

Chapter 1 - Indian Regulatory Framework

Question 1

What are the main sources of law in India, and how do they contribute to the legal framework of the country?

Answer:

The main sources of law in India are the Constitution, statutes passed by Parliament and State Assemblies, judicial precedents, and established customs and usages. India's legal system is founded on the principles of parliamentary democracy, with the Constitution serving as the fundamental basis for all laws. Parliament and State Assemblies, where elected representatives make laws, are the ultimate law-making bodies. While laws passed by Parliament apply across India, state legislatures enact laws applicable only within their respective states.

Question 2

Explain the distribution of law-making powers between the Central Government and State Governments as outlined in the Indian Constitution.

Answer:

The Government of India Act, 1935, was a precursor to the Indian Constitution and played a crucial role in defining the transition from a "unitary" to a "federal" system. It allocated powers between the Centre and the States to prevent conflicts. The Federal Court, established in 1937, had jurisdiction over appellate, original, and advisory matters, including civil and criminal cases. The Advisory Jurisdiction allowed the Federal Court to advise the Governor-General on public matters. The Federal Court was eventually succeeded by the Supreme Court of India. The Constitution of India, adopted in 1950, forms the cornerstone of the Indian legal system. It outlines the framework for the democratic system and the rights and responsibilities of citizens. Fundamental rights and duties are enshrined in the Constitution, providing a strong foundation for laws made for and by the people. India's legal system is a hybrid one, with interconnected laws.

The Constitution divides the law-making power between the Central Government and State Governments through three lists: the Central List, State List, and Joint List. Matters listed in each list determine whether a subject becomes the domain of Central law, State law, or both. For instance, Income Tax falls under the Central List, resulting in a single Income Tax law for the entire country, administered by the Central Government's Ministry of Finance. In contrast, issues like the levy of stamp duty are governed by both Central and State laws, exemplifying the cooperative nature of Indian law-making.

Question 3

Describe the legislative process that a proposed law, also known as a Bill, undergoes in India before becoming an Act of Parliament. Explain the key stages and authorities involved in this process.

Answer:

In India, the legislative process for a proposed law, known as a Bill, involves several key stages and authorities. First, the Bill is introduced in either the Lok Sabha or the Rajya Sabha, where it is subject to discussion and debate. After passing in the Lok Sabha, it proceeds to the Rajya Sabha for further consideration. Following approval in

both houses, the Bill is presented to the President of India for assent. Once the President provides assent, the law is officially notified by the Government in the Official Gazette of India. The effective date of the law is mentioned in the notification, and at this point, it becomes an Act of Parliament.

Question 4

Explain the fundamental differences between Criminal Law and Civil Law in India. Provide insights into the key legal frameworks governing each type of law and their primary objectives.

Answer:

In India, Criminal Law and Civil Law are distinct legal domains with different purposes and frameworks. Criminal Law is concerned with violations of the rule of law or public wrongs and the subsequent punishment. It is primarily governed by the Indian Penal Code, 1860, which defines crimes, their nature, and the associated penalties. The Code of Criminal Procedure, 1973 (Crpc), outlines the procedural aspects for enforcing these penalties.

Examples of criminal offenses under Indian law include murder, rape, theft, fraud, cheating, and assault. The focus in criminal cases is on punishment and societal order.

In contrast, Civil Law pertains to disputes between individuals or organizations and focuses on resolving conflicts rather than punishment. The Code of Civil Procedure, 1908 (CPC), governs the process and administration of civil law.

Civil law encompasses various areas such as Law of Contract, Family Law, Property Law, and Law of Tort. Examples of civil offenses include breach of contract, non-delivery of goods, non-payment of dues, defamation, and disputes between landlords and tenants

Question 5

Explain the concept of Common Law and the principle of Stare Decisis in the Indian legal system. How does State Decisis influence judicial decisions, and what is its significance in legal proceedings?

Answer:

Common Law in India is a legal system where decisions made by courts in previous cases serve as binding precedents for future cases. The doctrine of Stare Decisis, a Latin phrase meaning "to stand by that which is decided," is fundamental to this legal framework. It mandates that courts must follow the principles or judgments established in previous cases when ruling on similar or analogous cases. This principle helps maintain consistency and predictability in the legal system.

