

INDIAN REGULATORY FRAMEWORK

HISTORY OF LAW

'Code of Hammurabi' is known for oldest law in written.

→ by King Hammurabi

→ Carved the code on bulky stone slabs.

→ ordered to place the stones on different places all over the city.

→ so that public may have the knowledge of codes.

→ appointed judges to check whether public is following laws or not.

'Twelve Tables'

→ In 450 BC, a set of laws - engraved on 12 bronze tablets in Rome

→ first most detailed code of any civilization.

→ purpose - to protect the rights of public.

- to provide remedy for wrong.

WHAT IS LAW?

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

SOURCES OF LAW

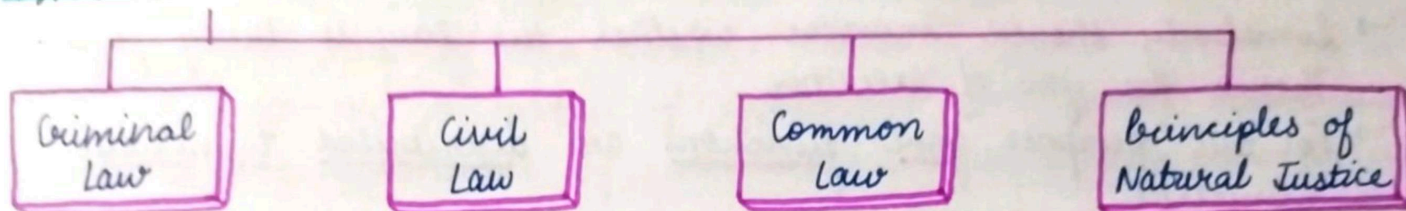
→ 'Constitution' is basis & source for all laws.

→ Law passed by parliament may apply throughout all or a portion of India, whereas the laws passed by state legislatures apply only within the border of the states concerned.

→ 'Constitution of India, 1950' is the foremost law that deals with framework within which our democratic system works and our laws are made for the people, by the people.

→ The people who wrote the constitution decided to divide the law-making power between the Central govt. & the various state govt. So, the Indian Constitution has three lists viz., Central list, state list & Joint list.

TYPES OF LAW



(1) Criminal Law

- governed under Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 (Crpc).
- Example - Murder, rape, theft, fraud, cheating & assault.

(2) Civil Law

- focuses on dispute resolution rather than punishment.
- act of process & administration of civil law are governed by the Code of Civil Procedure, 1908 (CPC).
- can be further classified into Law of Contract, Family Law, Property Law and Law of Tort.
- Examples - breach of Contract, non-delivery of goods, non-payment of dues to lender or seller defamation, disputes between landlord and tenant.

(3) Common Law

- It is a judicial precedent or a case law.
- 'Doctrine of stare Decisis' which means 'to stand by that which is decided' - reinforces obligation of courts to follow the same principle or judgement established by previous decisions while ruling a case where the facts are similar or 'on all four legs' with the earlier decision.

(4) Principles of Natural Justice

- Jus natural deals with certain fundamental principles of justice going beyond written law.
- Nemo judex in causa sua means no one should be made a judge in his own cause.
- audi alteram partem means hear the other party first or give the other party a fair hearing and reasoned decision.
- A judgement can override or alter a common law, but it cannot override or change the statute.

• ENFORCING THE LAW

- Somebody should monitor whether the law is being followed. This is the job of executive.
- For this purpose, govt. functions are distributed to various ministries.
- Popular ministries - Ministry of Finance, Ministry of Corporate Affairs, Ministry of Home Affairs, Ministry of Law & Justice etc.
- A ministry is composed of employed officials, known as civil servants, and is politically accountable through a minister.
- Example:- Income Tax Act is implemented and enforced by the Ministry of Finance through the Central Board for Direct Taxes coming under the Dept. of Revenue and is administered by the officers of Indian Revenue Service.

(1) Ministry of Finance

- Vitta Mantralaya is a ministry within the govt. of India concerned with the economy of India, serving as the 'Treasury of India'.
- Importance - ministers have preferred to hold the portfolio of Finance Minister.
- Presentation of the Union Budget.

Who presented the maximum no. of Union Budgets as Finance Minister?

Shri. Morarji Desai - 10

Shri. P. Chidambaram - 9

Shri. Pranab Mukherjee - 8

(2) Ministry of Corporate Affairs (MCA)

- is an Indian Govt. Ministry.
- concerned with administration of the Companies Act, 2013, Co. Act, 1956, LLP Act, 2008 & the Insolvency & Bankruptcy Code, 2016.
- responsible for regulation of Indian enterprises in the Industrial and service sector.
- mostly run by civil servants of the ICLS cadre.
- officers are elected through Civil Services Examination conducted by UPSC.

- is a ministry of the Govt. of India.
- as an interior ministry of India, it is mainly responsible for the maintainance of internal security & domestic policy.
- Home Ministry is headed by Union Minister of Home affairs.

(4) Ministry of Law and Justice

- is a Cabinet Ministry in the Govt. of India.
- deals with the
 - management of the legal affairs, through Legislative Dept.
 - legislative activities through Dept. of Legal affairs.
 - administration of justice in India through Dept. of Justice.
- Dept. of Legal affairs is concerned with advising various Ministries of the Central govt.
- Legislative Dept. is concerned with drafting of principal legislation for the Central govt.

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

- regulatory body.
- for securities & commodities market in India.
- under the ownership of Ministry of Finance within Govt. of India.
- established on 12 April, 1988 as an executive body.
- was given statutory powers on 30 Jan, 1992 through SEBI Act, 1992.

