



RAMA UNIVERSITY

www.ramauniversity.ac.in

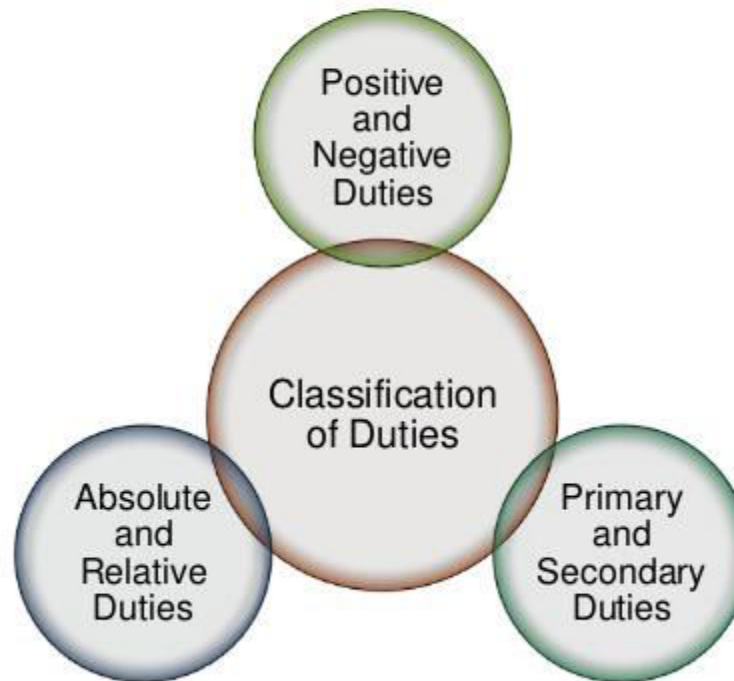
FACULTY OF ENGINEERING &
TECHNOLOGY

CONCEPT OF PROPERTY, RIGHTS & DUTIES

Legal rights are, clearly, rights which exist under the rules of legal systems or by virtue of decisions of suitably authoritative bodies within them [1](#).

According to positivists, legal rights are essentially those interests which have been legally recognized and protected. John Austin made a distinction between legal rights and other types of rights such as Natural rights or Moral rights. By legal rights, he meant ***rights which are creatures of law, strictly or simply so called***. He said that other kind of rights are not armed with legal sanction and cannot be enforced judicially.

CLASSIFICATION OF DUTIES



Elements of a Legal Right

According to Sir John Salmond, each legal right has 5 essential elements –

The Person of Inherence – It is also known as the subject of right. A legal right is always vested in a person who may be distinguished, as the owner of the right, the subject of it or the “person of inherence”. Thus, there cannot be a legal right without a subject or a person who owns it. The subject means the person in whom the right is vested or the holder of the right. There can be no right without a subject. A right without a subject or a person who owns it is inconceivable. The owner of the right, however, need not be certain or determinate. A right can be owned by the society, at large, is indeterminate.

The Person of Incidence – A legal right operates against a person who is under the obligation to obey or respect that right. He is the “person of incidence”. He is a person bound by the duty or the subject of the duty.

Contents of the Right – The act or omission which is obligatory on the person bound in favour of the person entitled. This is called the context or substance of right. It obliges a person to act or forbear in favour of the person who is entitled to the right. It may also be known as the substance of the right

Subject matter of Right – It is something to which the act or omission relates, that is the thing over which a right is exercised. This may be called the object or subject-matter of the right. Some writers, although argue that there are certain rights which have no objects.

Title of the Right – Salmond has given the fifth element also, that is, “title”. He says that “every legal right has a title, that is to say, certain facts or events by reason of which the right has become vested in its owner”.

CLASSIFICATION OF RIGHTS



Rights protected under Berne Convention

- Right to translate
- Right to make adaptations and arrangement of the works
- Right to perform in public dramatic ,dramtico-musical and musical works
- Right to recite in public literary works
- Right to communicate to the public the performance of such works
- Right to broadcast
- Right to make reproductions in any manner or form □ Right to use the work as a basis for an audio-visual work and right to reproduce, distribute, perform in public or communicate to the public that audio-visual work

ROME CONVENTION

The rights given to performers are a result of many conventions and treaty. The need for the treaties arose due to the development and innovation in technology.

International Convention for the protection of Performers, Producers, Phonograms and broad casting Organizations (Rome Convention 1961)

Rome Convention, 1961 granted following rights to the performers under Article 7:

1. Right to prevent the broadcasting and communication to the public of their live performances without their consent.
2. Right to prevent fixation to their live performances without their consent.
3. Right to prevent reproduction of the fixation to their live performances without their consent under the following circumstances:

If the original fixation was made without their consent