

# Unit 2

## Rule of Law

### Introduction

In Grade 11, you identified the similarities and differences between the federal and regional states' constitutions. You also discussed the importance of rule of law in conflict management and combating corruption. In this unit, you will distinguish the similarities, differences and relationships between the constitutions and other laws. Furthermore, you will discuss the role of the rule of law in establishing and governing the activities of governments.

### Lessons

1. Constitution and Other Laws
2. Rule of Law and Management of Conflict
3. Rule of Law and Governments
4. Rule of Law and the Fight against Corruption

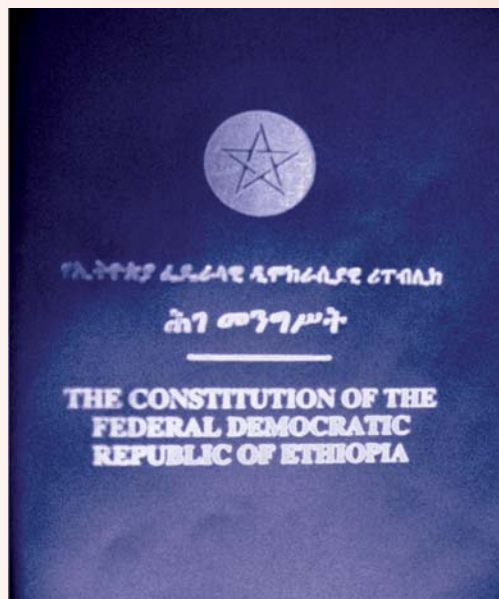
### Key words and concepts

- Arbitration
- Double jeopardy
- Due process of law
- Fair notice
- Habeas corpus
- Hierarchy of laws
- Impartial tribunal
- Law making
- Litigation
- Mediation
- Negotiation
- Presumption of innocence
- Procedural justice
- Public trial
- Right of appeal
- Self-incrimination

### What you will learn

#### You will:

- recognize the making of a constitution in Ethiopia.
- realize the methods of conflict management.
- appreciate the place of laws in the fight against corruption.



# LESSON 1

## Constitution and Other Laws

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

- describe the methods of making a constitution in Ethiopia.
- explain the relationship between a constitution and other laws.

- Do you know about the different methods of making constitutions?
- What do you think is the relationship between a constitution and other laws of Ethiopia?

As you have seen all through the lessons of Unit 2 from Grade 9 to 11, a democratic constitution is important for the prevalence of rule of law. Modern democratic governments are established and organized by a constitution. The constitution is the supreme law of a country. It being a supreme law, the procedures for making it and amending it are quite different from those of ordinary laws. For example, ordinary laws are usually made by parliaments. The responsibility of drawing up a constitution is not normally given to parliament. It is given to a special body organized for this purpose, most often known as a “constituent assembly”. Constitution writing is something that happens very seldom, therefore, the body to draft the constitution is not required permanently.

The FDRE’s Constitution preparation was wide and all encompassing, and was based on the noble values of democracy, the rule of law and respect for human rights. The salient constitutional issues

were discussed throughout the land at the Kebele level and decisions reached. These decisions were forwarded to the Constitution Drafting Commission appointed by the Transitional Government. A Constituent Assembly was then duly elected, whose only task was to go through the constitutional draft and finalize it. This Constitution was approved by the 538 members of the Constituent Assembly on 8 Dec, 1994 - Hedar 29, 1987 EC.



The handing over of the FDRE Constitution after it was endorsed by the Constituent Assembly

## Constitution and Other Laws

The power to amend a constitution may be delegated to the organ empowered to make ordinary laws — the parliament. The procedures for the amendment remain totally different from that relating to ordinary laws. Ordinary laws may be passed by a simple majority but, the amendment of a constitution requires a more rigid procedure. For example, in Ethiopia how the Constitution must be amended is provided in the FDRE Constitution, Article 105 sub-article 2:

### *Amendment of the Constitution:*

2. All provisions of this Constitution other than those specified in sub-article 1 of this Article can be amended only in the following manner:

- (a) When the House of Peoples' Representatives and the House of the Federation, in a joint session, approve a proposed amendment by a two-thirds majority vote; and
- (b) When two-thirds of the Councils of the member States of the Federation approve the proposed amendment by majority votes.

