

CHAPTER 1 → INDIAN REGU. FRAMEWORK

(1) Why awareness of law essential?

- CA. is 1st level of contact — legal matters of clients
- advice management at - Basic Level
- Later specialise — tax law / other law — Basic Law Knowledge important

(2) Purpose of IRF?

- Uniform set of rules / regulation
- govern - people = at

| | | |
|----------|----------|---|
| personal | relation | } |
| | | |
- Complex social frameworks today (Hunter-gatherer - agriculture - Industrial)
- avoid violation, punish

(3) Evolution of Law

- oldest : Code of Hammurabi - King Hammurabi - ruled Babylon - 1792 to 1758 BC

carved rules - stone + placed them in city for public
+ judge appointed to overview public following/not

- 450 BC : Twelve Tables - Rome

- laws - engraved - 12 bronze table ⇒ Most detailed Code
- protect Right + Wrong + Remedy.

(4) Law & Sources

- set : obligations + duties — by Govt — welfare + justice — society
- reflects : Indias — social — political — economic — cultural aspect

Sources

- 1) Constitution
- 2) Statutes (Law by Parliament + State assembly)
- 3) Precedent (Judicial Decision by Court)
- 4) Custom / Usage-

India

- A parliamentary democracy
- Constitution : Basis of all laws
- Representative to Parliament (P) + State Legislative of States : Elected By जनता (SL)
- They : make laws in P / SL
- Ultimate Law making Body : PARLIAMENT.
- Parliament Law → overall India applicable
- SL Law → only in respective state border.

British Time To Now

- UK Parliament — passed — Govt of India Act 1935
- ये हैं : Precursor / Base — Constitution of India

GOI Act 1935 functioned until Supreme Court established in 1950

acts as a federal court



exclusive jurisdiction on
disputes between

U & S or S & S
Unitary States

Appellate (original Advisory)



- appeal lies to SC for civil & criminal cases
- advisor to Governor General
- original jurisdiction - exclusively to hear cases between Govt of India & States

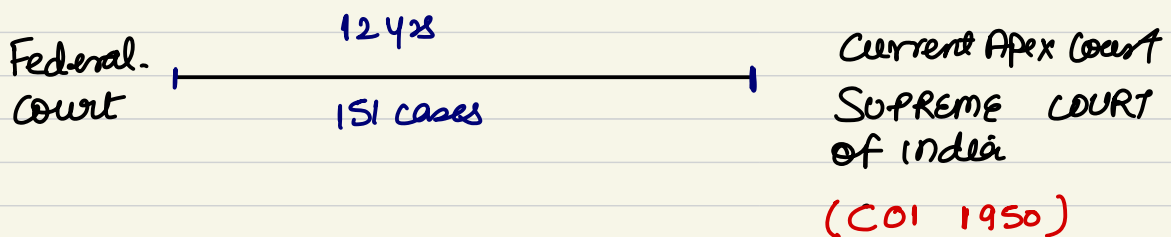
• GOI Act 1935

- made Govt characteristic - from UNITARY to FEDERAL.
- power distributed - Centre & State - No dispute

