

## LEGAL MAXIMS

**“Natura non facit vacuum, nec lex supervacuum”**

**(Nature makes no vacuum, and the law nothing purposeless)**

When we hear the words *Audi alteram partem*, we understand in clear terms that the rule of law prevails and no man is to be punished, condemned or deprived of his property in any judicial proceedings unless he is heard. Any such punishment, condemnation, deprivation etc. is liable to be set aside as per law. The words *Audi alteram partem* is a Latin term and form a **legal maxim**. Merriam Webster’s Dictionary (Eleventh Edition) defines the term maxim as

- **proverbial saying,**
- **a general truth,**
- **fundamental principle, or**
- **rule of conduct.**

These are from ancient legal scholars, at times containing elements of fun surprising insights. These are considered as established principles of law and are universally admitted. These are frequently used in the legal world. The Judgments in many landmark cases illustrate the importance attached to them. Their universal acceptability requires that these be applied with utmost caution and ingenuity.

In India the Court rely upon them as first principles of Law when these are applied having regard to the exigencies of the situation and novelty of the circumstances in absence of provisions in statute or precedents in that regard. The following observations of the Supreme Court of India in para 21 of the Judgment delivered on 28-2-2003 in the case of Jamal Uddin Ahmad v. Abu Saleh Najmuddin (2003) 4 SCC 257 are very important with regard to the application of Legal Maxims in Indian Courts.

***“The fundamentals or the first principles of law often articulated as the maxims are manifestly founded in reason, public convenience, and necessity. Modern trend of introducing subtleties and distinctions, both in legal reasoning and in the application of legal principles, formerly unknown, have rendered an accurate acquaintance with the first principle more necessary rather than diminishing the values of simple fundamental rules. The fundamental rules are the basis of the law; maybe either directly applied, or qualified or limited,***

***according to the exigencies of the particular case and the novelty of the circumstances which present themselves.”***

Keeping in view their importance in the legal world, we are providing some frequently used legal maxims. For your convenience and better understanding we have categorized them subject wise.

### **1- Rules founded on Public Policy**

<b>Maxim</b>	<b>Principle of law</b>
<i>Salus populi est suprema lex</i>	Welfare of the people is the supreme law
<i>Dies dominicus non est juridicus</i>	Sunday is not a day for judicial or legal proceedings

### **2- Crown**

<b>Maxim</b>	<b>Principle of law</b>
<i>Rex non quuma moritur</i>	The king never dies
<i>Rex non potest peccare</i>	The king can do no wrong
<i>Nallum tempus occurri tregi</i>	Lapse of time does not bar the right of the Crown

### **3- Administration of Justice**

<b>Maxim</b>	<b>Principle of law</b>
<i>Audi alteram partem</i>	None is to be condemned unheard
<i>Nemo debet esse Judex in propriasua casa</i>	No man can be judge in his own case
<i>Actus curiae neminem gravabit</i>	An act of court prejudices no man
<i>Actus legis neminiest damnosus</i>	An act in law shall prejudice no man
<i>Cursus curlufest lex curlae</i>	The practice of the court is the law of the court
<i>Communis error facit jus</i>	Common error sometimes passes current as law

#### 4- The Rules of Logic

Maxim	Principle of law
<i>Ubi eadem ratio ibi idem jus</i>	The law consists in the reason of the law also.
<i>Ex debito justitiae</i>	In accordance with the requirement of the justice
<i>Allegans contraria non est audiendus</i>	One who alleges contradictory things is not to be heard
<i>Quicquid plantatur solo, solo cedit</i>	Materials worked into another's property become part of that property
<i>Debitum in presenti, solvendo in future</i>	Current liability to be discharged in future
<i>Necessitas non habet legem</i>	Necessity knows no law

#### 5- Basic Legal Principles

Maxim	Principle of law
<i>Ubi jus, ibi remedium est</i>	A remedy exists for every remedy
<i>Actus Dei nemini facit injuriam</i>	<ul style="list-style-type: none"> <li>• The law hold none responsible for the act of the God</li> <li>• None is responsible in damages for inevitable accidents</li> </ul>
<i>Lex non cogit ad impossibilia</i>	The law does not compel a man to perform impossible things
<i>Volenti non fit injuria</i>	Damage suffered under consent does not give right to any cause of action
<i>Res ipsa loquitur</i>	The thing speaks for itself
<i>Actus non facit reum nisi mens sit rea</i>	The intent as well as the act must concur to constitute the crime

## 6- Property

Maxim	Principle of law
<i>Cujus est solum, ejus est usque ad caelum; et ad inferos</i>	The possessor of land possesses the thing above it
<i>Quidquid plantatur solo, solo credit</i>	The things affixed to the soil belong to it
<i>Cujus est dare, ejus est disponere</i>	The person who makes a gift is entitled to regulate its disposal

## 7- Marriage and descent

Maxim	Principle of law
<i>Consensus, non concubitus, tacit matrimonium</i>	The consent of the parties and not their cohabitation constitute a valid marriage
<i>Nemo est haeres viventis</i>	Nothing can be inherited during the lifetime of the testator

## 8- The interpretation of statutes /instruments

Maxim	Principle of law
<i>Leges posteriores priores contrarias abrogant</i>	The laws enacted subsequently repeal the earlier inconsistent laws
<i>Ad ea quae frequentius accidunt jura adaptantur</i>	The laws are adapted to frequently occurring cases
<i>Argumentum ab inconvenient plurim valet in lege</i>	An argument drawn from inconvenience is forcible in law
<i>Noscitur a sociis</i>	The meaning of a doubtful word is to be ascertained with reference to the meaning of the words associated with it
<i>Certum est quod certum redid potest</i>	That is sufficiently certain which can be made certain
<i>The expresso unius exclusion alterius / expressum facit cessar elacitum</i>	The express mention of one thing implies the exclusion of another

## 9- Contract

Maxim	Principle of law
<i>Qui sentit commodum, debet et sentire onus et onus</i>	The person deriving the benefit has to sustain the burden
<i>Ex dolo malo action non oritur</i>	The right of action does not arise out of fraud
<i>Ex nudo pacto action non oritur</i>	No action arises on a contract without any consideration
<i>Caveat Emptor</i>	The buyer should be beware
<i>Respondent superior</i>	Let the principal be held responsible
<i>Vigilantibus, non dormientibus, jura subveniunt</i>	The law assists only those who are vigilant and not to those who sleep over their rights
<i>Actio personalis moritur cum persona</i>	The personal right of action dies with the person
<i>Res inter alios acta alteri nocere non debet</i>	A transaction between two parties should not operate to the disadvantage of the third

## 10-Evidence

Maxim	Principle of law
<i>Optimus interpres rerum est usus</i>	Usage is the best interpreter of things
<i>Nemo moriturus praesumitur mentire</i>	One will not meet his creator with a lie in his mouth
<i>Nemo tenetur eipsum accusare</i>	None may be compelled to be a witness against himself