

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

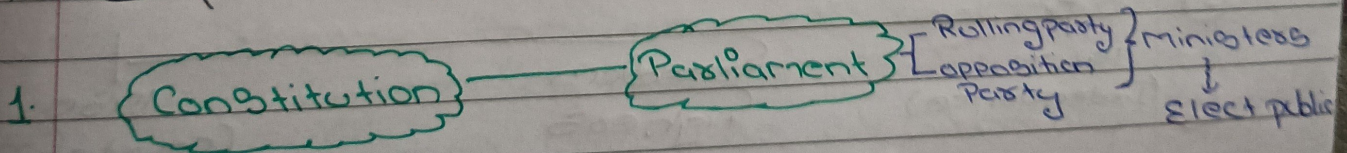
The main sources of law in India are:

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



2. Laws passed by parliament may apply throughout all or portion of India
(Removal of Article 310)

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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 ^{was} converted → Federal

↓
Powers Center
State

↓
Supreme Court 12 yrs | 131 cases | Establish Federal Court +

Cases: Public opinion
Decision: Criminal
+ civil cases

1947 (Independence) | Freedom Fighters | 1950 (Govt of India)

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

5. Constitution of India Divide the Law making power b/w C & S G

↳ of Central list $\rightarrow$ Law $\rightarrow$ C G

by State List $\rightarrow$ Law $\rightarrow$ S G

of Joint or concurrent list $\rightarrow$ Law $\rightarrow$ C & S G

* The process of Making Law

Draft

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

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After discussion & debate, the Law is
proposed in Lok Sabha

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Thereafter, it has to be passed
in Rajya Sabha

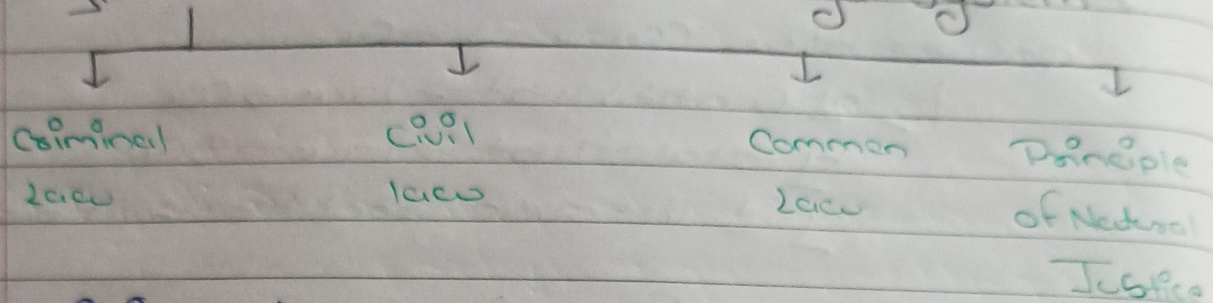
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It then has to obtain the assent of
the president of India

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Finally, the Law will be notified by
the Govt. in the publication called
official Gazette of India

* Types of laws in Indian legal system



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 defines the crime, its nature, and punishments.
- Whereas the criminal procedure code, 1973, defines 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

Institution of Civil Suit

- Focuses on dispute resolution 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 between 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 14)
- 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.

