

PAPER-2



CA FOUNDATION BUSINESS LAWS

Covers ICAI Module, PYQs, MTP, RTP
& other Important Questions

AS PER LATEST SYLLABUS



CA Chaitanya Jain

CONTENT

1

Indian Regulatory Framework..... 1.1-1.15

2

The Indian Contract Act, 1872 2.1-2.208

Unit-1: Nature of Contract..... 2.5-2.38

Unit-2: Consideration 2.39-2.52

Unit-3: Other Essential Elements of Contract 2.53-2.84

Unit-4: Performance of Contract 2.85-2.108

Unit-5: Breach of Contract and its Remedies..... 2.109-2.127

Unit-6: Contingent and Quasi Contract..... 2.128-2.140

Unit-7: Contract of Indemnity and Guarantee..... 2.141-2.162

Unit-8: Bailment and Pledge 2.163-2.182

Unit-9: Agency 2.183-2.208

3

The Sale of Goods Act, 1930..... 3.1-3.90

Unit-1: Formation of the Contract of Sale..... 3.3-3.22

Unit-2: Conditions and Warranties 3.23-3.47

Unit-3: Transfer of Ownership and Delivery of Goods..... 3.48-3.71

Unit-4: Unpaid Seller 3.72-3.90

| | | |
|----------|--|------------------|
| 4 | The Indian Partnership Act, 1932..... | 4.1-4.81 |
| | Unit-1: General Nature of Partnership..... | 4.3-4.24 |
| | Unit-2: Relations of Partners | 4.25-4.60 |
| | Unit-3: Registration and Dissolution of a Firm..... | 4.61-4.81 |
| 5 | The Limited Liability Partnership Act, 2008..... | 5.1-5.22 |
| 6 | The Companies Act, 2013 | 6.1-6.71 |
| 7 | The Negotiable Instruments Act, 1881 | 7.1-7.43 |

01

CHAPTER

Indian Regulatory Framework

TABLE OF CONTENT FOR THE CHAPTER

| | |
|--|------|
| ◇ INTRODUCTION | 1.1 |
| ◇ WHAT IS LAW? | 1.3 |
| ◇ SOURCES OF LAW | 1.3 |
| ◇ THE PROCESS OF MAKING A LAW | 1.5 |
| ◇ TYPES OF LAWS IN THE INDIAN LEGAL SYSTEM | 1.5 |
| ◇ ENFORCING THE LAW | 1.7 |
| ◇ CONSTITUTION OF THE MINISTRY OF FINANCE | 1.8 |
| ◇ MAJOR REGULATORY BODIES | 1.10 |
| ◇ STRUCTURE OF THE INDIAN JUDICIAL SYSTEM | 1.11 |
| ◇ <i>"PROBLEM KYA HAI?"</i> | 1.13 |

■ WHAT ARE THE QUESTIONS WE ARE GOING TO ANSWER THROUGH THIS CHAPTER?

1. What is Law?
2. Why should we study law in CA Foundation?
3. What are the Sources of Law?
4. Who has the power to make Law in India and what is the process?
5. What are the types of Law?
6. How to enforce or implement law in the country?
7. What are the different Ministries and Departments in India?

■ INTRODUCTION

Have you ever wondered why you are studying this subject called law?













- Awareness of law is essential to become a full-fledged Chartered Accountant.
- This is because a Chartered Accountant is the first level of contact on many legal matters.
- So, we should possess knowledge of law so that we can advise our management and clients on legal matters at a basic or threshold level.
- **Tax laws are also laws:** In order to become an expert in taxation you should possess a basic awareness of the **legal and regulatory framework of our country**.
- 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 for 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 ordered to place those stones on different places all over the city so that the public may have the knowledge of codes.
- 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 civilisations and called **Twelve Tables**.
- The purpose of these tables was to protect the rights of public and to provide remedy for wrongs. All the citizens of Rome were supposed to have the knowledge of these tables.