(For fuller clarification see the FDRE Constitution, Article 105)

The basic differences between the constitution and other laws can be seen as:

- A constitution, as a direct reflection of the will of a nation, is a supreme law while an ordinary law is legislation from the peoples' representatives; this implies that all other laws should confirm to the constitution. Any irregularity leads to their being null and void.
- A constitution is the basis of the legal relations between a government and its citizens and therefore states only general principles. The details are left for other laws.
- A constitution is a means by which social, political and economic policies of a government are outlined and these policies

do not change so often. When the need arises, a constitution can be amended subject to procedures, as laid down in the constitution itself.

- A constitution specifies the rights, duties and obligations of citizens which do not have to be changed as often as ordinary laws.

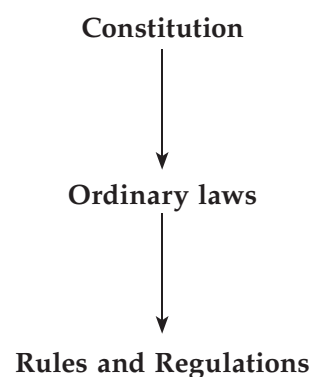
All these make it a necessity for a constitution to be formulated with much more care than ordinary laws so that it serves not only the present conditions, but future conditions as well.

Form small groups. Identify a need for a new law and write it down. Pass this to another group so that each group should receive another group's idea.



Consider whether their idea for a law is valid. If so, on the basis of this newly formulated law, should there be an amendment to the Constitution or to other laws? Justify your decision. Discuss as a class.

### Hierarchy of laws



The hierarchy of laws is a chain of subordination of laws. At the top of the chain is the Constitution, below which are the ordinary laws. Ordinary laws are enacted through proclamations, usually made by parliament. In Ethiopia, they are made by the House of Peoples' Representatives at the Federal level and

## Constitution and Other Laws

the State Councils at the Regional level. Below are administrative regulations in turn sub-divided into higher and lower depending on the hierarchy of the administrative organ producing them. They are made by the executive/administrative branch of the government. At the Federal level, the higher executive powers are given to the Prime Minister and the Council of Ministers. At the Regional level the State Administration is the highest organ of executive power. This shows that hierarchy of law represents the superiority of one law over the other.

All laws do not have equal authority. For example, the Constitution is the supreme law. No other law is equal to it.

As lower laws may under no circumstances contradict the constitution, no regulation may contradict an ordinary law. If it is to contradict, it shall be held null and void.

**?** Why should the Constitution be regarded as supreme? Discuss in small groups and share ideas with the rest of the class.

### REMEMBER

- ❑ Modern democratic governments are established and organized by a constitution.
- ❑ Constitutions are primarily about political authority and power — the distribution, exercise and limitation of authority and power among the organs of a state.
- ❑ A constitution, as a direct reflection of the will of the nation, is a supreme law whereas ordinary laws are legislations from the Parliament or peoples' representatives.
- ❑ A hierarchy of laws is a chain of subordination of laws; the constitution is the supreme law. All other laws are inferior to it.

## L E S S O N

## 2

# Rule of Law and Management of Conflict

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

- explain the role of rules of law as an instrument for maintaining order and security.
- enumerate the criteria for evaluating rules.
- explain the judicial protection due to individuals or groups.

How do you reach a solution, when your interests and the interests of your friends are divergent?

The purpose of rule of law is to protect basic individual rights by requiring the government to act in accordance with pre-announced, clear and general rules that are enforced by impartial courts in accordance with fair procedures. When this fundamental principle of the Constitution is respected, conflicts will be managed or minimized easily and peace and security maintained.

Conflict is caused when two or more parties perceive that their interests are incompatible, and want to achieve their aims through actions that damage the interest of the other. These parties may be individuals, small or large groups or countries.

Conflicts should be handled peacefully through mechanisms that accommodate competing interests. Various instruments regulate conflict: the national constitution and laws, family and clan structures, and the court system. Relating to these, procedural justice and alternative means of conflict management will now be discussed.

**Procedural Justice:** Refers to the right to equality in the processes that guarantee all persons equal procedural opportunities within the law. The minimum procedural justice is that parties in conflict, whose rights are affected, have the right to be heard without discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, wealth, birth, status etc.

