



BRITISH JUDICIARY

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Introduction:

- Without an efficient and impartial judiciary no democratic government can successfully.
- Judiciary is the never failing custodian of the liberties of the people of England.
- The judicial system of Britain arose originally from the permanent council of which the king was the final judge.
- “We will deny justice to none, nor delay it”
Magna Carta Charter, 1215.
- The present day system of court in UK flow from the Judicature Act of 1873 and was amended by the Act of 1925.

Features of the British Judiciary:

- Following are the salient features of the British Judiciary –
 1. No single and Uniform system of judiciary for the whole country.
 2. No separate administrative courts
 3. Well organized courts
 4. No system of judicial review
 5. Judiciary is the custodian of the liberties of the citizens
 6. Impartiality of the judges
 7. Independence of the judiciary
 8. Jury system
 9. Judicial procedure in criminal courts is accusatorial , if not inquisitorial
 10. Speedy administration of justice, etc.

I. No single and Uniform system of judiciary for the whole country:

- There is no single and uniform system of judiciary for the whole of UK.
- The organization and powers of the judiciary in England and Wales differs from that of Scotland and Northern Ireland.

2. No separate administrative courts:

- As we find in France and Germany there is no provision for separate administrative courts.
- All persons are subject to the ordinary courts.
- No separate courts for government servants but they are also tried in the same ordinary courts.
- Same courts & same laws are applicable to the ruled as well as ruling class.

3. Well Organized Courts:

- Though there is the lack of uniform system of judiciary for the whole country yet, the English courts are very well organized and being considered as one among the best organized courts in the world.
- All the courts are brought together in a single centralized system under the direction of the Lord Chancellor.

4. No System of Judicial Review:

- Since the Parliament is supreme the courts cannot declare a law unconstitutional.
- The courts in England cannot declare a law of the Parliament as invalid even if it is against the provision of the constitution.
- In England the constitution is not supreme.
- Thus, the judicial review power is not given to the courts in UK.

5. Courts are the custodians of the liberties of the Citizens:

- The Judiciary is the custodian of the rights of the citizens.
- English men have no constitutional rights in the sense we have them in India.
- There is liberty in Britain because of the Rule of law there.
- Rule of law simply means laws are supreme in England and not the arbitrary will of the individual.
- The judges are the jealous guardians of the rights of the people.

6. Impartiality of the Judges:

- It is another important feature of the British judicial system.
- They are very famous for their honesty and impartiality.
- They administer justice with all promptness.

7. Independence of the Judiciary:

- In order to maintain their impartiality, the independence of the judges is most essential.
- They are free from the control and influence of the executive.
- They enjoys fixed term of office/ tenure, they cannot be removed from their post except by impeachment..

8. Jury System:

- It is the special feature of the British judicial system.
- Able and well educated persons of the public sit along with judges and perform the function of administering justice so that there may not be any error or mistake.
- They mostly help in sifting the evidence on the basis of which verdicts are pronounced.
- Jury is a judicial committee to assist the judges mostly in criminal cases., which is also a regular agency for enquiry & adjudication.

9. Judicial procedure in criminal courts is accusatorial , if not **inquisitorial**

- It means that –

1. The complainant must prove his case.
2. Before trial and at trial an accused person is stringently protected against any kind of inquisitorial procedures.
3. It is not for the judge to probe in to the matter. He acts with complete impartiality as an umpire between the contestants and decides the case on the basis of evidence presented to him
4. The trial must take place in an open court. No evidences of bad character on previous offences is taken into account.

10. Speedy Administration of Justice:

- It is said that justice delayed is justice denied.
- Speedy justice is possible due to 2 reasons –
- Firstly judges in Britain possess greater discretion in dealing with legal technicalities
- Secondly the judicial rules of procedure are made by a special rules committee consisting of Lord Chancellor and ten others who are eminently familiar with the laws.
- Speedy administration of justice is not possible if the rules of procedure in the courts are framed by legislators as in the case of USA.

Organization of the British Judiciary:

- British judiciary was not well organized before 1873.
- With the help of passing a number of laws by the Parliament attempts have been made to reorganize the judicial system.
- There are three sets of courts in UK –
 1. Courts in England and Wales,
 2. Courts in Scotland &
 3. Courts in Ireland.

Organization of the British Judiciary.....

- The Act of 1925 provides for 2 kinds of courts –
 - a. Criminal courts, &
 - b. Civil courts
- The House of Lords is the highest court of appeal in the country.

House of Lords

| Court of criminal Appeal | Court of Civil Appeal |
|------------------------------|---|
| Court of Assizes | High Court of Justice |
| The Court of Quarter Session | a .Queen's Bench Division |
| Justice of the Peace | b. Chancery Division |
| | c. Probate , Divorce & Admiralty Division |
| | County Courts |
| | |

Organization of the Civil Courts:

I. The County Courts:

- It is the lowest courts in England and Wales.
- There are about 500 such courts.
- They decide cases in which the amount involved is not more than 400 to 500 Pounds.
- It decide cases relating to Trusts, Partnerships or mortgages and the like.
- The judges of these courts are appointed by the Lord Chancellor.
- These judges are paid out of the national treasury and they hold their office during good behaviour.

