Indian Regulatory Framework

* What is law?

- Law is a set of obligations & duties imposed by government for securing welfare & Providing justice to society.

- Indian legal framework reflects the social, political, economic, and cultural aspect of our vast and diversified country.

* Sources of Law

The main sources of Law in India are:

1. Constitution
2. The laws made by parliament & State Assemblies
3. Precedents or the judicial Decisions of various courts & in some cases, established by customs & usage

* Important points about History of Law

1. Constitution — Parliament { Rolling party / opposition Party } Ministers → Elect public

2. Laws passed by parliament may apply throughout all or portion of India
(Removal of Article 370)
↓
Where laws passed by state legislatures apply only within the borders of the state concerned.

3. 1935 ⟶ Parliament of UK ⟶ Govt. of India Act, 1935
↓
unitary $\xrightarrow[\text{convert}]{}$ federal
↓
Powers < centre / state
↓
Establish federal court

Supreme court ├── 151 cases ──┤ 12 yrs

cases: Public opinion
Decision: Criminal + civil law

1947 (Indendence) ├──────┤ 1950 (court of India)

freedom fighters
↓
Provisional Assembly (Dissolve) → Imp. Law ① ICAI Act ② Banking Regulation Act

5. Constitution of India Divide the Law making power b/w CG and SG
↳ a) Central list → Law → CG
b) State List → Law → SG
c) Joint or current list → Law → CG+SG

* The process of Making Law

Draft

Where a Law is proposed in parliament it is called a Bill

↓

After discussion & debate, the Law is proposed 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 Govt. in the publication called official Gazette of India

* Types of laws in Indian legal System

- Criminal law
- Civil law
- Common law
- Principle of Natural Justice

① Criminal law

- Criminal law is concerned with laws pertaining to violations of the rule of law or public wrongs and punishments of the same.
- Criminal law is governed under the Indian penal code, 1860, and the code of criminal procedure, 1973 (CrPC)
- The Indian penal code define the crime, its nature, and punishments
- Whereas The criminal procedure code, 1973, define exhaustive procedure for executing the punishments of the crimes
- ex:- Murder, rape, theft, fraud, cheating & Assault.

② Civil law

- Matters of dispute between Individual or organisation
- Civil courts enforce the violation of certain rights & duties through the

Date / /

Institution of civil suit
- Focuses on dispute regulation rather than punishment
- Admin of civil law are governed by code of civil procedure (CPC) 1908
- Ex:- Contract law, Breach of contract, Non-payment of duties, Dispute betw Landlord & tenant.

③ Common Law

- A Judicial procedure or a case law is a common law.
- A Judgement delivered by the Supreme Court will be binding upon the courts within the Territory of India (Article 141)
- The doctrine of Stare Decisis is the principle supporting common law
- It means "to stand by that which is decided".
- This doctrine enforce to follow the same judgement established by previous decision, which was earlier decided.

④ Principle of Natural Justice

- Jus Natural → Natural Justice Deals with fundamental principle of Justice going beyond.

Date / /

- Nemo Judex in causa sua → No one should be made in his own case.

- Audi Alteram partem → Hear the oth party or give party a fair chance.

* Enforce the Law

Central Government

- Legislation
  - Law maker (Parliament)
- Executive
  - Law enforce (ministries)
  - Head of Cabinet ministries
    - Min. of Finance
    - MCA
    - MHA
    - Min. o Law & Just
- Judicial
  - Law Interpre & Justic (courts)

~~All~~ Run by Indian Admin services

1) Ministry of finance

- Also known as Vitta Mantralaya
- Min. within the Govt. of India concerned with the economy of India serving as the Treasury of India
- It concerns with Taxation, finance legislation, financial Institutions, capital market, Centre & State finance & union Budget
- As a CA, many of your day-to-day work life will be impacted by this ministry
- One of the ~~Institution~~ important functions of the finance ministry is the presentation of the union Budget.

