

## JURISPRUDENCE - UNIT - 1

**[ What is Law ? What are the purposes of Law ? What are important sources of Law ? What is the Relationship between Law and Justice ? ]**

### INTRODUCTION:

The term Jurisprudence is derived from 2 Latin words '*Juris*' means Law and '*Prudentia*' means Study, Knowledge, Wisdom, Philosophy, Science etc.

Jurisprudence (Legal theory) means "Knowledge or Science of Law".

The law of Contract and Tort is concerned with different rights which one person may have against another.

Jurisprudence on the other hand, studies the meaning of the terms "rights" in the abstract.

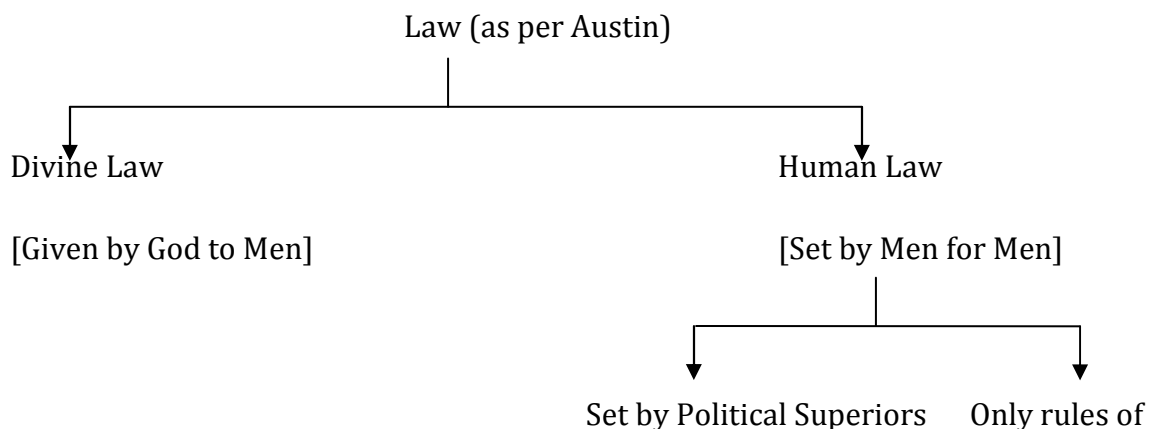
Similarly, it investigates other legal concepts and tries to build up a general and more comprehensive picture of each concept as a whole.

### DEFINITION OF EMINENT JURISTS:

#### AUSTIN:

Austin defines jurisprudence as "***the philosophy of positive law***". It means the law pronounced by the political Sovereign for controlling the human conduct.

According to him, law is of two kinds.



### **SALMOND:**

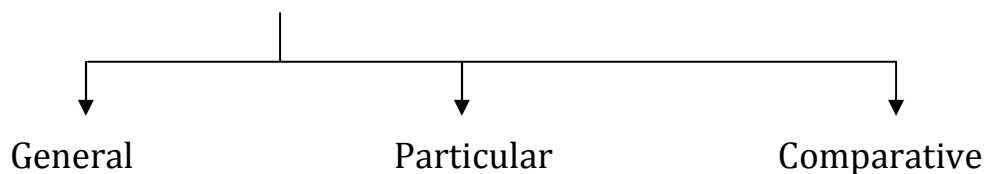
Salmond defines Jurisprudence as "**the Science of 1<sup>st</sup> Principles of Civil Law**". It means that Jurisprudence deals specifically with the principle of Civil Law only.

### **SIR HOLLAND:**

Sir Holland defines jurisprudence as "**the formal science of positive law**".

The formal science deals with the fundamental principles underlying the positive legal Concepts like property, contract, possession, ownership, negligence, etc.,

### **TYPES OF JURISPRUDENCE:**



1. General Jurisprudence:

It deals with fundamental concept of law, common to all legal systems. Ex. Property, possession.

2. Particular Jurisprudence:

It deals with special features of a particular legal system. Ex. Hindu legal system

3. Comparative Jurisprudence:

Comparative study of system in all its branches in two or more legal systems.

### **NATURE OF JURISPRUDENCE:**

There is difference of opinion about the nature of jurisprudence. It is called both Art and Science. But to call it Science would be more proper and useful.

The reason for this is that just as in science we draw conclusions after making a systematic study by investigating new methods.

In the same way jurisprudence is concerned with the fundamental principles of law, systematic and scientific study of their methods.

