law is to disobey it.

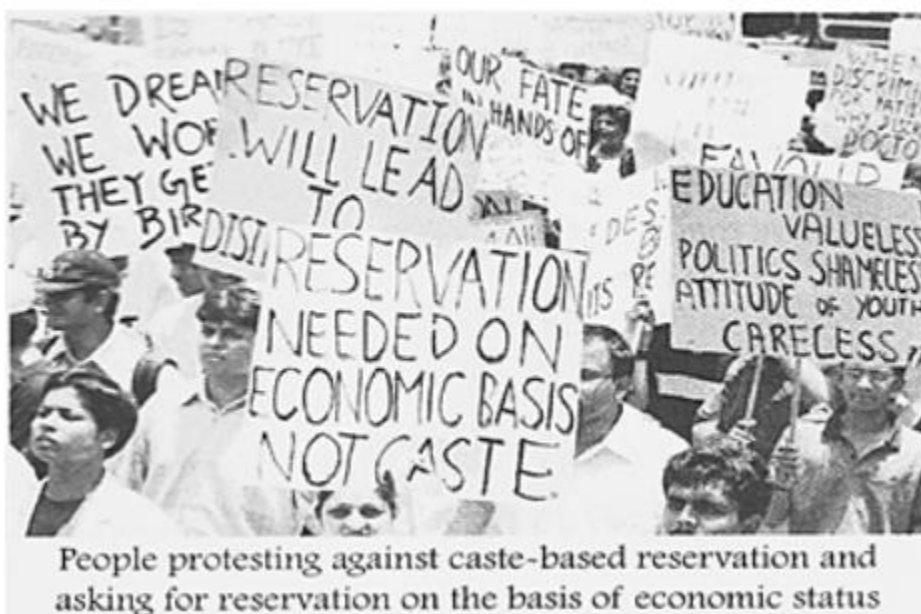
There have been protests against several laws, for example, laws related to the conservation of forests. Villagers living around forests and activists fighting for them felt that conservation laws deprived them of their right to gather forest products for survival. The protests against forest laws led to the passing of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006). We will discuss this in the chapter on marginalisation.

Salt law

In your history lessons, you must have read about the Dandi March led by Mahatma Gandhi. Gandhi started the Civil Disobedience Movement with a call to disobey the salt law under which nobody could manufacture salt without permission from the government. He and his followers walked from Sabarmati to the Coastal village of Dandi, where he scooped up a handful of salt as a symbolic protest.

OBC reservation law

On November 16 1992, the Supreme Court responded to a case filed by lawyer Indira Sawhney and other against 27% reservation for the Other Backward Classes in government services and in institutions. While justifying the reservation for the OBCs on account of atrocities faced by them under the Varna system, it cautioned against extending the tenure of such reservation beyond ten years. It also held that reservation should be done away with once a particular section is represented adequately in society.



People protesting against caste-based reservation and asking for reservation on the basis of economic status

People protesting against the reservation of seats and posts for the OBCs feel that it creates more inequalities and the benefits do not reach the truly deserving. They feel that it would be better to make reservation dependent on economic status rather than caste or community.

