

Date  
23/02/2025

# 1. Indian Regulatory Framework

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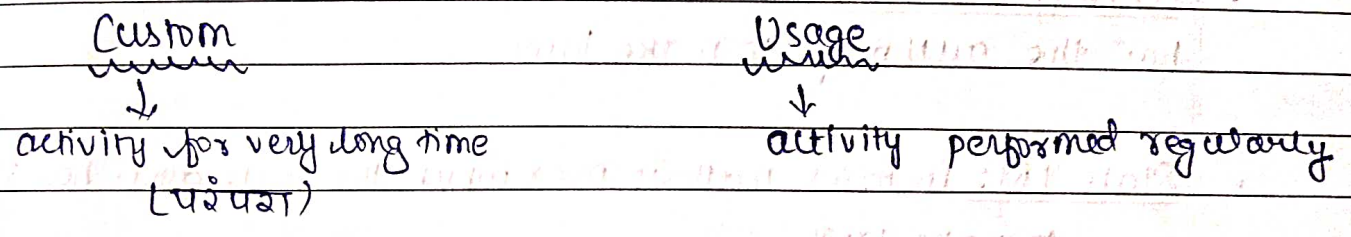


\* Law is a set of obligations and duties imposed by government for securing welfare and providing justice to society.

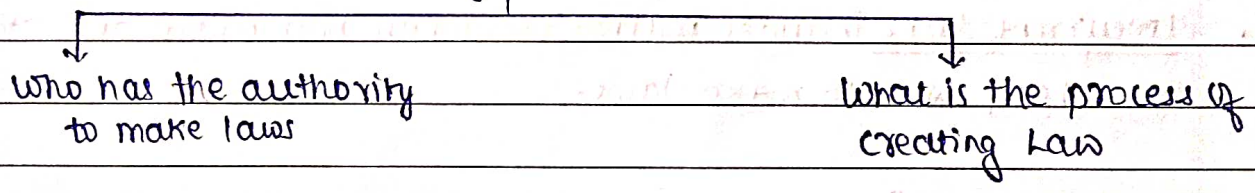
Statutes  $\Rightarrow$  Act

\* Sources of Law :-

- (i) The Constitution
- (ii) The statutes or laws made by parliament and state assemblies
- (iii) Precedents or the Judicial decisions of various courts.
- (iv) In some cases, established customs and usages. eg. Hindu Marriages Act



## Making of Law



• How Indian Government works:-

- (a) Central govt.  $\Rightarrow$  creates law  $\Rightarrow$  Parliament
- (b) State govt.  $\Rightarrow$  creates law  $\Rightarrow$  State assemblies

Laws  $\Rightarrow$  based on Constitution  $\Rightarrow$  based on Government of India Act, 1935 (formed in UK Parliament)

- The Government of India Act, 1935, passed by the Parliament of United Kingdom is the precursor/basis 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.



• List I: Union List

- (i) Defence
- (ii) International relations
- (iii) Ports
- (iv) Railways
- (v) Highways
- (vi) Communication

• List II: State list

- (i) Public order
- (ii) Police
- (iii) Public Health
- (iv) Hospitals and Dispensaries
- (v) Sanitation
- (vi) Agriculture

• List III: Concurrent List

- (i) Justice
- (ii) Education
- (iii) Trade Unions
- (iv) Forests

• Central/Union List: contains matters over which the central govt has the authority to make laws

• State List: contains matters over which the state govt has the power to make laws.

• Concurrent list: includes matters over which both central and state govt has power to make laws.

Structure of Parliament

Lok Sabha  
(House of People)

Rajya Sabha  
(Council of Ministers)

Headed by President of India

• Bill => draft format of an 'Act'