**Majority of jurists call jurisprudence as a Social Science. Some other jurists call it a Formal Science.**

### **SCOPE, PURPOSE AND OBJECTIVES OF JURISPRUDENCE:**

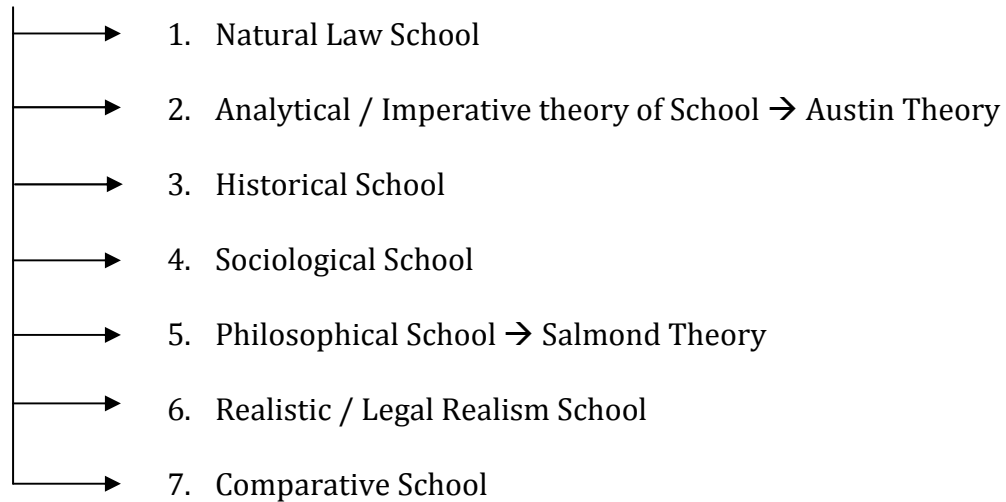
1. It develops the fundamental principles and conceptions of law.
2. It gives theoretical foundation for law.
3. It aims to make the common element existing in one legal system to all other Legal systems.
4. Definition for legal terms which enables lawyers and jurists to have clear understanding of the concepts. It acts like a grammar to a particular language.
5. Definitions and explanations to many basic legal concepts.
6. Jurisprudence teaches lawyers to look for present social needs to find answers to new Legal problems.
7. Jurisprudence helps the legislators to make laws.

**IMPORTANCE OF JURISPRUDENCE:** [<https://lawwithshaheen.com/definition-and-meaning-of-jurisprudence/>]

Jurisprudence is –

- Grammar of law
- Eye of Law
- Fundamental Principle of Law
- Great Educational Value
- Helps in Legislation
- Helps Judges and Lawyers, in ascertaining true meaning of law

## **SCHOOLS OF JURISPRUDENCE: (7)**



### **1. NATURAL LAW SCHOOL**

Natural law is a law based on Human reasoning. It is a divine order or will of God which requires the presentation of natural order.

#### **Origin and Development of Natural Law**

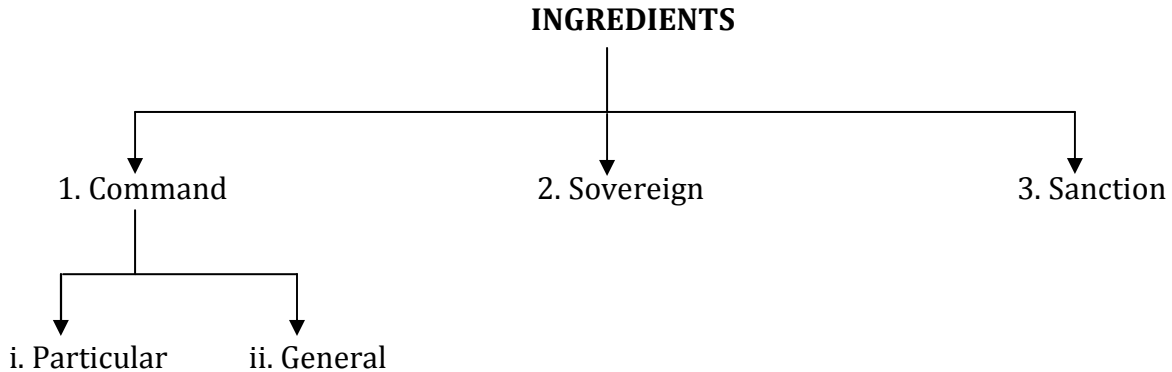
1. Natural Law of Ancient Greece.
2. Natural Law of Rome.
3. Natural Law during Medieval days.
4. Natural Law during Middle Ages.
5. Natural Law during Modern period.

