

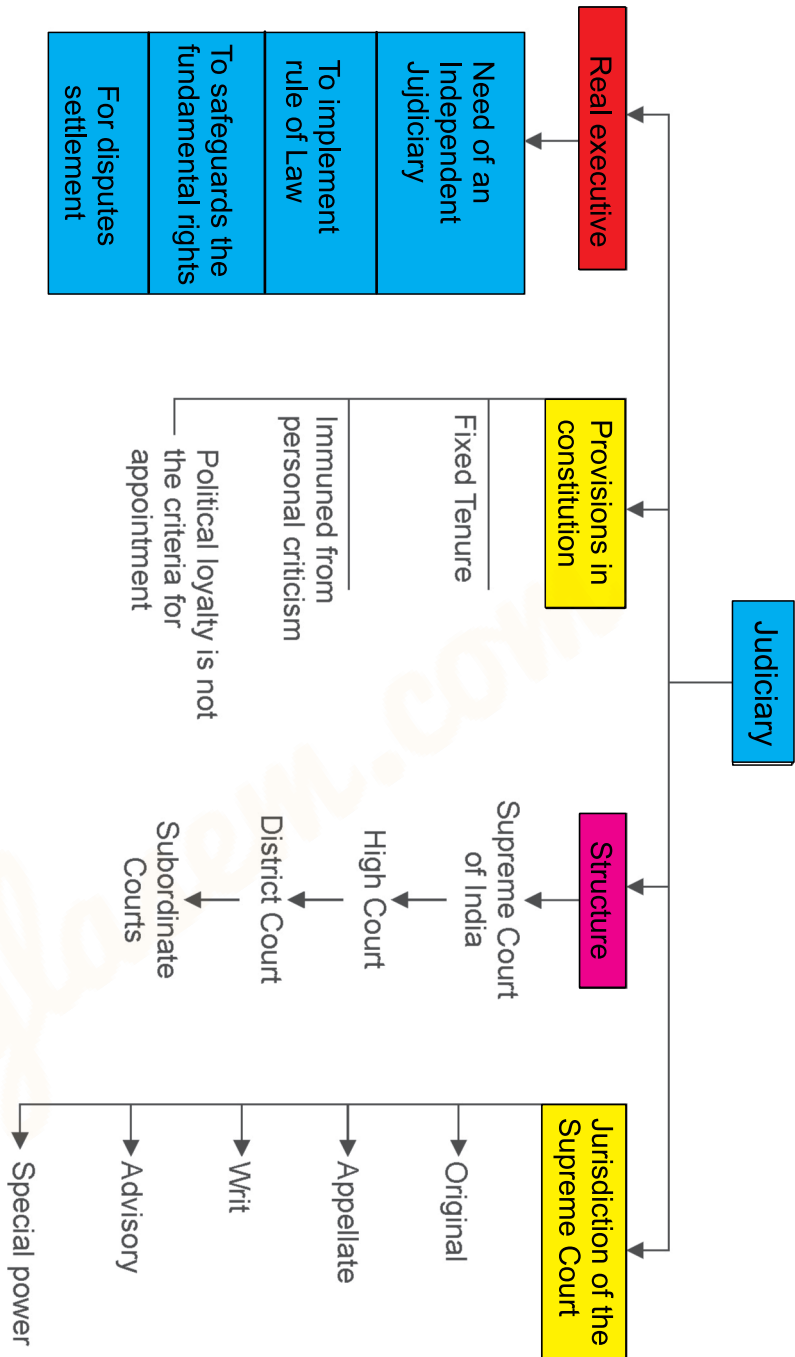


CLASS XI NOTES POLITICAL SCIENCE

KEY NOTES AND IMPORTANT QUESTIONS WITH ANSWERS

Chapter - 5

THE JUDICIARY



Key Points :-

- What is Judiciary
- Hierarchy of Judiciary
- Jurisdiction of Supreme Court
- Judicial Review
- Judicial Activisms

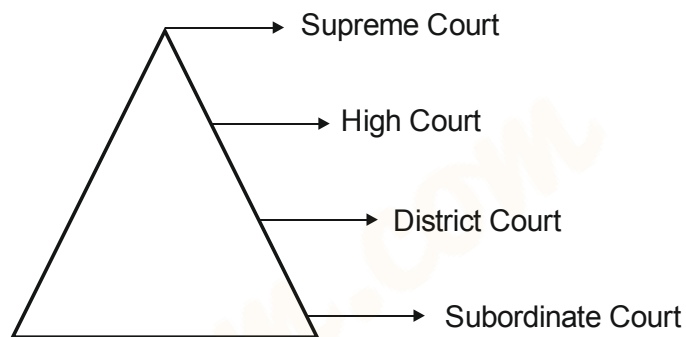
What is Judiciary?

