



General Principles of Law

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PRINCIPLE

- ▶ Principle is derived from Latin term “Principia”

which means,

First, foremost, leading, chief, most necessary
that which is most important,
first thing that should come first....

- ▶ Principles are the master key through which universal wisdom is unveiled or de-occulted.
- ▶ Principles are not casual enunciations but the quintessence of pragmatic experiences.



These principles are not attributed with piety of immortality

Nevertheless

Effectively applied and successfully enforced in the administration of justice because they are wedded with public approbation.

General principles of our State administration and governance

The Govt. of India facilitates and exhorts every member of Civil Services –

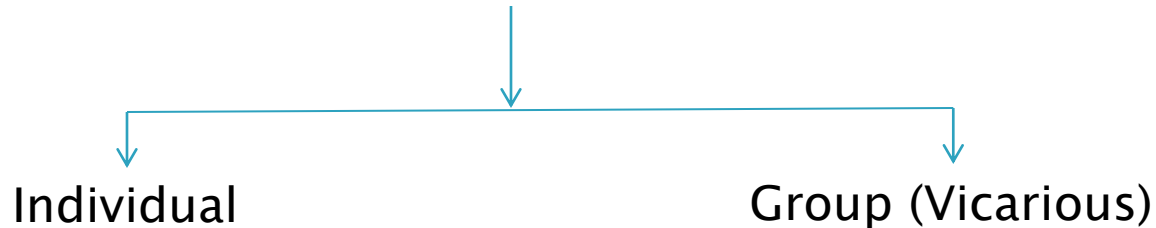
- ▶ To discharge official duty with responsibility, honesty, accountability and without discrimination.
- ▶ To ensure effective management, leadership development and personal growth.
- ▶ To avoid misuse of official position or information.
- ▶ To serve as instruments of good governance and foster social economic development.

(Misra, P.K. (4 August 2010). ["The Role of civil services in India \(Standard Note: DOPT/Government of India\)"](#) (PDF). Department of Personnel and Training, Government of India. Retrieved 2011-08-27.)

Some General Principles

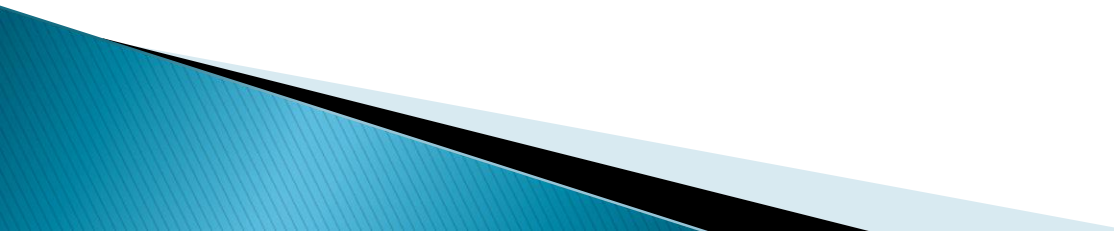
Principle –

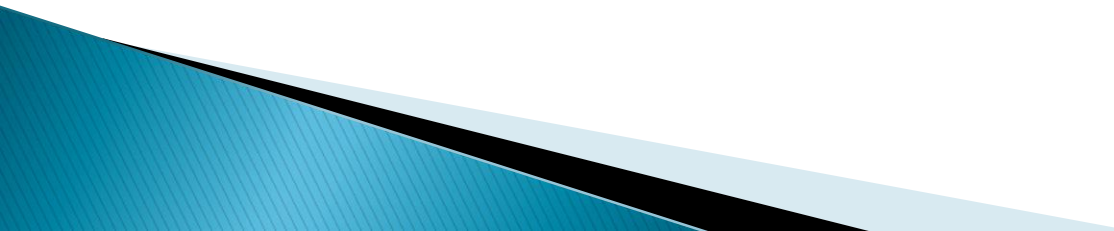
- ▶ of Equity
- ▶ of Exclusion of violence and Value of Security
- ▶ of Liability (responsibility for illegal deeds)



The intent and the act both concur to constitute the crime –
(Actus non facit reum nisi mens sit rea)

The action of the person dies with him (**ACTIO PERSONALIS MORITUR CUM PERSONA**)

- ▶ of Limits on Discretion (Rule of Law)
 - ▶ of Right to Self Determination
 - ▶ of Contractual Autonomy
 - ▶ of Good Faith
 - ▶ of Public Interest and Welfare– regard for the public welfare is the highest law. (*Salus populi est suprema lex*)
 - ▶ of Justice (legal, absolute, social, political & economic)
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- ▶ of Equality and Proportionality
 - ▶ of Knowledge of Law (*ignorantia juris non excusat – Ignorantia facti excusat*)
 - ▶ of Reasonableness (foreseeability of consequences)
 - ▶ act of Omission includes the act of commission
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- ▶ Principle of balancing the interest of Individual and Society (– relation between individual Society and state – individual interest and welfare to yield before societal interest and welfare)– Eminent Domain
- ▶ of liberty (of thought, expression, belief, faith & worship)
- ▶ of Rights and Remedies(*Ubi jus ibi remedium– Where there is a Right There is a Remedy*)


- ▶ Principle of Consent– (Damage suffered by consent is not a cause of action) (*Volenti non fit injuria*)
- ▶ of Decentralization and co–operation (Separation of Powers)
- ▶ of Natural Justice
 - Hear the other side– **RIGHT OF HEARING** (Audi Alteram Partem)
 - No man can be a judge in his own cause– Rule against Bias** (Nemo debet esse judex in causa sua)

Fair Trial

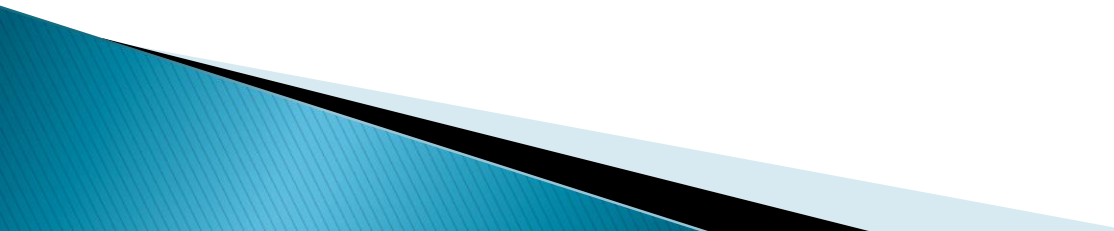
Cont...

- a person shall not be twice vexed for one and the same)–**principle of Double Jeopardy– Res judicata**
- Act of God – (Vis Major)
- **of Necessity**
- let justice be done, though the heaven should fall.
“FIAT JUASTITIA RUAT COELUM”

FACETS OF LAW

- ▶ Classification of law is not scientific – only a technique of convenience and expediency in understanding the concept of law. Some norms adopted for differentiation –
 - ▶ Codified & uncodified (structural format)
 - ▶ International & municipal – (territorial application)
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Cont....

- ▶ Substantive and procedural – (Functional)
 - ▶ Civil and criminal – (nature)
 - ▶ Private and Public – (objective test)
 - ▶ Supreme/organic and ordinary – (status)
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Sources of Law

- ▶ **Legislation** – Constitution, Statutes, Rules etc
- ▶ **Custom**– practice (s) passed on by one generation to the next– **ancient**, **certain**, **uniform**, **not opposed to public policy** & continuous
- ▶ **Precedent**– authoritative & persuasive– Ratio decidendi & Obiter dicta

What Questions do you have ?