#### **Application of natural law**

1. It determines frustration of contracts, impossibility of performance, quasi-Contracts which are all outcome of natural law.
2. The principle of estoppels is evolved from natural law.
3. Natural law puts a check on the administrative actions of the state.
4. Natural justice can be enforced through natural law.
5. Natural law is used to test the reasonableness of a custom and acceptability of Foreign laws.

## 2. ANALYTICAL / IMPERATIVE THEORY OF SCHOOL [Austin School/Theory]

Austin is the father of analytical school. According to this school, law is the Command of the Sovereign.



### 1. Command

A command is the expression of wish or desire to another to do or not to do a particular act.

i. Particular Command

It enjoys particular act specially mentioned.

ii. General Command

It enjoys a class or series of acts forming a course of conduct.

The commands coming from all persons are not Law. Only the command that comes from the mouth of the Sovereign or the supreme power is law.

### 2. Sovereign

Sir Austin defines "Sovereign" as a determinate human superior. The sovereign is a supreme person or a body of persons in an independent political society

#### **Characteristics:**

1. The sovereign is not subordinate to any other foreign sovereign.
2. He must receive habitual obedience and obedience should not be occasional.
3. He must be common to the entire society.
4. One society cannot have two sovereigns.
5. The sovereign must be a human being.
6. The sovereign must preside over political party.
7. The sovereign must have the power to command.

8. The laws enacted by the political sovereign are called positive laws

### **Theory of Sovereignty:**

1. Sovereignty is essential in every state.
2. Sovereignty is legally unlimited in power.
3. The sovereignty is indivisible. A country cannot have two sovereigns.
4. The sovereignty power is determinate. It means the power of the sovereignty to receive obedience from the majority of the members of the society.

### **3. Sanction**

The evil of punishment which would be the consequence of disobeying the command is called **Sanction**. It may be a pain or want of pleasure.

### **3. HISTORICAL SCHOOL (Savigny School)**

'**Savigny**' is the chief exponent of historical school.

According to him, **[Main Features]**

- a) Law is found and not made.
- b) It is a reflection of people's historical experience, culture and spirit.
- c) Law grows with the growth of the people.
- d) Law strengthens with the strength of the people and finally law dies away as the nation loses its nationality
- e) Nation means community of people
- f) It relies primarily on common consciousness of the people popularly known as *VOLKGEIST*.
- g) Legislation as a source of law has a subordinate place.
- h) Custom is the typical form of law.

### **Criticism**

1. Every law cannot be people's consciousness.
2. Every custom has no force of law.
3. Statutory law overrides custom.
4. Customs are not always based on people's expectations.
5. The ideas of historical school lend towards conservatism.

#### **4. SOCIOLOGICAL SCHOOL [Ehrich School]**

- 'Ehrich' was the chief exponent of this school.
- Sociology is the study of the society.
- Sociological school caused a change in the general approach to law itself and it has impressed on the judges.

##### **Main Features**

- a) Law reflects human needs and functions as an organized system.
- b) Law prescribes the fundamental rules to promote the basic values of the society.
- c) Law is regarded as the authoritative guide in judicial and administrative processes.
- d) The working of law is more important than the nature of law
- e) Law includes 1. Social control 2. Social methodology 3. Group behavior and 4. Social change.

#### **5. PHILOSOPHICAL SCHOOL [Salmond School]**

According to Salmond, the philosophical school of jurisprudence is a common ground of moral and legal philosophy

#### **6. REALISTIC / LEGAL REALISM SCHOOL**

The Realistic school is the Branch of Sociological School.  
It studies law as its actual working and effect.

#### **7. COMPARATIVE SCHOOL**

Comparative school means development of two or more systems of law.

### **CONCLUSION:**

At the heart of Legal Enterprise, is the concept of law. Without deep understanding of this concept neither legal practice nor legal education can be purposive activity.

## **JURISPRUDENCE - UNIT – 2**

### **LAW**

#### **INTRODUCTION**

Law has defined as the body of rules of conduct or action that has been prescribed by the controlling authority and has a legal binding force. Also, the law must be followed and obeyed by all the citizens. Failing to do so will result in legal consequences of the law. In this article, we are helping you understand the kind meaning of the law.

#### **MEANING**

The phrase law has been derived from the **Teutonic** phrase **Lag** which means that **specific**. Read more at Legal Bites © Reserved: <https://www.legalbites.in/jurisprudence-kinds-of-law/>

The term law is defined by various jurists and the aim of law is to regulate the conduct of the people. In simple phrases, the law is a specific energy of the country.