The FDRE Constitution Articles 19 and 20 provide the necessary safeguards of procedural justice regarding human rights as follows:

Article 19(1): *Persons arrested have the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charge against them.*

Article 20(2): *Accused persons have the right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing.*

Article 20(4): *Accused persons have the right to full access to any evidence presented against them, to examine witnesses testifying against them, to adduce or to have evidence produced in their own defence, and to obtain the attendance of an examination of witnesses on their behalf before the court.*

**?** The Rule of Law is one of the pillars of democracy. Who should respect the Rule of Law? Debate as a class.

Negotiation, mediation, arbitration and litigation are the alternative means of peacefully settling

## Rule of Law and Management of Conflict

disputes. The first three deal with the issues without recourse to law. They are considered to be cheaper and quicker than a formal law case. They may also enable a matter to be settled with less anger and bitterness.

**Negotiation:** This is one of the most common peaceful ways of settling a dispute. It involves direct discussion between or among the parties to the dispute with the objective of reaching an agreement. No outside party is involved in the process. In international relations, the essence of negotiation is the practice of diplomacy.

**Mediation:** After negotiation, mediation is another mechanism to resolve a dispute fairly and peacefully. Mediation is a method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. It is a procedure involving the suggestion of terms of settlement by a third party. The mediator enters into negotiations between disputants seeking terms of compromise acceptable to both. An effective mediator may not impose his/her will upon the parties; if he/she does, it could lead to loss of confidence.

**Arbitration:** This is a means of applying legal principles to a controversy within limits previously agreed upon by the disputing parties. A panel of judges or arbitrators is created, either by special agreement of the parties, or by an existing mutual treaty.

The disputants also agree in advance to be bound by the decision. The agreement between the parties specifies the method of selecting the panel of arbitrators, the time and place of the hearing, and any limitations upon the facts to be considered, or principles of law or equity to be applied, in arriving at a decision.

**Litigation:** This is a process of carrying on a suit before the court. That means, it is a proceeding by a party or parties against another in a court of law. This is different from the above peaceful mechanism of

dispute settlement. It is based on formal established procedural rules, customs or practices of conflict resolution mechanism.

Discuss in different groups the differences and similarities between the three alternative ways of conflict management and resolution.



Why would you choose alternative means of conflict resolution rather than taking the conflicting issues to the court?

Discuss in groups and present your idea to the class.



Mediation in a dispute

Some practical causes/reasons of conflict are as follows:

Interests can diverge for many reasons; the following are the main causes:

- *Resources* – territory, water, energy sources, food (and how they should be distributed) and money;
- *Power* – how control and participation in political decision-making are allocated;
- *Identity* – concerning the cultural, social and political communities to which people feel tied;

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- *Status* – whether people believe they are treated with respect and dignity and whether their traditions and social positions are respected;
- *Values and beliefs* – particularly those embodied in systems of government, religion, or ideology.



Identify a recent conflict. What were the causes/reasons for this conflict? How is the conflict being resolved or how do you think it should be resolved? Work in small groups to discuss these issues.

In the first part of this unit, you discussed the relationship between the Constitution and different laws, rules and regulations and the hierarchy of laws. Before dealing with an examination of the Criteria for Evaluating Rules and Laws, it is worth considering the meaning and making of laws and rules.

**Laws** are considered as primary legislation or proclamation enacted by the highest legislative organ of the country called Parliament; in the Ethiopian context, The House of Peoples' Representatives at Federal level, and Legislative Council at Regional level. Laws cannot be challenged except where they are in conflict with constitutional rules.

**Rules** are considered as secondary legislation enacted by organs lower than the parliament such as the Council of Ministers and sometimes by individual Ministries mandated to do so. Rules cannot contradict ordinary laws or a proclamation. There are also rules made by associations that govern the behaviour of their members.

Understanding the law-making process helps us to identify whether a law is fair, clear, and easy to follow without contradicting the rule of law and social values. Therefore, laws and rules must be:

*Fair:* Rules and laws must be impartial, just and equitable. They must be free of bias or prejudice. Rules and laws must apply impersonally; not to

particular people or groups; nor must they be unequal or arbitrary in their application; and they must not single out specific individuals or groups for favourable or harsh treatment.

*Easy to understand:* Rules and laws must be stated in a clear and understandable manner, with the absence of cross-reference or jargon, which otherwise makes them difficult to understand. They must avoid having too much detail or being too narrow. However, laws and rules have sometimes ambiguous and incomplete phrases that are subject to interpretation by judges and law professionals.

