

## IALS LIBRARY RESEARCH GUIDE: INDIA

### Introduction

The Indian Legal system is basically a common law system. It is an open system taking in what is most suitable as per the need. British rule in India introduced the common law which provided the basis to the present legal system.

The oldest part of Indian Legal System is the personal laws governing the Hindus and the Muslims. The Hindu personal law has undergone changes by a continuous process of codification. The process of change in society has brought changes in law reflecting the changed social conditions and attempts the solution of social problems by new methods in the light of experience of legislations in other countries of the world. The Muslim personal law has been comparatively left untouched by legislations.

The Constitution of India was made the supreme law of the land in 1950. The rule of law was placed on a higher footing than ordinary legislation. Parliamentary legislation inconsistent with the Constitution would be void. The Part III of the Constitution guarantees the Citizens of India "Fundamental Rights" which are enforceable through a court of law and the Part IV of the Constitution has the "Directive Principles of State Policy" which had to be brought into existence by appropriate legislation and state action.

There are many books on Constitution of India in the Library in Class mark GK.2.C.1. The commonly used books are:

*The Shorter Constitution of India by Durgadas Basu Edition 1999: GK2.C.1 BAS*

*Constitution of India by H.M. Seervai Edition 1991: GK2.C.1 SEE*

The link to Constitution of India with latest amendments is available in <http://indiacode.nic.in/coiweb/welcome.html>

### Judicial Structure

India's judicial system is made up of Supreme Court of India and twenty-one subordinate High Courts. These Courts have jurisdiction of over a state, union territory or group of states and union territories. The site <http://www.indiancourts.nic.in/> will give the links to websites of all courts in India.

The Supreme Court has original, appellate and advisory jurisdiction. Its exclusive original jurisdiction extends to any dispute between the Government of India and one or more States or between the Government of India and any State or States on one side and one or more States on the other or between two or more States, if and insofar as the dispute

involves any question (whether of law or of fact) on which the existence or extent of a legal right depends.

The Supreme Court has also a very wide appellate jurisdiction over all Courts and Tribunals in India in as much as it may, in its discretion, grant special leave to appeal under Article 136 of the Constitution from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court or Tribunal in the territory of India.

The Supreme Court has special advisory jurisdiction in matters which may specifically be referred to it by the President of India under Article 143 of the Constitution.

Any individual or group of persons either by filing a Writ Petition at the Filing Counter of the Court or by addressing a letter to Honourable the Chief Justice of India highlighting the question of public importance can move the Court. This concept is popularly known as the Public Interest Litigation.

The High Courts have both Original Civil Jurisdiction and Appellate Jurisdiction and can try all offences including those punishable with death. There are twenty-one High Courts in India and have Jurisdiction over twenty-eight states and seven union territories. They are as under:

<b>Allahabad High Court</b> - Uttar Pradesh	<b>Guwhati High Court</b> -Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura	<b>Kerala High Court</b> - Kerala & Lakshadweep Islands	<b>Rajasthan High Court</b> -Rajasthan
<b>Andhra Pradesh High Court</b> -Andhra Pradesh	<b>Gujarat High Court</b> -Gujarat	<b>Madhya Pradesh</b> - Madhya Pradesh	<b>Sikkim High Court</b> - Sikkim
<b>Bombay High Court</b> - Maharashtra, Goa, Dadra & Nagar Haveli, Daman & Diu	<b>Himachal Pradesh High Court</b> - Himachal Pradesh	<b>Madras High Court</b> - Tamil Nadu and Pondicherry	<b>Uttranchal High Court</b> - Uttranchal
<b>Calcutta High Court</b> - West Bengal, Andaman and Nicobar Islands	<b>Jammu and Kashmir High Court</b> -Jammu and Kashmir	<b>.Orissa High Court</b> - Orissa	
<b>Chhattisgarh High Court</b> -Chattishgarh	<b>Jharkhand High Court</b> -Jharkhand	<b>Patna High Court</b> - Bihar	
<b>Delhi High Court</b> -Delhi	<b>Karnataka High Court</b> -Karnataka	<b>Punjab and Haryana High Court</b> -Punjab, Haryana & Chandigarh	

Each state is divided into judicial districts presided over by a District and Sessions Judge. A District Judge presides over a civil case and a Session Judge presides over a criminal case. He is the highest judicial authority below a High Court Judge. Below him there are courts of civil jurisdiction, known by different names in different courts.

