

The High Courts and Subordinate Courts

High Court

The Constitution of India has provided for a High Court for each state. However, there may be one High Court for two states or union territories. This depends on the area and the population of the state or a union territory. There are 21 High Courts in India. Delhi is the only union territory which has a High Court of its own.

Composition

- The High Court consists of a Chief Justice of India and other judges which are appointed by the President of the country.
- The President may also appoint additional judges for a temporary period not exceeding two years.
- He may also appoint an acting judge when a judge of the High Court is temporarily absent or is unable to perform his duties.

Qualifications

Qualifications required to become a judge of the High Court are

- He should be a citizen of India.
- He should not be over 62 years of age.
- He should have held a judicial office in India for at least ten years.
- He should have been an advocate of a High Court for at least ten years.

Appointment of the Judges

- The Chief Justice of India is appointed by the President of India in consultation with the Chief Justice of the Supreme Court and the Governor of the state concerned.
- Other judges of the High Court are appointed by the President in consultation of the Chief Justice of the High Court and Governor of the state.

Condition of Service

Service conditions of the judges of the High Court ensure the independent authority and the working of the Constitution.

Retirement, Removal and Transfer of Judges

- A judge of a High Court remains in office till the age of 62 years.
- A judge of a High Court after his retirement can practice only in the Supreme Court or in High Courts where he has not served as a judge.
- He can resign from his office by writing to the President.
- To ensure independence of the judiciary, a judge of the Supreme Court can be removed by the President by the process of impeachment on the basis of proven misbehaviour and incapacity.
- During the process of impeachment, an address to both Houses of the Parliament is made by the President which should be supported and passed by two-thirds majority of the House.
- Justice Soumitra Sen of the Kolkata High Court was the first judge in India who was tried for impeachment. The process of impeachment was passed against him in the Rajya Sabha. Before it could be again passed by the Lok Sabha, he resigned from his post.
- The President can transfer any of the judges of the High Court if any of the following condition is fulfilled:
 - Judges of High Court can be transferred after consulting the Chief Justice of India.

- The Chief Justice of India may recommend the transfer of judges after consulting four senior most judges of the Supreme Court.
- After being transferred, a judge is entitled to compensatory allowances in addition to his salary.

Salaries and Emoluments of Judges

- The Chief Justice of a High Court and other judges are paid a monthly salary which is decided by the Parliament.
- The salaries and allowances of the judges cannot be changed or reduced to their disadvantage during their tenure except during financial emergency.
- The judges draw their salaries from the Consolidated Fund of India which cannot be voted upon in the Parliament.

Powers and Jurisdiction of the High Court

Original Jurisdiction

Original jurisdiction refers to the power of hearing and deciding the cases at the first instance. The High Court has the original jurisdiction in the following cases:

- Cases which involve matters relating to state revenues and collection.
- Cases dealing with will, divorce, marriage, company laws and contempt of court.
- The High Court can interpret the Constitution. This is known as the power of judicial review.
- Like the Supreme Court, it can hear cases in which the fundamental rights have been violated.
- Under original jurisdiction, the High Court can hear cases which deal with election petitions challenging the election of the members to the Parliament or the state Legislative Assembly.

Appellate Jurisdiction

The High Court can hear appeals against the decisions of the District Courts in civil and criminal matters.

- Only those civil cases which are decided by the District Courts under the jurisdiction of the District Court can be brought before the High Court by an appeal.
- In civil cases, only those which are concerned with land revenues and where injustice has been made by the tribunal court can be brought before the High Court.
- Criminal cases where appellate jurisdiction are involved are
 - Appeals could be made to the High Court against the judgement of a Session Judge when the sentence of imprisonment exceeds seven years.
 - Appeals can be made against the judgement of an Assistant Session judge and other Judicial Magistrates, where the sentence of imprisonment exceeds four years.
 - Appeals can be made against the state when an order of acquittal is passed by a Sessions Judge.
 - High Court needs to confirm the sentence of death passed by the lower courts.

Advisory Jurisdiction

The state government can seek legal advice from the High Court on constitutional and other matters of law. However, their advice is not binding on the government.

Revisory Jurisdiction

- The High Court can ask for the record of a case which has been decided by any subordinate court. This happens when the High Court feels that the subordinate court has decided cases which do not come under its jurisdiction.
- Thus, the High Court can review the decisions passed by the lower courts. It is called revisory jurisdiction.