(i) Lok Sabha → Rajya Sabha → President ⇒ ACT

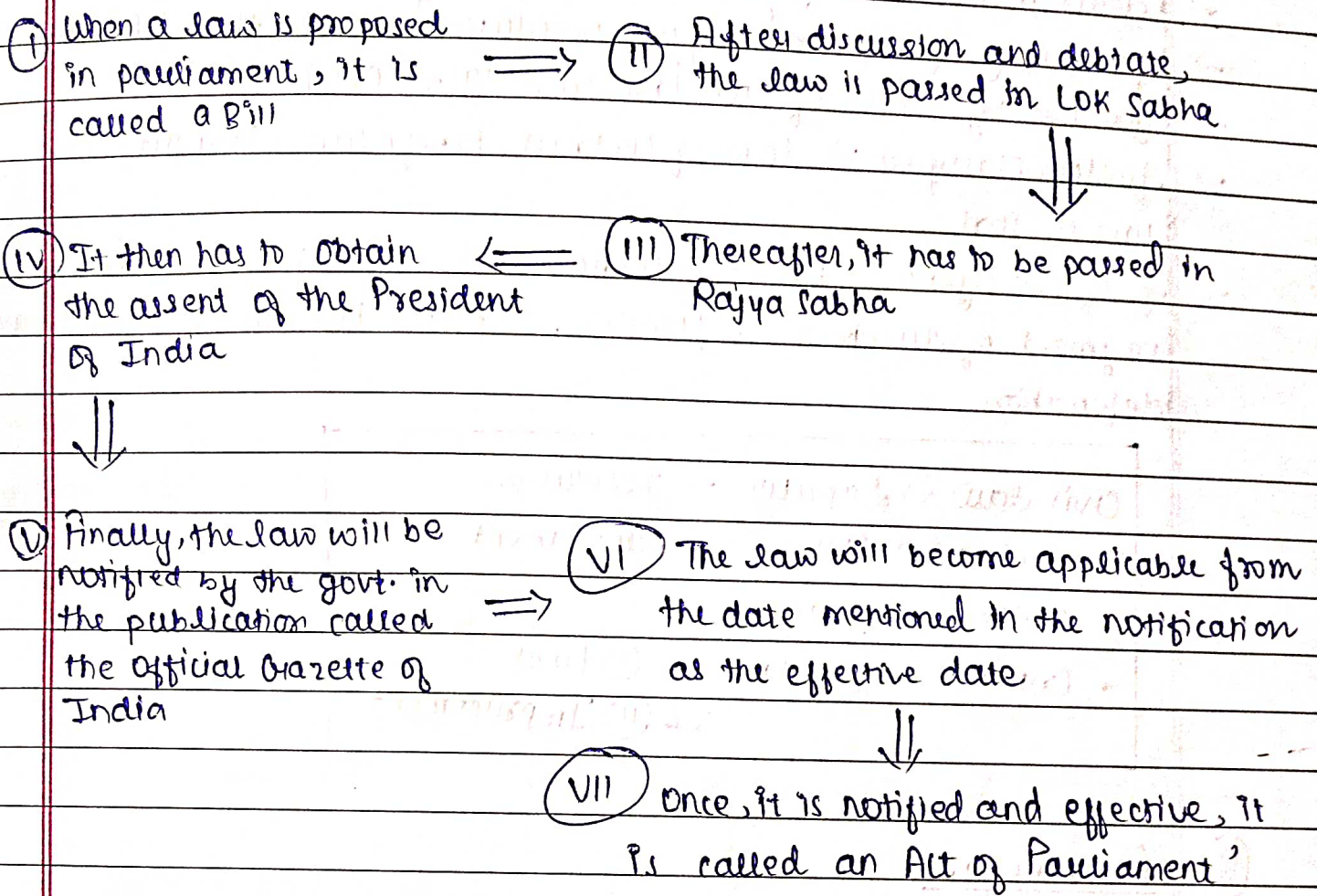
(ii) Rajya Sabha → Lok Sabha → President ⇒ ACT

• some bills can only be started from Lok Sabha. eg. 'Money Bill'?

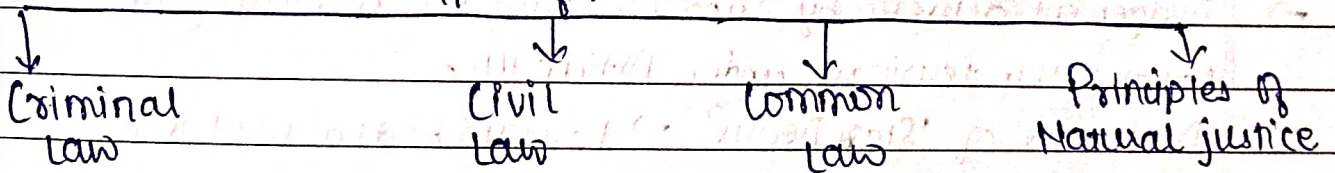




Process of making law:-



Types of Laws



(I) Criminal Law

- $\rightarrow$  Laws relating to violation of rule of law & public wrong and its punishment.
- $\rightarrow$  governed under Indian Penal Code, 1860 & Code of Criminal Procedure, 1973 (Crpc)
- $\rightarrow$  Indian Penal Code, 1860  $\Rightarrow$  Crime, nature, punishments
- $\rightarrow$  Code of Criminal procedure, 1973  $\Rightarrow$  exhaustive procedure for executing the punishment
- $\rightarrow$  eg. of offence  $\Rightarrow$  murder, rape, theft, fraud, cheating, assault etc.