- 1937 - federal court established - with Jurisdictions

- appellate
- original
- advisory

 } see chart above



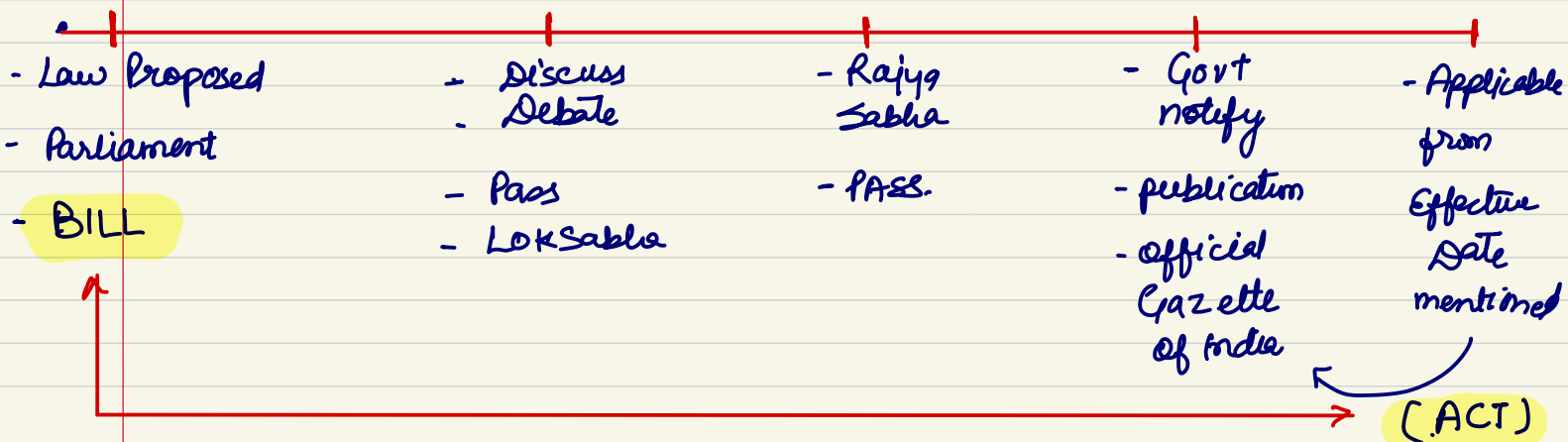
COI 1950

- Foremost Law — deal with our Democratic framework.
- By & For the people.
- Provides + protects — fundamental rights of citizen
- Fundamental Duties Citizen
- Power + Outlay of Govt (Centre + State)
- Hybrid Legal System (all interconnected)
- 3 List — To divide law making power
 - Central List
 - State List
 - Joint List
- Matter of which law — depend list where matter fall.

eg Income Tax → Central subject (full India Level) → So overall 1 IT Act

eg Stamp Duty Levy → state + Central.

Process of Law Making



Law Type —

(1) CRIMINAL

- For Rule violation
- Public Wrong
- Punishment
- Governed By IPC 1860
CRPC 1973
- IPC = define crime nature punishment
- CrPc = procedure of punishment

(2) CIVIL LAW

- Dispute between individual or organisation
- violation of Right / obligation
↓
enforced using Civil Suit
- Dispute Resolution ✓
- Punishment & focus X
- Governed By
CPC 1908
- Type of Civil Law
 - Contract Law
 - Family
 - Property Law
 - Tort Law
- Type of Civil Offences
 - non delivery goods
 - dues not paid.
 - Contract Breach

(3) COMMON LAW

- Some case law
- Judicial precedent
- judgement of supreme Court
- Binds within Indian Territory
- Article 141
- Stare Decisis
Stand By what is decided already
- Court should follow same judgement of previous decisions
- should be exact "on all 4 legs".
like previous decisions

Students जो आप अलग अलग chapters में case law पढ़ेंगे
Un case laws ko precedent / common law कहें हैं

फिर से वही कुछ repeat होगा तो
Courts of previous judgement का सहारा लेना होगा

(4) Principle - Natural Justice

- Jus natural
- fundamental principle - justice Beyond Law
- nemo judex in causa sua - dont make someone judge in his own cause
- audi alteram partem - hear other party fairly
- Reasoned decision

Judgement, common law को override कर सकता है
या statute को change नहीं

Indian Judicial system (Structure) - role

- Resolve disputes - between citizen
 - govt & citizen
 - regulate - interpretation of Act, Code.
 - promote fairness

Hierarchy

Binding on

| | | | | |
|----------------|---|------------------|---|-----------------------------|
| Supreme Court | : | on all Hc | : | Article 141 of constitution |
| | | (Final word) | | |
| High Court | : | Respective State | + | Other state में Persuasive |
| | | को Binding | | (not Binding) only |
| District Court | | | | |

Supreme Court

- apex body of Judiciary
- 26 Jan 1950
- Highest authority
Chief Justice of India (CJI)
- Principal Bench
7 member
(including CJI)
- Current number =
= 3
- Resolution By person
in SC
↳ By writ petition
(Article 32)

HC

- States and UT's
- Highest appeal court
- 1 in each state is must
(Article 214)
- 3 jurisdiction
 - appellate
 - original
 - supervisory.
- limits HC's supervisory power
(Article 227)
- India 25 HC
- 6 state = 1 HC
- Remedy in HC
writ petition
Article 226
- oldest
Calcutta HC
1862

DC

- Below HC
- civil law matter
- contractual disputes
- claim for damages.