| THE ROMAN LAWS OF THE TWELVE TABLES, c.449 BCE (A REPRESENTATIVE SELECTION) | | | | | |
|---|--|---|---|--|--|
|  <p>I</p> <p>PROCEEDINGS BEFORE TRIAL</p> <p>Accused must attend court</p> <p>In case of age/sickness accuser shall grant transportation</p> <p>A witness can stand in for the accused</p> <p>Evading court can lead to forced appearance.</p> <p>If both parties are present proceedings end at sunset.</p> |  <p>II</p> <p>TRIAL PROCEDURES</p> <p>Severe illness of any party may delay trial</p> <p>Party needing witness or evidence may call the home of the witness every 3rd day.</p> |  <p>III</p> <p>JUDGMENT ON DEBT</p> <p>30 days allowed for confessed debt payment</p> <p>If unpaid, creditor can keep debtor in chains (no lighter than 15 pounds)</p> <p>60 days allowed to reach compromise</p> <p>Unresolved debt leads to debtor's execution or sale into slavery across the Tiber</p> |  <p>IV</p> <p>PATRIARCHAL POWERS</p> <p>Deformed child shall be killed at birth</p> <p>Father has authority over children's lives</p> <p>Son becomes free if sold into slavery 3 times by the father</p> <p>Husband can divorce wife by instructing her to take her belongings and leave.</p> |  <p>V</p> <p>INHERITANCE & GUARDIANSHIP</p> <p>Women (excl. Vestal Virgins) always under guardianship due to frivolity of character</p> <p>Reckless spenders can't manage his possessions. Nearest male relative has authority over insane individuals</p> <p>Estate of one without direct male heir goes to nearest male relative in the male lineage.</p> |  <p>VI</p> <p>OWNERSHIP & POSSESSION</p> <p>Verbal promises are binding</p> <p>Continuous cohabitation for 1 year is considered marriage</p> <p>Open and continuous land use for 2 years grants ownership claim (1 year for other things)</p> |
|  <p>VII</p> <p>LAND RIGHTS</p> <p>Disrepair allows travelers to choose alternate route on road built by someone on his land</p> <p>Fallen tree from neighbor's farm can be rightfully removed</p> <p>Fruits falling from one's trees onto neighbor's land can be kept by the neighbor</p> |  <p>VIII</p> <p>LAWS OF INJURY</p> <p>Singing or creating harmful incantations leads to execution</p> <p>Injuring another results in reciprocal injury or compensation</p> <p>False testimony leads to being thrown from the Tarpeian Rock</p> <p>Nighttime gatherings within the city are prohibited</p> |  <p>IX</p> <p>PUBLIC LAW</p> <p>Laws must not be made or decided secretly or exclusively.</p> <p>Laws of personal exceptions and privileges are forbidden</p> <p>Judges accepting bribes for decisions face execution</p> <p>No one should be executed without proven guilt in court.</p> |  <p>X</p> <p>FUNERAL RITES</p> <p>No burial or burning of dead in the city</p> <p>No gathering of bones for second funeral, except for death in battle or abroad</p> <p>Prohibition on excessive drinking and displays of wealth</p> <p>Adorning corpse with gold is forbidden, excluding existing gold dental work</p> |  <p>XI</p> <p>SUPPLEMENT: MARRIAGE</p> <p>Intermarriage of plebeians and patricians prohibited</p> <p>Soldiers must delay marriage until completing training</p> <p>Regulations set for permissible days of legal proceedings and judgments</p> |  <p>XII</p> <p>SUPPLEMENT: PUNISHMENTS</p> <p>Decisions and enactments by the Roman people are legally binding</p> <p>False accusers face double penalty or death</p> <p>Eight forms of punishment: fines, shackles, flogging, Lex talionis (reciprocal injury), public humiliation, exile, enslavement and execution</p> |

■ WHAT IS LAW?

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

India's legal framework reflects the social, political, economic, and cultural aspects of our vast and diversified country.

■ SOURCES OF LAW

The main sources of law in India are:

