

Indian Judicial and Legal System

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HISTORICAL EVOLUTION OF THE INDIAN LEGAL SYSTEM

- **“Laws in Ancient India were primarily regulated through established customs and religious norms, many of which have found their way into the current Indian Legal system. Ancient Indian Legal history can be traced back to the Vedic period which contained Dharma which laid down the code of conduct”.**
- **Hindu Law Dharma : Dharma means righteousness, duty and law. It consists of Legal Duties and Religious Duties.**

SOURCES OF HINDU LAW

- **Primary Source: The Four Primary Vedas**
- **Rigveda, Yajurveda, Samaveda and Atharvaveda.**

Secondary Sources

Smrithi: Which literally means as “ Remembered” and refers to Tradition.

Third Sources of Dharma is Called: The ‘achara’ which means customary law.

This way the final connection is made between the Veda and the ‘achara’ and the ‘achara’ becomes an authoritative text.

ADMINISTRATION OF JUSTICE IN INDIA.

- Charter 1600: Establishment of the British East India Company.
- Charter 1661: Conferred the broad powers on company to administer Justice in its settlement.
- Charter 1612: British got the permission from Moghal Governor to establish factory in Surat. (1615)
- Charter 1726: Calcutta became presidency, for Judicial purposes Kazi Courts were established in each district.
- Charter 1753: A new set of Courts called as the courts of Requests were also established, for speedy and inexpensive settlement of disputes.
- Charter 1774: Establishment of Supreme Court in Calcutta. The territorial Jurisdiction of the Court was to extend to all the persons from Bihar, Orissa, and Bengal.

DEVELOPMENT OF LEGAL PROFESSION IN INDIA.

- The legal profession as it exists in India today had its beginning in the first year of British Rule.
- Supreme Court Era and British Practice
- Sadar Dewani Adalats
- High Courts
- Indian Advocates Act 1961.

SALIENT FEATURES OF INDIAN ADVOCATES ACT 1961

- Lay down standards of professional conduct and etiquette for Advocates.
- Lay down procedure to be followed by disciplinary committees.
- Safeguard the rights, privileges and interests of Advocates.
- Promote and support of law reform
- Deal with and dispose of any matter which may be referred by a State Bar Council.
- Promote Legal Education and Lay down standards of Legal Education.
- Determine Universities whose degree in law shall be a qualification for enrollment as an Advocate.
- Conduct Seminars on legal topics by eminent jurists and publish journals and papers of legal interest.
- Organize and provide legal aid to the poor.
- Recognize foreign qualifications in law obtained outside India for admission as an Advocate.
- Manage and invest funds of Bar Council.
- Provide for the election of its members who shall run the Bar Council.
- Organize and provide legal aid to the scheduled caste.
- Council elects its own Chairman and Vice Chairman for a period of two years from its members.
- Recognition of law degrees for enrolment of advocates.

For the purpose of organizing, running, conducting, holding, and administering the following:

- Continuing Legal Education.
- Teachers Training.
- Advanced Specialized Professional Courses
- Education program for Indian students seeking registration after obtaining Law Degree from a Foreign University.
- Research on professional legal education and standardization.
- Seminars, Symposiums and Workshops.
- Legal Research.
- Any other assignment that may be assigned it by the legal education committee and the BCI.

JUDICIARY UNDER INDIAN CONSTITUTION

- **Supreme Court:** Consisting Chief Justice of India and a maximum of 30 other pusine Judges.
- **Appointment of Judge:** Person must be citizen of India, at least 5 years in succession of a judge of the High Court or an advocate of the High Court for 10 years in succession, or he must be in the opinion of the President a distinguished jurist.
- Retirement age is 65 Years.

A retired judge of a Supreme Court is Prohibited from pleading in any court or before any authority.

