

Legal Language.

&
Legal Writing

what is law?

Types of functions of law.

Legal maxims & Terminology.

commented & **highlighted**

Model Q&A for Synopsis writing.

LL.B. 3yr

LL.B I Semester (Three years Course)

Course Code 1.5

LEGAL LANGUAGE & LEGAL WRITING

SECTION A

UNIT -I-GENERAL STUDY OF LAW

- Definition of Law
- Functions of law
- Kinds of Law
- Classification of Law
- Sources of Law
- Rights and Remedies

UNIT -II – CHARACTERISTICS OF LEGAL LANGUAGE

- Meaning of Legal Language
- Scope and Domain of Legal Language
- Problems of Legal Language
- Interpreting the Law

UNIT -III – LEGAL TERMINOLOGY

- Ad hoc, Ad interim, Animo attestandi, Alibi, Ad valorem, Ambiguitas – patent, Ambiguitas – latent, Amicus Curiae, Animus possidenti, Bona Fide(s), Corpus juris civilis, Caveat emptor, De facto, De jure, Detenu, En masse, Ex officio, Ex-cathedra, Ex-parte, Ex-gratia, En-route, Ens legis, Ex post facto, Factum valent, In pari delicto, In pari material, In lieu of, In personam, In rem, Inter se, Impasse, In situ, Inter alia, In toto, Ipso facto, Intra vires, Jure Divino, Jus in rem, Jus ad rem, Jus tertii, Jus in re aliena, Jus in re propria, Jus gentium, Jus natural, Laissez faire, Legalis homo, Lex loci, Locus standi, Magnum bonum, Magnum opus, Mala fides, Modus operandi, Mutatis and mutandis, Note bene, Novus homo, Onus probandi, Obiter dictum, Prima facie, Quid pro quo, Res integra, Res nullius, Sine qua non, Socius criminis, Sans, Status quo, Suo motu, Ultra vires, Vox populi vox dei.

UNIT -III – LEGAL MAXIMS

- Actus dei nemini facit injuriam
- Actus non facit reum nisi mens sit rea
- Actus personalis moritur cum persona
- Audi alteram partem
- Communis error facit jus
- Damnum sine injuria
- Delegates non potest delegare
- Ex turpi causa non oritur action

- Falsus in uno falsus in omnibus
- Generalia specialibus non derogant
- Ignorantia facit excusat ignorantia juris non excusat
- Injuria sine damno
- Nemo dat quod non habet
- Novus actus interveniens or nova causa interveniens
- Noscitur a sociis
- Par in partem imperium non habet
- Qui facit per alium facit per se
- Respondeat superior
- Res ipsa loquitur
- Res non potest peccare
- Ubi jus ibi idem remedium
- Vigilantibus non dormientibus, jura subveniunt
- Volenti non fit injura

UNIT -IV – FUNDAMENTAL PRINCIPLES OF LEGAL WRITING

Concision, clarity and cogency

- Simplicity of structure
- Title
- Heading
- Use of italics
- Numbers
- Definition of terms
- Contractions
- Use of first person
- Ellipses & alterations
- Citations, references and foot notes

UNIT-V – LEGAL DRAFTING OF PLEADINGS

- Notices
- Affidavit
- Agreement of sale
- Promissory note
- Plaint
- Written statement
- Will

SECTION B

UNIT -VI – PARAPHRASING AND SYNOPSIS WRITING

- Legal passages from legal articles for paraphrasing
- Synopsis writing of paragraphs from case laws or judgements/Case Comments.

Suggested Readings:

1. Peter Tiersma, Legal Language (University of Chicago Press, 1999).
2. Legal Language and Legal Writing – S.C.Tripathi
3. Legal Language, Legal writing and general English – Prof. Dr. Saria Gupta and B. P. Agrawal
4. Outline of Legal language in India – Dr. Anirudh Prashad
5. Legal Language and Legal rights – S. N. Mishra
6. Legal language and Legal rights – Tandon

NOTE: In view of the fact that many legislative amendments and court decisions could be handed down on the topics covered hereinabove after this syllabus has been made applicable, students are expected to study all such latest amendments and court decisions also, on the topics mentioned in the aforesaid syllabus.

LL.B. I semester (3 year course)

Legal Language & Legal Writing
(Course code 1.5)

SECTION - A

UNIT - I :- General Study of Law

Definition of Law:-

INTRODUCTION -

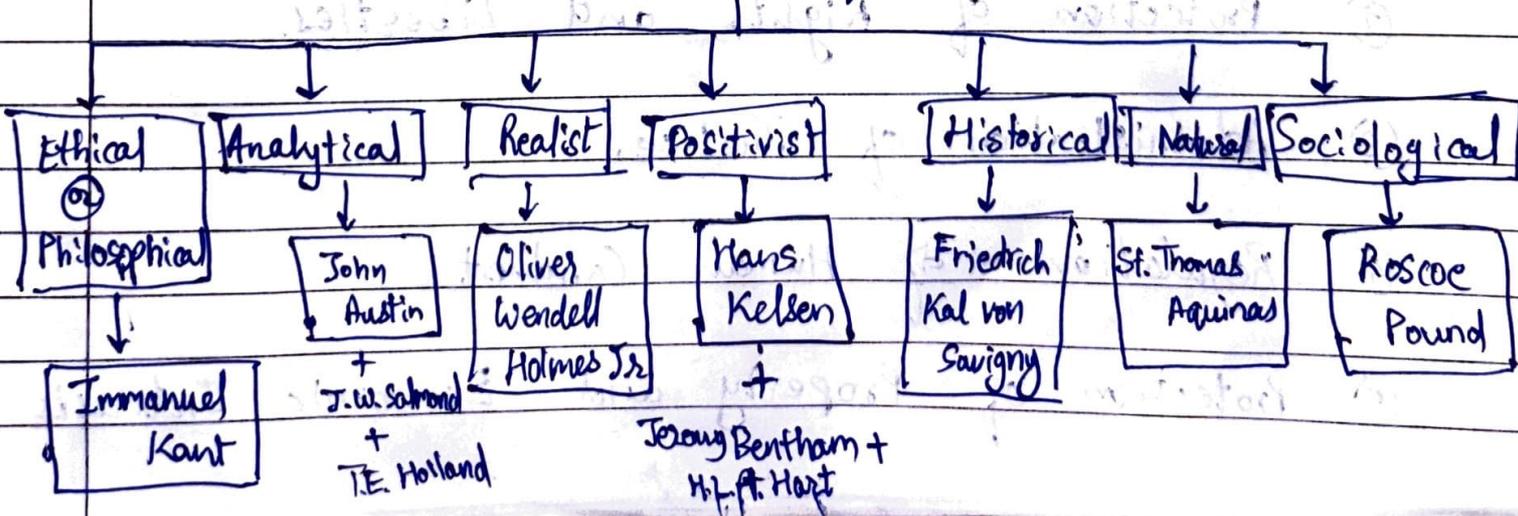
Law is the foundation of every civilized society. It regulates human conduct, maintains order, and ensures justice for all.

The word "law" is derived from the old Teutonic word 'lag', which means something fixed or uniform. (The purpose of law is to bring uniformity in society.)

In general sense, law are set of rules that govern human behaviour and are enforced by the 'State'.

The term "law" has been defined differently by various jurists according to their school of thought.

School of Law (Jurisprudence)



* Grundnorm is the ultimate foundation of a legal system
In India we can say that Constitution acts as a Grundnorm. (All laws get validity through it.)

→ John Austin (Analytical school) - defined law as command of the sovereign backed by sanction.

→ Sir John William Salmond - says that law is a general rule of external human action the body of principles recognized and applied by the State in the administration of justice.

→ Hans Kelsen (Positivist) defined law as a hierarchy of norms, deriving validity from a basic norm (Grundnorm*) → see top of the page.

→ Rescoe Pound (Sociological school) says that law is a social engineering tool, which balances conflicting interests in society.

"Functions of Law"

The various functions of law can be enlisted as below -

- ① Maintenance of law and order.
- ② Protection of Rights and Liberties.
- ③ Administration of Justice.
- ④ Regulation of Human Conduct.
- ⑤ Protection of Property and Economic Interests.

- _/_/_
- ⑥ Promotion of Social Welfare.
 - ⑦ Instrument of Social Change.
 - ⑧ Settlement of Disputes
 - ⑨ Maintenance of International Relations
 - ⑩ Upholding Rule of Law.

Description of various functions of law with examples

① Maintenance of law and order —

Law prevents anarchy and chaos prescribing what is right and what is wrong. It creates a system where in the disputes are resolved amicably instead of brute force.

In absence of law might would become right; but through law, right becomes might.

eg - Two neighbours dispute over a land, instead of fighting or using force, the matter is taken to court under Civil Procedure Code (CPC), where evidence is examined and judgement is given. Therefore the tussle is resolved in a peaceful and institutional way rather than through violence or chaos.

② Protection of Rights and Liberties —

Law safeguards the fundamental and

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legal rights of individuals — life, liberty, property, equality and dignity.

It ensures that no person or authority acts arbitrarily.

eg:- Articles 14 through 21 of the Indian Constitution protects the Fundamental Rights of citizens.

③ Administration of Justice —

The legal system ensures fairness and impartiality in resolving disputes.

Courts interpret and apply the law to deliver justice according to facts and evidence.

eg:- A person accused of theft is tried under the Indian Penal Code (IPC) and Bharatiya Nagrik Suraksha Sahita (BNSS), the court hears both sides, examines evidence and gives judgement only after the due process.

This ensures fairness and impartiality in delivering justice.

④ Regulation of Human Conduct —

Law guides how individuals, group and institutions should behave in society. It prescribes duties and responsibilities and sets consequences for violations.

eg:- Section 119 of Motor Vehicle.

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Act, 1988 prescribes penalty for "signal jumping".

⑤ Protection of Property and Economic Interests

Law ensures security of ownership and transactions, promoting economic stability. It defines ownership, possession and transfer rules to protect against theft and fraud.
eg:- when a house is sold, the Transfer of Property Act, 1882 and the Registration Act, 1908 ensure the ownership passes legally through a registered sale deed.

This prevents fraudulent claims and secures the buyer's economic interest.

⑥ Promotion of Social Welfare —

Modern law aims to achieve social and economic justice by reducing inequality and protecting weaker sections.
eg:- The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005 ensures 100 days of wage employment to rural households, promoting economic security and social justice for the weaker sections of society.

⑦ Instrument of Social Change —

Law acts as a tool for reforming society and removing outdated custom and practices.

eg:- In Joseph Shine - vs - UOI (2018),

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the Supreme Court struck down Section 497 of the Indian Penal Code, which criminalized adultery, calling it unconstitutional and discriminatory against women.

This judgement reflected the progressive role of law in reforming the outdated moral standards and promoting gender equality and individual freedom in society.

⑧ Settlement of Disputes —

Law provides structured mechanisms — courts, arbitration, mediation — for peaceful resolution of conflicts between individuals or institutions

eg:- When there is a dispute between two companies over payment under a contract, they can refer the dispute to arbitration under the Arbitration and Conciliation Act 1996 instead of resorting to threats or retaliation.

⑨ Maintenance of International Relations —

Through international law, treaties and conventions, nations maintain peaceful coexistence and cooperation.

eg:- India is a signatory to the Paris Agreement (2015) under the United Nations Framework Convention on Climate Change (UNFCCC).

Through this treaty, countries - including India, legally commit to reduce green house gas emissions and cooperate on climate action,

10) Upholding Rule of Law -

Law ensures that no-one is above the law, not even the government. It establishes equality before law and accountability of authorities.

eg.- In Kesavananda Bharti - vs - State of Kerala (1973) the Supreme Court held that the "Rule of law" is part of the Basic Structure of the Constitution, meaning even the parliament cannot pass any law that destroys this principle.

This case illustrates that even the legislature or the government is not above the law, ensuring accountability and equality before law.

- Legal Maxims and Legal Terminology

Chirag Vora
LL.B. 3 Years Course

I-Semester

RTMNU's Dr. Babasaheb Ambedkar School of Law

- Category A: General Legal Terms (Vocabulary)

Ad hoc

Procedure / Committees

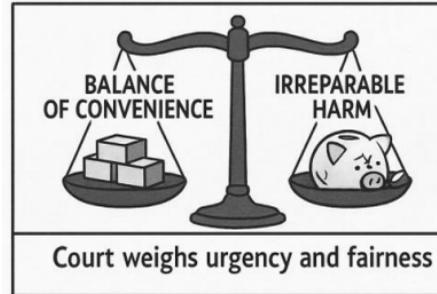
- **Purpose-specific delegation:** 'Ad hoc' means 'for a specific purpose.' In legal and administrative contexts, it refers to temporary bodies or decisions constituted for specific tasks or inquiries.
- **Key case: A.K. Kraipak v. Union of India (1969):** This landmark case introduced the principle that administrative decisions made by ad hoc committees must uphold natural justice — bridging the gap between administrative and quasi-judicial actions.
- **Natural justice & fairness:** The Supreme Court held that selection boards, even if ad hoc, must adhere to the principles of fairness and impartiality, blurring the line between administration and adjudication.
- **Modern implications:** 'Ad hoc' appointments remain common in tribunals, commissions, and educational bodies — but are now constrained by procedural safeguards to ensure legitimacy and accountability.



Ad interim

Interim Relief

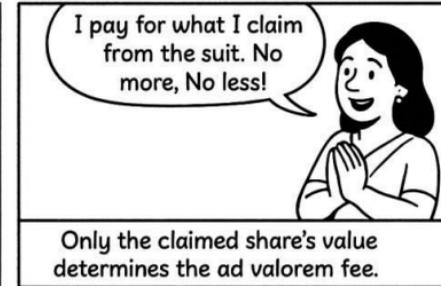
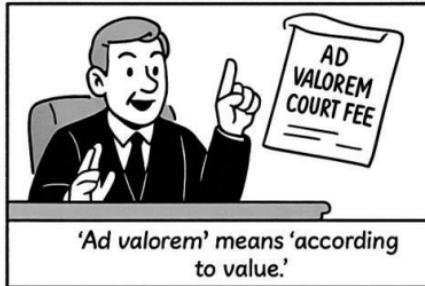
- **Meaning and scope:** 'Ad interim' refers to actions or decisions taken 'for the meantime' — typically in the context of temporary judicial relief or administrative orders.
- **Key case: Morgan Stanley Mutual Fund v. Kartick Das (1994):** This case laid out essential criteria for granting ad interim ex parte injunctions — including balance of convenience and likelihood of irreparable harm.
- **Due process caution:** The Supreme Court emphasized that such relief should only be granted in exceptional cases to avoid injustice before the other party is heard.
- **Judicial restraint:** Ad interim relief should not become a substitute for full hearings — courts must assess the urgency and consequences before issuing orders.



Ad valorem

Court Fees / Stamp Duty

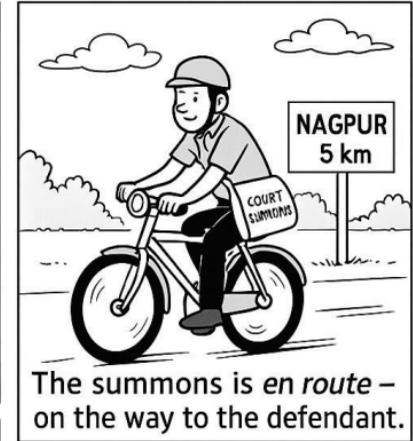
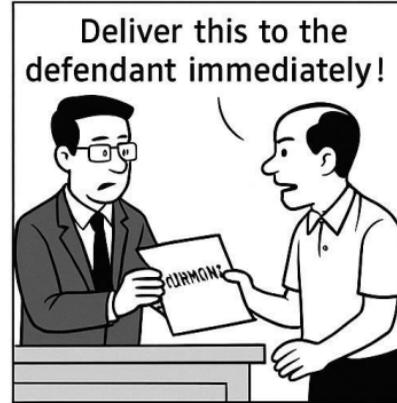
- **Meaning and usage:** 'Ad valorem' means 'according to value'. In legal settings, it refers to fees or taxes that vary based on the monetary value of the subject matter.
- **Applied in valuation of suits:** Courts use ad valorem calculations to determine court fees in civil suits — property disputes, partition cases, and monetary claims rely heavily on this principle.
- **Key case: Neelavathi v. N. Natarajan (1980):** The Supreme Court held that ad valorem court fees must be based on the actual share claimed by the plaintiff, not the full property value.
- **Stamp duty implications:** Documents like sale deeds, leases, and mortgage deeds are stamped on an ad valorem basis — impacting legal enforceability and revenue collection.