- The judiciary is the third important part of the government which is seen by various individuals or institutions as the arbitrator of resolving mutual disputes to protect the rule of law and ensure supremacy of the law. For this, it is necessary that the judiciary must be accountable to the democratic traditions and the people of the country.
- Judiciary safeguards rights of the individuals. It settles disputes in accordance with the law and ensures democratic values must be secured.
- The legislature and the executive should not refrain the functioning of the Judiciary.
- Judges can do their functions without any fear or favour.
- To be appointed as a judge, a person must have experience as a lawyer and must be well versed in law, the Judges have a fixed tenure. They remain in office till they get retirement.
- Only in exceptional cases judges can be removed .
- The actions and decisions of the judges are immune from personal criticism.
- Parliament cannot discuss the conduct of judges except when the proceeding to remove a charge is being carried out.
- Judiciary is not financially dependent on legislature or executive.

Appointment of Judge

- The Union Cabinet, Governor, Chief Minister and Chief Justice of India all influence the process of judicial appointment.
- In the context of the appointment of the Chief Justice, it is also a convention that the most senior judge of the Supreme Court will be elected as the Chief Justice of India but this convention was however broken twice.
- The President appoints the Judges of High Court and Supreme Court on the advice of the Chief Justice of India.

Pyramid Structure of Judiciary



Jurisdiction of Supreme Court – Original Jurisdiction

- o Fundamental Rights: Settlement of disputes between Centre and States
- o Writ: Protection of Fundamental Rights, disputes related to election of President, Vice-President

Appellate

- o Hearing appeals on cases of the subordinate courts related to civil, criminal matters or serious matter of interpretation of law or constitution

Advisory

- o To advise the president of India on the matters of public importance interpretation of constitution.

Privilege

- o Hearing appeal under special leave petition on the decisions given by High court.

Judicial Activism

- o The main means of judicial activism in India has been public interest litigation or social behaviour petition.
- o After 1979-80, through public interest litigation and judicial activism, the judge showed interest in cases where people from certain sections of the society could not easily move to the court. Social organizations and lawyers were allowed to petition on the behalf of the needy and poor people of the society
- o Judicial activism democratized the judicial system and the executive was forced to become more accountable.
- o Tried to make the election system even more transparent.

Negative aspects of Active Judiciary

- o Increased workload in judiciary.
- o Judicial activism made it difficult to distinguish between the functions of the legislature, executive and judiciary such as - removing air and noise pollution, checking corruption and electoral reforms etc. The administration should do under the supervision of the legislator.

Right to Judicial Review

- o Judicial review means that the Supreme Court can examine the constitutionality of any law, if it is contrary to the provisions of the

Constitution, then it can be declared non-constitutional or null and void.

- o Supreme Court can also exercise the power of judicial review in case of federal related issues. (Centre State Relations).
- o The judiciary can interpret the constitution and the laws passed by the legislature, it effectively protects the constitution.
- o Protects the rights of citizens
- o The power of the judiciary has increased in protecting the rights of citizens by public interest petitions

Judiciary and Parliament

- o In the Indian Constitution, every part of the government has a clear demarcation of functioning. Despite this separation of powers, the confrontation between the judiciary and executive in Parliament has become a controversial issue of Indian politics.
- o Right to property
- o Regarding the power of Parliament to amend the Constitution
- o Fundamental rights.
- o Preventive Detention Law
- o Laws related reservation in jobs

Supreme Court decision in 1973

- o The Constitution has a basic structure and no one, including Parliament, can violate. This fundamental structure cannot be changed even by the Constitutional amendment.
- o Regarding the right to property, the court said that it is not a part of the basic structure, it can be suitably abridged.

- o The court reserved to itself the right to decide whether various matters are part of the basic structure of the constitution.
- o The constitution provides that the conduct of judges cannot be discussed in Parliament but on many occasions the conduct of the judiciary has been pointed out. Similarly, the Judiciary also criticised the executive on several occasions.

