



Structure of Judiciary in India

Scope



Courts- Supreme Court, High Courts and Lower Courts.

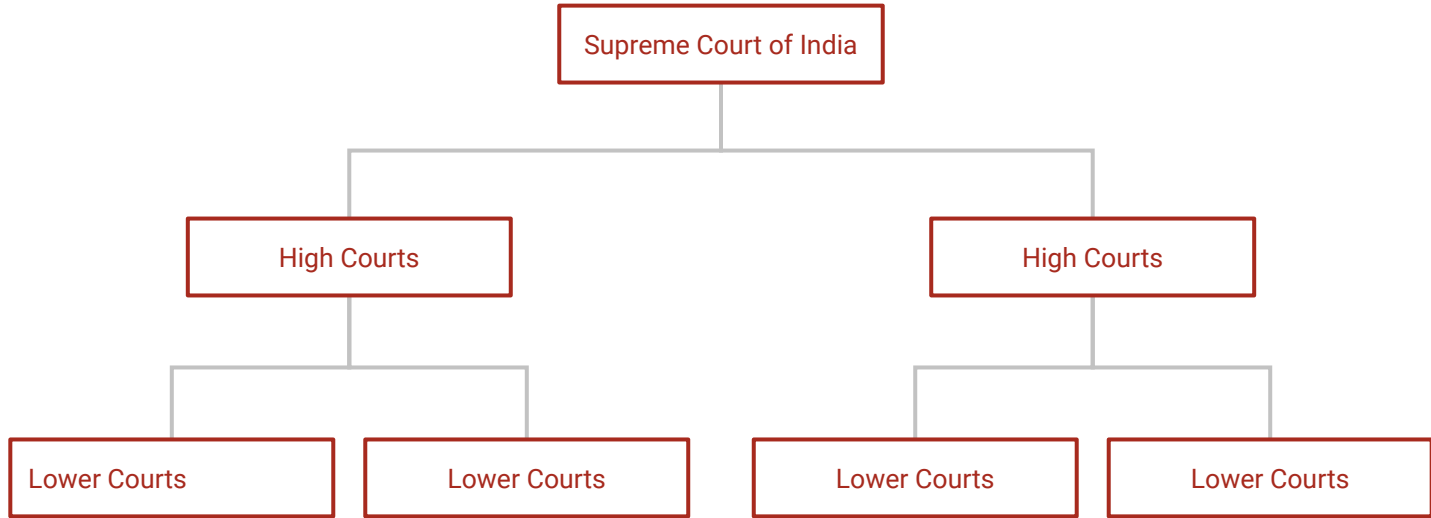
Constitution of Tribunals.

Concept of Jurisdiction

Article 32 and 226, the Constitution of India.

Doctrine of Precedent.

Overruling and Reversal of Judgements.



Establishment of the Supreme Court and High Courts



Supreme Court

Articles 124-147 of the Constitution of India.

Article 124 (1) of the Constitution of India provides for the establishment of Supreme Court as follows:

“There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than [seven] other Judges.”

High Courts

Articles 214-231 of the Constitution of India.

Article 214 provides for the establishment of High Courts.

“High Courts for States.— There shall be a High Court for each State.”

Jurisdiction and Powers of the SCI



1. Original Jurisdiction- Articles 131 & 32.
2. Appellate Jurisdiction- Articles 132, 133, 134, 134A & 136 & Section 109 of the Civil Procedure Code, 1908.
3. Advisory Jurisdiction- Article 143.
4. Power to transfer cases from High Courts to itself or other High Courts- Article 139A read with Section 25, CPC.
5. Power to punish for contempt of itself- Article 129 read with the Contempt of Courts Act, 1971.
 - SC to be a Court of Record.
 - Types of Contempt- Civil (wilful disobedience of any court order) and Criminal (Act or Publication scandalising the court, interfering with the due course of judicial proceedings and interfering with the administration of justice).
6. Power to review its judgements and Orders- Article 137.

Jurisdiction & Powers of High Courts



1. Article 226 of the Constitution of India- power to issue writs.
2. Appellate Jurisdiction from the orders of the subordinate courts- Sections 100-103 of the Civil Procedure Code, 1908.
3. Power to transfer cases from subordinate courts to itself in case of any *substantial question of law*- Article 228.
4. Power to punish for contempt of itself- Article 215 read with the Contempt of Courts Act, 1971.
 - HCs to be Courts of Record.
 - Types of Contempt- Civil (wilful disobedience of any court order) and Criminal (Act or Publication scandalising the court, interfering with the due course of judicial proceedings and interfering with the administration of justice).
5. Power to review its judgements and Orders.
6. Power of Superintendence over all courts by the High Court- Article 227.
7. Reference from the Subordinate Court- Section 113 of the CPC.
8. Revision- Section 115 of the CPC.

