



# General Principles of Law & Principles of Natural Justice

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# Law – Definition & Meaning

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- the collection of rules imposed by authority
- legal document setting forth rules governing a particular kind of activity
- the principles and regulations established in a community by some authority and applicable to its people, whether in the form of legislation or of custom and policies recognized and enforced by judicial decision.
- all the rules of conduct established and enforced by the authority, legislation, or custom of a given community, state, or other group or any one of such rules



# Law in Jurisprudence

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- **Austin** – Law is the command of sovereign enforceable by sanctions
- **Salmond**- Law is body of principles recognised by State and applied by it in administration of justice
- **Roscoe Pound**- It is a tool of social engineering



# Kinds of Law

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- Codified & uncodified
- International & municipal
- Substantive and procedural
- Civil and criminal
- Secular and Personal
- Supreme and ordinary/organic etc



# Sources of Law

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



# General Principles of Law

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- Rule of Law
- Separation of Powers
- *Ubi jus ibi remedium*
- *Ignorantia facti excusat-ignorantia juris non excusat*
- *Volenti non fit injuria* ( damage suffered by consent is not a cause of action)
- *Res ipsa loquitur* (the thing speaks for itself)



# General Principles of Law

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- *Actus non facit reum nisi mens sit rea*  
(the intent and the act both concur to constitute the crime)
- ***Nemo debet bis vexari pro una et eadem causa*** (it is a rule of law that a man shall not be twice vexed for one and the same)
- “**FIAT JUASTITIA RUAT COELUM**” — let justice be done, though the heaven should fall.
- Principles of Natural Justice

# Principles of Natural Justice



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- Rules not generally embodied & not fixed by any code
- Have been developed to secure justice and to prevent miscarriage of justice
- Based on the maxim - *Justice should not only be done but should manifestly be seen to be done*
- Encompass Rule against bias & Rule of fair hearing
- Applicable to administrative and quasi-judicial proceedings





# Rule against Bias

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- Originates from maxim- **Nemo debet esse judex in propria sua causa** (no man can be a judge in his own cause)
- The rule disqualifies a person from deciding a dispute in which he has- **pecuniary bias; personal bias; or bias relating to subject matter**
- Includes **pre-conceived notion bias**
- **Instances: personal bias -A.K.Kraipak v.UoI AIR 1970 SC 150; pecuniary bias- Dimes v. Grand Junction Canal & Co [1852,H. of Lords]- the decision of LC in favour of the Canal company- quashed by H.of Lords since he was a shareholder in the co. See Jeejeebhoy v.Asst.Collector of Thana AIR 1965 SC 1096 Js Gajendragadkar reconstituted the Bench for hearing a case on the ground that he was a member of the cooperative society for which the land in dispute was acquired.**



# Rule against Bias

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- **Bias relating to subject matter – Gullapalli Nageswara Rao v. APSRTC 1959, SC – scheme for nationalization of motor transport notified by State Govt.-quashed since the Secretary who initiated scheme and who heard objections was the same**
- **Bias – No need of actual/real likelihood**
- **Even reasonable likelihood is a vitiating factor**

# Rule of Fair Hearing



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- Based on the maxim – *Audi alteram partem* (no man shall be condemned unheard) – hear the other side
- Rule of fair hearing
- **Ingredients** – notice, right to disclosure of evidence, right to legal representation, right to produce evidence, opportunity to rebut and cross examine, one who decides must hear & reasoned decision, Post decisional hearing



# Exclusion of Natural Justice

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- May be express or implied
- By statutory provisions – eg: urgent land acquisition
- By constitutional provisions – eg: second proviso to Art.311(2)
- In case of legislative acts
- Exclusion in public interest
- In case urgency/necessity
- In case of impracticability
- In case of confidentiality
- In case of academic adjudication etc

# Effect of Breach of Natural Justice



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- The action – void
- In exceptional cases – post decisional hearing can be given



# Conclusion

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- Wish you Happy Administration
- Thank You