But in democracy it is essential for each organ of the government to respect the authority of others

QUESTIONNAIRE

One Mark Questions

1. Article 143 of the Indian Constitution empowered the Supreme Court with
 - (a) Original Jurisdiction
 - (b) Appellate Jurisdiction
 - (c) Supervisory Jurisdiction
 - (d) Advisory Jurisdiction
2. Public interest litigation has been included by which country in its constitution?
 - (a) America
 - (b) South Africa
 - (c) India
 - (d) Japan
3. How long can the Chief Justice of India continue his office?
 - a) 60 years
 - (b) 62 years
 - (c) 65 years
 - (d) 70 years
4. Appellate jurisdiction of the court is mentioned in which article?
 - (a) Article 134 of the Constitution
 - (b) Article 224 of the Constitution

- (c) Article 226 of the Constitution
 - (d) Article 27 of the Constitution
5. Which of the following is not an essential qualifications for a judge of the Supreme Court?
- (a) He must be a citizen of India.
 - (b) He must be an honourable Judge.
 - (c) At least 10 years of experience as a lawyer in the High Court.
 - (d) He has been in the High Court for at least 5 years.
6. Apex court of appeal is
- (a) Supreme Court
 - (b) High Court
 - (c) Sub-ordinate Court
 - (d) District Court

Fill in the blanks :-

7. Salaries and allowances of judges are provided from the.....fund of Indian government.
8. The Judges of High Court and Supreme Court have been provided.....
With personal criticism.
9. appoints the judges of the Supreme Court.
10. The provision for the establishment of the Supreme Court is enshrined in the article of the Constitution.
11. Supreme Court of India is located at.....

State the following statement is true or false.

12. The Chief Justice of India is appointed on the basis of seniority.

13. Judicial review is mentioned in the constitution of US.
14. The advisory powers of the Supreme Court are binding on the President.
15. Judicial review is first mentioned in the British Constitution.
16. All decisions of the Supreme Court are binding on all the courts of India.
17. The Constitution of India establishes an integrated judiciary.

Correct the following statements.

18. The judgments of the High Court is binding on all other courts of the Indian Territory.
19. The original jurisdiction of the Supreme Court means that cases can be directly considered by the Supreme Court.
20. Integrated judicial system has not been adopted in India.

Answer the following questions in brief.

21. What do you understand by Appellate Authority of the Supreme Court?
22. What do you understand by the rule of law?
23. On what grounds can the Supreme and High Court Judges be removed from their posts?
24. What do you understand by the advisory powers of the Supreme Court?
25. What do you understand by the Court of Records?
26. Define judicial review.
27. How is judicial activism making the court more active?
28. What do you understand by the Public Interest Litigation?
29. How many high courts are there in India?
30. At present, how many judges are there in the Supreme Court?

31. What is the salary of Chief Justice of India?
32. How can the Chief Justice of India be removed from his office?

Read the following passage and answer the questions.

Judicial activism had a great impact on our political system. This led not only individuals but also various groups to move to the courts. Judicial activism democratized the judicial system and forced the executive to become answerable. The election system also became more free and fair. The court directed the contesting candidates to give affidavits regarding their property income and educational qualifications so that people can elect their representatives on the basis of correct information.

1. Judicial activism has
 - (a) democratized the judicial system
 - (b) many drawbacks
 - (c) mandatory instructions
 - (d) none of the above
2. Judicial activism forced the executive to become
 - (a) irresponsible
 - (b) answerable
 - (c) unaccountable
 - (d) None of the above
3. Which of the following is the name of Writ?
 - (a) Habeas Manda
 - (b) Qua Mandamus
 - (c) Habeas corpus
 - (d) Habeas intellecta
4. Which jurisdiction has protected the fundamental rights of the individual?
 - (a) Right Jurisdiction
 - (b) Writ Jurisdiction
 - (c) Corpus Jurisdiction
 - (d) None of the above

Two Marks Questions

1. PIL was initiated by whom and when?
2. Which two powers make the Supreme Court powerful.
3. What changes have been made in the PIL?
4. Who has been benefitted from the PIL?
5. What is the meaning of judicial review?
6. Why the Supreme Court is allowed to revert its own judgments?
7. How the judiciary can use its power of Article 32?
8. Who has the authority to issue Article 226 and How?
9. What is the difference between the writs and Judicial Review?

Four Marks Questions

1. Describe the writs issued by the Supreme Court.
2. Explain advisory jurisdiction of Supreme Court.
3. Describe the process of removal from the post of judges of the Supreme Court.
4. What is the principle of collegiate?
5. Describe appellate jurisdiction of the Supreme Court.

Six Marks Questions

1. The structure of the Indian judiciary is pyramidal.
2. Describe the jurisdiction of the Supreme Court.
3. What is the negative aspect of the judicial activism?
4. Public interest litigation helps the poor and the deprived people. How?