The Constitution,

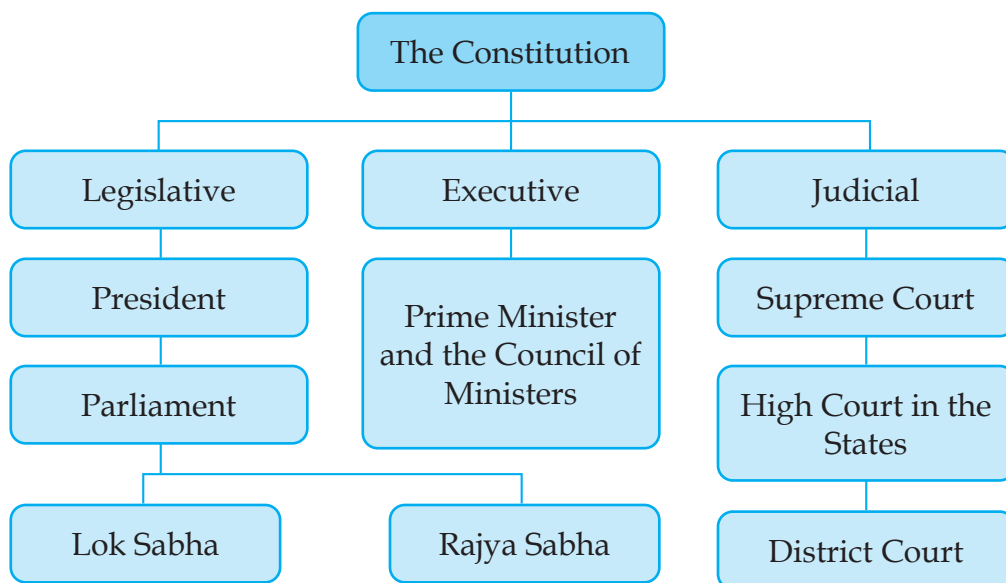
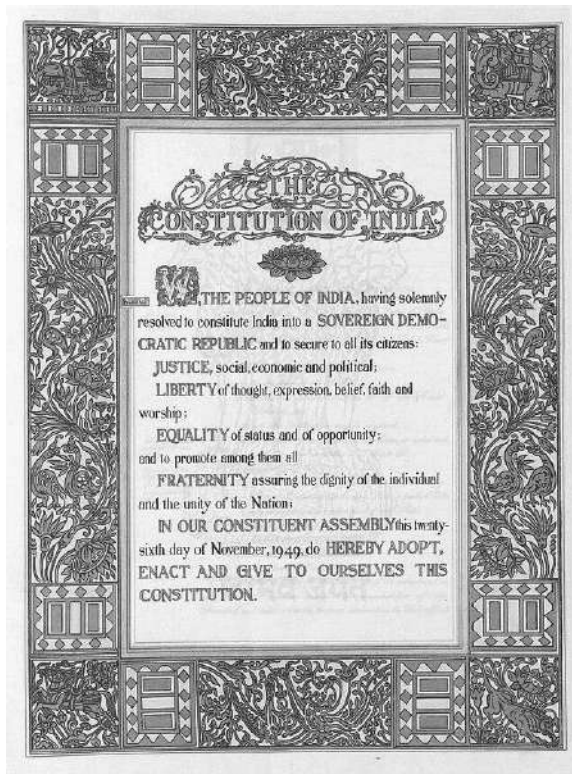
The statutes or laws made by Parliament and State Assemblies,

Precedents or the Judicial Decisions of various Courts and

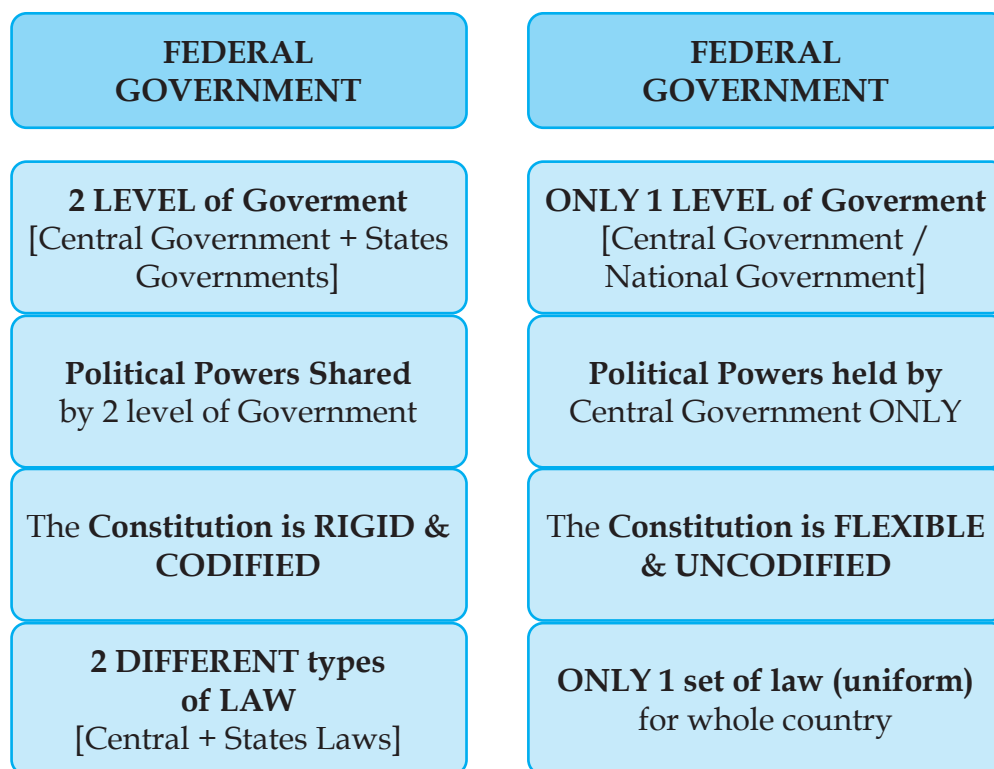
In some cases, established Customs and Usages.

