

# Judiciary

1. To enforce a rule of law India has a judicial system that consists of mechanisms of courts that citizens can approach when a law is violated.
2. As an organ of the State, the judiciary plays an important and crucial role in the functioning of India's democracy.
3. Indian judiciary is independent.
4. Courts take decisions on a very large number of issues.
5. The work of the judiciary is divided into the following:
  6. **Dispute Resolution:** The judicial system provides a mechanism for resolving disputes between citizens, between citizens and government, between two state governments, and between the center and state governments.
  7. **Judicial Review:** As the final interpreter of the Constitution, the judiciary also has the power to strike down particular laws passed by the Parliament if it believes that there is a violation of the basic structure of the Constitution. This is called Judicial Review.
  8. **Upholding the law and Enforcing the Fundamental Rights:** Every citizen of India can approach the Supreme court or the High Court if they believe that their Fundamental Rights have been violated.
  9. The Indian Constitution protects against influencing of the judicial process by politicians or rich people by providing the independence of the judiciary.
  10. One of the aspects of the independent judiciary is the separation of power.
  11. The courts are not under the government and do not act on their behalf.
  12. Appointment of judges has very little interference from the legislature and executive branches of the government. Once appointed to this office, it is very difficult to remove a judge.
  13. Independent judiciary allows the courts to play a central role in ensuring that there is no misuse of power by the legislature and the executive.
  14. Structure of the courts in India:

- There are 3 different levels of courts in our country.
- Several courts are at the lower level and only one at the apex level.
- The courts that most people interact with are what are called subordinate or district courts.
- Each state is divided into districts that are presided over by a District Judge.
- Each state has a High Court which is the highest court of that state.
- The decisions made by the Supreme Court are binding on all other courts in India.
- In India, there is an integrated judicial system meaning that the decisions made by higher courts are binding on the lower courts.
- A person can appeal to a higher court if they believe that the judgment passed by the lower court is not just.

15. There are 2 types of laws that are civil law and criminal law:

- Criminal Law: It deals with conduct or acts that the law defines as offences. For eg, theft, harassing a woman to bring more dowry, murder.
- Civil Law: Deals with any harm or injury to rights of individuals. For eg. disputes relating to sale of land, purchase of goods, rent matters, divorce cases.

16. In principle, all citizens of India can access the courts in the country implying that every citizen has a right to justice through the courts.

- While the courts are available for all, in reality, access to the courts has always been difficult for a vast majority of the poor in India.

17. Supreme court in the early 1980s devised a mechanism of Public Interest Litigation or PIL to increase access to justice allowing any individual or organization to file a PIL in the High Court or the Supreme Court on behalf of those whose rights have been violated.

18. The legal process has been simplified and even a letter or telegram addressed to the Supreme Court or the High Court could be treated as PIL.

19. For the common person, access to courts is access to justice.

20. There are also court judgments that people believe work against the best interests of the common person.

21. Another issue that affects the common person's access to justice is the inordinately long number of years that courts take to hear a case.

22. The phrase 'justice delayed is justice denied' is often used to characterize this extended time period that courts take.

23. Judiciary played a crucial role in democratic India, serving as a check on the powers of the executive and the legislature as well as in protecting the Fundamental Rights of citizens.

24. The members of the Constituent Assembly had quite correctly envisioned a system of courts with an independent judiciary as a key feature of our democracy.

#### **What is the Role of the Judiciary:**

(i) The judicial system provides a mechanism for resolving disputes between citizens, citizens, and the government, two state governments, and the central and state governments.

(ii) The judiciary has the power to strike down particular laws passed by the Parliament if it believes that these are a violation of the basic structure of the Constitution. This is called judicial review.

(iii) Every citizen of India can approach the Supreme Court or the High Court if his/her Fundamental Rights have been violated.

#### **• What is an Independent Judiciary:**

(i) India has an independent judiciary that allows the courts to play a central role in ensuring that there is no moisture of power between the legislature and the executive. (ii) It plays a crucial role in protecting the Fundamental Rights of citizens because anyone can approach the courts if they believe that their rights have been isolated.

#### **• What is the Structure of Courts in India:**

(i) There are three different levels of courts in our country.

(ii) At the district level, we have subordinate or district courts. At the state level, we have several High Courts. The High Court is the highest judicial authority in a state. At the top is the Supreme Court.

(iii) The Supreme Court of India is the highest judicial authority. It is located in New Delhi and is presided over by the Chief Justice of India. The decisions made by the Supreme Court are binding on all other courts in India.

(iv) In India, we have an integrated judicial system, meaning that the decision made by higher courts are binding on the lower Courts.

• **What are the Different branches of the Legal System:**

(i) Court cases are broadly divided into civil cases and criminal cases.

(ii) Civil laws deal with any harm or injury to the rights of individuals.

(iii) Criminal law deals with the conduct or acts that the law defines as offences.

(iv) In civil cases, a petition has to be filled before the relevant court by the affected party only

(v) In criminal cases, it usually begins with the lodging of our First Information Report (FIR) with the police who investigate the crime after which a case is filled in the court.

• **Does Everyone Have Access to the Courts:**

(i) In principle, all citizens of India can access the courts in this country. This implies that every citizen has a right to justice through the courts.

(ii) Legal procedures involve a lot of money and paperwork which take up a lot of time. Poor people often avoid going to court to get justice.

(iii) The Supreme Court devised a mechanism of Public Interest Litigation or (PIL) to increase access to justice in the 1980s. It allowed any individual or organization to file a PIL in the High Court or the Supreme Court on behalf of those whose rights were being violated.

(iv) The legal process was simplified and even a letter or telegram addressed to the Supreme Court or the High Court could be treated as a PIL.

(v) The court exercises a crucial role in interpreting the Fundamental Rights of Citizens. (vi) The judiciary serves as a check on the powers of the executive and the legislature and protects the Fundamental Rights of the citizens.

## **Important Terms**

**Judicial System:** It is a mechanism of courts that a citizen can approach when a law is violated.

**Judicial review:** The judiciary has the power to modify or cancel particular laws passed by the Parliament if it finds that they do not adhere to the Constitution. This is known as judicial review.

**Violation:** It means breaking a law or encroaching someone's Fundamental Rights.

**Separation of power:** It means that the powers of the state and the powers of the judiciary are separate.

**Independent judiciary:** It means that the judiciary is not under the government and does not act on its behalf.

**To appeal:** To file a petition before a higher court.

**Acquit:** The court declaring that a person is not guilty of the crime which he/she was tried for by the court.

**Civil law:** It deals with matters like money, property, marriage disputes, etc. '

**Criminal law:** It deals with cases of theft, robbery, cheating, murder, etc.

**PIL:** It stands for Public Interest Litigation. It has been devised to facilitate justice.