

**UNIT 5**  
**RULES AND LAW**  
Upper secondary level

**What rules serve us best?**  
**A decision-making game**

**5.1 and 5.2 Why does a community need rules?**

Rules are tools to solve problems

The students design an institutional framework

**5.3 What rules serve us best?**

The students compare and judge their solutions

**5.4 The conference**

The community members agree on a framework of rules

# Unit 5

## Rules and law

### What rules serve us best?

#### **“Rules are tools” – a constructivist approach to understanding institutions**

This slogan sums up the key statement on which this unit focuses. Rules, laws, constitutions, and the Universal Declaration of Human Rights can all be summed up under the concept of institutions. In this manual, institutions are viewed as products – people created these institutions to serve a certain purpose. In this sense, “rules – or generally speaking, institutions – are tools”.

Institutions are tools to serve purposes such as the following:

- They solve serious problems in society;
- They neutralise potential sources of conflict, as they produce stability and security;
- They define power relations between groups in society with different interests; they may then protect the weak, or exclusively give means of power to a certain group, or even individuals.

Therefore, to understand institutions we must understand the purpose or interest that their creators had in mind. Institutions are complex systems to solve complex problems. They emerge out of processes of negotiation and conflict, revolution or reform. In democracies, institutional development is a process of collective learning that itself takes place in a framework of procedural rules, as constitutions must be modified carefully and with responsibility.

#### **The students understand institutions through designing an institution**

This key insight – the constructivist dimension in institutional development – is reflected in the key task of this unit. The students face a political problem and have the task of inventing a framework of rules to solve it. They become aware of the problems that creators of institutions have to deal with, and can analyse the constitution and laws of their country, as well as human rights, with a keener eye, focusing on the purpose of the institutions rather than isolated bits of rules and regulations.

This version of unit 5 is designed as an extension of unit 4, but it can also be used as a separate four-lesson unit (see below for further details on this option). Both variants set the same task and focus on the same subject matter. The problem that the students deal with is how a community of fishermen should sustainably manage their common resource, the fish stock in a lake (for a model of sustainability goals, see ↗ student handout 4.2). At least these four problems must be solved:

1. How can the fishermen avoid overfishing and destroying their fish stock?
2. How can the fishermen achieve a maximum output?
3. How can the fishermen achieve a fair distribution of their income?
4. How can the fishermen achieve these goals in the long term, today and in the future?

The students know the key to the solution of these problems. ↗ Student handout 4.4 gives the figures for the optimum sustainable fish harvest (42 tons). The fishermen need a framework of rules that controls their behaviour to achieve these goals. The students’ task is to design this framework. Broadly speaking, they may choose between the “state” and the “contract” approach. Both have their strengths and their drawbacks (see ↗ student handout 5.2).

Both approaches have worked successfully in some cases, and both have also failed.<sup>14</sup> Whether the students' solution works or not would require putting it to the test, which means playing a few rounds of the fishing game (see unit 4) in an extension to this unit. Units 4 and 5 can therefore be combined to provide a laboratory for institutional design and sustainable resource management – a fascinating project, but time-consuming.

### **The unit – a model of reality**

Like unit 4, this unit is also conceived as a game. The students have come away from unit 4 with an idea of how to solve the problem of overfishing by adopting the goal of sustainability (see *see* student handout 4.2). They have discussed what type of institutional framework would be appropriate (lesson 4), but have not explored this issue in depth. This version of unit 5 is a continuation of the fishing game, but with a different focus: what rules or laws serve the fishing community best?

Unit 5 simulates the process of drafting and agreeing on an institutional framework for the fishing community. The students therefore step back into their roles as members of the fishing community, but their task is a different one. They design a framework of rules. A model reduces complexity to focus on certain aspects that are important for the problem being studied, and this game is no exception. Here, the players do not have to worry about fishing and securing their livelihood. There is no external power to disrupt their discussions. The game model focuses on the creation of a framework of rules. As in reality, the negotiations may fail – the players may not reach an agreement. In this respect, the success criteria for political negotiations and a process of learning in EDC/HRE differ. The students may learn a lot from their failing to reach an agreement.