Laws related to the prevention of terrorism

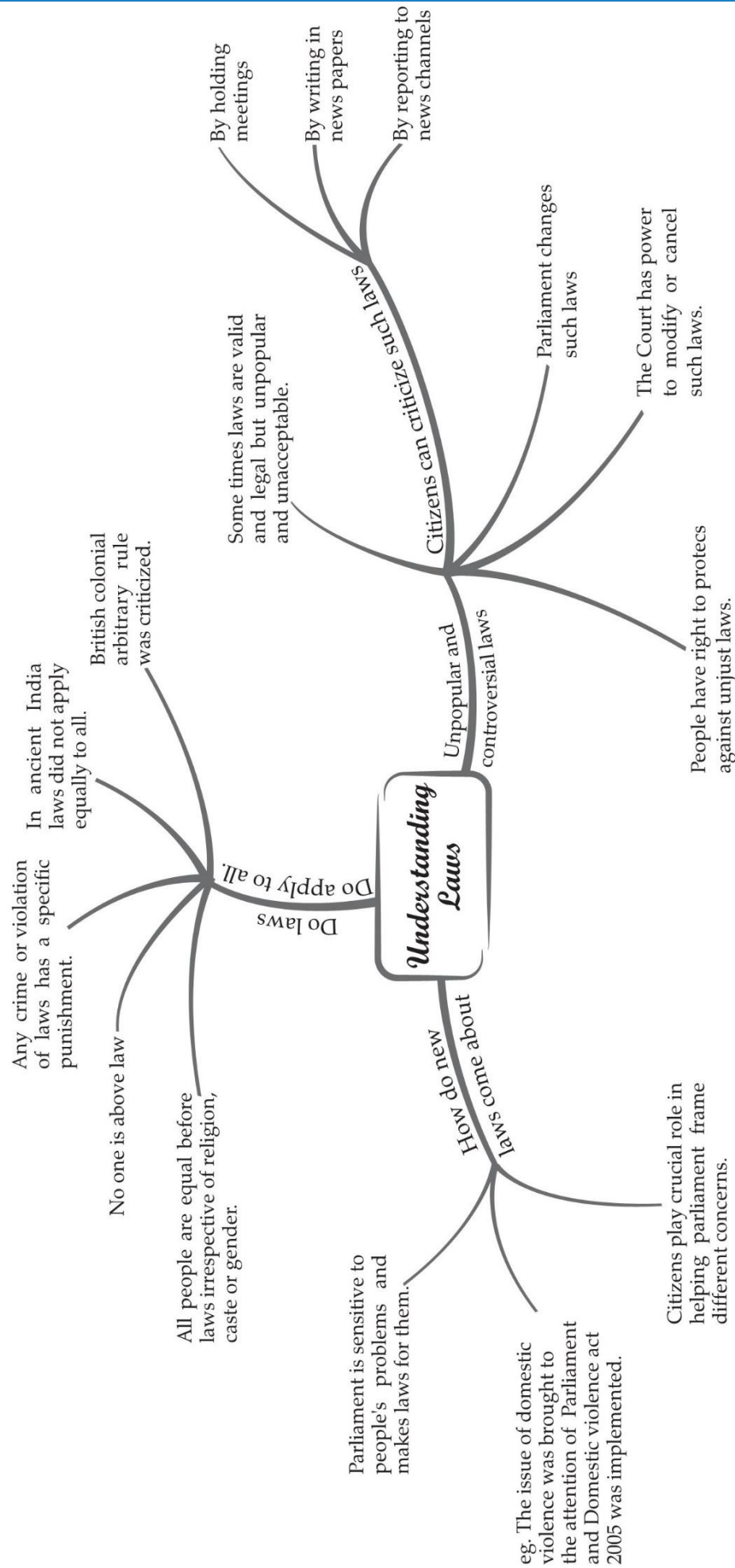
Several laws made to contain terrorism have been criticized because people feel that these give unlimited powers to the security forces and violate the Fundamental Rights. One such law, called the Prevention of Terrorism Act (2002), was repealed (revoked) in 2004 because of widespread protests. Another, called the Armed Forces Special Powers Act, has been in force in different states at different times there have been protests against this Act, which gives the armed forces special powers of search and arrest in areas affected by terrorism. In recent years, there have been strong protests against its use in Jammu and Kashmir and the north-eastern states. However, the security

forces and the government feel that this law is needed to fight terrorism.

Unpopular and Controversial Laws

- The Parliament may pass some controversial and unpopular laws. When a set of laws favours one group at the expense of the other group, the law is said to be controversial.
- When an unpopular law is passed, people may come together on a common platform to criticise the provisions of the law.
- Holding of rallies and protests, writing in magazines and newspapers, holding debates in the television are some ways in which the Parliament may be pressurised into changing unpopular provisions of the law.
- Unpopular and repressive laws may be challenged in the court by the people. The Supreme Court has the power to revoke the laws if the laws do not adhere to the Constitution of the country.

