



## MODULE VII

# Relevant Statutes

# Synopsis:

1. How do I know which statute is relevant?
2. What to do when multiple laws are applicable?
3. What is a Statute/Act?
4. What is the difference between State Act and central act?

## How do I know which statute is relevant?

- In order to identify the relevant laws, it is important to understand that what type of problem or irregularity has occurred.
- The first step is to understand the problem properly.
- The next step is to identify the issue arising out of the problem.
- Once the issue is clear, the irregularity can be categorized. While classifying, it is very important to consider that whether the "subject matter" of the case involves any issue regarding the procedural aspect of the law or the substantive aspect of the law



### This divides the law into two types

#### Procedural law

- Procedural law provides process which must be followed in a case.
- It consists of the "set of rules" that governs a proceeding in the court.
- It sets out a procedure for any criminal and civil case
- Procedural law includes the principles by which a court hears and figures out what occurs in common or criminal procedures.

#### Example:

- If a decision is given by the Court without giving both the parties an equal chance to be heard, which is a requirement, it would be a procedural irregularity.
- Not filing the FIR, Discrepancy in the chain of custody of the evidence, etc., are examples of procedural irregularity.

## Substantive law

- The law which characterizes rights and liabilities is known as substantive law.
- It consists of the statutory laws passed by the legislature.
- It deals with the substance of the case and explains how the facts are to be dealt with.
- Where matter is of substantive nature, matter can be resolved by either prosecution or out-of- court settlement.

### Example:

- In a matter where ownership of a property has to be decided, the laws applicable would be substantive laws.
- If there is a breach of contract, the prosecution could be done as per the law of Contracts.
- If the wrong is done against the State or the society, that is, it is of criminal nature, the prosecution could be done as per the law of crimes.
- If there is a conflict regarding any civil matter, the prosecution would be governed by particular civil laws.

Hence, once it is understood that what kind of irregularity has occurred, the research is refined and becomes precise.

### Example:

Kartik and Soni are partners of a firm, without a partnership deed with a capital of Rs 4,00,000 and Rs. 6,00,000 respectively. Soni wants to share the profits, as per the ratio of their respective capitals.



### Issue: Whether the claim is valid?

- Now, in the given illustration, the main problem which can be inferred is related to “the profit sharing Ratio”.
- Then in order to identify the statutes of the given case, the researcher has to consider the fact that they are partners in a partnership firm, without a partnership deed.

Thus considering the facts, the researcher would understand that the main dispute in the given case is regarding Partnership.

## How do I know which statute is relevant?

- It is not necessary that the issue attracts only one Law. Different parts of the problem could fall under different Laws. Hence it becomes a combination of Laws.
- When such a situation is countered by the researcher, he should find the relevant part from all the laws that are applicable to the given issue.
- Therefore, while carrying out the legal research, one should keep an open mind to numerous possibilities. The research strategy should not be restricted.
- It becomes important to understand whether the relevant Act would be read by itself or with another Act. This is so because it provides for the best and most appropriate remedies.
- The relevant parts of different laws are read in harmonious construction with each other and are interpreted using the same rule.



**Note:** Harmonious Construction is a rule of interpretation of statutes. In this rule, the different statutes are read in such a manner that the legal intent can be maintained and the justice could be delivered.

### Illustration:

"X" who is the wife of "Y" got married as per Hindu rituals. After 1 year of marriage, X went before the Court seeking divorce from her husband "Y" on the grounds of "Domestic violence".



#### STEP 1 – Identifying Issues:

- Whether domestic violence is a ground for divorce under Hindu marriage laws?
- Whether domestic violence is a criminal offence?

#### STEP 2 – Identifying the relevant statutes

Now, as per the issues raised, multiple provisions would be attracted such as:

- **Substantive laws** - Section 13, Hindu Marriage Act, 1955; Section 498 of Indian Penal Code, 1860;
- **Procedural law** - Section 125, Code of Criminal Procedure, 1973

#### STEP 3 – Identifying the relevant statutes

Individual reading of all 3 statutes. Find the parts which are relevant for the issue.

#### STEP 4 – Analysis of provisions identified

Analyse if the relevant sections are complimenting or contradicting each other.

# What is a Statute/Act?



- A statute is a formal written enactment of a legislative authority that governs the legal entities of a city, state, or country by way of consent. Typically, statutes command or prohibit something, or declare policy. Statutes are rules made by legislative bodies.
- They are distinguished from case law or precedent, which is decided by courts, and regulations issued by government agencies.
- Example: Indian Penal Code, 1860 is a codified law, a statute. The precedent set in Kesavananda Bharati Sripadagalvaru vs. State of Kerala, MANU/SC/0445/1973 which is the Doctrine of Basic Structure, is not a statute but a rule of common law.

## What is the difference between State Act and Central act?

**Central Acts** are the ones which are passed by the Central Legislature. They are applicable on the whole of India. They prevail over State Acts in case of ambiguity.

**State Acts** are the ones which are passed by the State legislatures. They are applicable only within the boundaries of the particular State. They are based on the local culture and norms of that State

**Example:** Indian Penal Code, 1860 is a Central Act which is applicable to the whole of India. U.P Land Revenue Act is a State Act which is applicable only within the territory of the state of Uttar Pradesh

## Conclusion

Identifying the relevant statutes aids in determining the applicable laws, rules, regulations, and precedents for the matter at hand. It is a crucial step in the legal research process and therefore plays a significant role in the research outcome.



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