*Well designed:* Rules and laws must be designed to achieve political, economic and social development and need to fit with the changing circumstances. They must be based on human dignity, equality and freedom in a democratic society. Rules and laws should not invade rights unless they need to achieve their basic purposes.

*Clear:* Rules and laws should be clear as to what is expected by the people so that they are able to conform their conduct accordingly.

*Not violating other values:* Rules and laws should not discriminate between cultural groups or not interfere in the promotion of cultural values. They should not affect rights to participate, enjoy and practice in cultural life.

*Possible to follow:* Rules and laws need to have the quality by which persons find them possible to live up to their expectations. Rules and laws which are irrelevant, ambiguous, obstructing cultural developments are difficult to respect; consequentially they could be source of disagreement and instability.



Look at your school regulations and evaluate them on the basis of these criteria. Share your findings with the rest of the class.

## Rule of Law and Management of Conflict

In democratic constitutions individual rights are protected by constitutional laws. The judiciary has also an important role in protecting the constitutionally guaranteed rights of individuals. The judiciary protects the individual rights mainly through the principle of due process of law. Then what is due process of law? And how does the judiciary protect individual rights through this principle?

*Due process of law:* This means, the conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case. The accused person must at all times be given a proper opportunity to answer the charges against him or her. In addition, the defendant must be able to challenge evidence and cross examine witnesses presented against him/her. The principle of due process of law has some basic elements.

The basic elements are:-

- **Habeas corpus:** This is a remedy that is available to a person who is arrested illegally and/or who is not brought before a court of law within the legally prescribed period of time. Article 19(4) of the FDRE Constitution provides that all persons have an inalienable right to petition the court to order their physical release where the arresting police officer or the law enforcer fails to bring them before a court within the prescribed time (48 hours) and to provide reasons for their arrest.
- **Presumption of innocence:** An accused person has a right to be presumed innocent until a final decision of court is given. Article 20(3) of the FDRE Constitution stipulates that everyone charged with a criminal offense has the right to be presumed innocent until proven guilty according to the law. This

prevents the public authorities from judging the outcome of the trial before the court finds the defendant to be guilty or not guilty.

- **Impartial tribunal:** This refers to the court being non-partisan in its dealings with a case. Article 37(1) of the FDRE Constitution ensures accessibility of court and tribunals to all defendants equally without any distinction as to race, religion, sex and property. At every stage of a trial, judges are obliged to treat parties equally when applying laws.
- **Fair notice:** This deals with the summons which must be written in a language that the defendant can understand. It should also contain the time and the place where the defendant must present him/herself.
- **Speedy and public trials:** An accused person has the right to a quick public trial, unless the case is related to national security, public safety (as determined by law) and to protect the privacy of the accused.
- **Right to counsel:** This is the right to be represented by legal counsel. This counsel can be provided by the defendant or at state expense. The service of legal counsel is important as the defendant will be unlikely to have the legal knowledge that works in his/her favour.
- **Right against self-incrimination:** Under criminal law it is the prosecutor who has the burden of providing evidence for the commission of a crime beyond reasonable doubt.

Therefore, the defendant has no burden to prove his innocence. Article 19(2) of the FDRE Constitution provides that the defendant has the right to remain silent. The court must make it clear to the defendants, in advance, that anything they may say could be used as



## Rule of Law and Management of Conflict

evidence against them. Moreover, a person cannot be compelled to make a confession or admission, which could be used in evidence against them.

- **Protection against double jeopardy:** Article 21(3) of the FDRE Constitution states that, where an individual has been previously tried and acquitted or convicted, that person cannot be charged and convicted again for the same offence.

- **Right of appeal:** The accused or the prosecutor, after a decision has been made by the court, is entitled to recourse, by way of appeal or review, to a competent high court. The FDRE Constitution, Article 20(6) provides that *All persons have the right of appeal to the competent court against an order or a judgment of the court which first heard the case.*

**?** Mr. Z is accused of murder. His case has been brought to court. In groups consider the rights that Mr. Z has as a defendant.