MIND MAP : LEARNING MADE SIMPLE CHAPTER-22



Important Questions

Multiple Choice questions-

Question 1. According to which law, sons, daughters and their mothers can get an equal share of family property?

- (a) Sedition Act 2005
- (b) Family Protection Act 2007
- (c) Hindu Succession Act 2005
- (d) Sedition Act 1870

Question 2. When did the Rowlett Act come into effect?

- (a) 13th April 1919
- (b) 10th Feb 2020
- (c) 14th March 1921
- (d) 10th Mar 1919

Question 3. When did the Standing Committee submitted its recommendation to the Rajya Sabha and also tabled in the Lok Sabha regarding the implementation Domestic Violence Act?

- (a) In December 2002
- (b) In October 2005
- (c) In October 2006
- (d) In May 2002

Question 4. "To find fault with or disapprove of a person or thing" for which term this definition is used in Glossary.

- (a) Sedition
- (b) Evolution
- (c) Criticise
- (d) Repressive

Question 5. One example of the arbitrariness that continued to exist as part of British law is the sedition Act of

- (a) 1870
- (b) 1890
- (c) 1919
- (d) 1921

Question 6. What were lay down by Hindu Succession Amendment Act 2005?

- (a) Sons, daughters and their mother can get equal share of family property
- (b) Only sons can get a share in the property
- (c) Only sons and daughters can get a share in the property
- (d) Only sons and mother can get a share in the family property

Question 7. What do you mean by the Domestic violence?

- (a) Injury and abuse
- (b) Threat of injury
- (c) Physical beating
- (d) All of these

Question 8. What do you mean by the rule of law?

- (a) All are equal before law.
- (b) Same laws are applicable to all
- (c) No one is above law
- (d) All of these.

Question 9. When was the Rowlatt Act was passed?

- (a) 10 March, 1919
- (b) 8 March, 1919
- (c) 12 March, 1919
- (d) 3 March, 1919

Question 10. What do understand by Sedition Act of 1870?

- (a) A person could be arrested and deported.
- (b) Any person criticizing or protesting the British government could be arrested without a trial.
- (c) The arrested person could not engage an advocate.
- (d) Arrested person could be detained in police custody for an indefinite period of time.

Question 11. Who introduced the rule of law in India?

- (a) Mahatma Gandhi
- (b) Mughals
- (c) British colonialists
- (d) None of these

Question 12. Who was General Dyer?

- (a) English officer
- (b) Indian officer
- (c) Congress head
- (d) None of these

Question 13. What is violation of law?

- (a) Crime against the law
- (b) To make new law
- (c) To remove one law
- (d) None of these

Question 14. What are criminal cases?

- (a) Related to taxes
- (b) Related to property
- (c) Related to criminal
- (d) None of these

Question 15. Who made the law?

- (a) Laws are made by president
- (b) Laws are made by prime minister
- (c) Laws are made by sovereign power
- (d) None of these

Very Short:

1. Who introduced the rule of law in India – the British or the Indians?
2. How can you say that the Sedition Act of 1870 was arbitrary?
3. How was the Rowlatt Act an arbitrary law?
4. Is the Protection of women from Domestic Violence Act a civil law or a criminal law?
5. Why do people not accept some laws passed by the Parliament?
6. What do people do to criticise unfair laws of the Parliament?
7. What is controversial law?
8. What does the court do if it finds that laws don't adhere to the Constitution?

Short Questions:

1. In ancient India, there was no rule of law'. Explain.
2. How was the Rowlatt Act protested by the Indian nationalists? What was its consequence?

3. How did the Indian legal profession develop by the end of the 19th century?
4. What role do citizens play in the evolution of a new law?
5. Give one example to show that British law was arbitrary.
6. What did the Indian nationalists do against the arbitrary laws of British?
7. Why were the new laws against domestic violence introduced?

