

Chapter 5 Judiciary



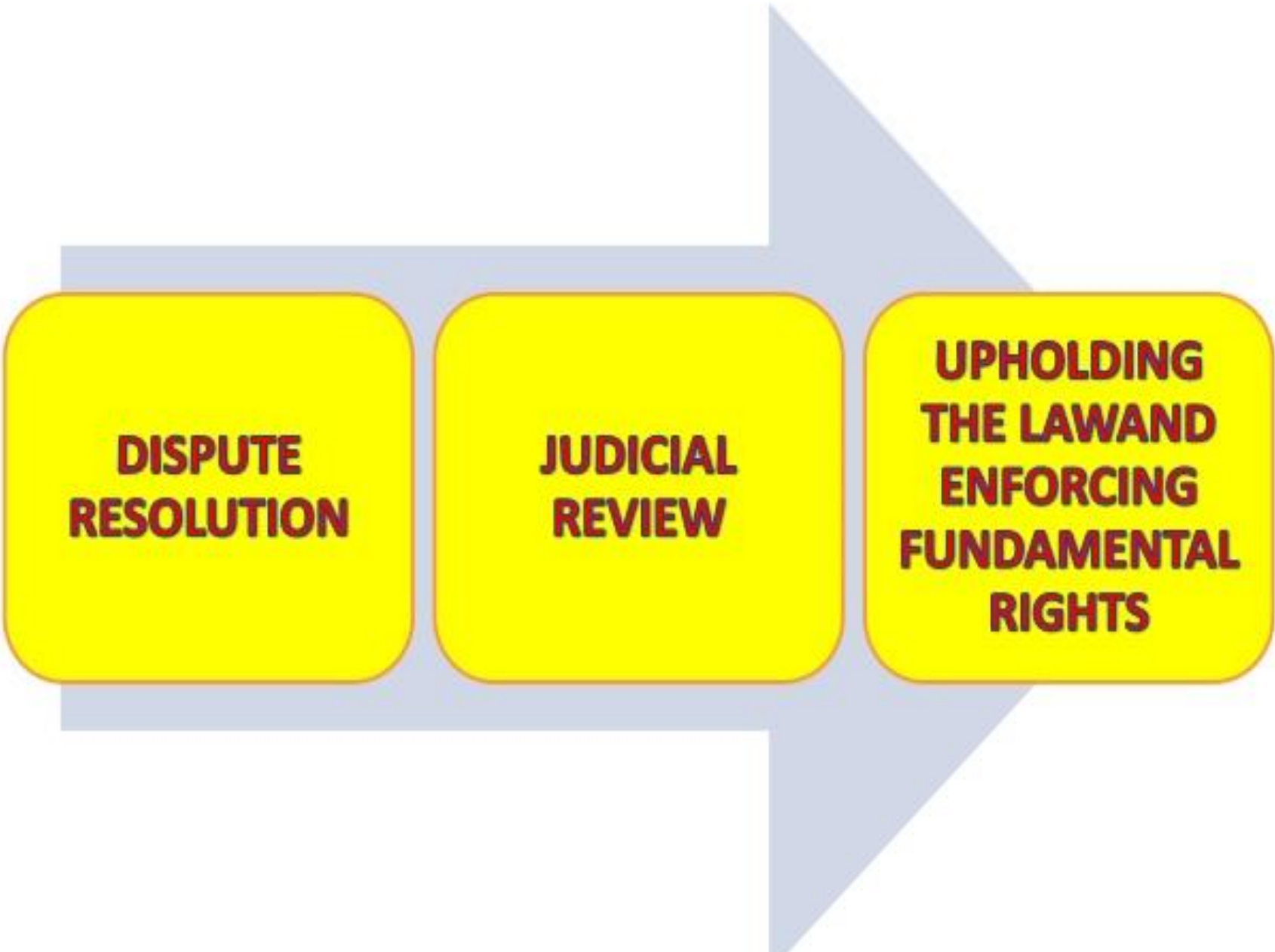
Class 8
Civics

Introduction

- In India we have a rule of law
- It means that laws apply equally to all persons and that a certain set of fixed procedures need to be followed when a law is violated.
- To enforce this law, we have a judicial system that consists of mechanism of courts that a citizen can approach when a law is violated.
- As an organ of the State the Judiciary plays a crucial role in the functioning of India's democracy.
- It can play this role only because it is independent.

What is the Role of Judiciary....

- Courts take decisions on a very large no of issues.
- They can decide that no teacher can beat a student, or about the sharing of river waters between states, or they can punish people for particular crimes.
- The work of the judiciary can be divided into the following.