- This jurisdiction is applicable to those cases where injustice has been done to the accused, principles of natural justice have been violated and a gross error has been made while delivering justice.

Judicial Review

The High Court can declare any laws passed by the legislature as null and void if it violates any provision of the Constitution.

Court of Record

The High Court is the court of record as the decisions given by it are preserved as records for the future reference of the lower courts. The High Court can also punish a person for contempt of court.

Other Functions

- The High Court supervises the functions of lower courts and tribunals which come under its authority.
- The District Judges are appointed and promoted by the Governors in consultation with the judges of the High Court.
- The judges of the High Court and the State Public Service Commission are consulted by the Governor while appointing any person to the judicial service of the state.

Independence of the High Courts

Independence of the High Courts is ensured by taking the following steps:

- The salaries and allowances of the judges cannot be reduced to their disadvantage during their term of office.
- No discussions can be made in the state legislature regarding the conduct of the judges.
- The High Court can punish a person for contempt of court.

Subordinate Courts

There are various subordinate courts in the country. The organisation and the structure of subordinate courts are uniform throughout the country. Each state is divided into a number of districts, and each district has a district court which is presided over by the district judge. There are civil courts, criminal courts and courts of revenues in every district.

Court of the District Judge

- The District Court is the highest court of the district, and it decides both civil and criminal cases.
- A judge who decides civil cases is known as a district judge, and a judge who decides criminal cases is known as a sessions judge.
- Appeals against the decisions made by the district judges can be made in the High Court if the amount involved in the case is more than 5000 rupees.
- A person desiring to become a district judge should have been an advocate for at least seven years in Union Judicial Service or the State Public Service Commission.
- Sometimes, a district judge may also act as Deputy Commissioner and District Collector. In that capacity, he maintains law and order and supervises the collection of revenues.

Court of the Civil Judge

The Court of the Civil Judge hears cases which involve money from Rs 2000 to Rs 5000. Appeal against the decisions of this court can be made before a district judge.

Munsif Court

A Munsif Court deals with civil cases which involve less than Rs 2000. Appeals against his decision can be made in the Court of the Civil Judge.

Small Courts

Small courts are headed by junior magistrates and deal with cases where the money involved is too less (it varies from state to state). There can be no appeal against their decisions. Cases valuing up to Rs 1,000 can be heard by small courts in Delhi and cases involving up to Rs 10,000 can be decided by small courts in Mumbai.

Term of Office

- The District Judge and the Additional District Judges are appointed by the Governor in consultation with the judges of the High Court.
- All the other judges are appointed through competitive examinations held by the State Public Service Commission.

Functions

- The district judges exercise administrative control over all civil courts in the district.
- Cases pertaining to revenues are heard by the revenue courts.
- Appeals can be made to the higher courts. So, appeals against the decisions of the Munsif Courts can be made in the District Court.
- Appeals against the decisions of the District Courts can be made in the High Court.

Criminal Courts

Criminal courts deal with cases related to murder, robbery, theft, assault etc.

The criminal courts can be classified into the following categories:

Sessions Court: It is the highest criminal court and is presided by the District Judge. The court deals with serious offences.

Court of Chief Judicial Magistrate: It deals with less serious offences and cannot award the life or death sentence.

Court of First Class Magistrate: It deals with less serious cases and can award up to three years of sentence or fine up to Rs 5000.

Court of Second Class Magistrate: These courts can sentence a person to imprisonment for up to two years or can levy fines up to Rs 1000.

Court of Third Class Magistrate: These courts deal with quarrels or rioting. These courts can sentence a person to imprisonment for up to one month or can levy fines up to Rs 50.

India has a single integrated judicial system which means that appeals from the lower courts can be made to the higher courts.

Courts of Revenues

The Courts of Revenues deal with cases related to the maintenance of land records and collection of land revenues. These courts are

Board of Revenues: It is the highest court in cases related to revenues in the state. It can hear appeals against the decisions taken by revenue courts placed under it.

Commissioner's Court: A Commissioner looks after the assessment and collection of revenues of all districts.

