

UNIT - IV

Legal Concepts

Right & Duty • Possession • Ownership • Personality

Unit Structure

01

Right and Duty

Meaning, kinds of rights, correlativity of rights and duties

02

Possession

Idea of possession, elements, kinds, possessory remedies

03

Ownership

Meaning, kinds of ownership, difference from possession

04

Legal Personality

Nature of personality, status of unborn, minor, lunatic, dead persons

Right and Duty – Meaning and Relationship

A legal right is an interest recognised and protected by a rule of law. Hohfeld's analysis distinguishes claim-rights, privileges, powers and immunities, each with its correlative (duty, no-right, liability, disability).

Salmond: A right is an interest recognised and protected by a rule of right; it is an interest in respect of which there is a duty.

Every right has a corresponding duty. Rights and duties are correlative – one cannot exist without the other in the same relationship.

Kinds of rights: perfect/imperfect, positive/negative, real/personal, proprietary/personal, in rem/in personam, principal/accessory, primary/sanctioning.

Possession – Idea and Elements

Possession is the most basic relationship between a person and a thing. It is protected by law even when it is not accompanied by ownership.

Two elements (Savigny / traditional view):

- Corpus – physical control over the thing
- Animus – intention to possess (animus domini or animus possidendi)

Modern view: Possession is a complex concept that varies with context; the law protects possession for reasons of public order and the protection of quiet enjoyment.

Kinds: immediate/mediate, concurrent, constructive, adverse possession, juridical possession.

Ownership – Meaning and Kinds

Ownership is the ultimate and residuary right to a thing. It is the relation between a person and an object which forms the subject-matter of his ownership.

Austin: Ownership is a right “indefinite in point of user, unrestricted in point of disposition, and unlimited in point of duration”.

Kinds of ownership:

- Corporeal / Incorporeal
- Sole / Co-ownership
- Legal / Equitable
- Trust and beneficial ownership
- Vested / Contingent
- Absolute / Limited

Ownership is distinct from possession: ownership is a de jure relationship; possession is a de facto relationship.

Possession vs Ownership

Point	Possession	Ownership
Nature	De facto relation	De jure relation
Elements	Corpus + Animus	Ultimate residual right
Transfer	By delivery	By conveyance / operation of law
Protection	Possessory remedies	Proprietary remedies
Proof	Easier to prove	Often more difficult

Nature of Legal Personality

A legal person is any entity to which the law attributes the capacity of rights and duties.

Natural persons: human beings.

Artificial / juristic persons: corporations, companies, idols, the State, trade unions, etc.

Theories of corporate personality:

- Fiction theory (Savigny) – corporation is a fictitious person created by the State
- Concession theory – personality is a concession from the State
- Realist theory (Gierke) – corporation is a real social organism
- Bracket / Symbolist theory – the corporate name is only a shorthand for the members

Indian law recognises both natural and juristic persons (e.g., companies under the Companies Act, idols as legal persons in certain contexts).

Status of Unborn, Minor, Lunatic, Drunken & Dead Persons

- Unborn person: Can be the subject of rights (e.g., property can be given to an unborn child under the Transfer of Property Act, subject to the rule against perpetuity). Has no duties.
- Minor: Limited capacity to contract (Indian Contract Act S. 11); protected in many areas of law; can own property but generally cannot alienate it without authority.
- Lunatic / Person of unsound mind: Contracts voidable or void depending on the degree of incapacity; special procedures for management of property.
- Drunken person: Similar to temporary incapacity; contracts may be voidable if the other party knew of the intoxication.
- Dead person: Personality ends at death; rights and duties pass to successors or are extinguished; reputation and certain personality rights may receive limited posthumous protection.

Key Takeaways – Unit IV

- A legal right is an interest recognised and protected by law; every right has a correlative duty.
- Possession consists of physical control (corpus) and intention (animus); it is protected independently of ownership.
- Ownership is the ultimate residual right; it is de jure, while possession is de facto.
- Legal personality is the capacity for rights and duties; it extends to natural and artificial persons.
- Unborn persons, minors, lunatics and dead persons have special status and limited or modified capacities.
- Hohfeld's analysis provides a precise vocabulary for analysing legal relations.

End of Unit – IV

Legal Concepts – Right, Duty, Possession, Ownership, Personality

Proceed to Unit-V: Liability, Wrongful Acts & Substantive/Procedural Law