India is a **parliamentary democracy**. We have a **constitution which is the basis and source for all laws**. We **elect our representatives to the parliament** as well as to the **legislative assemblies** of various **States**.

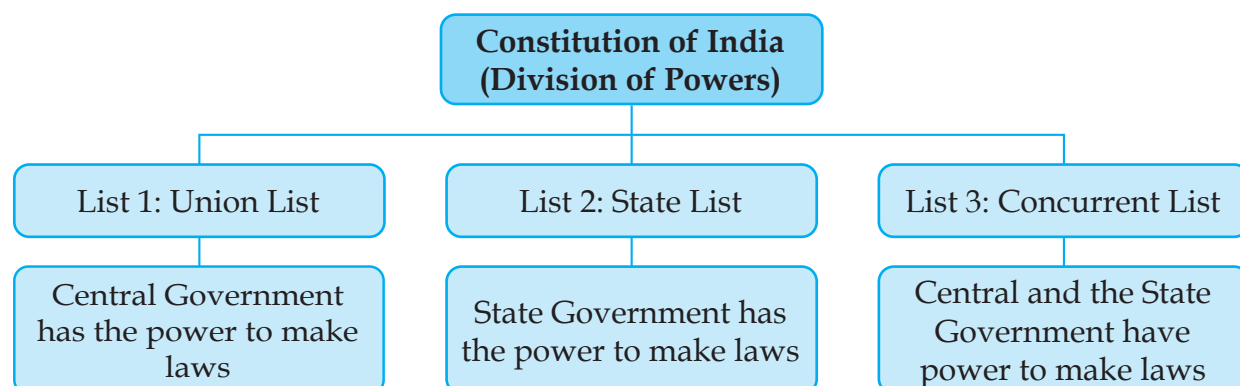
- ❑ These representatives of the people make laws in parliament or in their state assemblies as the case may be.
- ❑ **So, Parliament is the ultimate law-making body.**
- ❑ The laws passed by **parliament may apply throughout all or a portion of India**, whereas the **laws passed by state legislatures** apply only within the borders of the **states concerned**.



- ❑ India's government is federal in structure, but it also has some unitary features, and is sometimes called a quasi-federal system (A hybrid legal system).



- ❑ **The Government of India Act, 1935**, passed by the Parliament of the United Kingdom is the precursor for the Constitution of India. It defined the characteristics of the Government from “unitary” to “federal”.
- ❑ **In 1937, Federal Court was established** and had the jurisdiction of appellate, original and advisory. Powers were distributed between Centre and State to avoid any disputes.
- ❑ The Federal Court operated for 12 years and heard roughly 151 cases.
- ❑ The Federal Court → India’s current **Apex Court - The Supreme Court of India**.
- ❑ **The Constitution of India, 1950** is the foremost law that deals with the framework within which our democratic system works, and our laws are made for the people, by the people.
- ❑ The Constitution also provides for and protects certain **Fundamental rights** of citizens. It also lays down **Fundamental duties** as well as the **powers and duties of Governments, both Central and State**.
- ❑ The people who wrote the Constitution decided to divide the law-making power between the Central Government and the various State Governments.
- ❑ So, the Indian Constitution has three lists Viz., **Central List, State List and Joint List**.



