

Chapter – 4: Judiciary

- Glance at newspaper – glimpse of work done by courts
- India – rule of law exists – laws apply to all – if law is violated – some procedure need to be followed
- To enforce – rule of law – judicial system exists – mechanism of courts
- Organ of government – judiciary – imp. role – India's democracy
- Judiciary – independent – play this imp. role

What is the Role of Judiciary?

- Courts – take decisions – lots of problems
- They decide – no teacher can beat students – sharing of rivers between states – punish people for crimes
- Broadly – work done by judiciary – divided into –
 - Dispute Resolution –
 - Judicial system – provides mechanism – resolve disputes –
 - Between citizens
 - Between citizens and government
 - Between 2 state governments
 - Between state and central governments
 - Judicial Review –
 - Judiciary – final interpreter (translator) of Constitution – power – shut down laws passed by parliament – if they violate – basic structure of Constitution
 - Upholding the Law and Enforcing Fundamental Rights –
 - Every citizen – approach Supreme or High Court – if their fundamental rights are violated

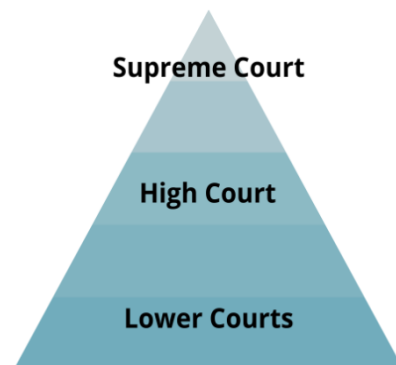
What is an Independent Judiciary?

- Imagine a situation –
 - Powerful politician – captured your land
 - This judicial system – politician's power – appoint and dismiss a judge
 - You take this case to court – judge – partial towards politician
- Control of politician – on the judge – judge does not take independent decision
- Lack of judgment – force the judge – make judgement – in favour of politician
- We often hear – rich and powerful people – try to influence judicial process
- Indian Constitution – protects against this kind of situation – provides independence of judiciary
- 1 quality of independence – separation of powers – key feature of Constitution
- Other branches of government – legislature and executive – cannot interfere – work of judiciary
- Courts – not under government – do not act on their behalf
- Above separation works well – if judges in Supreme and High Court – appointed with little interference from other branches
- Also – once appointed – difficult to remove them
- Independence of judiciary – courts play – imp. role – ensure – no misuse of power

- Also – imp. role – protecting Fundamental Rights – anyone can approach the courts – if their rights violated

What is the Structure of Courts in India?

- 3 levels of courts – several courts – lower level – only one – higher level
- Courts – people generally interact with – subordinate of district court
- These courts – district or *tehsil* level - solve many kinds of cases
- Each state – divided into districts – District Judge in each district
- Each state – 1 high court – highest in the state
- At the top – Supreme Court, New Delhi – Chief Justice of India



- Decision by Supreme Court – followed by all other courts
- These levels – connected to each other
- India – integrated judicial system – decisions by higher courts – followed by lower courts
- This integration – understandable another way – appellate system – person can approach higher court – if not satisfied by lower courts
- Example – case of *State (Delhi Administration) vs Laxman Kumar and Others (1985)*
 - February 1980 – Laxman Kumar married – 20-year-old Sudha Goel
 - They lived in flat in Delhi – with Laxman’s brother and family
 - 2 December 1980 – Sudha died in hospital – burns – her family – filed a case
 - Case heard in Trial court – 4 neighbours – called as witness
 - They stated – night of 1st December – Sudha screamed – they forced inside the flat
 - Sudha was standing – her sari in flames – they wrapped a gunny bag around her
 - Sudha told them – mother-in-law Shakuntala – poured kerosene – husband Laxman – lit the fire
 - During trial – Sudha’s family and neighbour stated – Sudha was tortured by in-laws – demanding more cash, scooter, fridge (dowry) – birth of 1st child
 - As defence – Laxman and his mother stated – Sudha’s sari – caught fire while heating milk
 - On basis of all evidences – Trial Court – convicted (found guilty) Laxman, mother Shakuntala, brother-in-law Subash Chandra – sentenced them till death
 - November 1983 – 3 accused – appealed at High Court – against the result of Trial Court
 - High Court – after hearing all the arguments – decided – Sudha – died due to accidental fire – caused by kerosene stove
 - All 3 accused – found innocent
 - 1980s – women’s groups – against ‘dowry deaths’ – protested against – failure of courts
 - Above High Court judgment – troubled the women – held demonstrations – filed a case in Supreme Court – through Indian Federation of Women Lawyers

- 1985 – Supreme Court – heard this case – heard all the arguments
- This court – decided – Laxman and his mother Shakuntala – guilty – BUT – brother Subash – not guilty – not enough evidence
- Supreme Court – sent the accused (guilty) to prison for life

What are the Different Branches of the Legal System?

- Above case – dowry deaths – crime against society – violation of criminal law
- Legal system – also deals with civil law cases
- 2006 – new civil law passed – protect women against domestic violence
- Criminal law –
 - Deals with acts – defined as offences (crime) by law – theft, harassing a women for dowry, murder
 - Begins with First Information Report (FIR) – police investigates – case is filed
 - If found guilty – accused – sent to jail or fined or both
- Civil law –
 - Deals with – harm or injury to individual rights – disputes – sale of land, purchase of goods, rent, divorce, etc
 - Petition – filed by affected party – relevant court – in rent matter – landlord or tenant – anyone can file the case
 - Court gives specific punishments – case between landlord and tenant – court can order – empty the flat or pay the pending rent

Does Everyone Have Access to the Courts?

- In theory – all people – access to courts – every citizen – right to justice
- Courts – very imp. role – protect fundamental rights
- Any citizen – believe – their right violated – approach the court – get justice
- In reality – access to court – very difficult – vast majority of people – especially poor
- Legal processes – lot of money and paperwork – lot of time
- Poor person – illiterate – daily wagger worker – idea of going to court – very difficult
- 1980s – Supreme Court – developed new system – Public Interest Litigation (PIL) – increase – access to justice
- It allowed – anyone – file PIL – Supreme or High Court – whose rights were violated
- Legal process – simplified very much – letter or telegram – treated as PIL
- Early years – PIL used to obtain justice – lots of issues – release of prisoners kept in jail even after punishment is over, release of bonded labourers from inhuman work conditions
- Mid-day meal – provided to children – result of PIL
- Common person – access to courts – access to justice
- Courts – very imp. role – translating Fundamental Rights
- Courts – interpreted – Article 21 – Right to Life – include Right to Food
- Then courts ordered State – take steps – provide food for all – including mid-day meal
- Some court judgments – people believe – work against the common person
- Example – persons – work on issues – right to shelter and housing – believe – recent judgments – evictions (removing people from their homes) – very different from earlier judgments

- Recent judgments – slum dwellers (people who live in slums) – encroachers (people with illegal control over a place) – BUT – earlier judgments – 1985, Olga Tellis vs Bombay Municipal Corporation – tried to protect – lives of slum dwellers
- Another issue – affects common person's access to justice – lots of years – courts take – solve a case
- This extended time period – characterized by – 'justice delayed is justice denied'

Number of Judges in India				
No.*	Name of the Court	Sanctioned strength	Working strength	Vacancies
A	Supreme Court	34	34	0
B	High Courts	1,079	655	424
C	District and Subordinate Courts	22,644	17,509	5,135

- Judiciary – very imp. role – democratic India – controls the powers of executive and legislature – protects the Fundamental Rights
- Members of Constituent Assembly – developed a system of courts – independent judiciary – key feature of democracy