En route

General Drafting

- **Literal and legal meaning:** 'En route' means 'on the way'. In legal drafting, it describes movement from one place to another — often in FIRs, charge sheets, or affidavits.
- **Narrative clarity in pleadings:** Used to describe the sequence of events, especially when a party or object was in transit at a crucial moment — provides factual grounding..
- **Common usage in criminal law:** Frequently appears in police reports to establish timeline, jurisdiction, or to explain how an offence was committed or discovered during transit.



En masse

Labour / Administrative

- **Definition and application:** 'En masse' means 'all together' or 'collectively'. It describes actions affecting or undertaken by a group, especially in labour and administrative law.
- **Key case: Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd. (1992):** The Supreme Court examined legality of en masse retrenchment — stressing due process and statutory compliance under Industrial Disputes Act.
- **Due process in termination:** Retrenchment of employees en masse must be backed by statutory notices, compensation, and consultation with appropriate labour authorities.
- **Administrative relevance:** En masse actions — like transfers, suspensions, or dismissals — face higher scrutiny for arbitrariness or mala fide intent under Article 14.

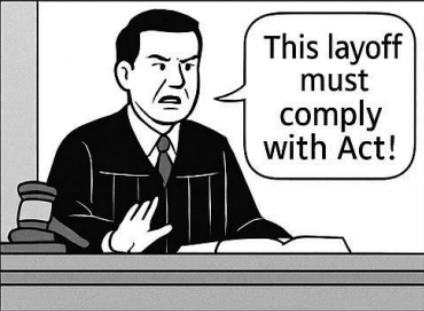
Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.



The Supreme Court examined its legality



En masse retrenchment – dismissal of multiple workers at the same time



This layoff must comply with Act!



stressing compliance under the Industrial Disputes Act.

Ex officio

Appointments / Powers



Meaning and usage

'Ex officio' means 'by virtue of one's office.' Used to denote that a person holds a position or has authority because of another official role.



Institutional governance

In public bodies and commissions, ex officio status affects quorum, voting rights, and continuity — often anchoring representation by rank rather than individual.



Key case: **Subramanian Swamy v. CBI (2014)**

The Supreme Court addressed powers of high-ranking officials who serve ex officio in statutory bodies — ensuring they remain bound by constitutional principles.



Checks on authority

Despite office-based authority, ex officio holders cannot override legal procedure — their actions remain reviewable for abuse of power.

Ex cathedra

Rhetoric



Meaning and origin

'Ex cathedra' translates to 'from the chair' — denoting statements made with formal authority, originally associated with papal pronouncements.



No specific ratio decidendi

The term is rarely litigated but is used in academic commentary and judicial prose to signal authoritative assertions.



Judicial rhetoric

Used rhetorically to describe statements in judgments that carry high moral or institutional weight, even if not binding as law.



Impact in reasoning

Such pronouncements may influence interpretation and legal development, though their formal binding value may be limited.

Novus Homo

Rhetoric



Meaning and Etymology

'Novus Homo' translates to 'new man' in Latin, used to describe individuals who ascend to prominence without aristocratic lineage or legal legacy.



Judicial Usage in India

Justice V.R. Krishna Iyer, among others, used the term in his writings to frame the emergence of socially rooted jurists in post-independence India.



Biographical and Rhetorical Use

In law, the term surfaces in judicial speeches or tributes—highlighting merit-based rise, particularly in discussions on legal social mobility or outsider success.



A term for enriching the legal language:

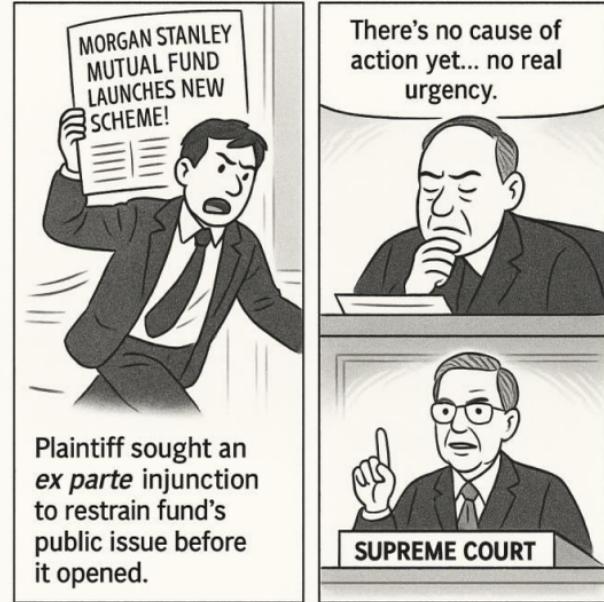
Novus Homo has rhetorical value but lacks statutory or doctrinal standing. It does not confer rights or duties but enriches legal language.

Ex parte

Procedure

- **Definition and context:** 'Ex parte' means 'without the other side'. Refers to proceedings or orders made in absence of one party — common in interim injunctions or urgent relief.
- **Ex parte** injunctions are granted only in exceptional urgency, when the applicant shows prima facie case, irreparable injury, balance of convenience, acts with utmost good faith, and the court records reasons—as held in **Morgan Stanley Mutual Fund v. Kartick Das (1994 4 SCC 225)**.
- **Review and challenge:** Such orders are temporary; the affected party must be given opportunity to contest. Courts often revise or vacate ex parte relief on hearing both sides.

Storyboard – “Ex Parte Injunction” (Morgan Stanley Mutual Fund v. Kartick Das)



Court noted that *ex parte* relief is extraordinary—only for genuine, imminent harm.

Doctrine laid down in *Morgan Stanley v. Kartick Das* (1994 4 SCC 225) — *ex parte* orders are exceptions, not routine

Ex gratia

Compensation

Meaning and nature

'Ex gratia' means 'as a favour; not a right'. Denotes voluntary payments made by the state or institutions without acknowledging legal liability.

No legal enforceability

Unless supported by statutory provisions or formal schemes, ex gratia amounts are not justiciable claims — courts typically reject enforcement petitions.

Key case: Union of India v. B. Valluvan (2023)

The Supreme Court clarified that ex gratia payments cannot be equated with enforceable rights unless specifically legislated or contractually agreed.

Common contexts

Used in disaster relief, public service deaths, and accidental loss scenarios — symbolic of state compassion but not legal obligation.

In situ

Property / Evidence



Meaning and usage

'In situ' means 'in the original place.' Used in law to refer to evidence or property remaining undisturbed at its natural or original location.



Evidence preservation

Forensic and criminal investigations emphasize examining evidence in situ — to maintain authenticity and context before seizure or analysis.



Relevance in archaeology and land law

In land acquisition or preservation cases, courts use 'in situ' to prioritize local conservation, such as retaining artifacts or natural formations where found.



No single controlling case

Although widely used in judgments and reports, no Supreme Court case centrally interprets 'in situ'. It remains a factual descriptor with legal weight.

In toto

Orders / Judgments



Definition and significance

'In toto' means 'entirely' or 'as a whole'. Courts use it to indicate full acceptance or rejection of claims, arguments, or documents.



Interpretation implications

Acceptance in toto implies no partial modification or exception; it sets the tone for implementation and appeals.



Judicial phrasing

Frequently appears in final orders or judgments — e.g., 'The plea is accepted in toto' — reflecting comprehensive judicial endorsement or denial.



No landmark ruling

Although common in judicial language, there is no specific case focusing on 'in toto'. It serves a linguistic function within legal drafting.

In lieu of

Contracts / Employment



Meaning and application

'In lieu of' means **'instead of'**. In law, it signifies a substitution — commonly used in employment contracts and compensatory clauses.



Employment law usage

Employees can be terminated with wages in lieu of notice if explicitly provided in employment terms — protects both employer's urgency and employee's rights.



Key case: **Bharat Fritz Werner (P) Ltd. v. State of Karnataka (2001)**

The Karnataka High Court discussed validity of salary paid in lieu of notice period — holding such substitution valid if contractually agreed.



Contractual clarity required

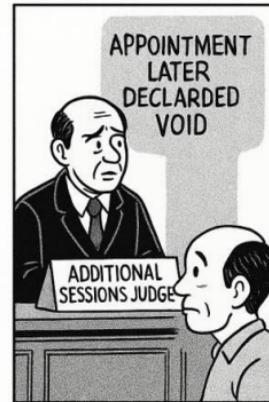
Without express contractual or legal basis, substituting rights or duties in lieu of others may attract legal challenge or be deemed unfair.

De facto

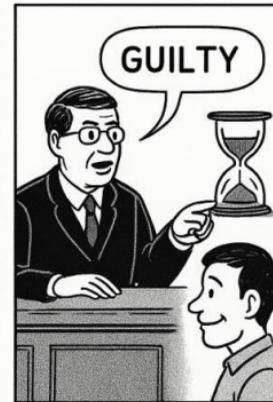
Constitutional / Administrative

- **Meaning and contrast:** 'De facto' means 'in fact' or 'in practice'. Contrasted with 'de jure' — authority existing in law but not necessarily in operation.
- **Key case: Gokaraju Rangaraju v. State of A.P. (1981):** The Supreme Court upheld the validity of acts by a de facto judge, affirming that third-party rights remain protected despite procedural irregularities in appointment.
- **Doctrine of necessity:** Legal recognition of de facto authority ensures continuity and protects public reliance — critical during disputes over appointments or elections.
- **Checks remain enforceable:** De facto authority does not confer legitimacy; courts may still quash such appointments, even while saving their actions retrospectively.

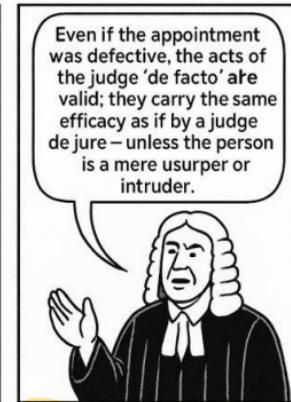
Gokaraju Rangaraju v. State of Andhra Pradesh (1981)



The judge's appointment under Article 233 was held invalid – but he had already tried the case.



Despite the defect, the judgments had been delivered and parties acted upon them.



The de facto doctrine protects third-party rights and prevents chaos due to procedural irregularities.

De jure

Constitutional / Administrative



Literal meaning

'De jure' means 'by law'. It refers to authority or status that is legally recognized, regardless of its actual operation or enforcement.



Legal legitimacy vs practical reality

While de facto emphasizes actual control, de jure emphasizes lawful entitlement. The two often collide in constitutional and electoral disputes.



Key case: **Gokaraju Rangaraju v. State of A.P. (1981)**

The Supreme Court distinguished between de jure and de facto judges, clarifying that legality of office is not necessary for validity of judicial acts when public interest is at stake.



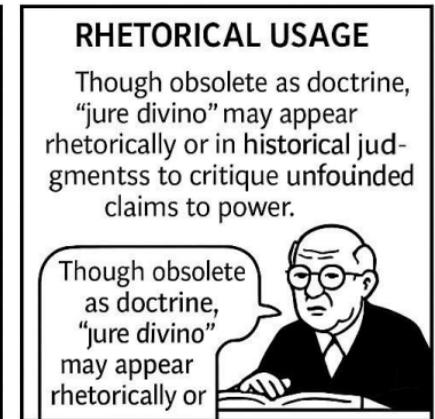
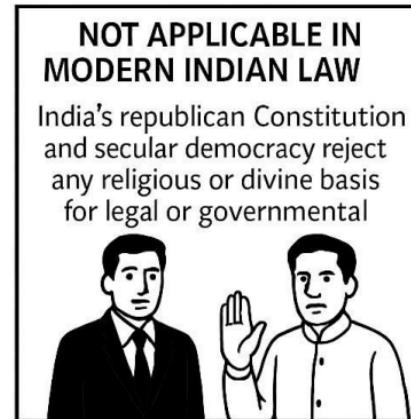
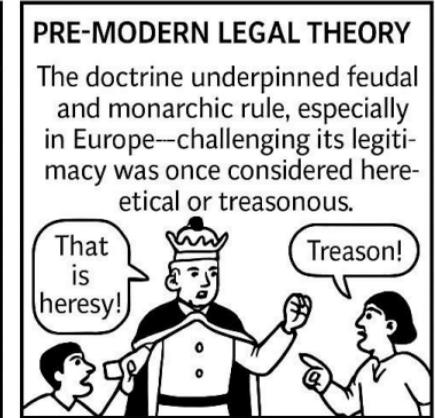
Restoration and remedies

When de jure rights are denied, courts may order reinstatement, compensation, or invalidation of contrary actions — depending on public and legal equities.

Jure divino

Historical Concept

- **Literal meaning:** 'Jure divino' means 'by divine right'. Historically invoked to justify the absolute authority of monarchs as divinely ordained rulers.
- **Pre-modern legal theory:** The doctrine underpinned feudal and monarchic rule, especially in Europe — challenging its legitimacy was once considered heretical or treasonous.
- **Not applicable in modern Indian law:** India's republican Constitution and secular democracy reject any religious or divine basis for legal or governmental authority.
- **Rhetorical usage:** Though obsolete as doctrine, 'jure divino' may appear rhetorically or in historical judgments to critique unfounded claims to power.



Modus operandi

Criminal Evidence

- **Meaning and context:** 'Modus operandi' means 'method of operation'. In criminal law, it refers to a suspect's characteristic pattern or technique used in committing crimes.
- **Key case: R v. Smith (1915):** The UK case R v. Smith introduced use of recurring methods to prove identity and intent — applied in India to show pattern and common intention.
- **Admissibility under Indian Evidence Act:** Sections 14 and 15 permit proof of motive, intent, or identity through consistent modus operandi — helps establish mental element of crime.
- **Role in profiling and investigation:** Law enforcement uses MO to link unsolved crimes, predict offender behavior, and corroborate circumstantial evidence.

R v. SMITH (1915):
THE BRIDES IN THE BATH
& MODUS OPERANDI

Each newly-wed drowned in her bath after marriage - all had insured him.

Investigators saw the same pattern - brief marriage, insurance, bath & death.

Such evidence proves intent and identity.

Court allowed similar-fact evidence showing a consistent method.

Though not named this case became the classic example of *modus operandi* -

MODUS OPERANDI
A Distinctive Method Revealing
Revealing Common Design

Nota bene (N.B.)

Drafting



Meaning and usage

'Nota bene' or 'N.B.' means 'note well'. Used in legal documents and judgments to highlight especially important points or caveats.



Function in judgments

Judges and drafters use N.B. to alert readers to interpretive nuances, avoid misapplication, or emphasize caution.



Placement in drafting

Usually placed in margins, footnotes, or bracketed sections to draw attention to key conditions, exceptions, or legal qualifications.



No case law but high utility

While not litigated, its rhetorical and instructional function makes N.B. a valued tool in formal legal writing.

Sans

Drafting



Definition and usage

'Sans' is a French-derived term meaning 'without'. It appears in legal drafting to indicate exclusion or absence of something within clauses or terms.



Clarity and precision

Helps express negative conditions concisely, reducing ambiguity. Often seen in old statutes and precedent-based templates.



Common in formal clauses

Used in contractual or legislative texts — e.g., 'sans prejudice', 'sans interest', or 'sans notice' — to establish boundary conditions.



Not a litigated term

'Sans' is rarely a matter of interpretation in case law — its meaning is understood and standardized in drafting practice.

Status quo

Interim Relief



Definition and use

'Status quo' means 'existing state of affairs'. Courts maintain status quo to preserve rights pending adjudication.



Tests for injunctions

Courts assess urgency, irreparable harm, and potential prejudice — status quo is often granted to avoid fait accompli.



Key case: Dalpat Kumar v. Prahlad Singh (1992)

Supreme Court laid down principles for granting injunctions, including maintenance of status quo when a prima facie case and balance of convenience exist.

balance of convenience.



Misuse and caution

Courts warn against misuse of status quo orders to prolong litigation or gain unfair advantage — they must be time-bound and purpose-driven.

