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The Judiciary and the Role of Police

Lesson Plan

Contents

- ▶ An overview of the judiciary system in India—and the support of the police
- ▶ Understanding the judicial system, its structure, powers and functions, and the police system

Objectives

- ▶ To understand the system of judiciary in India—its powers and functions
- ▶ To learn about the manner in which the police is structured in India and its functions within the administrative system
- ▶ To know about the interaction between the judiciary and the police
- ▶ To appreciate the need for the judiciary and the police in maintaining law and order in the country

Teacher's Aids

- ▶ Globe
- ▶ Pictures, charts, atlas and wall maps
- ▶ Blackboard
- ▶ Internet

Tips for Teacher

- ▶ Explain the nature, structure and functions of the judiciary vis-a-vis the citizens, the Constitution and the other two organs of government—the legislature and the executive.
- ▶ Explain the aims, the structure and the functions of the police as an organ of administration and as a support for the judicial system of the government.
- ▶ Teacher can explain the chart and information in the boxes.
- ▶ Use role play by students to understand the roles of the judiciary and the police in the governance of the country.
- ▶ Students should be encouraged to know the structure, functions and significance of each organ of the government and the administration in the running of the country.

■ Background and Reading

- ▶ Read the lesson aloud and explain, sharing the aids, etc., pausing to examine and explain the data in the boxes.
- ▶ Particularly focus on the structure, the powers, the functions and the interactions between various organs of governance.

The Third Organ of Government

- ▶ Judiciary – the organ that resolves disputes, conflicts between government and citizens or between individuals on any issue – it protects the rights and freedoms of citizens – administers justice and settles disputes in accordance with the laws of the Constitution.

The Judiciary in India

- ▶ A unified judiciary – Supreme Court at the top of the system – High Courts in the States – District Courts.
- ▶ Supreme Court – the highest court of justice – power to supervise and control the entire judicial system in India.
- ▶ Civil and criminal cases – civil cases deal with property and matrimonial issues – criminal cases deal with crime in society like theft, murder, burglary, etc. – civil cases can be settled outside court with payment of compensation or fine – criminal cases begin with filing a First Information Report [FIR] with the police – in a criminal case, a petition must be submitted before the relevant court.

The Supreme Court

- ▶ Judicial functions divided into Original Jurisdiction and Appellate Jurisdiction.

Original Jurisdiction: What does this mean?

- ▶ Some cases come directly to the Supreme Court:
 - Problems between one or more states or governments.
 - Government of India and one or more states on one side and one or more states on the other.
 - Issues between one state and another.
 - Cases related to violation of fundamental rights.
 - Cases related to the election of the President and the Vice President.

Appellate Jurisdiction

- ▶ The Supreme Court has to hear and decide appeals against the judgements of High Courts or any other courts – such appeals may be made in three types of cases:
 - (i) Constitutional – if High Court certifies that the matter needs interpretation of the Constitution – then appeal lies against the High Court judgement.

- (ii) Criminal–if the Session Court has acquitted an accused person and the High Court reverses that decision and sentences him/her to death–appeal made to the Supreme Court.
- (iii) Civil–if the High Court certifies that the case is fit for appeal in the Supreme Court.

Advisory Functions

- ▶ If President of India desires to obtain the opinion of the Supreme Court on a question of law or fact which is of public importance, he/she refers it to the Supreme Court–such advice is not binding on the President.
- ▶ Supreme Court also functions as a court of records–decisions and proceedings are recorded and are quoted by lawyers as precedent in courts.

Guardian of the Constitution

- ▶ Upholds the Constitution by restricting any anti-constitutional law passed by the government.
- ▶ Protects fundamental rights of the citizens–issues writs to people for infringing on the fundamental rights of citizens–citizen can approach the Supreme Court directly for protection of fundamental rights.
- ▶ SC consists of one Chief Justice who heads the proceedings of a court–twenty five other judges–CJI and other judges appointed by the President of India–while appointing he/she consults the CJI.
- ▶ Qualifications–must be eligible to be judge of the SC; must be a citizen of India; must be a High Court advocate for at least 10 years or a High Court judge for 5 years; must be a distinguished jurist–term period of judge of SC till he/she attains age of 65 years.

The High Court

- ▶ High Court also has Original and Appellate jurisdiction–22 High Courts.
- ▶ Under Original jurisdiction can issue writs to any person against violation of the fundamental rights of citizens.
- ▶ Appellate jurisdiction–includes power to hear appeals on civil and criminal cases against the decisions of lower courts within the state.
- ▶ Supervises the working of all subordinate courts in its jurisdiction–also a court of record–power to punish individuals for contempt of court.

Subordinate Courts

- ▶ Munsif courts, district courts, courts of sub-judges, second class and third class magistrates who immediately attend to the problems of the people.
- ▶ Highest civil court in district–district court–subordinate judges and munsifs deal with civil cases at lower levels.
- ▶ Criminal cases attended to by a Sessions judge–District judge also works as Sessions Judge.
- ▶ District hears appeals against judgements of lower courts–High Court hears appeals against the judgements of a District Court.

