

1/2/24

Indian Regulatory Framework

↓
Law-framework (structure)

1. First Ancient Law

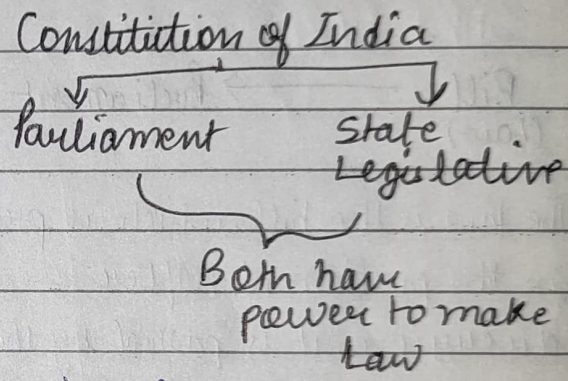
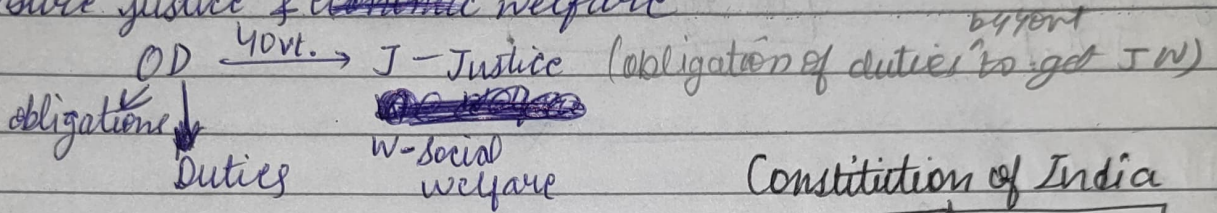
- Code of Hammurabi = King of Babylon
- 1792 To 1758 = Rules to be followed by public

2. Comprehensive Law

- 12 Bronze Tablets, 450 BC - Rome

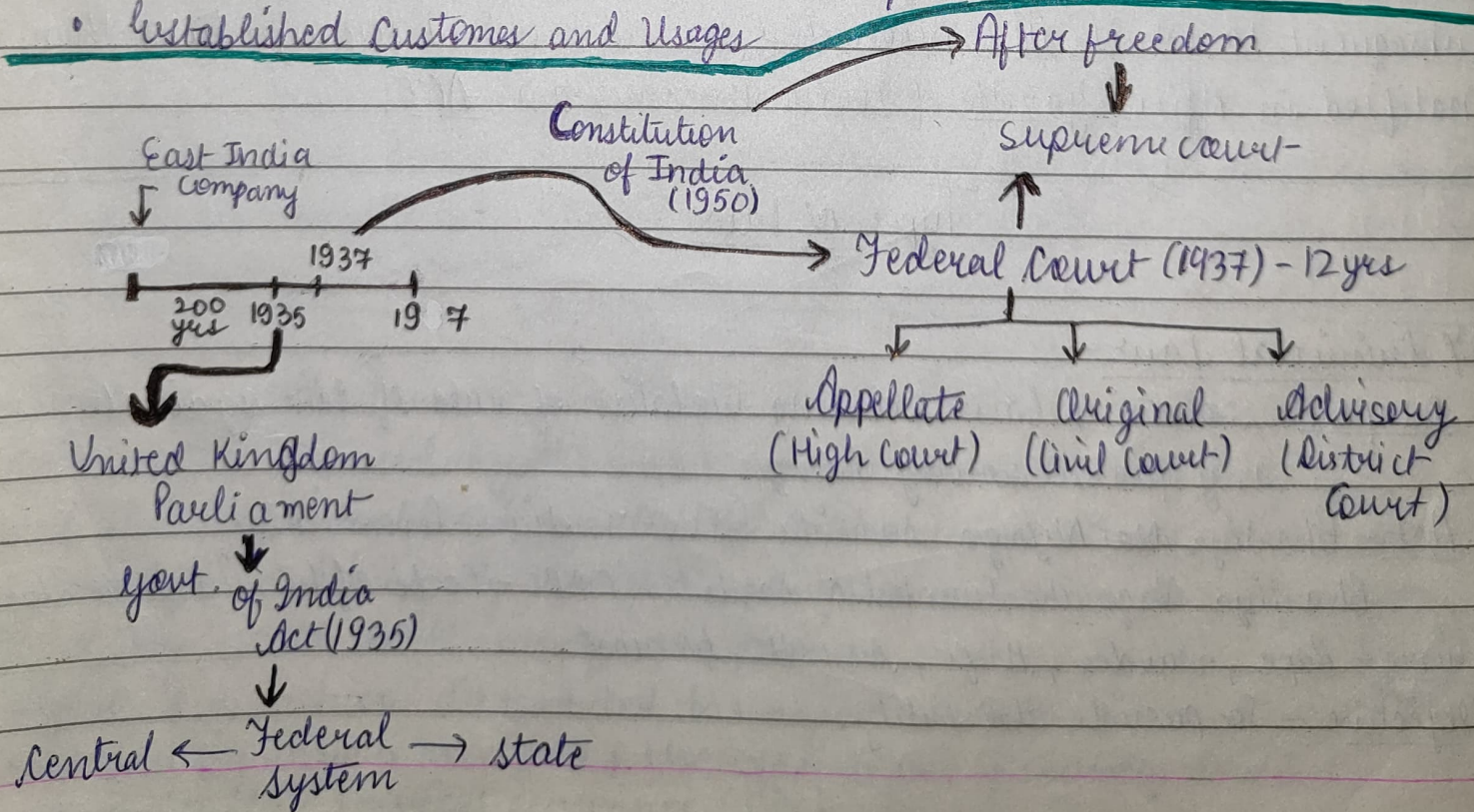
3 What is Law?

