

Legal Right and Essential

INTRODUCTION

A legal concept is a form of generalization of objects and phenomenon on a legal system. It involves an idea that generalization the objects of a class according to their specific attributes. It can be said that attributes on which the generalization is done. The more materials there are, higher the value of the concept. Thus Legal concept is the foundation of a legal system as Jerome Hall has said. "Law is conceptual art through and through and without these concepts, legal art would fall into chaos."

Initially people considered the Right to be inspired by the spirit of security, but the spirit of security cannot be the basis of the sole right. Later a will-based concept emerged in which it was said that rights are based on will, but it would not be right to say that because child in womb, lunatic person etc. are such a person if those who get the rights asking. So it would not be right to do this, but gradually the trend of people moved towards the concept of Interest although Austin and his followers insisted on the word capacity and said that it would be right to enforce the duty of a person from the court. While it is worth mentioning that the great jurist Salmond interpreted the Right as being influenced by professor Ihering's theory of interest and said that these Interest Recognize and Protect by Rule of Law. In perspective of the above mentioned statement Definitions of "Legal Right" are given by prominent Jurist which are as follows.

MEANING AND DEFINITION

The concept of Right is one of the most important concept of the law. Right has been derived from the Latin words (rectus) to rectify or correct or from jus, which means just or justice.

HOLLAND defined Right as, "Capacity residing in one person of controlling, with the assent or assistance of the state, the action of others"

AUSTIN

Right is the Capacity or Power of exacting from another or other's acts or forbearance.

BUCKLAND

Right is an interest or an expectation guaranteed by law.

ROSCOE POUND

Right is Reasonable expectation involved in civilised life.

Dean Roscoe Pound stated the following, "As a noun, the word Right in the legal sense has five analogous meanings:

No1-A Right is an Interest which is Secured and Protected by Law.

No2-A Right is a Recognised Claim to act or in forbearance by another or by all in order to make that interest effective.

No3- The Capacity to designate a capacity of creating, divesting or altering rights.

No4 -It has been used as a form of Liberties and Privilege

No5-Right is used as an Adjective to mean that which accords with justice, that which is recognised and gives effect to moral rights or jus rights.

SALMOND

“A right or an interest recognised and protected by a rule of law. It is a right, respect for which is a duty and disregard of which is a wrong.

According to Salmond, every legal right has five Essential elements which are as follows-

No1-The Person of Inherence- The first essential element of the legal right is that there must be a person who is the owner or possessor of the Right. He is the subject of the legal right. The owner of a right need not be a determinant person.

No2-The Person of Incidenc –In simple words, a person who is bound with right is called the person of incidence. Legal right occurs against another person or persons who are under a corresponding duty to respect that right. Such a person is called the person of incidence or the subject of the duty.

No3-Contents of legal -Third essential element of a legal right is its content or substance. Contents of the legal right deals with the subject matter of the legal rights. It relates to some act to do or not to do any act or forbearance. It obliges a person to act or forbear in favor of the person of the inherence.

No4-Subject Matter of Right- Whether to do or abstain from doing something in relation to an object is called the subject matter of that right.

No5-Title-Every legal right has a title which relates to certain facts through which the right is vested in its owner. Patton considers it to be the evidence of right. Thus title is a process, by which the right is vested.

The elements mentioned above can be understood with the help of the following examples.

Suppose you purchase a piece of land like this. As soon as you bought piece, you became the owner of that piece, in other words, you became the **person of inherence**. On the other hand, the rest of the world will be bound by duty towards the person of inherence. Will he be called **Person of Incidence**. Here the duty of the rest of the world arises not to enter that land without the permission of the person of inherence. In other words, it can be said that the **content of the right** lies in the non-interference in the exclusive use of the land by the purchaser. It is clear that the land will be the **subject matter** of that right and the evidence related to it will be the **title** of the rights of the registry etc.

Let us take a latest example.

A person suffering from Corona virus, knowing that he is infected, joins them to spread the disease in society. Here the question arises whether the people who have been infected in the society have the right to be healthy and in this perspective it will be necessary to examine the five elements of the right.

No1- Who will be a **Person of Inherence?**

Your answer will be the whole society except the person who has spread the infection.

No2-Who will be a **Person of Incidence?**

In this example, the person spreading the infection would be the person if incidence.

No3-What will be the **Content of Right ?**

It is the duty of an infected person to disclose information related to his disease to the society.

No4-What will be **Subject Matter?**

The subject matter is corona virus disease in this problem.

No5-What will be **the Title or Evidence of the Right?**

Confirmation of positive corona infection by certified government medical lab.

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