

- Elections in Indian Democracy
- Structure of Judiciary
- Judicial Activism
- Rights of Judiciary and Relationship with Parliament
- Solved Examples
- Practice Set
- Answer Key
- Quick Reference
- Glossary

Elections in Indian Democracy

The principle of Rule of Law implies that all individuals—regardless of wealth, gender, or caste—are subject to the same laws. The judiciary plays a principal role in protecting the rule of law and ensuring the supremacy of law by safeguarding individual rights, settling disputes according to law, and preventing democracy from turning into dictatorship by individuals or groups.

Independence of the judiciary means that other government organs must not restrain or interfere with the judiciary's functioning, allowing judges to perform their duties without fear or favour. The judiciary is accountable to the Constitution, democratic traditions, and the people of India.

The Indian Constitution ensures judicial independence through several provisions:

- The legislature is not involved in appointing judges.
- Judges have fixed tenure until retirement age, with removal only in exceptional cases.

- The judiciary is financially independent; judges' salaries and allowances do not require legislative approval.

The judiciary also has the power to penalise contempt of court.

Exam Questions

Q1: What does the principle of Rule of Law imply in Indian democracy?

A1: It implies that all individuals, regardless of status, are subject to the same laws.

Q2: How does the Constitution ensure the independence of the judiciary?

A2: By excluding legislature from judge appointments, providing fixed tenure, and ensuring financial independence.

Structure of Judiciary

The senior-most judge of the Supreme Court is appointed as the Chief Justice of India (CJI). Other judges of the Supreme Court and High Courts are appointed by the President after consulting the CJI. The CJI recommends appointments in consultation with the four senior-most judges of the Supreme Court. In appointment matters, the opinion of senior judges carries more weight than the Council of Ministers.

Judges of the Supreme Court or High Courts can be removed only on grounds of proven misbehaviour or incapacity, through a motion approved by a special majority in both Houses of Parliament.

The President can refer matters of public importance or constitutional interpretation to the Supreme Court for advice, but is not bound to accept the advice.

Exam Questions

Q1: Who appoints the Chief Justice of India?

A1: The senior-most judge of the Supreme Court is appointed as the Chief Justice of India.

Q2: Under what conditions can a Supreme Court or High Court judge be removed?

A2: Only on proven misbehaviour or incapacity, through a special majority motion in Parliament.

Judicial Activism

The Supreme Court has the power to review any judgment or order it has made. Its decisions are binding on all other courts in India, but the Supreme Court can review its own decisions.

Judicial activism in India has flourished mainly through Public Interest Litigation (PIL) and Social Action Litigation (SAL). However, a large number of PILs have overburdened courts and blurred the separation between the judiciary and other government branches.

The Constitution provides two remedies for violation of rights by the Supreme Court:

- Restoring fundamental rights by issuing writs such as Habeas Corpus and Mandamus.
- Declaring laws unconstitutional and non-operational.

Judicial Review is the power of the Supreme Court and High Courts to examine the constitutionality of laws and declare them invalid if inconsistent with the Constitution.

Powers previously considered beyond judicial review, such as those of the President and Governor, are now subject to court scrutiny.

Exam Questions

Q1: What is judicial activism?

A1: It is the proactive role of the judiciary in protecting rights and ensuring justice, often through PILs and SALs.

Q2: What is judicial review?

A2: The power of courts to examine laws and declare them unconstitutional if they violate the Constitution.

Rights of Judiciary and Relationship with Parliament

The Supreme Court has actively involved itself in justice administration, such as directing investigations in the Hawala case, the Narsimha Rao case, and illegal petrol pump allotment cases.

While Parliament is supreme in law-making and constitutional amendments, and the Executive is supreme in law implementation, the Judiciary is supreme in settling disputes and ensuring laws conform to the Constitution.

Kesavananda Bharati Case: The Supreme Court ruled that the Constitution has a basic structure that cannot be altered even by Parliament through amendments. The right to property was not part of this basic structure and could be abridged. The Court reserved the right to decide what constitutes the basic structure.

Exam Questions

Q1: What was the significance of the Kesavananda Bharati case?

A1: It established that Parliament cannot alter the basic structure of the Constitution.

Q2: How does the judiciary relate to Parliament and the Executive?

A2: Judiciary settles disputes and ensures laws comply with the Constitution, while Parliament makes laws and the Executive implements them.

Solved Examples

Example 1: Explain the importance of judicial independence.

Answer: Judicial independence ensures that judges can make decisions free from influence or pressure from other government branches, maintaining fairness and justice.

Example 2: What is the role of Public Interest Litigation in judicial activism?

Answer: PIL allows citizens to approach courts for protection of public interest, enabling the judiciary to address social issues and enforce rights.

Practice Set

Easy

- What is the role of the Chief Justice of India in appointing judges?

- Define the principle of Rule of Law.

Moderate

- Explain the concept of judicial review with an example.
- What safeguards ensure the independence of the judiciary?

Challenging

- Discuss the impact of the Kesavananda Bharati case on the Indian Constitution.
- Analyze the advantages and disadvantages of Public Interest Litigation.

Answer Key

- **Easy 1:** The CJI recommends appointments in consultation with senior judges.
- **Easy 2:** Rule of Law means all individuals are subject to the same laws.
- **Moderate 1:** Judicial review is the power to declare laws unconstitutional, e.g., striking down a law violating fundamental rights.
- **Moderate 2:** Safeguards include fixed tenure, financial independence, and exclusion of legislature from appointments.
- **Challenging 1:** It limited Parliament's power to amend the Constitution, protecting its basic structure.
- **Challenging 2:** Advantages: protects public interest; Disadvantages: court overload and blurred separation of powers.

Quick Reference

- **Rule of Law:** Equality before law.
- **Judicial Independence:** Freedom from external influence.
- **Judicial Review:** Power to invalidate unconstitutional laws.
- **Public Interest Litigation:** Legal action for public good.
- **Kesavananda Bharati Case:** Basic structure doctrine.

Glossary

- **Appellate Jurisdiction:** Power to hear appeals.
- **Election Petition:** Legal challenge to election conduct.
- **Lok Adalats:** People's courts for speedy justice.
- **Original Jurisdiction:** Power to hear cases first.
- **Public Interest Litigation (PIL):** Litigation for public benefit.
- **Social Action Litigation (SAL):** Litigation to enforce social rights.

Year	Event	Significance
1973	Kesavananda Bharati Case	Established the basic structure doctrine limiting Parliament's amendment powers.
1990s	Rise of Public Interest Litigation	Expanded judicial activism and access to justice.