

## Chapter - 1

# Indian Regulatory Framework

Indian Regulatory Framework :-

A regulatory framework is a set of -

Laws, Rules and Regulations

that govern the conduct and operations of

A particular sector or industry.

It provides a framework for how individuals, organisations and companies

must comply with certain guidelines and standards set by regulatory bodies or the government.

Some Examples -

1. Safety Standards
2. Environmental regulations
3. Licensing requirements
4. Family laws
5. Workplace laws
6. Pay laws

Why Law & Regulatory Framework?

- Future Chartered Accountant.
- This is because a Chartered Accountant is the first level of contact on many legal matters.
- Advise management and clients on legal matters.
- Tax laws are also laws.
- The purpose of a regulatory framework is to provide a set of uniform rules and regulations that will

govern the **conduct** of people at personal as well as **business** relationships.

### History:-

- Down the ages, mankind has evolved from a hunter-gatherer society through agriculture and industrial revolution to a complex social framework.
- If we talk about ancient law, on the basis of information available from different sources "**Code of Hammurabi**" is known as **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 placed those stones on different places all over the city.
- He also appointed judges to check whether public is following the laws or not.
- 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.
- **1935 - The Government of India Act, 1935**  
Passed by the Parliament of the United Kingdom -  
As the precursor for the Constitution of India.  
It defines the characteristics of the Government

from "Unitary to federal".

Federal Government	Unitary Government
2 Level of Government (Central govt. + State govt.)	Only 1 level of govt. (Central/National govt.)
Political Powers shared by 2 level of govt.	Political Power held by Central govt. Only.
The Constitution is Rigid & Codified.	The Constitution is flexible & Uncodified
2 different types of law [Central + State law]	Only 1 set of law for whole country.

- 1937, Federal Court was established. Powers were distributed between Centre and State to avoid any disputes. The Federal Court operated for 12 years and heard roughly 151 cases.

- India's current Apex Court - The Supreme Court of India.

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

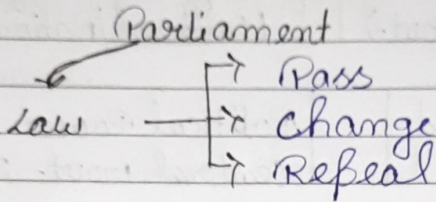
**Definition of law:-**  
Law is a set of obligations and duties imposed by the government for securing welfare and providing justice to society.

## Sources of Law:-

The main sources of law in India are -

i) Constitution of India

ii) The statutes or laws made by Parliament and state assemblies.



iii) Precedents or the judicial decisions of various courts.

iv) Customs & Usages

• India is a **parliamentary democracy**.

• We have a **constitution which is the basis and source for all laws**.

• **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 legislature apply only within the borders of the state concerned.

• Constitution has divided the law-making power between the central and the various state government.

• So, the Indian Constitution has three lists viz. → Central list, state list and Joint list.

## The Three Lists

Union List	State List	Concurrent List
Defence and Armed Forces	Local Government Bodies	Forests
Atomic Energy and Mineral Resources	Agriculture	Population Control
Foreign Affairs	Tourism of a State	Education
National Highways	Toll taxes and land Revenue	Trade Unions
Railways	State Pension	Religious Institutes
Census	Public Debt of the State	Electricity
Banking	Elections of a Particular State	Land and Waterways
Currency	Salaries and Allowances to Ministers of State	Economic and Social Planning
Organisations such as RBI, CBI		

## Process of Making 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 must 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.

## Types of Laws

### A) Criminal Law :-

→ Criminal law is governed under the Indian Penal Code, 1860, and the Code of Criminal Procedure, 1973 (CrPC).

→ 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.