Writs



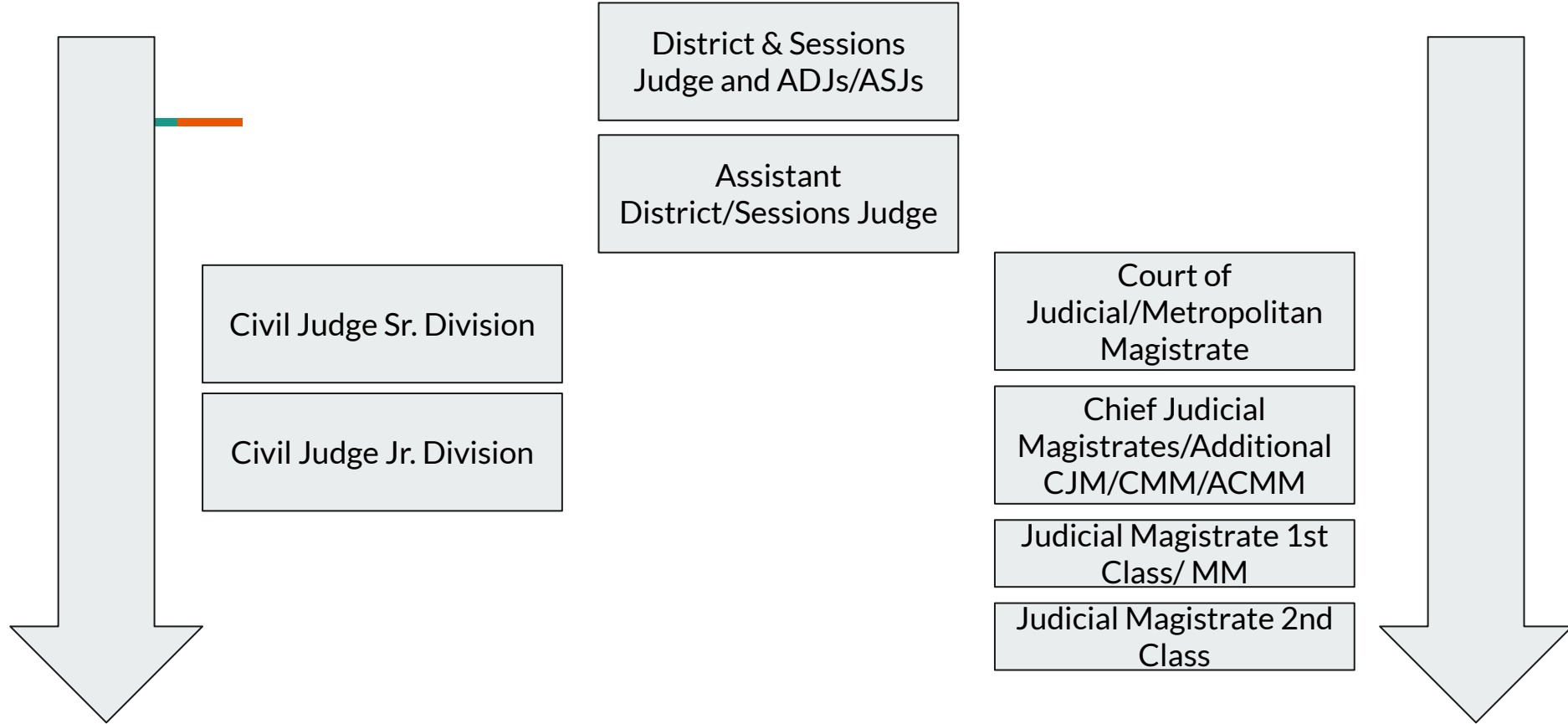
Article 32- Power of the SC to issue writs for the enforcement of fundamental rights.

Article 226- Power of the HC to issue writs for the enforcement of fundamental as well as legal rights.

Major writs-

- Habeas Corpus
- Mandamus
- Prohibition
- Quo Warranto
- Certiorari

Subordinate Courts





There may be Special Judicial Magistrates or Special Metropolitan Magistrates as well appointed by the High Court on request of the Central Government or the State Government. [Section 13, CrPC]

Executive Magistrates appointed by the State Government:

- District Magistrates & Additional DMs. [Section 20, CrPC]
- Sub-divisional Magistrates. [Section 20(4), CrPC]
- There may be other executive magistrates subordinate to the SDMs. [Section 23, CrPC]
- Special Executive Magistrates. [Section 21, CrPC]

Doctrine of Precedent



The doctrine refers to a decision that has already been taken by a higher court is binding to the lower court and at the same time stands as a precedent to the lower court judgment, which cannot be altered by a lower court. This principle is known as Stare decisis [“to stand by the decided matters”].

Article 141, Constitution of India:

“Law declared by Supreme Court to be binding on all courts.—

The law declared by the Supreme Court shall be binding on all courts within the territory of India.”

Originated from the Common Law.

The Government of India Act, 1935 explicitly mentioned that the decision of Federal Courts and Privy Council will be binding all the other Courts decision in British India.

Tribunals



- Judicial Institutions established by law.
- For faster adjudication of cases on specific subject matters.
- Article 323A and 323B, Constitution of India- empowers the legislature to establish Tribunals.
- Eg. National Green Tribunal.
- Appeals from Tribunals may go to the High Court or the Supreme Court depending on the Act under which the Tribunals are established and by which they are governed.