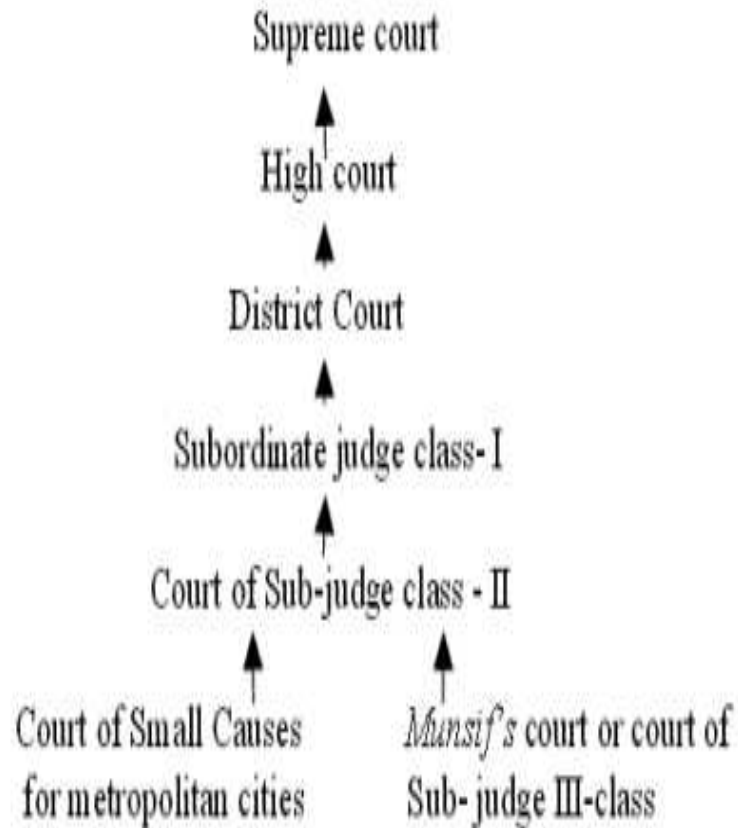
- **High Court:** The constitution provides for a High Court for each State. Parliament may however establish by law a common High Court for two or more States and for a Union Territory. It will consist of Chief Justice and as many Judges as may be prescribed by the Parliament.
- **Appointment Eligibility:** To be appointed as a Judge for the High Court the person should be an Indian citizen with 10 years of experience as an Judicial Officer or 10 years of experience as an Advocate of High Court. The tenure shall be till the age of 62 years. Acting Judges can be appointed but only for a period of 2 years.