Judiciary at the Village Level

- ▶ Judicial functions performed by the Nyaya Panchayat, Lok Adalats and Public Interest Litigation [PIL].
- ▶ Lok Adalats – introduced to provide speedy solutions to poor and needy – provide justice quickly by resolving cases kept pending for long – first Lok Adalat in Delhi in 1985 – solved 150 cases.
- ▶ PIL filed by people in Supreme Court or High Court when people's interest is affected by government's actions.

Why is the Judiciary Important?

- Gives justice to people.
- Checks the power of government.
- Safeguards the federal nature of government by resolving disputes between the States and the Union.
- Custodian of the Constitution.
- Protects the fundamental rights of citizens.

The Independent Judiciary

- ▶ Judiciary must be independent and powerful – Indian judiciary is considered the most powerful judicial structure in the world – Constitution ensures independence:
 - Judiciary not under control of executive and legislature.
 - Judges appointed by President on advice of Prime Minister – based on established procedure.
 - Once appointed they cannot be removed easily.
 - Appointed for a fixed period and their salaries and service conditions and other allowances cannot be changed or reduced.

The Police

- ▶ In a state – maintaining law and order important government function – How and by whom – helping citizens live a safe and fair life – we elect a government to give us this
 - Job entrusted to the police department of each state.
 - Police plays a vital role in protecting laws by solving crimes in a society.
 - Also prevents crime and maintains public order.

What is the Role of the Police

- ▶ Police works with judiciary to maintain law and order in society – ensures citizens do not break laws and rules.
- ▶ When crime committed – police investigate and arrest person suspected of committing it – accused then presented before court – lawyers to defend the accused and public

prosecutor to fight the case on behalf of police—after hearing both sides judge gives verdict/judgement—either acquit or convict and punish the accused—if convicted sent to prison for a specified period.

- ▶ Police also maintain jails and prisons in major cities—main functions:
 - Prevent and solve crimes.
 - Arrest persons involved in crimes.
 - File and investigate the chargesheets.
 - Maintain law and order.
 - Regulate traffic.

Structure of the Police Department

- (i) State divided into districts—district administration headed by Superintendent of Police [SP].
- (ii) Further divided into Circles—5-6 circles—each controlled by a Deputy Superintendent of Police [DSP].
- (iii) Each circle with 10 police thanas—or police stations—under control of an Inspector of Police.
- (iv) Each Inspector assisted by—Sub-Inspectors, Assistant Sub-Inspectors and Head Constables.
- (v) Metropolitan cities have Commissioners, Assistant Commissioners and Deputy Commissioners.

How is an investigation of a crime carried out?

- ▶ Main duty to maintain law and order—hence has to investigate crime and solve it:
 - Each area in city has a police station or thana—crime committed to be reported to the nearest thana—FIR can be filed in any police station.
 - Registration of FIR by the officer on duty at the police station.
 - FIR to be given by a person who has seen the crime or was present in the area.
 - Even if police station not in the area, it has to register the FIR and later transfer it to the area police station.
- ▶ Constitution—the fundamental rights of the person arrested have to be protected:
 - Person has a right to know the reason for arrest.
 - He/She should not be ill-treated during the arrest and subsequent period.
 - After lodging FIR, the person should be taken to court.
 - Arrested person must be presented before a magistrate within 24 hours of arrest.
 - Officer on duty cannot deny an FIR.
 - Police cannot inflict any form of punishment on the accused.

Role of a Public Prosecutor

- ▶ A lawyer who defends a state and its laws—appointed by the State. He/She:
 - Has to conduct trial without bias.
 - Must present all facts, evidences and witnesses before the court in order to help it give an unbiased judgement.
- ▶ Accused can defend himself/herself with the help of a lawyer—if he/she is poor, court can appoint a lawyer called a defence lawyer to defend him/her.

Fair Trial

- ▶ Citizen should be given a fair trial according to Constitution.
- ▶ Person accused of a crime is innocent till the crime is proved and he/she is found guilty—hence fair trial.
- ▶ Witnesses and public also present during trial.
- ▶ Witnesses cross-examined by lawyers.
- ▶ Judge hears both sides of the case—then, based on the authenticity of evidence given by the defence lawyer and the police, judge gives verdict—may award punishment according to nature of crime—even death penalty or life imprisonment—can appeal to higher court against punishment given by lower court—if not satisfied can appeal in the Supreme Court—final appeal to President.

Assessment Corner

Oral Assignment

- A. Ask for answers at random from the students. Confirm the right answers. Let them write down the correct answers if they like in their books.

Written Assignment

- B–D. The teacher has two options—(i) Either do these exercises orally first and then ask the students to write them down. OR (ii) Ask the students to write the answers on their own. Then the teacher can announce the correct answers to the students and they can ask their partners to cross-check them.

In either case, the answers can be written as homework and the teacher can check them in the class.

Think Tank

- E. **HOTS questions:** Discuss the questions in the class and let the students write the answers to E and F as homework. Teacher should assess individual work.