**Date Reviewed**

April 2024

**Course**

[Social Studies 10](https://curriculum.gov.bc.ca/curriculum/social-studies/10/core)

**Topic**

Lawyer Independence

**Big Idea**

The development of political institutions is influenced by economic, social, ideological, and geographic factors.

**Essential Question**

How does lawyer independence contribute to the protection of the rule of law?

**Content**

*Students are expected to know the following:*

* Government
  + Branches of government - judicial

**Curricular Competencies**

*Students are expected to be able to do the following:*

* Make reasoned ethical judgments about actions in the past and present, and assess appropriate ways to remember and respond
* Assess the significance of people, places, events, or developments, and compare varying

perspectives on their significance at particular times and places, and from group to group

**Core Competencies**

[Communication](https://curriculum.gov.bc.ca/competencies/communication) - I can describe what lawyer independence means.

[Thinking](https://curriculum.gov.bc.ca/competencies/thinking) - I can assess the importance of lawyer independence.

[Personal and Social](https://curriculum.gov.bc.ca/competencies/personal-and-social) - I can consider the role of lawyer independence on a functioning society.

**First People’s Principles of Learning**

Learning involves recognizing the consequences of one’s actions.

Learning involves recognizing some knowledge is sacred and only shared with permission.

**Introduction**

* [\*It is strongly recommended that the Rule of Law lesson plan precede this one in order to lay foundational concepts\*]
* Review the rule of law by having them tell each other what it is and why it’s important, then compare with the definition that you want them to know (see below).
  + If students were absent for the rule of law lesson, pair them with strong students who were present so there can be peer teaching.
  + If this is a one-off lesson, or if students need help remembering, put the following definition on the board: the rule of law is the idea that in order to function smoothly and fairly, all members of a society agree to abide by a common set of rules, called ‘the law’.
* Show [*Just Mercy | Equal Justice*](https://www.youtube.com/watch?v=-b_9PBKQgkQ) movie clip (2:28)
  + Ask students to think about the role of the lawyer (what does a lawyer do? What is this lawyer doing in the film clip?) and what this lawyer says about the rule of law. Play it again if students need to hear the speech another time.
  + Ask students how the role of the lawyer is important to upholding the rule of law.

**Pre-Assessment**

* Display the following definition and question on the board and have students share with someone close what they think about the question:
  + Under the rule of law, members of the public have a fundamental right to obtain legal advice from a lawyer whose duty is to their client, not to any other person and not to the government.
  + If your job at a defense firm was on the line because you were representing a client who was unfavorable, would you still represent them?
* Move on to display the next definition and question on the board and have students share with someone close what they think about the question:
  + Lawyer independence guarantees that a client can be confident that their lawyer provides legal assistance without fear of interference or sanction by the government or other interests. The independence of lawyers and the courts is often considered to be one of the cornerstones of democracy.
  + If you needed a lawyer, how would you feel if the government had sole control over appointing who represents you? Or if everyone thought you were guilty and did not deserve a lawyer or trial?
* Have students generate 1-2 questions each on little slips of paper or sticky notes after learning some topic throughout this lesson. Then have students bring them to you and have an assistant write those questions on a whiteboard somewhere in the room and monitor them when they are answered.

**Interactive Learning Activities**

Part 1: Let’s Practice – Lawyer Independence in the News

* Split the class into three groups and have them identify times where lawyer independence is being threatened or challenged. Groups read one “news story” (summarized from a real news story, below under ‘Materials and Resources’ and the full stores linked in ‘Additional References’)
* Groups discuss the following questions and choose a speaker:
  + What was the lawyer doing?
  + Who was attacking the lawyer?
  + What was the result of the attack?
  + How could the attack, or ones like it, challenge the independence of lawyers?
  + Is this level of interference of lawyer independence something we should be okay with? Or not? Why?
* Around the room, group speakers highlight what they discussed.

Part 2: Limits of Lawyer Independence

* Post the scenario (below under ‘Materials and Resources’) on the board. An alternative activity is that if there are student volunteers, they could act out the scenario for the class.
* Have students answer the following questions with someone nearby:
  + If Justine were to receive an overly “light” sentence or appear to get special treatment because of her position how would this impact the rule of law? What impression would it give the public?
  + Why is everyone, including legal professionals, law enforcement, and government officials, required to abide by the rule of law?
  + If Justine were to be prosecuted for this crime according to the usual process, is it any different than Story 2 where the lawyer was also prosecuted?

