

CHAPTER- 5

CIVICS

CLASS- VIII

THE JUDICIARY

Introduction

When you read a newspaper, you come across certain articles that mention the work of courts in our country. These courts are needed to uphold the 'Rule of Law.' Every person is equal in the eyes of law and if he / she violate the law, a particular set of fixed procedures has to be followed. To enforce these rules, India has its own Judicial System. Under this system, there is a mechanism of courts that people can approach if they come across cases of laws being violated.

The Judiciary is an organ of the government. It has a crucial role in the smooth functioning of Indian democracy because it is independent.

What is the Role of Judiciary?

A Court needs to make decisions regarding a number of cases. It can decide varied matters like how the water of a river will be shared between two states, what punishment should be awarded to a corrupt politician or if physical punishment needs to be banned in educational institutions or not.



Supreme Court of India

The work done by Judiciary is divided as follows:

- **Dispute Resolution:** The Indian judicial system provides a mechanism to resolve any dispute that can arise between government and citizens, between citizens, between the state and the central government and between two states.
- **Judicial Review:** The Judiciary is considered as the final interpreter of the Indian Constitution. It has even got the power to strike down a law passed by the Parliament if it believes that there was a violation of the constitution in that case. This process is known as 'Judicial Review.'
- **Enforcing Fundamental Rights and Upholding the Laws:** If a citizen believes that his fundamental right has been violated, in that case he can approach the High Court of the respective state or the Supreme Court.

What is an Independent Judiciary?

- Suppose that a powerful politician has illegally occupied a land that belongs to your family. Within that judicial system, the politician has the power to appoint or dismiss any judge. It is clear that the judge may be partial in this case, fearing dismissal.
- Since the politician has control over the judge, the latter will be unable to take an independent decision. Since there is a lack of independence while making decision, therefore, the judge will be forced to decide in favour of the corrupt politicians.
- Although there have been cases of powerful and rich people trying to influence the Judicial Process through various means, this can be prevented. The Constitution of India clearly mentions that the Judiciary in India has to be independent.



The subordinate court is known by different names. It includes Court of District Judge, Trial Court, Chief Judicial Magistrate, Civil Judge, etc.

The 'separation of powers' is one of the aspects of this independence. It means that the two branches of the government which are, the Executive and the Legislature, are not supposed to interfere in the work and decisions of the Judiciary. The courts in India do not function on behalf of its government nor are they under its control.

To ensure that the above separation works well, it is important that the judges of the Supreme Court as well as the High Court are appointed without any interference from any branch of the Indian government. It is difficult to remove a Judge once he has been appointed to the office.

Since the judiciary system in India is independent, therefore, it ensures that there is no misuse of power by the Executive and the Legislature. It has an important role in protecting the Fundamental rights of a common Indian since they can approach the court at any level if they feel that their rights are being violated.

What is the Structure of Courts in India?

In our country, there are three different levels of courts.

- **District Level court**

At the lower level, there are a number of courts. However, at apex level there is only one court. District Courts or Subordinates are the ones where most of the people interact. These courts are located at a 'Tehsil' or at the district level or in towns. They hear different types of cases.

Each state in India is divided into different districts. The courts located in these districts are presided by the District Judges.

- **High Court**

Every state has a High Court. It is the highest court of that particular state.

- **Supreme Court**

The Supreme Court is India's topmost court at apex level and is located at New Delhi. The Chief Justice of India presides over this court. The decision made by the Supreme court is binding on all other courts located across the country.

The different levels of courts in India are connected to each other. The Judiciary system is integrated in our country. It means that the decisions made by the Higher Courts bind the lower courts as well. Another way to understand this feature is via the appellate system that still persists in our country. It means that a citizen has the right to appeal to a higher court if they feel that the judgement passed by the lower court is not justified.