• Code of Civil procedure, 1908 ⇒ explains resolution process

• Tort ⇒ wrong/bul

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## ② Civil Law

- deals in matters of 'disputes' between individuals or organisations
- primarily focuses on 'dispute resolution' rather than punishment
- governed by Code of Civil Procedure, 1908 (CPC)
- further classified ⇒ Law of Contract, Family Law, Property Law, Law of Tort
- eg. of civil offence ⇒ breach of contract, non-delivery of goods, non-payment of dues to seller/lender, disputes b/w landlords and tenants, defamation

Civil Law ⇒ Disputes ⇒ resolution

Criminal law ⇒ Crime ⇒ punishment

• Civil ⇒ compensation

• Criminal ⇒ Punishment

① Fines

② Imprisonment

## ③ Common Law

- A judicial precedent or a case law.
- Judgement delivered by Supreme Court will be binding upon the courts within territory under Article 141.
- Doctrine of 'Stare Decisis' ⇒ to stand by that which is decided
- It reinforces obligations of the courts to follow same principle or judgement established by previous decisions while ruling a case where the facts are similar.

## ④ Principle of Natural Justice

- Natural justice, often called 'Jus Naturali' deals with certain fundamental principles of justice going beyond written law
- i) 'Nemo iudex in causa sua' ⇒ No one should be made a judge in his own cause, and it's a rule against Prejudice)
- ii) 'audi alteram partem' ⇒ hear the other party or give the other party a fair hearing'





§ (iii) Reasoned Judgement (Judgement should be supported by evidence)

→ A judgement can override or alter a common law, but it cannot override or change the statute (act)

• Central ⇒ Ministries

• State ⇒ Departments of State

### \* Enforcing the Law

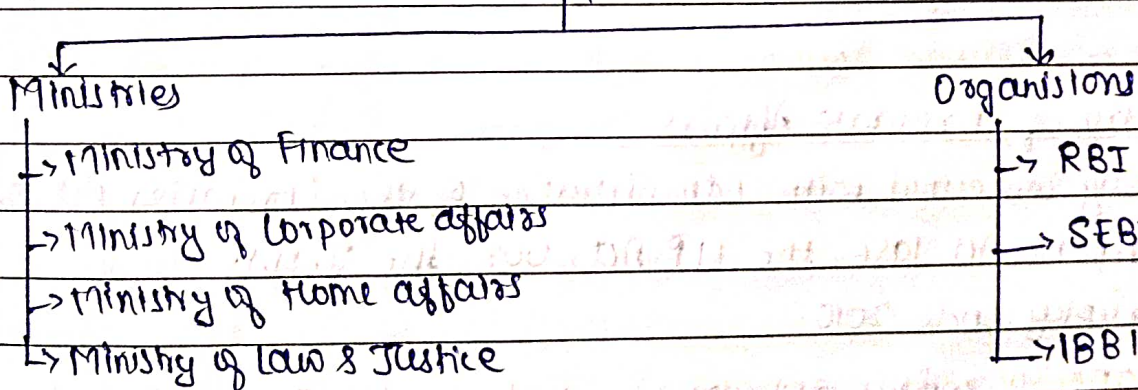
→ Govt. of India exercises its executive authority through a few 'Government Ministries' or 'Departments of State'

→ 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 Union Council of Ministers, and is typically supported by a team of junior ministers called the 'Ministers of State'.

• Union Council of Minister ⇒	Cabinet + Minister of	+ Deputy
	Minister	Ministers
	State	

### Regulatory Bodies



### ① Ministry of Finance

→ Concerned with: Economy of India, serving as the Treasury of India

→ Areas covered: Taxation, financial legislature, financial institutions, Capital market, centre & state finance, and Union Budget

→ one imp. function ⇒ presentation of the Union Budget



## • Constitution of Ministry of Finance:-

- > It is apex controlling authority of four central Civil Services:-
  - (i) Indian Revenue Service,
  - (ii) Indian Audit and Accounts Service
  - (iii) Indian Economic Service
  - (iv) Indian Civil Accounts Service
- > It also control Indian Cost and Management Account Service (Central Commerce Service)

## • Departments under Ministry of Finance:-

- (i) Department of Economic affairs
- (ii) Department of Expenditure
- (iii) Department of Revenue
- (iv) Department of financial services
- (v) Department of Investment and Public Asset Management
- (vi) Department of Public Enterprise.