Sine Qua Non

Tort / Evidence (Causation)

- **Literal Meaning:** 'Sine qua non' is Latin for 'without which not'—used to denote something essential or indispensable to a legal or factual conclusion.
- **Legal Relevance:** In law, it signifies a necessary condition or foundational element, particularly in causation, contracts, and constitutional thresholds.
- **State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat (2005):** The Court used the term to define prerequisites in constitutional analysis—especially in reconciling rights with public interest.
- **P.T. Munichikkanna Reddy v. Revamma (2007):** The Supreme Court held that 'animus possidendi' is the sine qua non of adverse possession—no title vests without intent to possess.
- **Transdisciplinary Usage:** Beyond law, the term is used in policy, ethics, and economics to define non-negotiable criteria in any evaluation framework.

Suo motu

Courts / Regulators

- **Definition and jurisdiction:** 'Suo motu' means 'on its own motion'. Used when courts or regulators initiate action without a formal petition — often in public interest matters.
- **Key case: Sunil Batra v. Delhi Administration (1978):** A pioneering judgment where the Supreme Court took suo motu cognizance of a prison letter and addressed inmate torture, advancing prisoners' rights.
- **Role in PIL and constitutional law:** Suo motu powers are vital to Public Interest Litigation (PIL) — enabling judicial review and protection of rights even without locus standi.
- **Limitations and accountability:** Courts must exercise restraint — suo motu actions require justification and are subject to judicial discipline to avoid overreach.

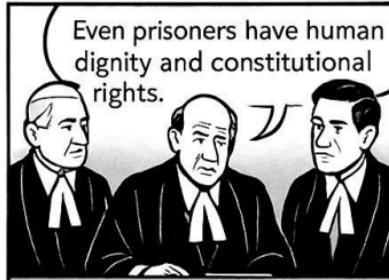
Suo Motu – Sunil Batra v. Delhi Administration (1978)



A prisoner's letter revealed custodial torture inside jail'



The Court took *suo motu* cognizance – acting on its own without formal petition



Supreme Court expanded Article 21 protections to inmates



A landmark case – 'suo motu' action that redefined prisoners' rights and humane treatment

Vox populi, vox Dei

Rhetoric / Policy

Literal meaning

'Vox populi, vox Dei' means 'the voice of the people is the voice of God'. Used rhetorically to emphasize democratic legitimacy and public opinion.

Judicial use in India

Courts invoke it sparingly — to reinforce participatory governance, but always subordinate to constitutional supremacy and rule of law.

Historical roots and warnings

Originally a cautionary phrase in medieval Europe — warning that popular opinion can be fallible and should not dictate law or doctrine blindly.

Balance with constitutional values

Indian democracy respects people's voice but filters it through constitutional checks — majoritarianism alone cannot justify state action.

Inter alia

Drafting / Judgments

- **Definition and function:** 'Inter alia' means 'among other things'. Used to introduce one or more specific items in a larger set of statements, claims, or facts.
- **Common in legal drafting:** Appears in contracts, pleadings, and judgments to highlight specific clauses or findings while acknowledging broader context.
- **Judicial examples:** Judgments often say: 'The court considered, inter alia, the petitioner's conduct, past record, and public interest' — indicating a non-exhaustive list.
- **Clarity and ambiguity:** While useful, excessive or vague use of 'inter alia' can obscure clarity. Courts prefer specific enumeration when precision is needed.

INTER ALIA — AMONG OTHER THINGS



The obligations include, *inter alia*, timely delivery and confidentiality.

“Inter *alia*” means ‘among other things’— used to specify a few points within a larger set

Common in contracts and pleadings—lists examples without limiting scope.

Common in contracts and pleadings — lists examples without limiting scope.

- Category B: Doctrinal / Jurisprudential Terms

Corpus Juris Civilis

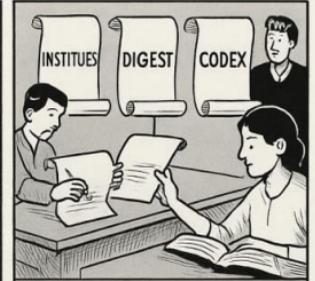
Legal History

- **Foundational Compilation of Roman Civil Law:** Commissioned by Emperor Justinian I in the 6th century CE, the Corpus Juris Civilis systematized centuries of Roman legal thought into four parts: the Institutes, Digest, Codex, and Novellae.
- **Long-lasting Influence on European Jurisprudence:** The collection profoundly shaped medieval and modern European legal systems, especially the Civil Law traditions seen in countries like Germany, France, and Italy.
- **Academic Reference in Indian Legal Studies:** While not binding in Indian law, it is often cited in legal scholarship to highlight the civilian roots of contemporary legal frameworks and comparative legal principles.

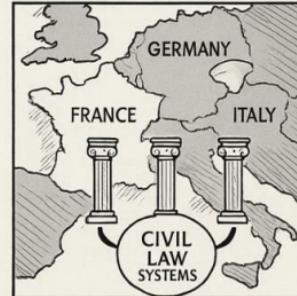
CORPUS JURIS CIVILIS – THE BODY OF ROMAN LAW



Commissioned by Emperor Justinian I in the 6th century CE to organize centuries of Roman law.



These four parts formed the Corpus Juris Civilis—the foundation of civil law.



It shaped European jurisprudence and inspired modern civil codes.



In Indian legal scholarship, it is cited to trace civilian roots and comparative principles.

Ens legis

Company / Trust / Public Bodies

Definition and Legal Basis

'Ens legis' refers to an entity created by law. Such entities do not possess independent existence outside the statute that establishes them, functioning solely within the legal frameworks provided.

Cy - NIPER → NIPER Act.

Implication for Statutory Bodies

Entities like municipal corporations, development authorities, and regulatory boards are examples of 'ens legis', limited in powers and functions by their enabling legislation.

Supreme Court Case: Ayurvedic & Unani Tibia College

In Board of Trustees v. State of Delhi (1962), the Supreme Court held that the College was a statutory body, existing as a creation of law rather than a voluntary association.

No Independent Legal Personality Beyond Statute

Such bodies cannot act or contract beyond their legislative mandate. They are bound by the specific provisions of their parent statute.

Legalis homo

Capacity / Status



Concept and Etymology

'Legalis homo' translates as 'person of legal capacity,' indicating an individual's recognition under law as capable of holding rights and duties, particularly in contractual and civil contexts.



Used in Legal Competency Discussions

Although not commonly cited in Indian courts, the Latin term appears in academic and comparative law discussions to highlight foundational aspects of legal subjecthood.



Indian Contract Act Sections 10–12

These sections detail who is competent to contract—persons of majority age, of sound mind, and not disqualified by law. Capacity is a prerequisite for contract enforceability.



Absence of Leading Case Law

No Supreme Court or High Court ruling treats 'legalis homo' as a decisive ratio; its use remains conceptual and doctrinal rather than precedential in India.

Magnum bonum

Equity / Policy

- **Definition and Interpretive Use:** 'Magnum bonum' translates to 'the greater good', and is invoked in legal and policy contexts to justify actions that prioritize collective welfare over individual preferences.
- **Case Reference: State of Bihar v. Kameshwar Singh (1952):** The Supreme Court upheld the Bihar Land Reforms Act as a measure serving the larger public interest, endorsing property acquisition for agrarian reform under the magnum bonum principle.
- **Balancing Rights with Public Good:** The case illustrated judicial deference to legislative goals when private rights are reasonably restricted to serve equity and redistributive justice.
- **Enduring Relevance in Public Policy:** 'Magnum bonum' continues to inform legal debates on public interest litigations, environmental justice, and socio-economic equity within constitutional frameworks.

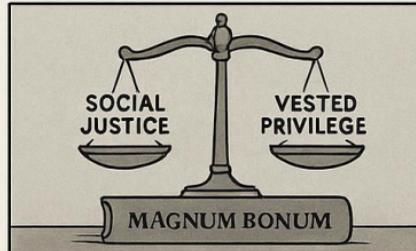
MAGNUM BONUM – The Greater Good & *State of Bihar v. Kameshwar Singh* (1952)



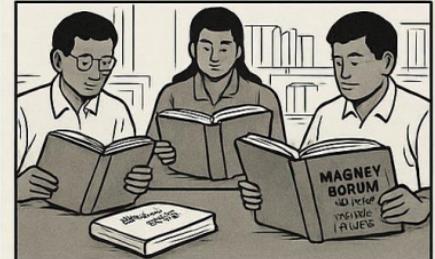
The Bihar Land Reforms Act sought to dismantle the zamindari system and transfer land to actual tillers.



The Supreme Court held the legislative measure to be for public purpose—serving the common good rather than only private interests.



Under the 'magnum bonum' principle the law recognised the greater good of society as a valid basis for acquisition and reform.



Though right to property was protected, the Court accepted that reforms for the greater good override

Magnum opus

General / Rhetorical



Literal Meaning and Usage

'Magnum opus' translates to 'a great work' and is typically used in rhetorical or celebratory contexts to highlight the significance of a major legal judgment, academic work, or institutional reform.



Symbolic Rather than Doctrinal

Unlike doctrinal Latin maxims, 'magnum opus' serves a symbolic and stylistic role in legal discourse, used in essays, judgments, or speeches to denote excellence.



Judicial and Academic Contexts

Judgments characterized by depth, originality, or systemic impact—like *Kesavananda Bharati v. State of Kerala*—are often labeled as the 'magnum opus' of constitutional jurisprudence.



No Binding Case Law

There is no authoritative Indian judgment that hinges on the term itself. Its use is entirely rhetorical, without legal effect or statutory grounding.

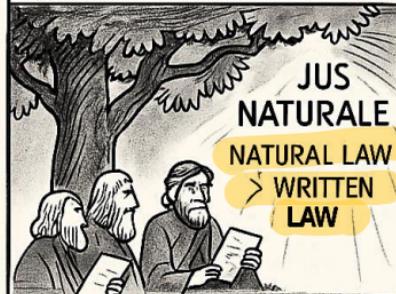
Jus naturale

Jurisprudence

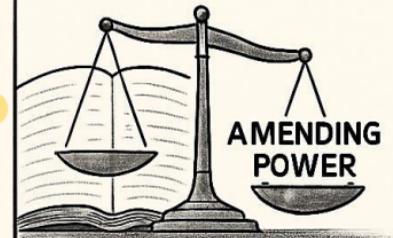
- **Definition and Philosophical Roots:** 'Jus naturale' or 'natural law' refers to a universal moral order considered inherent to human reason and nature, predating formal legal systems. It underpins human rights and constitutional morality.
- **Relevance in Indian Constitutional Law:** Natural law principles influence constitutional interpretation, especially in matters concerning human dignity, liberty, and justice, forming the moral core of Indian legal philosophy.
- **Kesavananda Bharati v. State of Kerala (1973):** The Supreme Court invoked natural law reasoning in establishing the basic structure doctrine, asserting that certain constitutional principles are inviolable and derive from higher normative ideals.
- **Judicial Embrace of Jus Naturale:** Judges have used natural law to interpret fundamental rights expansively, emphasizing values like fairness, equity, and justice beyond the written text.

Justice, Equity & Good
conference.

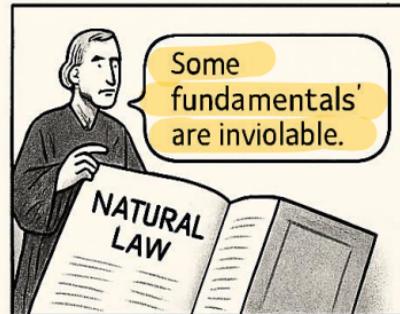
JUS NATURALE – HIGHER LAW & KESAVANANDA BHARTI (1973)



Moral principles and rights exist above written law.



Parliament's power is broad but cannot destroy the ...



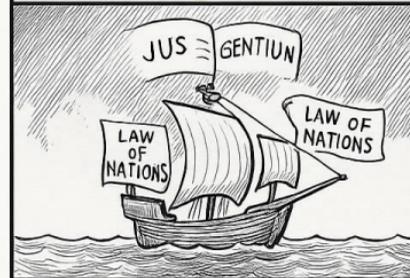
Judges grounded limits in higher moral order – a Jus Naturale influence.

Jus gentium

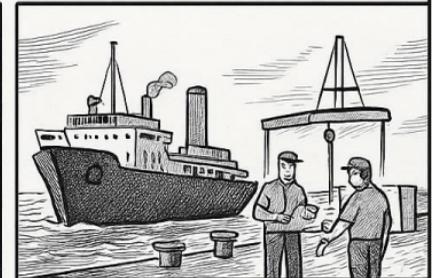
International Law

- **Definition and Historical Context:** 'Jus gentium' or 'law of nations' refers to universal legal principles recognized across states, particularly in areas like maritime law, trade, and diplomacy.
- **MV Elisabeth v. Harwan Investment (1993):** In this landmark Supreme Court case, the Court upheld admiralty jurisdiction based on international norms, acknowledging that Indian law must engage with global legal standards.
- **Admiralty Jurisdiction and International Custom:** The judgment emphasized that Indian courts can exercise maritime jurisdiction consistent with customary international law and principles of jus gentium.
- **Globalization of Legal Norms:** 'Jus gentium' underpins much of international law and continues to shape domestic law in areas like human rights, trade, and environmental regulation.

M.V. ELISABETH v. HARWAN INVESTMENT & TRADING PVT. LTD. (1993)



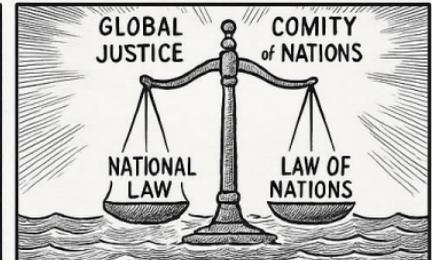
'JUS GENTIUM' – universal law recognized by all nations for fairness and justice across borders.



A foreign vessel was arrested in India for a cargo dispute, testing India's power under maritime law.



Court held that Indian admiralty jurisdiction extends to foreign ships – guided by international custom



The case affirmed that Indian law must evolve with global norms – embodying the spirit of Jus Gentium.

Laissez-faire

Economic / Administrative Policy

Minimum Govt. Maximum governance.

Concept and Historical Origins

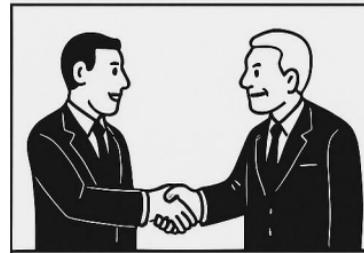
'Laissez-faire' is a French term meaning 'let do' or 'leave it alone,' reflecting a philosophy of minimal governmental interference in economic affairs.

Judicial Balancing of Rights and Policy

The Court struck down the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, asserting that economic policy must still comply with constitutional guarantees.

Decline of Laissez-Faire in Indian Context

The case exemplifies India's departure from free-market absolutism, aligning with a mixed-economy model where state intervention supports social and economic justice.



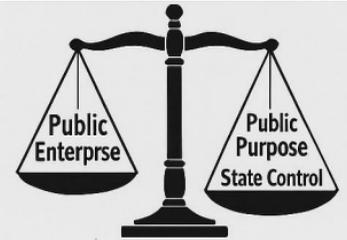
'Laissez-faire' means minimal state interference in trade and business.



In 1969, 14 banks were nationalised - shifting from private control to state planning.



Cooper challenged nationalisation as violating property and business rights



Court struck down parts of the law but upheld balance between freedom and regulation - ending pure laissez faire

R.C. Cooper v. Union of India (1970)

The Supreme Court evaluated the legality of bank nationalisation, marking a significant shift from laissez-faire capitalism to planned economic intervention by the state.

Locus Standi

Procedure / Constitutional Law

- **Traditional Doctrine: Narrow Standing:** Before the 1980s, Indian constitutional jurisprudence required a direct, personal interest in a matter for standing—limiting access to courts in public interest cases.

- **SP Gupta v. Union of India (1981):** This landmark case opened the door to **Public Interest Litigation (PIL)**, establishing that any public-spirited citizen could seek legal remedy in matters of public wrong or constitutional violations.

- **Subramanian Swamy v. Raju (2013):** The Court reaffirmed and refined liberal standing rules, emphasizing the role of PIL in advancing justice and holding public power accountable, even in criminal law contexts.

- **Shift Towards Liberal Interpretation:** These decisions mark a jurisprudential shift from procedural rigidity to substantive justice, prioritizing access over technical standing requirements.

