

# Legal Terminology

To: Constitutional Law I Class  
From: Sinae Kim  
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Re: Privilege, Right, Power, and Immunity

## Introduction

Legal terminology is better understood when we compare it with its opposites. Below are the four basic statements that explain how it works.

- (1) If we determine that A may conduct himself in a certain way he has a privilege with respect to B, and B has no right that A shall not so conduct.
- (2) If we determine that A must conduct himself in a certain manner he has a duty to B, and B has a right against A..
- (3) If we determine that by his own voluntary act, A can change B's legal relations with A (or with X), A has a legal power and B has a liability.
- (1) If we determine that A cannot by his own voluntary act change the legal relations of B, then A has a disability and B has an immunity

## Definition

The eight listed words are formally defined as the following:

- (1) RIGHT: An enforceable claim to performance (action or forbearance) by another. It is the legal relation of A to B when society commands action or forbearance by B and will at the instance of A in some manner penalize disobedience.
- (2) DUTY: It is the legal relation of a person, B, who is commanded by society to act or to forbear for the benefit of another person, A, either immediately or in the future, and who will be penalized by society for disobedience.
- (3) PRIVILEGE: The legal relation of A to B when A (with respect to B) is free or at liberty to conduct himself in a certain matter as he pleases; when his conduct is not regulated for the benefit of B by the command of the society; and when he is not threatened with any penalty for disobedience, for the reason that society has made no command.
- (4) NO-RIGHT: The legal relation of a person (A) in whose behalf society commands nothing of another (B). A has no control over B, legally.
- (5) POWER: The legal relation of A to B when A's own voluntary act will cause new legal relations either between B and A or between B and a third person.

\* Legal power is not always accompanied by legal privilege; there may be a duty not to use it.

## Similar Concepts of Power

## **1. Power (權力)**

- Power to dominate or enforce particular group or individual to perform and achieve public goods by certain group or individual.

## **2. Authority(權能)**

- Each functions derived from particular rights.

ex.) From property rights derives the authority to utilize, gain and dispose of.

## **3. Rights (權利)**

- Power based on law to enjoy the legal benefits.

## **4. Competence (權限)**

- Capability of an act for one himself or for the sake of rightful person.

## **5. Title (權原)**

- Legal cause or reason Justifying certain kinds of Judicial acts or factual acts.

ex.) Cause or reason for one to attach his belongings to other's land is superficies or the right of lease

## **Bibliography**

Byung-Sak, Koo, General Theory of Science of Law, 1985