### REMEMBER

- ❑ Procedural Justice refers to the right to equality in the processes that guarantee all persons equal procedural opportunities within the law.
- ❑ The minimum procedural justice is that parties to the conflict whose rights are affected have the right to be heard.
- ❑ Negotiation, mediation, arbitration and litigation are the alternative means of peaceful settlement of disputes.
- ❑ Laws must be fair, easy to understand, well designed, clear, not violating other values and possible to follow.
- ❑ Due process of law means that legal proceedings must be conducted according to established rules and principles for the protection and enforcement of private rights.

# LESSON 3

## Rule of Law and Governments

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

- explain what distinguishes limited government from the unlimited one.

Why do you think it is important to limit the power of the federal and regional governments?

The rule of law means that the exercise of powers shall be regulated by law and that any individual or group shall not be exposed to the arbitrary will of another. Rule of law limits the authority of the government and its officials. They cannot decide on any matter as they wish. They can decide only within the limits of the law. The rule of law states, “No man is above the law.”

Federalism is one form of government where rule of law is believed to be respected. Based on a territorial and functional division of powers, federalism is designed to harmonize unity with diversity. Federalism is thus a system of government which embodies a division of power between central and regional authorities, each of which has its own independence and works in harmony with the others. The emphasis here is the division of power between the central and state governments.

The purpose of the division of power is to limit the power of the federal government, while reserving all other powers for the regional states which then continue unhampered as separate sovereignties.

This legal and important relationship of sharing of power between the central government and

regional states is well regulated by an instrument known as a federal constitution.

In the Ethiopian context, the FDRE Constitution establishes a dual polity, a two tier governmental system, with central government at one level and the regional ones at the other. The FDRE Constitution clearly demarcates the spheres of action for each level of government by formulating an elaborate scheme of distribution of legislative, executive, and judicial powers between the federal and the state governments.

**?** What makes federalism a necessity in Ethiopia? Discuss in small groups and present your summary to the class.

### FDRE Constitution Article 50

#### Structure of the Organs of State

1. *The Federal Democratic Republic of Ethiopia comprises the Federal Government and the State members.*
2. *The Federal Government and the States shall have legislative, executive and judicial powers.*
3. *The House of Peoples’ Representatives is the highest authority of the Federal Government. The House is responsible to the People. The State Council is the highest organ of State authority. It is responsible to the People of the State.*
4. *State government shall be established at State and other administrative levels that they find*

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necessary. Adequate power shall be granted to the lowest units of government to enable the People to participate directly in the administration of such units.

5. The State Council has the power of legislation on matters falling under State jurisdiction. Consistent with the provisions of this Constitution, the Council has power to draft, adopt and amend the state constitution.
6. The State administration constitutes the highest organ of executive power.
7. State judicial power is vested in its courts.
8. Federal and State powers are defined by this

Constitution. The States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States.

9. The Federal Government may, when necessary, delegate to the States powers and functions granted to it by Article 51 of this Constitution.

On the basis of this Constitution, compare the current system of federalist government in Ethiopia with previous ones in terms of the self administration of the regions and the rights of the people.



The draft constitution of the FDRE being deliberated upon before its endorsement

### REMEMBER

- ❑ The rule of law states, “No man is above the law.”
- ❑ Federalism is a dual form of government based on a territorial and functional division of powers designed to harmonize unity with diversity.
- ❑ Federalism is a system of government which embodies a division of power between central and regional authorities.
- ❑ The relationship of the limitation of power between the central government and regional states is well regulated by an instrument known as a federal constitution.

## LESSON

## 4

# Rule of Law and the Fight against Corruption

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

- describe the ways of struggling against corruption.

- What do you think should be taken as immediate and serious measures to punish the corrupt?
- What do you think should be your role in combating corruption at the country level?

In your previous grades, you saw that corruption is an act or acts undertaken with the deliberate intent to extract personal and/or private rewards at the expense of others.

There are many causes for the prevalence of corruption in Africa and many parts of the world. Among these, absence of rule of law and lack of exemplary ethical leadership are important causes of corruption. Indeed, absence of rule of law automatically suggests that exemplary leadership would be difficult. This lack of exemplary ethical leadership in most countries can be attributed to the fact that personal and private interests take precedence over national interests. This in turn sets the patterns of behaviour in one's dealings with others. It will also have a cascade effect, influencing others to give precedence to their own interests at the expense of others.

Bearing this in mind, we will see ways of struggling against corruption, and the measures to be taken against corrupt individuals. Controlling corruption in Ethiopia needs to be more closely

linked with good governance and strong civil societies.