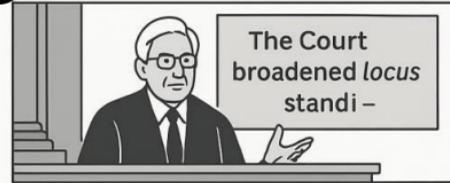
LOCUS STANDI - FROM PRIVATE INTEREST TO PUBLIC INTEREST (S.P. Gupta v. Union of India, 1981)



Before the 1980s, only those with a direct, personal interest could approach the court—



Rigid standing rules kept many social and constitutional wrongs outside judicial reach.



The Court broadened *locus standi* - allowing any public-spirited citizen to seek remedy for public wrongs.



The judgment transformed Indian jurisprudence - making Public Interest Litigation (PIL) a tool for social justice.

one can approach the court only for their own cause.
↓
initiate action / law suit.

Bona fide(s)

Contract / Tort & Obligations

- **Definition and Meaning:** 'Bona fides' means 'in good faith'. In law, it reflects honesty, genuine intention, and absence of fraud or malice in contractual or fiduciary conduct.
- **Contractual Relevance:** Bona fide intention is key in assessing enforceability, especially in insurance, agency, and misrepresentation cases. It influences remedies and liability.
- **Pilcher v. Rawlins (1872):** The English Court protected a bona fide purchaser for value without notice, establishing a critical exception in equitable doctrines.
- **R.K. Deka v. State of Assam (1970):** The Supreme Court of India interpreted 'good faith' under Section 52 IPC, emphasizing intention and due care in criminal defenses.
- **Cross-Jurisdictional Use:** The doctrine of bona fides pervades civil, criminal, and constitutional contexts—shaping defamation, public authority actions, and whistleblower claims.

Ultra Vires

Administrative / Company Law



Doctrine of Ultra Vires

Refers to actions taken by a corporate or administrative body beyond its legal authority or power, rendering such actions null and void.



Barium Chemicals v. Company Law Board (1967)

The Supreme Court held that administrative discretion must stay within statutory bounds; decisions outside such bounds are ultra vires and unenforceable.

vs ↴



Ashbury Railway Carriage v. Riche (1875)

A foundational case where a company's action outside its memorandum of association was held void, solidifying the ultra vires doctrine in company law.



Implications in Modern Governance

Ensures accountability and legal boundaries in administrative and corporate functioning, protecting against arbitrary or unauthorized actions.

Intra Vires

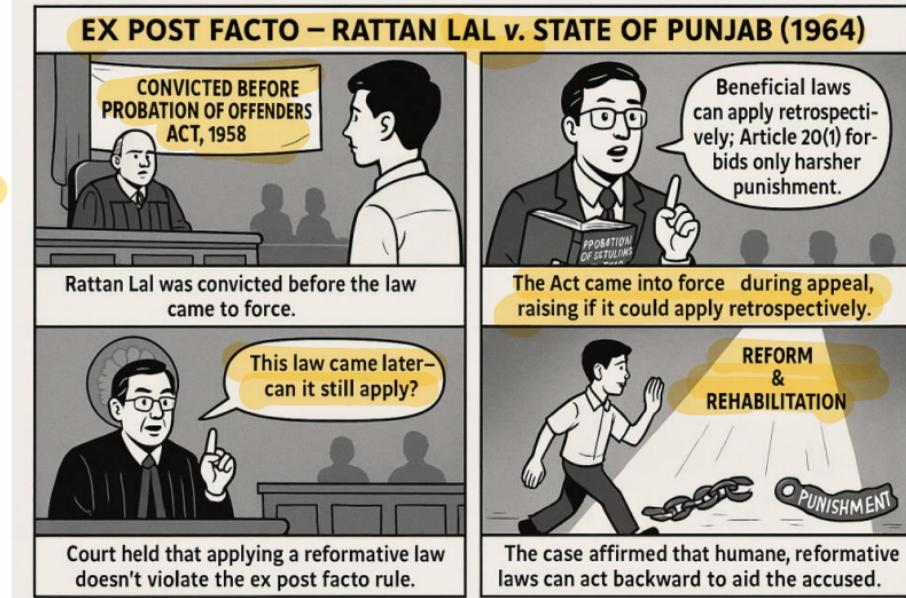
Administrative / Company Law

- **Definition of Intra Vires:** Actions are intra vires when they are performed within the scope of authority granted by statute, regulation, or founding documents.
- **Legal Validity of Acts:** Such acts are presumed lawful, enforceable, and in accordance with the rule of law, ensuring organizational compliance.
- **R. C. Cooper v. Union of India (1970) also known as the Bank Nationalization Case:** The Supreme Court of India upheld the validity of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969, finding it was within the Parliament's legislative competence and thus intra vires the Constitution. The Court clarified that actions, even if appearing excessive, remain intra vires if a reasonable nexus to statutory objectives exists.
- **Administrative & Corporate Relevance:** Determining intra vires status protects institutional integrity and shields lawful decisions from judicial invalidation.

Ex Post Facto

Criminal / Constitutional Law

- **Definition of Ex Post Facto Laws:** Refers to laws that retrospectively criminalize acts or increase penalties, violating the fundamental principle of legal certainty.
- **Article 20(1) – Constitutional Safeguard:** Indian Constitution prohibits ex post facto laws in criminal matters, ensuring that no one is punished under a law not in force at the time of the act.
- **Rattan Lal v. State of Punjab (1964):** The Supreme Court permitted retrospective application of beneficial laws, distinguishing between punitive and favorable retrospective operation.
- **Criminal Justice Implications:** Upholds fairness in legal proceedings, ensuring that criminal liability or punishment is not arbitrarily imposed retroactively.



- Category C: Relations & Property Concepts

In Personam

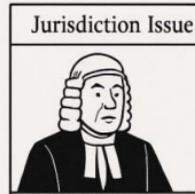
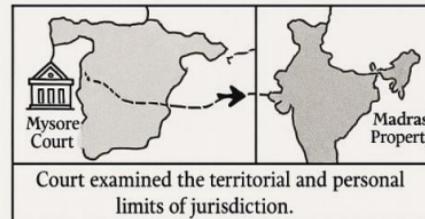
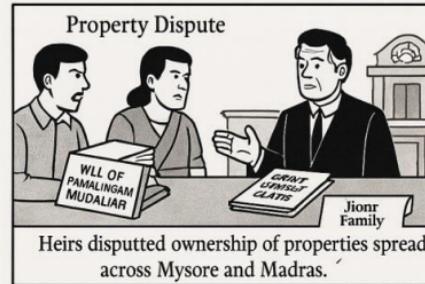
Subject matter

Rights / Remedies / Jurisdiction / Person / Contract / Admiralty

against a

- **Definition of In Personam:** Refers to legal actions or judgments directed against a specific individual or entity, as opposed to property or status.
- **R. Viswanathan v. Rukn-UI-Mulk Syed Abdul Wajid (1962):** The Supreme Court held that a foreign court's judgment regarding personal obligations between parties — not related to property located outside its territory — is valid in personam, meaning it binds only the specific parties involved, not the world at large.
- **Tailored Remedies:** Legal remedies are customized to bind specific parties, allowing enforcement against personal assets and obligations.

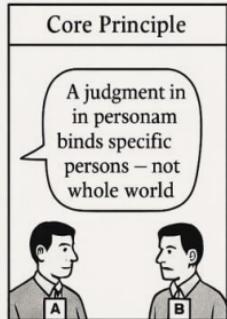
In Personam – R. Viswanathan v. Rukn-UI-Mulk Syed Abdul (1962)



Court examined the territorial and personal limits of jurisdiction.



In Rem = Against the World



In Personam = Against Specific Persons

In Rem

subject matter

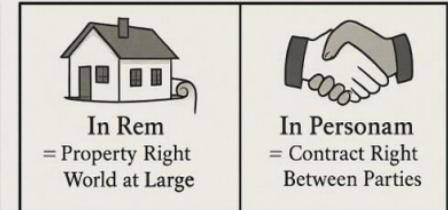
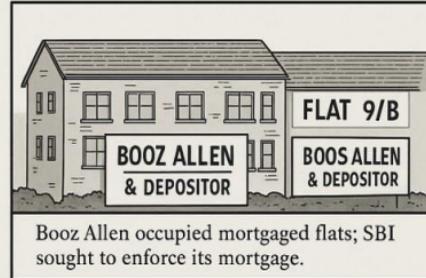


Rights / Remedies / Jurisdiction / Property / Crime / Admiralty

against a

- **Definition of In Rem:** Legal proceedings that are directed against property rather than a person, establishing rights over the object irrespective of ownership..
- **Booz Allen and Hamilton Inc. v. SBI Home Finance Limited and Others:** a legal action directed against a property or status itself, not specific persons — as explained in Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. & Others (2011), where the Supreme Court held that mortgage and property-related actions are in rem, determining rights in the property that bind the world at large.
- **Universal Determination:** Legal judgments operate on the property or status itself, conclusively settling rights and interests against the world at large.

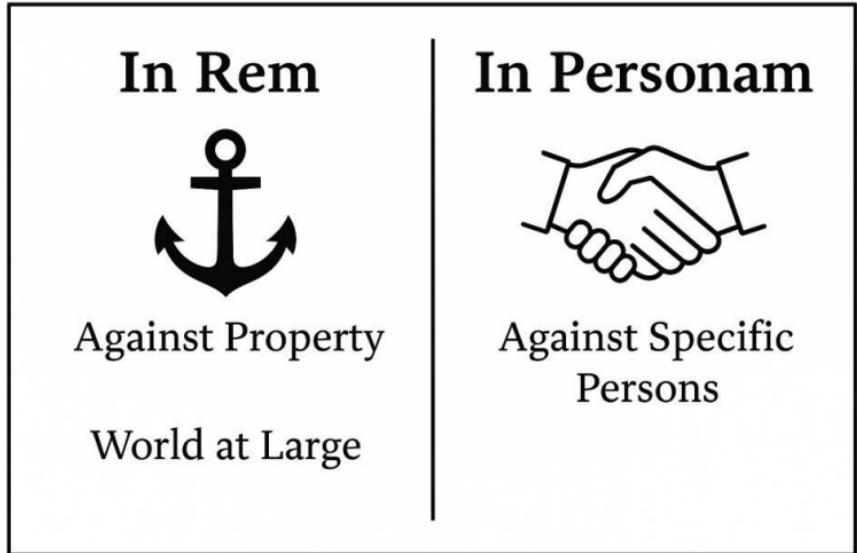
In Rem — Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd. (2011)



In Rem vs. In Personam

Comparative Legal Analysis

- **Nature of Action:** In rem proceedings target a property or object (e.g., a ship), while in personam proceedings are directed at a specific individual or legal entity.
- **Jurisdictional Basis:** In rem requires control over the object; in personam requires jurisdiction over the person, often through presence or consent.
- **Legal Outcome:** Judgments in rem establish rights over the property for all, whereas in personam judgments bind only the specific parties involved.
- **Illustrative Example – MV Elisabeth Case:** The case demonstrated both forms: action against the vessel (in rem) and the ability to proceed against individuals (in personam) under admiralty law.



Jus in Rem

Property Rights



Definition of Jus in Rem

A legal right enforceable against the world, relating to ownership or possession of a physical object or property.



Indian Law Perspective

Indian courts uphold jus in rem under the Transfer of Property Act and common law, protecting property owners against all others.



Kelsen v. Imperial Tobacco Co (1957)

UK court recognized jus in rem when a tobacco company's signboard encroached into airspace, affirming absolute property rights.



Enforceability Scope

Unlike personal rights (jus in personam), jus in rem can be asserted against anyone infringing on the subject property.

Jus ad Rem

Property / Contracts



Definition of Jus ad Rem

Refers to a personal right to demand possession or transfer of property, typically arising from a contractual obligation.



Specific Relief Act Application

Indian law recognizes the buyer's contractual right to seek conveyance or possession through specific performance remedies.



Contractual Basis

Unlike jus in rem, jus ad rem arises from a contractual promise and binds only the involved parties until actual transfer occurs.



Transition to Jus in Rem

Upon fulfillment and transfer, a jus ad rem matures into a jus in rem, enforceable against all.

Jus Tertii

Property / Tenancy

- **Meaning of Jus Tertii:** A legal doctrine where a person invokes the right or title of a third party to challenge another's claim—typically as a defence.
- **Application in Tenancy Law:** Tenants are estopped from challenging their landlord's title by invoking a third party's rights during the tenancy relationship.
- **M.C. Chockalingam v. V. Manickavasagam (1974):** The Supreme Court reaffirmed that tenants cannot plead jus tertii to dispute the landlord's ownership once tenancy is admitted.
- **Legal Rationale:** Prevents tenants from undermining the tenancy by relying on external claims, thereby protecting the sanctity of lease agreements.

Jus Tertii — M.C. Chockalingam v. V. Manickavasagam (1974)

BACKGROUND

LEASED THEATRE PROPERTY

Tenant stayed in the theatre even after the lease ended.

I hold it under my cinema licence!

DISPUTE

A tenant cannot deny the landlord's title or plead jus tertii.

PRINCIPLE

~~THIRD PARTY RIGHT~~

ESTOPPEL
TENANT BOUND BY LANDLORD'S TITLE

Tenant stayed in the theatre even after the lease ended.

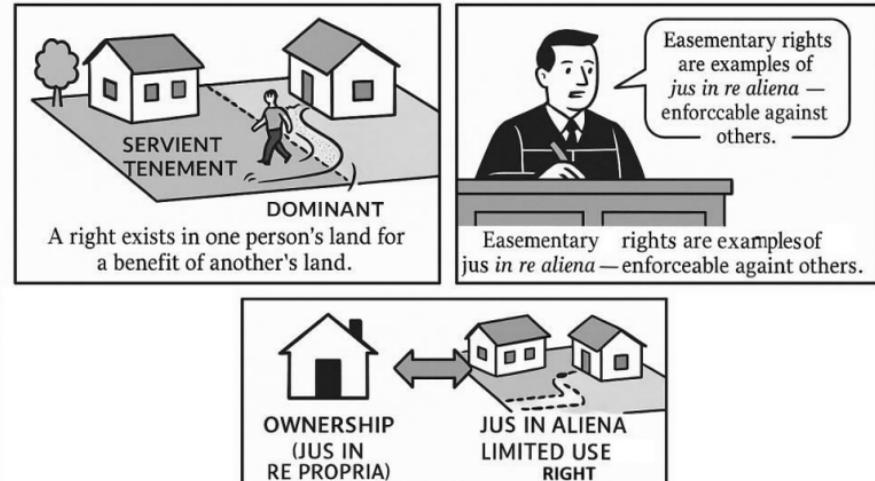
Once tenancy is admitted, ownership cannot be disputed.

Jus in Re Aliena *↳ outsider.*

Easements / Mortgage

- **Definition of Jus in Re Aliena:** A proprietary right over property owned by another, conferring limited rights without transferring full ownership.
- **Forms of Rights:** Includes easements, mortgages, leases, and servitudes—allowing use or benefit without ownership.
- **Ram Sarup v. Munshi (1963):** The Supreme Court clarified that easementary rights are classic examples of jus in re aliena, recognizing them as enforceable property interests.
- **Legal Significance:** These rights balance individual ownership with collective or functional usage, crucial in both rural and urban property contexts.