#### **NATURE OF LAW:**

- i. Law is a unique social political phenomenon.
- ii. It has more or less universal characteristics which can be analysed through philosophical analysis.
- iii. Nature of law is meant to be universal.

#### **CHARACTERISTICS OF LAW:**

- i. It is a set of rules.
- ii. It regulates human conduct.
- iii. It is created and maintained by state.
- iv. It has stability, fixibility and uniformity.
- v. It brings justice and order to the society.
- vi. It settles difference between men.
- vii. The violation leads to damage.



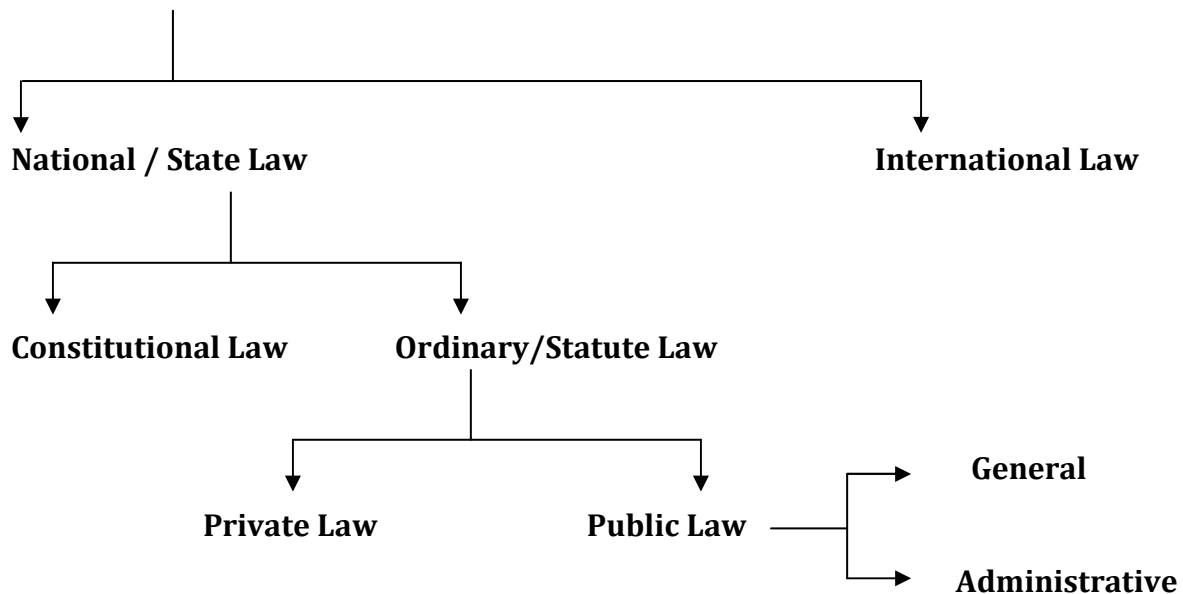
- viii. It defines boundaries to resolve issues between men.
- ix. It is enforceable against an identifiable act.

**FUNCTION AND PURPOSE OF LAW:**

The Jurists profounded the following functions and purpose of law.

1. Law maintains “law and order”.
2. Law ensures “Freedom of an individual”.
3. Law maintains an “orderly form of society” and an individual feels secure.
4. The existence of law prevents “commission of offences” and through legal control.
5. Law ensures “welfare of the people by disciplining their character”.
6. Law preserves “life, liberty, property and reputation” of individual.
7. Law secures “justice” to individual and society.
8. By law “social benefits and social burdens are fairly distributed.
9. Equal opportunities to both parties in dispute and prevents concentration of wealth
10. It helps justice impartially without any fear.
11. Judgments are fair.
12. Law protects right of privacy.
13. Law brings uniformity and certainty.

**KINDS OF LAW** <https://www.slideshare.net/AvinashRai17/jurisprudence-avi-2>



## **Constitutional Law**

Constitutional law is the supreme law of the country. The constitutional law lays down the Organisation, Powers, functions and inter-relationship of the 3 organs of Government.

It also lays down the relationship between the people and the government as well as the rights, freedoms (fundamental rights) and duties of the citizens.

## **Ordinary / Statute Law**

It is made by the government (legislature) and it determines and regulates the conduct and behaviour of the people.

It lays down the relations among the people and their associations, organisations, groups and institutions.

The legislature makes laws, the executive implements these and judiciary interprets and applies these to specific cases.

## **Private Law**

Private law regulates the relations among individuals.

It lays down the rules regarding the conduct of the individual in society and his relations with other persons.