Let us try to understand this by considering a case 'State (Delhi Administration) vs Laxman Kumar and Others (1985)' by tracking it from the lower to the higher court. Laxman Kumar had married Sudha Goel in February 1980. In December 1980 Sudha died due to burns. Her family filed a case in the lower court alleging that her husband and in-laws were responsible for her death.

As this case was being heard in the trial court, four neighbours were called as witnesses. They stated that they had heard Sudha screaming the night before her death and had forced themselves into her house. They spotted Sudha in flames. They immediately wrapped her in a blanket and gunny bag and extinguished the fire. Sudha told them that her mother-in-law had poured kerosene on her and the husband was one who had lit the fire.

While the trial was going on, these witnesses told the court that Sudha was subject to different types of torture from her husband and in-laws. They were demanding dowry such as cash and scooter from her family on the birth of the first child. On the other hand, Laxman and his mother in their defence, had stated that Sudha's sari had caught fire accidentally as she was heating the milk. On the basis of evidence, the Trial court convicted Laxman, his mother and his brother-in-law Subhash Chandra and awarded them the death sentence.

In November 1983, the three accused appealed against their sentences in the High Court (against the verdict of the trial Court). After hearing the arguments of the lawyers from both sides, the High Court concluded that Sudha died due to accidental fire which had taken place because of the kerosene stove. Hence, all three accused were acquitted.

In 1985, Sudha's family appealed against the decision of the High Court in the Supreme Court against the acquittal of all three accused. The apex court heard the arguments from both sides and reached a conclusion which was different from that of the High Court. Laxman and his mother were declared guilty according to evidence. However, his brother-in-law was acquitted since there was a lack of evidence against him. The accused were sent to prison for a lifetime by the Supreme Court.

What are the Different Branches of the Legal System?

The above mentioned case is a case of Dowry death. It is a violation of Criminal Law and is considered as a 'Crime Against Society.' Apart from Criminal Law, the Courts also have to deal with cases under Civil Law. In the last chapter, you had read about a new civil law being passed to protect the rights of women against Domestic Violence.

Difference between Civil Law and Criminal Law

S. No.	Civil Law	Criminal Law
1.	Deals with any injury or harm to the rights of individuals. Example- divorce cases, land related matters, purchase of goods, etc.	Deals with acts or conducts that are identified as offences. E.g. Murder, harassing a lady for dowry, theft, etc.
2.	Only the affected party can file a petition before the relevant court. If the matter is related to rent, either tenant or landlord can file a case.	Firstly, a First Information Report (FIR) has to be filed before the Police officials who will investigate the matter. After that, a case is filed in the court.
3.	The court provides special relief that has been asked for. For example, if a case is between landlord and tenant, the court can either order to pay the remaining dues or to vacate the flat.	If the accused is proven guilty, then he is sent to jail.

Does Everyone Have Access to Courts?

According to the principle, every citizen of India has the right to access the court. It simply means that every person has the right to get justice with the help of the courts. It has already been explained how the courts play an important role in protecting the fundamental rights of citizens. If a person finds out that her right is being violated in any form, then she can approach the Courts at any level in order to get justice.

While the Constitution states that everyone has access to courts, in reality the poor people have always found it difficult to access them. Legal procedures requires lots of time, patience and money. For a poor person who is not even capable of reading and is a daily wage labourer, the idea to visit courts in order to get justice seems remote.

Keeping such situations in mind, the Supreme Court in the 1980s devised a mechanism called PIL or Public Interest Litigation so that a poor person's chance to get justice be increased. It allows any organization or individual to file a PIL in the Supreme Court or High Court on behalf

of the people whose rights have been violated in the past. Due to this step, the legal system got simplified. Even a telegram or letter addressed to the HC or SC could be treated as PIL.

In its earlier years, activists took the help of PIL to secure justice in several issues. Few of these were for matters related to securing the release of those prisoners who were kept in jail even after their punishment term was over and release of bonded labourers who were working in inhuman conditions.

For a common citizen, access to court means access to justice. Courts play a critical role in protecting the fundamental rights of the citizens.