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Topic Judiciary

# **Judiciary: Functions and Importance of Judiciary**

The Judiciary is the third organ of the government. It has the responsibility to apply the laws to specific cases and settle all disputes. The real 'meaning of law' is what the judges decide during the course of giving their judgements in various cases. From the citizen's point of view, Judiciary is the most important organ of the government because it acts as their protector against the possible excesses of legislative and executive organs. Role of Judiciary as the guardian-protector of the constitution and the fundamental rights of the people makes it more respectable than other two organs.

## **Functions of Judiciary and Its Importance:**

### **1. To Give Justice to the people:**

The first and foremost function of the judiciary is to give justice to the people, whenever they may approach it. It awards punishment to those who after trial are found guilty of violating the laws of the state or the rights of the people.

The aggrieved citizens can go to the courts for seeking redress and compensation. They can do so either when they fear any harm to their rights or after they have suffered any loss. The judiciary fixes the quantity and quality of punishment to be given to the criminals. It decides all cases involving grant of compensations to the citizens.

## **2. Interpretation and Application of Laws:**

One of the major functions of the judiciary is to interpret and apply laws to specific cases. In the course of deciding the disputes that come before it, the judges interpret and apply laws. Every law needs a proper interpretation for getting applied to every specific case. This function is performed by the judges. The law means what the judges interpret it to mean.

## **3. Role in Law-making:**

The judiciary also plays a role in law-making. The decisions given by the courts really determine the meaning, nature and scope of the laws passed by the legislature. The interpretation of laws by the judiciary amounts to law-making as it is these interpretations which really define the laws.

Moreover, 'the judgements delivered by the higher courts, which are the Courts of Records, are binding upon lower courts. The latter can decide the cases before them on the basis of the decisions made by the higher courts. Judicial decisions constitute a source of law.

## **4. Equity Legislation:**

Where a law is silent or ambiguous, or appears to be inconsistent with some other law of the land, the judges depend upon their sense of justice, fairness, impartiality, honesty and wisdom for deciding the cases. Such decisions always involve law-making. It is usually termed as equity legislation.

## **5. Protection of Rights:**

The judiciary has the supreme responsibility to safeguard the rights of the people. A citizen has the right to seek the protection of the judiciary in case his rights are violated or threatened to be violated by the government or by private organisations or fellow citizens. In all such cases, it becomes the responsibility of the judiciary to protect his rights of the people.

## **6. Guardian of the Constitution:**

The judiciary acts as the guardian of the Constitution. The Constitution is the supreme law of the land and it is the responsibility of the judiciary to interpret and protect it. For this purpose the judiciary can conduct judicial review over any law for determining as to whether or not it is in accordance with the letter and spirit of the constitution. In case any law is found ultra vires (unconstitutional), it is rejected by the judiciary and it becomes invalid for future. This power of the court is called the power of judicial review.

## **7. Power to get its Decisions and Judgements enforced:**

The judiciary has the power not only to deliver judgements and decide disputes, but also to get these enforced. It can direct the executive to carry out its decisions. It can summon any person and directly know the truth from him.

### **In case any person is held:**

- (i) Guilty of not following any decision of the court, or
- (ii) Of acting against the direction of the court, or
- (iii) Misleading the court, or

(iv) Of not appearing before the court in a case being heard by it, the Court has the power to punish the person for the contempt of court.

### **8. Special Role in a Federation:**

In a federal system, the judiciary has to perform an additionally important role as the guardian of the constitution and the arbiter of disputes between the centre and states. It acts as an independent and impartial umpire between the central government and state governments as well as among the states. All legal centre-state disputes are settled by the judiciary.

### **9. Running of the Judicial Administration:**

The judiciary is not a department of the government. It is independent of both the legislature and the executive. It is a separate and independent organ with its own organisation and officials. It has the power to decide the nature of judicial organisation in the state. It frames and enforces its own rules.

