

Alf Ross' Concept of 'Validity of Law': A Jurisprudential Enquiry in relation to Indian Context

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Abstract

Alf Ross, a Danish legal philosopher, and jurist discussed the concept of validity of law in his writings, particularly, '*On Law and Justice*', '*Directives and Norms*' and '*Tû-tû*'. His philosophy as to the validity of law is in sharp contrast to metaphysical basis of law. Ross propounded law to have an empirical basis in that that legal phenomena and legal norms were capable of empirical verification. The present paper is an attempt to understand the nuances of Ross's legal philosophy, in particular his explanation of the concept of validity of law in his book, '*On Law and Justice*', and further aims to find application of Ross' theory in the Indian Context. The context is that of Indian Civil Procedure with examples from two core areas, *one*, extension of time in filing written statement by the defendant in a civil suit, and *two*, parties seeking adjournments during the hearing of a civil suit. Both these contexts were introduced via amendment to the Indian Code of Civil Procedure, 1908, and appear in contrast to objective of such amendments, i.e., expediting the civil cases to provide timely justice to parties. Thus, a jurisprudential enquiry into the legitimacy of these amendments, in reference to the Indian Supreme Court judgements of *Kailash v. Nankhu*, and *Salem Advocate Bar Association v. Union of India*, is of importance. The paper thus, aims to explore the relationship of Ross' legal realism and Civil Procedure Rules in India.

Keywords: Alf Ross' Legal Philosophy, Indian Civil Procedure Rules, Judicial Interpretation of Civil Procedure, Legal Realism, Procedural Justice