↓
Court of District Judge

- Criminal Matters

↓
Court of session

pecuniary matter
≤ 2 crore ₹

Metropolitan

MC

- in Metro cities
(along with HC)
- whose population
≥ 10 Lakh
- Chief Metropolitan Magistrate
||
powers as
||
Chief Judicial Magistrate
+
Metropolitan Magistrate
= power as Court
of Magistrate
of I class

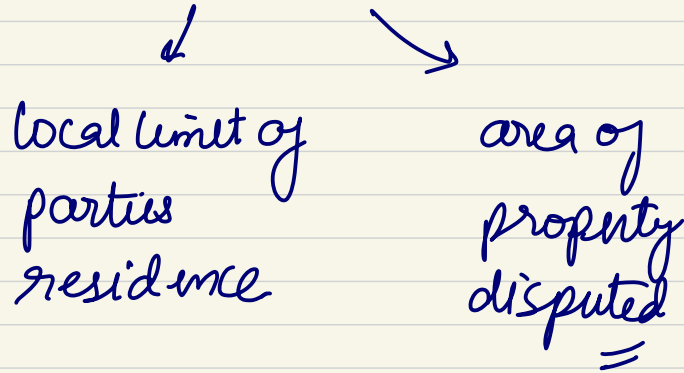
• Jurisdiction : power to control

• Article : Further divided into sections

Its a regular division whenever any legal document is made.

• How Court get jurisdiction → Based on Area They cover

• Case decided Based on



Law Enforcement

• after Law passed - Enforce + Monitor.

• By Executive

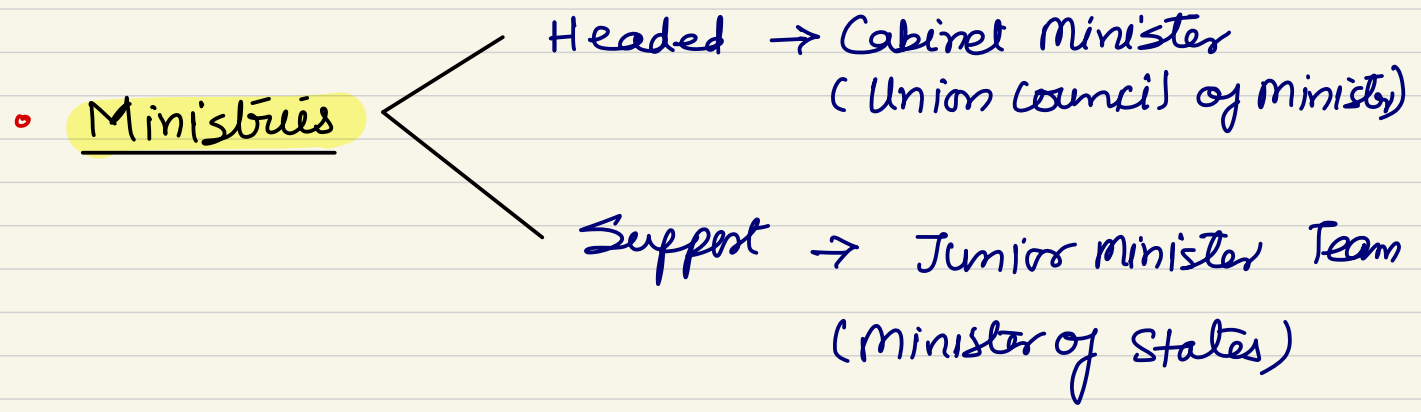
- Depends on - Law → Central / State → Gov. authority
CG / SG

• Role of ministry

ER MOF, MCA, MHA, MLJ

- head = minister ← Accountable.
- run = IAS, other officers = Civil servant

- GOI = Execution authority = Govt Ministry + Department of state



~~legis~~ IT Act — MOF Enforce
 — By CBDT
 — under DOR
 — administer IRS officer

Ministry of Finance

- Vetta Mantralaya.
- GOI ministry - concerned with Indian Economy.
- Serve as Treasury of India

- Tax, Fin Legislation, Fin Instrument, Cap. Market, Centre, State Finance, Union Budget-
- Some minister here hold Fin. Minister Portfolio-
- annual event = Budget for Common Man
 - ↳ rates of tax
 - ↳ Budget for each sector.

* Pls read Boxes from Pg 1.7 onward
from Book upto Pg 1.10

* ICAI has not given Questions For Practice

* Please refer - Fresh Questions added By Agrika
Mam in Your Law Course
& solution video too