

Legal Rights and Duties

An Analysis

Definition of legal right

- Austin: A party has a right when another or others are bound or obliged by law to do or forbear towards or in regards to him.
- Ihering defined rights as legally protected interests.
- Salmond: right is an interest recognized and protected by a rule of legal justice.
- Roscoe Pound: right is a legally recognized and delimited interest which is secured by law.
- Paton defined legal right as the right recognized and protected by the legal system itself.

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- Gray: defined rights as the means by which the enjoyment of interests secured.
- Holland: a right is a capacity in one man of controlling, with the consent or assistance of the State, the actions of others.
- C K Allen: the essence of a legal right seems to be not legally guaranteed power by itself, nor legally protected interest by itself but the legally guaranteed power to realise an interest.
- Jellinck: a right is the will power of man applied to utility or interest recognized and protected by a legal system.

Characteristics of a Legal Right

- The person of inherence
- The person of incidence
- The content of the right
- The object of the right
- The title of the right

Theories of rights

- Will theory
- Interest theory

Kinds of rights

- Perfect and imperfect rights
- Positive and negative rights
- Rights in rem and rights in personam
- Personal rights and proprietary rights
- Rights in re propria and Rights in re aliena
- Primary and secondary rights
- Principal and Accessory rights
- Vested and Contingent rights
- Private and Public rights

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- Legal and Equitable rights
- Municipal and International rights
- Fundamental and Ordinary rights
- Statutory and Customary rights
- Rights in rest and rights in motion
- Real and personal rights

Kinds of duties

- Perfect and imperfect duties
- Positive and negative duties
- Primary and secondary duties
- Absolute and relative duties

Jural analysis

- Right is what others must do for me.
- Duty is what I must do for others.
- Liberty is what I may do for myself.
- No-right is what I cannot do for myself.
- Power is what I can do against others.
- Liability is what others can do against me.
- Immunity is what others cannot do against me.
- Disability is what I cannot do against others.