It guarantees the enjoyment of his rights. It is through this law that the state acts as the arbiter of disputes between any two individuals or their groups.

## **Public Law**

The law which regulates the relations between the Individual and the State is Public Law. It is made and enforced by the State on behalf of the community.

## **General Law**

It lays down the relations between the private citizens (Non officials or who are not members of the civil service) and the State.

General Public Law applies to all the citizens in their relations with the State.

## **Administrative Law**

It governs the relations between the civil servants and the public and lays down the relations between the civil servants and the state.

In some states like France, Administrative law is administered by Administrative courts and General Law is administered by ordinary courts.

However in countries like India, Britain and the USA the same courts administer both the General law and Administrative law.

## **CONCLUSION**

Through the law, the information is passed on to the citizens every day in many various ways. Also, it is reflected in many branches of law like Contract law, Property law, Civil Law, Criminal Law. Various offenses against state, federal, or local community itself appeared as a subject of criminal law.

Thus, it provides the government to punish the offender. There are many purposes served by the law. Out of these, the main four are maintaining order, establishing standards, protecting liberties, and resolving disputes.

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## **QUESTION OF LAW, FACT AND DISCRETION**

*<https://www.facebook.com/347762842410745/posts/llb-part-1-english-jurisprudence-question-question-of-fact-and-question-of-lawex/456767851510243/>*

### **1) Introduction**

- All questions which arise for determination before the court are two kinds.
- They are either question of law or question of fact.
- It becomes very difficult to create difference between question of law and question of fact.
- **Question of law** consisted on the theoretical rules and it is answered by judges by using different rules of law to determine the case.

- And **question of fact** consisted on facts and it is determined by jury in the light of facts and evidences relevant to case. In question of fact burden of proof on plaintiff and such proof shows that violation is occurred

## 2) Definition of question of Law

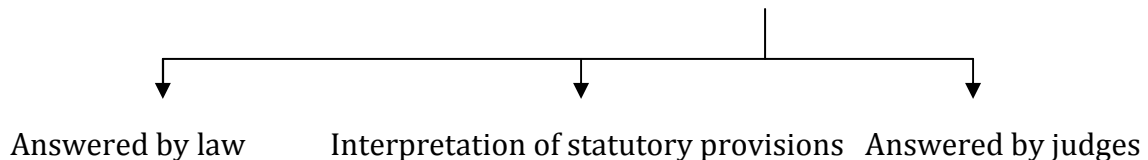
“Question of law is such question which is answered by judges by applying relevant legal principles in order to determine the rights of parties

## 3) Definition of question of Fact

“Question of fact is such question which is determined by jury to find the facts by evidences in order to determine the rights of parties

## 4) Question of Law

According to **Salmond**, the term questions of law are used in **three different senses**.



Following are the related senses:

### 1. In the first sense questions to be answered by law

- A court is bound to give the answer of the question of law, according to rules set by law in order to determine the rights of parties
- While all other questions are questions of fact and court is not bound to give the answer of that questions on his own

Explanation→

- In a legal contract, if one of the party fails to establish the terms and conditions of the contract, this is a question of law which will be dealt by court under the fixed principles of that contract act

### 2. In the second sense interpretation of statutory provisions

- There are some such questions of law where court is not quite clear that which kind of law will be applied on this question. In this case, rules of law are confused and requires determination

Transformation of second sense into first sense→

- Once judges find out the answer of the question and it becomes a precedent which establishes a question of law. In this case, court is bound to give the answer of the question of law accordingly

### 3. In the third sense questions to be answered by judges

Following is the general rule and exception about answer of the question of fact and question of law.

#### a) General rule

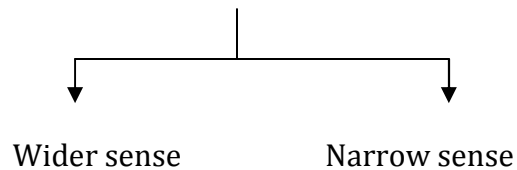
- There is a rule, that all question of law will be answered by judges
- And all questions of facts will be answered by jury

#### b) Exceptions

- There are many questions of fact which have been answered by judges while these were pure questions of fact which needs to be answered by jury

## 5) Question of fact

The term question of fact also has **two different senses**:



### 1. Wider sense

In a wider sense, all questions which are not questions of law are questions of fact

**According to salmond**→

The question of fact means

I. Question of fact is such question which has not been previously determined by the rules of law

II. Question of fact is such question where court is not quite clear that which kind of law will be applied on this question

III. Question of fact is such question which has been answered by the jury not by the judge

## 2. Narrow sense

Questions of fact are those questions which are not subject to the judicial discretion and judges are unable to make their decisions on their own discretion

## **6) Mixed question of law and fact**

Some questions are partly question of law and partly question of fact such question are called mixed question of law and fact

Explanation→

If two parties make an agreement it can be question of law as well as question fact

1) It is the question of law if the agreement has been made by involving the rules of law

2) It is the question of fact, if the agreement has been made without involving the rules of law

## **7) Difference between question of law and fact**

It is very difficult of create difference between question of law and question of fact; following are the differences between two.

