Legal Rights and Duties

What is “the law”? Where does it come from? How is it enforced? Why do we need the law? How does the law affect members of society? How does it affect you? This book is intended to help you understand the answers to these questions. Before finding out how the law works in specific situations, however, it is important to have a general understanding of the law.

WHAT ARE LEGAL RIGHTS AND DUTIES?

We live in a world with many sets of rules. Families, social clubs, schools, stores, Sunday school classes, labor unions, governments, football teams, libraries—even school bands—all create rules. These rules establish duties and rights that affect your everyday life. But when is a right or duty a legal one?

What Are Legal Duties?

Think about the following situations:

**SITUATION 1** At home, you are supposed to take out the kitchen garbage every day. For two days you forget. Your parents are angry.

Have you failed to meet a legal duty?

**SITUATION 2** You belong to a music club and have been late showing up to meetings. The rule is that you must pay a fine if you are late to meetings.

Do you have a legal duty to pay the fine?
SITUATION 3 You are driving down a busy road. The driver behind you honks loudly and continuously as soon as the light turns green. You get mad. You think his conduct is dangerous and rude.

Is he violating his legal duties as a driver?

Duties may be established by social groups. A family is one type of social group. Situation 1 is an obligation to the family. It is not a legal duty; however, because you failed in your obligation, your parents—not the government—may enforce the rule.

Situation 2 is also a social duty. In this case, the social group is a club rather than a family. Although you have no legal duty to pay the fine, the club may kick you out if you do not.

Social groups can be very large. They may consist of the people in your circle of friends or in your community. A social group may be a nation or even the entire human race. Treating people politely is a social duty. However, as long as no injury results from rudeness (situation 3), it generally does not violate any legal duty.

SITUATION 4 Your religion requires you to go to church on Sunday. You want to go to a picnic at the lake instead.

Do you have a legal obligation to go to church?

Situation 4 involves another kind of obligation: religious duties. One of the most basic freedoms our society protects is the freedom of religion. Our government cannot prohibit people from following their religious beliefs. However, the practices of religious beliefs can be prohibited if they are harmful. In countries with state religions, religious and legal duties may be the same. In the United States, religion and government are separated; the government cannot enforce religious duties, which are solely between individuals and the institutions of their personal religions. In situation 4, you do not have a legal obligation to attend church.

SITUATION 5 You see an accident in which someone has been hurt. A crowd has gathered.

Are you legally obligated to stop and offer assistance?

Situation 5 involves the moral obligation of individuals to assist others. A moral obligation is what a person thinks is the right thing to do or not do. Under our laws, moral obligations to do something—that is, to carry out some action—are generally not enforceable. In this particular situation, you would not be arrested if you did not try to help the accident victim. However, your conscience might bother you, or you might feel that you failed to carry out a religious duty.

SITUATION 6 You hate your school. One night you throw rocks at the school windows, and you break several of them.

SITUATION 7 You find a wallet in a movie theater seat. It contains the name of the owner. It also contains $50. You are really broke, so you decide to keep the money.

Are you violating anyone’s legal rights in situations 6 and 7?

The law does enforce a number of duties not to do something. In Georgia and elsewhere, the law imposes duties not to take or damage the property of others. You could be punished under the law for damaging public property (situation 6) and taking someone else’s property (situation 7).

What is the difference, then, between a legal obligation and a social, religious, or moral obligation? Have you noticed the use of the word “enforce” or “enforceable” in the discussions of the situations?
An obligation is legal if it can be enforced by the government through the police, the courts, or some other governmental agency. For example, if you do not meet a legal obligation, like attending school, then the government can take action against you. If another person does not meet a legal duty to you, then you can take legal action against him or her. That is, you may use the power of government against the person.

What Are Legal Rights?

We have legal obligations, and we also have legal rights. For example, you have a legal duty not to harm others. Similarly, you have a legal right to compensation if you are wrongfully harmed by others. Like a duty, a right is considered to be legal only if it can be enforced by some part of government. Consider situation 8:

SITUATION 8 The rule at Everblue High School is “no talking in the school library.” This rule gives students the right to have a quiet place to study and research term papers.