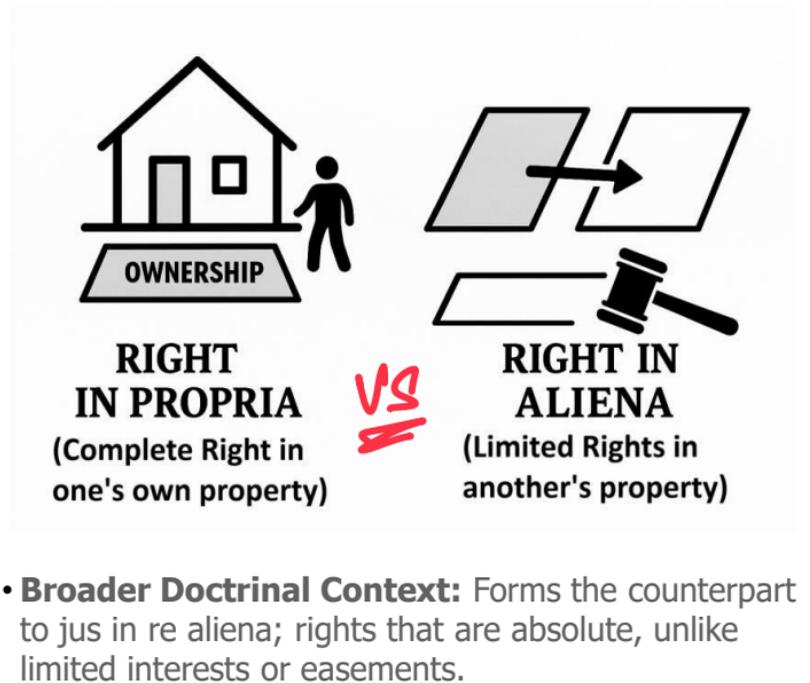
JUS IN RE ALIENA – RAM SARUP v. MUNSHI (1963)



Jus in Re Propria *→ one's own.*

Property Law

- **Meaning of Jus in Re Propria:** Denotes full legal ownership and the right to use, enjoy, and dispose of one's own property without external interference.
- **Core of Property Law:** Forms the foundation of proprietary rights, encompassing exclusive control over land, chattels, or intellectual property.
- Landmark **case revolving around the concept of 'right in re propria'** is famous case of **Kesavanda Bharti v. State of Kerela.**
- **Legal Protection Mechanisms:** Protected through actions in rem (against all) and in personam (against violators), ensuring comprehensive legal remedies.

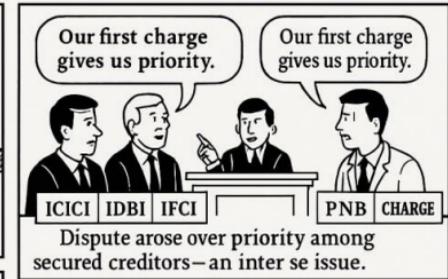
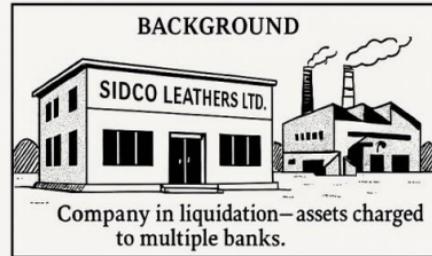


Inter Se

Partnership / Shareholders

- **Definition of Inter Se:** Latin for 'among themselves', it governs the mutual legal relationships, obligations, and rights between parties of the same group.
- **Application in Corporate Law:** Determines the legal standing between shareholders, partners, or creditors vis-à-vis each other, often distinct from third-party dealings.
- **ICICI Bank Ltd. v. Sidco Leathers Ltd. (2006):** Supreme Court examined creditor priorities and clarified that inter se arrangements among secured creditors affect claim enforceability.
- **Legal Importance:** Inter se rights guide internal governance and dispute resolution, ensuring clarity in rights enforcement within commercial entities.

INTER SE – ICICI BANK LTD. v. SIDCO LEATHERS LTD. (2006)

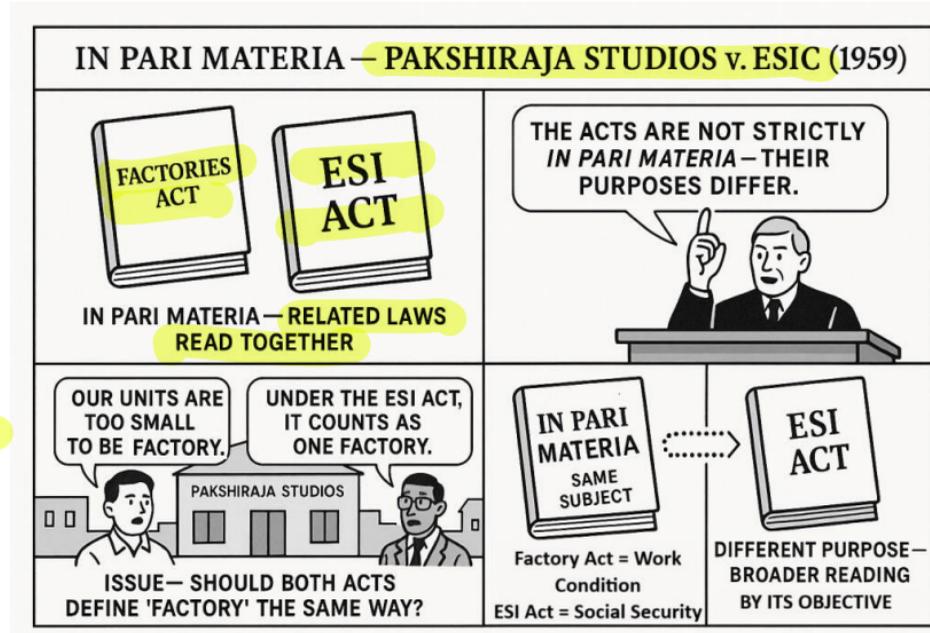


ICICI Bank v. SIDCO Leathers
confirmed that creditor ranking inter se affects enforceability of claims.

In Pari Materia

Statutory Interpretation

- **Definition of In Pari Materia:** A rule of interpretation where statutes on the same subject matter are read together to ensure coherence and avoid contradiction.
- **Purpose and Utility:** Facilitates consistent legislative interpretation by harmonizing provisions across related laws, enhancing clarity and intent.
- **Pakshiraja Studio v. ESIC (1959):** The Madras HC held that Factories Act and ESI Act are not strictly in pari materia.
- **Limitations of Doctrine:** Applies only when statutes share a common subject and purpose; inapplicable to unrelated or contradictory legislative schemes.



Factum Valet

Personal Law / Drafting



Definition of Factum Valet

A maxim meaning 'what has been done, shall be valid', used to uphold substantially valid acts despite technical defects.



Boundary of Legality

Factum valet does not validate acts that are illegal or contrary to mandatory legal provisions; only cures minor procedural lapses.



Application in Hindu Law

Courts have upheld marriages and other personal acts that, while procedurally irregular, met substantive legal criteria.



Drafting & Legal Interpretation

Used cautiously in legal drafting and interpretation to save acts from invalidation due to curable defects.

Res Nullius

Property / Wildlife



Definition of Res Nullius

A doctrine referring to things that belong to no one until lawfully possessed—often applied to wild animals, abandoned property, or unclaimed territory.



Indian Wildlife Jurisprudence

In *Chief Forest Conservator v. Nisar Khan* (2003), the Supreme Court emphasized state ownership and public trust over wild fauna.



Pierson v. Post (1805)

A foundational American case where the court held that property rights over a wild animal are acquired only through actual capture, not pursuit.



Contemporary Implications

Modern environmental laws recognize fauna as national assets; res nullius applies only until sovereign or statutory claim is made.

- Category D: Evidence / Courtroom Terms

Alibi

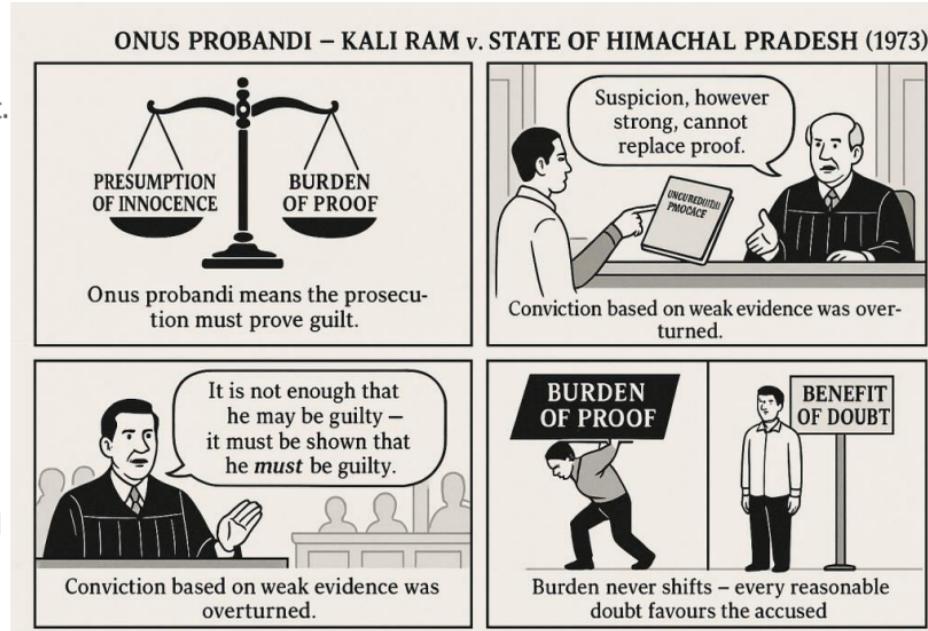
Criminal Evidence

- **Legal Definition of Alibi:** An alibi is a defense in criminal law where the accused proves they were elsewhere when the crime occurred, thereby negating their presence at the scene.
- **Burden of Proof on Prosecution:** Initially, the prosecution must prove that the accused was present at the crime scene. Only after this does the burden shift to the defense to substantiate the alibi.
- **Binay Kumar Singh v. State of Bihar (1997):** In this landmark case, the Supreme Court emphasized that alibi is not an exception but a rule of evidence, and must be proven with absolute certainty once the prosecution establishes presence.
- **Evidentiary Threshold:** The defense must provide convincing, corroborated evidence—such as witnesses or records—that irrefutably places the accused at a different location.
- **Impact on Criminal Trials:** A credible alibi can lead to acquittal by dismantling the prosecution's case, especially when timelines and physical impossibility are strongly established.

Onus probandi

Evidence

- **Concept of Onus Probandi:** 'Onus probandi' refers to the **burden of proof**, a foundational principle in criminal law dictating which party is obligated to prove or disprove a fact.
- **Presumption of Innocence:** The accused is presumed innocent until proven guilty. This tenet guides evidentiary standards and the judicial process.
- **Woolmington v. DPP (1935):** In this historic House of Lords decision, the 'golden thread' of English criminal law was articulated: the prosecution must prove the guilt of the accused.
- **Kali Ram v. State of H.P. (1973):** The Indian Supreme Court reaffirmed the presumption of innocence and stressed the prosecution's burden in proving guilt beyond reasonable doubt.



Prima facie

french word.

Evidence / Interim

@ first sight.

- **Meaning of Prima Facie:** 'Prima facie' refers to evidence that is sufficient to establish a fact or raise a presumption unless disproved, crucial in preliminary assessments.
- **Dalpat Kumar v. Prahlad Singh (1992):** The Supreme Court clarified that a prima facie case is a prerequisite for granting interim injunctions, along with balance of convenience and irreparable harm.
- **Judicial Criteria for Injunctions:** Courts consider whether the applicant has a plausible case, whether balance of convenience favors them, and whether refusal would cause irreparable injury.
- **Not a Full Trial on Merits:** Establishing a prima facie case does not mean proving entitlement conclusively; it merely allows proceedings to move forward or protective orders to be issued.
- **Strategic Use in Litigation:** Claimants often aim to secure interim relief early in a case to preserve status quo, leveraging prima facie findings to influence later outcomes.

Obiter dictum

Judicial Reasoning



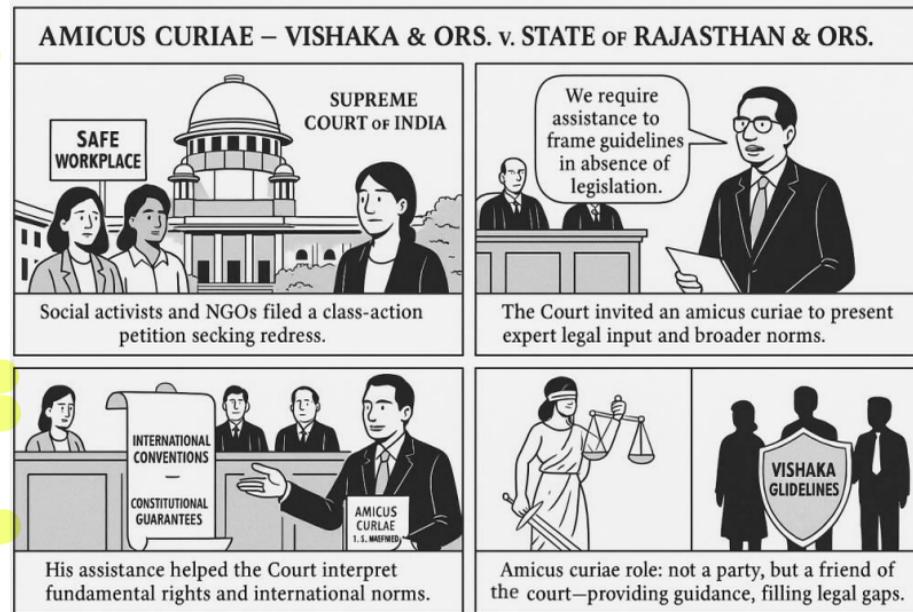
Ratio Decidendi.

- **Definition and Scope:** An 'obiter dictum' is a judicial remark made in passing, which is not essential to the decision and thus not legally binding on future cases.
- **Binding vs Persuasive:** While 'ratio decidendi' constitutes binding precedent, obiter dicta are only persuasive and can guide future judicial reasoning without mandating it.
- **Municipal Corp. of Delhi v. Gurnam Kaur (1989):** The Supreme Court clarified that only the ratio decidendi has binding force, reinforcing the distinction between legal reasoning and passing observations.
- **Judicial Discipline:** Courts are expected to adhere strictly to binding precedents, but may consider obiter dicta from superior or coordinate benches to enrich interpretation.
- **Doctrinal Influence:** Obiter dicta can influence legal development by presenting hypotheticals, highlighting legal trends, or expressing normative views of the judiciary.

Amicus curiae

Public Interest

- **Definition and Role:** An 'amicus curiae' or 'friend of the court' is a person or organization that offers expertise or insight in a legal case, typically to assist the court in matters of broad public interest.
- **Not a Party to the Case:** The amicus curiae is not a litigant but participates to help the court reach a sound and informed decision, especially in cases with social, constitutional, or technical implications.
- **Vishaka v. State of Rajasthan (1997):** In this landmark case, multiple NGOs and legal experts participated as amici curiae, helping the Court formulate guidelines against sexual harassment at workplaces.
- **Influence on Jurisprudence:** Amici often provide critical legal or empirical perspectives, influencing landmark judgments on rights, policy, and governance.



Animus possidendi

Evidence / Property

- **Definition of Animus Possidendi:** 'Animus possidendi' means the **intention to possess**. It is a core legal requirement for establishing possession, **especially in claims of adverse possession**.
- **Relevance in Adverse Possession:** To claim ownership via adverse possession, the possessor must demonstrate continuous, hostile, and public possession with a clear intent to possess the property.
- **P.T. Munichikkanna Reddy v. Revamma (2007):** The Supreme Court held that animus possidendi is a sine qua non for adverse possession. Mere occupation without intent does not suffice.
- **Objective and Subjective Elements:** The Court emphasized both physical control (factum possidendi) and intention (animus possidendi) must coexist and be provable by conduct and circumstances.

ANIMUS POSSIDENDI – P.T. MUNICHIKKANNA REDDY v. REVAMMA (2007)

Animus possidendi = intent to own land against true owner.

OWNER

I've farmed this land 50 years – it's mine!

OWNER

Long use isn't enough – need hostile intent.

50 years no intent = no ownership

INTENT + HOSTILITY = ADVERSE POSSESSION

"Animus possidendi" is a sine qua non for adverse possession

→ Remember this v. v. important to understand concept.

Animo attestandi

Wills / Evidence

- **Definition of Animo Attestandi:** Animo attestandi refers to the conscious and deliberate intention to attest a will or document as a witness, forming a crucial element in testamentary law.
- **Legal Requirement for Wills:** Under Indian law, valid execution of a will requires attestation by at least two witnesses, each of whom must sign with *animo attestandi*.
- **H. Venkatachala Iyengar v. B.N. Thimmajamma (1959):** The Supreme Court emphasized that attestation requires both the act of signing and the intention to attest, which must be established by evidence.
- **N. Kamalam v. Ayyasamy (2001):** This case reaffirmed that mere signatures are insufficient; the witnesses must comprehend the nature of the document and intend to affirm its execution.

ANIMUS ATTESTANDI – M. L. ABDUL JABBAR SAHIB v. M. V. VENKATA SASTRI & SONS (1969)



Animus attestandi = intention to witness and confirm execution – not mere signature.



