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Understanding Interpretation via Jurisprudential Lenses

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ABSTRACT

Although the term 'interpretation' appears to be commonly used when attempting to discern the true significance of any subject, it will be a disregard to not credit interpretation as a concept. The author attempts to evaluate the concept of interpretation from a jurisprudential perspective. What should constitute law seems to be at the center of jurisprudence. Distinguishing the understanding of the same is made possible by the art of interpretation. In line with the development of several schools of jurisprudence, the idea of interpretation has also changed considerably. This paper is an attempt to have a comprehended view of various approaches to interpretation through a jurisprudential standpoint.

I. INTRODUCTION

The right comprehension of the law is based on the interpretation of statutes. The courts frequently use this method to figure out what the legislature's exact intent was. Because the court's objective isn't only to read the law but to apply it substantially to every case. It is also used for ascertaining the actual connotation of any Act or document with the actual intention of the legislature

The word interpreter originates from the Latin word 'interpretari,' which means to explain, expound, comprehend, or translate. Interpretation is known as the approach of explaining, expounding, and translating any text or written form. This essentially entails determining the true meaning of the statute's words. The many sources employed are limited to exploring the written content and clarifying what exactly has been represented by the words used in the written text or the statutes.

There can be mischief in the statute that is required to be cured, and this can be done by applying various norms and theories of interpretation that might sometimes go against the literal meaning. The purpose behind interpretation is to clarify the meaning of the words used in the statutes, which might not be that clear.

Regarding the meaning of the interpretation of a provision, the learned judge in *State of Jammu*

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and *Kashmir v. Thakur Gnage Singh*³, expounded:

“The question of interpretation can arise only if two or more possible constructions are sought to be placed on a provision-one party suggesting one construction and the other a different one. But where the parties agree on the true interpretation of a provision or do not raise any question in respect thereof, it is not possible to hold that the case involves any question of law as to the interpretation of the Constitution.”

II. GENERIC UNDERSTANDING OF INTERPRETATION

“Interpretation”: According to Webster’s New World Dictionary⁴ the word Interpretation as “the act or result of Interpreting; Explanation, Meaning, Translation, Exposition, and word construction is understood as the act or process of construing, the way in which something is constructed ; manner or method of building”. Statutory is defined as fixed, authorized or established by statute

According to ‘Salmond’⁵, ‘*the interpretation happens or necessary only in enacted law not in case of customary or case laws*’. He defines it as a process by which the courts seek to ascertain the meaning of legislature through the medium of authoritative forms in which it is expressed.

The objective of interpretation is that, although all the enacted laws are drafted by legal experts, still very often the courts and lawyers have to unfold the meanings of ambiguous words, expressions and resolve inconsistencies.

It is very essential to know the reason for framing of law. Regard must be given to the observation of two great eminent jurists. Lord Macaulay ⁶observed

“When good system of law and police is established, when justice is administrated cheaply firmly when idle technicalities and reasonable rules of evidence no longer obstruct search for truly, a great change of the better may be expected which shall produce a great effect on the national character.”

According to Ihering⁷, law is a means to an end. He laid down the following general principles of legislation:

1. “Laws should be known to be obeyed.

³ AIR 1960 SC 356.

⁴ PJ Fitzgerald, *Salmond on Jurisprudence* (Universal Law Publishing Co. Pvt Ltd, 12th Edn,2002)

⁵ *Id*

⁶ Justice A. K. Yog, *Interpretation of Statutes*, (Modern Law Publications, New Delhi, 2009) p7.

⁷ *Ibid* p.8

2. Laws should answer expectations.
3. Laws should be consistent with one another.
4. Laws should serve the principle of utility.
5. Laws should be methodical.
6. Laws must be certain to be obeyed, must not become a dead letter.
7. Laws are necessary to ward off the danger of the operation of egoism or self- interest, the ordinary motives of human action.
8. Laws and legislation must aim at justice which is that which suits all.
9. Laws are inter-connected „laws like human beings lean on one another.”

Law is a set of rules made and enforced by a State that regulates the conduct of the people within society and maintain social order. Law normally connotes a rule or norm which is of general application. Before it takes a form of law, it has to pass through a long process⁸.

The outcome of the process is called the enacted law or statute law. Interpretation plays a vital role in the discharge of the judicial function. It is a dynamic and creative process. It is the method by which the true sense of the word or the meaning of the word is understood.

According to Salmond, Interpretation is the process by which the Courts seek to ascertain the meaning of the legislation through the medium of authoritative forms in which it is expressed⁹.

The legislators have communicated their intention through the medium of words in an enacted Statute. It is appropriate to quote the words of the learned judge in *Pannalal Bansilal Pitti v. State of A.P.*¹⁰ He observed:

“Words are the skin of the language. The language opens up the bay of the makers mind. The legislations give its own meaning and interpretation of the law. It does so by employing appropriate phraseology to attain the object of legislative policy which it seeks to can achieve.”

