

Indian Regulatory Framework Weightage
(6 marks)

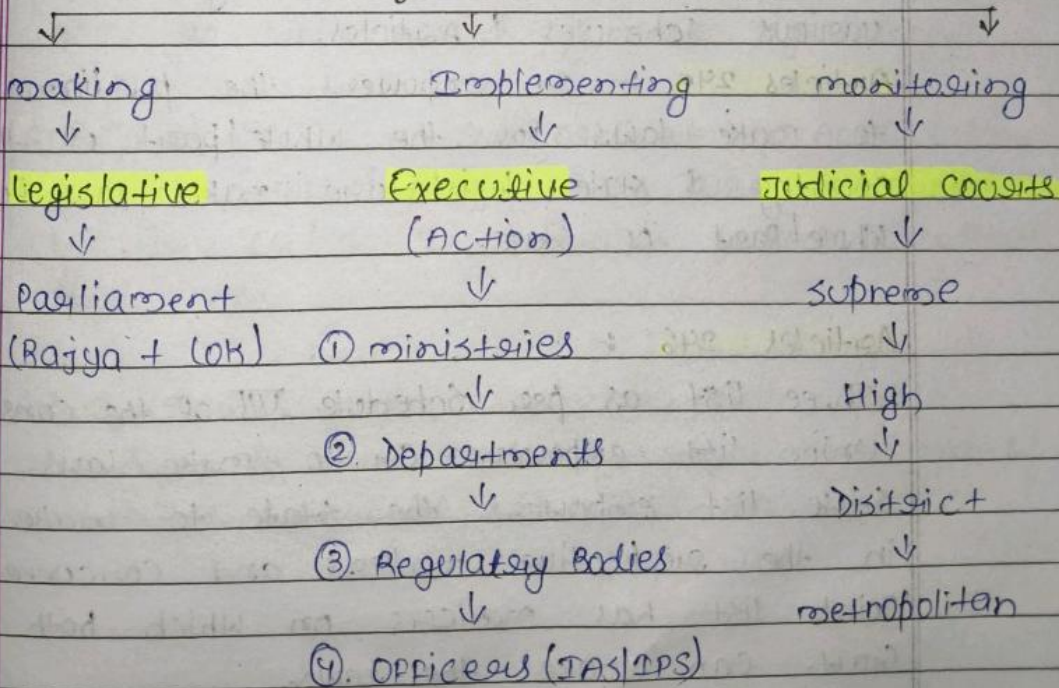
* meaning OF REGULATORY FRAMEWORK :-

→ This governs conduct & operations of individuals, companies or organisations across all sectors or industries within the country.

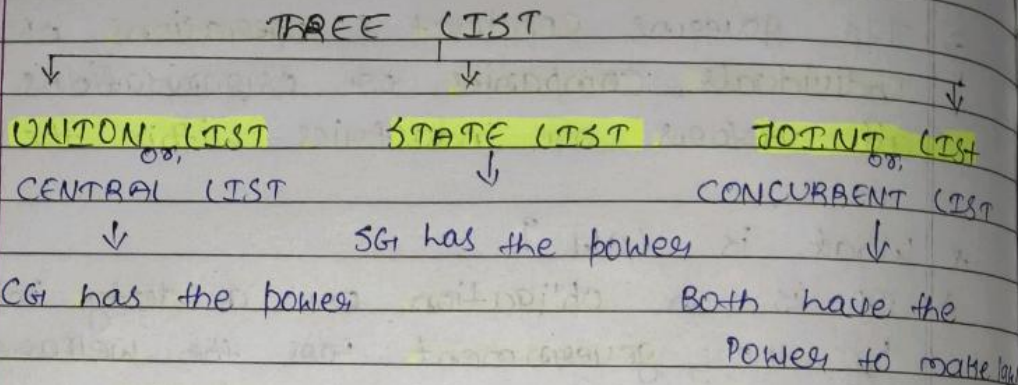
* What is Law ?

→ It is an obligation or a duty imposed by the government for the welfare of the society & to provide justice.

3 wings of Constitutions



→ India is a **Federal Form** of Government and has some features of unitary as well. Hence - A Hybrid structure.