→ Constitution of Ministry of finance

- Apex controlling Authority
- four central civil services i.e.
  a) Indian Revenue Service
  b) Indian Audit & Account Service
  c) Indian Economic Service
  d) Indian Civil Account Service
- Also the Apex controlling Authority of Indian Cost & Mgt. Account Service.

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Note: www presented the Max. number of union Budget as finance minister

1) Shri Morarji Desai - 10 Budget
2) Shri P. Chidambaram - 9 budget
3) Shri. Pranab Mukherjee - 8 Budget
4) Shri. Yashwant Sinha - 8 Budget
5) Dr. Manmohan Singh - 6 Budget

4) Ministry of Corporate Finance

- Is an Indian Govt. Ministry
- Primarily concerned with Admin of the Companies Act, 2013, Companies Act 1956, LLP Act, 2008, and the Insolvency & Bankcrupcy code 2016.
- Responsible for the regulation of Enterprise in the industrial & Service Sector
- The Min. is mostly run in Civil Service
- These officers are elected through the civil services Examination conducted by UPSC
- The highest post, Director general of Cop. Affairs is fixed at Apex Scale for the ICLS.

3/ Ministry of Home Affairs (Griha Mantralaya)

- is a ministry of the Govt. of India.
- As an interior ministry of India, it is mainly responsible for the maintenance of internal security & Domestic policy
- The Home ministry is headed by union minister of Home affairs

Department of Min. of Home Affairs

- Dept. of Boarder mgt.
- Dep. of Internal Security
- Dept. of J&K and Ladakh affairs
- Dep. of Home
- Dept. of official language
  - Central Transaction Bureau
  - Central Hindi Training Inst.
  - Directorate of census operation
- Dept. of State

4/ Ministry of Law & Justice.

- In the Govt. of India is a Cabinet ministry deals with the
  - a/ management of the legal affairs through the legislative Dept.
  - b/ legislative activities through the Dept. of Legal Affairs
  - c/ Admin. of Justice in India through the Dept. of Justic.

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5) The Securities and Exchange Board of India (SEBI)

- is 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, 1992 through the SEBI Act, 1992

6) Reserve Bank of India (RBI)

- Reserve Bank of India (RBI) is India's central bank is regulating the banking and monetary system
- works under the ministry of finance, Government of India
- Controls issue and supply of currency(s) and manages payment systems and economic stability.
- Its division include BRBNMPL (currency printing), NPCI (Payment systems), and DICGC (Deposit insurance).

Insolvency and Bankruptcy Board of India (IBBI)

- Insolvency and Bankruptcy Board of India (IBBI) regulates insolvency proceedings and professional like IPAs, IP and IU.
- Established on 1 october 2016 under the insolvency and Bankruptcy code, 2016.
- Covers individuals, companies, LLPs, and firms to ensure fast and simple resolution of insolvency cases
- Cases handled through NCLT and DRT.

* Structure of the Indian Judicial System

- Dispute between citizens or between citizens and the government are resolved by the judiciary.

- functions of the Judiciary System of India
  - Interpretation of Acts and codes
  - Dispute Resolution
  - Ensuring fairness among the citizens of the land

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1] Supreme Courts

- Is the apex body of the judiciary

- The chief Justice of India is the highest authority, appointed under Article 26.

- An individual can seek relief in the supreme court under Article 32 by filling a writ petition

2] High Courts

- Article 214 of the Indian Constitution states that there must be a High court in each State.

- In India, there are 25 High courts

- Six states share a single High court

- The oldest High court in the contry is the Calcutta High court, established on 1 July 1862.

3) District Courts

- The court of the District Judge deals with civil law matters
- The court of sessions deals with criminal matters
- Courts have territorial Jurisdiction based on the areas covered by them
- Cases are decided based on local limits - where the party resides or where the property under dispute is located.

4) Metropolitan Courts

- These courts are established in metropolitan cities with large populations
- They handle cases within city limits and help in speedy disposal of cases