**Post-Assessment**

* Reflection: Why should lawyer independence matter in a free society? What do threats of lawyer independence mean for democracy? Do lawyers get a free pass for their behaviour?
* Check the question monitoring to determine if all have been answered, and answer the remaining or commit to finding the answer for next time.

**Extension Activities**

* Search for other clear examples of threats to lawyer independence in other countries where it is clearer cut. Prepare a short summary of the situation/story.
* Watch a film about lawyers *(Good Examples: 12 Angry Men, My Cousin Vinny, Erin Brockovich, Anatomy of a Murder, A Few Good Men, Kramer vs. Kramer, Philadelphia, The Lincoln Lawyer, Michael Clayton, Primal Fear, To Kill a Mockingbird, Presumed Innocent, Just Mercy, The Trial of the Chicago 7, The Verdict)* and prepare a short description and reflection on how the lawyer is or is not independent.

**Additional References**

“Witness examined and cross-examined.” My Cousin Vinny clip 2023:

<https://www.youtube.com/watch?v=EURLk4wPo-s>

“The Importance of Judicial Independence.” 2020. Human Rights Pulse:

<https://www.youtube.com/watch?v=5S5NVNFoXzw>

“The principle of independence of lawyers: UN and IBA reference instruments.” 2020. International Bar Association:

<https://www.ibanet.org/MediaHandler?id=3b458c65-53f4-41b1-a1b2-0f765a7c39b3>

“2023 Rule of Law Report.” 2023. European Commission:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0800>

“Got Questions About Judicial Independence?” 2019. The Canadian Bar Association: <https://www.youtube.com/watch?v=MRQAwOYpGQc>

“Tory attacks on ‘lefty lawyers’ could fuel abuse, barristers warn”: <https://www.theguardian.com/law/2023/aug/16/attacks-lefty-lawyers-abuse-bar-council-chair>

“Anti-corruption prosecutor in Guatemala given four-year jail term”:

<https://www.rfi.fr/en/international-news/20221217-anti-corruption-prosecutor-in-guatemala-given-4-year-jail-term>

“Threats to Ibrahim Ali's defence lawyers prompt court safety concerns in B.C.”

<https://www.cbc.ca/news/canada/british-columbia/ibrahim-ali-threats-1.7062151>

**Materials and Resources**

*For Educators*: Sample answer key to all questions posed above

Lawyer Independence in the News Stories

Limits of Lawyer Independence Scenario

**For Educators: Sample Answer Key to Questions Posed Above**

**Introduction**

* Tell each other what the rule of law is
  + Answer: the definition you put on the board: is the idea that in order to function smoothly and fairly, all members of a society agree to abide by a common set of rules, called ‘the law’.
* Why the rule of law is important?
  + Answer: Equality of action and treatment, functioning society, fairness, no one is above the law
* Just Mercy clip: Ask students to think about the role of the lawyer (what does a lawyer do? What is this lawyer doing in the film clip?) and what this lawyer says about the rule of law.
  + Answer: A lawyer represents someone in their interests/causes. Maybe they are accused of a crime, or need to correct the action of someone (the state, a landlord, another person, etc.).
  + In this film clip, the lawyer is making a closing argument for his client who is on death row but is innocent. He lists off the ways the trial/system has not been fair. He is fighting for his client.
  + The lawyer asks whether society will be governed by fear and anger or by the rule of law. Since the rule of law means equality, he is saying there is fear and anger over his client and others from his community, who are Black and poor and therefore treated differently/unequally.
* Ask students how the role of the lawyer is important to upholding the rule of law.
  + Answer: lawyers can act on the instructions of their client and are able to freely challenge the conduct of the state or others and ensure that every citizen is entitled to be represented and to have their day in court.

**Pre-Assessment**

* If your job was on the line because you were representing a client who was unfavorable, would you still represent them? What about your or your family’s safety and privacy?
  + Answer: All people have the right to a lawyer. Defense counsel is important in upholding the rule of law since everyone is treated equally no matter who they are. Threats and intimidation towards lawyers interfere with that right.
* If you needed a lawyer, how would you feel if the government had sole control over appointing who represents you? Or if everyone thought you were guilty and did not deserve a lawyer or trial?
  + Answer: Government: treated unfairly because the government is controlling the process. Having a lawyer: Feel grateful that the system is working fairly because I have a right to a lawyer and am innocent until proven guilty.