*. Sources of law :- Constitution is the main source of law in the country. It has various schedules & articles.

Articles 245 :- It empowers the parliament to make laws for the whole/part of the country & state legislature makes law for whole/part of state.

Articles 246 :-

Three list as per Schedule VIII of the constitution. Union list empowers CG to make laws, State list empowers the state to make laws in the respective matters and concurrent/Joint list has matters on which both the Govt. can make the laws.

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* Difference Among LAW/ACT/RULES/REGULATION :-

LAW :- [ACT + Rules + Regulations + circulars + Amendments + ~~Not~~ Notifications + Ordinances + Judgements.

→ It is broader term which includes Acts, Rules, Regulations, Classifications etc.

→ It also includes case laws / Judicial decisions.
It is an **Umbrella term**.

ACT :- ACT is a part of law. It is statute passed by law. (The com. Act 2013).

HOW? → Refer the process of making law.
An ACT could be a central or a state ACT as well passed by state legislature.

RULES :- It is a sub ordinate of Acts. Rules tell us "HOW"? part. Rules are Governed by the CG/SG. It contains procedure, methods, forms etc.

REGULATIONS :- They are also made under an ACT ~~by~~ but made by regulatory bodies / authorities. Ex :- SEBI, RBI, ICAT etc.

* Sources of Laws :-

(1). CONSTITUTION OF INDIA :-

Constitution has given power to the parliament to make laws as per **Article 245**. and it has distributed it into 3 lists :- Union (central) list, State list & Joint (concurrent) list as per **Article 246**.

(2). Statutes or laws made by the parliament :- **Parliament** is the ultimate **law making body**. Parliament can make/amend/Repeal laws. (pass/change/End)

(3). Precedents / Judicial Decisions :- As per **Article 141**. Supreme is the highest authority in India. It means Court. All the Judicial decisions passed by SC will apply to the whole of India. It is called **common law**.

(4). Customary Law :- law which is based on customs or usage is also a source of law. Continuation...

→ Custom means :- An established long term practice in the country.

→ Usage means :- An act which is followed since years in a particular trade.

So, Custom & Usage are unwritten laws → which were present before the law in the country & if they are clear, not vague & not against public policy then court may incorporate / recognise them under the law.

* Summary for Types of Laws :-

(1). CRIMINAL :- Handles crime & Punishments.

(1860) IPC → Nature / Punishment

(1973) CRPC → Execute / Procedure

Ex :- murder, theft, rape etc.

(2). CIVIL :- Primary focuses on Dispute resolution rather than punishment.

ACT = CPC = Code of Civil Procedure.

Ex :- Non delivery of Goods, Breach of contract.

(3). COMMON LAW :- A case law or a judicial decision or precedent given by SG = Binding on all. The doctrine of stare decisis means stand by which is already decided. But the case should be equal on all the legs.

(4). Principle of Natural Justice :-

→ It is a fundamental principle of Justice which means going beyond written law if needed.

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→ LATIN = "Nemo Juxex in Causa Sua"
No one should be a Judge of his own case.

→ LATIN = Audi alteram partem :-
Hear the other party / Give him a fair hearing

→ NO Judgements - or common law can override the statute / ACT.

* 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 Govt. in the publication called the Official Gazette of India.
- The law will become applicable from the date mentioned in the notifications as the effective date.
- Once it is notified and effective, it is called an Act of Parliament.

History of LAW :-

JFK

- ① Oldest written law :- Code of Hammurabi.
Law was carved on bulky stones in 1758 BC.
- ② Roman Law :- 450 BC → 12 Bronze Tables.
- ③ 1935 :- The Government of India Act by parliament of united kingdom. It converted India from unitary to federal form of Government.
- ④ 1937 :- [12 years] - 1950 = Apex Court = SC of India. Constitution of India.
151 cases

Enforcing the Law in India :-

- After a law has been enacted/formed in the parliament, it has to be enforced means implemented. This also needs to be monitored to see if the enforcement is followed or not.
- For this purpose, it depends whether the law is central or state depending on which the authorities will be aligned.
- The power has been delegated to various **Ministries**. Such as, ministry of Finance (MOF) ministry of composite affairs (MCA) etc.
- These ministries further delegate powers to **department** which further **delegate** to various **Bodies** handled by civil officers like IAS/IPS.

