

MODULE 1:

Legal Concepts – Law, Custom, Justice, Right, Duty, Wrong, Remedy, Fact, Person, Offence, State, Plaint, Complaints, Suit, Affidavit, Judgment, Appeal, Review, Revision, Reference, Writ, Stay Order, Injunction, Adjournment, Cause of Action, Issue, Charge, Bail, Ex-Parte, Discharge, Acquittal, Conviction, Legal heirs, Legal Representative, Power of Attorney, International Law, Arbitration, Jurisdiction, Amicus Curiae.

1. "Law":

Blackstone defines a term law-

"Law in its general and comprehensive sense, signifies a rule of action, and is applied indiscriminately to all kinds of actions, whether animate or inanimate, rational or irrational"

Salmond explains law-

"Law consists of the rules recognized and acted on in court of justice" The term 'law' is used in two senses, in the abstract sense, and in the concrete sense strict sense, it means, the system of law, as for instance-law of contract, law of defamation, etc. In its' concrete sense, it means Statute, Act, Ordinance or other exercise of legislative authority.

Several jurists and theorists have attempted to define the term "law". They have propounded their theories According to Natural Law theory,

"Law is the dictates of Reason". It consists of principles of right and wrong, just and unjust, moral and immoral. These principles can be discovered by the 'Reason of mankind. It is also known as "Divine law" being the order of God imposed upon men. It is the God made law. According to Thomas Aquinas, "Law is the command of higher God".

According to the Imperative theory of law propounded by Austin (Definition given by Austin), "Law is the command issued by the sovereign power".

According to the theory of Legal Realism, "Law is the decision of the Courts"

According to Prof. Hart, "Law is the system of rules"

Customary law-

Law based on custom is known as "Customary Law"

2) "Custom":

Custom means, a habitual behavior or course of conduct or practice followed by the people from long period.

Law, based on custom is known as customary law. In fact, custom is one of the most important sources of law.

Custom is a tradition of the people that governs a human conduct. Custom is the rule of conduct or action voluntarily and uniformly observed by the people. It consists of a rule of conduct approved and accepted by the community for generations.

It is the usage observed and followed by the people and recognised by the Court on the compliance of certain conditions.

Essentials of a valid custom:

In order to get recognition of law (recognition by Court),

1. The custom must be ancient;
2. The custom must be continuous;
3. The custom must be certain;
4. The custom must be reasonable;
5. The custom must be moral;
6. The custom should not be opposed to the statutory law; and
7. The custom should not be opposed to public policy.

Legal Language Notes

Roman Wölfel



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