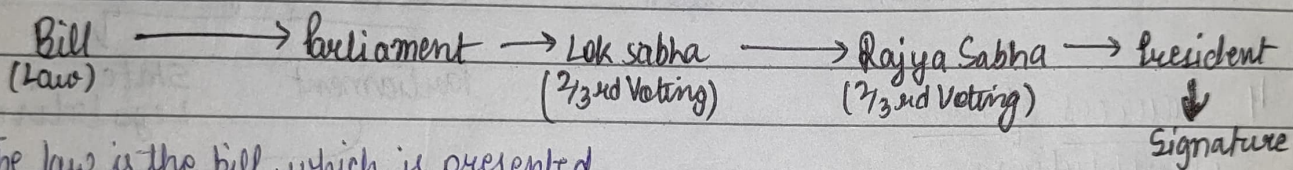
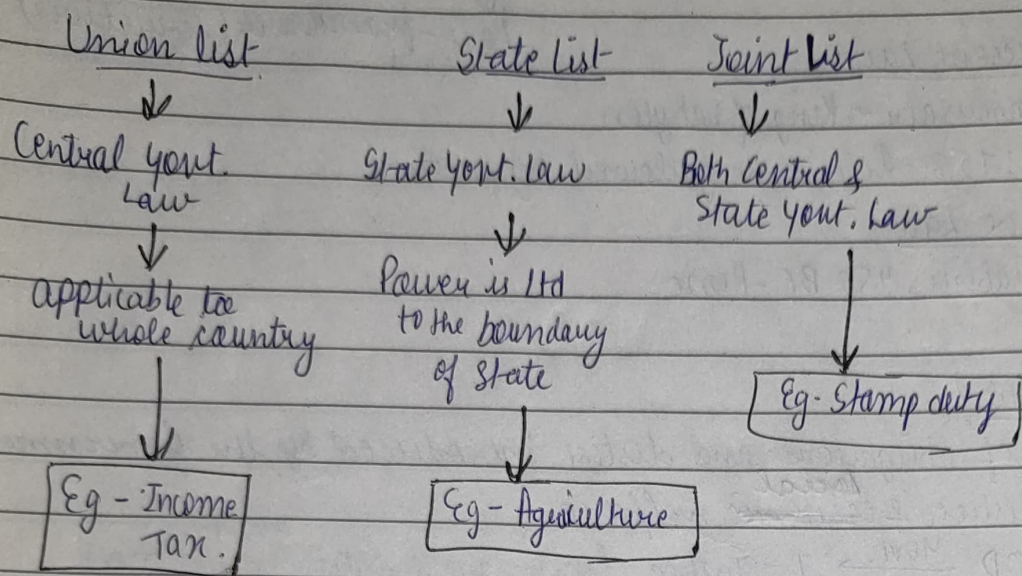
- It is a set of obligations and duties introduced by the government to ensure justice & ^{social} economic welfare



4. Sources of Law

- Constitution
- Statues or law made by parliament
- State Assemblies
- Precedents or the Judicial decisions of various Courts
- Established Customes and Usages





The law is the bill which is presented in the parliament after discussion it is passed by the lok sabha and then by Rajya sabha subsequent to which it is presented to the president for signature then notified in official gazette of India becomes an ACT.

Types of Laws (CCRP)

1) Criminal Law -

Purpose - contains law relating violation of rule of law against any public wrong doing.

Act - ~~Bhartiya~~ Nyaya Sanhita (IPC - Indian Penal Code)

Bhartiya Nagarik Suraksha Sanhita (CRPC - Code of Criminal Procedure)

Crime - Rape, murder, theft, Assault, Fraud

Objective - To punish the entity.

