

SAMPURNA JUNE 2024

BUSINESS LAWS

INDIAN REGULATORY FRAMEWORK

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Lecture No.- 01



TOPICS TO BE COVERED

1) INDIAN REGULATORY FRAMEWORK PART - 01



Topic : WHY TO STUDY LAW?

Pg. No. 1.2

Have you ever wondered why you are studying this subject called law?

Is it only because it has been prescribed in the syllabus or is it because you will need this knowledge as a member of the Institute of Chartered Accountants of India?

Awareness of law is essential to become a full-fledged Chartered Accountant. This is because a Chartered Accountant is the first level of contact on many legal matters. So, we should possess knowledge of law so that we can advise our management and clients on legal matters at a basic or threshold level.

Topic : WHY TO STUDY LAW?

Pg. No. 1.2

Some of you may later wish to specialise in a subject called taxation. Remember tax laws are also laws. In order to become an expert in taxation you should possess a basic awareness of the legal and regulatory framework of our country.

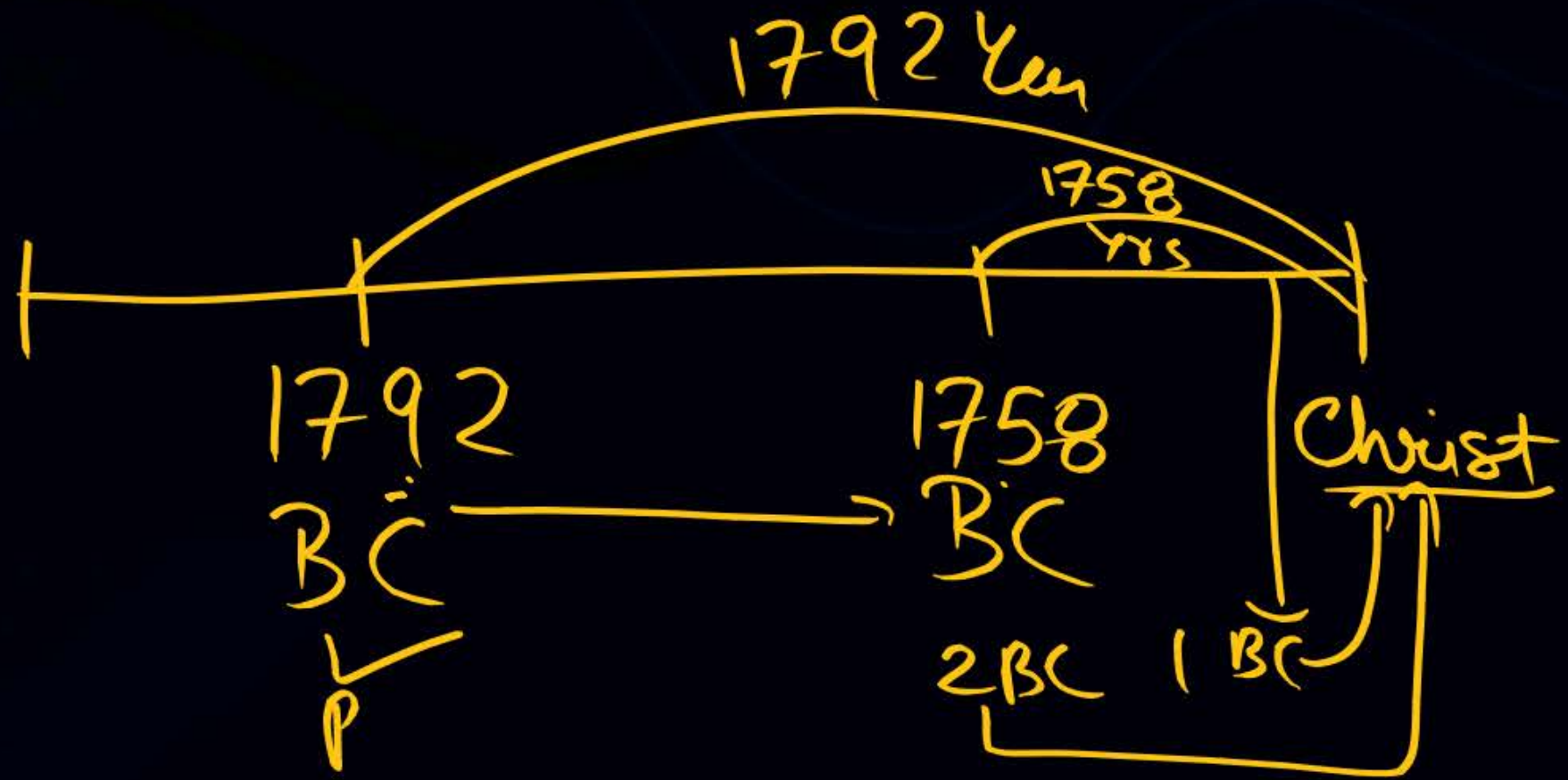
The purpose of a regulatory framework is to provide a set of uniform rules and regulations that will govern the conduct of people interacting with each other in personal as well as business relationships.

Topic : HISTORY OF LAW

Pg. No. 1.3

Down the ages, mankind has evolved from a hunter-gatherer society through agriculture and industrial revolution to a complex social framework. Throughout this journey, we have always needed laws and regulations to guide us on the right course of conduct as well as to identify violations and punish them.