### 1. As to relation with law

Question of law is purely related with the law→

Question of fact is not related with the law→

### 2. As to proof

There is no need to prove question of law→

Question of fact needs to be proved→

### 3. As to conversion

Question of law cannot converted into question of fact→

Question of fact may be converted into question of law→

### 4. Duty of judge

In question of law, it is the duty of judge to make the decision on the basis of rule of law→

In question of fact, it is the duty of judge to make the decision on the basis of evidence→

## 5. As to authoritative answered

Every question which has been authoritatively answered by the court is a question of law→

Every question which has not been authoritatively answered by the court is a question of fact→

## **CONCLUSION**

To conclude, I can say that, all matters and questions which come before court of justice either are question of law or question of fact or judge's discretion. There is a tendency (Rujhaan) to transform them into question of law. Even question of pure fact, there is already has been determined by authoritative answers

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## **JUSTICE AND ITS KINDS**

### **INTRODUCTION**

- The concept of justice is as old as the origin and growth of human society. [Read more at Legal Bites © Reserved: <https://www.legalbites.in/concept-of-justice/>](#)
- Justice is the most important and most discussed objective of the State, and Society.
- It is the basis of orderly human living. It stands for harmony between individual interests and the interests of society.
- Persons involved in every agitation for securing their interests always raise the slogan: **“We want Justice”**.
- Justice stands for rule of law, absence of arbitrariness and a system of equal rights, freedoms and opportunities for all in society.
- In its Preamble, the Constitution of India gives first priority to the securing of social, economic and political justice for its entire people.  
<https://www.yourarticlelibrary.com/speech/speech-on-justice-meaning-and-types-of-justice/40361>

**MEANING** <https://www.yourarticlelibrary.com/speech/speech-on-justice-meaning-and-types-of-justice/40361>

The word Justice has been derived from the Latin word '**Jungere**' meaning '**to bind or to tie together**'. The word '**Jus**' also means '**Tie**' or '**Bond**'.

Justice means bonding or joining or organising people together into a right or fair order of relationships.

**CONCEPT OF JUSTICE** <https://www.toppr.com/guides/legal-aptitude/jurisprudence/purpose-of-law-concept-of-justice/>

For example, **the natural law school** of jurisprudence believes that justice means the implementation of religious laws. On the other hand, **modern jurisprudence** says justice means the implementation of concepts like equality and liberty. However, **in both** these examples, **justice** just means **enforcement of what the law perceives to be right**.

In the **modern context**, justice basically means **the recognition and implementation of laws made by legislatures**. Furthermore, in the modern context, unlike ancient states, this function **lies largely on judicial organs**.

### **SOME POPULAR DEFINITIONS OF JUSTICE:**

<https://www.yourarticlelibrary.com/speech/speech-on-justice-meaning-and-types-of-justice/40361>

"Justice means to distribute the due share to everybody." –Salmond

"Justice protects the rights of the individual as well as the order of society." -Dr. Raphael

**Key Features of Justice:** <https://www.yourarticlelibrary.com/speech/speech-on-justice-meaning-and-types-of-justice/40361>

1. Justice is related to mutual relationships of persons living in society.
2. Justice is based on values and traditions of society.
3. Justice is related to all aspects of human behaviour in society. Laws are made and courts are set up with this aim in view.



4. Aim of Justice is to provide equal rights, opportunities and facilities to all in a fair way.
5. The function of Justice is to harmonise individual interests with the interests of society.
6. Justice is a primary value and it is inseparably related to other values like Liberty, Equality and Property.
7. Justice is the principle of balancing or reconciling human relations in society in such a way as enables each one to get his due rights, towards and punishments.
8. Justice has several dimensions: Social Justice, Economic Justice, Political Justice and Legal Justice.