Long Questions:

1. How are unpopular and controversial laws opposed by the people?
2. What are the advantages to foreign companies in setting up production in India?
3. Do you think the victims of the Bhopal gas tragedy got justice? Discuss.
4. What do we mean when we speak of law enforcement? Who is responsible for enforcement? Why is enforcement so important?
5. Explain the various roles played by the government?

Answer Key:

MCQ:

1. (c) Hindu Succession Act 2005
2. (d) 10th Mar 1919
3. (a) In December 2002
4. (c) Criticise
5. (a) 1870
6. (a) Sons, daughters and their mother can get equal share of family property
7. (d) All of these
8. (d) All of these
9. (a) 10 March, 1919
- 10.(b) Any person criticizing or protesting the British government could be arrested
- 11.(c) British colonialists
- 12.(a) English officer
- 13.(a) Crime against the law
- 14.(c) Related to criminal
- 15.(c) Laws are made by sovereign power

Very Short Answer:

1. The Indians introduced the rule of law in their country.

2. The Sedition Act of 1870 was arbitrary because under this Act any person protesting or criticising the British government could be arrested without trial.
3. This Act allowed the British government to imprison people without trial.
4. The Protection of women from Domestic Violence Act is a civil law.
5. It is because they feel that the intention behind such laws is unfair and harmful.
6. They hold public meeting, write about it in newspapers, report to TV news channels, etc.
7. The law that favours one group and disregards the other is known as controversial law
8. The court has the power to modify or cancel such laws.

Short Answer:

Ans: 1. In ancient India there were several and often overlapping local laws. Different communities enjoyed different degrees of autonomy in administering these laws among their own people. In some cases, the punishment that the two persons received for the same crime varied judgement depending on their caste backgrounds. The lower castes in such circumstances were more harshly penalised than the upper castes.

Ans: 2. The Rowlatt Act came into effect on 10 March, 1919. This Act allowed the British government to imprison people without due trial. Indian nationalists began to protest this arbitrary Act. In Punjab, the protest was more intensely carried out. On April 10, two leaders of the movement, Dr. Satyapal and Dr. Saifuddin Kitchlew were arrested. To protest these arrests, a public meeting was held on 13 April at Jallianwala Bagh in Amritsar. General Dyer entered the park with his troops and after closing the only exit ordered them to fire on the gathering. As a result several hundreds of people were killed and many more were wounded.

Ans: 3. By the end of the 19th century, the Indian legal profession developed enough to demand 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. In due course, the rule of law evolved during the colonial period.

Ans: 4. The Parliament plays 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 issue begins to take root, it is brought to the attention of the Parliament which in due course makes a law to crush it. Thus, the role of citizens is important in helping Parliament frame different concerns that people might have into laws. From establishing the need for a new law to its being passed, at every stage of the process the voice of the citizen is an important element.

Ans: 5. One example of arbitrary that continued to exist as part of British law is the sedition act of 1870. The idea of sedition was understood within this act. Any person protesting or criticizing the British government could be arrested without due trial.

Ans: 6. (a) Indian nationalist began protesting and criticizing this arbitrary use of authority by the British.

(b) They 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.

(c) By the end of 19th century, Indian legal profession also began emerging and demanded respect in colonial courts.

Ans: 7. (a) The law recognizes the right of women to live in a shared household, protection against violence women can get monetary relief to meet their expense including medical costs.

(b) Women wanted protection against being beaten, and the right to continue living in a shared household. Thus, the law against domestic violence was introduced to address these issues.

Long Answer:

Ans: 1. Sometimes the Parliament passes laws that turn out to be very unpopular even though they are constitutionally valid. People do not accept unpopular laws because they feel that the intention behind these laws is unfair and harmful. Hence, they criticise such laws, hold public meetings, write about them in newspapers, report to TV news channels etc.

