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Methods of Interpretation of Statutes and their relevance in Modern Society

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ABSTRACT

The concept of judicial interpretation of statutes has seen significant changes over the years. This research paper attempts to give an in-depth analysis of the methods of interpretation and their relevance in modern society. It traces the history of judicial interpretation over the years, followed by an explanation of the kinds of interpretation of statutes and judicial approach adopted with respect to the same. Further, the paper introduces the reader to Benjamin Cardozo's methods of interpretation and puts forward a nuanced analysis of the same. It analyses the judicial approach of interpretation in India and introduces the reader to some landmark cases in the field of interpretation and their significance in the legal realm. The paper concludes by suggesting a clear demarcation of powers between the legislature and the judiciary, and the need for an independent judiciary.

Keywords: *judicial interpretation, Benjamin Cardozo, judicial approach.*

I. INTRODUCTION

The division of power between the judiciary, legislature, and the executive was defined for the first time in the 17th century by French philosopher Baron Montesquieu. Conventionally, the role of the judiciary has always been to resolve the disputes that were brought before them. Under the common law tradition, the lawyers tend to shape the opinion of judges by their arguments; therefore, the role of a judge is fairly passive, where they evaluate the arguments made from both sides. Perhaps, most importance has been given to the judiciary by the Anglo-American legal thought, in the 12th century, the American Supreme court stated that law is essentially what the court decides. American Scholars like Chipman Gray believed that statutes enacted by the legislature were only a source of law since their legitimacy was determined only when these statutes were considered in cases before courts. Traditionally, the role of judges has always been identified as an interpreter, which is someone who analyses and reflects on what the legislature has said. A judge does not find law; the law-making duty rests with the legislature.

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II. EVOLUTION OF STATUTORY INTERPRETATION

In the 18th century, when the definition of laws was not clear, common and statutory laws were governed by equity and law. This was the Blackstonian era, in which the rules were not clearly laid out and it was the judge who had to ascertain the legal meaning of the rule. Even though equity played a major role during this period it was not consistently incorporated in the rules of interpretation.

The early 19th century saw a reform of laws, as the concept of law and equity were replaced by technicality and liberality. The most significant aspect of this era was that unlike law and equity, technicality and liberality were not always used complementary to each other. The Technicality was mainly identified with conventional techniques like pleading and reasoning, whereas, liberality signified the inherent concepts of justice and the established concepts of modern law. This era was significant in the sense that statutes and rules were given a liberal and technical meaning, and in some cases, the concept of equity and liberality for interpreting the statutes was also combined. For example in the case of *White v. Carpenter*,² the judge observed that the common law principles of equity and liberality need to complement each other and cannot be viewed in isolation of one another.

Next came the classical period from the mid-late 19th century, where common law and statutory law came to be identified as two different concepts. Torts, contracts, property were classified into different categories, the prominence of judicial opinion was on the rise and the concept of equity started to fade out. The primary purpose of the judiciary during this era was to give legitimacy to the statutes enacted by the legislature.

The Twentieth century saw the revival of equity of statute. Initially, the progressive reformers like Ernst Freund, Roscoe Pund gave the concept of equity as analogical interpretation, and they stated that the courts could not be limited to mere administrative functions; the legislative language is subject to judiciary interpretation. They gave little importance to the meaning of legislative intent, and believed that it was the job of judges to interpret the statute, and only after the process of interpretation does a statute become a law.

Realists like Felix Cohen and Robert Hale took this criticism on the classical theory of interpretation of statutes a step further; they believed that there was no clear way to identify legislative intent. According to the realists, the only real job of the legislature was to pass statutes, but they could not impose their will on people while doing the same.

² *White v. Carpenter*, 484 US 19 (1987)

The modern-day period has seen radical shifts in the field of statutory interpretation, legislature prominence has shifted, and the judiciary has been actively involved in giving effect to the legislation and even scrapping laws when they are not in consonance with the constitution. Therefore, in modern-day, the role of the judiciary is much wider and even more powerful when compared to the earlier eras.