Similarly, Gajendragadkar.J¹¹ in *Kanailal Sur v. Paramnidhi Sadukan* emphasized that the first and primary rule of construction is that the intention of the legislature must be found the words used by the Legislature itself. It can be stated that the object of the interpretation is to

⁸ Legislation, first introduced in Parliament or State legislature in the form of a Bill. After passed by Parliament or State legislature, it is sent to the President (in case of Central Bill) or Governor (in the case of State Legislation) for assent. The bill becomes an Act after attaining the assent of the President or Governor

⁹ M.Bakshi, *Interpretation of Statutes*, (Orient Publishing Company, New Delhi, 2008) p17.

¹⁰ (1996) 2 SCC 498.

¹¹ AIR 1957 SC 907.

ascertain the intention of the legislature or the authority enacting it. No act can convey expressly the fullness of its intended legal effect. Indeed, only a small proportion of this can be conveyed by the express words of the Act. For the rest, Parliament assumes that interpreters will draw necessary influences¹².

Crawford¹³ quoting from the series of decisions, stated:

“The basic principle has been announced time after time if the statute is plain, certain and free from ambiguity, a bare reading suffices and interpretation is unnecessary. It is only when the statute is ambiguous or its meaning is uncertain that interpretation is required in order to ascertain what the legislature meant.”

Modern era is an era of science and technology. Consequently, rapid changes are taking place in all spheres of life. These scientific and technological developments have enhanced the quality of people's life. At the same time, it has brought with it attendant evils. It is the outcome of the perverted human mind which has resulted in social destruction. The transformations have taken place in personal sphere of human beings. Modern Era is witnessing the crumbling down of the age-old values and beliefs. New emerging trends in all walks of life are only making the governance of law difficult.

Hence law has to combat the new challenges enforced by the modern progressive society. It is highly impossible and impracticable to enact new laws for each and every problem. Only in case of necessity, new enactments are made by the governing body. Therefore existing enactments are to be administered to the new challenges. Law is never static and must respond to the challenges of change.

As was observed by L.J .Denning¹⁴:

“Law does not stand still. It moves continually. Once this is recognized, then the task of the Judge is put on higher plane. He must consciously seek to mould the law so as to serve the needs of the time. He must not be a mere mechanic, a mere working mason, laying brick on brick without thought to the overall design he must be pan architect- thinking of the structure as a whole – building for society of law which is strong, durable and just. It is on his work that civilized society itself depends”

Legal interpreters build on the work of the linguists who determine linguistic range. Interpreters

¹² A. Sirajudeen, *Judging Statutes*, (Chennai Council of Indian Jurisprudence, Chennai, 2010) p 47.

¹³ M.Bakshi, *Interpretation of Statutes*, (Orient Publishing Company, New Delhi, 2008) p17.

¹⁴ A. Sirajudeen, *Judging Statutes*, (Chennai Council of Indian Jurisprudence, Chennai, 2010) p 47.

translate the language into law by pinpointing or extricating a single, unique legal meaning¹⁵. Words and phrases of the English language have an extraordinary range of meaning. This has been a rich resource in English poetry but it has been a concomitant disadvantage in English law¹⁶. Every word of a language is impregnated with and is flexible to connote different meaning, when used in different context. That is why it is said words are not static but dynamic and Court must uphold the validity of any provision¹⁷.

III. THROUGH THE JURISPRUDENTIAL LENS

The “legal meaning” of a statute could be defined as the final outcome of all these interpretive processes.¹⁸ It might be suggested that this meaning pre-exists judicial interpretation, because it is determined by the legal principles and canons that guide and constrain interpretation. But it is not always strictly determined by them, first, because the application of those norms often requires discretionary, evaluative judgments, and secondly, because they sometimes fail to resolve indeterminacies, thus requiring judges to resort to extra-legal, moral/political considerations.

“Interpretation” in law has different meanings¹⁹. Indeed, the word “interpretation” itself must be interpreted²⁰. Legal interpretation is a rational activity that gives meaning to a legal text²¹. The requirement of rationality is key to a coin toss and not interpretive activity. Interpretation is an intellectual activity²², concerned with determining the normative message that arises from the text²³.

The question of what the text is and whether it is valid is related to interpretation, but it is not the same thing. The issue is determining what interpretation to assign to that text. As a result, interpretation shapes the content of the "trapped" norm within the text. The text being interpreted can be generic (as in a constitution, statute, case law, or tradition) or specific (as in

¹⁵ A. Sirajudeen, *Judging Statutes*, (Chennai Council of Indian Jurisprudence, Chennai, 2010) p 33.

¹⁶ *Stock v. Frank Jones (Tipton) Ltd.* (1978) 1 WLR 231.

¹⁷ *Quarry Owners Association v. State of Bihar* AIR 2000 SC 2870.

