

The Indian Judicial System

Exercise

Q. 1. A. Choose the correct option and complete the statements.

Laws are made by ____

A. Legislature

B. Council of Ministers

C. Judiciary

D. Executive

Answer : (a) is the answer because by definition, "A legislature is a deliberative assembly with the authority to make laws for a political entity such as a country or city". Other duties include: Creating policies, budgets and programs of the Government.

(b) is not the answer because the council of members are the members of the legislature and they are called legislators.

(c) is not the answer because judiciary is for the applying and protection of the executed law.

(d) is not the answer because executive is for the execution of laws made by the legislature.

Q. 1. B. Choose the correct option and complete the statements.

The Chief Justice of Supreme Court is appointed by ____

A. Prime Minister

B. President

C. Home Minister

D. Chief Justice

Answer : (b) is the answer because as per Article 124 of the Constitution of India, the way to appoint the judges to the Supreme Court of India is only by the president

(a) is not the answer because the prime minister has the responsibility for organizing and controlling government departments and agencies

(c) is not the answer because the home minister manages domestic policies and internal securities.



(d) is not the answer because chief justice has duties to assign cases and appoint the constitutional benches of law.

Q. 2. A. Explain the concepts.

Judicial Review

Answer : The power of the Supreme Court is called the Judicial Review power. This concept is borrowed from the United States Constitution. Judicial review is not specifically mentioned in the Constitution of India. It includes:

- The court re-examines the laws and rules of the legislature and executive in cases that come before them; in litigation cases.
- The court decides the constitutional validity of the laws and rules of the government
- The court rejects that law or any of its part which is found to be unconstitutional or not in favor of the Constitution.

By definition “Judicial Review refers to the power of the judiciary to interpret the constitution and to declare any such law or order of the legislature and executive void if it finds them in conflict the Constitution of India”.

Q. 2. B. Explain the concepts.

Public Interest Litigation

Answer : Public Interest Litigation OR PIL is a rule of law declared by the courts of record. However, the person (or entity) filing the petition must show to the satisfaction of the court that the petition is being filed for the public interest and not as a playful court case for financial gain. Public Interest Litigation is directly filed by an individual or group of people. It can be filed in the Supreme Court of India and High Courts of India and judicial member. Though PIL the courts openly recognizes the public good. It is relevant because the court of law can begin and enforce action to provide and protect significant Public Interest.

The features of PIL are:

- There are some kinds of reliefs or remedies under the court order power. PIL gives a wider description to the right to equality, life, and personality (guaranteed by part III of the Constitution of India).
- PIL plays the role of a helpful tool for changes in society or social welfare.
- Through public interest litigation, any public or person can search for a solution as the representative of the oppressed class by introducing a PIL.



- PIL can be filed against the government only, not individuals.

Q. 3. A. Write short notes on.

Civil and Criminal Law

Answer : CIVIL LAW

By definition, civil law is “A body of rules that delineate private rights and remedies, and govern disputes between individuals in such areas as contracts, property, and Family Law; distinct from criminal or public law”.

Examples : murder, attack, robbery, and drunken driving. Civil law deals with actions that constitute an damage to a person or other private party, such as a corporation.

Examples : insult (including defame), break of the agreement, inattention resulting in wound or death, and property damage.

TYPES OF CIVIL LAW

The laws to the following cases are the types of civil law.

- Contract Disputes law
- Property Disputes law
- Torts law
- Class Action Cases law
- Complaints against the City law

CRIMINAL LAW

By definition “criminal law is a body of laws that apply to criminal acts. In instances where an individual fails to adhere to a particular criminal statute, he or she commits a criminal act by breaking the law.”

Examples are :

- Violent crimes which include murder and criminal killing, compulsory rape, irritated assault, and robbery
- Property crimes which include burglary, fire-raising, stealing/theft, and motor-vehicle theft.

This body of laws is different from civil law because criminal law punishment involves the rejection of one's rights and imprisonment

Types of criminal law

Misdemeanor crime laws: deal with lower level criminal offense, such as small physical attack, traffic offenses, or petty thefts. Moreover, in most states, the penalty for these crime is typically one year or less.

Felony crime laws: deal with crimes involving more serious offenses. Some examples of felonies include murder, manslaughter, dealing drugs, rape, robbery, and arson.

Q. 3. B. Write short notes on.

Judicial Activism

Answer : Judicial activism is a lawful term that refers to court judgments that are partially or fully based on the judge's political or private considerations, rather than existing laws. In basic terms, judicial activism occurs when a judge who is the head of a case, allows his personal or political views to direct his judgment when he makes a final decision(verdict) on a case.