ANSWERS

One Mark Answers

1. Advisory
2. America/USA
3. 65 years
4. in Article 134 of the Constitution
5. He must be an Honourable Judge of the High Court or Supreme Court.
6. Supreme Court
7. Consolidated Fund of India
8. Supreme Court and High Court judges have been given immunity from personal criticism.
9. President
10. Article 124
11. New Delhi
12. Correct
13. Correct
14. Incorrect
15. Incorrect
16. Incorrect
17. Correct
18. Supreme Court
19. Settlement of disputes between Centre and States
20. Integrated judicial system has been adopted.
21. Hearing appeals on the cases of subordinate courts related to civil, criminal, statutory questions.

22. All people are equal before law and law will be applied equally to all.
23. In case of proving misconduct or disqualification.
24. To advise the President on matters of public interest and matters of law.
25. The decisions of the Supreme Court will also be effective for other judicial decisions in future.
26. The Supreme Court can examine constitutionality of any law.
27. Judicial activism has made the judiciary more active through its judicial decisions.
28. In public interest litigation, not only a person but a person or group can also file a PIL on the behalf of others.
29. $30 + 1$
30. $24 + 1$
31. 2.8 lakh
32. Approval of a special majority of Parliament is required.

Para Based Questions

1. a. Judicial activism has expanded the jurisdiction of the courts. For example, it is the right of the whole society to have pure air, water and a good life. Such rights have been imposed by the Supreme Court which has made the judicial system more democratic.
2. b. The executive has been forced to become more accountable and tried to make the election system more free and fair.
3. c. The court directed the contesting candidates to declare their property and give an affidavit regarding educational qualifications so that people can elect their representatives on the basis of correct information.
4. b.

Two Marks Questions

1. P. N. Bhagwati and B. K. Krishna Ayer in 1970.
2. Article 32, Judicial Review etc.
3. Protection of the existing rights of poor, betterment of life conditions of the poor.
4. Poor, deplorable and deprived class of society, judiciary can issue the habeas corpus, Mandamus.
5. High Courts, Supreme Court can declare any law null and Void and prevent it from coming into force.
6. To review its verdicts
7. By issuing the writs
8. The High Court can issue writ and declare the any constitutional law as a null and void.
9. Judicial review: Judiciary can declare the law null and void, if it is inconsistent with the provisions of the constitution. Supreme Court issues an order called the Writs to protect the fundamental rights and void passed by the legislature to of the people

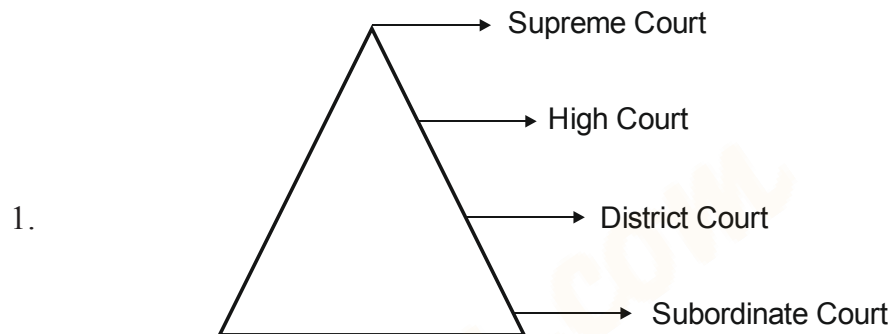
Four Marks Questions

1. Habeas Corpus, Mandamus, Certiorari, Quo Warranto, Prohibition
2. The President of India can refer any matter of public importance that involves interpretation of constitution to Supreme Court for advice.
3. A judge of the Supreme Court or High Court can be removed only on the ground of proven misbehaviour or incapacity by special majority in both houses of the Parliament.
4. The Supreme Court has established the principle of collegiality in making recommendations for appointments. At the moment in matters of appointment the decision of the group of senior judges of the Supreme

Court carries greater weight. In matters of appointment to the Judiciary the Supreme Court and the Council of Ministers play an important role.

5. Appellate jurisdiction means a person can appeal to the Supreme Court against the decisions of the high court. High court must clarify that the case is fit for appeal and it involves a serious matter of interpretation of law or constitution. Appellate jurisdiction means that the Supreme Court will reconsider the case and the legal issues involved in it. The high courts too, have appellate jurisdiction over the decisions given by courts below them.

Six Marks Questions



2. Original Jurisdiction, appellate, advisory Writ, Explain all the writs.
3. On the basis of newspaper reports and postal complaints, an individual or group can file the case on the behalf of others.
4. Increasing workload on judiciary, Lack of time, lack of judges.