III. KINDS OF INTERPRETATION: JUDICIAL APPROACH

- The Literal or Grammatical Interpretation- As the name suggests this method states that the judiciary cannot alter the letters of the law. The laws have to be interpreted under their natural meaning under this form of interpretation. So, if a statute has been laid out then the courts have to give effect to it, regardless of the consequence. In the case of *Lalita Kumari v. Government of Uttar Pradesh*,³ the question of interpretation of section 154 of the Criminal Procedure Code came before the court, the dispute was whether the police had the discretion to conduct inquiry before recording an FIR, the judiciary stated that the word shall in section 154 of the code had to be taken at its face value and the police had no authority to interpret the same according to their own will. Therefore, the court opted for a literal or grammatical interpretation of the words used in the code.

- The Mischief Rule- This principle of interpretation was laid out in the *Heyden* case, in this method of interpretation the onus is on the judge to find out any defect in the statute and correct the same. The judges can change the meaning of law if it is not in line with the ideas of public interest and against the constitution. Through this process, the judges can identify any gaps which the legislature overlooked, thereby curing the law. In *Bengal Immunity Company v. State of Bihar*,⁴ the court stated that the purpose of article 286 of the constitution was to cure the defect of multiple taxations.

- The Golden Rule- This rule suggests that the statutes laid out by the legislature cannot be interpreted strictly if applying these statutes causes any injustice to the people. The words of statute can be modified according to the needs of the people. The rule assumes that the statutes put forth by the legislature cannot always achieve their desired object and hence require to be modified. In the case of *Uttar Pradesh Bhodan Yagna Samiti v. Brij Kishore*,⁵ the court held that only landless labourers should be identified as landless persons under section 14 of the UP Bhodan Yagna Act, 1953, any landless person cannot claim the benefit of the same.

³ *Lalita Kumari v. Government of Uttar Pradesh*, AIR 2014 SC 184

⁴ *Bengal Immunity Company v. State of Bihar*, AIR 1995 SC 661

⁵ *Uttar Pradesh Bhodan Yagna Samiti v. Brij Kishore*, AIR 1981 SC 1656

- **Harmonious Construction-** This rule of interpretation applies when there is a conflict between two or more provisions of the same statute, the idea is to adopt the statute as a whole and the onus on the judges is to interpret the statute in such a way that the whole of the statute can be adopted without the provisions conflicting with each other. Since each provision has its function, one provision cannot be abrogated, mainly because it is not in line with some other provision of the statute. In *T.M.A. Pai Foundation v. State of Karnataka*,⁶ the court stated that provisions of a statute need to be read in tandem with each other, the onus is on the judges to ensure harmonious construction of provisions so that one does not render the other redundant.

- **Beneficial Construction-** this rule implies that a statute needs to be given the widest ambit possible, it also states that a statute is there to benefit the people and if a statute is capable of being interpreted in two different ways, then the meaning which furthers the rights and benefit of people should be adopted. In the case of *Hindustan Level Ltd v. Ashok Vishnu Kate*,⁷ the question before the court was regarding social welfare legislation. The court stated that statutes need to be interpreted in a way that furthers the interests and rights of people.

IV. METHODS OF INTERPRETATION AS LAID DOWN BY BENJAMIN CARDOZO

Benjamin Cardozo was an American Jurist who made significant contributions to the development of American common law. Cardozo was of the belief that the role of the judges was ancillary when the statutes were clearly laid out, however, he believed that a judge received significant importance when they had to identify any loop-holes in the statute, it was to correct these defects that he suggested methods of interpretation by the judges. He laid out four methods of interpretation:

- **The Method of Philosophy-** The first method laid down by Cardozo was that of philosophy, he considered it to be one of the most important methods. In this method Cardozo advocated the use of logical reasoning as means for arriving at a decision, he did not advocate the use of philosophy as a logical method but simply stated that following of precedents laid down was a logical approach and therefore, philosophical. In this method, Cardozo wanted to give importance to the laws that have existed a long time and wanted to give them value.

Cardozo pointed out that this method could not be treated as a means to an end, and strict interpretation of this method could lead to grave injustice. He stated that a strict application

⁶ *T.M.A. Pai Foundation v. State of Karnataka* (2002) 8 SCC 481

⁷ *Hindustan Level Ltd v. Ashok Vishnu Kate* (1995) SCC 1385

of this rule could not be used as that would lead to grave injustice. Judges cannot give way to sentiments and have to apply logic and reasoning before arriving at a decision. He finally concluded that positive law can grow only when there is a deviation from a rule or precedent which is essentially the essence of the method of philosophy laid down by him.

