BLOGS

Learn in a Minute: Ubi Jus Ibi Remedium

Shruti chauhan · 14 Nov 2026

Ubi Jus Ibi Remedium: Where There Is a Right, There Is a Remedy

Introduction

Ubi jus ibi remedium is a Latin maxim meaning "where there is a right, there is a remedy". It holds that when the law gives a person a right, it must also give them a way to enforce that right, or to be compensated when it is violated.

Literal translation: *ubi* = where, *jus* = right (or law), *ibi* = there, *remedium* = remedy.

Origin: a principle of the English common law, with no single author. It was stated most famously by Lord Holt CJ in Ashby v White (1703), who said that "want of right and want of remedy are reciprocal", and was restated by William Blackstone in his Commentaries (1765 to 1769).

The maxim works in two directions. A right without a remedy is worthless, so the law supplies remedies. But a remedy is available only for a legal right, so a purely moral or social claim does not qualify.

A simple example: if B walks onto A's land without permission, B has violated A's legal right to possession. A can sue for trespass even if the land was not damaged, because the violation of the right is itself enough.

Today the maxim runs through tort, contract and constitutional law. In India it underpins the Supreme Court's power under Article 32, and the High Courts' power under Article 226, to award compensation when the State violates fundamental rights.

Essentials of the Maxim

The maxim applies only when two conditions are met: a legal right exists, and it has been violated in a way the law can remedy.

1. **A legal right must exist.** The right must be recognised by law, through a statute, the Constitution, a contract or the common law. A moral or social expectation is not enough. Being insulted in public, for example, is not actionable unless it amounts to defamation or another legal wrong.
2. **The right must have been violated, and a remedy must be available.** The law must provide some form of relief for the violation. Courts decide which remedy fits, such as damages, an injunction, specific performance or, against the State, a writ.

If either condition is missing, the maxim does not help the claimant. That is why loss without a violated right (damnum sine injuria) gets no remedy, while a violated right without loss (injuria sine damno) does.

Ashby v White (1703)

Ashby v White is the case most closely linked with the maxim. A voter wrongly refused his vote won damages, even though his candidate won anyway, because the denial of his right was itself the injury.

Facts

Matthew Ashby was a qualified voter in the borough of Aylesbury. At a parliamentary election, William White, a constable acting as returning officer, refused to accept his vote, on the pretext that Ashby was not a settled inhabitant. The candidate Ashby supported won anyway, so Ashby suffered no loss from the refusal. He still sued White for damages, and a jury awarded him £5.

Holt CJ's dissent

On appeal, the Court of King's Bench ruled against Ashby by a majority of three judges to one. Holt CJ dissented. He held that the right to vote was a legal right, and that violating it was an injury in itself, whether or not it caused any loss:

"If the plaintiff has a right, he must of necessity have a means to vindicate and maintain it, and a remedy if he is injured in the exercise or enjoyment of it; and indeed it is a vain thing to imagine a

right without a remedy; for want of right and want of remedy are reciprocal."

How the dissent was upheld

Ashby took the case to the House of Lords, which reversed the King's Bench in 1704 by 50 votes to 16. It adopted Holt CJ's reasoning and restored the jury's award, with costs. The case is now cited for two principles: *ubi jus ibi remedium*, and *injuria sine damno*, which means a violation of a legal right is actionable even without actual damage.

Some legal historians argue that the Lords' final reasons were narrower than Holt's dissent and rested partly on White's malice. In legal teaching, though, the case remains the classic statement of the maxim. For the full case note, see this Ashby v White case analysis.

The Maxim in Indian Constitutional Law

The Indian Constitution builds the maxim into its structure. It does not just list fundamental rights; it also gives a guaranteed remedy for enforcing them.

Articles 32 and 226

- **Article 32** lets any person move the Supreme Court directly to enforce a fundamental right. The right to this remedy is itself a fundamental right, which is why Dr B.R. Ambedkar called Article 32 the "heart and soul" of the Constitution.
- **Article 226** gives every High Court the power to issue writs to enforce fundamental rights "and for any other purpose", so it also covers ordinary legal rights.

