

Name : Javeria Nasir Khan

Subject : Criminal Law

Semester : 5

Teacher : Ms Fakhra

MID TERM ASSIGNMENT.

Explain the following:

- Servant Of State
- Public Servant
- Good Faith

1. Servant Of State:

The words "servant of the State" denote all officers or servants continued, appointed or

employed in Pakistan, by or under the authority of the Federal Government or any Provincial Government.

There are clear and explicit expectation by State Services that every State servant has a part to play in acting with Integrity to maintain New Zealanders' confidence in the sector. Within the New Zealand Customs Service, We Do What's Right is a key value that underpins how we work- it is fundamental to maintaining the trust and confidence of our stakeholders and customers. According to the dominant view in the jurisprudence, which is based upon the criterion of dependence, it cannot be argued that a classification society can be regarded as a State servant. Where damage is caused to an individual by the act of an official of the State or an official of a Local

Government, such an individual may sue the State before the Chief Court and may seek redress save where such damage has been caused by a bonafide act of a State servant in pursuance of a policy duly laid down by a Competent Authority.

2. Public Servant:

The public service is a collective term for a sector of government composed mainly of career administrators hired on professional merit rather than appointed or elected, whose institutional tenure typically survives transitions of political leadership. A civil servant or public servant is a person employed in the public sector by a government department or agency. Civil (or public) servants work for government departments, and answer to the government, not a political party. The extent of public servants of a state as part of the "public

service" varies from country to country. In the United Kingdom, for instance, only Crown (national government) employees are referred to as public servants whereas employees of Local Authorities (counties, cities and similar administrations) are generally referred to as "local government officers" who, although not public servants are nonetheless public servants. A public servant is a public servant but a public servant is not necessarily public servant. Some observers consider the study of the public service part of the field of public administration. Staff members in "non-departmental public bodies may also be classed as public servants for the purpose of statistics and possibly for their terms and conditions. Collectively a state's public servants form its civil service or public service.

An international public servant or international staff member is a civilian employee who is employed by an intergovernmental organization. These international civil servants do not resort under any national legislation (from which they have immunity of jurisdiction) but are governed by internal staff regulations. All disputes related to international public service are brought before special tribunals

created by these international organizations such as, for instance, the Administrative Tribunal of the ILO. Specific referral can be made to the International Civil Service Commission (ICSC) of the United Nations, an independent expert body established by the United Nations General Assembly. Its mandate is to regulate and coordinate the conditions of service of staff in the United Nations common system, while promoting and maintaining high standards in the international public service.

The words "public servant" denotes a person falling under any of the descriptions herein after following, namely:

Second: Every Commissioned Officer in the Military, Naval or Air Forces of Pakistan while serving under the Federal Government or any Provincial Government.

Third: Every Judge.

Fourth: Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document,

or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties.

Fifth: Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant.

Sixth: Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority.

Seventh: Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement.

Eighth: Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience.

Ninth: Every officer whose duty it is, as such

officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report, or any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government, and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty.

Tenth: Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district.

Eleventh: Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an elections.

3. Good Faith:

Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

In contract law, the implied covenant of good faith and fair dealing is a general presumption that the parties to a contract will deal with each other honestly, fairly, and in good faith, so as to not destroy the right of the other party or parties to receive the benefits of the contract. It is implied in a number of contract types in order to reinforce the express covenants or promises of the contract.

A lawsuit (or a cause of action) based upon the breach of the covenant may arise when one party to the contract attempts to claim the benefit of a technical excuse for breaching the contract, or when he or she uses specific contractual terms in isolation in order to refuse to perform his or her contractual obligations, despite the general circumstances and understandings between the parties. When a court or trier of fact interprets a contract, there is always an "implied covenant of good faith and fair dealing" in every written agreement. "Good faith" has generally been defined as honesty in a person's conduct during the agreement. The obligation to perform in good faith exists even in contracts that expressly allow either party to terminate the contract for any reason. "Fair dealing" usually requires more than just honesty. It generally requires that a party cannot act contrary to the "spirit" of the contract, even if you give the opposing party notice that you intend to do so.

In general, the duty of good faith and fair dealing means, for example, that parties cannot evade the spirit of the bargain, lack diligence or slack off, perform incorrectly on purpose, abuse their power when specifying the terms of a contract, or interfere with or fail to cooperate in the other party's performance. Let's further analyze this last example because, as stated above, most executives and attorneys do not realize that some jurisdictions include it in the duty of good faith and fair dealing.