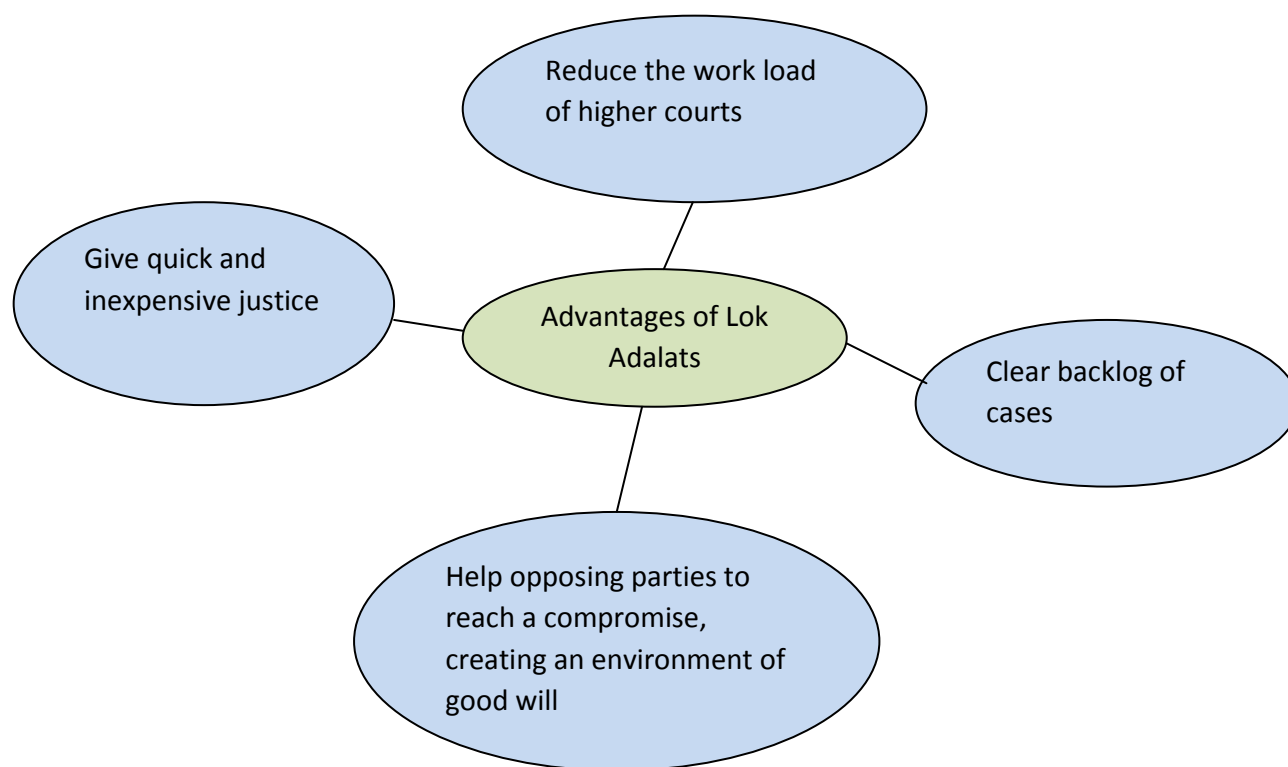
Collector's Court: This court is headed by the Deputy Commissioner of a state. He helps the revenue department in the assessment and collection of land revenues.

Tehsildar's Court: A tehsildar is responsible for the collection of revenues.

Naib Tehsildar's Court: It is the lowest court and hears cases related to the assessment of land revenues and collection of property taxes from farmers.

Lok Adalat

- Lok Adalat means 'court of the people'. It gives legal help and quick justice to people who cannot engage lawyers or bear the cost of legal proceedings.
- The judges of the Lok Adalat are actually counsellors. Lok Adalats are helped by the Legal Aid Committees and help people to solve cases through mutual understanding. They help the opposing parties to reach a compromise and agree with each other.
- The first Lok Adalat was held in Delhi on 6 October 1985.
- The Legal Services Authorities Act passed in 1987 directs the state governments to organise Lok Adalats from time to time.



The system of Lok Adalat has become so popular that many government departments like the Telephone Department and the Electricity Board have begun to hold Lok Adalats for solving cases. It is important to organise Lok Adalats as they tend to promote social justice and to solve pending cases.

Family courts have also been set up in cities which have a population of more than 10 lakhs. It has been recommended by the Parliamentary Committee to set up one family court in every city.