## ② Ministry of Corporate Affairs

- > primarily concerned with Administration of the Companies Act, 2013, the Companies Act, 1956, the LLP Act, 2008, the Insolvency and Bankruptcy Code, 2016.
- > regulation of Indian enterprise in industrial & service sector
- > run by civil servants of the IAS cadre.
- > officers selected through CSE conducted by UPSC
- > Highest post  $\Rightarrow$  Director General of Corporate Affairs (DGCOA)



### ③ Ministry of Home Affairs

- responsible for maintenance of internal security and domestic policy.
- headed by the Union of ministers of Home Affairs.

#### • Departments of ministry of Home affairs:-

- (i) Department of Border Security
- (ii) Department of Internal Security
- (iii) Department of Home
- (iv) Department of Jammu, Kashmir and Ladakh Affairs.
- (v) Department of Official Language
- (vi) Department of States

#### • Departments of Official Language:-

- (i) Central Translation Bureau
- (ii) Central Hindi Training Institute
- (iii) Directorate of Census Operations

### ④ Ministry of Law and Justice

- deals with → (i) mgt. of legal affairs through legislative departments
- (ii) legislative activities through the Department of legal affairs
- (iii) administration of justice through Department of Justice

#### • Department of <sup>ministry of</sup> Law and Justice:-

- (i) Department of legal affairs (advising various ministries of central govt.)
- (ii) Legislative department (drafting principal legislation for central govt.)
- (iii) Department of Justice



## \* The Securities and Exchange Board of India (SEBI)

- > It is a regulatory body for securities and commodity market in India
- > under ownership of Ministry of Finance.
- > established => 12 April, 1988 as executive body
- > statutory power => 30 January, 1992 through SEBI Act, 1992.

## \* Reserve Bank of India (RBI)

- > India's central bank & regulatory body for regulation of Indian Banking System.
- > under ownership of Ministry of Finance
- > responsible for control, issue, maintaining supply of Indian rupee
- > also manages country's main payment systems and works to promote economic development

### • Divisions of RBI :-

i) Bhayaalya Reserve Bank Note Mudran (BRBNM) - it prints and mints Indian currency notes -> Two currency printing press :- (i) Nashik (West) (ii) Dewas (Central)

ii) National Payment Corporation of India -> regulate payment and Settlement System

iii) Deposit Insurance & ~~National~~ Credit Guarantee Corporation - providing insurance of deposits and guaranteeing of credit facilities to all Indian Banks

## \* Insolvency and Bankruptcy Board of India (IBBI)

- > regulatory body for overseeing insolvency proceeding and entities like Insolvency Professional Agencies (IPA), Insolvency professionals and Information Utilities (IU)

-> established => 1 October, 2016

given power => through Insolvency and Bankruptcy Code (5 May, 2016)

- > covers => Individuals, Companies, LLPs, Partnership & Partnership firms.
- > attempts to simplify the process of insolvency & bankruptcy proceeding





- handles cases in two tribunals
- ① National Company Law Tribunal (NCLT)
  - ② Debt Recovery Tribunal

## • Functions of Judiciary System :-

- (i) Regulation of the interpretation of the Acts and Codes
- (ii) Dispute resolution
- (iii) promotion of fairness among the citizens of the land

## \* Structure of Indian Judicial System :-

### 1. > Supreme Court

- It is apex body of judiciary
- established ⇒ 26 January, 1950 ⇒ Highest Authority → Chief Justice of India [Article 126]
- Principal bench ⇒ Seven members (including Chief justice)
- Presently, principal bench ⇒ 34 members (including Chief justice)
- individual can seek relief → filing a writ petition under [Article 32]

### 2. > High Court

- Highest court of appeal in each state & Union Territory is 'High Court'
- [Article 214] ⇒ there must be a high court in each state
- High court has appellate, original jurisdiction and supervisory jurisdiction.
- [Article 227] ⇒ limits High court's supervisory power.
- In India ⇒ 25 High Courts
- 'Six states' have single high court
- Individual can seek remedies → filing a writ petition under [Article 226].

• Oldest High Court ⇒ Calcutta High Court, 2<sup>nd</sup> July, 1862



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### 3.7 District Courts

- The court of District Judge deals with civil law matters.
- The court of Sessions deals with criminal matters.
- Under pecuniary jurisdiction ⇒ civil judge → try suits → valuing not more than Two crore rupees.
- Courts get jurisdiction based on areas covered by them.
- Cases are based on local limits within which the parties reside or property under dispute is situated.

### 4.7 Metropolitan Courts

- established in metropolitan cities with consultation of High Courts
- population ⇒ ten lakh or more
- Chief metropolitan magistrate has power as Chief judicial magistrate.
- metropolitan magistrate has powers as the court of a magistrate of the first class.