If we talk about ancient law, on the basis of information available from different sources "Code of Hammurabi" is known for oldest law in written form. King Hammurabi ruled Babylon for the period from 1792 BC to 1758 BC. He carved the code on bulky stone slabs and ordered to place those stones on different places all over the city so that the public may have the knowledge of codes. He also appointed judges to check whether public is following the laws or not.



Hieroglyphic text on a stone tablet, arranged in approximately 25 vertical columns. The characters are small and densely packed, typical of ancient Egyptian or Mesopotamian inscriptions. The text is oriented vertically, with the right side of the tablet containing the beginning of each line.

Topic : HISTORY OF LAW

Pg. No. 1.3

In 450 BC, a set of laws was engraved on 12 bronze tablets in Rome which is considered as first most detailed code of any of the civilizations and called Twelve Tables. The purpose of these tables was to protect the rights of public and to provide remedy for wrongs. All the citizens of Rome were supposed to have the knowledge of these tables. Over the time, many amendments were done in these laws as per the requirements.

In this subject, you will be introduced to many laws. Therefore, in this chapter we will first understand how these laws are made and how they are implemented.

THE ROMAN LAWS OF THE TWELVE TABLES, c.449 BCE

(A REPRESENTATIVE SELECTION)



I

PROCEEDINGS BEFORE TRIAL

Accused must attend court
 In case of age/sickness accuser shall grant transportation
 A witness can stand in for the accused
 Evading court can lead to forced appearance.
 If both parties are present proceedings end at sunset.



II

TRIAL PROCEDURES

Severe illness of any party may delay trial
 Party needing witness or evidence may call the home of the witness every 3rd day.



III

JUDGMENT ON DEBT

30 days allowed for confessed debt payment
 If unpaid, creditor can keep debtor in chains (no lighter than 15 pounds)
 60 days allowed to reach compromise
 Unresolved debt leads to debtor's execution or sale into slavery across the Tiber



IV

PATRIARCHAL POWERS

Deformed child shall be killed at birth
 Father has authority over children's lives
 Son becomes free if sold into slavery 3 times by the father
 Husband can divorce wife by instructing her to take her belongings and leave.



V

INHERITANCE & GUARDIANSHIP

Women (excl. Vestal Virgins) always under guardianship due to frivolity of character
 Reckless spenders can't manage his possessions. Nearest male relative has authority over insane individuals
 Estate of one without direct male heir goes to nearest male relative in the male lineage.



VI

OWNERSHIP & POSSESSION

Verbal promises are binding
 Continuous cohabitation for 1 year is considered marriage
 Open and continuous land use for 2 years grants ownership claim (1 year for other things)



VII

LAND RIGHTS

Disrepair allows travelers to choose alternate route on road built by someone on his land
 Fallen tree from neighbor's farm can be rightfully removed
 Fruits falling from one's trees onto neighbor's land can be kept by the neighbor



VIII

LAWS OF INJURY

Singing or creating harmful incantations leads to execution
 Injuring another results in reciprocal injury or compensation
 False testimony leads to being thrown from the Tarpeian Rock
 Nighttime gatherings within the city are prohibited



IX

PUBLIC LAW

Laws must not be made or decided secretly or exclusively.
 Laws of personal exceptions and privileges are forbidden
 Judges accepting bribes for decisions face execution
 No one should be executed without proven guilt in court



X

FUNERAL RITES

No burial or burning of dead in the city
 No gathering of bones for second funeral, except for death in battle or abroad
 Prohibition on excessive drinking and displays of wealth
 Adorning corpse with gold is forbidden, excluding existing gold dental work



XI

SUPPLEMENT: MARRIAGE

Intermarriage of plebeians and patricians prohibited
 Soldiers must delay marriage until completing training
 Regulations set for permissible days of legal proceedings and judgments



XII

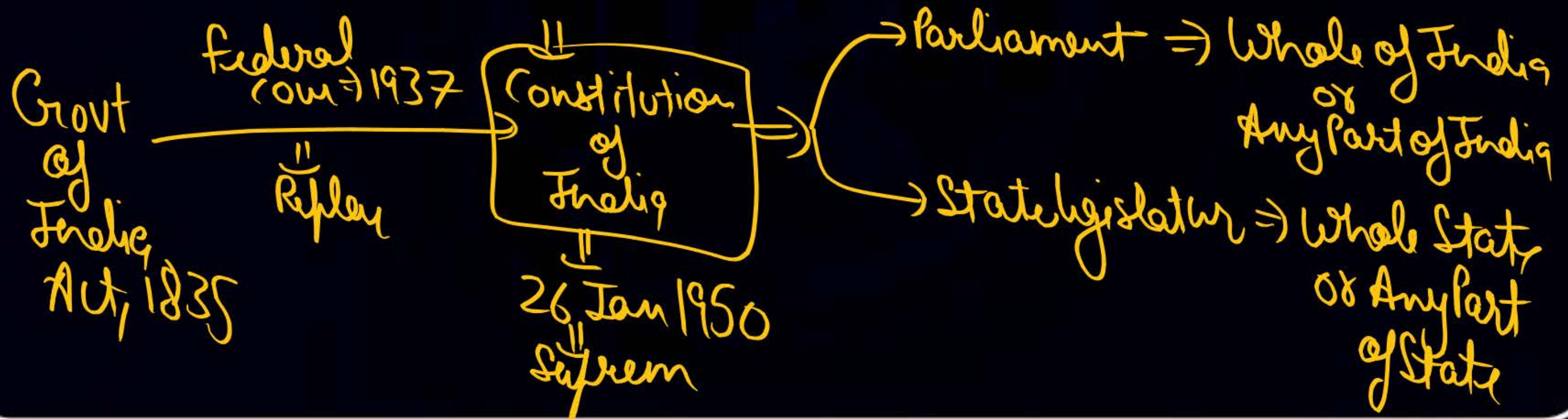
SUPPLEMENT: PUNISHMENTS

Decisions and enactments by the Roman people are legally binding
 False accusers face double penalty or death
 Eight forms of punishment: fines, shackles, flogging, Lex talionis (reciprocal injury), public humiliation, exile, enslavement and execution

Topic : WHAT IS LAW?

