

Lower Judiciary – Traps (Trap / Reality

The Legend IAS



Constitutional Position

✗ Subordinate courts are creatures of executive order.

✓ They are constitutional institutions under Articles 233–237, forming the backbone of justice delivery.

✗ The term "subordinate judiciary" means subordination to the executive.

✓ Subordinate to High Courts, not the executive (Art. 235).

✗ District Courts are mentioned in Part IXA.

✓ They're covered under Part VI – The States, Chapter VI (Subordinate Courts).

✗ Lower judiciary was created only post-Independence.

✓ It existed during British rule (Moffusil/District courts) and was constitutionalised in 1950.

✗ Subordinate courts are under the control of the Union Government.

✓ Control lies with the High Court of the respective state.

✗ Article 50 deals with Panchayati Raj.

✓ Art. 50 (DPSP) mandates separation of judiciary from executive at district level.

✗ The Constitution specifies structure and number of subordinate courts.

✓ It only provides a framework; states determine structure through legislation.

✗ Lower judiciary exists only in cities.

✓ It operates at district and taluka levels — every district has a hierarchy of civil/criminal courts.

✗ Subordinate courts are uniform across India.

✓ They differ from state to state, based on local acts and judicial administration.

✗ Parliament controls lower judiciary appointments.

✓ State governments + High Courts manage appointment and control as per Constitution.

There is one unified lower judiciary for all states. ✗ Each state maintains its own subordinate judicial service, supervised by its HC. ✓ All judicial appointments are made by the Governor directly. ✗ Done by Governor in consultation with the High Court (Art. 233). ✓

Composition & Structure

All subordinate courts are called "District Courts". ✗ "District Court" is the principal civil court; others are subordinate courts (civil & criminal). ✗

District Judge = Sessions Judge = Chief Judicial Magistrate. ✗ District Judge heads civil side; Sessions Judge handles criminal jurisdiction; CJM is subordinate magistrate under him. ✗

Every district has only one subordinate court. ✗ There are multiple: Civil Judge (Sr. Div.), Civil Judge (Jr. Div.), JMFC, CJM, Additional Sessions Courts, etc. ✗

Family courts are outside the judicial system. ✗ They are part of subordinate judiciary, created under the Family Courts Act, 1984. ✗

Labour courts and tribunals are part of subordinate judiciary. ✗ They are quasi-judicial bodies, not part of regular judiciary. ✗

Nyaya Panchayats are part of the formal judiciary. ✗ They are quasi-judicial, village-level dispute resolution mechanisms, not part of the regular judiciary. ✗

Subordinate judiciary is unitary across India. ✗ It's federal in administration—each state has its own judicial cadre. ✗

Judicial Magistrates and Executive Magistrates are the same. ✗ Separate cadres: Judicial Magistrates are under HC; Executive Magistrates under state government. ✗

There is no hierarchy among magistrates. ✗ Hierarchy exists: CJM > JM First Class > JM Second Class. ✗

Civil courts can hear criminal cases. ✗ Jurisdiction is separate under CPC and CrPC. ✗

Family, Juvenile and Small Causes Courts are under Union control. ✗ They are under State Judiciary and supervised by the High Court. ✗

Lok Adalats are regular courts. ✗ They are alternative dispute resolution (ADR) bodies under Legal Services Authorities Act, 1987. ✗

District judges hear appeals from tribunals. ✗ They hear appeals from civil/criminal subordinate courts; tribunal appeals often go to HCs. ✗

Metropolitan areas have no special courts. ✗ Metropolitan Magistrates and Metropolitan Sessions Courts operate in big cities. ✗

The High Court Chief Justice supervises each district court personally. ✗ Supervision is delegated through administrative control and inspection systems. ✗

Court hierarchy is rigid. ✗ It can be modified by law, and special courts can be created for efficiency. ✗

Appointment, Qualification & Training

Common Misconceptions

District Judges are recruited by UPSC. ✗ Recruited by State Public Service Commissions / Judicial Service Commissions (Art. 233). ✓

District Judge appointments are controlled by the Supreme Court. ✗ Governor appoints in consultation with High Court (Art. 233). ✓

Civil judges and magistrates are appointed by the President. ✗ Governor appoints them under HC supervision (Art. 234). ✓

High Courts can appoint judges directly without state input. ✗ HC recommends; Governor appoints — consultative mechanism. ✓

No qualifications are specified for District Judges. ✗ Must have been an advocate for 7 years and recommended by the HC. ✓