By definition judicial activism refers to “judicial rulings that are suspected of being based on personal opinion, rather than on existing law”. The definition of judicial activism and the exact decisions that are activist are controversial political issues. The question of judicial activism is closely related to constitutional understanding, legislative construction, and division of powers.

Examples of judicial activism are:

- *Brown v. Board of Education* – 1954 Supreme Court ruling ordering the desegregation of public schools.
- *Roe v. Wade* – 1973 Supreme Court ruling decriminalizing abortion.

Q. 4. A. Answer in brief.

Why are laws necessary in society?

Answer : Laws are necessary because:

1. It ensures our rights as citizens against abuses by other people, by organizations, and by the government itself.
2. It protects our general safety, and We have laws to help provide for our general safety.



3. It exists at the local, state and national levels, and includes things like Laws about food safety, traffic rules, criminal laws etc.
4. It acts as an instruction as to what is accepted in society.
5. It avoids conflicts between social groups and communities.
6. It allows for easy adoption to changes that occur in the society.

The definition of law is "Indian law is described as the body of jurisprudence created by treaties, statutes, executive orders, court decisions and administrative action defining and implementing the relationship among the United States, Indian tribes and individuals, and the states."

Q. 4. B. Answer in brief.

Enumerate the functions of the Supreme Court.

Answer : The Supreme Court is the uppermost and **ultimate** superior court of record and is authorized to exercise its powers, subject to the provisions of the Constitution. The court rulings take priority over all lower Courts. Consisting of the Chief Justice of India and a maximum of 30 other judges, it has extensive powers in the form of unique, decision-making and advice-giving control.

The functions of the Supreme Court are:

- It takes up petition primarily against verdicts of the high courts of various states of the Union and other courts and tribunals.
- It protects the fundamental rights of citizens and settles an argument between various governments in the country.
- It hears matters which may specifically be referred to it under the constitution by President of India.
- It also may take matters on its own, without anyone drawing its attention to them.
- The law declared by the Supreme Court becomes compulsory on all courts within India and also by the union and state governments.

Q. 4. C. Answer in brief.

Which are the provisions that preserve the independence of the judiciary?

Answer : **Independence of the judiciary or judicial independence** is the concept that the judiciary should be independent from the other branches of government. That

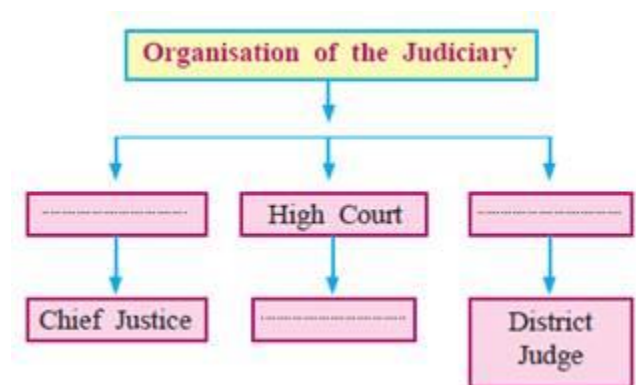


means, courts should not be subject to indecent pressure from the other branches of government or from private or follower interests. Judicial independence is important to the idea of division of powers.

Provisions to promote judicial independence are

- By granting life term or long term for judges, which ideally frees them to decide cases and make rulings,
- By the power of judicial review. (judicial review means the ability of the judiciary to check whether the legislature is improved)
- By separation of Judiciary from the Executive and Legislature
- By prohibition of Practice of judges after Retirement
- By ensuring high qualifications of judges

Q. 5. Complete the table.



Answer : SUPREME COURT..... CHIEF JUSTICE

HIGH COURT..... HIGH COURT CHIEF JUSTICE

DISTRICT COURT..... DISTRICT JUDGE.

Project

Q. 1. Organise a 'Moot Court' in your school, prepare and ask questions related to Public Interest Litigations in this Moot Court.

Answer : As part of our curriculum we had a vibrant moot court orientation program at the school auditorium. It was all very instructive and helpful. The students participated actively and the knowledge about our law and judiciary was shared by the mooters (speakers).



Mooting is a simpler way of debating or arguing. Mooting does a lot more to the school children as it increases their abilities to talk and present. A litigation culture is to be developed in every student to ensure the better civil life of every citizen.

There were two groups of speakers: Group A and Group B. In debates and arguments we simply argue to win the situation in any possible manner sometimes by shouting or screaming. But through mooting we argue sensibly to convince the judge with proper proofs. The mooters from group A and Group B kept their voice humble, and by followed the mooting culture and manners.

Mooting skills boosted up the confidence level of the student and the teacher insisted that every student must participate in one or any other form of speaking of this case, as it is a fun with learning technique, which is ultimately going to give fruits in future. Mooting requires lots of hard work and pains but ultimately will give an edge among all the other students. No one is a born mooter, and mooting is a technique which every student learns after entering into the process of group-talks and arguments. The more you practice the better you perform.