**Interactive Learning Activities Part 1**

*Story 1*

* What was the lawyer doing?
  + Answer: Doing their job as an immigration lawyer, representing clients who are challenging the government’s decision.
* Who was attacking the lawyer?
  + Answer: the purple party.
* What was the result of the attack?
  + Answer: various threats and gruesome comments, reluctance from other lawyers to do their job, difficulty in doing their job as a lawyer, loss of confidence in lawyers/system
* How could the attack, or ones like it, challenge the independence of lawyers?
  + Answer: no confidence in lawyers/system so the government or political leaders can do whatever they want to prevent challenges to their power. Lawyers hesitant to represent people who have a right to representation if their own safety at risk
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?
  + Potential Answer: Political parties should leave lawyers alone because there is a separation of powers (judicial branch) and independence of lawyers through the rule of law. Lawyers are doing their job by checking the government if they are abusing their power or not acting justly.

*Story 2*

* What was the lawyer doing?
  + Answer: Prosecuting the government for corruption
* Who was attacking the lawyer?
  + Answer: the government, by having a short, unfair trial and jailing
* What was the result of the attack?
  + Answer: lawyer unfairly imprisoned, lawyers feeling reluctant to do their jobs, government gaining more unjust power
* How could the attack, or ones like it, challenge the independence of lawyers?
  + Answer: governments could act unfairly/unjustly and have no check because lawyers would be thrown in jail or avoid prosecuting the government
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?
  + Answer: No, if the government is corrupt or unfair, lawyers are needed for checks and balances to ensure the rule of law is upheld (everyone acts under the same laws)

*Story 3*

* What was the lawyer doing?
  + Answer: defending their client in a murder trial
* Who was attacking the lawyer?
  + Answer: the public and the victim’s father
* What was the result of the attack?
  + Answer: feeling unsafe or threatened, other defense lawyers feeling it too
* How could the attack, or ones like it, challenge the independence of lawyers?
  + Answer: Defense lawyers may not want to work because their lives are at stake. Unfair trials may happen because no defense lawyers are available or willing to represent.
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?
  + Answer: No, even if it appears someone is guilty, everyone has a right to a lawyer and to a fair trial. They are innocent until proven guilty. When defense lawyers are threatened, their willingness to play a part in the system goes away.

**Interactive Learning Activities Part 2**

* If Justine were to receive an overly “light” sentence or appear to get special treatment because of her position how would this impact the rule of law? What impression would it give the public?
  + Answer: Public would probably believe that rich, connected, powerful people do not have to follow the same rules as everyone else. It would undermine their faith in the rule of law in their community.
* Why is everyone, including legal professionals, law enforcement, and government officials, required to abide by the rule of law?
  + Answer: no one is above or below the law. Everyone has a right to equal and fair treatment. But that does not mean you get a pass if you are part of the justice system or know people or have money to avoid consequences.
* If Justine were to be prosecuted according to the usual process for this crime, is it any different than Story 2 where the lawyer was also prosecuted? Is it tricky to distinguish between these two scenarios in anyway?
  + Answer: due process not followed in story 2, quick trial with biased witnesses, government seemed to be overly involved in targeting prosecutor. Independence of every step is questioned. This is why it is so important that faith in the independence of the judicial branch be maintained. You’d never be sure what was a genuine prosecution and which was political.

**Post-Assessment Reflection**

* Why should lawyer independence matter in a free society?
  + Answer: lawyers provide a check and balance on the government. Everyone has a right to a lawyer who will fight for them and not do what the government says.
* What do threats of lawyer independence mean for democracy?
  + Answer: government can gain more power without the checks and balances of the judicial branch which is not a democracy. People can be thrown in jail or convicted of a crime without representation of a lawyer and a fair trial. People do not trust each other or the systems around them
* Do lawyers get a free pass for their behaviour?
  + Answer: No, even though they are an important role in the rule of law, they are not above the law or systems.

**Lawyer Independence in the News**

*Story 1: Political Threats to Lawyers*

The country has a purple political party and orange political party. The purple party has a platform of limiting/abolishing immigration into the country and is pushing a bill on the issue. The purple party issued an “investigative report” criticizing the orange party for having links to a high-profile lawyer who represents people challenging asylum decisions.