Executive can transfer judges between districts unilaterally. ✗ High Court controls postings and transfers (Art. 235). ✓

Promotions in lower judiciary are decided by PSCs. ✗ Promotions are under HC control. ✓

Judicial training is optional. ✗ Every state has Judicial Academies for pre-service and in-service training. ✓

Reality Check

Subordinate judges are on central government payroll. ✗ They are state employees (salaries drawn from state funds). ✓

No probation period exists for new judges. ✗ Judges usually undergo probation and evaluation before confirmation. ✓

Governor can overrule High Court recommendations for judges. ✗ Governor acts on binding consultation with HC; refusal is rare. ✓

Judicial recruitment pattern is uniform nationwide. ✗ Each state PSC follows its own pattern/syllabus for Civil Judge (Junior Division) exams. ✓

District Judge exams are conducted by UPSC. ✗ Conducted by State High Courts or State Judicial Services authorities. ✓

Transfer between states is routine. ✗ Transfers are exceptional and require HC concurrence. ✓

There is no provision for ad hoc or additional judges in lower courts. ✗ Additional judges can be appointed for workload management. ✓

Civil judges can become HC judges automatically by seniority. ✗ Promotion to HC requires appointment under Article 217, not automatic. ✓

Powers & Jurisdiction

- District Judge has only civil jurisdiction. ❌ Dual jurisdiction: Civil (District Court) and Criminal (Sessions Court). ✓
- Magistrates can impose any punishment. ❌ Limited by CrPC Section 29 (e.g., JMFC = 3 years max). ✓
- District Judge cannot pass death sentences. ❌ Sessions Judge can award death sentence, subject to HC confirmation. ✓
- Subordinate courts cannot issue injunctions. ❌ Civil courts can issue injunctions, stay orders, and interim reliefs under CPC. ✓
- Magistrates cannot issue search or arrest warrants. ❌ Judicial Magistrates can issue both under CrPC. ✓
- Subordinate courts cannot enforce decrees. ❌ They execute decrees and orders through execution proceedings. ✓
- District Courts cannot hear appeals. ❌ They hear first appeals from subordinate courts. ✓
- Subordinate courts cannot try government officers. ❌ They can, unless excluded by law or immunity provisions. ✓
- Civil jurisdiction of lower courts is fixed by Constitution. ❌ Fixed by State legislation (Civil Courts Acts). ✓
- Sessions Judge decisions are final. ❌ Subject to appeal/revision by High Court. ✓
- Subordinate courts cannot try motor accident or consumer cases. ❌ Those go to special tribunals, but judges may be deputed. ✓
- Sessions Judge cannot revise cases from magistrates. ❌ Sessions Courts have revisional powers under CrPC. ✓
- Subordinate courts cannot hear constitutional matters. ❌ They apply but cannot interpret Constitution independently. ✓
- District Courts cannot act as appellate authorities. ❌ They often act as appellate courts for civil judges. ✓
- Civil judges cannot award compensation. ❌ They can award damages and compensation per jurisdiction. ✓
- Magistrates cannot take cognizance without police report. ❌ They can take cognizance on complaint, police report, or suo motu (CrPC). ✓
- Sessions Judge must try every criminal case personally. ❌ Can transfer or assign cases to Additional Sessions Judges. ✓
- Subordinate courts cannot grant bail. ❌ Magistrates can grant bail in bailable offences and limited powers in non-bailable. ✓

Control & Discipline

Administrative Control

State govt controls lower judiciary promotions. ✗ **High**

Court controls promotion, leave, posting, discipline (Art. 235). ✓

Executive can suspend judicial officers. ✗ HC must recommend or approve suspension. ✓

HC cannot punish subordinate judges. ✗ HC can discipline, censure or recommend removal. ✓

Service Structure

Subordinate courts are part of IAS structure. ✗

Separate judicial service distinct from administrative services. ✓

District judges are under District Collector. ✗ Collector = executive; District Judge = judicial head — mutually independent. ✓

Subordinate judges are transferable at executive discretion. ✗ Transfers only with HC control. ✓

Supervision & Accountability

HC has no power to inspect subordinate courts. ✗ HC conducts periodic inspections of subordinate judiciary.



