

# The Concepts of Law and Fact

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**Abstract---**The question of fact and the question of law are the indispensable fundamentals of the adjudicatory process. The question of fact and the question of law are directly related with the process of administration of justice because the wrong question of fact and the erroneous question of law will lead to injustice. The question of fact deals with the physical condition or circumstances which can be proved or disproved with the help of empirical evidence. The question of law pertains to the ascertaining of the specific meaning of the legal provisions in the cases of uncertainty and ambiguity. The question of law is always answered by the courts with the help of legal principles. The legal provision includes the facts and the leading consequences of it and the underlying liability. Mistake of law is not a recognized legal defence however mistake of facts is a legal defence to the criminal liability. The question of fact and the question of law both are necessarily involved in the issues of the case as well as the ratio decidendi of the case.

**Keywords---** Question of law, question of facts, mistake of law, mistake of facts, justice, criminal law, civil law, procedural law, substantive law, international law, national law

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## I. INTRODUCTION

The question of law and the question of fact are the two most important aspects which are involved in the process of the adjudication process followed by the judiciary. The decisions of the courts are based upon the questions of facts and question of law. A humble attempt is made to elucidate the varied dimensions of the question of fact and question of law along with their role in the process of adjudication followed by the courts of law.

- The question of law.

The concept of question of law presupposes the understanding of the term of law; hence let us first in brief deal with the meaning of law.

In simple words law prescribes a code of conduct applicable to the individuals in a society. It is the law which prescribes the rights, duties, liberties etc. on the individuals. So also, the law confers powers on the officials of the state. The question of law involves whether the individual has the legal right or not, or whether the state official has committed any act which is ultra-varies to the powers which have been prescribed by the law. The implications of question of law depends upon the types of law.

- Types of laws.

- a. Criminal law and civil law.

A law is prescribed as a criminal law when the following aspects are fulfilled. When the law prescribes punishment for the wrong doer; in the form of fine, punishment, forfeiture of property or capital punishment. Further the criminal law protects the rights – in – rem that is the rights are available against the entire society. So

also, under the criminal law the state initiates the legal proceedings. The Indian Penal Code is considered to be the substantive criminal law of India. When a law prescribes for the payment of compensation or damages such a law is described as a civil law. The civil law protects the rights – in – personam; that is the rights are available against the private individuals. The proceedings are always initiated by the individuals in the civil law. Law of Torts, Law of Contract, Company Law are regarded as civil laws.

- b. Substantive law and procedural law.

A law is classified as substantive law when a law confers rights duties, powers etc. on the individuals. The Constitutional Law, Administrative Law, The Indian Penal Code are regarded as substantive law. When these rights are violated then the procedure to be followed by the lawyers, individuals and the court officials is prescribed by a law and such a law called as a procedural law. For example, the Criminal Procedure Code, Civil Procedure Code, and the Evidence Act are classified as procedural law.

- c. National and International law.

A national law is said to be the law of land of a particular state. The law which deals with the relationship between two states is called as international law.

The question of law revolves around the nature of law and the interpretation of law.

- Issues of question of law

The question of law involves the ascertainment of the provisions of law. Once the facts are proved beyond the reasonable doubt then the next step in the legal proceedings is to apply the provisions of law to the

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existing law. Now let us give a glance to the issues involved in the aspects of question of law.