## Codes and Statutes

### Statute Law

Parliament is the supreme legislative body of a country. Indian Parliament comprises of the President and the two Houses—**Lok Sabha** (House of the People) and **Rajya Sabha** (Council of States). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. The official web site is <http://parliamentofindia.nic.in/>

Lok Sabha (House of People) is the body of representatives of the people. Its members are directly elected, normally once in every five years by the adult population who are eligible to vote. The link to Lok Sabha site is <http://loksabha.nic.in/>

Rajya Sabha (Council of States) is the Upper House of Parliament. Members of Rajya Sabha are not elected by the people directly but indirectly by the Legislative Assemblies of the various States. Every State is allotted a certain number of members. The link to Rajya Sabha site is <http://rajyasabha.nic.in/>

Under the Constitution, Parliament has the power to make laws for the whole of or any part of the territory of India. The State Legislatures have the power to make laws for the States. The subjects on which legislation can be enacted are specified in the Seventh Schedule of the Constitution.

Parliament has the exclusive right to legislate in respect of items appearing in List I, called the ``Union List''. This list includes area such as defence, foreign affairs, currency, income tax, excise duty, railways, shipping, posts and telegraphs, etc. After both the Houses of Parliament pass the bill, the bill is sent for the assent of the President of India. The act shall come into force only after the assent of the President

State Legislatures have the exclusive power to make laws in relation to items appearing in List II called the ``State List''. This includes items like public order, police, public health, communications, agriculture, lotteries, taxes on entertainment and wealth, sales tax and octroi, etc. The legislations for the subjects listed in the State list are passed by the Legislatures of each State of India, and after the assent of the Governor of State, the act shall come into force.

Both Parliament and the State Legislatures have the power to legislate in items appearing in List III of the Constitution which is known as ``Concurrent List''. This list includes items like electricity,

newspapers, criminal law, marriage and divorce, stamp duties, trade unions, price controls, etc.

These legislations are officially published in Indian Government Gazette printed by Government Press, New Delhi.

The Institute does have a few sources on Indian Legislations

*India reprint acts: as modified 1947-1948 and India reprint acts: as modified 1949 (GK2.E.1)*

*There is AIR MANUAL, commercially published by ALL INDIA REPORTER, which contains the Acts of Parliament. The recent edition available is 6<sup>th</sup> edition. The Institute has 3<sup>rd</sup> edition of AIR Manual in GK2.E.1*

*The publication 'Current Indian Statutes' regularly lists the latest legislations of the Centre and States. The copies of Current Central Statutes are available in the Institute Library from 1958 to date in GK2.E.2*

*For referring to the legislation before 1958, Chronological tables of Central Acts, Regulations & Ordinances from 1834 -1957 are available at the Library in Class mark RES GK1.E.1*

**There are electronic resources of recent Indian Acts of Parliament can be found in these links:**

<http://indiacode.nic.in/>

<http://rajyasabha.nic.in/bills-ls-rs/bills-ls-rs-main.htm>

<http://parliamentofindia.nic.in/lb/bills/billsmain.htm>

The text of bills can be downloaded from this link. There are archives of bills from the year 1999 till 2005.

There are private Web sites which have the full text of the Acts and Statutory Instruments (Rules under these Acts) on various subjects like

<http://www.indialawinfo.com/bareacts/mainbare.html> (free site)

[www.mahalibrary.com](http://www.mahalibrary.com) is a free site and has all the statutes subject wise.

<http://www.helplinelaw.com/docs/bareact.shtml> (Free site, all statutes available)

## **Statutory Instruments:**

There are commercially published manuals available on Statutory Instruments like Malik & Manchanda 's Encyclopedia of Statutory Rules under Central Acts published by Law Publishers (India) Pvt. Ltd., Allahabad. The latest edition is in 32 volumes revised by H.N. Seth and K.B. Asthana, Edition 2005. The 1964 edition is available in the Institute and is kept in GK.2.E.3

## **Law Commission of India**

The main function of the commission is formulating proposals for law reforms. The First law commission of Independent India was set up in 1955 with Mr. M. C. Setalvad, as its Chairman. The Law Commission of India reports are available in this link: [www.lawcommissionofindia.nic.in](http://www.lawcommissionofindia.nic.in)

## **Case law**

### **General background**

The system of precedent - lower courts bound by decisions of higher courts, and courts bound by their own earlier decisions is the same as in the United Kingdom. The report of a case *however old* can be referred to in support of an argument, or followed in a judgment.