These govern the recruitment and working of the magistrates and other persons working in the courts. It makes and enforces rules for the orderly and efficient conduct of judicial administration.

### **10. Advisory Functions:**

Very often the courts are given the responsibility to give advisory opinions to the rulers on any legal matter. For example, the President of India the power to refer to the Supreme Court any question of law or fact which is of public importance.

### **11. To Conduct Judicial Inquiries:**

Judges are very often called upon to head Enquiry Commissions constituted to enquire into some serious incidents resulting from

the alleged errors or omissions on the part of government or some public servants. Commissions of enquiry headed by a single judge are also sometimes constituted for investigating important and complicated issues and problems.

## **12. Miscellaneous Functions:**

Besides the above major functions, the judiciary also performs several other functions. Some such functions are the appointment of certain local officials of the court, choosing of clerical and other employees. Cases relating to grant of licenses, patents, and copy rights, the appointment of guardians and trustees, the admission of wills, to appoint trustees to look after the property of the minors, to settle the issues of successions of property and rights, issue of administering the estates of deceased persons, the appointment of receivers, naturalization of aliens, marriage and divorce cases, election petitions and the like.

Through all these functions, the Judiciary plays an important role in each state. It also plays a role in the evolution of Constitution through the exercise of its right to interpret and safeguard it against all legislative and executive excesses.

## **Importance of Independent Judiciary:**

In the life of the citizens of a state, Judiciary is a source of confidence and fearlessness. The common man depends upon judiciary for getting justice. Without a security of rights and freedom guaranteed by the judiciary, they cannot really hope to carry out their jobs and enjoy their living. They are more dependent upon judiciary than the legislature and the executive. Without

judicial protection, their lives can become miserable. From citizens point of view Judiciary is the most important organ of the government.

Garner highlights this view when he observes, “A society without legislature is conceivable, and indeed, legislative organs did not make their appearance in the state until modern times, but a civilised state without a judicial organ and machinery is hardly conceivable.”

**Judiciary enjoys a big importance in the eyes of the people because it acts as:**

- 1) The dispenser of Justice.
- (2) Protector of the rights of the people.
- (3) Guardian protector of the Constitution of the State.
- (4) Arbiter of center-state disputes.
- (5) Safeguard against Legislative and executive excesses.
- (6) Check against arbitrary exercise of powers by the power-holders.
- (7) Guardian of Rule of Law and Justice.

An independent judiciary is always considered to be the most essential part of every democratic government worth its name. A government without judiciary is almost inconceivable. A government without independent judiciary is always held to be an authoritarian government.

## **Independence of Judiciary: An Essential Quality:**

The chief quality which helps the judiciary to faithfully administer justice and to perform its functions efficiently is judicial independence. It is only when the judiciary works independently without any interference of the other two organs of the government that it can carry out its high responsibilities.

“The independence of judiciary,” writes Dr. P. Sharan, “is a corner stone of every democratic government and upon it is built the structure of civil liberty.” Judiciary can perform its functions only when it is free to administer justice according to law. Without being well-organised and independent it can never serve its purpose. Therefore, Judiciary must be organised in such a way as can enable the judges to give their judgements without any fear or favour.

### **Organisation of Judiciary must be based on the following features:**

- (1) Appointment of only highly qualified and experienced judges.
- (2) The Judiciary must have prevented the executive and legislature from committing excesses.
- (3) The ability of the judiciary to maintain and independently run the judicial administration.
- (4) The Judiciary must be made the guardian protector of the Constitution,



(5) The Judiciary must ensure full, fair and less- expensive opportunities to the people for defending their rights and getting justice.

(6) The method of appointment of judges must be fair, systematic, effective and transparent.

(7) Method of removal of judges should be difficult and no single should have the power to remove the judges.

(8) Judges must be paid high salaries, necessary allowances, good service conditions, and appropriate retirement benefits.

By incorporating all these features in the judicial system, a well organised and independent judiciary can be secured.