In a democratic country like India, citizens can express their unwillingness to accept laws which, they think, are repressive. When a large number of people begin to feel that a wrong law has been passed, then the Parliament has to change it.

We can cite here an example. Various municipal laws on the use of space within municipal jurisdiction often declare hawking and street vending illegal. No one will dispute the necessity for some rules to keep the public space open. At the same time, one also cannot deny that hawkers and vendors provide essential services to the people. This is their means of livelihood. Hence, if the law favours one group and disregards the other it will be controversial leading to conflict. People who think that the law is unfair can approach the court to decide on the issue.

Ans: 2. Advantages to foreign companies in setting up production in India are:

Cheap labour- Wages that the companies pay to workers say in the U.S.A. are far higher than what they have to pay workers in India.

For lower pay- Companies can get longer hours of work.

Additional expenses such as housing facilities for workers are also fewer. Thus, companies can save costs and earn higher profits.

Cost cutting can also be done by other more dangerous means.

Lower working conditions including lower safety measures are used as ways of cutting costs.

For Example-

At West Virginia (U.S.A.) computerized working and monitoring systems were in place, whereas the UC plants in Bhopal relied on manual gauges and the human senses to detect gas leaks. At the West Virginia plants, emergency evacuation plan were in place, but non-existent in Bhopal.

Ans: 3. The victim of the Bhopal gas tragedy didn't get justice.

1. Despite the overwhelming evidence, pointing to UC as responsible for the disaster, it refused to accept responsibility.
2. In the ensuing legal battle, the government represented the victims in a civil case against UC. It filled a \$3 billion compensation case in 1985 but accepted a lowly \$470 million in 1989.
3. Survivors appealed against the settlement, but the Supreme Court ruled that the settlement amount would stand. Even if the UC pays the full compensation set, the lives of the innocent would not come back, or they won't come back.
4. Money cannot be everything or compensation against a life. Neither the government nor UC has provided the survivors safe drinking water for health care facilities and the jobs. The contaminated water is still the same after 24 yrs.

Ans: 4. 1. Law enforcement means that to make sure a law or rule is obeyed. If there is a certain law, it is meant for being obeyed and followed.

2. As a lawmaker and enforcer, the government is supposed to ensure that safety laws are implemented.

3. It is also the duty of the government to ensure that the Right to life guaranteed under Article 21 of the constitution is not violated. Enforcement is so important because as seen in the example of the UC plant in Bhopal-

- Government officials refused to recognize the plant as hazardous and allowed it to come up in a populated locality.

- When some municipal officials in Bhopal objected that the installation of an MIC production unit in 1978 was a safety violation, the position of the government was that the state needs the continued investment of the Bhopal plant, which provides jobs.

- It was unthinkable, according to them, to ask UC to shift to cleaner technology or safer procedures.

- Government inspectors continued to approve the procedures in the plant, even when repeated incidents of leaks from the plant made it obvious to everybody that things were seriously wrong.

- Instead of protecting the interests of the people, their safety was being disregarded both by the government and by private companies.

Ans: 5 . 1. The government has to ensure that all the laws are implemented. This means that the law must be enforced. Enforcement becoming even more important when the law seeks to protect the weak from the strong.

2. Through making, enforcing and upholding these laws, the government can control the activities of individuals or private companies to ensure social justice.

3. As the lawmaker and enforcer, the government is supposed to ensure that safety laws are implemented.

4. It is also the duty of the government to ensure that the Right to life guaranteed under Article

21 of the Constitution is not violated.

5. A major role of the government, therefore, is to control the activities of private companies by making, enforcing and upholding laws so as to prevent unfair practices and ensure social justice.

6. This means that the governments has to make appropriate laws and also has to enforce the laws.

7. Laws that are weak and poorly unforced can cause serious harm as the Bhopal gas tragedy showed. While the government has a leading role in this respect, people can exert pressure so that both private companies and the government act in the interests of society.