

U24MC102 INDIAN CONSTITUTION

UNIT 5 – JUDICIARY

Judiciary

The judiciary is the system of courts that interprets and applies the law. It makes sure everyone follows the rules and solves disputes fairly.

Purpose:

- To protect rights
- To decide who is right or wrong in disputes
- To punish those who break the law

Types of Courts:

- **Lower Courts:** Handle small or local cases
- **High Courts:** Handle serious cases and appeals
- **Supreme Court:** The highest court in the country, final decision maker

Judges:

- People who work in courts to decide cases
- They must be fair and unbiased

Judgments:

- The decision a judge gives after hearing a case
- It can set rules for future cases (called precedents)

Role in Society:

- Keeps peace by resolving conflicts
- Protects individual freedoms
- Ensures laws are followed by everyone, including the government

Supreme Court

The Supreme Court of India is the highest judicial authority in the country. It is the ultimate interpreter of the Constitution and the final court of appeal for all legal matters. It ensures that the laws of the land are followed and justice is served fairly.

Functions & Powers of the Supreme Court:

- **Dispute Resolution:** The Supreme Court resolves disputes between different states, or between the central government and one or more states. It plays a key role in maintaining the federal structure of India.
- **Protection of Fundamental Rights:** The Court safeguards the fundamental rights guaranteed to all citizens by the Constitution. Any violation of these rights can be challenged before the Supreme Court.
- **Constitutional Interpretation:** The Court interprets the Constitution and provides authoritative explanations on any constitutional provisions.
- **Judicial Review:** It can review and strike down any law or government action that it finds unconstitutional or violative of fundamental rights. This power ensures that laws passed by Parliament or state legislatures conform to the Constitution.
- **Appellate Jurisdiction:** The Supreme Court hears appeals against the judgments of the High Courts and other courts. This ensures uniformity and finality in legal matters.

Judges of the Supreme Court:

- The Supreme Court comprises the **Chief Justice of India (CJI)** and other judges. The total number of judges can be up to 34 including the CJI.
- The judges are experienced legal professionals with expertise in constitutional and other areas of law.

Qualifications to Become a Supreme Court Judge:

- Must be a citizen of India.
- Must have served as a judge of a High Court for at least 5 years, or have been an advocate of a High Court for at least 10 years, or be recognized as an eminent jurist in law.

Appointment Process:

- Judges are appointed by the President of India.
- The appointment is made in consultation with senior judges of the Supreme Court and High Courts to ensure merit and impartiality.

High Court

Each state or group of states in India has a High Court, which is the highest court within that state jurisdiction. It oversees the administration of justice at the state level.

Functions & Powers of High Courts:

- **Hearing Appeals:** The High Court hears appeals from decisions of the District Courts and other lower courts within the state.
- **Supervision of Lower Courts:** It supervises and controls all lower courts in the state to ensure justice is properly administered.
- **Issuing Writs:** High Courts can issue writs (legal orders) to protect the fundamental rights of individuals within their territory. This includes writs like Habeas Corpus (protection from unlawful detention), Mandamus (order to perform a public duty), and others.
- **Interpretation of Laws:** It interprets laws made by the state legislature and Parliament as applicable in the state.
- **Striking Down Laws:** High Courts have the power to declare state laws unconstitutional if they violate the Constitution.

Judges of High Courts:

- The High Court is headed by the **Chief Justice** along with several other judges.
- The total number of judges varies depending on the size and workload of the state.

Qualifications to Become a High Court Judge:

- Must be a citizen of India.
- Must have served as a judge of a High Court for at least 10 years, or have been an advocate of a High Court for at least 10 years.

Appointment Process:

- Judges are appointed by the President of India, but only after consulting the Chief Justice of India, the Governor of the state, and the Chief Justice of the respective High Court.

District Courts

District Courts function at the district level and are the principal courts of original jurisdiction for both civil and criminal matters. They act as the main trial courts within their geographical district.

Functions & Powers of District Courts:

- **Trial of Serious Cases:** Handle civil cases involving larger sums or serious criminal offenses which do not fall under the jurisdiction of lower courts.
- **Hearing Appeals:** They hear appeals against judgments delivered by lower courts (such as Magistrate Courts).
- **Execution of Higher Court Orders:** District Courts ensure that decisions from High Courts and Supreme Court judgments are enforced properly within the district.

Judges in District Courts:

- Judges are usually called **District Judges** or **Sessions Judges** (in criminal cases).
- They are either experienced advocates appointed or judicial officers promoted through the judicial services.

Qualifications:

- Generally, judges in District Courts are appointed from among the lawyers with significant experience or promoted from lower judicial cadres.

Lower Courts

Lower Courts are courts below the level of District Courts and include both civil and criminal courts such as Munsiff Courts (civil) and Magistrate Courts (criminal). They are the first level courts where most legal disputes start.