Law is a set of obligations and duties imposed by the government for securing welfare and providing justice to society.

India's legal framework reflects the social, political, economic, and cultural aspects of our vast and diversified country.



Topic : SOURCES OF LAW

Pg. No. 1.3

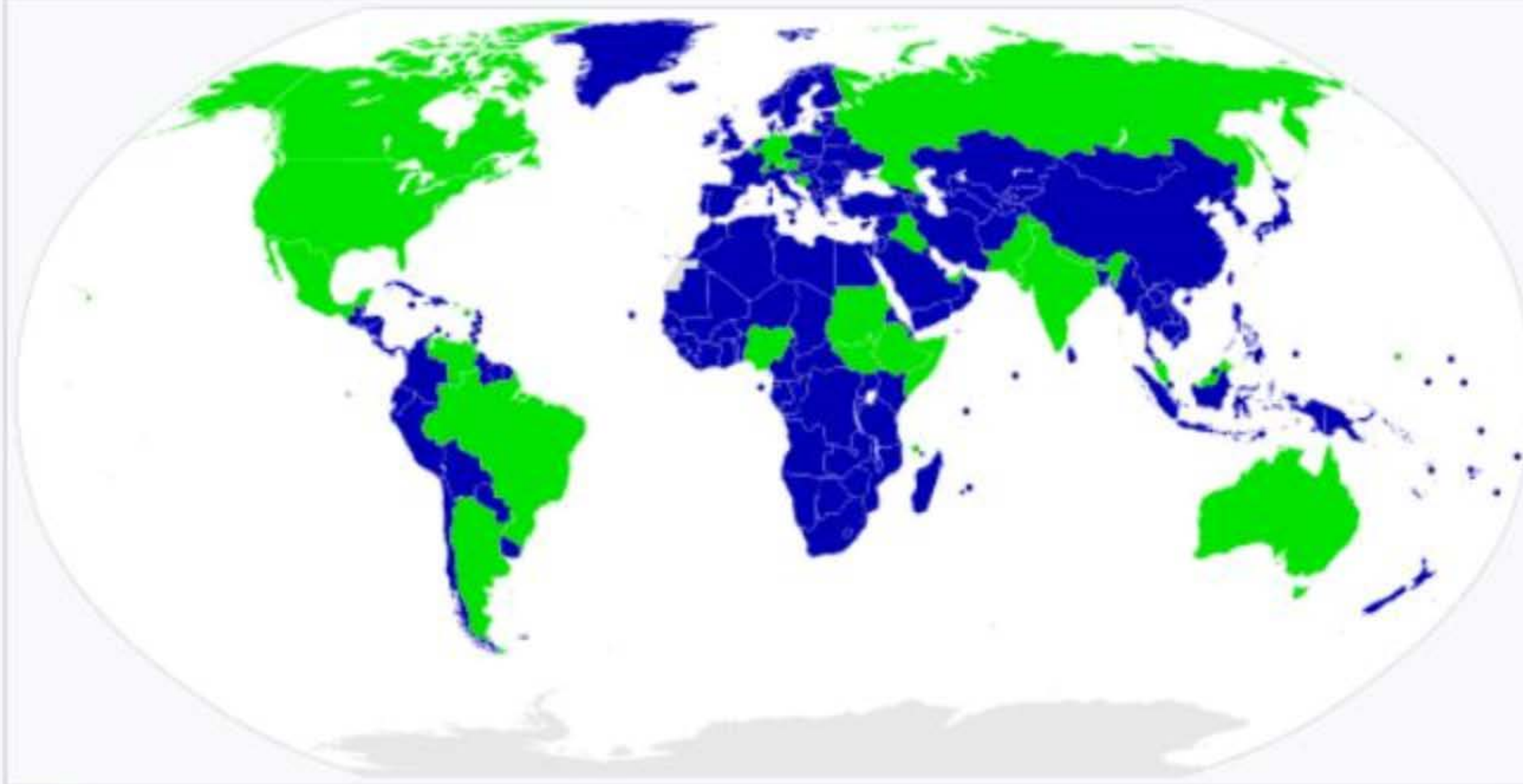
The main sources of law in India are the Constitution, the statutes or laws made by Parliament and State Assemblies, Precedents or the Judicial Decisions of various Courts and in some cases, established Customs and Usages.



You must be aware that India is a parliamentary democracy. We have a **constitution which is the basis and source for all laws.** We elect our representatives to the parliament as well as to the legislative assemblies of various States. These representatives of the people make laws in parliament or in their state assemblies as the case may be. So, Parliament is the ultimate law-making body. The laws passed by parliament may apply throughout all or a portion of India whereas the laws passed by state legislatures apply only within the borders of the states concerned.

