jurisprudence meaning न्यायशास्त्र सा

Jurisprudence is the study that deals with the fundamental principles and various concepts of law. It guides a person to understand the deeper meaning of law. The word jurisprudence is derived from the Latin term “Jurisprudentia” which means “knowledge of the law”. Basically ‘Jure’ means law and ‘prudentia’ means knowledge. Thus, the meaning of the entire word signifies a practical knowledge of law and its various applications.

The aim of Jurisprudence is to help a layman understand the deeper meaning of the law. Jurisprudence is a crucial part of the law which is entirely based on theories and various analyses. Jurisprudence focuses on the relationship of law with society, social science, and so on.

न्यायशास्त्र कानून के मूलभूत सिद्धांतों और विभिन्न अवधारणाओं का अध्ययन है, जो इसके गहरे अर्थ और अनुप्रयोगों की खोज करता है। “न्यायशास्त्र” शब्द लैटिन शब्द “जुरिसप्रुडेंटिया” से लिया गया है, जहां “जुरे” का अर्थ कानून और “प्रुडेंटिया” का अर्थ ज्ञान है, जो कानून के व्यावहारिक और सैद्धांतिक समझ को दर्शाता है। न्यायशास्त्र व्यक्तियों, जिसमें आम लोग और कानूनी विद्वान शामिल हैं, को कानून की प्रकृति, उद्देश्य और सामाजिक भूमिका को समझने में मदद करता है। यह कानूनी अध्ययन का एक महत्वपूर्ण हिस्सा है, जो सिद्धांतों और विश्लेषणात्मक ढांचों पर आधारित है, तथा कानून, समाज और सामाजिक विज्ञानों जैसे विषयों के बीच संबंधों पर केंद्रित है।

Jurisprudence means the study of law that takes place in a logical and philosophical manner. Jurisprudence analyses the nature of law, legal systems, legal rules, legal concepts, and legal institutions and creates a way to understand the social, political as well and cultural arenas where law operates. It is a vast field that consists of a range of perspectives which includes natural law, legal realism, critical legal studies, and so on. The study of jurisprudence helps scholars and practitioners to develop a deeper understanding of law and its importance in shaping society.

न्यायशास्त्र कानून का तार्किक और दार्शनिक अध्ययन है, जो इसकी प्रकृति, कानूनी प्रणालियों, नियमों, अवधारणाओं और संस्थानों का विश्लेषण करता है। यह उन सामाजिक, राजनीतिक और सांस्कृतिक संदर्भों को समझने का ढांचा प्रदान करता है जिनमें कानून कार्य करता है। यह व्यापक क्षेत्र प्राकृतिक कानून, कानूनी यथार्थवाद, आलोचनात्मक कानूनी अध्ययन जैसे दृष्टिकोणों को शामिल करता है। न्यायशास्त्र विद्वानों और व्यवसायियों को कानून और इसके समाज को आकार देने में भूमिका की गहरी समझ प्रदान करता है।

Jurisprudence began in the Roman Times with the Romans scrutinizing the importance of the law and the nature of the law. Although it had a restrictive approach as the ideas of law and ethics were blurred. After the fall of the Roman Empire, their set of ideas regarding jurisprudence vanished and the Christian State emerged. With the rise of Christian Rule, the concept of secularism arose. Several hypotheses and concepts were proposed by renowned personalities.

Gradually, the possibility of positive law and positive methodologies took over whereby the limits of the law were divided. With the evolution of ideologies, several jurists presented their own interpretations of jurisprudence.

In natural law, Jurisprudence was co-related with rights based on morals and divine law. In the analytical school, the law was considered as Command of Sovereignty. Every jurist had their own take on jurisprudence which we are about to discuss in the next topic.