Functions & Powers of Lower Courts:

- **Handling Minor Cases:** Deal with minor civil disputes (like small property claims, family matters) and minor criminal cases (such as petty theft, minor assaults).
- **Conducting Trials:** Conduct initial trials, gather evidence, and pass judgments on cases within their jurisdiction.

Judges in Lower Courts:

- Called **Magistrates** or **Civil Judges** depending on the nature of the court.
- They conduct court proceedings, hear witnesses, and pass judgments based on the evidence.

Qualifications:

- Usually selected through state judicial service examinations and training.

Judges – Qualifications and Powers

1. Qualifications of Judges in India

The qualifications to become a judge vary slightly depending on the court level (Supreme Court, High Court, or lower courts), but the Constitution and laws provide clear guidelines to ensure only competent and experienced persons are appointed as judges.

Supreme Court Judges:

- Must be a **citizen of India**.
- Must have either:
 - Served as a **judge of a High Court** (or multiple High Courts in succession) for at least **5 years**, OR
 - Been an **advocate in a High Court** for at least **10 years**, OR
 - Be a person of **eminence in the field of law** (eminent jurist) as recognized by the President.

High Court Judges:

- Must be a **citizen of India**.
- Must have either:
 - Served as a **judge of a High Court** for at least **10 years**, OR
 - Been an **advocate of a High Court** for at least **10 years**.

Lower Court Judges:

- Usually selected through **state judicial service examinations**.

- Often appointed from among **experienced lawyers** or promoted from subordinate judiciary based on seniority and merit.
- Must have basic qualifications such as being a **citizen of India** and possessing the necessary educational qualifications (usually a law degree).

Powers of Judges

Judges, depending on the level of the court they serve, hold important judicial powers vital for the administration of justice.

Powers of Supreme Court Judges:

- **Original Jurisdiction:** Hear cases involving disputes between the central government and states or between states.
- **Appellate Jurisdiction:** Hear appeals against the decisions of High Courts and other courts.
- **Advisory Jurisdiction:** The President can seek advice from the Supreme Court on important legal questions.
- **Judicial Review:** Power to strike down any law or executive action that violates the Constitution.
- **Protection of Fundamental Rights:** Ensure that the rights guaranteed under the Constitution are not infringed.

Powers of High Court Judges:

- Hear appeals from lower courts in the state.
- Supervise and control the functioning of lower courts.
- Issue writs to enforce fundamental rights and other legal remedies.
- Interpret state laws and laws passed by Parliament applicable within the state.
- Can declare state laws unconstitutional.

Powers of Lower Court Judges:

- Conduct trials and decide cases within their jurisdiction.
- Pass judgments in civil and criminal cases as per law.

- Execute orders of higher courts.
- Take evidence, summon witnesses, and ensure fair proceedings.

Judicial Review

What is Judicial Review?

Judicial Review is the power of courts, particularly the Supreme Court and High Courts, to review laws, executive orders, and government actions to ensure they comply with the Constitution of India. If any law or action is found to be unconstitutional or violates fundamental rights, courts have the authority to declare it null and void.

Importance of Judicial Review:

- **Upholds the Constitution:** Judicial Review protects the supremacy of the Constitution by ensuring that no law or government act goes against it.
- **Protects Fundamental Rights:** It acts as a safeguard for citizens' rights, preventing laws or actions that may violate freedoms such as equality, speech, or religion.
- **Maintains Checks and Balances:** It keeps the legislative and executive branches of government within their constitutional limits, preventing misuse of power.
- **Ensures Rule of Law:** Reinforces that everyone, including the government, is subject to the law.

How Judicial Review Works:

1. **Challenging Laws or Actions:** When a person or group believes a law or government action is unconstitutional, they can approach the courts for relief.
2. **Court Examination:** The Supreme Court or High Court examines the law or action in question against constitutional provisions.
3. **Decision:**
 - If the law or action is found constitutional, it remains valid.
 - If it violates the Constitution, the court can declare it invalid (strike it down).

4. **Binding Effect:** The court's decision in judicial review cases is binding on all courts and authorities in India.

Examples of Judicial Review in India:

- The Supreme Court struck down the **Abolition of Privy Purses Act, 1971**, as unconstitutional initially (though later validated), demonstrating judicial control over legislative actions.
- In the famous **Kesavananda Bharati case (1973)**, the Supreme Court used judicial review to limit Parliament's power by asserting the **basic structure doctrine**—Parliament cannot alter the Constitution's basic framework.

Summary:

Aspect	Details
Qualifications	Citizenship of India, experience as High Court judge/advocate, or eminent jurist status.
Powers of Judges	Hear cases, interpret laws, protect rights, enforce orders, strike down unconstitutional laws.
Judicial Review	Court's power to invalidate unconstitutional laws/actions, protect Constitution & rights.
Significance	Ensures constitutional supremacy, protects rights, balances power, and enforces rule of law.