(ONLY KEY WORDS)

Types OF MINISTRIES

(1). MINISTRY OF FINANCE :-

- Economy of India / Treasury of India.
- Concerns/Work :- Taxation, Fin. Institutions, Capital market, Centre / State Revenue.
- Union Budget :- Annual Event
- Officers :- TRS, Audit & Acc., Civil Acc., Economic, Cost & mgmt. Acc.
- Departments :-

(2). MINISTRY OF CORPORATE AFFAIRS :-

- It regulates - TCA (2013, 1956), CLP 2018, IBS 2016
- Officers - ICLS :- Indian Cos. Law services
Highest post [DGOCA] - Director General.

(3). MINISTRY OF HOME AFFAIRS :-

- Responsible of Internal / Domestic security [Interior ministry]
- Departments →

(4). MINISTRY OF LAW & JUSTICE :-

- It administers legal affairs & Justice in the country.

- * Dept. of legal affairs (Advice to CG)
- * Legislative Dept. (Drafting of legislation for CG)
- * Dept. of Justice.

Major Regulatory Bodies

* RESERVE BANK OF INDIA :-

- It is the **central Bank of India**. It is a **Regulatory body of the Indian Banking System**.
- It falls under the ownership of **ministry of Finance**.
- It is responsible for Indian Currency's (M.C)
 - i). **Maintenance of Supply**
 - ii). **Mudran (Print)**
 - iii). **Issue & control of Indian Currency**.
- It is also responsible for Indian **payment system (NPCI)** and **Deposit Insurance & Credit Guarantee in India**.

* Insolvency and Bankruptcy Board of India (IBBI) :-

- It handles **Insolvency proceedings for Individuals**
- i). **IPA - Insolvency Profession Agency**
 - ii). **IP - Insolvency Professional**
 - iii). **IU - Information Utilities**
- **National Co. Law Tribunal (NCLT)**
- **Debt Recovery Tribunal (DRT)**

- * The Securities and Exchange Board of India
- 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 12th April 1988 as an executive body and was given statutory powers on 30th January 1992 through the SEBI Act, 1992.

INDIAN JUDICIARY SYSTEM

- It is a system through which law is enforced in India and it resolves dispute among citizens & Govt. as well.
- Functions :- [FDT]
 - i. Fairness :- Promote fairness
 - ii. Dispute :- Resolution
 - iii. Interpretation :- OF ACTS/statutes
- HIERARCHY :-
 - i. Supreme Court = Binding on all courts (Art. 141)
 - ii. High Court = Binding on all the whole state/union Territory.
 - iii. District Court & followed by metropolitan courts.

1) Supreme Court :-

- Apex body of the Judiciary.
- Established on 26th January, 1950.
- Chief Justice of India is the highest authority under Articles 126.
- Principal bench consists of 7 members including CJI.
- Presently - 34 members including CJI due to rise in no. of cases.
- Individual can seek relief in SC by writ petition under Article 32.

2) High Court :-

- Highest court of appeal in each state & UT.
- There must be a HC in each state under Article 24.
- HC has appellate, original jurisdiction and supervisory jurisdiction.
- Article 227 limits a HC's power.
- Presently there are 25 HC in India & 6 States share a single HC.
- Individual can seek remedies against violation of fundamental rights by filing a writ under Article 226.
- Oldest HC - Calcutta HC established on 2nd July, 1862.

3). Distric Courts :-

- Below the High Courts are District Courts.
- Civil Judge deal with civil law matters.
- Courts of Sessions (Criminal Judge) deals with Criminal matters.
- Pecuniary Jurisdiction (money), can try suits valuing not more than Rupees two crores.
- Courts get territorial Jurisdiction based on the areas covered by them.

4). Metropolitan Court :-

- Established in metropolitan cities in consultation with the HC where the population is ten lakh or more.
- Chief Metropolitan Magistrate (Judge) has powers as chief judicial magistrate.
- Metropolitan Magistrate (Judge) has powers as the Court of a Magistrate of the first class.