



# RAMA UNIVERSITY

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## FACULTY OF JURIDICAL SCIENCES

**Course : B.A LL.B/BB.A LL.B**

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**SUBJECT: Jurisprudence**

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**LECTURE: 3**

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**Assistant Professor**

# Lecture-28



## Lecture – 27: Classification of Sources

### Classification of Sources:

- **According to Austin:** The source of law includes three meanings –
  1. Direct authority (sovereign)
  2. Historical documents (codes).
  3. Causes that make society's laws the force of law. (legislation, customs etc.)

### John Salmond

*“Custom is the embodiment of those principles which have commended themselves to the national conscience as principles of justice and public utility.”*

For Salmond, a valid custom has absolute legal authority which as the force of law in itself. He divides Customs into two:

**General Custom** – A general custom has the force of law throughout the territory of a state. For example, the Common Law in England.

**Local Custom** – The local custom are those which operate have the force of law in a particular locality. The authority of a local custom is higher than that of general custom.

Salmond, an English Jurist, has classified sources of law into the following categories:

1. **Formal Sources of Law:** These are the sources from which law derives its force and validity. A law enacted by the State or Sovereign falls into this category.
2. **Material Sources of Law:** It refers to the material of law. In simple words, it is all about the matter from where the laws are derived. Customs fall in this category of law.

However, if we look around and examine the contemporary legal systems, it may be seen that most legal systems are based on legislations. At the same time, it is equally true that sometimes customs play a significant role in the legal system of a country. In some of the legal systems, court decisions are binding as law.

These sources are further divided into two sources: legal sources and historical sources.

**Legal sources:** Legal resources that are the sources which are not only in fact but also in law and officially.

**i. Legislation (enacted law)**

**ii. Precedents (case law)**

**iii. Customs**

**iv. Conventional law (based on agreements e.g., local law, treaties etc.)**

**Historical sources:** Historical sources are those sources that are really in fact only and unauthorized.

- **Legal writings,**
- **Juristic opinions,**
- **Foreign judgements,**
- **Constitution etc.**

**Common sources of law:**

Three major sources of law can be identified in any modern society are as follows:

**1. Custom**

**2. Judicial precedent**

**3. Legislation**