29 Civil Law -

Purpose - matters of dispute between individual or organisations

Act - Code of Civil procedure, 1908

Crime - Breach of contract, non-delivery of goods, family law, divorce, marriage, Business law, etc

Objective - To grant dispute resolution rather than punishment.

30 Common Law -

Purpose - Use of Judicial precedents (Case Laws). e.g. - Judgement of supreme court is applicable on all courts within Indian

Jurisdiction - Article 141 of the Indian Constitution

Latin Phrase - Stare Decisis (Stand by what is decided)

✓ The same Judgement shall be given where matters or facts of the case are similar i.e. "on all four ~~legs~~"
legs

44 Principle of Natural Justice -

These are fundamental principles which goes beyond law.

1. Nemo Judex in causa sua (No one should be the Judge in his own case)
2. Audi Alteram Partem (everyone has a right of being heard)
3. Reasoned Decision

Judgement can override a common law (Case law) BUT it cannot change or override the Act.

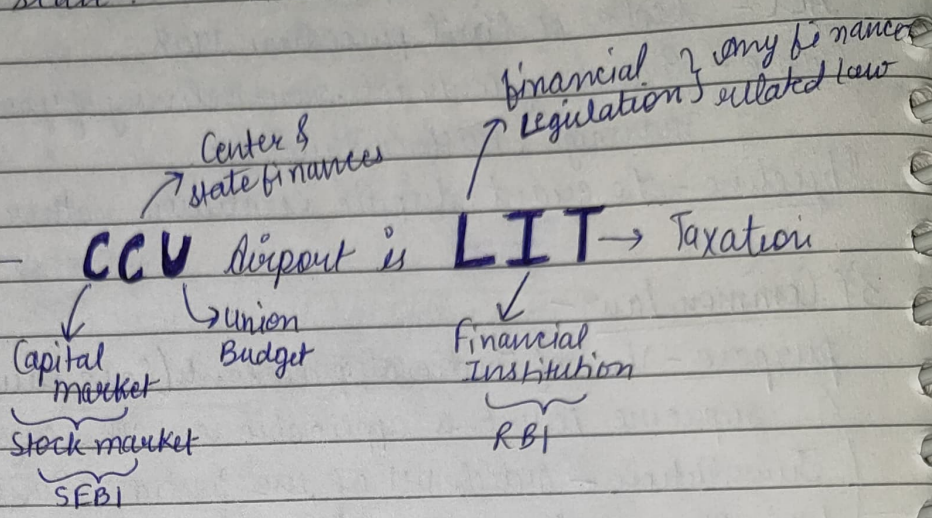
Enforcing the law -

- Once law is passed by the parliament it becomes an act.
- if it is a central law the central govt's executive dept. shall manage it similarly, for the state govt the executive dept. of the state shall manage the same.
- govt.'s functions distributed to various ministers.
- Headed by various ministers & the officers are generally indian administrative services personnel (IAS).

The ministries are headed by cabinet minister of union govt. and supported by minister of state.

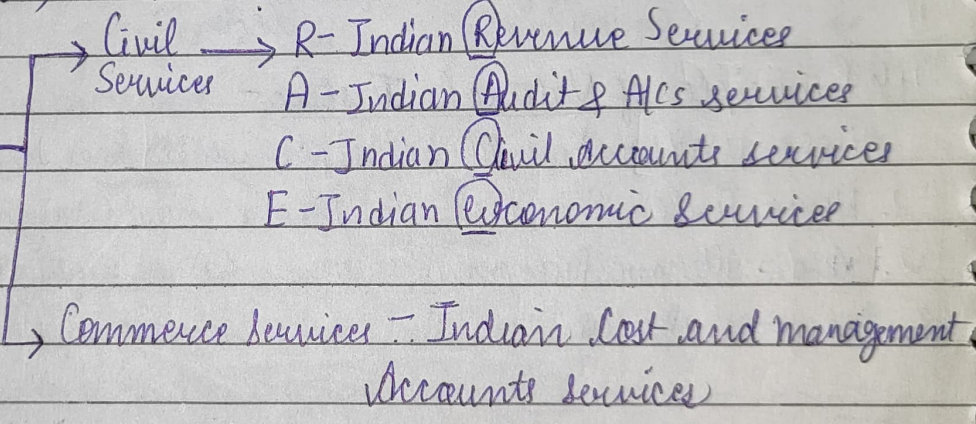
1/ Ministry of Finance -

1/ Area of Concern (Jurisdiction)



2/ SHRI MORARJI DESAI has presented 10 Union Budgets in the period of 1962 to 1969 (Highest)

3/ MOF -> Services



4/ Departments -

- DEA - Department of economic affairs
- DE - Department of expenditure
- DR - Department of Revenue
- DFS - Department of financial services
- DIAM - Department of Investment and Asset management
- DPE - Department of public enterprises

2/ Ministry of Corporate Affairs - (MCA)

(i) Areas of Concern - Companies Act, 2013

Companies Act, 1956

Limited liability ~~Partnership~~ Act, 2008

Insolvency & Bankruptcy code, 2016

(ii) Responsible for regulation - Indian Enterprises

Industrial Services

(iii) Run by officers who have clear civil service examination held by UPSC.