- ❑ Income Tax → Central subject implemented by the Central Government through the Ministry of Finance.
- ❑ Levy of stamp duty → both Central Government and State Government.

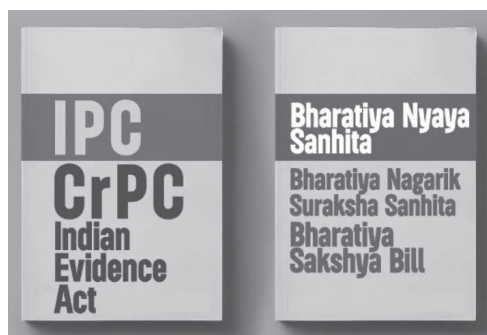
| The Three Lists | | |
|---------------------------------------|---|--------------------------------|
| Union List | State List | Concurrent List |
| ❑ Defence and Armed Forces | ❑ Local Government bodies | ❑ Forests |
| ❑ Atomic Energy and Mineral Resources | ❑ Agriculture | ❑ Population Control |
| ❑ 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 | ❑ Inland Waterways |
| ❑ Currency | ❑ Salaries and Allowances to Ministers of State | ❑ Economic and Social Planning |
| ❑ Organisations such as RBI, CBI | | |

■ THE PROCESS OF MAKING A 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 has to 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 IN THE INDIAN LEGAL SYSTEM

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.

- ◆ centre and state finances, and
- ◆ The Union Budget - One of the important functions
- ◆ This annual event is eagerly awaited by professionals and the common man as it provides for the rates of taxes and budget allocations for the ensuing year.

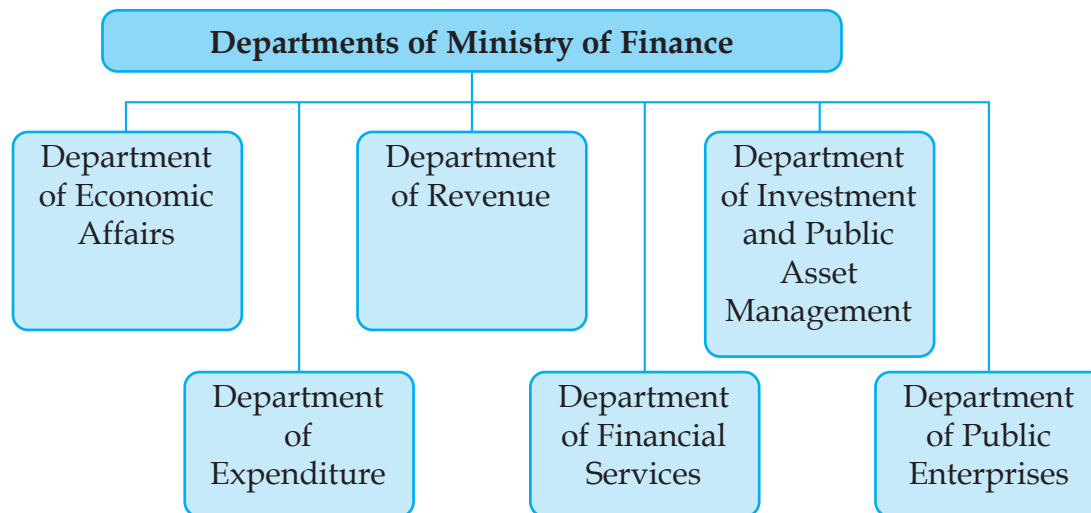
Who presented the Maximum number of Union Budgets as Finance Minister?