### **The teacher's role – game manager and chair**

As game manager, the teacher has (even) less input to give than during the fishing game. He/she acts as time manager, to give structure to the process. Otherwise such a game could not be conducted in EDC/HRE classes. The teacher should not prompt the students to make certain choices. The decision-making process is open-ended – it may fail if the students cannot agree on a draft framework, as different choices are possible. The students' reasons for their choices are as interesting as the result itself.

### **How to use unit 5 as a separate four-lesson unit**

The basic unit design remains the same. The following alterations allow the unit to be used as a four-lesson unit:

- The students act as advisors to the fishing community rather than as citizens. The advisors form teams that draft frameworks of rules, discuss them, and finally agree on what model they want to suggest to the community.
- The first lesson is devoted to studying the problem. The students are given the case story on the fishing conflict (*see* student handout 4.1, and the solution of the sustainability problem – *see* student handouts 4.2, 4.4). The students therefore need not solve this problem as well, but may focus on the question of by what rules the fishermen can be encouraged, controlled, or even forced, in order to support the goal of sustainable fishing. The students must also deal with the issue of property.

With these modifications in place, the unit can follow the design suggested for the integrated version of unit 5.

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14. See Elinor Ostrom, *Governing the Commons. The evolution of institutions for collective action*, Cambridge University Press, 1990.

## Competence development: links to other units in this volume

### What this table shows

The title of this manual, *Taking part in democracy*, focuses on the competences of the active citizen in democracy. This matrix shows the potential for synergy effects between the units in this manual. The matrix shows what competences are developed in unit 5 (the shaded row in the table). The strongly framed column shows the competences of political decision making and action – strongly framed because of their close links to taking part in democracy. The rows below indicate links to other units in this manual: what competences are developed in these units that support the students in unit 5?

### How this matrix can be used

Teachers can use this matrix as a tool for planning their EDC/HRE classes in different ways.

- This matrix helps teachers who have only a few lessons to devote to EDC/HRE: a teacher can select only this unit and omit the others, as he/she knows that some key competences are also developed, to a certain extent, in this unit – for example, analysing a problem, judging the effect of rules, exploring the importance of personal responsibility.
- The matrix helps teachers make use of the synergy effects that help the students to be trained in important competences repeatedly, in different contexts that are linked in many ways. In this case the teacher selects and combines several units.

Units	Dimensions of competence development			Attitudes and values
	Political analysis and judgment	Methods and skills	Political decision making and action	
5 Rules and law	Basic designs of institutional frameworks and orders of property	Team work, time management Comparison Making a choice	Social contract <i>or</i> agreeing on an option to suggest	Appreciation of rules and laws in civilising conflict
4 Conflict	Absence of rules gives rise to conflict		Coping with informal settings of conflicting interests	
2 Responsibility	Incentives may strongly influence our behaviour		Handling dilemmas, prioritising	Awareness of the consequences of our decisions
8 Liberty	Exercise of liberty requires a framework of rules to protect the weak	Debating, arguing one's point	Liberty and framing	Mutual recognition
6 Government and politics	Rules and laws are important tools to solve problems and settle conflict		Compromise and trial and error in decision-making processes	

## UNIT 5: Rules and law – What rules serve us best?

### A decision-making game

Lesson topic	Competence training/learning objectives	Student tasks	Materials and resources	Method
Lessons 1 and 2 Why does a community need rules?	Analytical thinking, task planning. Identifying a political problem. A framework of rules is the institutional backbone of a community. Hierarchy and networking – two systems of rules; public and private property.	The students draft a framework of rules for their community. The students prepare their presentations.	✎ Student handouts 5.1, 5.2, 5.4. Flipcharts and markers, overhead transparencies or handouts.	Decision-making game. Project work.
Lesson 3 What rules serve us best?	Analytical thinking: criteria-guided comparison. Judgment: selecting criteria and goals. Attitudes and values: mutual recognition. Efficiency, control of power, rule enforcement, feasibility, fairness.	The students compare and judge their drafts. Homework: the students make their decisions on the draft framework and the draft rules for the conference.	✎ Student handouts 5.3, 5.4. Flipcharts (or alternatives).	Presentations. Discussion.
Lesson 4 The conference	Making a decision. Compromise, framework consensus.	The students attempt to achieve a unanimous decision. The students reflect on their experience.	✎ Student handouts 5.4–5.6.	Voting. Teacher's lecture and discussion.