(iv) The highest post is held by DGC A (Director General of Corporate Affairs), currently → Ashok Kumar Mahapatra

3/ Ministry of Home Affairs - (Ghar mantralaya)

i) mainly responsible for I D

Internal Security

Domestic Policy

ii) Headed by union minister i.e. AMIT SHAH

iii) Departments of Home Affairs:

Dept. of States → Dept. of Internal Security → Dept. of J&K & Ladakh affairs → Dept. of Border → Dept. of Home

① Central Translation Bureau
② Central Hindi Training Institute
③ Directorate of Census Operations

Dept. of Official Language

4/ Ministry of Law and Justice -

Departments

Dept. of Legal Affairs
(Advice to legislative)

Legislative Department
(Law Maker)

Department of Justice
(Grant Justice in Court)

5) Securities Exchange Board of India (SEBI) —

(i) Regulates - securities & commodity market

(ii) Date → 12/4/1988 (executive body was made)
→ 30/1/1992 (Sebi Act) ← Rules

6) Reserve Bank of India —

i) It is under the ownership of ministry of finance

ii) It is the apex body in the banking system

iii) Body RBI - 1934

RBI Act - 1935

iv) Following are the three bodies under RBI —

BRBNM

[Bhartiya Reserve Bank
Note mudran]

- responsible for minting & printing of currency notes & coins, two divisions in Nashik (Western) and Dewas (Central India).

NPCI

[National Payment
Corporation of India]

- responsible to carry out secure payment

DICGC

[Deposit Insurance
& Credit Guarantee
Corporation]

- to regulate credit facilities & insurance business of banks

7) Insolvency and Bankruptcy Board of India (IBBI)

i) Act - 1/10/16 (Oct)

Bill - 5/5/16 (May)

ii) LLP, Company, Partnership, Individuals to solve or provide resolution to stressed asset.

iii) Entities →
→ IV (Information utility)
→ IP (Insolvency Professional)
→ IPA (Insolvency Professional agencies)

- (iv) To simply process of Insolvency & Bankruptcy
- (v) Assisted by NCIAT and Debt Recovery Tribunal

Indian Judicial System Justice

- (1) The Judiciary handles disputes b/w citizens with government.
- (2) The functions of Indian Judicial system is to Regulation of Act / Codes, Promotion of fairness and Dispute Resolution

R a P i D - Dispute
 Regulate |
 Promote

- (3) Decisions of the supreme court are binding on all high court and district courts if fact - are the same (i.e. on all four legs)
- (4) Decisions of High Courts of the same state are binding on similar cases having same facts but for other states are only persuasive.
 Guidance / suggestion

Supreme Court -

- open Judicial body
- Date: 26 Jan, 1950
- Article 126 empowers appoint of chief Justice of India
- Bench has 7 members including Chief Justice of India.
- Currently 34 Judges make the bench of Supreme court.
- can file a writ petition (Public Interest litigation under Article 32 directly to Supreme Court)

High Court -

- Article 214 of the Constitution calls for establishment of High court in every state.
- Article 207 the high court only has supervisory powers (i.e. the decision of high court CAN be challenged in supreme court)

- Currently there are 25 high courts in the country.
- One high court presides over 6 states ~~the same~~ (i.e. Guwahati)
- Article 226 writ petition if stopped from fundamental rights.

226 - fundamental rights $\xrightarrow{\text{writ}}$ High Court

32 - other restriction of $\xrightarrow{\text{writ}}$ Supreme Court -
right against public at large

District Court -

- Deals with civil matters within area of jurisdiction of every district i.e. contractual disputes, family law, etc.
- The Judge of the district court can preside over matters
UP TO rupees 2 crore

Dispute = 2 cr \rightarrow District Court

Dispute < 2 cr \rightarrow District Court

Dispute > 2 cr \rightarrow High Court

Criminal case (any amount) \rightarrow High Court

Metropolitan Courts -

- metropolitan courts are established in metro cities.
- In consultation with high courts where population is more than 10,00,000.
- Headed by chief Judicial Magistrate.