In practical terms, when a new case presents facts and circumstances similar to a prior case with a legal precedent, the doctrine of Stare Decisis obliges the court to follow the earlier decision. This ensures that the law is applied consistently and that individuals and organizations can rely on established legal principles when navigating the legal system.

Stare Decisis is of great significance in the Indian legal system as it promotes fairness, equity, and the rule of law by ensuring that legal decisions are not arbitrary but based on established legal principles. It provides guidance to both the judiciary and legal practitioners when interpreting and applying the law to specific cases.

Question 6

Can you elaborate on the key responsibilities and functions of the Ministry of Finance within the Government of India? How does it impact the daily work of a Chartered Accountant, and why is it significant for the financial landscape of the country?

Answer

The Ministry of Finance, also known as Vitta Mantralaya, is a vital government department in India responsible for the nation's economy. It serves as the Treasury of India and has a wide range of responsibilities. These include taxation, the formulation and enactment of financial legislation, oversight of financial institutions, regulation of capital markets, management of both central and state finances, and the presentation of the Union Budget. For Chartered Accountants, this ministry holds immense importance as many aspects of their daily professional activities are influenced by its policies and proclamations. It impacts their work through tax regulations, financial reporting standards, and compliance requirements. Chartered Accountants play a crucial role in helping individuals and businesses navigate these financial aspects efficiently while ensuring compliance with the Ministry's directives. The presentation of the Union Budget is a highly anticipated annual event that reveals the tax rates and budget allocations for the upcoming year. It has far-reaching effects on the financial planning and strategies of businesses, investments, and the common man. Finance professionals, including Chartered Accountants, closely monitor the Union Budget as it significantly influences financial decision-making, investment choices, and tax planning for their clients.

Given the Ministry of Finance's broad influence on the economic and financial landscape of India, it's no surprise that several ministers have opted to hold the portfolio of Finance Minister. This underscores the ministry's critical role in shaping the country's economic policies and regulations

Question 7

Can you describe the structure of the Indian judicial system, including its key components and their respective roles within the system?

Answer: The Indian judicial system is a complex and hierarchically organized system that serves as the guardian of the rule of law and justice in the country. It can be divided into multiple layers, each with its specific functions and jurisdictions.

Supreme Court of India: At the apex of the Indian judicial system is the Supreme Court. It acts as the highest court of appeal and is responsible for interpreting the Constitution and ensuring uniformity in the application of laws throughout the country. The Supreme Court can hear appeals from High Courts and other specialized courts, making it the ultimate authority in legal matters.

High Courts: India has 25 High Courts, each serving one or more states or union territories. High Courts have jurisdiction over their respective states or territories and serve as appellate courts for cases decided by lower courts. They also have the authority to issue writs and handle matters related to the violation of fundamental rights.

District Courts: Below the High Courts are District Courts, which are established in every district of the country. District Courts handle civil and criminal cases and are typically the first level of the judiciary that individuals encounter. These courts have the authority to try cases involving a wide range of issues.

Judicial Officers: The Indian judicial system is staffed by a large number of judicial officers, including judges and magistrates. These officers are responsible for presiding over court proceedings and rendering judgments. The hierarchy of courts, such as sessions courts and magistrates courts, is designed to ensure that cases are heard at the appropriate level. Subordinate courts, such as consumer courts, handle cases within their specified jurisdiction. Appeals from these courts can be made to the High Court, and further appeals can be made to the Supreme Court, depending on the nature of the case.

CS ILM Arjun Chhabra
(Law Maven)

Mo: 62 62 62 143 8 / 9552 52 143 8

Tribunals and Specialized Courts: India has various tribunals and specialized courts to handle specific types of cases. These include the National Green Tribunal, Income Tax Appellate Tribunal, and others, which are designed to expedite justice and provide expertise in their respective areas of law.

Gram Nyayalayas: These are rural or village courts established to ensure access to justice for residents of rural areas. Gram Nyayalayas handle petty civil and criminal cases and aim to reduce the burden on higher courts.

In summary, the Indian judicial system is structured with the Supreme Court at the apex, followed by High Courts, District Courts, and Subordinate Courts. Specialized tribunals and village-level Gram Nyayalayas contribute to a comprehensive system that aims to provide access to justice for all citizens.