



Certified Media Law Analyst Sample Material

V-Skills Certifications

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1. JURISPRUDENCE

The word jurisprudence derives from the Latin term *juris prudentia*, which means “the study, knowledge, or science of law.” It is a branch of philosophy concerned with the law and the principles that helps courts to make decisions. Thus jurisprudence answers what is law and how to make judicial decisions.

It seeks to analyze, explain, classify, and criticize entire bodies of law. It interprets the laws in the light of the emerging trends in the other branches of studies like, literature, economics, religion, and the social sciences. It reveals the historical, moral, and cultural basis of a particular legal concept. It also deals with the rigidity and flexibility of law.

Jurisprudence is a very abstract concept, and therefore understood differently by different schools of thought. According to Formalists judges identify relevant legal principles, apply them to the facts and context of a case, and logically deduce a rule that will govern the outcome of the dispute. Legal realists on the contrary, believe that judges pass judgment based on their political, economic, and psychological inclinations.

One of the latest developments in jurisprudence is the gender sensitivity. Gender sensitive Jurisprudence makes neutral laws that apply equally with both the sexes. Feminist Jurisprudence originated in the 60's in America. Basis assumption is that the language, logic, and structure of the law are male created and reinforced by male values. Gender sensitive jurisprudence has helped administering justice in a better way when the issues are related to employment, divorce, reproductive rights, rape, domestic violence, and sexual harassment.

1.1. What is Justice

There is no universally accepted definition for justice. Generally it is understood to be ‘giving a person what is due to him’.

Justice is a social product and differs from group to group. Justice for one society is injustice for another because, it is a function of the assumptions and worldview of groups of people concerning right and wrong. As every worldview or belief system is equally valid and important for that group of people, there is no true and single universal justice.

Justice seeks to establish equilibrium in society when something goes ‘wrong’, in a way that is administratively feasible and acceptable to all parties, according to a code of law. Thus justice is action oriented.

Justice has to be given by a group that has the legal power vested on them by the society. While capital punishment given by a court is justice, the same order given by a group of people is illegal which is taken up by the same court for delivering justice.

Justice, in a functional form, is the idea that, within the same value system an infringement or a wrong action is entitled to receive a similar or related amount of corrective action within the same system, and that receipt is exempted from being considered wrong. For example, in a society of people having the same value system, where physical assault and stealing are both considered

wrong, when physical assault is given as a punishment for stealing that corrective action is not considered wrong.

Sep. 11 attack on World Trade Centre was just for Al-Qaeda and five percent of people in the world, while 99% of Americans and 95% of the world considered it unjust. While around 30% of the world supported the attack on Iraq the majority condemned it, yet it was done.

Iraq once had one of the best health profiles in the world. But after the nine years of UN embargo, the death rate of children under five has been averaging about 5,000 per month, hospitals suffered from chronic shortages of medicines, and about 1.5 million people died of different sickness, all 'sanctioned' by an international agency which works for the welfare of all nations.

By the 'international justice' administered by United States and United Kingdom, starvation, pollution, death and radiation engulfs Iraq. This was to prevent Saddam Hussein from developing weapons of mass destruction, 'genocide to prevent a possible genocide!'

1.2. What is law?

John Salmond, an expert in law defines law as those principles applied by state in the administration of justice. He and Thomas Aquinas considered justice as the goal of laws. Thus, laws are a set of rules for society, designed to protect basic rights and freedom, and to treat everyone fairly. It is a set of obligations to each other to enable society as whole to live in peace and harmony. Laws are either made by individuals through contracts or are imposed on them by a law establishing body.

1.3. Rights, Rules and Laws

Rights are born with, or given to an individual, in which he/she takes decision. Some rights are granted by a law making body, and some are taken away.

Rules are guidelines for adherence to certain behavioral patterns. There are rules for games, for social clubs, for sports and for adults in the workplace. There are also rules imposed by morality and custom that play an important role in telling us what we should and should not do.

The state or the court make and enforce laws. Laws offer a fair division of benefits for those who follow it and burdens for those who break it. This creates equilibrium in the society. They regulate the society through principles, procedures and rules.

Thus, "To live" is a right, "those who kill another is punishable with 12 years of imprisonment and fine" is a law, while "Don't kill others" or "respect life" are rules.

1.4. Laws and Society

Laws are inseparable from social life. If people were allowed to choose at random which side of the street to drive on, driving would be dangerous and chaotic. Laws regulating our business affairs help to ensure that people keep their promises. Laws against criminal conduct help to safeguard our personal property and our lives.

Laws resolve disagreements and conflicts among people. “Might is the right” settled the issues in the medieval ages. People now, turn to the law and to institutions like the courts to decide who is the real owner and to make sure that the real owner’s rights are respected.

Laws help form, policies. For example, some laws provide for benefits when workers are injured on the job, entitle them for pensions etc.

Laws make sure liberty and quality of citizen. They ensure that strong groups and individuals do not use their powerful positions in society to take unfair advantage of weaker individuals. Legal systems are human-made. The laws may be altruistically or egotistically, morally or immorally, divinely or evilly inspired, but they are all brought into existence through human agency, and not some transcendent force. Therefore, people can change it when they seem irrelevant to society.

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