## Lessons 1 and 2

### Why does a community need rules?

#### Rules are tools to solve problems

This matrix sums up the information a teacher needs to plan and deliver the lessons.

Competence training refers directly to EDC/HRE.

The learning objective indicates what students know and understand.

The student task(s), together with the method, form the core element of the learning process.

The materials checklist supports lesson preparation.

The time budget gives a rough guideline for the teacher's time management.

Competence training	Project work (co-operation, time management, self-controlled learning, product orientation, solving problems). Analytical thinking, task planning, identifying a political problem.
Learning objective	Rules and laws are powerful tools to influence and control human behaviour. A society without a framework of rules may be disrupted by uncontrolled conflicts between its members. A framework of rules is the institutional backbone of a community. Basic choices: hierarchy and networking – two systems of rules; public and private property.
Student tasks	The students draft a framework of rules for their community.
Materials and resources	✍ Student handouts 5.1, 5.2, 5.4. Flipcharts and markers, overhead transparencies or handouts.
Method	Decision-making game, project work.
Time budget (lesson 1)	1. The teacher introduces the task. <span style="float: right;">20 min</span>
	2. The students form groups and work on their project. <span style="float: right;">20 min</span>
Time budget (lesson 2)	3. The students work on their project. <span style="float: right;">40 min</span>

#### Information box

The game setting follows the principle of task-based learning: the students face a problem and must find a solution. They are informed about the stages of the process and the time frame, and then they work by themselves.

The game requires the students to resume their roles as members of the fishing community and to become players once more, until lesson 4. However, now the students are acting on a different level of reflection, and with a new task. Extreme time pressure, as was the case during the fishing game, is no longer an issue.

Their new task is to design a framework of rules. Such a task has a political dimension: the players must arrive at a decision, as the community cannot survive without a set of rules. The students experience politics as a practical business. To avoid biased solutions, the groups should include members from all fishing villages to take different views and experiences into account.

The teacher's performs in the role of a game manager. The materials managers approach the teacher to collect their working materials. At the beginning of the second lesson, the teacher takes the floor for five minutes.

On this occasion, the teacher distributes the draft rules for the conference in lesson 4. By clarifying the procedure before the conference, the 4th lesson will run smoothly, and enough time will be available for the reflection phase, which is of great importance in task-based learning. If the students have any questions or suggestions to improve the rules, they may raise these points during the second lesson, and decide with the teacher how to handle each point.

## Description of lesson 1

### 1. The teacher introduces the task

#### The students brainstorm their experience in the fishing game

The teacher gets the students involved immediately by prompting them to recall their experience in the fishing game:

1. Describe the problems that you encountered in the fishing game.

The students may be expected to refer to the goals of sustainability. Depending on what was discussed and on their understanding, they will also talk about the difficulties in balancing these goals, and achieving them over long periods of time. A wide range of answers is possible. The students may respond to each other, while the teacher chairs the input round.

2. Give your opinion on your attempts to solve these problems.

This question includes everything: the goals of the players, their way of communicating, their will and ability to co-operate, the depth of understanding the problem, the final outcome – success or failure. If necessary, the teacher reduces the focus of this broad question.

The students may be expected to address the absence of clear rules. Depending on their decisions, they may have attempted to develop such rules.

The students may also suggest certain approaches: rules require state authority, or work best in small networks with more informal rule setting. They may also have thought about the issue of private or public ownership of the fish stocks. The teacher takes note of such comments, as they may be linked to ↗ student handout 5.2.