न्यायशास्त्र की शुरुआत रोमन काल में हुई, जब रोमनों ने कानून की प्रकृति और महत्व की जांच की, हालांकि कानून और नैतिकता आपस में जुड़े थे, जिसने इसके दायरे को सीमित किया। रोमन साम्राज्य के पतन के बाद, ये विचार लुप्त हो गए और ईसाई राज्य का उदय हुआ, जिसने धर्मनिरपेक्षता को प्रस्तुत किया। प्रसिद्ध विद्वानों ने विभिन्न सिद्धांत और अवधारणाएं प्रस्तावित कीं। धीरे-धीरे, सकारात्मक कानून और पद्धतियों ने कानून की सीमाएं निर्धारित कीं। विचारधाराओं के विकास के साथ, न्यायशास्त्रियों ने न्यायशास्त्र की विविध व्याख्याएं दीं। प्राकृतिक कानून में, न्यायशास्त्र को नैतिक और दैवीय अधिकारों से जोड़ा गया, जबकि विश्लेषणात्मक स्कूल ने कानून को संप्रभुता का आदेश माना। इन दृष्टिकोणों को अगले विषय में और किया जाएगा।

Corrected definition.

Law is a term with various meanings, but in jurisprudence, it is used in an abstract sense, referring to the principles underlying legal systems rather than specific or concrete statutes.

कानून एक ऐसा शब्द है जिसके विभिन्न अर्थ हैं, लेकिन न्यायशास्त्र में इसका उपयोग अमूर्त अर्थ में किया जाता है, जो कानूनी प्रणालियों के अंतर्निहित सिद्धांतों को संदर्भित करता है, न कि विशिष्ट या मूर्त क़ानूनों को।

Definition of jurisprudence by 5 different juries.

1. **Salmond's Definition of Jurisprudence**

John Salmond, in his book *Jurisprudence or the Theory of the Law* (1902), defines jurisprudence as:

"Jurisprudence is the science of law."

In a more detailed sense, Salmond elaborates:

"Jurisprudence is the science which deals with the knowledge of law in its abstract sense, not as applied to any particular legal system, but as a body of knowledge concerning the principles and concepts underlying all systems of law."

न्यायशास्त्र वह विज्ञान है जो कानून के ज्ञान से संबंधित है, इसके अमूर्त अर्थ में, न कि किसी विशेष कानूनी प्रणाली के रूप में, बल्कि सभी कानूनी प्रणालियों के अंतर्निहित सिद्धांतों और अवधारणाओं से संबंधित ज्ञान के रूप में।

2. The definition of **jurisprudence by C.K. Allen** is one of the well-known ones in legal theory. According to him:

   "Jurisprudence is the scientific synthesis of the essential principles of law."

   Allen emphasizes that jurisprudence is not about the detailed rules of law, but about the underlying principles, their logical coherence, and their relation to justice and social needs.

   Allen का मानना था कि विधिशास्त्र का कार्य कानून के सूक्ष्म नियमों का अध्ययन करना नहीं है, बल्कि उसके पीछे छिपे मौलिक सिद्धांतों, उनकी तार्किक संगति तथा न्याय एवं सामाजिक आवश्यकताओं से उनके संबंध को समझना है।

3. **Ulpian** (a famous Roman jurist) defined jurisprudence as:
   "Jurisprudence is the knowledge of things divine and human, the science of the just and the unjust." "विधिशास्त्र दैवीय और मानवीय वस्तुओं का ज्ञान है, तथा न्याय और अन्याय का विज्ञान है।"

4. Roscoe Pound defined jurisprudence as:
   "Jurisprudence is the science of law, using the term 'law' in the juridical sense, as denoting the body of principles recognized or enforced by public and regular tribunals in the administration of justice."