A witness must sign with intent to attest – official endorsement is not enough.

INVALID BOND No Intent to Attest	➔	VALID ATTESTATION Witness signed knowing and seeing execution
Signature becomes attestation only when done <i>animo attestandi</i> .		

"A signature speaks only when signed with intent — without *animo attestandi*, it's just ink, not attestation."

Detenu

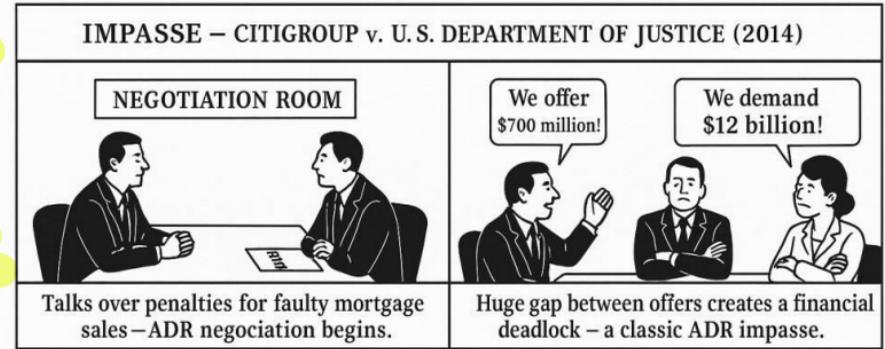
Preventive Detention

- **Definition of Detenu:** A 'detenu' refers to an individual held in custody under preventive detention laws without formal charge or trial, often for reasons related to state security or public order.
- **Preventive Detention Framework:** India's Constitution permits preventive detention under Article 22, subject to procedural safeguards, including advisory board reviews and time limits.
- **A.K. Roy v. Union of India (1982):** The Supreme Court upheld preventive detention laws but stressed the necessity of strict adherence to procedural safeguards to protect individual liberty.
- **Rekha v. State of Tamil Nadu (2011):** The Court quashed a detention order, emphasizing that preventive detention cannot be based on vague or irrelevant grounds and must satisfy constitutional scrutiny.
- **Judicial Oversight:** Courts regularly intervene to protect the rights of detenus, ensuring detentions are not arbitrary, and upholding the principles of natural justice.

Impasse

Mediation / Negotiation

- **Definition of Impasse:** An impasse refers to a **deadlock or stalemate in negotiation** or mediation where no progress can be made toward agreement.
- **Use in ADR Context:** In Alternative Dispute Resolution (ADR), an impasse typically occurs when parties fail to reach a consensus after exhaustive efforts during mediation or negotiation.
- **Strategic Implications:** Recognizing an impasse allows for procedural clarity—courts may terminate ADR efforts and shift focus to adjudicative resolution.



- Above image shows example of an **impasse situation** in USA. A massive gap between **Citigroup's \$700 million offer and the DOJ's \$12 billion demand** led to an ADR impasse over fairness. The deadlock broke when both sides shifted focus from positions to interests, reaching a creative \$7 billion settlement.

Res non potest peccare

Tort / Property

- **Literal Meaning and Legal Use:** 'Res non potest peccare' translates to 'a thing cannot commit a wrong.' It emphasizes that legal liability lies with persons, not inanimate objects.

→ bite by a pet dog.

- **Tortious Implications:** This maxim underscores the principle that liability in tort arises from acts or omissions of individuals who control or use the object in question.

- **Occupiers' Liability:** In property law, occupiers are held liable for harm caused by premises they control. The object or structure is not at fault; responsibility lies with the occupier.

- **Vicarious Liability:** Employers may be held liable for wrongful acts committed by employees using company property, reinforcing the idea that liability is personal, not object-based.

thing

vs King

LOL!

RES NON POTEST PECCARE A Thing Cannot Commit a Wrong	REX NON POTEST PECCARE The King Can Do No Wrong
	
A van rolls downhill and damages a parked car — responsibility lies with the driver, not the vehicle.	Kim Jong Un represents absolute political authority — the state is infallible and immune from blame.

- Do not confuse 'Res non potest peccare' with 'Rex non potest peccare' which means "King can do no wrong" which is now only applicable to North Korea! :)

- Category E: Interpretation & Construction

Ambiguitas patens

Evidence / Deeds



Meaning of Ambiguitas Patens

Ambiguitas patens refers to a patent or **obvious ambiguity** in a document that is apparent on its face and not open to clarification through external evidence.



Keshavlal Lallubhai Patel v. Lalbhai Trikumlal (1958)

The Supreme Court applied the principle that where ambiguity is patent, courts must confine interpretation to the document itself.



Sections 93–94 of the Evidence Act

These provisions bar the use of extrinsic evidence to explain or supplement clear ambiguities in legal documents, enforcing the sanctity of written language.



Distinction from Latent Ambiguity

Unlike latent ambiguity, which arises from facts external to the document, patent ambiguity is visible and thus legally irremediable by outside clarification.

Ambiguitas latens

Evidence / Deeds



Definition of Ambiguitas Latens

Ambiguitas latens means 'hidden ambiguity'—uncertainty that arises when a document appears clear but ambiguity emerges upon applying it to external facts.



Smt. Kamala Devi v. Takhatmal (1964)

The Rajasthan High Court illustrated how documentary clarity can be disrupted by factual circumstances, justifying recourse to external clarification.



Section 95 of the Evidence Act

This provision allows for the admission of extrinsic evidence to resolve latent ambiguity, distinguishing it from patent ambiguity which is not curable.



Distinction from Patent Ambiguity

Latent ambiguity is not visible on the face of the document and only arises through its contextual application, allowing for interpretive flexibility.

Generalia specialibus non derogant

Statutory Interpretation

special Law prevails over general law!

- **Doctrine Overview:** The Latin maxim means 'the general does not detract from the specific'—specific statutory provisions prevail over conflicting general ones.
- **Role in Statutory Interpretation:** Courts apply this doctrine to harmonize statutes, ensuring that particularized legal rules are not overridden by broader legislative language.
- **J.K. Cotton Spinning & Weaving Mills Co. v. State of U.P. (1961):** The Supreme Court ruled that where a conflict exists between general and special provisions, the specific law governs the issue at hand.
- **Preservation of Legislative Intent:** This principle supports coherent interpretation by respecting legislative hierarchy and purpose—special laws reflect targeted legislative will.

GENERALIA SPECIALIBUS NON DEROGANT – J. K. COTTON SPINNING & WEAVING MILLS CO. v. STATE of U.P. (1961)	
 <p>GENERAL LAW SPECIAL LAW</p>	 <p>The specific provision prevails—the general cannot override it</p>
 <p>Employer tried to act under a general rule while a specific rule applied during inquiry</p>	 <p>Where general and special provisions conflict, the special law prevails—<i>Generalia specialibus non derogant</i></p>

Communis error facit jus

Custom / Practice

Analogy

↓
rituals become customs

- **Definition and Scope:** The maxim means 'common error makes law,' suggesting that consistent long-term practices may gain legal recognition, even if initially mistaken.
- **Judicial Use and Limits:** Courts have at times acknowledged established practices as de facto rules, but distinguish them from formally enacted legal norms.
- **Byram Pestonji Gariwala v. Union Bank of India (1991):** The Supreme Court upheld the customary authority of counsel to compromise suits without formal authorization citing widespread, historical practice.
- **State of U.P. v. Synthetics & Chemicals Ltd. (1991):** This case offered a counterbalance, cautioning against mistaking habitual errors or convenience-based customs as having legal force.

COMMUNIS ERROR FACIT JUS – Byram Pestonji Gariwala v. Union Bank of India (1991)

Counsel signing compromises – a long-accepted legal practice.

Supreme Court upheld historical practice of lawyer-signed settlements.

ORDER 23
RULE 3 CPC
(Amended 1976) → signed by counsel

Common practice interpreted into law

FORMAL SIGNATURE ONLY

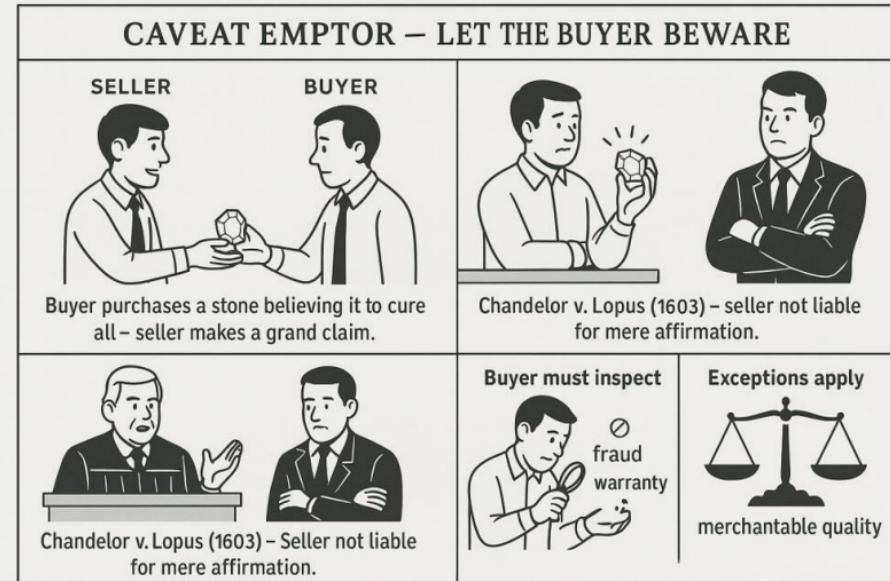
COUNSEL SIGNATURE BY LONG PRACTICE

Communis error facit jus – long standing practice gains legal force.

Caveat Emptor

Sale of Goods

- **Definition and Principle:** Caveat emptor translates to 'let the buyer beware.' It places the onus on buyers to inspect goods before purchase and accept the risk of defects.
- **Historical Case Origin:** First articulated in **Chandelor v. Lopus** (1603), where the buyer failed to recover damages for a misrepresented 'bezoar stone,' establishing minimal seller obligations.
- **Evolution in Common Law:** Refined by **Ward v. Hobbs** (1878), reinforcing that sellers aren't bound to disclose defects unless there's fraud or misrepresentation involved.
- **Modern Limitations:** Under the Indian Sale of Goods Act, Sections 14–17 impose implied conditions and warranties—shifting partial responsibility back to the seller, especially on quality and fitness.

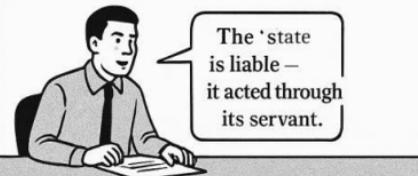


Qui Facit Per Alium Facit Per Se

Agency / Tort

Vicarious Liability

- **Meaning and Legal Doctrine:** This Latin maxim translates to 'He who acts through another acts himself,' forming a foundational principle in agency law and tort liability.
- **Case Spotlight: State of Rajasthan v. Vidhyawati (1962):** The Supreme Court held the State vicariously liable for negligence of a government driver, expanding the doctrine's application to public law.
- **Extension to Vicarious Liability:** The judgment confirmed that the State is not immune from liability for tortious acts committed by its employees during non-sovereign functions.
- **Impact on Indian Tort Law:** This case was a turning point, making governmental bodies accountable similarly to private individuals under tort law.

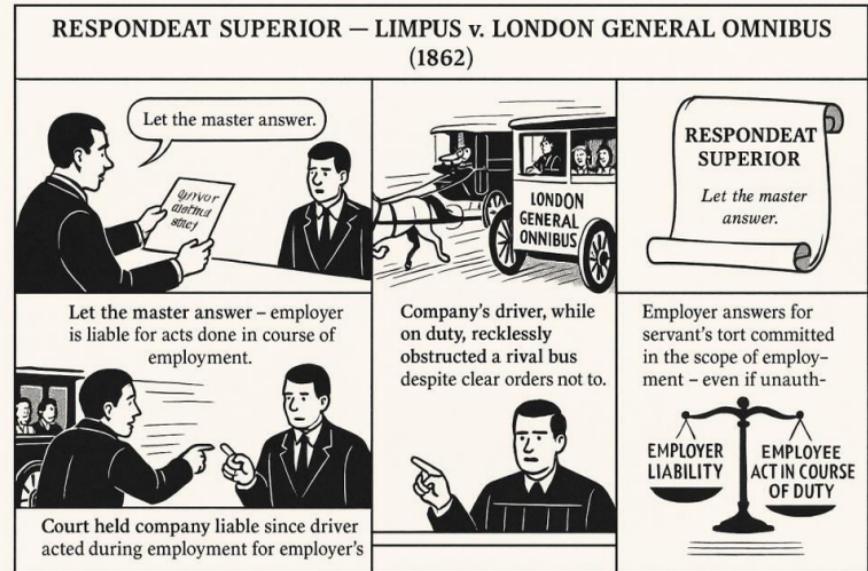
QUI FACIT PER ALIUM FACIT PER SE — STATE of RAJASTHAN v. VIDYAWATI (1962)	
 <p>State's servant causes harm while on duty.</p>	 <p>Court held State responsible for employee's</p>
 <p>The 'state is liable — it acted through its servant.</p> <p>Master or principal is liable for servant's act in employment</p>	 <p>SOVEREIGN IMMUNITY vs VICARIOUS LIABILITY</p> <p>State can't escape liability for servant's negligence.</p>

Respondeat Superior

Vicarious Liability

Vicarious Liability

- **Meaning and Scope:** Respondeat superior means 'Let the master answer,' implying that an employer is liable for torts committed by employees within the course of their employment.
- **Foundational Case Law:** *Limpus v. London General Omnibus* (1862) established that employers can be held liable even when employees act against explicit instructions, if within employment scope.
- **Indian Perspective: Pushpabai Case:** In *Pushpabai Purshottam Udeshi v. Ranjit Ginning & Pressing Co.* (1977), SC held employer liable for employee's negligent driving during duty-related travel.
- **Criteria for Liability:** Key test: Was the wrongful act committed in the course of employment? If so, liability typically shifts to the employer, regardless of personal motives.



Nemo Dat Quod Non Habet

Sale / Property

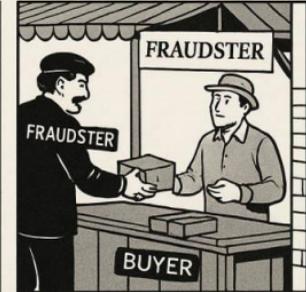
one should have title to sell it.

- **Core Legal Principle:** This Latin maxim means 'No one gives what he does not have' — a person cannot transfer better title than they themselves possess.
- **Case Law: Cundy v. Lindsay (1878):** In this English case, goods were fraudulently acquired and sold. The original owner recovered them, affirming that no valid title passes through fraud.
- **Rowland v. Divall (1923):** Even an innocent buyer must return stolen goods; ownership remains with the rightful owner, not with the purchaser from a seller lacking title.
- **Position in Indian Law:** Indian law adopts this principle in Section 27 of the Sale of Goods Act, but carves out exceptions—e.g., sales by mercantile agents or estoppel.

NEMO DAT QUOD NON HABET — CUNDY v. LINDSAY (1878)



A rogue falsely pretended to be a reputed firm and ordered goods from Lindsay & Co.



The fraudster sold the goods to an innocent purchaser who paid in good faith.



Lindsay & Co. sued to recover the goods, claiming ownership never passed.



The Court held that the innocent buyer acquired no title—ownership remained with the true owner.

Novus Actus Interveniens

Tort / Causation



Definition and Legal Impact

Latin for 'a new intervening act,' novus actus interveniens breaks the chain of causation, thereby limiting the defendant's liability.



McKew v. Holland (1969)

Plaintiff's unreasonable conduct post-injury was deemed a new cause, breaking the link with the original negligence.

remoteness of damages



Knightley v. Johns (1982)

Police officer's negligence in directing another officer into danger was ruled an intervening act, absolving the original wrongdoer of liability.



Indian Approach to Causation

Indian courts focus on the 'proximate cause' test—liability hinges on whether the damage was a foreseeable and direct consequence.