The XYZ club decides on the spur of the moment to hold a meeting in the library. Its meeting is noisy. When told to be quiet or leave, the club members claim they have the right to talk during a club meeting.

Are the rights of either the students or the members of the XYZ club legal rights?

The “right” of the XYZ club would not be enforced by a court of law. Therefore, it is not a legal right. However, a school does have the legal authority to enforce its rule to maintain quiet in the library, and students have a right to expect that the school will provide a quiet place for them to work and study.

What Is the Law?

The law is more than legal rights and duties. It also includes the procedures or means of enforcing these rights and duties. The law consists of all legal rights, duties, and obligations that can be enforced by the government (or one of its agencies) and the means and procedures for enforcing them.

Some legal rights and responsibilities apply generally to all situations. Other rights and duties are more specific. For example, some legal rights and duties affect only buyers or sellers. Others apply only to tenants or landlords, parents or children, or employees or employers.

One other point should be made about laws. Laws only apply within the geographic boundaries of the governments that enforce them. This concept is referred to as a type of jurisdiction. A government has jurisdiction over people within its geographic boundaries. There are other types of jurisdiction. Jurisdiction, in its broadest sense, refers to the authority of a government or government entity. Government entities, such as courts, typically have authority over certain types
of issues or cases. This concept is referred to as subject matter jurisdiction. A particular court can only enforce laws within its geographical jurisdiction and hear cases within its subject matter jurisdiction.

Governments have jurisdiction over certain areas and can enforce laws only in their jurisdiction. While you are living in Georgia, for example, you must perform the legal duties and may enjoy the legal rights of a state resident. If you move to Alabama, you move into the jurisdiction of Alabama law. That is, you will have to obey Alabama laws. Some Alabama laws are similar to those of Georgia; some are not. Furthermore, if you disobey laws in Georgia or Alabama, a case may be brought against you in court. However, the particular court must have the subject matter jurisdiction to hear the kind of case that has been brought against you.

Only the Facts

1. How does a legal duty differ from a social, religious, or moral duty?
2. What is a jurisdiction?
3. What does the law consist of?

Think About

1. Legal duties only apply in jurisdictions that have the power to enforce them. What about social duties? religious duties? moral duties? Do these change if you go to another state? another country? Explain.

Types of Legal Rights and Duties

There are many federal, state, and even local government laws. How do these laws apply to individuals like you? The remainder of this chapter discusses some basic kinds of legal rights and duties.

The Duty Not to Harm Others: Torts and Crimes

SITUATION 9 Hank is deer hunting. He hears a noise, glimpses an animal, aims, and fires. It’s a perfect shot—except that it hits and kills one of Mrs. Higgins’s prize bulls. The bull had jumped the fence and wandered into the woods.

SITUATION 10 Cindy is a drug dealer. She makes her living selling drugs such as cocaine and heroin to people in her neighborhood.

Have Hank or Cindy broken any legal duties?

In Georgia and the United States as well as other countries, each person has a legal duty not to harm others. This duty extends to negligent (or accidental) as well as intended acts of harm. This duty also includes not harming people’s property.

The law concerning these duties is called the law of torts, and breaching (or breaking) the legal duty not to harm others is considered to be a tort. If a person commits a tort, he or she has a legal duty to compensate (or pay) anyone who has been injured as a result of his or her actions. Situation 9 illustrates a tort. Hank has a legal duty to pay Mrs. Higgins for the loss of her bull. Mrs. Higgins could bring a lawsuit against Hank. In it, she could ask the court to require that Hank compensate her. (Chapter 10 provides more information on the law of torts.)

The basic need to protect people from the harm that others might do underlies much of the law. Because this protection is essential to a safe and orderly society, governments pass laws making certain harmful acts crimes. (Chapter 15 discusses crimes more fully.) Situation 10 illustrates a crime. In Georgia and elsewhere, selling dangerous drugs is a crime. Because Cindy has committed a crime, the state of Georgia could take legal action against her. If she is found guilty, the state could punish her with a fine and/or jail sentence.
What are the differences between crimes and torts? Generally, an act is a crime if it violates a criminal statute (or law). A tort is any civil wrong resulting from an act or failure to act for which the law allows a remedy (also called damages). Damages are determined on a case-by-case basis, according to the facts. If a tort is committed, the legal duty is to the person who was injured. For example, in situation 9, Hank would have to compensate Mrs. Higgins. However, the duty to obey criminal laws is a duty to the government or to society, not to an individual. In situation 10, then, Cindy would pay the fine to the state if she were found guilty.