   सरल शब्दों में: Pound ने कहा कि विधिशास्त्र कानून का विज्ञान है — जहाँ *कानून* से आशय उन सिद्धांतों से है जिन्हें समाज में न्याय लागू करने के लिए न्यायालय (tribunals) मान्यता और प्रवर्तन (enforcement) देते हैं।

   "विधिशास्त्र कानून का विज्ञान है, जिसमें 'कानून' शब्द का प्रयोग न्यायिक अर्थ में किया जाता है; अर्थात् ऐसे सिद्धांतों का समूह जिन्हें सार्वजनिक और नियमित न्यायालय न्याय के प्रशासन में मान्यता देते हैं या लागू करते हैं।"

5. **Jerome Hall** (1901–1992,
   "Jurisprudence is the systematic study of law viewed as a means of social control, integrating moral, social, and historical dimensions into legal analysis."
   "विधिशास्त्र कानून का संगठित अध्ययन है, जिसमें कानून को सामाजिक नियंत्रण के साधन के रूप में देखा जाता है, और जिसमें नैतिक, सामाजिक तथा ऐतिहासिक पक्षों को विधि-विश्लेषण में सम्मिलित किया जाता है।"

Allen According to this

By jurist C.K. Allen

"Jurisprudence is the scientific synthesis of the essential principles of law."

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by **Jerome Hall**)

“Jurisprudence includes the search for the ultimate conceptions in terms of which all legal knowledge can be significantly expressed.”

Jurisprudence definition by Ulpian:-

"Jurisprudence is the knowledge of things divine and human, the science of the just and and the unjust"

Jurisprudence definition by rosco pond

“Jurisprudence is a consideration of the ethical and social merits of legal rules.”

Salmond’s Definition:
“Jurisprudence is the science of the first principles of the civil law.”

Summary Comparison

Scholar	Brief Definition of Jurisprudence
Jerome Hall	A philosophy that integrates values, facts, and ideas into a coherent legal theory (*Integrative Jurisprudence*)
Salmond	“The science of the first principles of the civil law”—focus on fundamental legal principles.
Roscoe Pound	Law as a tool of social engineering; jurisprudence studies the principles courts use to ensure justice.

Jurisprudence definition shortcut

By rosco pond	consideration of the ethical and social merits
By allen	scientific synthesis of the essential principles
By salmand	abstract sense
By Ulpian	just and unjust
Jerany hall	research process, ethical process,

Roscoe Pound: कानूनी नियमों के नैतिक और सामाजिक गुणों पर विचार (या सामाजिक इंजीनियरिंग)।
C.K. Allen: आवश्यक सिद्धांतों का वैज्ञानिक संश्लेषण।
Salmond: अमूर्त अर्थ।
Ulpian: उचित और अनुचित का ज्ञान।
Jerome Hall: अनुसंधान प्रक्रिया, नैतिक प्रक्रिया।

Important question **Right of die is a part of right to life?**

Answer :- no.

The Indian Supreme Court has ruled that while the right to die is not a part of the right to life, the "right to die with dignity" is a part of the fundamental right to life under Article 21. The court's distinction hinges on the difference between suicide (the unnatural extinguishment of life) and the right to refuse treatment when facing a terminal illness.

Key cases distinguishing the right to die

- **P. Rathinam v. Union of India (1994):** The Supreme Court initially held that Article 21 included the right to die, and it struck down Section 309 of the Indian Penal Code, which criminalized attempted suicide.
- **Gian Kaur v. State of Punjab (1996): This decision overturned the Rathinam ruling.** The court held that the right to life does not include the right to die and reaffirmed the constitutional validity of punishing abetment of suicide (Section 306). However, it also acknowledged that the right to live with human dignity could include the right to die with dignity at the end of a natural life.
- **Aruna Shanbaug v. Union of India (2011):** This landmark case concerned a nurse who had been in a persistent vegetative state for decades. The Supreme Court allowed **passive euthanasia** in exceptional circumstances, though it did not allow it for Aruna Shanbaug specifically. It established guidelines for allowing **passive euthanasia under judicial oversight**.
- **Common Cause v. Union of India (2018):** A five-judge bench unequivocally declared the "right to die with dignity" as a fundamental right under Article 21. This decision legalized passive euthanasia and gave legal sanction to "living wills" or advance medical directives for terminally ill patients.

Question : - what is Customs?

Answer : -Traditions

“Source of Law”, a concept in **Jurisprudence**.