The teacher outlines the task.

The initial brainstorming has provided the context for the task. The teacher explains that the fishing community incurred such serious problems because of the absence of a clearly set framework of rules that defined the mode, and perhaps also the goal of interaction.

The students' experience in the fishing game can be generalised:

- No human society exists without conflict.
- No human society will survive without co-operation.
- No community can co-operate or settle its conflicts in a peaceful manner without an institutional framework of rules.
- These rules can be enforced by law, but alternative solutions are possible too.

The students can now explore what rules serve the community best. They return to their roles as members of the fishing community, but now the game is different. They act as inventors of rules. They form groups and draft rules, compare them and judge them, and in a conference, finally vote to adopt a framework of rules for their fishing community.

#### The schedule for decision making

The students receive ↗ student handout 5.1.

The teacher explains that the game is a model of a political decision-making process – a special one, dealing with the introduction of basic rules, rather than a process taking place in an already established framework.

The game continues until lesson 4, when the students step out of the game and reflect on their experience. ↗ Student handout 5.1 describes the agenda, and gives some information on why this



particular game method is used here. In the game, as in reality, what makes a good framework for the community is a practical question, not an academic one. The students must make a decision.

The teacher distributes *≈* student handout 5.2 as a guide to some key questions worth considering. If the students have addressed any points during the brainstorming that may be linked to the student handout, the teacher makes the students aware of them.

Once the students are ready to start, they form groups.

## **2. The students work on their project (lessons 1 and 2)**

The students form groups of four to six. In turn, the members of each fishing crew enter their names on lists on the blackboard or flipchart, making sure that their crew is represented by at least one member of each group. The teacher explains that this is important to take into account the different experiences and perspectives of all four crews. The teacher records the members of the groups.

The group members first assign basic tasks: 1-2 presenters, 1-2 writers, group manager (chair), materials and time manager, monitor. The groups meet at tables set as wide apart as possible. The materials managers collect the materials for their groups.

The students work in groups during the second half of lesson 1 and during lesson 2.

They are free to plan their work, including homework.

## Description of lesson 2

### The students share their key choices

At the beginning of lesson 2, the teacher asks each group to report on their basic choices – hierarchy or networking – or a mixed system? Should there be private or public ownership of fish stocks? If two or more groups have made the same choices, the teacher encourages them to share their results at some point during the lesson. Such exchanges can be very helpful in the conference, as similar models can be merged into one.

Groups who wish to continue working on their own should not be disturbed.

### Agreeing on procedural rules in advance

Once the teacher has taken the floor at the beginning of the second lesson, he/she distributes ✎ student handout 5.4, and asks the groups to read the drafts and decide whether they are acceptable. At the end of the lesson, the groups will be asked to vote. In case of objections or questions, the students should raise these during the lesson.

### The groups prepare their presentations

The materials managers collect the materials for presentation during the lesson.

The teacher does not intervene if a group is running late. He/she may remind the group that it is the students' responsibility to have their presentation ready before the third lesson begins, which allows some final touches to be made at home.

The teacher asks the writers to prepare a final document of their draft – in writing, or printed with a computer – that may be signed by all community members (see the procedural rules in ✎ student handout 5.4).

## Lesson 3

### What rules serve us best?

#### The students compare and judge their solutions

This matrix sums up the information a teacher needs to plan and deliver the lesson.

Competence training refers directly to EDC/HRE.

The learning objective indicates what students know and understand.

The student task(s), together with the method, form the core element of the learning process.

The materials checklist supports lesson preparation.

The time budget gives a rough guideline for the teacher's time management.