Moot court in our school was a very good dummy of original court where students learn the art of mooting or lawyer-ing. The students are given cases on which they have to struggle to win the case, that actually happens in actual life situation and actual courts. It looked like a real court where 3 judges listened to the speakers while each of them presents their cases. After each presentation or enquiry they fellow mooters start showering the presenter with thousands of questions.

The mooters prepared the things to be presented after doing a lot of research work and mooter presents it before the judge.

The PIL was: student XYZ vs. The school

The PIL case Parmanand Katara v. Union of India was replicated here.

One of the students read out about the details of the case “Parmanand Katara, a human rights activist, filed a writ petition in the Supreme Court. His basis was a newspaper report concerning the death of a scooterist after an accident with a speeding car. Doctors refused to attend to him. They directed him to another hospital around 20 km. away that could handle medico-legal cases.”

Based on the petition, the Supreme Court held important decisions.

The school moot court discussed on the issues on :

- Protection of human life is of supreme importance.
- Every doctor, at a government hospital or otherwise, has the professional duty to extend his/her services to protect life.



- There should be no doubt that the effort to save the person should receive top priority.
- This is not only to the legal profession, but also to the police and other citizens part of the matter.
- Right to immediate medical aid

The main highlights of the moot session were:

On behalf of the petitioner (Mooter X) said that the petitioner, who claims himself to be a human right activist, filed this writ petition in public interest on the basis of a newspaper report concerning the death of a scooterist who was knocked down by a speeding car. He states that the injured person was taken to the nearest hospital but the doctors there refused to attend on him; that they told that he be taken to another hospital, located some 20 kilometers away. That hospital was authorised to handle medico-legal cases. Soon the victim surrendered to his injuries before he could be taken to the other hospital and died.

On behalf of the Union of India (Mooter Y) said that there was no provision in the Indian Penal Code, Criminal Procedure Code, or the Motor Vehicles Act, etc. which prevented doctors from promptly attending seriously injured persons and accident cases before the arrival of police.

Mooter X: The petitioner has prayed the directions be issued to the Union of India that every injured citizen brought for treatment should instantaneously be given medical aid to protect life. The law should be allowed to operate in order to avoid careless death, and in the event of breach of such direction, suitable compensation should be admissible.

Mooter Y: The members of the legal profession, our law courts and everybody concerned will also keep in mind that a man in the medical profession should not be needlessly harassed for purposes of questioning or for any other formality and should not be pulled during investigations at the police station and it should be avoided as far as possible.

The moot proceedings were so interesting that students U,V,W,Z etc took the roles of different parties in trial.

The Secretary(student Z), Ministry of Health & Family Welfare of the Union of India(student W), the Medical Council of India, (Student V) and the Indian Medical Association(student U) were later put on trial as respondents.

The teacher concluded the session like this:

“We would also like to mention that whenever on such events, a man of the medical profession is reached for help and if he finds that whatever support he could give is not



adequate really to save the life of the person but some better assistance is necessary-it is also the sense of duty of the man in the medical profession so approached to render all the help which he could and also see that the person reaches the proper expert as early as possible". She also emphasized on the Article 21 of the Constitution which guarantees protection of life and personal liberty to every citizen. This article has directive principles of state policy and therefore includes protection of health.

Thus the school moot court was appealing, knowledgeable and interesting.

Q. 2. Visit the nearest police station and understand the procedure of filing a First Information Report (FIR) with the help of your teacher.

Answer : The essential point of filing a FIR is to set criminal law into action and not to state all the minute details there in. A *First Information Report* (FIR) is the first step in a criminal case record by the police.

It includes:

- The basic knowledge of the crime committed,
- Place of commission
- Time of commission
- Who was the victim etc.

The nearest police station was visited to understand the proceedings of FIR. It was a working day and the police men welcomed us. They treated us well and gave details of the FIR and its steps.

• **First Information Report** (FIR) is a written document set by the police when they get **information** about the commission of an offence. It is a **account of information** that reaches the police **first** and that is why it is called the **First Information Report**.

- A copy of the FIR is provided to the accused.
- FIR is filed only for cognizable offences (those offences in which police do not require any warrant to arrest). The police have the right to arrest the accused person and investigate into the matter.
- If an offence is not cognizable, the FIR is not filed and in this case, the act is not possible without the intervention of the court.
- FIR for Cognizable (serious) Offences have been defined u/s 2(c) of the C.P.C., 1973. This is the class of offences in which the police has the authority to make an arrest



without a warrant. These offences are serious in nature, and thus the aim is to avoid the criminal or accused of harming others. Hence, the police have been given right to make an arrest without a warrant.