Corrected Version:

Source literally means a point from which anything rises or originates. The term may be understood in more than one sense. When we talk about the source of, say, a table, it may mean who manufactured it, of what materials it is made, and lastly, from where we get it.

Thus, like law, the term **source *of law*** has several meanings, and unless one knows what meaning has been attributed to it at a particular place, confusion may arise. To an extent, it will not be incorrect to say that the meaning of *source of law* will depend upon the meaning one gives to the word *law*.

What is education do? Education provides awareness.

What is law education do? Law education provides self-awareness.

Question :- who is the founder of analytical school?

- The **Analytical School of Jurisprudence** (sometimes written as *Enletical School* by mistake) was founded by **John Austin (1790–1859)**.
- The **idea of the Analytical School** mainly came from *** **Jeremy Bentham (1748–1832)*****, who was the teacher of **John Austin**.
- **Yes, Jeremy Bentham is widely considered the founder of the Analytical School** of Jurisprudence, though his student, John Austin, is often called its father. The discrepancy lies in the fact that while Bentham originated the core ideas, Austin was the one who provided the first systematic and comprehensive framework for the school.
- **John Austin** carried forward Bentham's ideas and developed them into a full-fledged theory — known as the **Analytical School of Jurisprudence**.
- The **origin/idea** of the Analytical School = from **Bentham**.
- The **founder** or systematiser = **Austin**.
- John Austin: Followed Bentham and published his theories after him. He is recognized as the founder of the Analytical School because he popularized and simplified Bentham's philosophy for the English-speaking world.

Question: What is Legal Custom?

Answer:
A *legal custom* is a rule of conduct which, by long usage and continuous practice, has obtained the force of law in a particular community or locality. In simple terms, when people of a society follow a particular practice for a long time with a sense of obligation, and it is recognized and enforced by courts, it becomes a legal custom.

Or

In the evolution of human society, it appears to be beyond doubt that customs arose first and law came later. Law denotes a more definite organization of human society, in which a kind of power structure is established.

Custom arises whenever a few human beings come together, as no association of human beings can exist permanently without adopting, consciously or unconsciously, some definite rules governing reciprocal rights and obligations.

Question : - what is the main elements of the valid customs?

Key Points:

1. It originates from long and consistent usage.
2. It is followed by the people with a belief that it is binding.
3. It must be certain, reasonable, and not opposed to morality or public policy.
4. It is recognized and enforced by courts of law.

Example:
The Hindu practice of adoption became valid because it was recognized as a *legal custom* even before codified law existed.

What is Essential of customs

For a custom to be legally recognized and enforced, it must possess several essential elements, which have been established through case law and jurisprudence

These elements ensure the practice is genuinely a long-standing, community-accepted rule and not a new or arbitrary tradition.

The essential elements of a valid custom are:

1. **Antiquity:** The custom must be ancient, meaning it has been in existence for a long time—often referred to as "time immemorial". While Indian law doesn't specify a precise year like English law, a long and continuous practice is required.

2**. Certainty:** The custom must be clear, unambiguous, and well-defined. Its nature, application, and the persons it affects must be certain, as a vague or indefinite custom cannot be proven.

3. **Reasonableness**: A custom must be reasonable and sensible. It cannot be unjust, oppressive, or against the principles of morality, justice, and public utility. For example, a custom that was once accepted, like Sati, would be considered unreasonable and invalid today.

4. **Obligatory Force**: The custom must be observed as a matter of right and not merely as an optional practice. The community must feel bound to follow it out of a sense of duty, not just convenience or discretion.

5. **Continuity**: The custom must have been practiced continuously and without any significant interruption. A long suspension or break in observance can negate the custom's validity.

6. **Consistency:** A custom must not be in conflict with other prevailing customs within the same community or locality. Contradictory customs cannot coexist as valid rules of conduct.