Topic : SOURCES OF LAW

Pg. No. 1.4

The Government of India Act, 1935, passed by the Parliament of the United Kingdom is the precursor for the Constitution of India. It defined the characteristics of the Government from “unitary” to “federal”. Powers were distributed between Centre and State to avoid any disputes. In 1937, Federal Court was established and had the jurisdiction of appellate, original and advisory. The powers of Appellate Jurisdiction extended to civil and criminal cases whereas the Advisory Jurisdiction was extended with the powers to Federal Court to advise Governor-General in matters of public opinion. The Federal Court operated for 12 years and heard roughly 151 cases. The Federal Court was supplanted (replaced) by India's current Apex Court the Supreme Court of India.



-  Unitary states
-  Federal states



Topic : SOURCES OF LAW

Pg. No. 1.4

The Constitution of India, 1950 is the foremost law that deals with the framework within which our democratic system works, and our laws are made for the people, by the people.

The Constitution also provides for and protects certain Fundamental rights of citizens. It also lays down Fundamental duties as well as the powers and duties of Governments, both Central and State. The laws in India are interconnected with each other forming a hybrid legal system.

The people who wrote the Constitution decided to divide the law-making power between the Central Government and the various State Governments. So, the Indian Constitution has three lists Viz., Central List, State List and Joint List.

Eg. → Income tax
Tax on liquor

Stamp duty

Fundamental Duties of Indian Citizens

To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem

To cherish and follow the noble ideals which inspired our national struggle for freedom

To uphold and protect the sovereignty, unity and integrity of India;

To defend the country and render national service when called upon to do so

To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women

To value and preserve the rich heritage of our composite culture

To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures

To develop the scientific temper, humanism and the spirit of inquiry and reform

To safeguard public property and to abjure violence

To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement



Topic : SOURCES OF LAW

Pg. No. 1.4

Depending on the list in which it figures a matter would become the subject for Central law or a State law. For example, Income Tax is a Central subject. So, throughout India we have only one law for Income Tax which is implemented by the Central Government through the Ministry of Finance.

We also have matters for which both Central as well as State Governments can pass laws. Levy of stamp duty is such an example. Both Central Government and State Government have laws governing Levy of stamp duty.

⇒ Real

Topic : THE PROCESS OF MAKING A LAW

When a law is proposed in parliament it is called a Bill.

After discussion and debate, the law is passed in Lok Sabha.

Thereafter, it has to be passed in Rajya Sabha. It then has to obtain the assent of the President of India.

Finally, the law will be notified by the Government in the publication called the Official Gazette of India.

The law will become applicable from the date mentioned in the notification as the effective date. Once it is notified and effective, it is called an Act of Parliament.



Law making Procedure



Problem demanding law



Draft Bill containing Rules and Regulations



Council of States & House of the People



Rajya Sabha & Lok Sabha



President's Approval



ACT

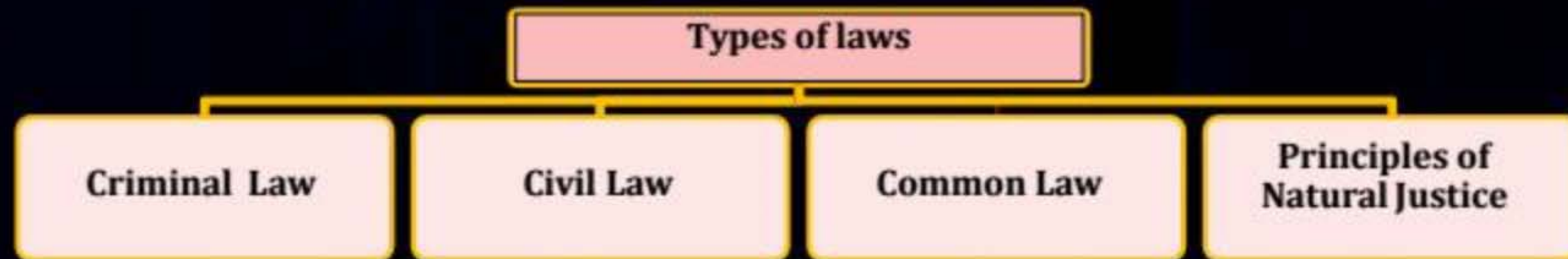


Published in Official Gazette

Topic : Types of laws

Types of laws in the Indian Legal System:

The laws in the Indian legal system could be broadly classified as follows:



Topic : Types of laws

Criminal Law:

Criminal law is concerned with laws pertaining to violations of the rule of law or public wrongs and punishment of the same.

Criminal Law is governed under the Indian Penal Code, 1860, (Bharatiya Nyaya Sanhita) and the Code of Criminal Procedure, 1973 (Crpc) BHARATIYA NAGARIK SURAKSHA SANHITA ACT.

The Indian Penal Code, 1860, defines the crime, its nature, and punishments whereas the Criminal Procedure Code, 1973, defines exhaustive procedure for executing the punishments of the crimes.