The courts can issue the five writs, habeas corpus, mandamus, prohibition, certiorari and quo warranto, along with any other direction or order. For example, a writ of mandamus compels a public authority to perform a legal duty it has neglected.

Article 21 and compensation for rights violations

Article 21 protects the right to life and personal liberty. For decades, a person illegally detained by the State could get release through habeas corpus, but no money for the time lost. From 1983, the Supreme Court began awarding compensation directly in writ proceedings, so that the right under Article 21 had a real remedy.

Case	Year	Held
Rudul Sah v State of Bihar	1983	Compensation awarded under Article 32 for illegal detention after acquittal (₹30,000)
Bhim Singh v State of J&K	1985	Compensation for an MLA's wrongful arrest and detention (₹50,000)
Nilabati Behera v State of Orissa	1993	Compensation for custodial death; sovereign immunity no defence in public law (₹1.5 lakh)

Rudul Sah had stayed in jail for over 14 years after a court acquitted him. Bhim Singh, a sitting MLA, was arrested and kept from attending the Assembly session. In Nilabati Behera, a young man died in police custody, and his body was found on a railway track.

Nilabati Behera explained the basis of these awards. Compensation under Articles 32 and 226 is a public law remedy, based on strict liability for violating fundamental rights. The State cannot plead sovereign immunity, which it may still raise in an ordinary suit in tort. The award does not stop the victim from also suing for damages, though the amount awarded can be adjusted. Later, D.K. Basu v State of West Bengal (1997) added guidelines for arrest and detention to prevent custodial violence.

The Maxim in Tort Law

In tort law, the maxim decides which harms can be sued for. What matters is not whether the claimant lost money but whether a legal right was violated. The two related maxims, *injuria sine damno* and *damnum sine injuria*, sit on either side of that line. For how tort law developed in India, see the origin and development of the law of torts in India.

Injuria sine damno vs damnum sine injuria

Basis	Injuria sine damno	Damnum sine injuria
Meaning	Violation of a legal right without actual loss	Actual loss without violation of a legal right
Actionable?	Yes	No

Classic case	Ashby v White (1703): voter wrongly refused his vote	Gloucester Grammar School case (1410): rival school caused loss by competition
Another case	Bhim Singh v State of J&K (1985): compensation for illegal detention	Mogul Steamship Co v McGregor, Gow & Co (1892): loss from trade competition

Injuria sine damno

Injuria sine damno means "legal injury without damage". Once a legal right is violated, the claimant can sue even if they lost nothing. Some torts are "actionable per se" for this reason, such as trespass to land, trespass to the person and libel. Ashby could sue because his right to vote was denied, even though his candidate won.

Damnum sine injuria

Damnum sine injuria means "damage without legal injury". A person may suffer real financial loss, but if no legal right was violated, there is no remedy. In the Gloucester Grammar School case (1410), a schoolmaster set up a rival school nearby, and the original school had to cut its fees. The court held that fair competition violates no legal right. In Mogul Steamship Co v McGregor, Gow & Co (1892), the House of Lords applied the same idea to shipping companies that drove a rival out of a trade by cutting freight rates.

Together, the two maxims show what the core maxim really means: the remedy follows the violation of a right, not the loss.

Principles Related to the Maxim

Several other principles flow from the maxim, and help explain how it works in practice.

- **The remedy fits the right.** Different rights call for different remedies: damages for a tort, specific performance or damages for a broken contract, an injunction to stop a continuing wrong, and a writ against the State. See these notes on remedies for breach of contract.
- **No remedy without a legal right.** The converse of the maxim. Loss alone, without a violated right, is not enough (damnum sine injuria).