- i. The first aspect of question of law is that -the courts of law are bound to answer the questions of law which are raised in the proceedings of the case. The answer which the courts of law forwards is regarded as the decision of the courts.
  - ii. The question of law is always involving the ascertainment of the meaning of law that is what the legal provision means and whether that meaning is applicable to the facts which are before the court.
  - iii. The question of law is always answered with the help of law. Question of law means what the law is on a particular issue and the meaning of law can be answered only with the help of the principles of law.
  - iv. Question of law arises out of the uncertain meaning of law and not due to the existence of law.
  - v. Question of law may include the ascertainment of scope of the discretionary powers.
  - vi. Question of law is answered with help of the provision of law but it is done only after the facts have been proved.
  - vii. The higher judiciary generally deals with the question of law.
  - viii. The question of law includes the issues like weather the law requires strict interpretation or liberal interpretation depending upon the fact and circumstances of the case. Mostly the question of law deals with the interpretation of the law.
  - ix. Weather a right exists or not and if it's exists what would be the scope of such a right is a question of law.
- Question of facts.
    - i. Facts means a set of circumstances, or events or conditions which have existed or are existing. Facts are physical in nature.
    - ii. As the facts are physical in nature, they can be proved by empirical evidence.
    - iii. Facts can be proved with the help of facts, and the law of evidence plays important role in the proving or disproving of the facts.
    - iv. The proving or the disproving of the facts is done by the individuals, but the accepting or the rejecting of the facts is based on the evidentiary proof and the law of evidence is done by the judiciary.
    - v. A particular set of facts are proved are disproved in order to attract a provision of law.
    - vi. Question of fact include for instance in the case involving the charge of murder facts like blood stain, nature of injury, the defence of alibi etc. or in the case of infancy weather the child is of seven years or

above seven year is a question of fact.

- Implication of question of law and question of fact.

The question of fact exists and is first solved by the courts. It is to be remembered that the facts are argued by the parties and the accepting or the rejection is done by the courts with the help of law. After the question of fact is settled then the courts address itself with the question of law. The question of law is answered with the help of law but it also depends upon the question of fact. The question of facts depends upon the evidence. The issues of the case which are farmed by the court involve both, the question of law as well as the question of fact. So also, the ratio decedendi involves the material facts of the case and the legal principles applicable to those facts.

So even if the question of fact and the question of law are different still, they become intertwined as far as the issues of the case and the ratio decedendi are concerned. Weather a child is of seven years or above seven years is question of fact after the age of the child this proved then the court addresses it self with the question of the liability of the said child. Weather the child gets the defence of doli capex or doliincape depends upon the fact that is the age of the child. Some times the question of fact may be proved by the individuals and those facts might be accepted by the courts. But there may be two interpretations which may be applicable to those proved facts. Then the question of law arises as to which interpretation of law would be most suited to those facts, and this has to be decided by the courts.

- The difference between question of fact and question of law
  - i. The question of facts can be proved or disproved with the help of empirical evidence and the question of law can be solved only with the help of legal principles.
  - ii. The question of fact is a legal defence for criminal liability whereas question of law is no defence for criminal liability. The mistake of fact is included in the chapter of general defenses, and section 79 of the Indian penal code, as a general defence. The mistake of fact is a defence because of the following aspect.
    - a) The accused misrepresents the facts.
    - b) As the accused misrepresents the fact's he has no knowledge, neither the intention to commit the offence.
    - c) Further the act which the accused has committed was legal and reasonable.

The criminal liability is based upon the principle of actus reus coupled with mens rea. The criminal liability is negated because of the absence of mens rea in the case of mistake of fact.

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Mistake of law is no defence because there is presumption that every individual has to know the concerned relative law. So also mistake of law would be an easy defence for the law violators.

Some times a question may be regarded as mixed question of law and fact. This happens when the issues of the fact and the law dealing those facts become inseparable. Erroneous interpretation of question of law and question of facts may lead to injustice.

### **II. CONCLUSION**

The adjudication process followed by the judiciary revolves around the question of law and question of fact. The question of fact can be proved by factual or empirical evidence in accordance with the principles of law of evidence. Where as the question of law pertains to the exact provisions of law or the specific meaning of the legal provision in the cases of uncertainty or ambiguity of the said legal provisions. The question of facts has to be proved or disproved by the concerned parties to the case, however weather the fact is proved or disproved will be decided by the legal courts. The question of law is always address to the courts and is answered by the courts with the help of legal principles. The answer of the question of law depends upon the question of facts; and the question of facts depend upon the empirical evidence. The issues of the case framed by the court and the ratio decedendi involves both the question of law as well as the question of facts. The criminal law recognizes mistake of fact a defence to the criminal liability. However, mistake of law is not granted as a defence to the criminal liability. Some times the question of fact and question of law are so intertwined that is become difficult to identify both and again the legal principle is relied upon. The question of fact and the question of law play an important role in the dispensing of justice because the exact law applied to correct facts lead to justice.

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