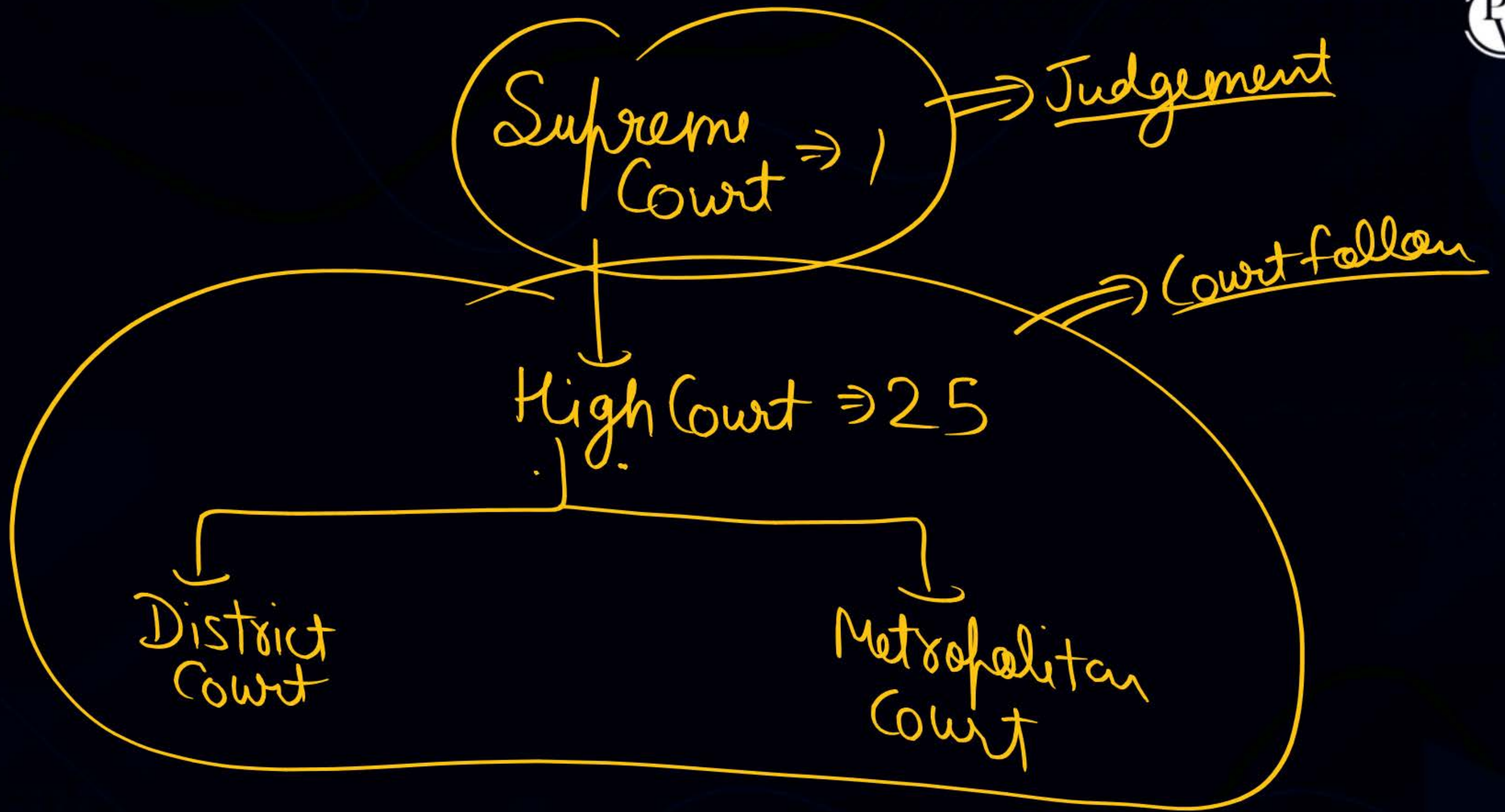
Murder, rape, theft, fraud, cheating and assault are some examples of criminal offences under the law.

Topic : Types of laws

Civil Law:

Matters of disputes between individuals or organisations are dealt with under Civil Law. Civil courts enforce the violation of certain rights and obligations through the institution of a civil suit. Civil law primarily focuses on dispute resolution rather than punishment. The act of process and the administration of civil law are governed by the Code of Civil Procedure, 1908 (CPC). Civil law can be further classified into Law of Contract, Family Law, Property Law, and Law of Tort.

Some examples of civil offences are breach of contract, non-delivery of goods, non-payment of dues to lender or seller, defamation, breach of contract, and disputes between landlord and tenant.



Topic : Types of laws

Common Law: (Case laws) (Judicial Precedent)

A judicial precedent or a case law is common law. A judgment delivered by the Supreme Court will be binding upon the courts within the territory of India under Article 141 of the Indian Constitution. The doctrine of Stare Decisis is the principle supporting common law. It is a Latin phrase that means "to stand by that which is decided." The doctrine of Stare Decisis reinforces the obligation of courts to follow the same principle or judgement established by previous decisions while ruling a case where the facts are similar or "on all four legs" with the earlier decision.