Before	Now	Nature of work
IPC, 1860	Bhartiya Nyaya Samhita	Crime, Nature and Punishments
CrPC, 1973	Bhartiya Nagarik Suraksha Samhita	Procedure for executing the punishments

### B) Civil Law :-

#### Key words Table

Primarily Focuses on	Dispute resolution rather than punishment	Matters of disputes between individuals or organisations
Code of Civil Procedures, 1908 (CPC)		Law of Contract, Family Law, Property Law and Law of Tort

### ex Common Law :-

#### Key words Table

A case law is common law.	Article 141 Supreme Court will be binding upon the courts within the territory of India.	Stand by that which is decided.
Principle or judgement established by previous decisions.	Courts to follow the same -	where the facts are similar or "on all four legs" with the earlier decision.

## Principles of Natural Justice :-

### Key words Table

Fundamental principles of justice going beyond written law	No one should be made a judge in his own cause	Hear the other party or give the other party a fair hearing.
--	--	--

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

## Enforcing The Law :-

- After a law is passed in parliament it has to be enforced (Implement and Monitor).
- 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.

### Example -

- ACT - The Income Tax Act
- Ministry - Implemented and enforced by the Ministry of Finance.
- Dept. - Department of Revenue
- Body - the Central Board for Direct Taxes
- Administered by - the officers of the Indian Revenue Service

• Some of the popular ministries are :

- Ministry of Finance
- Ministry of Corporate Affairs
- Ministry of Home Affairs
- Ministry of Law and Justice and so on.

• Ministries are headed by a minister and run by officers of the Indian Administrative and other services (civil servants).

## 1) The Ministry of Finance :-

• The Ministry concerned with the **economy of India.**

• Serving as the **Treasury of India.**

• Concerns with :-

→ taxation,

→ financial legislation,

→ financial institutions,

→ capital markets,

→ centre and state finances, and

→ The Union Budget - One of the important functions

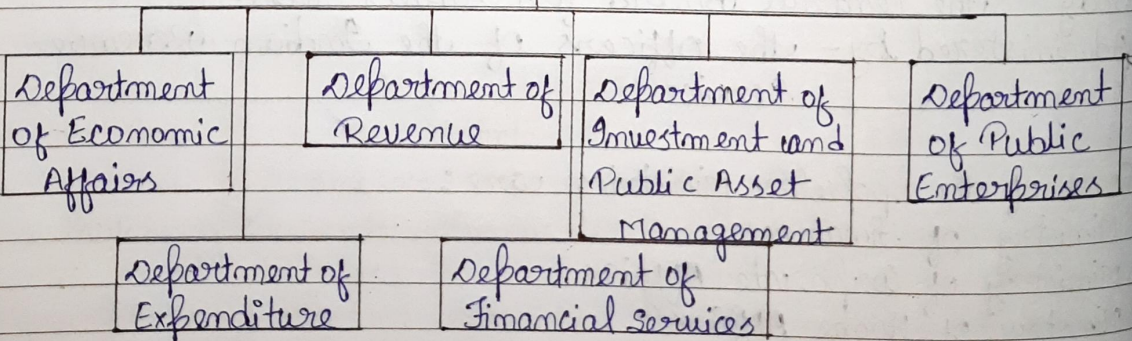
■ Constitution of the Ministry of Finance :- <sup>Central</sup> Civil Services

Indian Revenue Service (Revenue)	Indian Audit and Accounts Service (Audit & Accounts)	Indian Economic Service (Economics)	Indian Civil Accounts Service (Accounts)
----------------------------------	--	-------------------------------------	--

Central Commerce Services

Indian Cost and Management Accounts Services (Cost & Management)

→ Departments under the Ministry of Finance :-  
Departments of Ministry of Finance





## 2) Ministry of Corporate Affairs :-

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

## 3) Ministry of Home Affairs :-

- 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.

Departments of Ministry of Home Affairs

Department of Border Management	Department of Internal Security	Department of Home	Department of States
Department of Jammu, Kashmir and Ladakh Affairs	Department of Official Language		

## Department of official Language

Central Translation  
Bureau

Central Hindi  
Training Institute

Directorate of  
Census Operations

## 4) Ministry of Law and Justice :-

- Ministry of Law and Justice is a Cabinet Ministry.

- Deals with the -

- Department of Legal Affairs - Managing legal affairs and Advising the various Ministries of the Central Government.