### **KINDS OF JUSTICE:**



**SOCIAL JUSTICE:** <https://www.yourarticlelibrary.com/speech/speech-on-justice-meaning-and-types-of-justice/40361>

Various scholars explain the concept of Social Justice in different ways

“Social justice is another name for equal social rights.” “Social Justice aims to provide equal opportunities to every individual to develop his inherent qualities.”-**Barker**

In the words of Chief Justice, **P.B.Gajendragadkar**-social justice means ending all kinds of social inequalities and then provides equal opportunities to all.

<https://www.legalbites.in/concept-of-justice/>

In the case of **State of Mysore v. Workers of Gold Mines 1958 II LLJ 479 (SC)** the Supreme Court observed that the concept of social justice is a living concept of revolutionary impact: it gives substance to rule of law and meaning and significance to the idea of welfare of the state.

The concept of social justice finds its expression in Articles 14(equality before law), 15(prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth), 16(equality of opportunity in matters of public employment) and 39 (b) and(c) [(b) ownership and control of the material resources and its equal distribution, (c) operation of the economic system not resulting to the concentration of wealth and means of production to the common detriment], of the constitution of India

Legal maxims like **Nemo Judex In Propria Cause** (no one can be a judge in his own case); **Audi Altrem Partem**(here the other side or party) plays a vital role.

### **ECONOMIC JUSTICE:**

Economic Justice is indeed closely related to social justice. Economic justice demands that all citizens should have adequate opportunities to earn their livelihood and get fair wages as can enable them to satisfy their basic needs and help them to develop further.

No person or group or class should be in a position to exploit others, nor get exploited. There should be fair and equitable distribution of wealth and resources among all the people.

Whatever be the ideology or the system, one thing is clear and that is that all citizens must be provided with basic necessities of life. All citizens must have their basic needs of life fulfilled (Food, clothing, shelter, education, health and so on).

### **POLITICAL JUSTICE:**

Political justice means giving equal political rights and opportunities to all citizens to take part in the administration of the country.

Citizens should have the right to vote without any discrimination on the basis of religion, colour, caste, creed, sex, birth or status. Every citizen should have an equal right to vote and to contest elections.

## **LEGAL JUSTICE:**

Legal justice has **two dimensions**-the formulation of just laws and then to do justice according to the laws.

Legal Justice means rule of law and not rule of any person. It includes two things: that all men are equal before law, and that law is equally applicable to all. It provides legal security to all.

“The aim of law is the establishment of what is legitimate; provide legal security, and prevention of unjust actions. -**Salmond**’.

## **CONCLUSION:**

The legal procedure has to be simple, quick, fair, inexpensive and efficient. There should be effective machinery for preventing unlawful actions.

Thus, Justice has **four major dimensions**: Social Justice, Economic Justice, Political Justice and Legal Justice. All these forms are totally **inter-related and interdependent**. Justice is real only when it exists in all these four dimensions. Without Social and Economic Justice there can be no real Political and Legal Justice.

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## **ADMINISTRATION OF JUSTICE**

### **INTRODUCTION**

- Justice is the most important and most discussed objective of the State, and Society.
- Persons involved in every agitation for securing their interests always raise the slogan: “**We want Justice**”.
- Justice stands for rule of law, absence of arbitrariness and a system of equal rights, freedoms and opportunities for all in society.
- In its Preamble, the Constitution of India gives first priority to the securing of social, economic and political justice for its entire people.

- Administration of Justice is possible to keep the people in fear of punishment or compensation for violation of law and in the process people are kept disciplined and made to obey the law.

## **MEANING / DEFINITION**

The word Justice has been derived from the Latin word '**Jungere**' meaning '**to bind or to tie together**'. The word '**Jus**' also means '**Tie**' or '**Bond**'.

Justice means bonding or joining or organising people together into a right or fair order of relationships.

"**Salmond**" defines the administration of justice as "the maintenance of right within a political community by means of the physical force of the state".

## **ORIGIN AND GROWTH OF ADMINISTRATION OF JUSTICE**

<http://thelawstudy.blogspot.com/2015/02/administration-of-justice-and-its-kinds.html>

The origin and growth of administration of justice may be divided into three stages.

### **FIRST STAGE.**

First of all the concept of private system of punishment and violent self-help.

### **SECOND STAGE.**

When the rise of political states, the private system started to be regulated by the state. The state provided rules like "an eye for eye" and a "tooth for tooth". Thus the system of self-help was very much prevalent.

### **THIRD STAGE.**

At that stage, the state enacted its own rules and laws and has substituted the concept of private punishment by the administration of civil and criminal justice.

## **NECESSITY OF ADMINISTRATION OF JUSTICE**

Administration of justice is important for the following reasons.