Caselaw \Rightarrow override Act \Rightarrow No

Caselaw \Rightarrow override \Rightarrow Caselaw \Rightarrow Yes

Topic : Types of laws

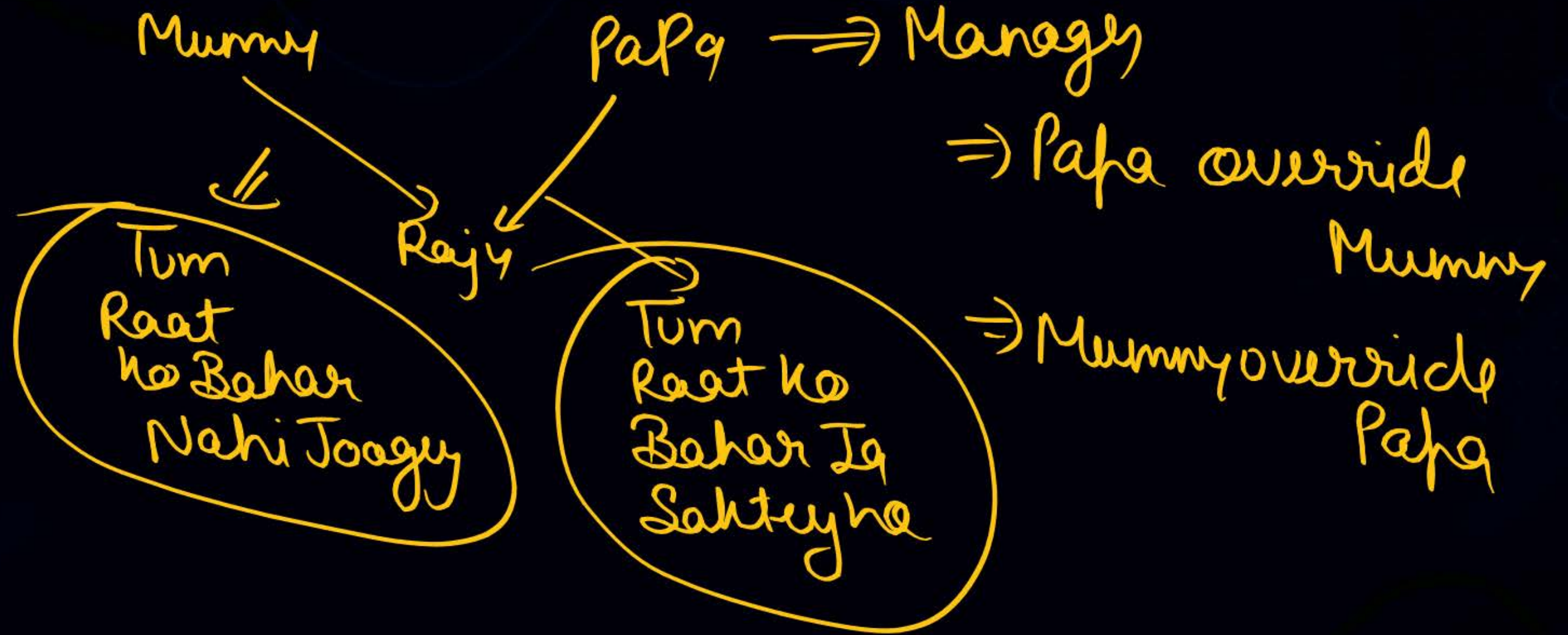
Principles of Natural Justice:

Natural justice, often known as Jus Natural deals with certain fundamental principles of justice going beyond written law.

Nemo judex in causa sua (Literally meaning "No one should be made a judge in his own cause"), and it's a Rule against Prejudice),
audi alteram partem (Literally meaning "hear the other party or give the other party a fair hearing"), and reasoned decision are the rules of Natural Justice.

A judgement can override or alter a common law, but it cannot override or change the statute.

(AG)



Topic : ENFORCING THE LAW

Pg. No. 1.6

After a law is passed in parliament it has to be enforced. **Somebody should monitor whether the law is being followed. This is the job of the executive.** Depending on whether a law is a Central law or a State law the Central or State Government will be the enforcing authority. **For this purpose government functions are distributed to various ministries. Some of the popular Ministries are the Ministry of Finance, the Ministry of Corporate Affairs, the Ministry of Home Affairs, the Ministry of Law and Justice and so on.** These Ministries are headed by a minister and run by officers of the Indian administrative and other services.

- AYUSH [↗](#)
- Agriculture and Farmers Welfare [↗](#)
- Chemicals and Fertilizers
- Civil Aviation [↗](#)
- Coal [↗](#)
- Commerce and Industry
- Communications
- Consumer Affairs, Food and Public Distribution
- Cooperation [↗](#)
- Corporate Affairs [↗](#)
- Culture [↗](#)
- Defence [↗](#)
- Development of North Eastern Region [↗](#)

- Earth Sciences [↗](#)
- Education [↗](#)
- Electronics and Information Technology [↗](#)
- Environment, Forest and Climate Change [↗](#)
- External Affairs [↗](#)
- Finance [↗](#)
- Fisheries, Animal Husbandry and Dairying [↗](#)
- Food Processing Industries [↗](#)
- Health and Family Welfare [↗](#)
- Heavy Industries [↗](#)
- Home Affairs [↗](#)
- Housing and Urban Affairs [↗](#)
- Information and Broadcasting [↗](#)

- Jal Shakti [↗](#)
- Labour and Employment [↗](#)
- Law and Justice [↗](#)
- Micro, Small & Medium Enterprises [↗](#)
- Mines [↗](#)
- Minority Affairs [↗](#)
- New and Renewable Energy [↗](#)
- Panchayati Raj [↗](#)
- Parliamentary Affairs [↗](#)
- Personnel, Public Grievances and Pensions [↗](#)
- Petroleum and Natural Gas [↗](#)
- Planning
- Ports, Shipping and Waterways [↗](#)
- Power [↗](#)

- [Railways](#)
- [Road Transport and Highways](#)
- [Rural Development](#)
- [Science and Technology](#)
- [Skill Development and Entrepreneurship](#)
- [Social Justice and Empowerment](#)
- [Statistics and Programme Implementation](#)
- [Steel](#)
- [Textiles](#)
- [Tourism](#)
- [Tribal Affairs](#)
- [Women and Child Development](#)
- [Youth Affairs and Sports](#)

Topic : ENFORCING THE LAW

Pg. No. 1.6

The Government of India exercises its executive authority through a number of Government Ministries or Departments of State. **A Ministry is composed of employed officials, known as civil servants, and is politically accountable through a minister.** Most major Ministries are headed by a Cabinet Minister, who sits in the Union Council of Ministers, and is typically supported by a team of junior ministers called the Ministers of State.