Competence training	Analytical thinking: criteria-guided comparison. Judgment: selecting criteria and goals. Attitudes and values: mutual recognition.
Learning objective	Efficiency, control of power, rule enforcement, feasibility, fairness.
Student tasks	The students compare and judge their drafts. Homework: the students make their decisions on the draft framework and the draft rules for the conference.
Materials and resources	≈ Student handouts 5.3, 5.4; flipcharts (or alternatives).
Method	Presentations. Discussion.
Time budget	1. The students present their solutions. <span style="float: right;">20 min</span>
	2. The students compare the drafts. <span style="float: right;">15 min</span>
	3. The students are given two homework tasks. <span style="float: right;">5 min</span>

#### Information box

The teacher can roughly anticipate what path the students will take, but no more. The inputs are as new to him/her as to the students. They are dealing with difficult questions that have been answered in different ways, as both history and a comparison of present political systems show. The community members are looking for the solution that serves them best. They agree on the goal, but may have different ideas on how to achieve it.

This lesson is an exercise in democratic political culture.

The teacher should encourage the students to compare and judge the analytical and practical quality of the drafts, and do the same him/herself. The students should realise that preferences for a particular approach in institutional design are often linked to experience and values. These are not open to discussion or reasoning. The students should be encouraged to express them, in a setting of mutual recognition. Whether the community finally adopts their draft is a different question.

## Lesson description

### 1. The students present their solutions

The groups present their drafts in turn. All students use *☞* student handout 5.3 as a tool of comparison.

The order of presentation: groups that share certain basic choices give their presentations following each other, as they can be compared more easily. In this case, two basic alternatives may emerge quickly.

### 2. The students compare the drafts

*☞* Student handout 5.3 gives criteria for comparison. Here are some likely combinations – but the students' creativity may well have produced other results!

#### A. Basics

	Model 1	Model 2	Model 3	Model 4
Model of governance	State authority	State authority	Networking	Mixed model
Form of property	Public ownership	Private ownership	Public ownership	Private ownership
Tendency	Centralised planned economy or “green dictatorship”	Competitive market (capitalism) + “strong state” (Western model)	Cantonal model, autonomous co-operative	Semi-autonomous co-operative; rules for delivery of surplus fish to co-operative

#### B. Rules

There is no clear-cut link from certain models to certain rules. Many different combinations are possible. Some of the most important points are raised in *☞* student handout 5.3:

- Has a goal been defined?
- Who has the power to make decisions?
- Have tools been provided for rule enforcement?
- Have safeguards against the abuse of power been included?
- ...

### 3. The students discuss the drafts

In the discussion, the students apply their criteria to the models. They will probably prefer models that share the basic approach of their own model, so the reasons for these choices will be debated. There are, however, some criteria that all models can be judged by. If the students do not address them, the teacher can do so:

- Goal of sustainability: does the draft framework support the fishermen in achieving the goals of sustainability? (See *☞* student handout 4.1.)
- Feasibility: is the system of rules simple enough to understand and use in practice?
- Fairness: are the rules fair?
- Democracy and human rights: do the rules meet the standards of democracy and human rights?
- Legitimation: a unanimous decision on the framework of rules is highly desirable. Can the community members agree on one set of rules?

#### **4. Homework: the students make their choice**

The teacher ends the discussion some minutes before the lesson closes. He/she acts as game or process manager, and explains to the students that in the final lesson, the members of the community will meet in a conference to adopt a framework.

The students have two tasks to prepare for the conference:

##### **Task No. 1: choosing a draft framework**

There will be no more time for a detailed discussion. Therefore the students' homework task is to make up their minds. A decision must be taken, therefore they should be willing to compromise. A framework that meets some key criteria is better than the alternative of carrying on without one.

They may give priority to certain basic designs or criteria and find their choice this way.

They should prepare a short statement to appeal to the other community members to adopt their favourite model.

##### **Task No. 2: accepting or modifying the procedural rules for the conference**

The teacher explains:

Not only the community itself, but also an important meeting such as the community conference requires a framework of rules. The members must agree on these rules before they start with the conference itself. Without such an agreement beforehand, difficult situations might arise if the members cannot agree how a vote is to be carried out or counted.

