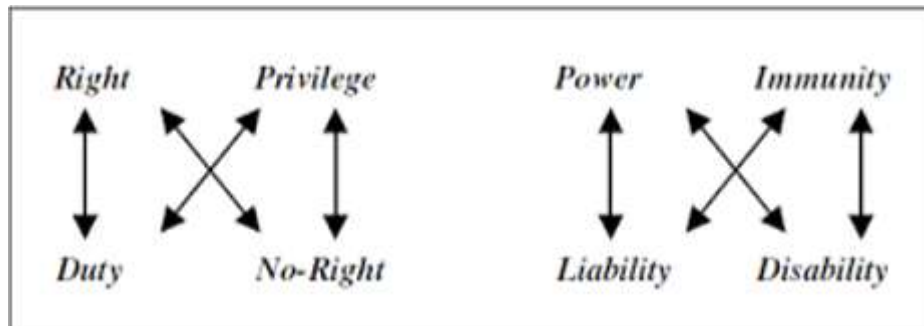


JURAL OPPOSITES AND CO RELATIVES.



Wesley Newcomb Hohfeld who created this table above, was a Harvard law professor in the early 20th Century.

Famous work of Hohfeld - *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (1919).

Need of this table ?

Hohfeld noticed that even respected jurists conflate (combine) various meanings of the term right, sometimes switching senses of the word several times in a single sentence. He wrote that such imprecision of language indicated an imprecision of thought, and thus also of the resulting legal conclusions (which is not desired in legal world). In order to both facilitate reasoning and clarify rulings, he attempted to disambiguate the term rights by breaking it into eight distinct concepts. To eliminate ambiguity, he defined these terms relative to one another, grouping them into four pairs of Jural Opposites and four pairs of Jural Correlatives.

Hohfeld's eight terms are arranged in two tables of 'correlatives' and 'opposites' that structures the internal relationships among the different fundamental legal rights, this is called the '**Hohfeldian analysis**'

Before Studying the tables, we must understand the difference between the following terms

Liberty, Power and Immunity

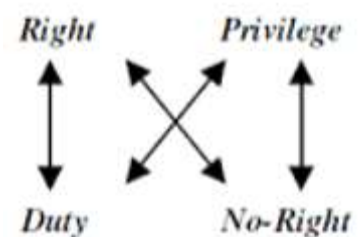
Liberty

Liberty/privilege means the absence of restraint.

Not the same as Rights, 'liberty' implies that the law does not forbid a person from doing (or not doing) an act. Such liberty/privilege arises out of the absence of duties imposed upon him.

Different from Right - 'Right' implies that the law enjoins on another the duty of doing (or not doing) something for the benefit of the person entitled to the 'right' but 'Liberty' arises out of absence of right in another and absence of duty in oneself.

Salmond says *'Rights are what others are to do for me; liberties are what I may do for myself'*



Power

A power is an ability on the part of the person to produce a change in a given legal relation.

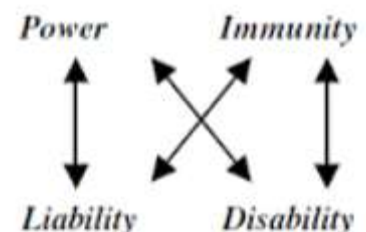
Example, a person has power to make a 'will'

When we talk about power there is no co relative duty on another person but in context to right there is a co relative duty on another person.

Immunity

Exemption from power of another is immunity

Example. Diplomatic immunity



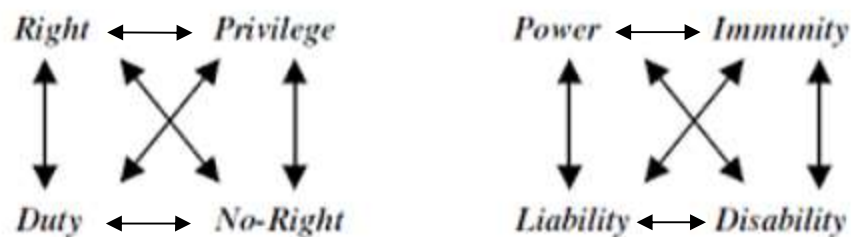
Now after we have understood these terms we must understand what Jural Opposites and Jural Co relatives are.

Jural Opposite – Opposite of a term

Jural Co relative - "Correlatives" signifies that these interests exist on opposing sides of a pair of persons involved in a legal relationship.

Jural Contradictories – Like Co relative shows what the opposing part has, Contradictories shows what the other person doesn't have.

In the following chart the CROSS arrows show jural Opposites, and STRAIGHT arrows show the jural co relatives and HORIZONTAL ARROWS shows Contradictories.



(Salmond uses the term 'liberty' instead of 'privilege', both mean the same thing here)

Some More Real-life Examples

A right can be enforced by a lawsuit against the person who has the correlative duty. A privilege negates that right and duty, and typically would be asserted as an affirmative defense in the lawsuit.

Courts have power, only if plaintiffs or prosecutors exercise their power to commence a lawsuit. Sovereign states are immune because courts lack power over them, in which case courts are said to have a disability with respect to sovereigns and their agents (Diplomats)

A power is the capacity to create or change a legal relationship.

For example, when someone make an offer of a contract, that gives the offerree the power to create a contract by accepting the offer (or not). If the power to create the contract is exercised, then both parties have rights and duties with respect to each other.

Right, Power, liberty and immunity are not mutually exclusive terms when we get a right over something it can be a bundle of rights containing all the elements.

Paucital and Multital rights

Hohfeld replaces the concept of "right in personam" by "paucital right" and "right in rem" by a compound or aggregate of "multital rights".

Rights held by a person against one or a few definite persons are paucital (or "in personam")

Rights held by a person against a large indefinite class of people are multital (or "in rem")

A contract right is paucital (or "in personam") because it can be enforced only against the specific parties to the contract.

A property right is multital (or "in rem") because a landowner has the right to exclude not only specific people from his land but the "whole world". The landowner has many rights, privileges, powers, and immunities; his multital rights are composed of many paucital rights.

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