### **Law Reports:**

There are Law Reports publishing the Supreme Court, the High Courts and the Tribunal Case laws. The most referred to and familiar Indian Law Reports are:

**All India Reporter:** This Law Report has the Supreme Court and All High Court Judgements, the latest legislations legal articles and profiles of newly appointed Judges' in Various High Courts and the Supreme Court. This is published monthly. The case laws are also available on CD-ROMs. For more information visit: [www.allindiareporter.com](http://www.allindiareporter.com)

*The Institute has the All India Reporter series from 1914-1947 in microfiche.*

*The Citation in this law report is given as AIR 2006 SC 100 for Supreme court Judgement and AIR 2006 BOM 222 for judgements of Bombay High Court. For other High Court Judgements it will be ALL for Allahabad, MAD for Madras and so on.*

**Supreme Court Cases:** These law reports are published weekly and are limited to the Judgements of Supreme Court of India. They also have some legal articles in them. The case laws are also available on CD-ROM. For more information visit: [www.scconline.com](http://www.scconline.com).

For the recent Supreme Court Judgement and Legal Articles you can visit their Site: <http://www.ebc-india.com/>

The citation in Supreme Court Cases will be Year, Volume No. SCC and page number: (2006) 1 SCC 199

There are various Law reports published which contain the High Court Judgements. Some law reports are subject based which include the Judgement of all the Courts.

*The Institute has Supreme Court Reporter from 1950 to date in GK2.G.1*

Supreme Court Journal from 1953-2002 in GK2.G

The latest Supreme Court and the High Court Judgements are available electronically in [www.judis.nic.in](http://www.judis.nic.in).

The Commonwealth Legal Information Institute site has the Supreme Court of India Judgements from 1950 to 2005 [www.commonlii.org](http://www.commonlii.org)

There are many paid sites which have the latest Judgements of Supreme Court of India. Some of them are:

[www.supremecourtcaselaw.com](http://www.supremecourtcaselaw.com)

[www.indlaw.com](http://www.indlaw.com)

[www.manupatra.com](http://www.manupatra.com)

[www.legalpundits.indiatimes.com](http://www.legalpundits.indiatimes.com)

## **DIGEST**

The AIR Supreme Court Millennium Digest has the case laws from 1950 to date, published by All India Reporter is a very good and authentic source.

The Institute has Decennial Digest, Quinquennial Digest, Hundred years Digest of Indian Law reports in Class mark GK2.H.1 to GK2.H.7. There are Criminal and Labour Digest available.

## **Text Books:**

### **Legal History/System:**

Outlines of Indian Legal History by M.P. Jain. Edition 1990:Classmark GK1.B. JAI

The Indian Legal System, Indian Law Institute edition 1978: GK2.C.1MIN

### **Constitution and Administrative Law:**

Introduction to Constitution of India edition 1964: GK2.C.1

Basu's Commentary on Constitution of India Edition 1971: GK2.C.1BAS

Principles of Administrative Law by M.P. Jain Edition 1986: GK2.C.6 JAI

Law of Fundamental Rights, Chaudhari & Chaturvedi 1998:GK2.C.5 CHA

Human Rights and Legal Remedies by dr. Gokulesh Sharma. Reprint edition 2003: GK1.C.5 SHA

Human Rights in India by C.J. Nirmal Edition 2000: GK2.C.5 NIR

Judicial Activism in India by S.P. Sathe Edition 2002: GK2.C.6 SAT

V.G.Ramachandra's Contempt of Court by Justice V.K. Mehrotra Edition 2002: GK2.C.4 RAM

### **Civil Laws:**

Civil Procedure Code by Mulla edition 1967: GK.2.D.4 MUL

AIR Commentary on Code of Civil Procedure Edition 1973: GK2.D.3 CHI

Environmental Law & Policy in India by Shyam Diwan Edition 2001: GK2.C.7 DIV

Family Law by Paras Diwan edition 1983: GK2.D.1 DIW

Mulla on Hindu Law: GK1.D.1 MUL

Patent Law by P.S. Narayana Edition 1975: GK2.D.2 NAR

### **Criminal Law:**

Code of Criminal Procedure by Basu Edition 1973: GK2.D4 BAS

Criminal Law & Criminology by K.D. Gaur Edition 2003: GK.D.4 GAU

Text Book on Indian Penal Code by K.D. Gaur Reprint edition 2001:  
GK.D.4 GAU

### **DICTIONARIES**

The well-known dictionary is **Law Lexicon by Ramanatha Aiyer**, edition 2001 published by Wadhwa & Co. Nagpur.

The encyclopaedic advanced law lexicon is also available in 4 volumes called the **Advanced Law Lexicon by P.Ramanatha Aiyer 3<sup>rd</sup> edition 2005** published by Wadhwa & Co. Nagpur.

**Judicial Dictionary**.by **K.J. Aiyer**, 13th ed.2001 published by Butterworth India

**Judicial Dictionary By L.P. Singh and Majumdar** 2001 Edition published by Orient publishing company.

**Supreme court on words & phrases (1950-2004) by R.P. Sethi**, 2004 edition published by Ashoka law house.