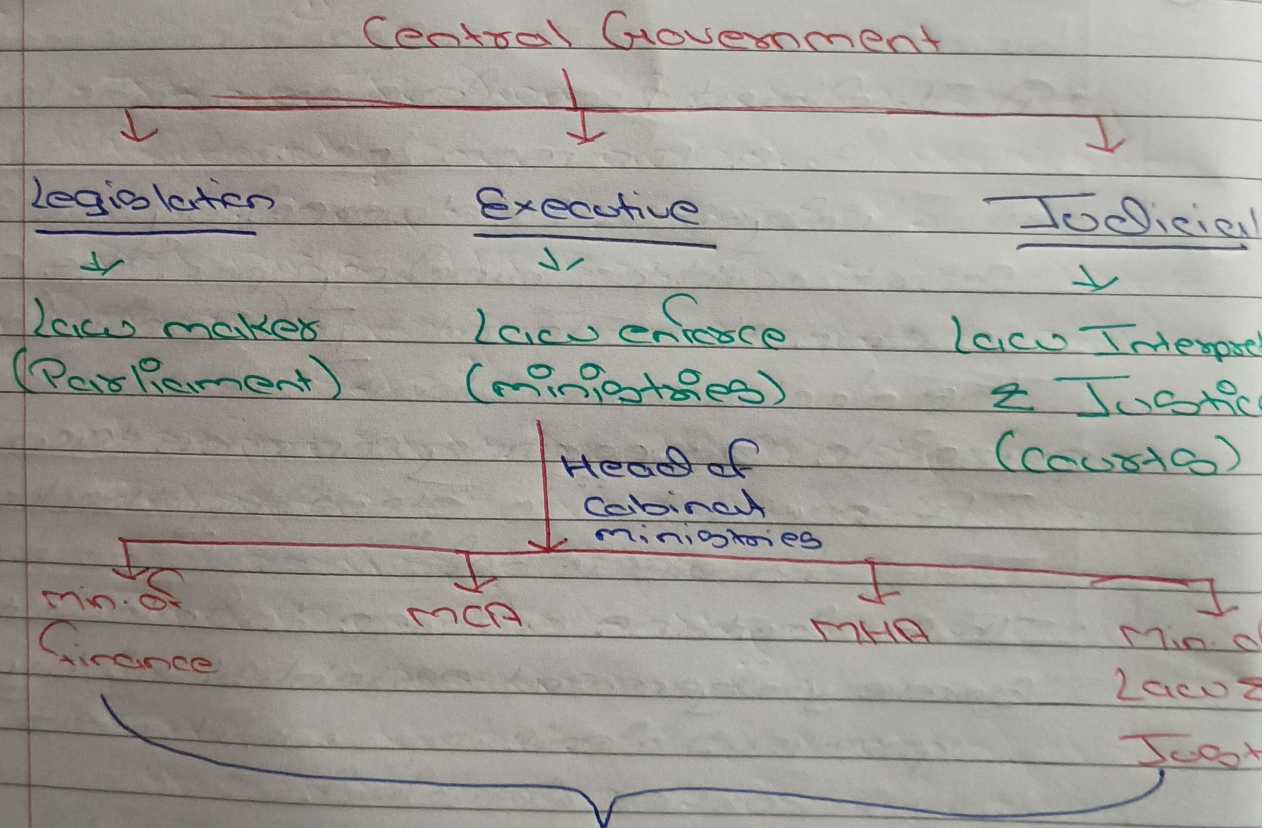
④ Principle of Natural Justice

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

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

• Audi Alteram partem → Hear the other party or give party a fair chance.

* Enforce the Law



Run by Indian Admin Services

4 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 ^{important} ~~institutions~~ 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.
 - of Indian Revenue Service
 - of Indian Audit & Account Service
 - of Indian Economic Service
 - of Indian Civil Account Service
- Also the Apex controlling Authority of Indian Cost & Mgt. Account Service.

Note: who presented the max. number of union Budget as Finance Minister

- 1] Shri Morarji Deesai - 10 Budget
- 2] Shri P. Chidambaram - 9 Budget
- 3] Shri. Pranab Mukherjee - 8 Budget
- 4] Shri. Yashwan Sinha - 8 Budget
- 5] Dr. Manmohan Singh - 6 Budget

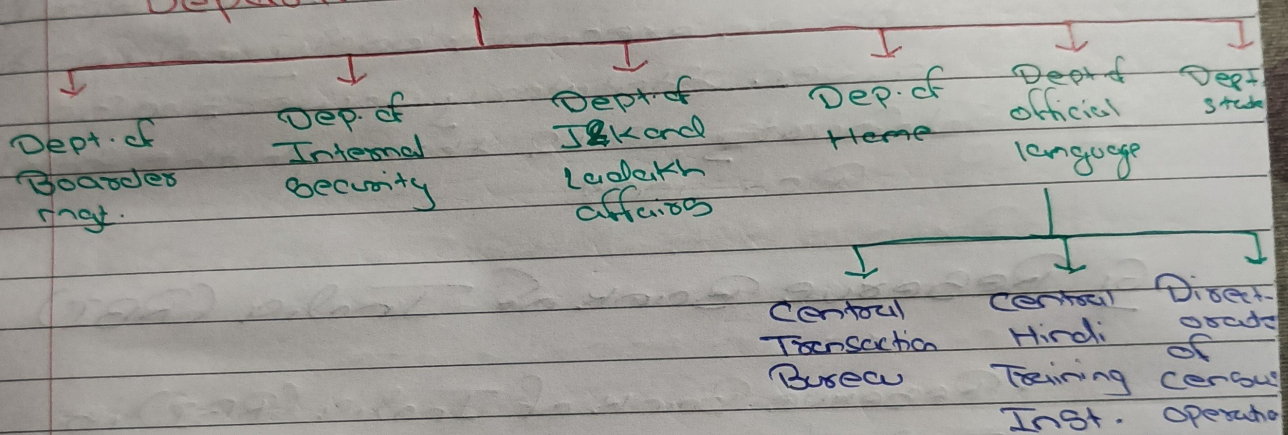
2] Ministry of Corporate Finance

- Is an Indian Govt. Ministry
- Primarily concerned with Admin of the Companies Act, 2013, Companies Act 1956, LLP Act, 2008, and the Insolvency & Bankruptcy 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 IAS.

3) Ministry of Home Affairs (Gharana Karamdar)

- 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



4) Ministry of Law & Justice.

- In the cabinet of India is a cabinet ministry deals with the management of the legal affairs through the legislative Dept. by legislative activities through the Dept. of Legal Affairs of Min. of Justice in India through the Dept. of Justice.

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, 1992 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 (2) and manages payment systems and economic stability
- Its division include BRBNMP (currency printing), NPCI (Payment Systems), and DICGC (Deposit Insurance).

7] Insolvency and Bankruptcy Board of India (IBBI):

- Insolvency and Bankruptcy Board of India (IBBI) regulates insolvency proceedings and professionals like ICAI, IP and TV.
- 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 NCT 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

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 country 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 in 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