



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA

**Semester: IX**

**B.A./B.B.A. LL.B. (Hons.)**

**Paper Code: LB-901**

**Law of Interpretation of Statutes**

**Credit - 04**

### **Introduction:**

Interpretation is a dynamic and ongoing process in sense of Dworkinian chain of novel that need to keep the story going. In the reductionist model of separation of powers legislatures and not courts are makers of the law. Hence it is not the perspective of the court but the intention of the legislature which is to guide the judicial interpretation. Further there used to be various factors in shaping the process and outcome of interpretation. There is a strong connection between ideology, identity, language, and interpretation. In other words, there is a pre-existing human understanding behind shaping any discourse about interpretation. Interpretation of statute is a skilful technique engaged by judges, jurist, lawyers, law teachers and students to deduce the intention of the legislatures by scrutinising the language of the statutes. With development of the judicial process of law interpretation of statute had evolved as a method to explore the intent, the purpose and the objective to be reckoned by the legislature while enacting the law.

Interpretation in the common law tradition has to account for the overarching preference for certainty, clarity and consistency in the law. While these qualities cannot be present in an absolute sense, they do command the attention of those who claim to be familiar with the law, either as legislators, judges or lawyers (or more simply 'lawmen' as described by Karl Llewellyn). From the prism of inclusive legal positivism, the authoritative force of legal provisions bears a strong correlation with coherence in their interpretation, both from the viewpoint of those who are asked to apply them and those who are asked to follow the law.

The Course syllabus is divided into four modules, each module is dealing with different aspect of interpretation and its techniques. The course intended to introduce the

students to the legislative process, the ensuing judicial process and the canons of statutory interpretation. In this regard, while designing the course care has been taken to adequately address the theoretical and practical of the subject. The aim of the course is to enable the students to develop understanding and the application of various rules of interpretation and train them to critically examine the limitations inherent in the legislature and the law-making process giving the students scope for appreciation of judicial process in ascertaining of the intent of the legislature and the establishment of the law.

**Course Objectives:**

1. To familiarize the students with the theoretical and practical perspective of interpretation of statutes and to develop awareness of the of the inherent limitations of the legislature and the law making process;
2. To familiarize the students with judicial creativity and innovation by the judiciary while interpreting the intent of the legislatures;
3. To understand and articulate vital, controversial issues in the matter related to interpretation of statutes and to introduce the students the alternative rules of interpretation develop by ancient jurist, as the Mimamsa rules of interpretation;
4. To lay emphasis on the logical reasoning and the ability to apply the various tools interpretation followed in the common law legal systems and to determine the intention of the legislature conveyed expressly or impliedly in the language used.

**Learning Outcomes:**

On the successful completion of course, students will be able to:

1. Locate, identify and be able to critically analyse relevant statutes, statutory provisions and legislative instruments, as well as pertinent judicial authority.
2. Interpret the appropriate provisions using the accepted tools and techniques of statutory interpretation.
3. Apply statutory provisions to fact scenarios and communicate the interpretation, nature and effect of statutory provisions to relevant stakeholders, such as clients and courts.
4. To analyse the legislative intent of statute and various principles pertaining to that the role of courts and guided principles for interpretation of any statutes.

## **Module - I**

### **Introduction**

- 1.1. Meaning of 'Interpretation' and Construction; Methods of Interpretation;
- 1.2. Principles of Interpretation; Ancient Indian methods of interpretation;
- 1.3. Meaning and Scope of 'statute' and Classification of Statutes With reference to duration- method, object, extent of application;
- 1.4. Basic Sources of Statutory Interpretation (i) The General Clauses Act, 1897: Nature, Scope and Relevance (with special reference to sections 6 to 8 of the Act) (ii) Theories of Interpretation (utilitarianism; individualism, libertarianism);
- 1.5. The Function of the Court is to interpret the law and not to legislate (Ronald Dworkin).

## **Module - II**

### **Principles and Rules of Interpretation**

- 2.1. Statute must be read as a whole (Construction ex vicarious actus);
- 2.2. The Primary Rule: Literal Construction: Literal rule: Golden Rule; Mischief Rule of Construction (Heydon's Case);
- 2.3. Rule of Purposive Construction; Rule of Harmonious Construction and Rule of Strict Interpretation (Penal and Tax Statutes);
- 2.4. Construction *ut res magis valeat quam pereat*; *expressio unius est exclusio alterius* and *contemporanea expositio est fortissimo in lege*;
- 2.5. Principles of Eiusdem Generis and Noscitur a sociis.

## **Module - III**

### **Aids to Interpretation (Internal)**

- 3.1. Language, phraseology, clauses and punctuation;
- 3.2. Short and long titles, preamble, marginal headings, parts and their captions, chapters ;and their captions, marginal and section-headings;
- 3.3. Explanations, exceptions, examples, provisos and schedules;
- 3.4. Defining legal expressions like 'means' 'includes', 'that is to say', etc.;
- 3.5. Phrases like 'grammatical variations and cognate expressions'; 'without prejudice to the generality of...' etc.

## **Module - IV**

### **Aids to Interpretation (External)**

- 4.1. Role of Constituent Assembly debates in the interpretation of the Constitution of India; Principles of Implied Power, Incidental & Ancillary Powers, Implied Prohibition, Occupied Field, Pith and Substance, Colourable Legislation, Territorial Nexus, Severability, Prospective Overruling, Eclipse;
- 4.2. Legislative History - Legislative Intention, Statement of objects and reasons, legislative debates, Committee reports, etc;
- 4.3. Presumption against violation of International Law; International-law and human-rights documents;
- 4.4. 183rd Report of the Law Commission of India on: A continuum on the General Clauses Act, 1897 with special reference to the admissibility and codification of external aids to interpretation of statutes;
- 4.5. Commencement, Repeal & Revival of Legislation; Retrospective Operation of Statutes. Presumptions regarding Jurisdiction.

### **Prescribed Legislations:**

1. The Constitution of India, 1950.
2. The General Clauses Act, 1897.

### **Prescribed Books:**

1. G. P. Singh, PRINCIPLES OF STATUTORY INTERPRETATION, (LexisNexis, 2021).
2. Amita Dhanda, N S BINDRA'S INTERPRETATION OF STATUTES, (2000).
3. P. St. J. Langan, MAXWELL ON THE INTERPRETATION OF STATUTES, (2006).
4. V. P. Sarathi, INTERPRETATION OF STATUTES, (EASTERN BOOK CO., 2015).
5. William N. Eskridge Jr., DYNAMIC STATUTORY INTERPRETATION, (2013).

### **Suggested Readings:**

1. S. G. G. Edgar, CRAIES ON STATUTE LAW, (1999).
2. P. M. Bakshi, INTERPRETATION OF STATUTES, (Orient Pub. 2008).

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