For example, **the Income Tax Act is implemented and enforced by the Ministry of Finance through the Central Board for Direct Taxes coming under the Department of Revenue and is administered by the officers of the Indian Revenue Service.** We will see some of the major Ministries and the laws which are enforced by them:

Topic : ENFORCING THE LAW

Pg. No. 1.6

Nirmala Sitharaman

Minister of Finance of India :

(1) The Ministry of Finance:

The Ministry of Finance (Vitta Mantralaya) is a Ministry within the Government of India concerned with the economy of India, serving as the Treasury of India. In particular, it concerns itself with taxation, financial legislation, financial institutions, capital markets, centre and state finances, and the Union Budget.

As a Chartered Accountant, many of your day-to-day work life will be impacted by this ministry and its proclamations. **This Ministry is so important that many ministers have preferred to hold the portfolio of Finance Minister also. One of the important functions of the Finance Ministry is the presentation of the Union Budget.** This annual event is eagerly awaited by professionals and the common man as it provides for the rates of taxes and budget allocations for the ensuing year.

Topic : ENFORCING THE LAW

Pg. No. 1.7

Who presented the Maximum number of Union Budgets as Finance Minister?

Shri. Morarji Desai during his stint as Finance Minister between 1962 and 1969 has presented 10 Union Budgets making it the highest. The next on the list is Shri. P Chidambaram at 9, followed by Shri. Pranab Mukherjee at 8. Shri. Yashwant Sinha and Dr. Manmohan Singh have presented 8 and 6 budgets respectively.

Topic : ENFORCING THE LAW

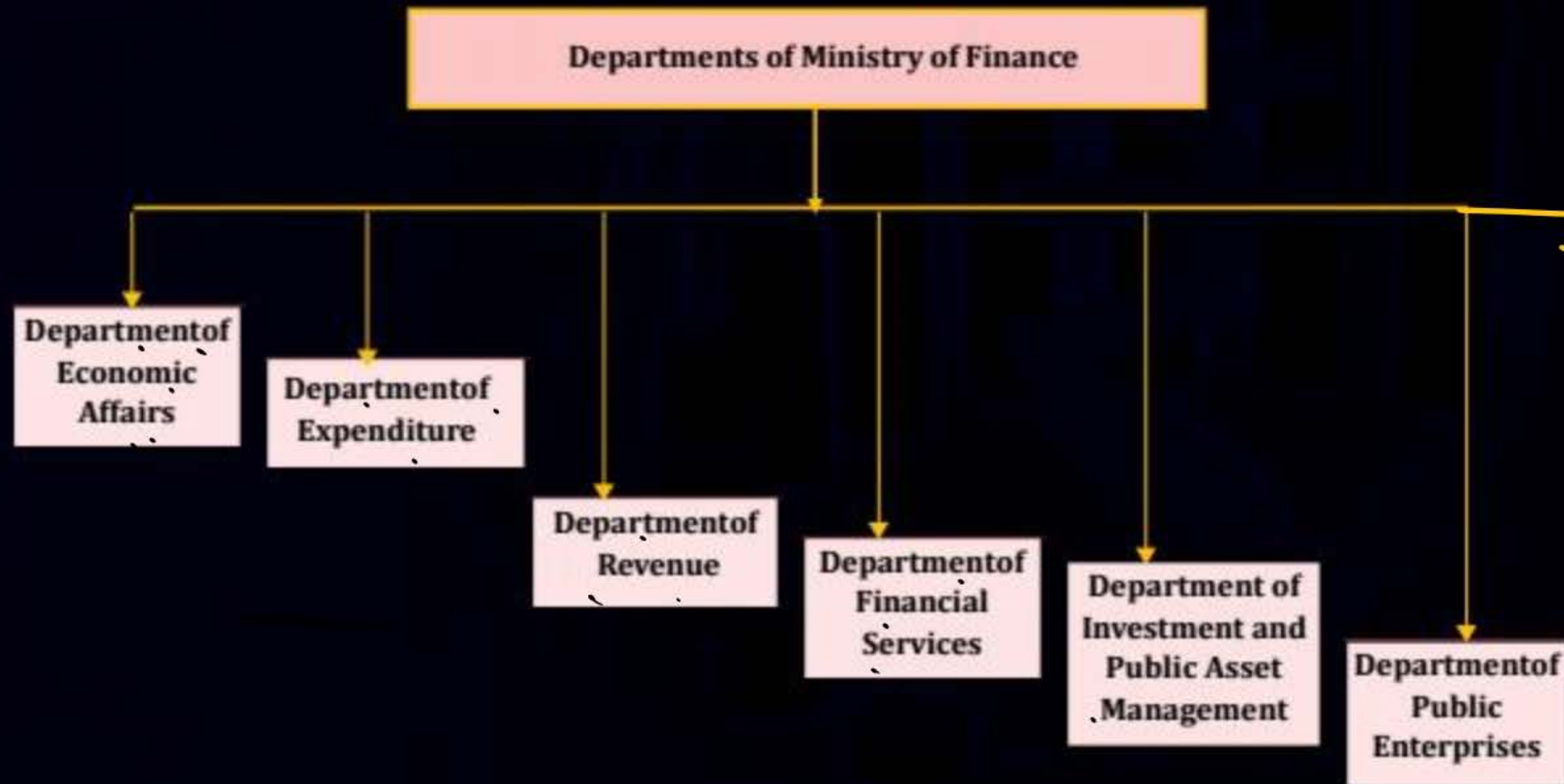
Constitution of the Ministry of Finance-

Ministry of Finance:

- is the apex controlling authority
- of four Central Civil Services, namely:
 - Indian Revenue Service (IRS (adru))
 - Indian Audit and Accounts Service (IAAS)
 - Indian Economic Service and
 - Indian Civil Accounts Service.
- Also the apex controlling authority of one of the central commerce services namely
- Indian Cost and Management Accounts Service.

