



Chapter - 22

JUDICIARY

NOTES:

- **The Rule of Law** means that laws apply equally to all persons.
- The “rule of law” states that everyone, regardless of any discrimination, is equal before the law.
- In an independent and democratic India, all citizens from a rickshaw puller to the Prime Minister are to be judged equally before the law if they violate it by committing a crime.
- Every violation of a law or commitment of a criminal offense has a specific process to establish guilt and cite its punishment.
- The “rule of law” ensures that equality is maintained by passing the same judgment on a criminal regardless of his/her status or background.

- **Role of the Judiciary:**

Courts take decisions on a very large number of issues. The work that the judiciary does can be divided into the following:

1. 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 these are a violation of the basic structure of the Constitution. This is called judicial review.

2. Dispute Resolution: The judicial system provides a mechanism for resolving disputes between citizens, between citizens and the government, between two state governments and between the centre and state governments.

3. Upholding the Law and Enforcing 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.

- An independent judiciary is necessary to carry out the function of ‘upholding the law and enforcing Fundamental Rights’. It intends to shield the judicial process from external influences and provide full legal protection to all individuals going to court for whatever reason.
- Anyone can approach the courts if they believe that their rights have been violated. If any law passed by the Parliament violates anyone’s Fundamental Rights, the judiciary has power to declare such a law as null and void.
- **Structures of Courts in India:**
 - Supreme Court
 - High Court
 - Lower Court(Trial Court)
- **Branches of Legal System**
 - **Civil law** is the part of a country's set of **laws** which is concerned with the private affairs of citizens, for example marriage and property ownership, rather than with crime.
 - **Criminal law** is the body of **law** that relates to **crime**. It proscribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people inclusive of one's self.
 - **Appellate System:** A person can appeal to a higher court if he believes that the judgement passed by the lower court is not just (right or fair).
 - In our country all citizens can access the courts.
 - The Right to Constitutional Remedies guarantees the people’s access to courts for justice.
 - **Public Interest Litigation (PIL)** stands for a legal action taken by a public spirited person in order to protect public interest (any act for the benefit of public). It increases access to justice.