(6) Reserve Bank of India (RBI)

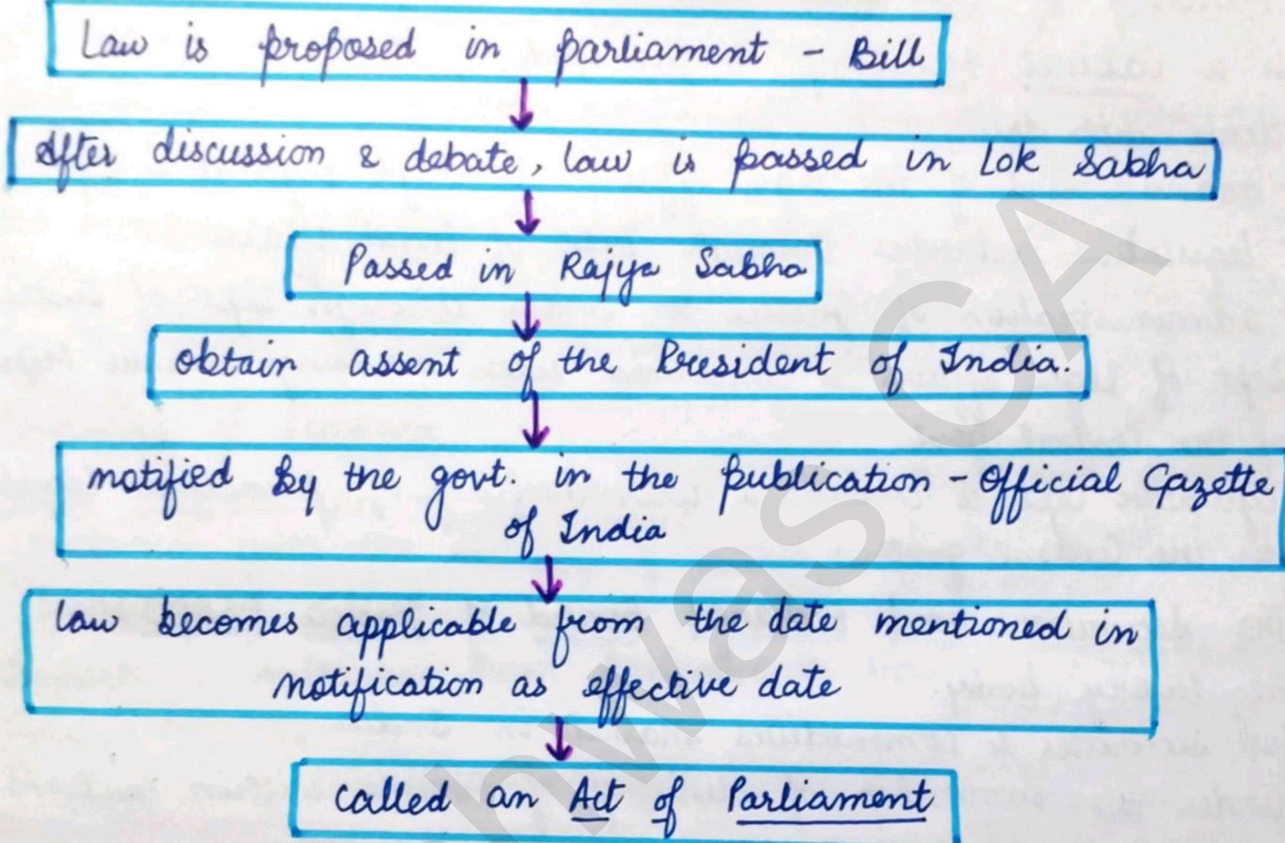
- India's central bank & regulatory body for Indian Banking System.
- comes under the ownership of Ministry of Finance.
- has the power to control, issue & supply Indian rupee.
- has established National Payment Corporation of India for smooth settlements of payment.
- given statutory powers through RBI Act, 1934.

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

- regulator for overseeing insolvency proceedings & entities like Insolvency Professional Agencies (IPA), Insolvency Professionals (IP) & Information Utilities (IU) in India.

- established on 1 Oct, 2016.
- given statutory powers through the Insolvency & Bankruptcy code, which was passed by Lok Sabha on 5th May, 2016.
- covers individuals, companies, LLPs & partnership firms.
- simplifies the process of insolvency & bankruptcy proceedings.

PROCESS OF MAKING A LAW



STRUCTURE OF THE INDIAN JUDICIAL SYSTEM

- dispute between citizens or btw citizens and the government are resolved by the judiciary.
- Functions of judiciary system of India are :-
 - Interpretation of the acts & codes.
 - Dispute resolution
 - fairness among the citizens of the land.

(1) Supreme Court

- apex body of the judiciary
- established on 26 January, 1950.
- Chief Justice of India is the highest authority appointed under Article 126.
- An individual can seek relief in the SC by filing a writ petition under Article 32.

(2) High Court

- Article 214 of the Indian Constitution states that there must be a High Court in each state.
- In India, there are 25 high courts.
- 6 states share a single high court.

Which is the oldest High Court in India?

The oldest High Court in the country is the Calcutta High Court, established on 2nd July, 1862.

(3) District Court

- Court of District Judge deals with Civil Law matters.
- Court of sessions deals with criminal matters.
- Courts get territorial Jurisdiction based on the areas covered by them.
- Cases are decided based on local limits within which the party resides or the property under dispute is situated.

(4) Metropolitan Courts

- established in Metropolitan cities.
- where population is 10 lakh or more.