- 10 - Shri. Morarji Desai - As Finance Minister between 1962 and 1969 has
- 9 - Shri. P Chidambaram
- 8 - Shri. Pranab Mukherjee and Shri. Yashwant Sinha and
- 6 - Dr. Manmohan Singh

■ CONSTITUTION OF THE MINISTRY OF FINANCE

| Apex controlling authority FOR CENTRAL 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 Service. (Cost & Management) | | | |

Departments under the Ministry of Finance:



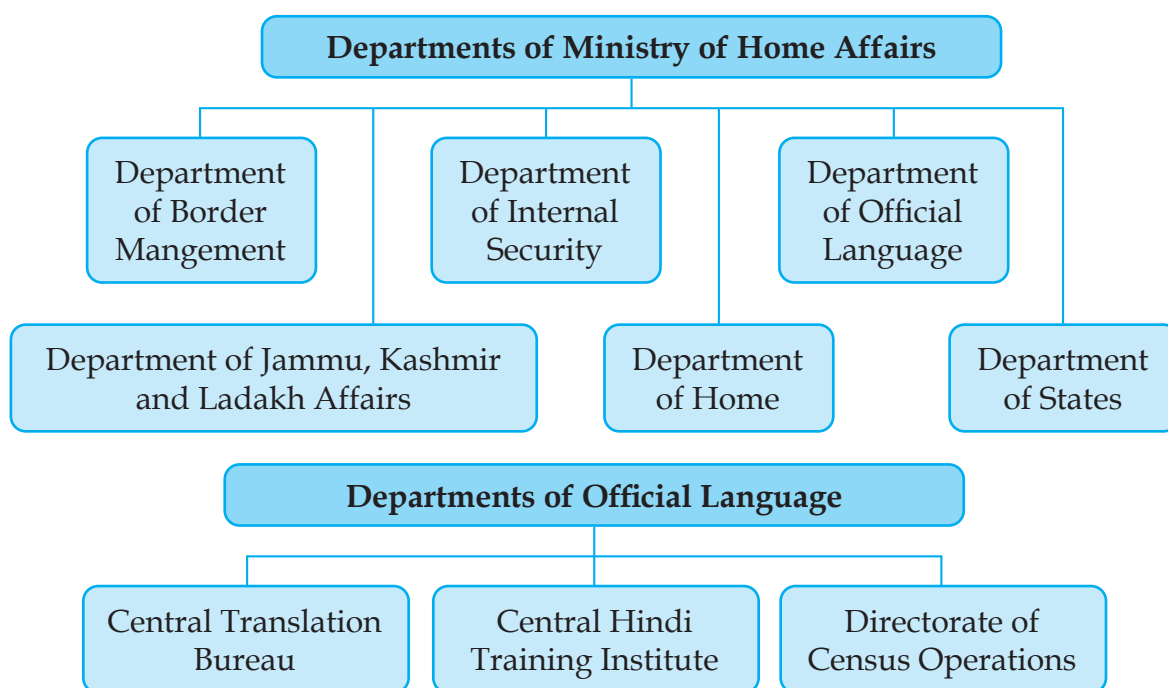
| Key to learn Department names in Ministry of Finance |
|---|
| <input type="checkbox"/> Economics - Finance में रहना है तो Economics पढ़ो और समझो <input type="checkbox"/> Expenditure - खर्चे कम करो <input type="checkbox"/> Revenue - कमाओ ज़्यादा - कैसे? <input type="checkbox"/> Fin. Services - प्रोवाइड करो लोगो को <input type="checkbox"/> Investment / Assets - तब बनेंगे Assets <input type="checkbox"/> Public Enterprise (Co.) - और ऐसे बनती है बड़ी public companies |

2. Ministry of Corporate Affairs (MCA)

- 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 (DGCoA)**, is fixed at Apex Scale for the ICLS.

3. Ministry of Home Affairs (Grha Mantralaya)

- 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**.



Key to Learn Department names in Ministry of Home Affairs

- ❑ **Border** - HOME में अंदर आते ही
- ❑ **Internal Security** - Wife की Security के under
- ❑ **J&K** - जैसा माहोल - शांति का
- ❑ **Official language** - प्यार की - Translation की ज़रूरत नहीं / कुछ भी बोलो Hindi में ही सुनाई देता है / किसी से भी पूछ लो - Census (Vote करवालो)
- ❑ **States** - एकदम TWO States

- ❑ The principal bench of the Supreme Court consists of seven members including the Chief Justice of India.
- ❑ Presently, the number has increased to 34 including the Chief Justice of India due to the rise in the number of cases and workload.
- ❑ An individual can seek relief in the Supreme Court by filing a writ petition under Article 32.