Noscitur a Sociis

Interpretation

- **Meaning of the Maxim:** 'Noscitur a sociis' means 'a word is known by the company it keeps'. It guides interpretation of ambiguous terms by analyzing surrounding words.
- **Purpose in Legal Drafting:** The maxim ensures contextual consistency and avoids absurdity, helping courts preserve legislative intent in multi-word clauses.
- **Rohit Pulp & Paper Mills Ltd. v. CCE (1990):** The Supreme Court applied the maxim to interpret tax statute terms, reading ambiguous words in harmony with adjoining expressions.
- **RBI v. Peerless General Finance (1987):** Justice Chinnappa Reddy emphasized purposeful and contextual construction over literal reading, reinforcing the maxim's relevance.



Quid Pro Quo

Fees / Administrative Law

Electoral Bonds were alleged to be

- **Meaning and Legal Doctrine:** Quid pro quo means 'something for something.' It underlies the principle that fees must correspond to a specific service rendered.
- **Landmark Case: Kewal Krishan Puri (1980):** SC ruled that fees differ from taxes; a quid pro quo is essential—fees must provide a discernible benefit to the payer.
- **Refinement in Sreenivasa Case (1983):** Court clarified that exact equivalence isn't required; a reasonable correlation between the service and fee suffices.
- **Administrative Law Implications:** Regulatory bodies must justify fee structures with corresponding services; failure can render the fee ultra vires.
- **Economic and Policy Relevance:** Quid pro quo doctrine ensures transparency and fairness in statutory levies, especially in sectors like education, trade, and licensing.

Mutatis Mutandis

Drafting / Statutes

- **Definition and Function:** Mutatis mutandis means 'with the necessary changes having been made.' It allows legal provisions to be applied with contextual adaptations.
- **Usage in Statutory Drafting:** Widely used to import provisions across laws without verbatim repetition—ensuring relevance and legal coherence.
- **Example: Arbitration Act:** Section 20 of the Arbitration and Conciliation Act, 1996 applies procedural rules mutatis mutandis to certain international arbitrations.
- **Legal Interpretation:** Courts interpret the phrase to include necessary alterations in application while preserving the core legal intent.
- **Practical Importance:** Enhances legislative efficiency and flexibility; prevents redundancy in statute books while preserving interpretative clarity.

Bona Fide

Equity / Property

- **Meaning and Relevance:** Bona fide means 'in good faith.' It indicates honesty of intention, crucial in assessing fairness in legal and equitable doctrines.
- **Case Law: Pilcher v. Rawlins (1872):** Protected a bona fide purchaser for value without notice, prioritizing clear title and transactional security over equitable interests.
- **Indian Legal Position:** The principle is reflected in the Transfer of Property Act, 1882—particularly Sections 41 and 43—safeguarding transferees acting in good faith.
- **Criteria for Protection:** Must prove lack of notice (actual or constructive), paid valuable consideration, and acted in good faith to claim bona fide status.
- **Equity vs. Law:** Equity prioritizes conscience and fairness; bona fide status can shield legal title from prior undisclosed equitable claims.

Mala Fides

Administrative Law

- **Meaning and Legal Consequence:** Mala fides means 'in bad faith.' It denotes an abuse of power or dishonest intention in official acts, rendering them unlawful.
- **E.P. Royappa v. State of Tamil Nadu (1974):** SC broadened Article 14 to include arbitrariness, holding that mala fide actions violate equality and are unconstitutional.
- **State of Punjab v. Gurdial Singh (1980):** The Court invalidated land acquisition based on ulterior motives, stressing that bad faith nullifies state actions.
- **Article 14 Doctrine Expansion:** Mala fide actions are a form of non-arbitrariness breach, reinforcing that equality is not just about classification but fairness.
- **Administrative Accountability:** The doctrine checks discretionary misuse by the State, ensuring that decisions serve public interest, not personal vendettas.

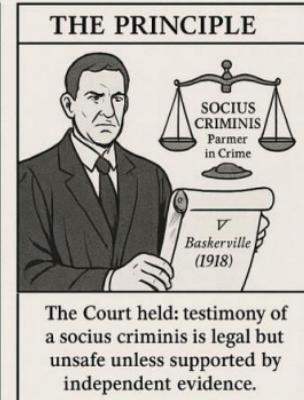
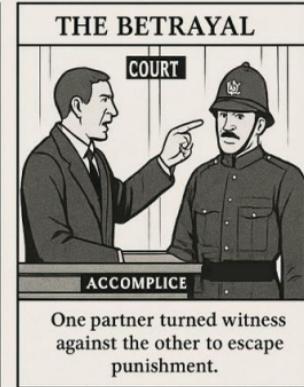
interests.
OR
States / Elected members' personal

Socius Criminis

Criminal Evidence

- **Definition and Legal Context:** Socius criminis means 'associate in crime.' It refers to accomplices who may testify in criminal trials, often implicating co-accused.
- **Judicial Precedent: R v. Baskerville (1916):** Established the need for caution in accepting accomplice evidence; suggested independent corroboration for reliability.
- **Indian Jurisprudence:** In **Chandran @ Manichan v. State of Kerala (2011)**, SC reiterated that accomplice testimony is admissible but risky—courts must seek corroboration.
- **Corroboration Rule:** Testimony from a socius criminis can convict, but is generally unsafe without corroborative evidence linking the accused to the crime.

SOCIUS CRIMINIS — *R v. Baskerville* (1916)



In Pari Delicto

Contract / Equity

≈
≠

Contributory negligence

(Tort)



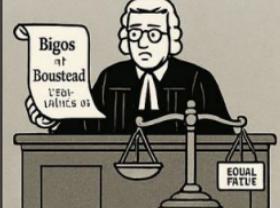
- **Meaning and Legal Maxim:** In pari delicto means 'equally at fault.' Courts use it to deny relief to a plaintiff involved in illegal or unethical contracts.
- **Bigos v. Boustead (1951)** – Both parties knowingly entered an illegal foreign-currency loan in breach of the Exchange Control Act 1947; when the deal collapsed, the court refused relief to either, holding them in pari delicto ("equally at fault") — establishing that courts will not aid participants in an unlawful contract.
- **Equity and Public Policy:** The principle serves as a judicial tool to prevent abuse of the legal process and maintain the integrity of the justice system.

similarly viewed by courts

similar idea but in Tort (Civil)

IN PARI DELICTO

Bigos v. Boustead (1951)

THE AGREEMENT	THE ILLEGALITY
 <p>DEFENDANT →</p> <p>Boustead agreed to borrow foreign currency to support his wife's stay in Italy, with a share certificate as security.</p>	 <p>Both parties knew the transaction breached the Exchange Control Act 1947 and disguised it as a normal loan.</p>
BREAKDOWN	COURT
 <p>PLAINTIFF →</p> <p>The money was not supplied, and the plaintiff refused to return the share certificate when challenged.</p>	 <p>Because both parties were equally at fault and the illegal purpose was not properly withdrawn, the Court refuse'</p>

Volenti Non Fit Injuria

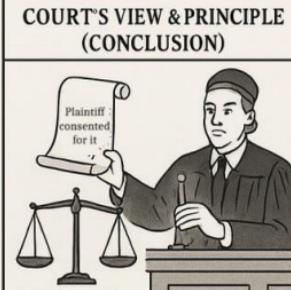
Tort / Negligence

- **Definition and Core Principle:** Volenti non fit injuria means 'to a willing person, no injury is done.' It's a tort defence where the plaintiff consented to the risk.
- **Padmavati v. Dugganaika (1975):** where passengers who took an unauthorised ride (lift) were denied compensation as they had willingly accepted the risk.
- **Smith v. Baker (1891):** Court held that mere knowledge of risk does not imply consent; in employment, workers' consent must be voluntary and informed.
- **Limitations in Employment:** In workplace contexts, unequal bargaining power weakens this defence—consent must not be coerced or assumed.

Ano the
Tort defence BTW →

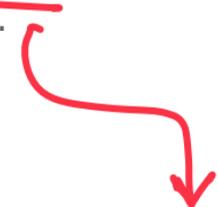
VOLENTI NON FIT INJURIA

– Padmavati v. Dugganaika (1975)

CONCEPT (RULE)	FACTS
<p>Plaintiff consented to impending risk by asking lift.</p>  <p>TWO PASSENGERS →</p>	<p>Two passengers boarded the jeep to ride toward Hosanagar.</p> 
<p>INCIDENT (APPLICATION)</p> <p>The wheel came off suddenly due to a mechanical defect, causing an accident.</p>  <p>Inevitable Accident took place</p>	<p>COURT'S VIEW & PRINCIPLE (CONCLUSION)</p>  <p>VOLENTI NON FIT INJURIA</p> <p>Court held: passengers voluntarily accepted the risk and were not entitled to compensation – consent to risk bars recovery.</p>

Damnum Sine Injuria

Tort

- **Doctrine Explained:** Damnum sine injuria means 'damage without legal injury.' It describes a loss that doesn't result from a violation of a legal right.
 - **Historic Roots: Gloucester Grammar School Case (1410):** Set the precedent that competition causing loss isn't actionable unless a legal right is infringed.
 - **Mogul Steamship Co v. McGregor (1892):** Court upheld business practices causing financial harm to a rival, as no unlawful means or right violation occurred.
 - **Modern Relevance:** Applies in free-market competition and public policy areas where legitimate conduct causes economic loss without legal breach.
 - **Contrast with Injuria Sine Damno:** Highlights tort law's distinction between actual loss and enforceable legal injury—only the latter is actionable.
- 

Injuria Sine Damno

Tort / Constitution

Never write Injuria Sine Damno.

Always write Injuria Sine Damnum

Prior is grammatically incorrect yet often written in books.

- **Legal Meaning:** Injuria sine damno means 'legal injury without damage.' It describes a situation where a right is violated despite no quantifiable harm.
- **Ashby v. White (1703):** English court ruled that denial of voting rights, though causing no financial loss, was actionable due to violation of a civil right.
- **Bhim Singh v. State of J&K (1985):** Supreme Court awarded compensation for wrongful detention of an MLA, recognizing constitutional torts for fundamental right violations.
- **Constitutional Tort Doctrine:** Introduced a public law remedy where infringement of fundamental rights results in state liability, even without physical or pecuniary loss.
- **Rule of Law Safeguard:** Doctrine ensures that rights are not empty formalities—any state action infringing rights invites judicial remedy.

Actus Personalis Moritur Cum Persona

Tort / Estates

↳ applicability →

Defamation
Assault/Battery
Malicious prosecution

Trespass to land
Personal injuries

- **Meaning and Traditional Rule:** The maxim means 'a personal action dies with the person,' historically limiting tort claims once either party dies.
- **Baker v. Bolton (1808):** Established that civil actions for personal wrongs could not continue after the victim's death; barred dependents from claiming damages.
- **Statutory Modification in India:** Statutes like the Fatal Accidents Act, 1855 and Section 306 of the Indian Succession Act now allow legal representatives to pursue claims.
- **Key Case: M. Veerappa v. Evelyn Sequeira (1988):** SC clarified that the rule doesn't apply to statutory claims—allowing recovery for wrongful acts even after the victim's death.

ACTUS PERSONALIS MORITUR CUM PERSONA – M. VEERAPPA v. EVELYN SEQUEIRA. (1988)



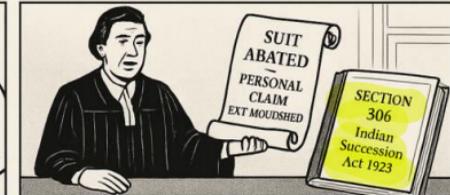
Veerappa suffered humiliation and mental distress.



Veerappa sued for damages for malicious prosecution and humiliation.



After Veerappa's death, his heirs sought to continue the suit—but the cause was purely personal



Court held—right to sue person dies with person. Property rights survive.

IpsO Facto

Contracts / Bankruptcy

- **Meaning and Application:** IpsO facto means 'by that very fact.' In contracts, it refers to clauses that trigger consequences automatically upon a specified event, like insolvency.
- **Judicial Caution:** Courts scrutinize ipsO facto clauses in insolvency contexts to prevent arbitrary termination and protect creditors' and stakeholders' interests.
- **Key Ruling: Official Liquidator v. Allahabad Bank (2013):** SC held that ipsO facto termination due to liquidation can't override statutory insolvency provisions and must align with judicial supervision.
- **Public Policy Concerns:** Unrestricted enforcement of such clauses may undermine collective proceedings, prejudice equitable distribution, and allow unfair exits.
- **Global Alignment:** Modern insolvency regimes, including IBC and UNCITRAL, discourage rigid enforcement of ipsO facto clauses to preserve debtor rehabilitation.

Ubi Jus Ibi Remedium

Remedies / Equity

- **Principle and Legal Scope:** The maxim means 'Where there is a right, there is a remedy.' It embodies the essence of enforceable justice in both private and public law.
- **Historical Origin: Ashby v. White (1703):** Established that a violation of civil rights, even without measurable harm, warrants legal remedy—affirming justiciability of rights.
- **Indian Application: Rudul Sah (1983):** SC awarded compensation for illegal detention, crafting a remedy for breach of fundamental rights under Article 21.
- **Rise of Constitutional Torts:** The case marked the evolution of public law remedies where the state is held accountable for rights violations beyond statutory frameworks.
- **Contemporary Impact:** The maxim underpins doctrines of judicial review, PILs, and constitutional compensation—ensuring actionable justice.

Vigilantibus Non Dormientibus Jura Subveniunt

Laches / Delay

Limitation Act. corroborates this idea.



Principle Explained

This Latin maxim means 'Law aids the vigilant, not the sleeping.' It underscores the doctrine of laches—equity discourages delay.



Historical Root: Lindsay Petroleum Co v. Hurd (1874)

The Privy Council stressed that unreasonable delay, coupled with prejudice, bars equitable relief even if a right exists.



Indian Interpretation: Chennai Metro Water v. T.T. Murali Babu (2014)

SC denied relief due to prolonged inaction, reinforcing that rights must be asserted promptly to invoke equity.



Doctrine of Laches

Laches requires a combination of delay and prejudice—justice is withheld where delay defeats fairness or causes hardship.

unreasonable delay, negligence in asserting claims & prior knowledge. → dismissal of suit.

Audi Alteram Partem

Natural Justice

- **Principle of Fair Hearing:** Audi alteram partem means 'hear the other side.' It's a cornerstone of natural justice ensuring no person is condemned unheard.
- **Ridge v. Baldwin (1964):** UK case revived natural justice in administrative law—held dismissal without a hearing unlawful despite no statutory provision.
- **Maneka Gandhi v. Union of India (1978):** SC ruled that even administrative orders affecting rights require fair procedure, broadening Article 21's due process.
- **A.K. Kraipak v. Union of India (1969):** Blurred the line between administrative and quasi-judicial functions—natural justice applies to both.
- **Modern Judicial Relevance:** Courts invoke this maxim to invalidate decisions made without notice, hearing, or opportunity to respond—across constitutional, civil, and administrative law.

Actus Dei Nemini Facit Injuriam

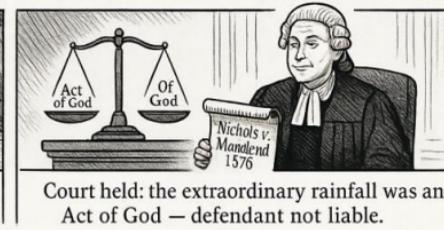
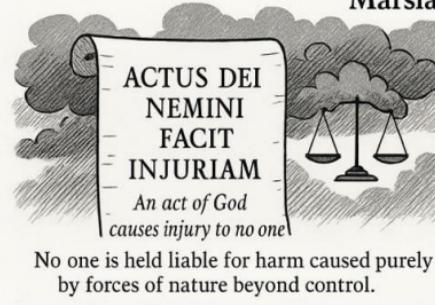
Tort / Contract

- **Meaning and Legal Essence:** This maxim means 'An act of God harms no one.' It provides a defence when harm results from natural forces beyond human control.
- **Nichols v. Marsland (1876):** Court absolved defendant whose ornamental lakes overflowed due to unprecedented storm—held to be an act of God, negating liability.
- **Exception to Strict Liability:** This defence limits liability under Rylands v. Fletcher when damage results from extraordinary natural events, not foreseeable or preventable.
- **Scope in Tort and Contract:** Recognized in tort for property damage and in contract under force majeure clauses to excuse performance.

Tort defence ↘

Act of God / Vis major / Force Majeure.