**DISPUTE
RESOLUTION**

**JUDICIAL
REVIEW**

**UPHOLDING
THE LAW AND
ENFORCING
FUNDAMENTAL
RIGHTS**

DISPUTE RESOLUTION

- **The judicial system provides a mechanism for resolving disputes between citizens, between citizens and the government, between two states governments and between the centre and the state governments.**

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UPHOLDING THE LAW AND ENFORCING FUNDAMENTAL RIGHTS

- **Every Indian citizen can approach the Supreme Court or the High Court if they believe that their Fundamental rights have been violated.**

WHAT IS AN INDEPENDENT JUDICIARY

- **The Indian Constitution protects the citizens against the influence of the rich and powerful people by providing for the independence of Judiciary.**
- **This is done by the ‘Separation of Powers’.**
- **It means that the other branches of the state like the Legislature and the Executive – cannot interfere in the work of the Judiciary.**
- **The courts are not under the government and do not act on their behalf.**

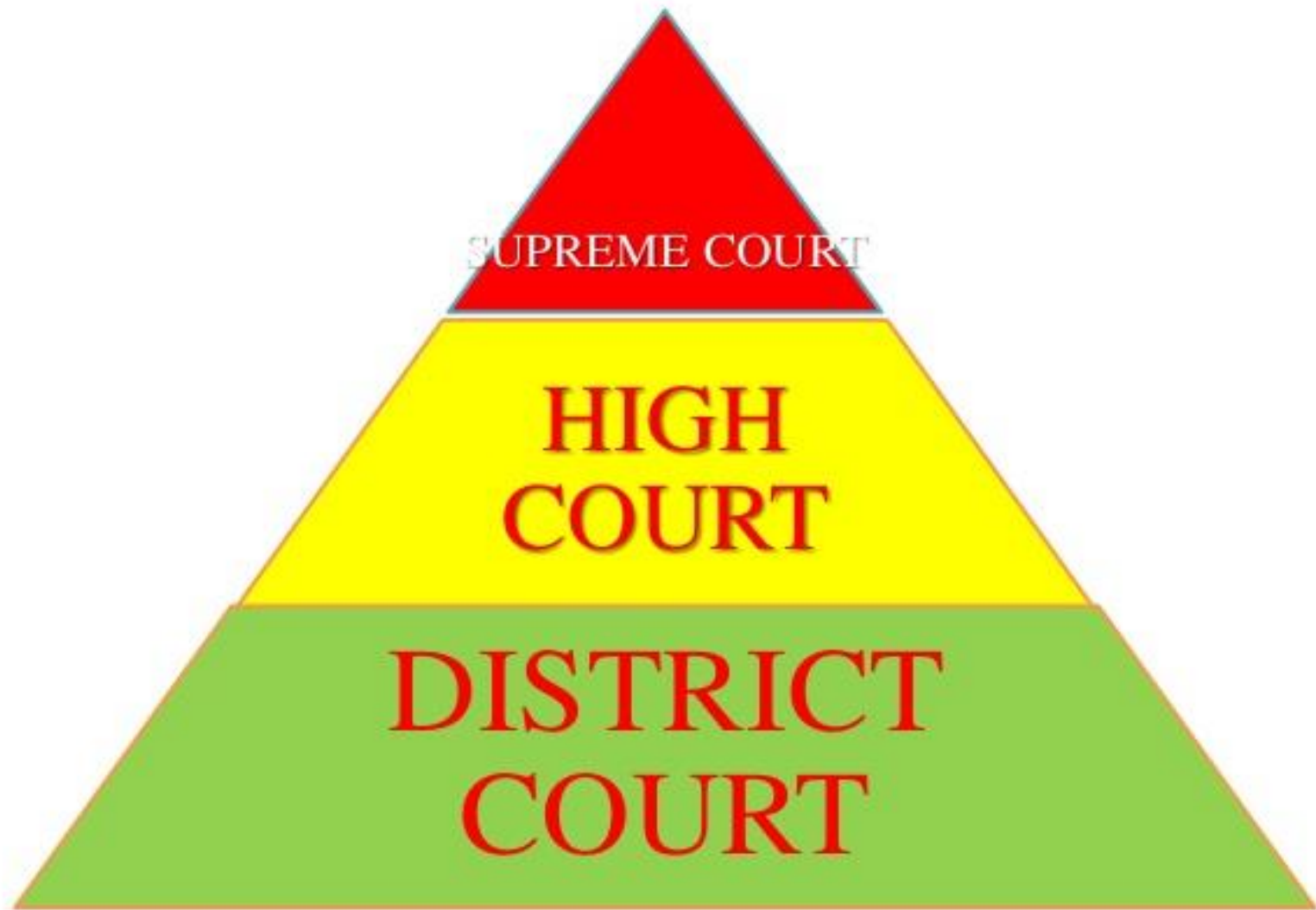
- **The courts are not under the Government and do not act on their behalf.**
- **The Supreme Court and the High Court Judges are appointed with very little interference from other branches of government.**
- **Once appointed it is very difficult to remove a judge.**
- **It is the independence of the judiciary that allows the courts to play a central role in ensuring that there is no misuse of power by the LEGISLATURE and the EXECUTIVE.**

