Law of Interpretation to Fulfil the aim and object of Legislature: An Analysis

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"The essence of law lies in the spirit, not in its letter, for the letter is significant only as being the external manifestation of the intention that underlies it."

-Salmond

Abstract

Drafting a law is a complex task, the legislature has to keep in mind thousands of scenarios so that the legislation drafted is complete in itself. In an ideal world, the meaning of the statute would be clear and direct. In the real world that we live in, most of the times the law drafted is complicated and vague. The judge cannot simply wash his hands off the responsibility and blame the legislature, he should interpret the statute by finding the intent behind it. The judge should not only focus on the language of the statute but also on the social considerations that made the parliament draft a particular statute. In this article different methods of Interpretation will be explained to show how they fulfill the aim and object of law.

Key Words: Legislature, Judge, Intention, Interpretation, Object

Introduction

"Interpretation" in law has different meanings.[1] Indeed, the word "interpretation" itself must be interpreted.[2] Legal interpretation is a rational activity that gives meaning to a legal text.[3]The requirement of rationality is key—a coin toss is not interpretive activity. Interpretation is an intellectual activity, concerned with determining the normative message that arises from the text.[4] What the text is and whether it is valid are questions related to interpretation, but they are distinct from it. Interpretation shapes the content of the norm "trapped" inside the text. The text that is the object of interpretation may be general (as in a constitution, statute, case law, or custom) or individual (as in a contract or will). It may be written (as in a written constitution or judicial opinion) or oral (as in an oral will or a contract implied-in-fact). The word "text" is not limited to a written text. For purposes of interpretation, any behaviour that creates a legal norm is a "text."

[1] A. Marmor, *Interpretation and Legal Theory* 13 (1992); A. Marmor, *Positive Law and Objective Values* 71 (2001).
[2] M.S. Moore, "Legal Interpretation," 18 *Iyunei Mishpat* 359 (1994)
[3] C. Ogden and I. Richards, *The Meaning of Meaning* (10th ed. 1956)
[4] H. Kelsen, *Pure Theory of Law* 348 (Knight trans. from German, 2d ed. 1967).

According to the dictionary meaning, interpretation is an act of explaining the meaning of a thing. In legal context, interpretation means the act of interpreting and deciphering the intent behind a statute. The term 'interpretation' has its roots in the Latin word *'interpretari'* which means to explain, or to translate. The main aim of interpreting a statute is to determine the intention behind the law.

"By interpretation or construction is meant", says ***Salmond***: "the process by which the courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed".[5]

In the words of ***Gray***: "The process by which a judge (or indeed any person, lawyer or layman, who has occasion to search for the meaning of a statute) constructs from the words of a statute-book a meaning which he either believes to be that of the Legislature, or which he proposes to attribute to it, is called by us 'Interpretation'.[6]

According to ***Cross***- 'Interpretation is the process by which the courts determine the meaning of a statutory provision for the purpose of applying it to the situation before them'.[7]

Need of Interpretation

Interpretation is done only when-

1. The language of the provision is ambiguous.
2. It is not clear what the law is made for.
3. When a provision has two or more meanings.
4. When two or more views are possible about the provision.
5. The meaning of the provision defeats the purpose of the statute.

Interpretation is needed because of the following reasons:

1. The Ambiguity Of The Words Used In The Statute: Sometimes there will be words that have more than one meaning. And it may not be clear which meaning has to be used. There could be multiple interpretations made out of it.

2. Change In The Environment: We all know that society changes from time to time and there may be new developments happening in a society that is not taken into consideration, this lacks the predictability of the future event.

3. Complexities Of The Statutes: Usually statutes are complex and huge, it contains complicated words, jargon and some technical terms which are not easy to understand and this complexity may lead to confusion.

[5] SALMOND: "Jurisprudence " 11th Edition, p. 152.
[6] The Nature and Sources of the Law, 2nd Edition, p. 176.
[7] Statutory Interpretation, 3rd Edition, p. 34.

4. When Legislation Doesn't Cover A Specific Area: Every time when legislations are out it doesn't cover all the area it leaves some grey areas and interpretation helps in bridging the gaps between.