- The Method of History- Cardozo then goes on to describe the method of history, he believes that this method cannot help one in solving any problem of the law; it is there merely to point out the development of law over the years, and how it has helped shape judicial opinion over the years. He believed that the primary purpose of this method was to identify the roots and origins of laws, unlike philosophical school which thrived on the use of logical reasoning. Cardozo was of the opinion that the historical school had a very narrow viewpoint on jurisprudence; however, he did give them credit for their significant effort in the development of positive law, feudal tenures, and contracts.

- The Method of Custom- Cardozo rejects the classical views of Coke who believes that customs have no place in common law, he also does not agree with Blackstone who believed that custom is present in every different aspect of law. Cardozo is of the opinion that the role of customs is to guide a judge with respect to the application of rules and laws that have already been laid down. Customs sets out tests and standards for the application of rules and laws. He also believes that if customs are to be identified by society it can only happen through legislation, until then they can only act as guiding principles.

- The Method of Sociology- Cardozo considers the method of sociology as the most important of all the methods, this is primarily because he believes the welfare of society as the ultimate aim of any law. He believes that the welfare of society is the ultimate aim of any law; hence, all laws need to bend in pursuit of the greater good of mankind. This method does not focus on how the gaps or defects in-laws are to be filled, but mainly on what principles should be applied to rectify these defects. The criterion which Cardozo talks about is that of social welfare, he stresses the need for a high moral content in law, hence the talk on social welfare; however, he is aware of the fact that the ambit of social welfare is not exhaustive; it incorporates multiple facets within it. He believes that the method is most relevant in the field of constitutional law since the constitution incorporates within it multiple rules and laws and has broader and generic concepts associated with it. According to him, the duty of a judge is not restricted just to legislate in the loopholes left by the legislators, but to ensure acceptable standards of morality in the society.

V. AN ANALYSIS OF THE METHODS OF INTERPRETATION LAID DOWN BY BENJAMIN CARDOZO

If we go through the methods of interpretation laid down by Cardozo, we see that his methods of interpretation were radical at a time when conventional methods of judicial decision making, pervaded the legal realm. Cardozo debunked the conventional methods that were prevalent during those times, which limited the role of judges around the existing law and left the responsibility of creation of law with the legislature. Cardozo was aware that human decisions are susceptible to fallibility, however careful one may be. Cardozo was of the belief that a judge has to make choices and decisions, and such choices require the creation of law.

- Truth- In the first method of philosophy, one can see that Cardozo has dealt with the search for truth; he believes that a judge should govern with impartial uniformity. I believe that even though this approach may seem utopian, however, his idea of truth which involved uniformity, order, and logic was a force to be reckoned with. Even though Cardozo did not directly make a case for it, it is evident from his beliefs of logical and scientific reasoning that he preached to strive for achieving singular truth. I am against the idea of a singular truth because there can be various versions of truth and if one version gains power, it tends to silence other versions of the truth.

- Logic- As mentioned earlier, Cardozo was aware of the fact that all judicial decisions can never be consistent and defect-free; however, when a judge faces a legal problem, he cannot let his sentiments take control of him, he should always take decisions in line with logic and inherent truth. Cardozo believed in this idea to such a great extent that he believed that a decision taken along the lines of logic will always be impartial and unbiased. I believe this relationship between logic and impartiality put forward by Cardozo is flawed, there are several modes of analysis to understand a problem and following just one method regardless of the needs of others cannot be said to be impartial. Let us consider a simple example; In the case of *Narmada Bachao Andolan v. Union of India*,⁸ let us hypothetically assume that the government came up with a plan to rehabilitate the displaced communities, however, the communities refuse to leave saying that it is their forefathers' land. Now, if the communities aren't suffering any monetary loss the logical path would be to displace them and construct the dam, but the same cannot be called impartial because the voices of the communities and their version of the analysis are completely ignored.

⁸ *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664

- **Uniformity-** Further dwelling on the topic, Cardozo speaks of uniformity in his methods, he says that lack of uniformity in providing justice will lead to resentment among people. I believe that this assumption laid down by Cardozo can vary depending on the type of society one is dealing with. If we talk about a feudal structure of justice delivery, then the justice delivery is not uniform it much more personal and subjective. Similarly, if we consider the case of India, it is not easy to hand out uniform justice to a population of billion-plus people, the Panchayats and the Gram Sabhas which deliver justice are much more personal in nature than those given out by the High Courts and Supreme Court. Therefore, the assumption that lack of uniformity in providing justice will lead to resentment, does not hold true in all forms of society.