| Key Words | | | | |
|-----------|------|---|--------------------------------------|---------------------------------|
| Apex Body | 1950 | Chief Justice of India Article - 126 | 7 members Now 34 Including CJI | File a writ under Article 32 |

2. High Court

- ❑ The highest court of appeal in each state and union territory is the High Court.
- ❑ Article 214 of the Indian Constitution states that there must be a High Court in each state.
- ❑ The High Court has appellant, original jurisdiction, and Supervisory jurisdiction.
- ❑ However, Article 227 of the Indian Constitution limits a High Court's supervisory power. (Means it has the power only to oversee subordinate courts, no power to review or change the decisions).
- ❑ In India, there are twenty-five High Courts, one for each state and union territory.
- ❑ Six states share a single High Court.
- ❑ An individual can seek remedies against violation of fundamental rights in High Court by filing a writ under Article 226.

| Key Words | | | | |
|------------------------------------|---------------------------------|--|-------|-------------------------------------|
| Highest In each state and UT | Article 214 HC in each state | Article 227 Supervisory power only | 25 HC | File a writ Under Article 226 |

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.*



Gauhati High Court

Has jurisdiction over Assam, Arunachal Pradesh, Nagaland, and Mizoram. It was originally called the High Court of Assam and Nagaland, but was renamed in 1971.



Bombay High Court

Has jurisdiction over Maharashtra, Goa, Dadra and Nagar Haveli, and Daman and Diu.



Kolkata High Court

Has jurisdiction over Kolkata and Andaman and Nicobar.



Kerala High Court

Has jurisdiction over Kerala and Lakshadweep.



Madras High Court

Has jurisdiction over Madras and Pondicherry.



Punjab & Haryana High Court

Has jurisdiction over Punjab, Haryana, and Chandigarh.

3. District Court

- Below the High Courts are the District Courts.
- The Courts of District Judge deal with Civil law matters i.e. contractual disputes and claims for damages etc.
- The Courts of Sessions deals with Criminal matters.
- Under pecuniary jurisdiction, a civil judge can try suits valuing not more than Rupees two crore.
- Courts get territorial Jurisdiction based on the areas covered by them.
- Cases are decided based on the local limits within which the parties reside or the property under dispute is situated.

| Key Words | | | | |
|--|---------------------------------------|-------------------|-----------------------|---|
| Civil Law matter Contractual disputes Claim for damages | Criminal Matters in Session courts | Max - 2 Crores | Territorial Limits | Local limits where parties reside or property under dispute |

4. Metropolitan Courts

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

INDICATIVE LIST OF ARTICLES COVERED IN THE CHAPTER

| Article | Description |
|----------|---------------------------------------|
| 245 | Power of parliament to make laws |
| 246 | Three list - Central, State and Joint |
| 141 (SC) | SC - Final decision, binding on all |
| 126 (SC) | CJI - Highest Authority |
| 214 (HC) | There shall be HC in every state & UT |
| 227 (HC) | HC has only Supervisory powers |
| 32 (SC) | Writ in SC |
| 226 (HC) | Writ in HC |

"PROBLEM KYA HAI ?"

■ QUESTION BANK FOR THE CHAPTER

Compiled by - CA Chaitanya Jain

This section is complied with questions and suggested answers for the chapter

- ICAI Study Material
- Previous year Question Papers (PYQPs)
- Mock Test Papers (MTPs)
- Revision Test Papers (RTPs)

■ MTPs, RTPs AND PYQPs QUESTION

1. What do you understand by Indian Judicial System and what are its various functions?
(RTP Jun'24)

Ans. Indian Judicial System is a branch which through the enforcement of Law resolves dispute between citizens or between citizens and the Government.

The functions of judiciary system of India are:

- ◆ Regulation of the interpretation of the Acts and Codes,
- ◆ Dispute Resolution,
- ◆ Promotion of fairness among the citizens of the land.

Indian Judicial System performs his functions through the hierarchy of courts, the Supreme Court is at the top, followed by the High Courts, District Courts and Metropolitan Courts. Decisions of a High Court are binding in the respective state but are only persuasive in other states. Decisions of the Supreme Court are binding on all High Courts under Article 141 of the Indian Constitution. In fact, a Supreme Court decision is the final word on the matter.