2. Supreme Court of Judicature:

- This court is divided in to 2 branches –
 - a. High Court of Justice,
 - b. Court of Appeal.
- The High Court of Justice is again divided into 3 divisions –
 1. Queen's Bench Division,
 2. Chancery Division, &
 3. Probate , Divorce and Admiralty Division

a. The Queen's Bench Division:

- It is presided over by the Lord Chief Justice of England & 17 other judges.
- It deals with cases pertaining to common law, cases like election petition, application for the Writ of Habeas Corpus, debts & damages of unlimited amount, etc.

b. Chancery Division:

- It is presided over by Lord High Chancellor & 8 other judges.
- It deal with cases relating to company law, income tax, bankruptcies, execution of trusts of deceased persons, etc.
- It deals with such cases where the law is inadequate.

c. Probate, Divorce & Admiralty

Division:

- It is presided over by a president & ten other judges.
- It deals with cases pertaining to wills, marriage divorce & naval matters.

3. Court of Appeal:

- This court receives appeals from the County courts and other 3 divisions of the High court.
- This court is composed of Master of Rolls and 17 other judges.
- In this court there are no witnesses and no jury.
- This court is only a part of the Supreme Court.
- This court sits in London. It acts as an appellate court.

Organization of Criminal Courts:

I. Justices of the Peace:

- It is the grassroots level criminal courts in England.
- A person charged with small crimes is brought before the justice of the peace in a small town.
- If it is a large town, then there is a Stipendiary Magistrate's Court.
- These Stipendiary Magistrates receives regular salaries and are appointed by the Home Secretary in the name of the Crown.
- A Barrister with 7 years standing can be appointed as a Stipendiary Magistrate.

Justices of the Peace

- But the justices of the peace appointed by the Lord Chancellor are honorary having no legal training.
- Minor cases are tried and punishable in the Magistrate court.
- But cases of serious nature are tried in the court of Summary Jurisdiction consisting of 2 justices of peace or Stipendiary Magistrates.
- The court can impose a fine up to 100 to 500 pounds or imprisonment up to 6 months or one year, depending upon the nature of the cases.
- A trial by jury is permitted only if the offence is punishable by an imprisonment of 3 or more months.

2. The Court of Quarter

Session:

- Appeals from the lower or summary courts are made to this court.
- It is constituted of all justices of the peace in the County meeting 4 times a year, due to which it is called the court of Quarter sessions.
- All indictable and grave offences and crimes are tried by the court
- But the serious cases like murder, treason, etc. do not originate in it.
- Still the court has original jurisdiction in serious criminal cases.

3. Court of Assizes:

- These are the branches of the High court of Justice and above the Justices of Peace in the hierarchy of the criminal courts.
- They function in the county towns and in certain cities 3 times a year.
- This court is presided over by one or two judges of the High court of Justice.
- These are called 'central criminal courts' .
- It decides grave offences like kidnapping, murder, armed robbery, etc.
- This court is assisted by a jury of 12 county men.
- The judges of the court of Assizes work on circuits covering England and Wales.

4. The Court of Criminal Appeal:

- It is set up by an Act of 1907.
- It receives appeals from the court of Quarter Sessions & Assizes.
- It also hears appeals from the verdict of a jury in a criminal trial.
- The court is presided over by the Lord Chief Justice and composed of 3 judges from the Queen's Bench.
- The court sits in London without a jury.

5. The House of Lords:

- It is the highest court of appeal for both civil and criminal cases.
- All the members of the House do not participate in its judicial business.
- The appeals which come to the House of Lords are heard by Lord Chancellor and 21 Lords of Appeal.
- Usually 3 Lords constitutes a Bench but in some cases 5 lords may sit as a Bench.
- These Law Lords need not be hereditary peers – but Life Peers who exercises judicial functions of the House.

House of Lords

- Lord Chancellor is the presiding officer of it.
- The Lords gives judgment at any time as it is not connected to the session of the Parliament.
- It is the common court for the whole nation and acts as the highest court of appeal against the decisions of the highest court of Scotland and Northern Ireland.

The Judicial Committee of the Privy Council:

- This is an administrative body to advise the Crown regarding the appeals from the Colonies & Commonwealth.
- It consists of the Lord Chancellor, Law Lords, one or two judges from the overseas.

Conclusion:

- In England judiciary is the never failing custodian of the liberties of the people of England.
- Honesty, impartiality and efficiency are the hallmarks of the British judiciary.
- Speedy administration of justice is one of the noteworthy feature of the British judicial system.