

Chapter - 1.

* Source of law.

Precedent :- Precedent means A set pattern guiding the future Conduct

- Decision that establish A new rule or principle is Consider Judicial Precedent.

→ Example of Original Precedent :

- Vishaka guidelines stipulated by Supreme Court in Case of Vishaka v. State of Rajasthan in 1997. Act as a Original Precedent.

② Persuasive Precedent :

- Decision of One High Court may not be binding on another H.C it is Persuasive Precedent.

③ Absolutely Authoritative Precedent :

- Decision of Higher Court are absolutely binding on lower Court.

④ Conditionally Authoritative Precedent :

- Decision of Single Judge of H.C is Conditionally Authoritative On division bench of High Court.

* Types of Norms by Hans Kelsen :-

Grund norms → It is fundamental law of land known as Superior law. Every other law has to adhere to this law. Example → Constitution.

Superior norms → It is those law which governs subordinate laws. They are inferior to Supreme law but Superior to subordinate law.

Subordinate norm → laws that are derive or made to assist Superior norm. This norm derive their justification from Superior norm.

* Jurisprudence :-

- It is a Science of Law and encompassing its Concepts, Principles and underline philosophies rather than specific Statues or rules.
- According B.E. King Jurisprudence deals with theoretical aspect of law exploring what rights, duties and obligations are and how they emerge in Society.

* Roscoe Pound → Roscoe Pound was
distinguish American legal scholar
and leading Jurist

He classified interest into 3 categories :-

① Individual interest

(a) Interest of Personality :- freedom of will, reputation, privacy, Interest and Domestic relation.

(b) Interest in domestic relations :- Relationship with parents, children and spouses

(c) Interest of Substance :- Property of rights - freedom of association.

② Interest of State as a Juristic Person :- Integrity, freedom of action and honor of state

③ Interest of State as a guardian of Social Interest.

(a) Social Int. in general moral :- Law addressing prostitution, gambling, bigamy, drunkenness.

(b) Social Int. in general Progress :- Economic and political and Cultural progress.

(c) Social Int in general Security :- General safety, peace & order, Public

health

(d) Social Interest in individual life:- Self
assertion opportunities and conditions of
life.

* Criticism :-

→ His theory gives too much power to
Judge over law maker.

→ He lacks clear criteria for evaluating
Interest.

→ The difference betⁿ public & Social Int.
& Individual and Social Int. are
Unclear.