MULTIPLE CHOICE QUESTIONS

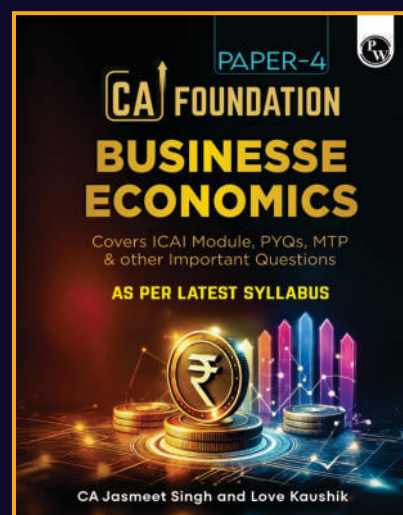
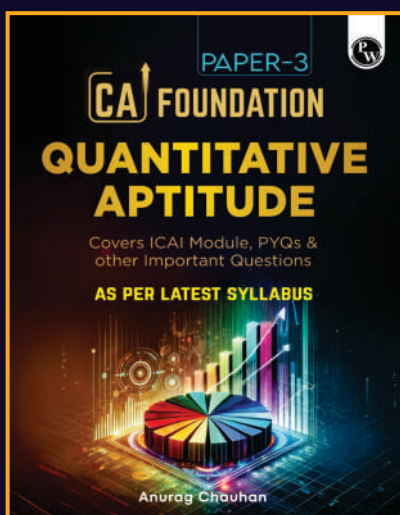
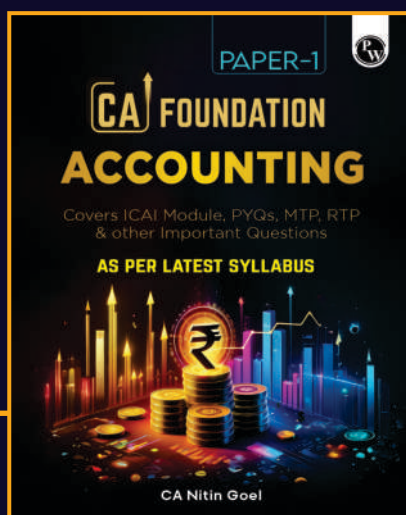
1. A Chartered Accountant should be aware of law because
 - (a) He has to be an expert in law.
 - (b) He has to argue in High court and Supreme court.
 - (c) **He has to advice management and clients on legal matters at a basic or threshold level.**
 - (d) None of the above
2. Which of the following is not a MAIN source of law in India?
 - (a) **Legal text books**
 - (b) The Parliament
 - (c) State Assemblies
 - (d) The Constitution
3. In India we follow the federal system of Government. This means that
 - (a) All the power is with the President of India
 - (b) **Powers are distributed between Centre and States**
 - (c) All the power is with the Centre
 - (d) There are no restrictions on the power of States
4. The Constitution of India was adopted in
 - (a) 1947
 - (b) 1949
 - (c) **1950**
 - (d) 1951
5. Income Tax Act, 1961 is a part of the
 - (a) **Central list**
 - (b) State list
 - (c) Joint list
 - (d) None of the above
6. The law concerned with violation of the rule of law and punishment of the same is called:
 - (a) Family law
 - (b) **Criminal law**
 - (c) Civil law
 - (d) Property law

About The Author

CA Chaitanya Jain, fondly known as CJ Sir by his students, is a Chartered Accountant with a deep passion for law. He holds a Bachelor's degree in Commerce from Sydenham College, Mumbai, and his alma mater is Delhi Public School. Chaitanya has been an educator for "Business Laws" at the CA Foundation level and "Corporate and Other Laws" at the CA Intermediate level for over 7 years.

With a blend of experience across audit, taxation and education, CJ brings real-world insights into his teaching, making it both practical and relatable. Based in the financial capital of India, Mumbai, he is celebrated for his engaging teaching methods, creative notes, videos that provide lucid explanations of Law subject at CA Wallah by PW. The videos has amassed a loyal student following who appreciate his ability to make the subject approachable and enjoyable. In the past, he has conducted financial literacy training for students of all age groups in the USA and UK, further expanding his reach and impact. Having taught thousands of students through both online and offline platforms, CJ's dedication towards law shines through, as for him, law truly is LOVE.

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