Good governance encompasses the dimensions of accountability, openness and transparency, and predictability and the rule of law. The following are some of the approaches to be employed in the fight against corruption in our country:

- **Preventive approach:** This approach focuses on the preventive role that the constitution and other laws afford. For instance, those laws and rules related to financial administration auditing systems have a direct role in preventing corruption. Issues related to: ethical regulation, having committed citizens, disclosure, registration of property and mass media all play indirect roles.
- **Curative approach:** This includes receiving complaints, investigating corruption cases and bringing the corrupt officials to justice. Corrupt behaviour should be punished as it is an evil act against the nation, citizens and government, and is believed to be immoral. The corrective measure against corrupt behaviour should be immediate and effective.

Individual citizens are victims of corruption. They are also the causes and perpetrators of corruption. Therefore, the solution to avoid corruption lies with the citizens. Citizens have to respect the constitution, be honest and truthful

## Rule of Law and the Fight against Corruption

in their daily activities and be ready to combat corruption in every way possible.

As corruption has a political, economic and social damaging effect, it harms both Government and Non-government Organizations. Therefore, institutions have their own role in enforcing the rule of law and different legal regulations to develop transparency and accountability in the execution of their duties.

Finally, the perpetrators of corruption must be severely punished, irrespective of their status and standing in society. It is not only punitive measures, including the promulgation of appropriate laws and adequate capability for investigation and enforcement that are needed to combat corruption; but also preventive measures that reduce the opportunities for corrupt practices. To achieve this goal, individual citizens and institutions have a responsibility to contribute to the fight against this social evil.

**?** Research and report on any evidence of corrupt practices in your local area. Share your findings with the rest of the class.



A corrupt official receiving a bribe

### CASE STUDY

#### Staff members arrested for alleged corruption offence

The Federal Ethics and Anti-Corruption Commission (FEACC) apprehended two of its own staff members and another who was a member of the Federal Police for allegedly receiving money.

One staff member was caught for allegedly receiving money in return for promising that he would terminate the case of an individual under investigation in connection with illegal land proprietorship in Addis Ababa.

The FEACC also caught another staff member, who served as an escort for prisoners with the Commission.

He received a bribe promising in return to close the case of a certain housing co-operative, which was under investigation by the Commission. The suspect and a member of the Federal Police were caught red-handed while receiving money totalling 400,000 birr.

Similarly, the FEACC apprehended two prosecutors from the Ministry of Justice while they were receiving money given as a bribe to terminate the prosecution of an individual suspected of being a criminal.

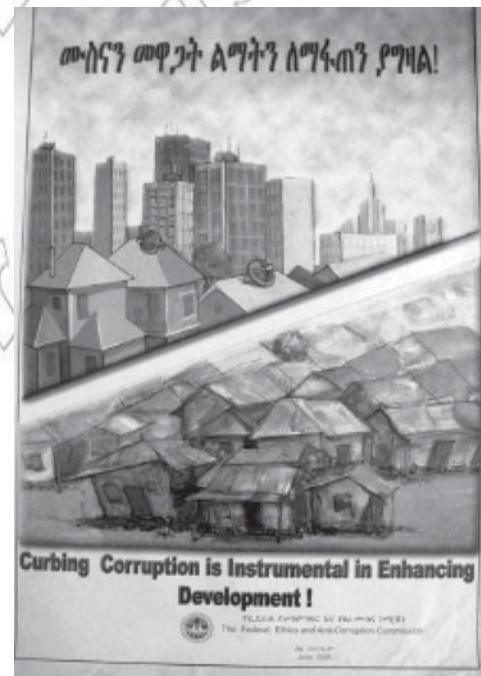
Source: Adopted from 'ETHICS' FEACC's Magazine vol. 7, No. 3, March 2008.

**?** In small groups role play the prosecution of one of the situations from the case study. Identify the causes of the case, the role of the institution and the roles of the individuals involved. Consider how this case could have been prevented.

## Rule of Law and the Fight against Corruption

### REMEMBER

- ❑ Corrupt behaviour is an evil act against the nation, citizens, and government.
- ❑ Absence of rule of the law and lack of exemplary ethical leadership are causes of corruption.
- ❑ Controlling corruption in Ethiopia needs to be closely linked to good governance and strong civil societies.
- ❑ A preventive approach is based on respect of laws of the land, such as the constitution and other laws and rules.
- ❑ A curative approach includes receiving complaints, investigating corruption cases, and bringing the corrupt officials before justice.