- **Equity will not suffer a wrong to be without a remedy.** Where the common law remedy of damages was inadequate, the courts of equity developed new ones, such as injunctions and specific performance. In India these are now governed by the Specific Relief Act, 1963.
- **Access to courts.** Section 9 of the Code of Civil Procedure, 1908 lets civil courts try every suit of a civil nature unless a law expressly or impliedly bars it. This gives the maxim a statutory footing for civil rights.
- **Courts may fashion a remedy where none exists.** Constitutional courts have created remedies to fill gaps, such as compensation for violations of fundamental rights, rather than leave a right without protection.

Exceptions to Ubi Jus Ibi Remedium

The maxim is not absolute. In four situations a claimant gets no remedy, either because there is no legal right at all, or because the law bars the remedy even though a right exists.

1. Moral and social obligations

The maxim protects legal rights only, not moral or social expectations. If a friend promises to come to dinner and does not, there is no legal claim. **Example:** in Balfour v Balfour (1919), a husband promised his wife a monthly allowance while he worked abroad. The court held it was a domestic arrangement with no intention to create legal relations, so she could not enforce it.

2. Volenti non fit injuria (consent)

A person who freely accepts a known risk cannot sue when that risk causes harm. Strictly, this is a defence: the right exists, but consent bars recovery. **Example:** in Hall v Brooklands Auto-Racing Club (1933), a spectator at a motor race was injured when two cars collided and one was thrown into the crowd. The court held that spectators accept the ordinary risks of watching the race, so the club was not liable.

3. Act of state and sovereign immunity

Courts do not give a remedy for an act of state, meaning an act done by the government as a matter of policy against a foreign state or its subjects, such as a decision to go to war. In tort, the State has also claimed immunity for acts done in the exercise of sovereign functions. **Example:** in

Kasturi Lal Ralia Ram Jain v State of UP (1965), police seized gold from a trader and a constable ran off with it. The Supreme Court held the State was not liable, because the power of arrest and seizure was sovereign.

The exception is now much narrower. N. Nagendra Rao v State of AP (1994) confined sovereign immunity to core functions such as defence. Since Nilabati Behera (1993), immunity is no defence at all to compensation for violating fundamental rights.

4. Limitation and laches

A claim brought too late gets no remedy, even if the right was real. The Limitation Act, 1963 sets fixed time limits for suits: for example, a suit to recover money lent must usually be filed within three years. The right is not wiped out, only the remedy in court, except for possession of property, where Section 27 also ends the right. In writ cases with no fixed limit, courts apply laches and may refuse relief after unexplained delay.

FAQs

What does ubi jus ibi remedium mean?

Ubi jus ibi remedium is a Latin maxim meaning "where there is a right, there is a remedy". When the law gives a person a legal right, it must also give them a way to enforce it, or to be compensated when it is violated.

Who coined the maxim?

No single person coined it; it is an old principle of the English common law. It is most closely linked with Lord Holt CJ, whose dissent in Ashby v White (1703) said that "want of right and want of remedy are reciprocal". William Blackstone later restated it in his Commentaries on the Laws of England.

Is it a constitutional principle in India?

Yes. Articles 32 and 226 give a guaranteed remedy for violations of fundamental rights, and Article 32 is itself a fundamental right. Relying on the maxim, the Supreme Court has awarded compensation for violations of Article 21, in cases such as Rudul Sah (1983) and Nilabati Behera

(1993).

What are its exceptions?

The main exceptions are moral and social obligations, which are not legal rights; volenti non fit injuria, where the claimant consented to the risk; acts of state and sovereign immunity; and claims barred by limitation or laches. Sovereign immunity is now no defence to compensation for violating fundamental rights.

How is it used in tort law?

In tort law, the maxim means a remedy follows the violation of a legal right, not loss as such. Under injuria sine damno, a violated right is actionable even without loss (Ashby v White). Under damnum sine injuria, loss without a violated right gets no remedy (the Gloucester Grammar School case).

Read More: Ashby v White: injuria sine damno, a case analysis