

# Kinds of Legal Rights

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1. Perfect and Imperfect Rights
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# 1-Perfect and Imperfect rights

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According to Salmond,

- A perfect right is one which corresponds to a perfect duty. A perfect duty is one which is not merely recognised by law but also enforced by law.
- In all fully developed legal systems, there are rights and duties which, though recognised by law, are not of perfect nature. Those rights are called imperfect rights.

**Examples of imperfect rights are-**

the claims barred by the lapse of time, claims against foreign States or sovereigns, claims which cannot be enforced as they do not lie within their local limits of the jurisdiction of the court, debts due to an executor from the estate which he administers. In these cases, the rights and duties are imperfect as no action lies for their maintenance.

**An imperfect right may be good as a ground of defence, though not good as a ground of action. An imperfect right may become perfect. The right of action may be dormant and not non-existent.**

## 2-Positive and Negative rights

When a duty, which corresponds to a right, is a positive duty, that right is called a positive right. The person on whom the duty lies shall do some positive act on behalf of the person entitled.

A negative right corresponds to a negative duty that is a person bound shall refrain from some act, which would operate to the prejudice of the person entitled.

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Positive right is a right to be positively benefited; negative right is merely a right not to be harmed. In the case of a negative right, others are restrained from doing something. The satisfaction of the positive rights results in the betterment of the position of the owner. In case of negative rights, the position of the owner is merely maintained as it is.

The law is more concerned with prevention of harm than enforcement of positive benefit. Liability for harmful acts of commission is the general rule, but liability for acts of omission is the exemption

## 3-Real rights and Personal

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A real right or *right in rem* is a right over a res or a thing. According to Salmond, a real right corresponds to a duty imposed upon persons in general. The *right in personam* or personal right corresponds to a duty imposed upon determinate individuals.

The *right in rem* is available only against the whole world, while *right in personam* is available only against particular persons. It is an interest protected solely against determinate individuals. In a sense, a *right in rem* is a right to be left alone by other persons, that is, a right to their passive non-interference.

## 4- Proprietary and personal rights

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The proprietary rights of a person include his estate, his assets and his property in many forms.

Proprietary rights have some economic and monetary value.

Proprietary rights are valuable and personal rights are not.

Proprietary rights are elements of the wealth of a man.

**Personal rights are merely elements of his well-being.**

Proprietary rights merely not merely possess judicial but also economic importance. Personal rights possess merely judicial importance.



## **5-Inheritable and Uninheritable rights**

A right is inheritable if it survives its owners.  
It is uninheritable if it dies with him.

Proprietary rights are inheritable but personal rights are uninheritable. The heirs of a proprietary owner become owners after his death. In the case of personal rights, they die with the owner and cannot be inherited.

## 6- *Jus Ad Rem* or a Right to a right

*Jus ad rem* is a right to a right. It is a *right in personam*.  
eg, a contract to assign property in future, a promise of marriage etc.

Here, two rights are involved. The right, which is to be transferred, may be either a *right in rem* or a *right in personam*, but the other right, that is a right to a right will always be a right in personam only.

## 7- Rights in Re Propria and rights In re Aliena

A right in *re-aliena*, which is also called an encumbrance, is one which limits or derogates from some more general rights belonging to some other person in respect of the same subject matter. All other rights are rights in *re-propria*.

The owner of a chattel has *jus in re-propria* or a right over his own property. The pledge has *jus in re-aliena* or a right over the property of someone else.

Rights in *re-propria* are rights in one's own property.

Rights in *re-aliena* are rights over the property of another person.

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**There are four main classes of encumbrances- *servitude, lease, security and trust.***

- A *servitude* is a right to the limited use of a piece of land unaccompanied either by the ownership or by possession of it.
- A *lease* is the encumbrance of property vested in one man by a right to the possession and use of it vested in another.
- A *security* is an encumbrance vested in a creditor over the property of his debtor for the purpose of securing the recovery of the debt.
- A *trust* is an encumbrance in which the ownership of property is limited by an equitable obligation to deal with it for the benefit of someone else. The owner of the encumbered property is called the trustee and the owner of the encumbrance is called the beneficiary.

## 8-Principal and Accessory rights

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Principal rights exist independently of other rights. Accessory rights are appurtenant to other rights and they have a beneficial effect on principal rights.

- A security is accessory to the right secured.
- Servitude is accessory to the ownership of the land for whose benefit it exists.
- The rent and covenant of a lease are accessory to the ownership of the property by the landlord. Covenants for title in a conveyance are accessory to the estate conveyed.
- A right of action is accessory to the right for whose enforcement it is provided.

## 9- Legal and Equitable rights

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Legal rights are those recognised by Common Law Courts and Equitable rights are those rights recognised only in the Court of Chancery.

Principles of equity evolved in English law in order to mitigate the rigorous of ordinary law. In spite of the fusion of law and equity by the Judicature Act 1873, the historical distinction still survives and is relevant in some situations. When two legal rights are found inconsistent, the first in time generally prevails. When a legal right and a equitable right are in conflict, the legal right will prevail over the equitable right, even though subsequent in origin, provided that the owner of the legal right acquired it for value and without notice of prior equity.

## 10- Vested And Contingent Rights

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A vested right is a right in respect of which all events necessary to vest it completely in the owner have happened. No other condition remains to be satisfied.

In the case of a contingent right, only some of the events necessary to vest the right in the contingent owner have happened.

**According to Paton** “When all the investitive facts which are necessary to create the rights have occurred, the right is vested; when part of the investitive facts have occurred, the rights contingent until the happening of all facts on which the title depends.”

## 11- Primary And Secondary Rights

**Primary rights** are also called antecedent, sanctioned or enjoyment rights. **Secondary rights** are called sanctioning, restitutory or remedial rights.

*Examples of primary rights are the right of reputation, the right in respect of one's own person, the right of the owner of a guardian etc.*

Secondary rights are a part of the machinery provided by the state for the redress of injury done to primary rights.