Corruption shall not impede Ethiopian Renaissance

## UNIT SUMMARY

As you have seen, the purpose of rule of law is to protect basic individual and group rights by requiring the citizens and the government to act in accordance with clear, pre-announced rules that are enforced by impartial courts in accordance with fair procedures. This requires the state institutions to act in accordance with the law.

In Ethiopia, the limitation of power between the central government and regional states is well regulated by the Federal Constitution. The Constitution is a supreme law — above all other laws. It being a supreme law, the procedure for making, and even amending it is quite different from that of ordinary laws.

An understanding of the law-making process, and the principles of rule of law, helps us to identify whether a law is fair, clear and easy to follow without contradicting the rule of law and accepted social values.

Corruption is a threat to the well-being of society and is immoral. It requires a strong commitment to combat it. The corrective measures against corrupt behaviour should be immediate and efficient. In order to fight against corruption, we need to have committed citizens and institutions have to make their activities transparent and their officials need to be accountable.

## GLOSSARY

<b>Arbitration:</b>	A method of dispute resolution involving one or more neutral third parties who are usually agreed to by the disputing parties and whose decision is binding.
<b>Double jeopardy:</b>	A right of a defendant not to be charged and convicted twice with the same offence.
<b>Due process of law:</b>	Legal proceedings according to established rules and principles for the protection and enforcement of private rights.
<b>Fair notice:</b>	A summon which must be written in a language that the defendant can understand including the time and the place where the defendant must present him/herself.
<b>Habeas corpus:</b>	A remedy that is available to a person who is arrested and not brought before a court of law within the prescribed time.
<b>Hierarchy of laws:</b>	A chain of subordinate laws with the constitution as the supreme law.
<b>Impartial tribunal:</b>	A court which is non-partisan.
<b>Litigation:</b>	A process of carrying on a suit.
<b>Mediation:</b>	A non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution.
<b>Negotiation:</b>	Direct discussion between or among the parties to settle the dispute with the objective of reaching an agreement.
<b>Presumption of innocence:</b>	An entitlement not to be considered guilty before the decision of a court is given.
<b>Procedural justice:</b>	Equality that guarantees all persons have equal procedural opportunities.
<b>Public trial:</b>	A court proceeding that is open to the public unless the case is related to national security, public safety or privacy of the accused.
<b>Right of appeal:</b>	The right to be heard, after a decision has been made, by a superior court.

<b>Self incrimination:</b>	A confession or admission against oneself.
<b>Speedy trial:</b>	A quick public trial.
<b>Suit:</b>	A litigation pending before the court.

## UNIT REVIEW EXERCISES

Do these review exercises in your exercise book.

### Part I – Multiple choice

- If a law made is found to be in conflict with the Constitution, what should be done?
  - make the law null and void
  - make the Constitution null and void
  - re-write the law in such a way that it does not contradict the Constitution
  - (a) or (c)
- “No man is above the law” refers to:
  - popular sovereignty
  - separation of power
  - rule of law
  - parliamentary supremacy
- A federal state may have:
  - only one constitution
  - two constitutions
  - two or more constitutions
  - three constitutions
- Constitutions are normally written by a body known as:
  - the parliament
  - constituent assembly
  - the council of ministers
  - a group of lawyers
- The conduct of legal proceedings according to established rules and principles for the protection of and enforcement of private rights is known as:
  - procedural justice
  - due process of law

- separation of power
- parliamentary supremacy

### Part II – True or false

- It is right if his Excellency, the Minister for Justice, tells a judge that his decision concerning his son’s case is wrong and that he should change the decision.
- Judges sometimes can change laws made by the parliament.
- The rule of law limits the authority of the government and its officials but, they can decide on any matter as they wish.
- Laws are considered as primary legislation or proclamation enacted by the highest legislative organ of the country called the Parliament.
- Lack of exemplary ethical leadership, in most cases, provides encouragement for corruption.

### Part III – Short answers

- Identify some of the criteria for evaluating rules and laws.
- List some of the basic elements of the principle of due process of law.
- Describe the alternative means of conflict management.
- Give at least two reasons why it is important to limit the power of government, both at the central and the regional levels, in the federal republic states.