As a result of the “report”, the lawyer received various threats, including gruesome comments. The purple party said in response that lawyers should not be exempt from criticism. The orange party has said the purple party’s “report” crossed a line beyond criticism only because of the lawyer’s political affiliation, which led to threatening the lawyer’s life.

A representative from the Bar Association said the legal profession had strongly challenged government figures who had attacked supposed “orange” lawyers and they felt the situation had improved over the past few months until the release of the “report”. They went on to say there may be wider and more threats against other immigration lawyers. They ended their comments by saying lawyers should be entitled both to act in the course of their profession for clients within the constraints of the law, and they should be entitled to hold and express political views.

Another organization commented that the language of purple politicians and some in the media was also undermining confidence in the legal profession and it’s undermining the justice system.

* What was the lawyer doing?
* Who was attacking the lawyer?
* What was the result of the attack?
* How could the attack, or ones like it, challenge the independence of lawyers?
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?

*Story 2: Anti-Corruption Lawyer Given Four-Year Prison Sentence*

The country is known for corrupt government officials throughout the system. A court handed down a four-year jail term to a senior anti-corruption prosecutor for abuse of authority. The lawyer was arrested as part of the apparent payback for their anti-corruption efforts, and was jailed for 10 months prior to the trial.

This was after an unusually speedy 18-day trial where most testimony was from police, government functionaries and a judge once investigated for corruption. Many experts believe that other prosecutors will avoid bringing forth anti-corruption cases out of fear for their own safety and freedom.

Another country’s Foreign Affairs office stated that the country’s actions against the lawyer undermines the fight against corruption.

As part of the backlash against United Nations-financed anti-corruption efforts, some 25 prosecutors, former prosecutors and judges are either in jail or have fled the country. This lawyer is the first to be brought to trial and convicted.

* What was the lawyer doing?
* Who was attacking the lawyer?
* What was the result of the attack?
* How could the attack, or ones like it, challenge the independence of lawyers?
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?

*Story 3: Threats to defence lawyers prompt court safety concerns in court*

A murder case was concluding, and the public has been rallying around the victim’s family and calling for a conviction. Ultimately, the defendant was found guilty. Defense lawyers are speaking out after the lawyers in a high-profile murder case reported receiving violent death threats, saying that the system is not working fast enough to protect them.

During the trial, the defence lawyers told police they received many voicemails and physical letters to their offices about the fact they were defending a murderer who destroyed the life of a teenager. They lawyers told news outlets they believed the father of the victim may have brought a gun into the courtroom at one point.

The threats have prompted calls from some defence lawyers and their associations for more safety measures, and suggestions that critics of the defence are overlooking important points about how justice is administered. Some have said that concerns with lawyers' conduct should be dealt with through the proper routes, not through threats.

Lawyers are calling on the government and courts to have stronger safety measures and respond faster to threats against lawyers, who are just doing their job by representing their client.

* What was the lawyer doing?
* Who was attacking the lawyer?
* What was the result of the attack?
* How could the attack, or ones like it, challenge the independence of lawyers?
* Is this level of interference of lawyer independence something we should be okay with? Or not? Why?

**Limits of Lawyer Independence**

Justine Jackson has been a prominent and well-known lawyer in the community for 18 years. She is well respected in the legal community and is often invited to lavish parties and fundraising events hosted by her friends in politics, entertainment, etc.

When leaving one such party, Justine misjudged how much she had to drink and was pulled over after running a stop sign. The officer actually recognized Justine, but still asked her to step out of the car for a sobriety check after smelling alcohol on her breath. She refused, asking the officer, “Do you know who I am?” Justine refused the roadside breathalyzer that the officer asked to administer. Since she was also slurring her words and behaving belligerently, the officer took her into the station. At the station, she blew over the legal limit on the breathalyzer.

* If Justine were to receive an overly “light” sentence or appear to get special treatment because of her position how would this impact the rule of law? What impression would it give the public?
* Why is everyone, including legal professionals, law enforcement, and government officials, required to abide by the rule of law?
* If Justine were to be prosecuted for this crime according to the usual process, is it any different than Story 2 where the lawyer was also prosecuted?