5. Drafting Error: The draft may be made without sufficient knowledge of the subject. It may also happen due to the lack of necessary words and correct grammar. This makes the draft unclear and creates ambiguity in the legislature.

6. Incomplete Rules: There are few implied rules and regulations and some implied powers and privileges which are not mentioned in the statute and when these are not defined properly in the statute this leads to ambiguity.

Rules of Interpretation

The interpretation of laws is confined to courts of law. In course of time, courts have evolved a large and elaborate body of rules to guide them in construing or interpreting laws. Most of them have been collected in books on interpretation of statutes and the draftsman would be well advised to keep these in mind in drafting Acts. Some Interpretation Acts shall be deemed remedial and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit. The object of all such rules or principles is to ascertain the true intent, meaning and spirit of every statute. A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that unattainable.[8]

Just as music is composed on staves with bars indicating timing, so should rules have a consistent framework for their component parts, divisions, sections, subsections, and other segments. Structural conventions, for music and for rules, provide a framework for both writers and readers. The framework aids in communicating the writer's musical or written message.[9] Jerome Frank maintains that Judges while interpreting statutory or other rules may be compared with musical performers, playing musical compositions and judges like musical performers are to some extent creative artists.[10] It is the duty of the courts to give effect to an Act according to its true meaning; and it is during this process that the rules or principles of interpretation have come to be evolved.[11]

The notion that statutory interpretation is a rule-governed activity is misleading. The "rules" are not really rules in the Dworkian sense and therefore they do not impose binding constraints on judges and other interpreters.[12] The failure to "follow" a rule of statutory interpretation is not an appealable or reviewable

[8] ***Whitney v. Inland Revenue Commissioners***, 1926 AC 37
[9] R.N. Graham, "A Unified Theory of Statutory Interpretation."
[10] Frank, Jerome, "Say it With Music", Harvard Law Review, Vol. LXI, 921-957 at 921(1948).
[11] F..A. Driedger," A New Approach to Statutory Interpretation", 31 Canadian Bar Review, at 838, (1951
[12] Ronald Dworkin writes that rules are binding; therefore, they cannot conflict with one another and they produce a single correct outcome. By contrast, principles are not binding but operate as pointers—reasons to prefer one solution over another. It is common for a set of facts to be subject to conflicting principles. R.M. Dworkin, *A Matter of Principle* (Cambridge, MA: Harvard University Press, 1985).

error. Although bad interpretations may be appealed or reviewed, the error lies in failing to interpret the statute correctly, not in failing to apply a particular statutory interpretation rule.

As Lord Reid wrote in ***Maunsell v. Olins***:

> *They [the rules of statutory interpretation] are not rules in the ordinary sense of having some binding force. They are our servants, not our masters. They are aids to construction, presumptions or pointers. Not infrequently one "rule" points in one direction, another in a different direction. In each case we must look at all relevant circumstances and decide as a matter of judgment what weight to attach to any particular "rule*."[13]

Canons of Interpretation

Interpretation is a journey of discovery. It is the process of ascertaining the meaning at an Act of Parliament or of a provision of an Act. A statute is an edict of the legislature. The normal way of interpreting or construing a statute is to seek the intention of legislature. If a statutory provision is open to more than one interpretation, the Court has to choose that interpretation which represent the true intention of the legislature.[14] The intention of the legislature is to be gathered from the language used. Attention should be paid to what has been said and also to what has not been said.[15] In a court of law or equity, what the legislature intended to be done or not to be done can only be legitimately ascertained from what it has chosen to enact, either in express words or by reasonable and necessary implication. [16]

Since Acts of Parliament have to be interpreted by the courts and it is the duty of the courts to give effect to an Act according to its true meaning while at the same time balancing with the need for making the Act workable, in course of time, an elaborate body of rules to guide them in construing or interpreting laws have evolved. These are known as Rules of Statutory Interpretation and have a direct impact on the drafting of legislation because as stated by ***LORD SIMON*** of ***Glaisdale***, *"unsatisfactory rules of interpretation may lead the drafters to an over-refinement in drafting at the cost of the general intelligibility of the law.*"[17]

-Primary Rules of Interpretation:

Literal Rule or Plain Meaning Rule- The Principle of Textualism

According to this rule, the words of a governing text are of paramount concern, and what they convey, in their context, is what the text means. When deciding an issue governed by the text of a legal instrument, the careful lawyer or judge trusts neither memory nor paraphrase but examines the very words of the instrument. As Justinian's Digest put it: ***A verbis legis non est recedendum*** ("Do not depart from the words of the law"). Textualism, in its purest form, begins and ends with what the text says and fairly implies. A textualist reading will sometimes produce "conservative" outcomes, sometimes "liberal" ones.