Topic : ENFORCING THE LAW

Departments under the Ministry of Finance:-



→ Ministry of Corporate Affairs
~~Department of Company Affairs~~

Topic : ENFORCING THE LAW

Pg. No. 1.8

(i) Ministry of Corporate Affairs (MCA):

Minister of Corporate Affairs of India / Officeholder

Nirmala Sitharaman

Ministry of Corporate Affairs

- is an Indian Government Ministry.
- primarily concerned with administration of the Companies Act 2013, the Companies Act 1956, the Limited Liability Partnership Act, 2008, and the Insolvency and Bankruptcy Code, 2016.
- responsible mainly for the regulation of Indian enterprises in the industrial and services sector.
- The Ministry is mostly run by civil servants of the ICLS cadre.
- These officers are elected through the Civil Services Examination conducted by Union Public Service Commission.
- The highest post, Director General of Corporate Affairs (DGCoA), is fixed at Apex Scale for the ICLS.

Topic : ENFORCING THE LAW

Pg. No. 1.8

(i) Ministry of home Affairs

Amit Shah

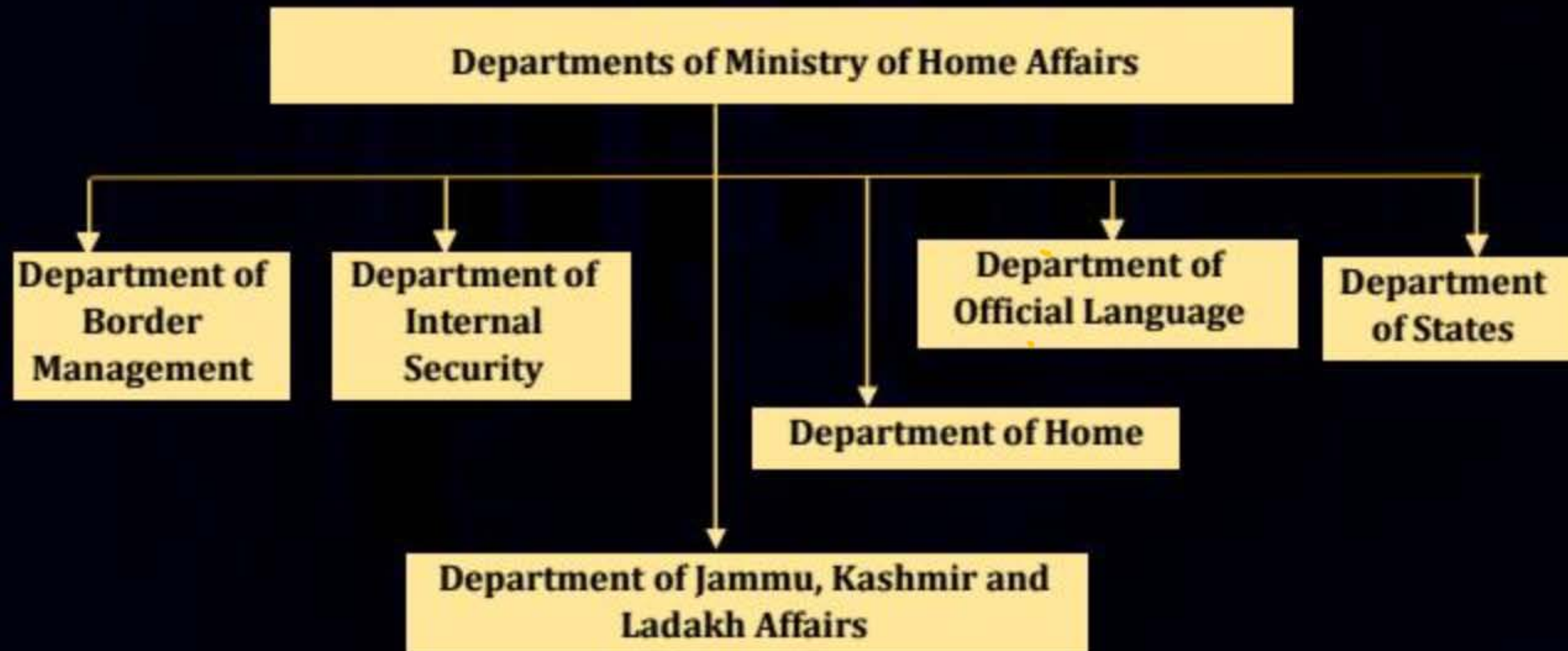
Minister of Home Affairs of India

Ministry of Home Affairs (Gṛha Mantralaya)

- is a ministry of the Government of India.
- As an interior ministry of India, it is mainly responsible for the maintenance of internal security and domestic policy.
- The Home Ministry is headed by Union Minister of Home Affairs.

Topic : ENFORCING THE LAW

(i) Departments under Ministry of Home Affairs



Topic : ENFORCING THE LAW

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2 mins Summary



Topic

Law

Topic

History

Topic

Missistory

Topic

Topic