7. **Conformity with Statute Law and Public Policy:** No custom can override or contradict existing statutory law. If a statute is enacted that goes against a custom, the statute will prevail. Similarly, the custom must not be against public policy or violate the fundamental principles of the Constitution.

8. **Peaceable Enjoyment:** The custom must have been practiced openly and without opposition. If the custom has been in dispute in a court or otherwise, it weakens the presumption that it originated by the consent of the people it affects.

बेशक, यहाँ रीति-रिवाजों के आवश्यक तत्वों की तालिका हिंदी में दी गई है:

आवश्यक तत्व	विवरण
प्राचीनता	यह प्रथा बहुत पुरानी होनी चाहिए, जो लंबे समय से अस्तित्व में हो, अक्सर इसे "अनादिकाल से" कहा जाता है।

निश्चितता	इसकी प्रकृति, दायरा और उपयोग के मामले में यह स्पष्ट, निर्विवाद और अच्छी तरह से परिभाषित होनी चाहिए।
तर्कसंगतता	यह प्रथा उचित, न्यायसंगत और सार्वजनिक नैतिकता, न्याय या उपयोगिता के सिद्धांतों के विरुद्ध नहीं होनी चाहिए।
बाध्यकारी शक्ति	इसका पालन समुदाय द्वारा एक अधिकार और कर्तव्य के रूप में किया जाना चाहिए, न कि केवल एक वैकल्पिक अभ्यास के रूप में।
निरंतरता	इसका लगातार और बिना किसी महत्वपूर्ण रुकावट के अभ्यास किया जाना चाहिए।
संगति	एक ही समुदाय या स्थान में यह किसी अन्य स्थापित प्रथा के साथ विरोधाभास में नहीं होनी चाहिए।
कानून के अनुरूपता	यह मौजूदा वैधानिक कानून का खंडन या उल्लंघन नहीं करनी चाहिए। यदि कोई कानून किसी प्रथा के विरुद्ध हो तो कानून ही मान्य होगा।
सार्वजनिक नीति के अनुरूपता	यह प्रथा सार्वजनिक नीति के विरुद्ध या संविधान के मूलभूत सिद्धांतों का उल्लंघन नहीं करनी चाहिए।
शांतिपूर्ण उपयोग	इस प्रथा का खुले तौर पर और इसके अस्तित्व पर बिना किसी विरोध या विवाद के अभ्यास किया जाना चाहिए।

Question :- what is Article 21A?

Answer :-

Article 21A of the Indian Constitution guarantees the Right to Education as a fundamental right for children between the ages of 6 and 14.

Key provisions of Article 21A

- Fundamental Right: **The 86th Constitutional Amendment Act of** 2002 Inserted Article 21A, officially making the right to free and compulsory education a fundamental right, which is legally enforceable.It applies specifically to children in the 6 to 14 years age bracket.
- State responsibility: It places the obligation on the State to provide this education "in such a manner as the State may, by law, determine".
- Legal framework: To operationalize this constitutional mandate, the Right of Children to Free and Compulsory Education Act (RTE Act) was enacted in 2009 and came into force on April 1, 2010.

Queston :- what is vishaka guidelines?

Answer :- Vishaka Guidelines were a set of binding directives established by the Supreme Court of India in 1997 to prevent and address sexual harassment of women in the workplace. They were a landmark judgment that created a legal framework at a time when no specific law existed to deal with the issue

विशाखा दिशानिर्देश भारत के सर्वोच्च न्यायालय द्वारा 1997 में जारी किए गए कुछ बाध्यकारी निर्देश थे, जिनका उद्देश्य कार्यस्थल पर महिलाओं के यौन उत्पीड़न को रोकना और उसका समाधान करना था। यह एक ऐतिहासिक फैसला था, जिसने उस समय एक कानूनी ढांचा प्रदान किया, जब इस मुद्दे से निपटने के लिए कोई विशिष्ट कानून मौजूद नहीं था।

What is the meaning in legal language in constitution?

May	yes or not
Shell	government shell do this
Must	government can’t deny this or not shop the work in any manner.
