

# Indian Judiciary

- **Indian Judiciary**
- **Judicial Activism**
- **Constitutional amendments**
- **Important Amendments**
- **Cases**

Abbreviations

Art.- Article

S.C. – supreme Court

H.C. – High Court

- **Indian Judiciary**
- Single unified system
- Supreme Court (Top or Apex), High Courts and Subordinate Courts (District and Sub division courts)
- N.A.L.S.A. –National Legal Service Authority
- Article 39 A- Free legal aid to poor.

- Independence of Judiciary
- To ensure social justice
- To protect citizens fundamental rights (SC,HC may issue Writs Article 32,226 respectively)
- To protect unity and integrity of the nation
- Checks and balances (Arbitrary power) between three organs of the government
- Parliamentary sovereignty not to override constitution
- Guardian of the Constitution
- Judicial review means Court can dismiss any unconstitutional order or law.
- Article -50 – Separation of Judiciary from Executive.

- Types-
- Civil Courts Civil in nature-Pertaining to person, things and relationships – Non criminal in nature
- Criminal Courts Crime – offences against society, state or individuals.
- They have separate Laws (Civil and criminal laws)
- Other Courts- Lok adalats, Family courts, Consumer Courts, Mahila Adalats, Nyay Panchayats.

- Judicial Activism Coined by Arthur Schlesinger
- Intervention and interfere into Legislature and executive
- Judiciary acts as Guardian of the Constitution
- Judges decisions impacts society.
- Judges may take up cases on their own initiatives to study important issues.
- Judicial Review- Power of the Courts to examine and invalidate actions, decisions or laws made by the other organs (Executive and Legislature) of the government
- P.I.L. to protect public interests.
- To protect the fundamental rights of the citizens.

# Constitutional Amendment

- Society is changing, there are need for new laws.
- To Add, delete, alter the laws in the constitution.
- Parliament, lawmaking body, people's representatives- Law makers
- Parliament can amend the constitution.
- Article 368 – Amendment of the Constitution

- Three types:-
- By special majority of the Parliament.
- By special majority of the Parliament with ratification by half of the total states.
- By a simple majority of the members present and voting.



- Important Amendments:
- 42<sup>nd</sup> Mini constitution- 1976
- 7<sup>th</sup> – provision of having common HC two or more states, introduction of UTs
- 9<sup>th</sup> – 1960 cession of Indian territory of Berubari (West Bengal) to Pakistan.
- 25<sup>th</sup>- 1971 Fundamental right to property was curtailed
- 36<sup>th</sup> amendment 1975 Sikkim a full fledged state of India
- 61<sup>st</sup> -1989 Voting age 18 years
- 73<sup>rd</sup> – 1992 Panchayati RAJ
- 101<sup>ST</sup> 2016 GST
- 106<sup>TH</sup> Women's reservation bill , 1/3 rd seats reserved for women in Lok sabha and state legislatures

- Cases :-
- Keshavananda Bharati case 1973 – Basic Structure doctrine, Judiciary can invalidate amendment.
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- Berubari Case 1960- Preamble not part of the Constitution.
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- Golakhnath Case 1967
- Indira Gandhi vs Raj Narain Case -1975- Basic structure Doctrine
- Minerva Mills Case 1980 – Amend within basic structure

- Chapters 15-17, Introduction to the Constitution of India by D.D. Basu (27th Edition)
- Chapter 16, Indian Government and Politics (Vol II) by J.C. Johari