

RIGHT

1) What is Legal Right?

The concept of legal rights of fundamental significance in modern legal theory, because we cannot live without rights, which are recognized and enforced by law. Different jurists have attempted to define legal rights some of them are as follows.

2) Meaning and definition of legal right -

Many definitions of legal rights have been given by various writer some of them are as follows -

(a) Holland - According to Holland, " A right is a capacity residing in one man of controlling, with the assent and the assistance of the state, the action of others. Every right gets its validity by State.

(b) Salmond - According to Sir John Salmond, " Legal right" as "an interest recognized and protected by the rule of legal justice"

(c) Pollock - According to Pollock "Right is freedom allowed and power conferred by law"

(d) Austin - According to Austin "A person can be said to have a right only when another or others are bound by law"

(c) Allen - According to Allen, " Right is a legally guaranteed power to realize an interested"

(d) Buckland - According to Buckland "A legal Right is an interest or an expectation guaranteed by law."

(e) Ihering - According to Ihering, "A legal right is a legally protected interest"

3) Essential elements of Legal Right

According to Salmond, every legal right has five Essential elements which are as follows-

i) The person of inheritance-

The first essential element of the legal right is that there must be a person who is the owner of the Right. He is the subject of the legal right. He is sometimes described as the person of inheritance.

Example - X purchased a car for 1 million dollars. here 'X' is called subject of right.

The owner of a right need not be a determinant or fixed person. If an individual owes a duty towards Society at large, and indeterminant body is the subject of inheritance. In the case of the bequest to an Unborn person, the owner of the right is an Unborn child who is an uncertain person

ii) The person of incidence / Subject of the Duty -

A legal right occurs against another person or persons who are under a corresponding duty to respect that right. Such a person is called the person of incidence or the subject of the duty.

Example- If X has a particular right against Y, X is the person of inheritance and Y the subject of incidence.

iii) Subject matter or Contents of legal rights-

Another essential element of a legal right is its content or substance. Contents of the legal right deals with the subject matter of the legal rights. It relates to some act to do or not to do any act or forbearance. It obliges a person to act or forbear in favor of the person who is entitled to the rights.

iv) Object of the legal rights-

Another essential element of the legal right is the object of the right. The thing or an object over which the right is exercised is called 'Object of Right'. In above example Car is the object of right.

v) Title-

Title is nothing but the name given to the legal right. Title is a process, by which the right is vested/conferred. Purchase, gift, etc confers title on person.

REFERENCE : <https://www.srdlawnotes.com/2018/02/essential-elements-of-legal-right.html>