Some acts, such as stealing a car, can be both a tort and a crime. That is, the thief has broken a legal duty to the car owner as well as the government. Each could take court action against the thief.

When a crime is committed, the case is tried under the criminal law. All other legal actions come under the general heading of civil law. The law of torts is part of the civil law.

Contracts
Like the law of torts, the law relating to contracts is part of civil law. Consider the following examples:

Loretta buys a stereo for $300. She makes a $50 down payment and signs an agreement with the store to pay the rest of the money over the next six months.

Barry’s neighbor offers to pay him $5 an hour for raking leaves in his yard. Barry agrees.

These two agreements are contracts. A contract is an agreement that creates legal rights and duties among the persons who make it. These persons are called the parties to the contract. Each party takes on some duty to the other. These duties (and rights) exist only because of the contract. In the future, you may enter into a contract by borrowing or loaning money, renting or buying a home, or getting a job. Legal contracts—like other laws—are enforceable by the government. (Chapter 4 explains more about contracts.)

How do the duties and rights under contracts differ from the duty not to cause harm to others and the right to be free from such harm? The rights and duties under a contract are completely voluntary in the sense that nobody can force a party to enter into a contract. For example, you cannot be forced to enter into a contract to buy CDs from a certain music club. However, if you enter into the contract, you are required to meet the terms of that contract. In contrast, U.S. citizens (and citizens of other nations) are automatically subject to the duty not to cause harm to others.

Owning Property
It is after Christmas. Jack now owns a motorcycle. Karen owns her first computer. What, legally speaking, does it mean to own something? Suppose both Karen and her sister want to use the computer at the same time? Does one of them have more of a right than the other? What if Harold borrows Jack’s motorcycle, crashes into a wall, and damages it? Does he have a duty to repair it for Jack?

An important type of legal right is the right to own property. Property can be stationary, like land. It may be something tangible that can be touched, such as a car or a jacket, or something that is intangible that cannot be touched physically, such the contractual right of a movie company to make a film of a book.

When a person “owns” a particular piece of property, his or her rights to that property are superior to (or greater than) the rights of anyone else to that same property. If you own a bicycle, for example, your right to use it is superior to anyone else’s. In fact, someone else can only legally use it with your permission.

Generally, the government may not take away property without compensating the owner for its value. Property may be taken by other persons to satisfy claims against the owner (such as debts). But such claims must have been upheld in a court of law under the required legal procedures before the taking occurs.
Can owners use their property however they wish? The rights that arise from the ownership of property are not unlimited. The law can limit the ability of individuals to use property that they own. For example, an owner of a car cannot disobey the rules of the road.

The rights of individuals to use their property are also limited by the law of torts. Property owners have a right to compensation if their property is harmed. They also have a duty not to use their property in any way that will harm others accidentally or intentionally.

The rights to use or dispose of property may be limited by obligations in a contract. However, contractual obligations apply only if the owner of the property has agreed to them.

The legal duty not to harm others and the legal right to contract are basic to the laws of most, if not all, governments. The right to individual ownership of property is basic to American society but is absent in other legal systems. In some tribes, for example, property belongs not to the individual but to the tribe. In a pure communist system, property is owned by the state, and citizens are allowed to use the property.

**Constitutional Rights and Limits**

Would the following incidents violate your rights and freedoms?

**SITUATION 11** You plan a trip to Nashville, Tennessee. At the state border, a Tennessee state patrol officer asks to see your permit to travel in Tennessee. You do not have one, and he will not let you enter the state.

**SITUATION 12** You are strongly opposed to the government’s foreign policy. You explain your views to a friend while taking a bus to a nearby town. When you get off the bus, you are arrested by a police officer who says that speaking against the government in a public place is illegal.