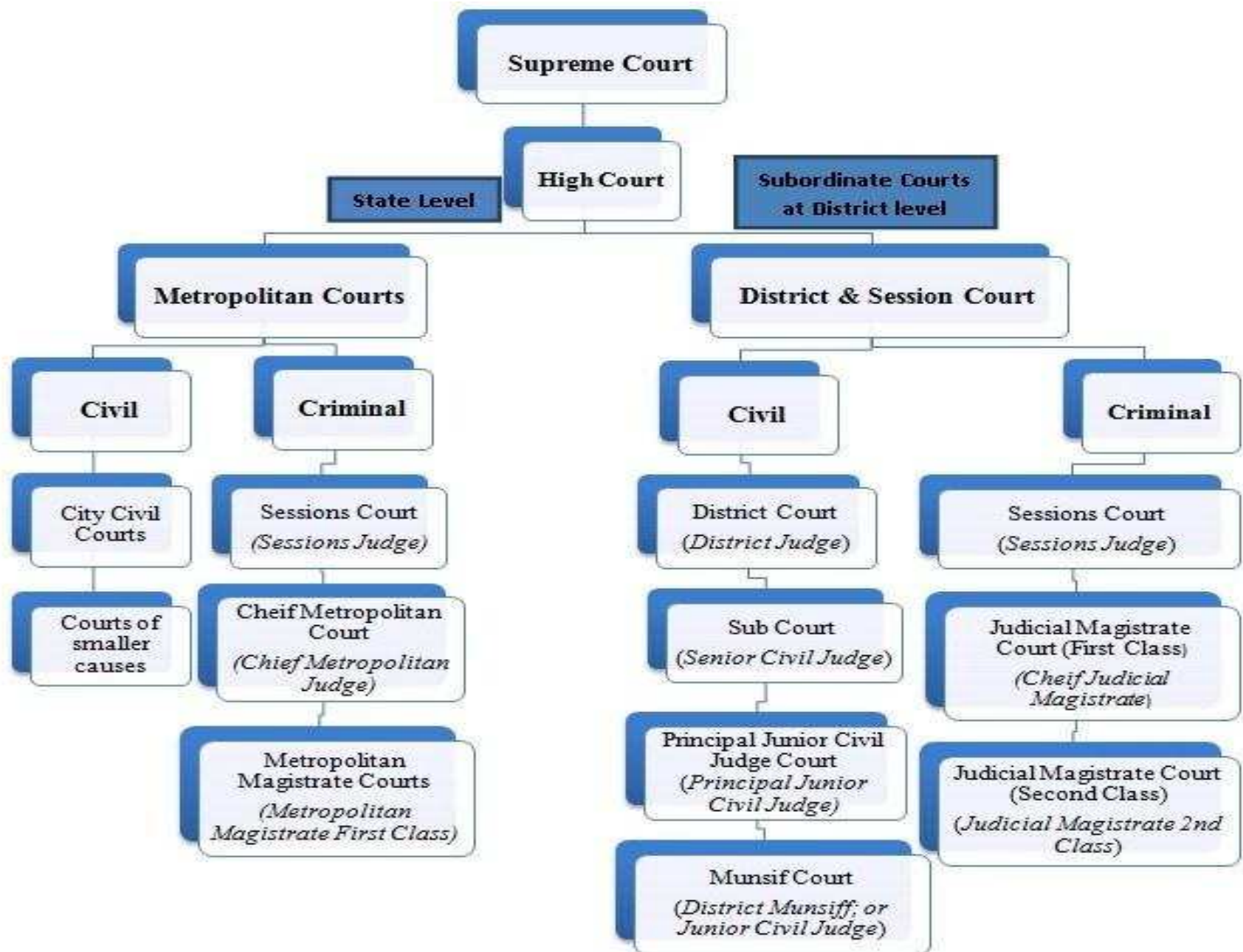
HIERARCHY OF CRIMINAL COURTS



HIERARCHY OF CIVIL COURTS

Hierarchy of Civil Judicial System :





ADJUDICATORY PROCESS IN CIVIL CASES

- Addressing Grievance
- Issue of Sumons
- Audi **alteram partem**: Opportunity to hear other side
- ADR Methods: Effort to resolve amicably by alternative methods, Arbitration, Mediation, Conciliation, (LOKADALAT)
- Framing of Issues
- Examining of Evidences and Marking of Documents
- Submitting of Written or hearing of Oral Arguments
- Decree
- Execution
- Filing appeal

ADJUDICATORY PROCESS IN CRIMINAL CASES

- Complaint
- FIR
- Charge sheet
- Appearance of Accused
- Charge
- Prosecution Evidence
- Defense Evidence
- Arguments
- Judgment and Sentence

ADJUDICATION PROCESS AT APEX COURTS

- Jurisdiction of Supreme Court under the provision of Indian Constitution is Article 32.
- Remedies at Apex Court:
 - 1) Habeas Corpus (Illegal Detention)
 - 2) Mandamus (To perform a specific act)
 - 3) Certiorari: (Superior court to call up the records of an inferior court)
 - 4) Prohibition. (A writ directing a subordinate to stop doing something the law prohibits)
 - 5) Quo Warranto. (By What Authority)

QUASI – JUDICIAL DISPUTE RESOLUTION FORUMS

- Consumer Forums, (District, State, National)
- Administrative Tribunals
- National Company Law Tribunals
- Insurance Regulatory Authority
- Income Tax Appellate Tribunals
- Telecom Settlement and Appellate Tribunals
- National Green Tribunals
- Debt Recovery Tribunals
- ADR, LokAdalats.
- Ombudsman (Electricity, Insurance, Telecom and other Departments)
- Legal Services Authority.

LAWS GOVERNING: INDIAN JUDICIAL SYSTEM

- 1) C.P.C
- 2) Cr.Pc
- 3) Indian Evidence Act
- 4) Contract Law
- 5) Administrative Law
- 6) Company Laws
- 7) Aero Space Laws
- 8) International Laws
- 9) Environmental Laws
- 10) ADR Laws
- 11) Cyber Laws
- 12) Insurance Laws
- 13) Land Laws
- 14) Family Laws, Constitutional law and etc.,

T H A N K Y O U