[13] [1975] A.C. 373 at 382 (H.L.).
[14] ***Dist. Mining Officers v. Tata Iron & Steal Co.*** AIR 2001 SC 3134 at 3
[15] ***Mohammad Alikban v. Commissioner of Wealth Tax***, AIR 1997 SC 1165 at 1167.
[16] Craies, Statute Law, 66 (1971), which refers to Lord Watson's judgment in Salomon v. Salomon & Co. Ud. (1887) AC 22 at 38.
[17] Lord Simon of Glaisdale "*The Renton Report-Ten Years On*", Statute Law Review, 133(1985).

The Literal Rule was laid down in ***The Sussex Peerage Case***.[18] This rule stated that:

> *"The only rule for the construction of Acts of Parliament is, that they should be construed according to the intent of the Parliament which passed the Act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case; best declare the intention of the lawgiver."*

The literal rule, in its purest form, has an inflexibility which places particular strain on the draftsperson, requiring language which expressly covers all eventualities. This extreme inflexibility can be seen in the words of LORD ESHER MR in ***R. v. The Judge of the City of London Court***[19] where he stated that *"if the words of an Act are clear you must follow them, even though they lead to manifest absurdity. The Court has nothing to do with the question whether the Legislature has committed an absurdity*."

This means that only the words of the statute count; if they are clear by themselves then effect must be given to them. This rule also has its drawbacks; it disregards consequences and the object of the statute may be considered only if there is doubt. Statutory enactment must be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the test of the statute.[20]

In ***United States v. Great Northern Ry.***,[21] per CARDOZO, J. stated that *"We have not travelled, in our search for the meaning of the lawmakers, beyond the borders of the statute*."

In ***Nelson Motis v. UOI*** [22], the Apex Court laid down that when the words of a statute are plain, clear and unambiguous i.e.; they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of consequences.

The Golden Rule: Deviating From The Language Of The Text To Avoid Absurdity

The "golden rule," allows deviation from the natural and ordinary meaning, in order to avoid an absurdity. This aspect of absurdity is interpretive. It guides the interpreter's choice of the text's legal meaning from among the few semantic meanings that the text can tolerate in its language. It tells the interpreter to select a semantic meaning that is not absurd. The aspect of absurdity operates beyond the limits of language, allowing a judge to correct language, add to it, or subtract from it, in order to avoid an absurdity.[23]

LORD WENSLEYDALE in ***Grey v. Pearson***[24] enunciated the "Golden Rule". He stated that-

> *"In construing wills, and indeed statutes and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the*

[18] [1844] 11 Clark and Finnelly 85, 8 ER 1034 at 184
[19] [1892] 1QB273 9CA.
[20] ***Bhavnagar University v. Palitana Sugar Mills Ltd.***, (2003) 2 SCC 111 at 121
[21] 287 U.S. 144, 154 (1932)
[22] AIR 1992 SC 1981, ***Gurudevadatt Maryadit v. State of Maharashtra***, AIR 2001 SC 1980 at 1991; ***State of Jharkhand v. Govind Singh***, AIR 2005 SC 294 at 296; ***Nathi Devi v. Radha Devi Gupta***, AIR 2005 SC 648 at 65
[23] ***Cross:*** "The usual consequence of applying the golden rule is that words which are in the statute are ignored or words which are not there are read in."
[24] (1857) 10 E.R. 1216, 1234.

grammatical and ordinary sense of the words may be modified so as to avoid the absurdity and inconsistency, but no further."

