

There are many different sources of law in any society. Some laws will be written in the country's Constitution; others will be passed by the legislature (usually a parliament or congress); others will come from long social tradition.

Sources of law means the origin from which rules of human conduct come into existence and derive legal force or binding characters. It also refers to the sovereign or the state from which the law derives its force or validity.

There are many factors of law that have contributed to the development of law. These factors are regarded as the sources of law. Legal customs, Divine right, Natural and legal rights, human rights, civil rights, and common law are often implied and unwritten sources of law that have been established over decades or centuries. Canon law and other forms of religious law form the basis for law derived from religious practices and doctrines or from sacred texts; this source of law is important where there is a state religion. Historical or judicial precedent and case law can modify or even create a source of law. The ultimate in written laws are the charter, the constitution, and the treaty, much of which form the foundation of modern legal systems. Legislation, rules, and regulations are often the source of laws which are codified and enforced by the legal system. let us consider each main source of law in turn;

- ✓ • Precedents
- ✓ • Customs
- ✓ • Legislation
- ✓ • Statutory interpretation
- ✓ • Preparatory work

### Precedent

Precedent is one of the sources of law. The judgements passed by some of the learned jurists became another significant source of law. When there is no legislature on a particular point which arises in changing conditions, the judges depend on their own sense of right and wrong and decide the disputes. Such decisions become authority or guide for subsequent cases of a similar nature and they are called precedents. The dictionary of English law defines a judicial precedent as a judgement or decision of a court of law cited as an authority for deciding a similar state of fact in the same manner or on the same principle or by analogy. Precedent is more flexible than legislation and custom. It is always ready to be used.

### Customs

A custom is a rule which in a particular family or in a particular district or in a particular section, classes or tribes, has from long usage obtained the force of law. The dictionary of English law defines custom as a law not written, which being established by long use and consent of our ancestors has been and daily is put into practice. Custom as a source of law got recognition since the emergence of sovereignty on the horizon of jurisprudence. It is an exemption to the ordinary law of

the land, and every custom is limited in its application. They are practices that have to be repeated for a period of time.

## **Legislation**

Legislation is that source of law which consists in the declaration of legal rules by a competent authority. Legislature is the direct source of law. Legislature frames new laws, amends the old laws and cancels existing laws in all countries. In modern times this is the most important source of law making. The term legislature means any form of law making. Its scope has now been restricted to a particular form of law making. It not only creates new rules of law it also sweeps away existing inconvenient rules.

From the definition of politician Mohamed Abdullahi Farmajo, defines legislation as Legislation (or "statutory law") is law which has been promulgated (or "enacted") by a legislature or other governing body, or the process of making it. (Another source of law is judge-made law or case law.) Before an item of legislation becomes law it may be known as a bill, and may be broadly referred to as "legislation" while it remains under consideration to distinguish it from other business. Legislation can have many purposes: to regulate, to authorize, to proscribe, to provide (funds), to sanction, to grant, to declare or to restrict.

## **Statutory interpretation**

Interpretation is a very important function of the court. The process of ascertaining the meaning of letters and expressions by the court is either interpretation or construction. Interpretation is the process of which the court seeks to ascertain the meaning of a particular legislature. It is through interpretation, the judiciary evolves the law and brings the changes in it and thus keeps the law abreast of law. Statutory (legislative) laws are generally derived from direct laws passed by the legislative arm of government.

## **Preparatory works**

In some legal cultures, some of the documents produced in the process leading up to legislation are subsequently used as guidelines on how to interpret and understand an act of legislation and determine legislative intent.

## **Customary law**

In developing countries which have been decolonised since the 1940s or 1950s, the law is generally a mixture of law introduced by the former colonial power and customary law which was there before colonisation. That customary law often still takes priority in certain areas of life.

Typically, customary law applies in those areas of life least affected by colonisation. These may include land ownership, customary titles and family relationships.

There may be special courts to deal with these matters, conducted according to tradition and presided over by a customary chief or group of elders. Alternatively,

these matters may be dealt with by an ordinary court, but customary law may take precedence over other kinds of law in these cases. /

## b) Difference between act and ordinance

### What is an Act?

An Act is a piece of legislation that is more specific and applies to particular circumstances and specific people. For example, there are laws against drunk driving and people are aware of them while DUI is the specific Act that pertains to drunk driving. An Act is a type of legislation that comes into effect when a draft bill introduced either by the treasury bench or a private member of the parliament gets passed by the members (legislators). It also gets the assent of the President to finally become an Act or the law of the land. Until such time, as an Act is passed by the parliament, it is known as a Bill. Once it gets passed, it becomes a law. While most of the people know the term law, not many remember specific acts that are applicable in different areas and different circumstances.

To begin with, a Bill is a proposed legislation, and it becomes an Act (or a regulation, as the case may be), once it has been discussed and debated by the members of the parliament who can introduce changes in the bill as they deem fit. After a bill has been discussed and passed by the lower house of the parliament, it goes to the upper house of the parliament where it undergoes the same procedure as the lower house and it is only when the upper house also passes the bill in the form that was proposed by the lower house, the bill is sent back to the lower house.

### What is an Ordinance?

Ordinance is mostly referred to as local level laws that are introduced by municipalities. Ordinances too have the same power and effect as that of acts but only within city limits. However, in some circumstances, ordinances have the ability to supersede federal laws.

When it comes to ordinances, there are several common areas that municipalities choose to create laws within their areas of power. For example, ordinances can focus on public streets as well as sidewalks. As part of this, there may be laws that are with regard to parking, littering, and also issues such as snow removal. Then, rules

regarding pets such as leash laws and removing their feces are also formed at the municipal level. Leash laws mean the necessity of having a leash on the dog when the dog is off the premises of the owner. One of the most important areas ordinances focus on is zoning. Now, zoning is dividing the entire land area of the municipality into different sections such as residential, commercial, and industrial areas. In doing so, the municipality expects to get the maximum use of the land it owns. This is followed because land is a very precious entity.

India is one country where the constitution empowers the President to promulgate ordinances that have the same effect as that of Acts. However, he can do so only when Parliament is not under a session and the ordinance so put into place by the government has to be presented to the parliament when the next session is convened. In most instances, the ordinance gets passed easily and then it becomes an Act (law).

Ordinance is passed when the Parliament is not in session and life of the ordinance is six months only but it could be extended for any number of times by the Parliament. An act and an ordinance have the same legal enforceability. An ordinance can be made an act after going through the procedure of discussions and assents so required.

There have been several instances where an ordinance is stretched for a long period of time without converting into an act. Then acts regarding ordinary laws are passed by the simple majority of house but in case of constitutional amendments two third majority must be required.

#### **What is the difference between Act and Ordinance?**

- Acts and ordinances are different types of laws that are made at different levels.
- Acts are passed by legislators in the parliament whereas ordinances are passed by municipalities and apply within city limits only.
- Acts are for the country as a whole as they get passed by the parliament. Ordinances are for the municipality that passes those laws.
- Acts can come covering different areas as it is the law of the country. Ordinances usually do not cover such a large area as Acts. Ordinances aim more at making life in the municipality better by making the environment agreeable and so on. So, these laws deal with day to day life more.
- Acts show what a government thinks while an ordinance shows what a municipality thinks.
- Everyone in the country has to follow the laws established by different Acts. However, only the people within the municipality have to follow the ordinances.
- In India, ordinances are laws that are passed through promulgation when the parliament is not under session and have the same power and effect as an Act. They, however, either get annulled or have to face the parliament when it convenes next and converts them into Acts.