- **It also 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 violated.**

THE STRUCTURE OF COURTS IN INDIA

- **There are different levels of courts in India.**
- **There are several courts at the lower level while there is only one at the APEX level.**
- **The courts that most people interact with are what are called SUBORDINATE or DISTRICT COURTS.**
- **These are usually at the district or Tehsil level or in towns and they hear many kinds of cases.**
- **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.**
- **At the top is the SUPREME COURT that is located in NEW DELHI and is presided over by the CHIEF JUSTICE of India.**
- **The decisions of the SUPREME COURT are binding on all other courts in India.**



- **In India we have a integrated judicial system, meaning the decisions made by the higher courts are binding on the lower courts.**
- **Another way is through the appellate system that exists in India.**
- **This means that a person can appeal to a higher court if they believe that the judgment passed by the lower court is not just.**

DIFFERENT BRANCHES OF THE LEGAL SYSTEM

There are two different branches of legal system in India .

1. Criminal Law

2. Civil Law

CRIMINAL LAW

- Criminal law deals with conducts or acts that the law defines as offences. For example. Theft harassing a woman to bring more dowry, murder.
- It usually begin with the lodging of an FIR (First Information Report) with the police who investigate the crime after which a case is filed in the court.
- If found guilty, the accused can be sent to jail and also fined

CIVIL LAW

- Civil law deals with any harm or injury to rights of individuals. For example, disputes relating to the sale of land, purchase of goods, rent matters, divorce cases.
- A petition has to be filed before the relevant court by the affected party only. In a rent matter either the landlord to tenant can file a case.
- The court gives the specific relief asked for. For instance, in a case between a landlord and a tenant, a court can order the flat to be vacated and pending rent to be paid.

DOES EVERYONE HAVE ACCESS TO THE COURTS?

- **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.**
- **The courts play a very significant role in protecting our fundamental right, if any citizen believes that their rights are being violated, then they can approach the court for justice to be done.**

- **While the courts are available for all, in reality access to courts have always been difficult for a vast majority of the poor in India.**
- **Legal procedures involve a lot of money and paperwork as well as take a lot of time. For a poor person who cannot read and whose family depends on daily wage, the idea of going to court to get justice often seems remote.**

PIL (PUBLIC INTEREST LITIGATION)

- In response to the situation in India the Supreme Court in the early 1980's devised a mechanism of Public Interest Litigation of PIL to increase access to justice.
- 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.
- The legal process was greatly simplified and even a letter or telegram addressed to the Supreme Court or the High Court could be treated as a PIL.

- In the early years, PIL was used to secure justice on a large number of issues such as rescuing bonded labourers from inhuman work conditions ; and securing the release of prisoners in Bihar who had been kept in jail even after their punishment term was complete.
- The mid-day meal that children now receive in government and government aided schools is because of PIL.

PRESENT STATUS OF JUSTICE IN INDIA

- **For the common person, access to courts is access to justice. The courts exercise a crucial role in interpreting the Fundamental Rights of citizens.**
- **There are also court judgments that people believe work against the best interests of the common person.**
- **For example - the activists who work on issues concerning the right to shelter and housing for the poor believe that the recent court judgments on EVICTIONS are a far cry from earlier judgments.**

- **The recent judgments tend to view the slum dwellers as an encroacher in the city, earlier judgments like the 1985 Olga Tellis vs Mumbai Municipal Corporation had tried to protect the livelihoods of slum dwellers.**
- **Another issues that affects the common persons access to justice is the inordinately long years that court takes to hear a case. The phrase ‘JUSTICE DELAYED IS JUSTICE DENIED’ is often used to characterise this extended time period that court take.**

- **However, inspite of this there is no denying fact that the judiciary has 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.**
- **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.**

Facts

- In a speech made on 26th November 2007, the former Chief Justice of India K. G. Balakrishnan noted that. “The Indian judiciary consists of one Supreme Court with 26 Judges, 21 High Courts with a sanctioned strength of 725 Judges (working strength of 597 as on 1st March 2007) and 14,477 subordinate Courts/Judges (working strength of 11,767 as on December 2006)

Thank
You!