- Legislative Department - Drafting of principal legislation for the Central Government.

- Department of Justice - Administration of justice in India.

## Departments of Ministry of Law & Justice

Department of  
Legal Affairs

Legislative  
Department

Department  
of Justice

## Major Regulatory Bodies

- 1) The Securities and Exchange Board of India (SEBI)

- The regulatory body.

- For securities and commodity market in India.

- Under the ownership of Ministry of Finance within the Government of India.

- It was established on 12 April, 1988 as an executive body and was given statutory powers on 30 January

1932 through the SEBI Act, 1992.

### 2) Reserve Bank of India (RBI)

- India's Central Bank, and
- Responsible for Regulation of the Indian Banking system.
- Under Ministry of Finance (MOF) and Government of India (GOI).
- Responsible for control, Issue & Maintaining supply of Indian Rupees.
- Manage - Country's main Payment system & Promote its Economic Development
- Bharatiya Reserve Bank Note Mudran (BRBNM)
  - Print & Mints Indian Currency
  - Press located in → Nashik (Western India) .
  - Dewas (Central India)
- RBI established - National Payment Corporation of India which
  - = Regulate Payment & Settlement System in India.
- Deposit, Insurance & Credit Guarantee Corporation - providing Insurance of deposits and guaranteeing of credit facilities to all Indian banks.

### 3) Insolvency and Bankruptcy Board of India (IBBI):

- Regulatory for overseeing insolvency proceedings & Entities like Insolvency Professional Agencies (IPA), Insolvency Professionals (IP) and Information Utilities (IU).
- Established on 1 October, 2016.
- Powers given through - Insolvency & Bankruptcy Code Passed by Lok Sabha on 5<sup>th</sup> May, 2016.

- Covers Individuals, Companies, Limited liability Partnerships and Partnerships firms.

- Handles the cases using 2 Tribunals -

- NCLT: National Company Law Tribunal

- DRT: Debt Recovery Tribunal

## Structure of The Indian Judicial System

- Dispute b/w citizens and the Govt. - resolved by the judiciary.

- **Functions of Judiciary :-**

- 1) Regulation of the **interpretation** of the Acts and Codes.

- ii) **Dispute Resolution.**

- iii) **Promotion of fairness** among the citizens of the land.

- **Hierarchy of Courts :-**

Supreme Court is at the Top → High Court → District Court → Metropolitan Courts.

- Supreme Court → Decisions are binding on all High Court under **'Article 141'** of Indian Constitution.

- Decision of Supreme Court is the final words on the matter.

## 1. Supreme Court

- Apex body of Judiciary.

- Established on 26 January, 1950.

- Chief Justice of India (CJI) → **Highest Authority under Article 126.**

- Principal bench of Supreme Court consist of **7 members including CJI.** Presently, increased to **34 including CJI.**

- Individual can seek relief by filling a writ / Application under **Article 32.**

## 2. High Court

- Appeal in each state and union territory.
- **Article 214** of Indian Constitution states that there must be a High Court in each state.
- Has Appellate, Original jurisdiction and Supervisory jurisdiction.
- **Article 227** of Indian Constitution, limits High Court's supervisory power.
- 25 High Courts, 6 state sharing 1 High Court.
- Individual can seek remedies by filing writ under **Article 226**.
- **Oldest High Court** → **Calcutta High Court**, established on **2nd July, 1862**.

## 3. District Court

- Under High Court,
- The **Courts of District Judge deal with Civil law matters**, i.e. contractual disputes and claims for damages, etc.
- **Court of Session** → **deals with criminal matters**.
- A civil judge cannot sit over 2 crore Rupees.
- Territorial Jurisdiction → based on area covered by them.

## 4. Metropolitan Courts

- Established in **metropolitan cities** in consultation with **High Court** where population is **ten lakh or more**.
- Chief Metropolitan Magistrate has power as **Chief Judicial Magistrate** and **Metropolitan Magistrate** has powers as the court of a Magistrate of the first class.