The golden rule is still referred to by the courts today as a means of modifying stringent application of the literal rule. It was set out by LORD BLACKBURN in ***River Wear Commissioners v. Adamson.***[25] The golden rule, he stated, enabled the courts:

"to take the whole statute together, and construe it all together, giving their words their ordinary significance, unless when so applied they produce an inconsistency, or an absurdity or inconvenience so great as to convince the court that the intention could not have been to use them in their ordinary significance, and to justify the court in putting on them some other signification, which, though less proper, is one which the court thinks the words will bear."[26]

The rule stated above have been quoted with approval by the Supreme Court in ***Harbhajan Singh v. Press Council of India***[27] wherein the Court observed:

"Legislature chooses appropriate words to express what it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material-intrinsic or external-is available to permit a departure from the rule."

Mischief Rule: A Purposive Construction

When carrying out a purposive analysis, courts sometimes refer to the mischief rule, also known as the rule in Heydon's Case.[28] Heydon's Case was decided in 1584 by the Barons of the Exchequer and has been cited ever since for the following passage:

"[F]or the sure and true interpretation of all statutes (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered:
(1) What was the common law before the making of the Act?

(2) What was the mischief and defect for which the common law did not provide?

(3) What remedy the Parliament have resolved and appointed to cure the disease of the Commonwealth?

(4) The true reason of the remedy and then the office of all the judges is always to make such construction as shall suppress the mischief and advance the remedy, and to suppress subtle inventions and evasions for the continuance of the mischief and pro private commodo, and to add force and life to the cure and remedy according to the true intent of the makers of the Act pro bono publico."

[25] (1877) 2 Appeal Cases 743.
[26] *Id.* At 764.
[27] AIR 2002 SC 1351 at 1354.
[28] (1584), 76 E.R. 637.

That was the beginning of what is now often referred to as the purpose approach or the Mischief Rule. In India the rule was explained by the Supreme Court in ***Bengal Immunity Co. v. State of Bihar***[29]**.** This rule was again applied in ***Good-year India Ltd. v. State of Haryana.***[30] In ***CIT v. Sodra Devi***,[31] the Supreme Court (BHAGWATI J.) expressed the view that the rule in Heydon's case is applicable only when the words in question are ambiguous and are reasonably capable of more than one meaning. GAJENDRAGADKAR J in ***Kanailal Sur v. Parmanidh***[32] pointed out that the recourse to consideration of the mischief and defect which the Act purports to remedy is only permissible when the language is capable of two constructions. The Supreme Court in ***P.H.K. Kalliani Amma (Smt.) v. K. Devi***[33] referred extensively to the rule in Heydon's case and to the opinions of BHAGWATI J. and GAJENDRAGADKAR J.

Thus in the construction of an Act of Parliament, it is important to consider the mischief that led to the passing of the Act and then give effect to the remedy as stated by the Act in order to achieve its object. This has its drawbacks; the language of the statute may have inadequately expressed the objective intended to be achieved.

Rule Of Harmonious Construction

Where two provisions in a statute conflict with each other, courts will try their best to read the two harmoniously, and will reject either of them as useless only in the last resort.[34] If two constructions are possible, one leading to sense and the other to absurdity, the courts will adopt the former. The courts will always do their best to find a reasonable interpretation of the Act and help the draftsman. They will not regard any part of a statute as superfluous or nugatory. It is always to reason that the courts will lean. They will not allow a law to be defeated by the draftsman's unskillfulness or ignorance. A contention that what the Legislature intended to bring about, it has failed to do by reason of defective draftsmanship is one which can only be accepted in the last resort when there is no avenue left for escape from that conclusion.[35]

As pointed out by JUSTICE KRISHNA IYER-

> *"Law, being pragmatic, responds to the purpose for which it is made, cognizes the current capabilities of technology and life-style of the community and flexibility, fulfils the normative rule, taking the conspectus of circumstances in the given case and the nature of the problem to solve which the statute was made. Legislative futility is to be ruled out so long as interpretative possibility permits."*

[29] AIR 1955 SC 661.
[30] AIR 1990 SC 781.
[31] AIR 1957 SC 832.
[32] AIR 1957 SC 907.
[33] AIR 1996 SC 963.
[34] ***Bengal Immunity Co. Ltd. v. State of Bihar***, AIR 1955 SC 661; ***Chandra Mohan v. State of U.P.***, AIR 1966 SC 1987at 1993.
[35] ***P.V. Sundramierv. The State of Andhra Pradesh***, AIR 1958 SC 468; ***Emperor v. Hirabhai***, AIR 1948 Bom. 370.