- **Mores of the day-** Scholars believed that the method of sociology put forward by Cardozo was most significant, considering its impact. In this method, Cardozo laid down the welfare of the people as the ultimate aim towards which judges should strive.

He believes that judges should follow a moral good that has been practised over the years; however, he forgets that moralities have different facets, and to only identify with one set of cultural morality that has been followed over the years would be irrational. In the case of *Mohammed Ahmed Khan v. Shah Bano Begum*,⁹ judges had to face the question of multiple moralities; they even came up with the most practical solution for the same based on gender equality. One cannot stop the clash of moralities, Cardozo was aware of this fact; he suggested that in such a scenario the morality which favours the greater good of the community should be followed. In a vast country like India, it is not easy to come up with a practical solution that would benefit all sections of the community.

Cardozo also believed that judges cannot blindly follow the moral beliefs of the majority if their belief is disputed. However, this leads to a situation where the judges start sympathizing with whom their allegiance lays. We see judges very actively dealing with environmental problems in India because they share their moral beliefs. However, when it comes to protecting the rural people from getting displaced their morality values differ.

The above analysis gives a nuanced review of the methods of interpretation laid down by Cardozo. It points out certain flaws and problems that Cardozo ignored and encourages one to view the judicial process from a pluralist point of view.

⁹ *Mohammed Ahmed Khan v. Shah Bano Begum*, AIR 1985 SCR (3) 844

VI. ANALYSIS OF THE JUDICIAL APPROACHES

The Constitution of India has made the judiciary a guarantor of fundamental rights under Article 32 and 226 of the constitution of India. The constitution ensures that independence of the judiciary is safeguarded; article 141 of the constitution guarantees Supreme Court the right to declare a law, even though it cannot enact it, but it can interpret the law and subsequently alter it to suit the needs of people. In the case of *Spring Meadows Hospital v. H Alhuwalia*,¹⁰ through the rule of beneficial construction, the judiciary stated that if the services of the hospital are being used by the parents and the family, then even a child can bring an action independently, claiming deficiency in services. The court stated that statutes have to be interpreted for the benefit of people and there cannot be a strict interpretation of laws if it is against the interest of people.

As mentioned earlier, whenever there has been a conflict of two provisions, the court has stated that the provisions cannot be read in isolation, and should be interpreted in a way to further the interests of people, as mention in the method of beneficial construction. In *Keshavnanda Bharti v. Union of India*,¹¹ the court has the power to amend the constitution but it cannot amend the basic structure of the constitution. Here, the court gave supremacy to the basic structure of the constitution, making it supreme. From the reading above, one can clearly understand that the Indian judiciary has always interpreted the statutes in a manner to further the interests of people in the society. Writs provided under articles 32 and 226 have given the judges a wide power of interpretation to the statutes lay down by the legislature. In the 2g spectrum and commonwealth scam, the Supreme Court cancelled 122 2g licenses allotted by the government, saying it violated the constitution and was against the public interest. Even though the government called this judicial overreach, I believe that if the judiciary were to agree to everything the legislature said then it would undermine their authority and they will only be playing a passive role in the society. We have already read above how Cardozo was not in favour of the judiciary playing a passive role, he wanted judges to create new law, to prevent the legislature from getting a free hand, judges have to step in and take control when the legislature makes a decision which is against the interests of the society.

In the Noida land acquisition case, the judiciary cancelled the acquisition of land by the UP government, the court observed that the land was not used for industrial purpose; it was instead utilized for building apartments. One may call this judicial activism, but without the

¹⁰ *Spring Meadows Hospital v. H Alhuwalia*, (1984) 4 SCC 39

¹¹ *Keshavnanda Bharti v. Union of India*, AIR 1973 SC 1461

judiciary it is impossible to keep a check on the rampant abuse of authority by the legislature. In another case of *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee*,¹² a judge observed that the role of a judge is not limited to that of an orator; he has to interpret the laws, lay down new laws, and make adequate changes as and when required according to the changing social and economic needs of the society.