✍ Student handout 5.4 contains a draft set of procedural rules. They will be on the agenda first, as they will be applied immediately afterwards. The students should therefore have formed their opinion: do they accept the draft as it stands, or do they want to change it?

## Lesson 4

### The conference

#### The community members agree on a framework of rules

This matrix sums up the information a teacher needs to plan and deliver the lesson.

Competence training refers directly to EDC/HRE.

The learning objective indicates what students know and understand.

The student task(s), together with the method, form the core element of the learning process.

The materials checklist supports lesson preparation.

The time budget gives a rough guideline for the teacher's time management.

Competence training	Making a decision.
Learning objective	Compromise, framework consensus.
Student tasks	The students attempt to achieve a unanimous decision. The students reflect on their experience.
Materials and resources	☞ Student handouts 5.4-5.6.
Method	Voting. Teacher's lecture and discussion.
Time budget	1. The students hold the conference. <span style="float: right;">20 min</span>
	2. The students reflect on their experience. <span style="float: right;">20 min</span>

#### Information box

For the students, a conference on a constitution of state founders, as it were, is an exercise in taking part in democracy. The students perform in the role of constitutional legislators. The conference itself requires a framework of rules that the students must adopt before the conference starts. By giving structure to the procedure, the students can take complete responsibility, including the chairing of the meeting.

Task-based learning always requires reflection. Students can only learn by doing if they think about what they are doing, or what they have done. What is its significance? The reflection phase delivers the key insights. The students understand what can be generalised. In this learning sequence, they learn why communities need an institutional framework to survive, and what problems and risks must be observed in giving power to authorities.

For this unit, we suggest a brief lecture by the teacher to bring the richness of insights into focus. The students respond to this input in a discussion round and a feedback questionnaire.

## Lesson description

### Seating arrangement

In both parts of the lesson – the conference and the reflection – the students are seated in a circle, without desks, or at their desks in a square. The chairperson sits at the teacher's desk with the blackboard or flipchart at hand.

#### 1. The students hold the conference

The students hold the conference as laid out by the rules that they have agreed on. The teacher watches and listens. Unless the students run into very serious problems (arguments over how the rules are to be applied, for example), which is highly unlikely, the teacher need not intervene in any way.

The teacher observes the students acting in their roles. He/she uses the opportunity to adapt the follow-up lecture to the students' experience.

#### 2. The students reflect on their experience

##### The teacher summarises units 4 and 5 in a lecture

The students receive *≈* student handout 5.5 before the lecture. In this lecture, the teacher reviews what has happened in the two games, the fishing game and the decision-making game. They model an historic process in which a society develops into a community with an institutional framework of rules. Depending on the choice that the conference has made, the society may now have founded a state, complete with a constitution and clearly defined powers of legislation and law enforcement. Or the community members may have chosen a networking approach, perhaps to sidestep the problem of the abuse of power. The teacher adapts the lecture to the results of the game. In addition, the students attempted to overcome the source of permanent conflict in the fishing community by defining a policy of sustainability.

This is essentially a process of modernisation. The games show important parallels to social and historic reality, but also significant differences (see the conclusions).

##### The students respond to the lecture

Such a lecture gives the students food for thought. They know all the facts from their game perspective. What is new, and important for their reflection, is what can be generalised and applied to other issues and tasks.

The students should be free to ask questions of understanding, and make comments – what they agree and disagree with.

They may raise questions on points that interest them. This opens the door for the teacher and the students to plan further lessons and units together. What can be covered in other units, for example in this manual? What can be linked to curricular requirements? How much time is available? Are the students interested in a research task?

Perhaps the students suggest revisiting the fishing game – to play a few more rounds using the level of reflection and understanding that they have now achieved.

##### The students give their personal feedback

The teacher distributes *≈* student handout 5.6 to the students. This is a questionnaire that supports the students in reflecting on their process of learning. These statements also deliver important information for the teacher to improve his/her future work. If the students have a portfolio, this questionnaire should be filed there.

If the teacher wishes to read the questionnaires, some students may feel more secure if they may answer anonymously.