

## **Chapter 5 Judiciary**

### **Module 2**

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#### **What are the Different Branches of the Legal System?**

- The Indian legal system deals with civil and criminal cases:

#### **Criminal Law**

It deals with conduct or acts that the law defines as offences. For example, theft or murder.

It usually begins with the lodging of an FIR with the police who investigate the crime after which a case is filed in the court.

If found guilty, the accused can be sent to jail and also fined.

#### **Civil Law**

It deals with any harm or injury to rights of individuals. For example, disputes relating to sale of land, rent matters, divorce cases.

A petition has to be filed before the relevant court by the affected party only.

The court gives the specific relief asked for.

#### **Does Everyone Have Access to the Courts?**

- In principle, all citizens of India can access the courts in this country. This implies that every citizen has a right to justice through the courts.
- The courts play a significant role in protecting our Fundamental Rights.
- If any citizen believes that their rights are being violated, then they can approach the court for justice to be done.
- In reality access to courts has always been difficult for a vast majority of the poor in India.

→ Legal procedures involve a lot of money and paperwork as well as take up a lot of time.

→ For a poor person who cannot read and whose family depends on a daily wage, the idea of going to court to get justice often seems remote.

→ Often courts take exceedingly long number of years to hear a case.

→ There has been shortage of judges which affects the delivery of justice to litigants.

### **Public Interest Litigation (PIL)**

- The Supreme Court in the early 1980s devised a mechanism of Public Interest Litigation or PIL to increase access to justice.
- It allowed any individual or organisation to file a PIL in the High Court or the Supreme Court on behalf of those whose rights were being violated.
- Even a letter or telegram addressed to the Supreme Court or the High Court could be treated as a PIL.
- The mid-day meal that children now receive in government and government-aided schools is because of a PIL.

### **Importance of Judiciary**

- The judiciary has played a crucial role in democratic India,
- It serves as a check on the powers of the executive and the legislature.
- It helps in protecting the Fundamental Rights of citizens.
- The Judiciary is the final interpreter of the Constitution. For example, in one case Supreme Court stated that the Fundamental Right to Life guaranteed in Article 21 of the Constitution included the Right to Food.

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**Amrit Kaur**

**PGT, Economics**

**AECS, Indore**