Judges sometimes face criticism from the legislature and the executive when they encroach on the powers held by them. Another criticism is that while interpreting some of the legislative enactments, judges often tend to rewrite them without informing the legislature, this often leads to a clash between the legislature and the judiciary. I believe that the role of judges cannot be undermined on some false beliefs of the other two organs of the state, which have violated the provisions of the constitution and acted against the public interest on multiple occasions. In *Mallikarjuna Rao v. State of AP*,¹³ the court held that while adjudicating on public law matters, courts have to reach a decision by keeping in mind the social and economic conditions prevailing in the society. History is evident that the judiciary has always been able to adequately modify the law according to the needs of people, even though inherent power to lay down law lies with the legislature, the judiciary should be allowed to interpret, modify laws to further the rights of people guaranteed by the constitution of this country.

VII. A CRITICAL ANALYSIS OF JUDICIAL INTERPRETATION

If we analyse the readings above, one cannot argue that the judiciary has made significant advancements in the field of statutory interpretation. From the 18th century when the laws were not clear and judges played a passive role in adjudication, to the 21st century; where judges have modified and altered the law according to the needs and societies of the people.

- Separation of Powers- In *re Delhi Law act*¹⁴ case the Supreme Court held that all organs shall perform functions vested in them by the constitution, and no one shall infringe on the functions performed by another. Further, this debate on separation of powers was finally settled in the case of *Indira Gandhi v. Raj Narain*,¹⁵ in which the court held that there is no rigid concept of separation of powers in our country, the separation of powers is much more liberal and relaxed. It is evident that the judiciary is sceptical of a rigid implementation of this provision, if interpreted strictly, there will be no one to keep a check on the functions

¹² *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee*, 1955 SCC 457

¹³ *Mallikarjuna Rao v. State of AP*, AIR 1251 1990

¹⁴ *Re Delhi Law Act*, AIR 1951 SCR 747

¹⁵ *Indira Gandhi v. Raj Narain*, AIR 175 SCC (2) 159

performed by the executive, and on some aspects judiciary simply lacks the expertise to frame laws.

- Independence of Judiciary- Another aspect I would like to delve into in this analysis is that of independence. Judiciary is the guardian of rights cannot be viewed in the same light as executive and legislature. Judiciary is there to safeguard the rights of individuals, and we seldom see the lackadaisical approach of the legislature framing laws, judiciary can help as a guide in such cases and frame laws when they feel that the legislature lacks the expertise to deal with the same.

- The Ambit of interpretation- The Judiciary faces a lot of flak when it interferes with the legislative decision making; however, the only problem is that there is no fool proof method of laying down the lines along which interpretation is to be made. The judiciary has the power to alter laws, pass orders and rectify any defects, however, in many cases judiciary has been criticised for adjudicating outside its domain. In the case of *Aravali Golf Club v. Chander Hass*,¹⁶ the court held that judges do not have the authority to run governments; they can only alarm the executive or the legislature to perform their duties. The country is in need of more holistic and detailed guidelines as to what lies within the ambit of judicial authority, without such guidelines conflict is likely to arise between the three organs of the government.

VIII. CONCLUSION AND SUGGESTIONS

This paper has attempted to put forward a nuanced review of the role judges have had in the interpretation of statutes over the years. The paper has investigated the methods of interpretation put forward by Cardozo and their relevance in modern-day society. There needs to be a perfect balance between independence and freedom, even then judiciary cannot be allowed to follow their whims. The Decision needs to be taken along the lines of logic and uniformity as Cardozo pointed out. The judges should take the task of enforcing the rights of the poor and vulnerable sections upon themselves, we frequently see minorities being neglected of their rights, and judges can change that by progressive interpretation of the statutes. A more holistic set of guidelines with respect to the power of interpretation would do a world of good for the three organs of government, as ambiguity in authority is one of their biggest enemies. Further, the legislature should take a back seat when they do not have the necessary expertise, they should delegate responsibility to the judiciary on such matters. Finally, the concept of interpretation should be used wisely in favour of the disadvantaged,

¹⁶ *Aravali Golf Club v. Chander Hass*, (2008) 1 SCC 683

however, that does not mean allowing the judiciary to encroach on a range of legislative matters. The aim is to find a correct balance of power between the two authorities.