ACTUS DEI NEMINI FACIT INJURIAM – Nichols v. Marsland (1876)



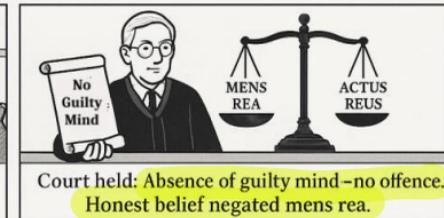
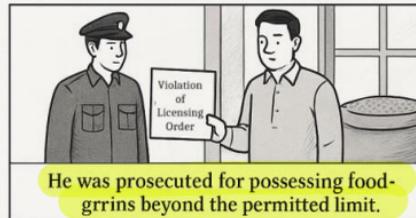
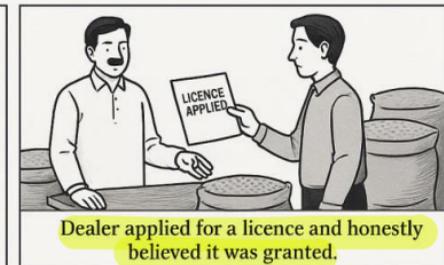
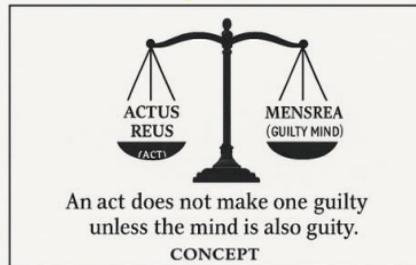
Actus Non Facit Reum Nisi Mens Sit Rea

Criminal Law

- **Doctrine Explained:** The maxim means 'an act does not make a person guilty unless there is a guilty mind.' It combines actus reus (act) and mens rea (intent).
- **Sweet v. Parsley (1970):** UK House of Lords held that mens rea is presumed in criminal offences unless explicitly excluded by statute.
- **Indian Case: Nathulal v. State of M.P. (1966):** SC acquitted a man who violated licensing laws due to a bona fide belief he had complied—lack of guilty intent negated liability.
- **Mens Rea Requirement:** Mens rea ensures moral blameworthiness—distinguishing between intentional crime and inadvertent or excusable conduct.

ACTUS NON FACIT REUM NISI MENS SIT REA

Nathulal v. State of Madhya Pradesh (1966)



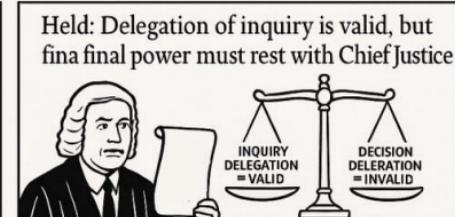
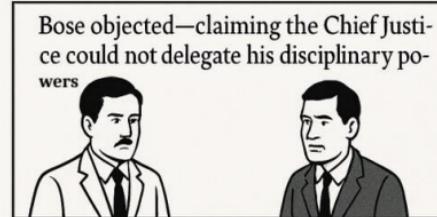
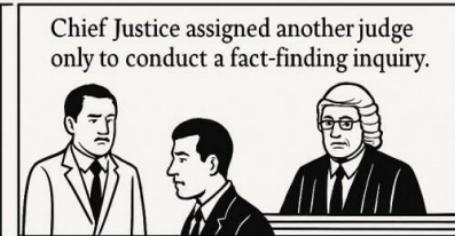
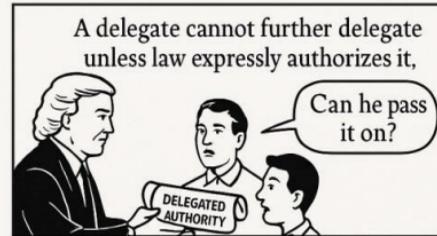
Delegatus Non Potest Delegare

Administrative / Agency

- **Doctrine Defined:** The maxim means 'a delegate cannot further delegate.' It ensures that power entrusted to a person must be exercised by them alone unless authorised
- **Barnard v. National Dock Labour Board (1953):** UK Court held a statutory delegate could not sub-delegate disciplinary powers—decision made by sub-committee declared void.
- **Indian Case: Pradyat Kumar Bose (1955):** SC held that the Chief Justice could not abdicate his statutory discretion in disciplinary proceedings to a subordinate.
- **Quasi-Judicial Limits:** Delegation is especially restricted in quasi-judicial and disciplinary functions—discretion must be personally exercised.

DELEGATUS NON POTEST DELEGARE —

Pradyat Kumar Bose v. The Hon'ble Chief Justice of Calcutta High

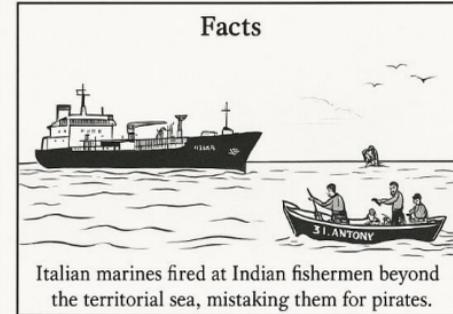


Ministerial or investigative tasks may be delegated—the final disciplinary authority cannot.

Par in Parem Imperium Non Habet

Sovereign Immunity

- **Maxim Defined:** Par in parem imperium non habet means 'an equal has no authority over an equal.' It forms the basis of sovereign immunity in international law.
- **Schooner Exchange v. McFaddon (1812):** US Supreme Court held that foreign sovereigns are immune from the jurisdiction of domestic courts absent consent.
- In the **Enrica Lexie (2013)** case, Italian marines aboard an Italian ship shot two Indian fishermen off the Kerala coast, mistaking them for pirates. The dispute centered on **jurisdiction and sovereign immunity**, with the international tribunal ultimately upholding Italy's immunity but directing it to **compensate India**.
- **Commercial Activity Exception:** A globally accepted limitation—sovereign immunity cannot shield governments from liabilities in private or commercial transactions.



Res Ipsa Loquitur

Tort / Negligence

- **Doctrine Defined:** Res ipsa loquitur means 'The thing speaks for itself.' It allows courts to infer negligence from the very nature of the accident.
- **Byrne v. Boadle (1863):** Origin case where a barrel fell from a warehouse window; court presumed negligence in absence of direct evidence.
- **MCD v. Subhagwanti (1966):** SC applied the maxim to hold MCD liable for clock tower collapse—duty of maintenance presumed breached.
- **Key Requirements:** (1) Event must be unusual; (2) under defendant's control; (3) wouldn't occur without negligence.
- **Evidentiary Impact:** Shifts burden of proof—defendant must rebut presumption of negligence once maxim is invoked.

Ex Turpi Causa Non Oritur Actio

Illegality

- **Maxim Meaning:** Ex turpi causa non oritur actio means 'No action arises from an immoral or illegal cause.' It bars claims founded on wrongdoing.
- **Tinsley v. Milligan (1994):** UK House of Lords held that a claimant can succeed if they don't need to rely on the illegal act to prove their case.
- **Indian Case: G. Pankajakshi Amma (2004):** SC denied enforcement of a contract where the claim was rooted in an unlawful objective—highlighting illegality's disabling effect.
- **Public Policy Rationale:** Courts refuse to aid parties to an illegal contract—maintaining judicial integrity and upholding the rule of law.

EX TURPI CAUSA NON ORITUR ACTIO
— G. PANKAJAKSHI AMMA v. MATHAI MATHEW (2004)

ILLEGAL ACT **NO LEGAL REMEDY**

Ex turpi causa non oritur actio —
No action arises from an immoral cause

UNACCOUNTED CHIT FUND

Mathai Mathew advanced money in unrecorded chit fund dealings and obtained promissory notes from Pankajakshi

Can courts enforce repayment when the transaction itself is illegal and unaccounted?

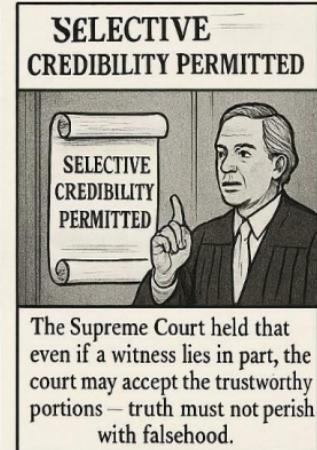
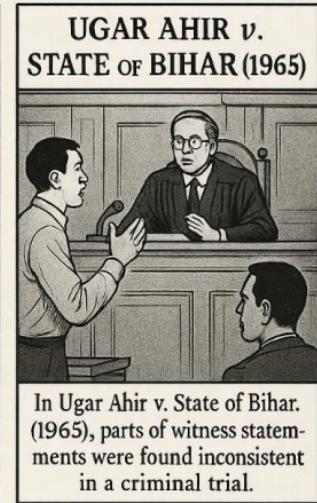
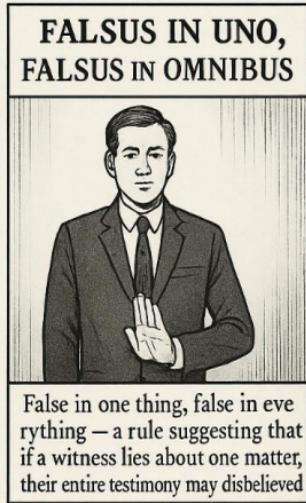
NO COURT WILL AID ANY PARTY IN AN ILLEGAL ACT

Supreme Court dismissed the recovery suit, holding that no legal right can arise from an unaccounted or illegal transaction— *Ex Turpi Causa Non Oritur Actio*.

Falsus in Uno, Falsus in Omnibus

Evidence / Witness Credibility

- **Maxim Meaning:** 'False in one thing, false in everything'—a principle suggesting that if a witness lies about one thing, their whole testimony may be discredited.
- **Judicial Caution in India:** Indian courts do not rigidly apply this rule; credibility is assessed contextually to prevent miscarriage of justice.
- **Ugar Ahir v. State of Bihar (1965):** SC held that courts can accept truthful parts of a testimony while discarding the false, especially in criminal trials.
- **Doctrine of Falsus and Modern Practice:** Rigid application is discouraged—judges must distinguish exaggeration or error from deliberate perjury.



Ignorantia Facti Excusat; Ignorantia Juris Non Excusat

Criminal / General Principle

- **Principle Explained:** The maxim distinguishes between ignorance of fact, which may excuse liability, and ignorance of law, which does not.
- **Maya Devi v. Lalta Prasad (2014):** SC acknowledged that misunderstanding factual context may provide a defense; especially where intent or knowledge is a key element.
- **State of Maharashtra v. Mayer Hans George (1965):** German national charged under Indian customs law; court ruled ignorance of local law was no defense despite lack of notice.
- **Strict Liability Emphasis:** In regulatory offences, liability often arises regardless of intent; ignorance of legal duties doesn't exempt responsibility.
- **Contemporary Implications:** The maxim reinforces legal certainty—citizens are presumed to know the law and cannot escape accountability by pleading ignorance.

Question on Synopsis

SECTION - B

6. Write a Synopsis or Case Comment for the Given Case Law.

Parmanand Katara v. Union of India, AIR 1989 SC 2039

A human rights activist, advocating for the public good, filed a petition under Article 32 of the Indian Constitution. The case was based on a news report titled "Law helps the injured to die" published in the Hindustan Times. According to the report, a man on a scooter was hit by a speeding car and was severely injured. A passer by, seeing the victim bleeding heavily, rushed him to the nearest hospital. However, the doctors at that hospital refused to treat him, stating that only a designated hospital, located 20 Kilometres away, was authorized to handle medico-legal cases. Without wasting time, the Good Samaritan carried the injured man to the referred hospital, but unfortunately, the victim died before reaching there. The issue in this case is whether a hospital can provide emergency treatment to an accident victim without making them go through legal formalities first. The petitioner argued that doctors have a fundamental duty to provide immediate medical treatment to injured persons. Medical ethics require that a doctor prioritizes saving a life as soon as a patient arrives for treatment. The petitioner emphasized that legal procedures, such as those under the Criminal Procedure Code, should not delay or interfere with emergency medical care. The Union of India contended that existing police regulations and the Criminal Procedure Code mandate certain legal procedures before a victim can receive medical aid. The Supreme court emphasized that saving human life is the highest priority. Once a life is lost, it cannot be brought back, making its preservation essential. It does not matter if the patient is innocent or a criminal—doctors and medical professionals have a duty to provide necessary medical care. The court linked this duty to Article 21 of the Constitution, which guarantees the right to life. This means that the State and its institutions, including government hospitals, must ensure medical assistance is provided promptly. The court further clarified that if a doctor realizes they cannot provide adequate treatment, they must ensure the patient is taken to a better-equipped facility as soon as possible. The ruling reinforced the idea that medical professionals must do everything within their power to preserve life without hesitation or fear. This case has reinforced that the right to medical care is a fundamental right under Article 21 of the Indian Constitution. It ensures that every individual in India can seek urgent medical treatment at any hospital, even if legal procedures are not followed. This decision is a significant step in reducing preventable deaths caused by doctors refusing to treat patients involved in accidents or criminal cases. It strengthens the role of doctors as lifesavers and upholds the fundamental principle that saving lives should always take priority over legal formalities.

Topic SynopsisDate 23/12/2025Case - Pt. Parmanand Katara, Advocate.

- vs -

Union of India. & Ors.

AIR 1989 SC 2039 (1989) 4 SCC 286.

Decided on :- 28th August 1989.Introduction -

The decision in Pt. Parmanand Katara vs. Union of India is a landmark judgement of the Supreme Court of India that constitutionalised the right to emergency medical care as an inseparable component of the right to life under Article 21. The case addressed a systematic failure in medical institutions where accident victims were denied immediate treatment due to procedural and medico-legal concerns.

Facts -

The case originated from a newspaper report highlighting a disturbing incident involving a road accident victim (a scooterist) who sustained serious injuries after being hit by a car.

The injured person was taken to the nearest hospital for emergency treatment. However, the doctors refused to provide immediate medical aid to the victim on the ground that

The case was a medico-legal case and the government hospital was authorised to handle such cases, which was located about 20 km away.

While being transported to the said hospital, the victim succumbed to his injuries due to the delay in receiving medical assistance.

Shocked by this incident, Pt. Parmanand Katara, an advocate, filed a Public Interest Litigation under Article 32 of the Constitution seeking judicial intervention to ensure that no injured person is denied immediate medical aid on procedural grounds.

Issues -

- ① Whether the right to life under Article 21 includes the right to receive immediate emergency medical treatment.
- ② Whether doctors and hospitals can legally refuse or delay treatment to accident victims on the ground of medico-legal formalities.
- ③ What are the constitutional and professional duties of medical practitioners when a person in a life-threatening condition is brought before them.

Arguments -

Petitioner's Submission :-

The petitioner contended that:

- Preservation of human life is of paramount importance.
- Procedural laws, police formalities, and medico-legal requirements cannot override a fundamental right.
- Refusal of immediate medical treatment amounts to a direct violation of Article 21.

Respondent's Concerns :-

- Medical professionals expressed fear of legal harassment, police involvement, and court proceedings.
- Hospitals cited lack of clarity and protection for doctors in medico-legal cases.

Judgement an Ratio Decidendi :-

The Supreme Court held unequivocally that:

- Article 21 casts a positive obligation on the State and its instrumentalities to preserve human life.

- Every doctor, whether in a government or private sector hospital, has a professional and constitutional obligation to provide immediate medical aid to an injured person.
- Procedural requirements and legal formalities must follow only after the patient's life is saved.
- No law, rule or administrative instruction can justify the denial or delay of emergency treatment.

The Court categorically declared that preservation of life is the highest Constitutional value.

Directions issued :-

- Immediate medical aid must be provided to every injured person brought to a hospital.
- Medico-legal formalities and police procedures should be conducted only after stabilisation of the patient.
- The State must ensure that doctors acting in good faith are protected from unnecessary legal harassment.

Significance of the Judgement :-

- This case is the cornerstone of Indian medical jurisprudence.
- It expanded the scope of Article 21 to include the right to emergency healthcare.
- It laid down the constitutional foundation for later developments such as "Good Samaritan protections".
- The judgement harmonised medical ethics, professional duty, and constitutional law.

Conclusion :-

Pt. Parmanand Katara vs. Union of India stands as a powerful affirmation that the right to life is not a hollow declaration but a living guarantee. By placing human life above procedural rigidity, the Supreme Court ensured that constitutional values prevail over institutional apathy. The decision continues to guide the courts, hospitals, and policymakers in safeguarding the most fundamental of all rights — the right to live.