Judiciary and executive officers share the same cadre. ✗ Separate since Article 50 implemented in most states. ✓

Judicial service includes executive magistrates. ✗ Judicial service = only judges under HC control. ✓

Disciplinary Actions

Governor can directly order dismissal of a subordinate judge. ✗ Only after HC recommendation. ✓

Complaints against subordinate judges are handled by the government. ✗ HC administrative wing handles disciplinary cases. ✓

District Judge is not accountable to High Court. ✗ Accountable both judicially & administratively. ✓

Promotions depend only on political will. ✗ Governed by service rules, seniority-cum-merit, and HC assessment. ✓

Judicial conduct cannot be reviewed by anyone. ✗ HC supervises conduct, efficiency, and integrity. ✓

Independence & Reforms

Subordinate judiciary is entirely dependent on executive. ✗ Separation achieved post Art. 50 and SC directives (All India Judges' Assn. cases). ✓

No Supreme Court judgment protected lower judiciary independence. ✗ All India Judges' Association (1992, 1993, 2002) safeguarded pay, service & independence. ✓

Pay Commission does not apply to judges. ✗ Judicial Pay Commissions (Shetty, Padmanabhan, etc.) recommend their pay. ✓

Lower judiciary has no protection against arbitrary transfers. ✗ Transfers must be recommended by HC, not executive. ✓

Judicial officers can be disciplined for decisions. ✗ Only for misconduct or corruption, not for judicial decisions per se. ✓

District judges can engage in politics. ✗ Forbidden; they are bound by judicial conduct code. ✓

Judicial performance is unmonitored. ✗ Evaluated through Annual Confidential Reports by HCs. ✓

Subordinate courts are self-funded. ✗ Funded through state consolidated fund & budget allocations. ✓

Judicial vacancies are negligible. ✗ Vacancy rates exceed 30–35% in many states. ✓

Judicial infrastructure is central subject. ✗ States primarily fund infrastructure; Centre provides schemes (e.g., eCourts). ✓

Court digitalization is uniform across India. ✗ eCourts Mission Mode Project still ongoing; uneven implementation. ✓

Judicial accountability bills apply to lower judiciary. ✗ They mainly target higher judiciary; subordinate judiciary governed by service rules. ✓

Judicial corruption complaints cannot be investigated. ✗ HC and vigilance wings investigate misconduct internally. ✓

Judicial training is cosmetic. ✗ Judicial Academies institutionalized mandatory training. ✓

Role, Challenges & Cases

85%

Case Load

Subordinate courts handle minor caseloads. **✗ Handle over 85% of India's total cases.** **✓**

3.5M+

Pending Cases

Pendency in subordinate courts is negligible. **✗ Over 3.5 crore+ pending cases (as per NJDG).** **✓**

Subordinate judiciary has no role in access to justice. **✗ It is first line of access for citizens.** **✓**

Judiciary below district is informal. **✗ Structured & codified under CPC/CrPC and state civil courts acts.** **✓**

Lok Adalat decisions are advisory. **✗ They are binding and final (Legal Services Authorities Act, 1987).** **✓**

Gram Nyayalayas are mere panchayats. **✗ They are statutory courts (Gram Nyayalayas Act, 2008) with limited jurisdiction.** **✓**

No role in constitutional implementation. **✗ They apply constitutional principles while interpreting laws.** **✓**

Subordinate courts cannot enforce human rights. **✗ They enforce human rights indirectly through fundamental and statutory law.** **✓**

Lower judiciary's role is declining with tribunals. **✗ Remains foundation of Indian judicial system.** **✓**

Lower judiciary is obsolete in digital India. **✗ It's modernising via e-courts, video trials & paperless systems—future of justice delivery.** **✓**

Key Constitutional Articles

Article 233	Appointment of district judges - Governor appoints in consultation with High Court
Article 234	Recruitment of persons other than district judges to the judicial service of a State
Article 235	Control over subordinate courts - High Court has administrative control
Article 236	Interpretation - defines "district judge" and "judicial service"
Article 237	Application of provisions to certain class or classes of magistrates
Article 50	Separation of judiciary from executive in public services (DPSP)

- These articles form the constitutional foundation of India's subordinate judiciary, establishing the framework for appointment, control, and administration of lower courts.

Important Landmark Cases

All India Judges' Association Cases

- **1992:** Established judicial independence principles
- **1993:** Strengthened administrative control of High Courts
- **2002:** Further safeguarded service conditions

Key Outcomes

- Separation of judiciary from executive
- Protection of judicial service conditions
- Enhanced High Court control over subordinate judiciary

Pay Commission Reports

- **Shetty Commission:** First judicial pay commission
- **Padmanabhan Commission:** Comprehensive pay structure
- **Recent reforms:** Ongoing modernization efforts

Legislative Framework

- Family Courts Act, 1984
- Legal Services Authorities Act, 1987
- Gram Nyayalayas Act, 2008