- Necessary for uniformity.
- Necessary for protection of rights.
- Necessary for peace and stability.
- Necessary for integration of society.
- Necessary to check injustice.
- Necessary to educate people.
- To promote welfare.
- To promote equity.

## **OBJECTS OF ADMINISTRATION OF JUSTICE**

Objects of administration of justice is to create such atmosphere in which everybody can live without harming other. And there should be obedience of law which supremacy of Government with ideal system of justice.

## **KINDS OF ADMINISTRATION OF JUSTICE [Legal Justice – kinds]**



### **PUBLIC AND PRIVATE JUSTICE:**

Public justice is basically that kind of justice which the state administers through its tribunals and courts. It explains the relationship between courts and citizens of a state. Courts usually enforce laws that the states make under public justice.

On the other hand, private justice regulates the legal relationship between individuals. It is limited to people enforcing concepts of justice amongst each other without approaching courts.

For example, let's imagine that A and B entered into a business transaction in which A paid money to B as promised. B, instead of selling goods to A for the money, refused to fulfill his obligation. If A and B decide to settle their dispute through means of arbitration or negotiation, it is private justice. However, if A approaches a court and sues B, we refer to that as public justice.

## **CIVIL JUSTICE AND CRIMINAL JUSTICE**

In terms of the subject matters of justice, we can categorize it as civil and criminal. Civil justice generally refers to private wrongs that affect specific people or entities.

For example, breach of a contract between two parties will affect only one of them. Trespassing of property is another example. The remedy of such civil wrongs is generally to approach civil courts.

Criminal justice, on the other hand, affects society in general even if specific people are victims. For example, the murder affects specific victims only but the law treats it as a crime against society.

Another feature of criminal justice is that it relates to laws made by a legislature. Only acts that are defined as crimes can be the subject matter of criminal justice.

<https://www.toppr.com/guides/legal-aptitude/jurisprudence/purpose-of-law-concept-of-justice/>

### **DISTINCTION BETWEEN CIVIL AND CRIMINAL JUSTICE:**

| <b>CIVIL JUSTICE</b>   | <b>CRIMINAL JUSTICE</b>  |
|--|--|
| All the Civil wrongs are Civil Justice.<br>Ex. Breach of Contract, Trespass to land. | All the Criminal wrongs are Criminal Justice.<br>Ex. Theft, Murder, Rape, Forgery, etc., |
| All the Civil Wrongs are Private Wrong.  | All the Crimes are Public Wrong.   |
| Civil proceedings are instituted by persons.   | Criminal proceedings are instituted by the State.  |
| Civil wrong violated right of individual.  | Criminal act does harmful to entire society.   |
| Object of Civil Justice is Compensation.   | Object of Criminal Justice is Punishment.  |

|  |   |
|--|---|
| Civil Justice administered by C.P.C.                           | Criminal Justice administered by CrPC.  |
| The Doctrine of estoppels is applicable only.                  | The Doctrine of estoppels does not apply.                                     |
| Principle does not apply.                                      | Principle: 1000 guilty men can escape but one innocent should not be punished |
| The rule of evidence may be relaxed by the consent of parties. | The rule of evidence cannot be relaxed.                                       |
| Compounding of cases is permitted.                             | Cases once instituted cannot be compounded or withdrawn.                      |
| Civil Courts administer Civil Justice.                         | Criminal Courts administer Criminal Justice.                                  |

### **ADVANTAGES OF ADMINISTRATION OF JUSTICE**

- Cohesive factor of society.
- Provides stability.
- Provides certainty.
- Provides uniformity.
- Impartiality.
- Represent collective wisdom.
- Security.
- Provides justice.

### **DISADVANTAGES OF ADMINISTRATION OF JUSTICE**

- Rigidity.
- Complexity.
- Formalities.
- Justice according to law.

### **CONCLUSION**

In the end we can say that administration of justice is the firmest pillar of the Government. The modern administration of justice is a natural corollary to the growth in power of political state, which began to act as a judge to assess liability and impose penalty.

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## **JURISPRUDENCE - UNIT - 3**

### **SOURCES OF LAW**

#### **SOURCES OF LAW**

The meaning of source of Law is the place of birth. It means it has origin from which, rules of human conduct comes into existence.

#### **VARIOUS SOURCES OF LAW**





In jurisprudence, we are concerned with the legal sources of law. The two main legal sources of law recognized in English Jurisprudence are Legislation and Judicial Precedent.

There are **4 kinds** of law by reference to their **legal sources**.