**SITUATION 13** You are arrested. You are not allowed to talk to anyone. You are called before the judge and sentenced to prison for six years.

In each of these situations, your constitutional rights have been violated. As a member of a free democratic society, you have the right to travel wherever you wish in the United States (situation 11). You have other freedoms, such as freedom of speech (situation 12) and religion. You have a number of rights, including the right to a hearing before being deprived of life, liberty, or property (situation 13). These rights are based on the U.S. Constitution and its amendments, and they can be enforced and protected by the government. (Freedoms and rights are discussed in more detail in chapters 13 and 14.)
SITUATION 14  The last football rally was very rowdy. Several students were bumped and bruised. The principal has therefore banned all pregame rallies.

Is the ban a limit on your right to free speech and association?

Like the rights to own property and to enter into contracts, individual rights and freedoms are not unlimited. U.S. citizens have given the government the power to put reasonable limitations on the use of rights and liberties because these limitations are in the best interest of society. For example, although criminal laws limit peoples’ actions, such laws are clearly desirable because criminal acts are harmful to everyone.

Similarly, we allow the government to license auto drivers to protect others from unsafe, unskilled drivers. We also allow limits on our cherished rights to freedom of speech and association, such as when there is a danger of people being injured (situation 14).

In other words, restrictions on individual rights have been allowed when exercising these rights would harm another person or society. The balance between preserving rights and protecting individuals and society often can be very delicate.

However, the government is restricted in its power to limit these rights and freedoms. Two main restrictions are stated in the constitutions of the United States and Georgia.

First, the government may take away the “life, liberty, or property” of individuals only with “due process of law.” In simple terms, due process means fair treatment. The due process requirement is the foundation of individuals’ relationship with the government. Due process means that the government itself is bound by law. For example, the president may claim that someone has committed treason and should be punished immediately, but that person cannot be deprived of his or her life, liberty, or property without a proper trial. This requirement restricts governmental activity that might endanger individual freedoms. It limits governmental actions to take away other legal rights.

Second, the government must provide “equal protection of the laws” to all individuals. Equal protection means that the government may not unfairly discriminate against individuals or classes of individuals. Each person—whether rich or poor, light- or dark-skinned, Muslim or Christian—is to be treated by the government in the same way.

However, there are some limits on the right to equal protection. For example, Georgia law requires a person to be 18 years old to apply for an unrestricted driver’s license. Although
it could be argued that this law discriminates against young people, such discrimination is allowed because it is made in the interest of public safety.

**Only the Facts**

1. How does a crime differ from a tort?
2. Who creates the rights and duties under a contract?
3. What does it mean to “own” a piece of property?
4. Name two constitutional freedoms.
5. What are the two restrictions on the power of the government to limit individual rights?

**Think About**

1. Why is the duty not to harm others—their persons or property—so important to an orderly society?
2. The desks in the classroom are owned by the school. List the rules that govern the use of this property. Now think about how these rules might change if each person in the class had to buy (and own) his or her own desk. What if the entire class had to buy all the desks and work out rules governing their use? Create rules to govern these new situations.
3. Think of situations in which you would allow the government to limit the right to freedom of speech. If you think there should be no limits, explain your reasons.

**Looking Ahead**

At this point, you have learned something about legal rights and duties and how the law is defined. You have also been introduced to some terms and concepts that will be used throughout the book. As you encounter situations about specific areas of law in this book, ask yourself,

- What would be my legal rights in this situation?
- What would be my legal duties?
- How are these legal rights and duties enforced?

The duty not to harm the person or property of others and the right to protection from harm are basic concepts that underlie many laws and government actions. As you read, ask,

- Have the legal rights and duties in this situation been established to protect individuals or society from harm?

Often legal rights and duties come into conflict with each other. One person’s right to breathe safe air may conflict with another person’s right to run a business for profit, for example. In such situations, you might ask,

- Are there conflicts between certain duties and/or rights in this situation?
- Can the duties and rights be balanced?

The restrictions of “due process of law” and “equal protection under the law” are very important. Both concern the underlying concept of fairness. As you read, consider,

- Is the enforcement of these specific laws fair to both parties?
- Is this law unfair to some individuals? Is there any reason for such discrimination?