Fulfilment of Aim and Object of Law

"[C]anons are not mandatory rules. They are guides that 'need not to be conclusive.'

-*Chickasaw Nation v. United States*.[36] (per BREYER, J.).

No canon of interpretation is absolute. Each may be overcome by the strength of differing principles that point in other directions. Principles of interpretation are guides to solving the puzzle of textual meaning, and as in any good mystery, different clues often point in different directions. It is a rare case in which each side does *not* appeal to a different canon to suggest its desired outcome. The skill of sound construction lies in assessing the clarity and weight of each clue and deciding where the balance lies.

An oft-cited law-review article by **Karl Llewellyn**, a highly regarded 20th-century legal scholar, derides time-honoured canons of construction by asserting that *"there are two opposing canons on almost every point."*[37] Canons are indeed helpful, neutral guides.

JUSTICE FELIX FRANKFURTER placed equal importance on all the canons by stating that- *"Insofar as canons of construction are generalizations of experience, they all have worth."*[38]

Courts must find out the literal meaning of the expression in the task of interpretation. In doing so if the expressions are ambiguous then the interpretation that fulfils the object of the legislation must provide the key to the meaning. Courts must not make a mockery of legislation and should take a constructive approach to fulfil the purpose and for that purpose, if necessary, iron out the creases. The rules of interpretation are not rules of law. They serve as guide.

So far as the point as to which rule has to be applied, it will depend upon the nature of the case involved:

1. When the language of the statute is clear and unambiguous, it should be interpreted using the ordinary meaning of the language of the statute. Further considering the nature of the statutes, viz. Penal statutes, General statutes, Emergency statute, Subordinate or Delegated legislation are concerned, generally, the Grammatical Literal meaning rule is to be applied by the Court. Not only that but if there is a provisions relating to imposing of tax or penalty in a fiscal statutes, then also the Grammatical-Literal meaning rule has to be applied.
2. When, the language of the statute is such that there is possibility of two interpretations then to avoid absurdity, inconvenience and hardship and repugnance, the court can depart from the literal meaning rule. This is a golden meaning rule. This rule can be applied in a situation where there is likelihood of anomaly or absurdity in the provisions of the statutes. Further the statutes like Special statutes governing of particular subject, the statute relating to defining the rights or creating the rights i.e. Substantive statute and Adjective statutes and Codifying statutes may be interpreted by using the Golden rule of interpretation.
3. The Mischief rule-Purposive rule is intended to find out the true intention and object of the legislature in enacting a particular legislation. This rule can be applied for the suppression of the mischief and

[36] 534 U.S. 84, 93 (2001)
[37] Karl Llewellyn, *Remarks on the Theory of Appellate Decision and the Rules or Canons About How Statutes Are to Be Construed*
[38] Felix Frankfurter, *Some Reflections on the Reading of Statutes*, 47 Colum. L. Rev. 527, 544 (1947)

advancement of remedy for which the concerned statute has been enacted. Considering the various decisions relating to various types of statutes as discussed earlier, it is crystal clear that this rule has been applied in interpretation of provisions of various types of statutes viz. the provisions relating to Machinery provision of collecting tax under the Fiscal statute, Procedural statute, Beneficial-Social-Welfare statute, Amending, Codifying and Consolidating statutes, Substantive and Adjective statute.

4. So far as the, Constitution is concerned, the basic rule of interpretation would be of harmonious interpretation. The provisions relating to procedural aspects as envisaged in the constitution may be interpreted according to the Grammatical Literal meaning rule. But, when the question is relating to the rights of the citizens, then in that case either the Golden rule or Mischief-Purposive rule has to be applied.

Conclusion

Though different terms are used in different situations, the main endeavour of the court is to know the intention of the legislature and, therefore, depending on the problem posed before the court one of the rules should be followed while applying the principles of interpretation. The court should take an overall view, weigh all the relevant factors, and arrive at a balanced conclusion.