¹⁸ L B Solum, ‘*Communicative Content and Legal Content*’ (2013) 89 Notre Dame L Rev 479.

¹⁹ A. Barak, Parshanut B'mishpat ‘*Interpretation in Law*’ 29 (1992) and citations therein. See also W. Twining and D. Miers, ‘*How to Do Things with Rules*’ 166 (4th ed. 1999); G. Gottlieb, *The Logic of Choice* 95 (1968); A. Barnes, *On Interpretation* 7 (1988); A. Marmor, ‘*Interpretation and Legal Theory*’ 13 (1992); A. Marmor, ‘*Positive Law and Objective Values*’ 71 (2001).

²⁰ M.S. Moore, ‘*Legal Interpretation*,’ 18 *Iyunei Mishpat* 359 (1994), and G.L. Williams, “*Language and Law*,” 61 *Law Q. Rev.* 71, 392 (1945).

²¹ C. Ogden and I. Richards, *The Meaning of Meaning* (10th ed. 1956); M.S. Moore, “*The Semantics of Judging*,” 54 *S. Cal. L. Rev.* 151 (1981); R. Cross, *Statutory Interpretation* (J. Bell and G. Engle eds., 3d ed. 1995); H. Hart and A. Sachs, *The Legal Process: Basic Problems in the Making and Application of Law* 1374 (W. Eskridge and P. Frickey eds., 1994); A. Dickerson, *The Interpretation and Application of Statutes* 34 (1975).

²² H. Kelsen, ‘*Pure Theory of Law*’ 348 (Knight trans. from German, 2d ed. 1967)

²³ K. Larenz, *Methodenlehre der Rechtswissenschaft* (5th ed. 1983); R. Zippelius, *Einführung in die Juristische Methodenlehre* (1971).

a will) (as in a contract or will). It can be written (as in a written constitution or judicial judgement) or oral (as in a written constitution or judicial opinion) (as in an oral will or a contract implied-in-fact). The term "text" does not necessarily refer to a written document. Any behavior that produces a legal norm is referred to as a "text" for the sake of interpretation.

Legal interpretation can be thought of in a broader sense than the definition allows. Dworkin, for example, characterizes law as an interpretive process: Legal practice is an exercise in interpretation in general, not simply when lawyers interpret texts or statutes. Law propositions are not merely descriptive of legal history in a plain sense, nor are they merely evaluative of legal history in some way. They are interpretive of legal history, which combines elements of both description and evaluation, but is different from both²⁴.

While Dworkin's technique has been criticized²⁵, his concept remains the bedrock of his philosophical quest. A system of comprehending a legal text, such as a constitution or statute, can be derived from Dworkin's definition of interpretation. Dworkin's (expansive) theory of interpretation thus becomes one of a number of interpretation systems.

Interpretation in law is a rational process by which we understand a text. Through interpretation, we come to know the normative message of a text. It is a process that "extracts" the legal meaning of the text from its semantic meaning²⁶ Interpreters convert "human" language into "legal" language. "Static law" becomes "dynamic law" as a result of their efforts. In practice, they uphold the statutory requirement. The distinction between the semantic meaning of a text and its legal (or normative) meaning is due to the fact that legal interpretation transforms a semantic "text" into a legal rule. The entirety of all meanings that may be connected to the text's language in the ideal repertoire of individuals who speak the language in question (the public language) or in the private lexicon of the text's author is the semantic meaning of the text (the private code).

To interpret a text, one must choose its legal meaning from among a variety of semantic permutations is, one must determine which of the text's semantic meanings is its legitimate legal meaning. The semantic meaning of the text determines its semantic potential activity (*the Bedeutungsspielraum*).²⁷ This potential is put into practise by the legal meaning. In most cases, a document has a single, distinct semantic meaning in the context of a certain occurrence, which also serves as the text's legal meaning. In these common circumstances, the semantic and legal

²⁴ R. Dworkin, 'Law as Interpretation', 60 Tex. L. Rev. 529 (1982).

²⁵ M.S. Moore, 'The Interpretive Turn in Modern Theory: A Turn for the Worse?' 41 Stan. L. Rev. 871 (1989);

²⁶ C.A. 708/88 Shefes & Sons, Ltd. v. Ben Yaka Gat, Engineering and Building Co., Ltd., 40(2) P.D. 743, 747;

²⁷ F. Bydlinsky, Juristische Methodenlehre und Rechtsbegriff Zippelius 'courtyard of the expression' 438 (1982).

meanings of the text are identical. All systems of interpretation will arrive at the same understanding of the text. However, because language may be vague and ambiguous, a document might have multiple semantic interpretations in the context of a certain occurrence. Only one of these semantic meanings can be used to determine the legal meaning of the text. In these varying circumstances, the rules of interpretation become crucial²⁸.

Many jurists engage on a fruitless quest to determine what the legal meaning of a text "really" is. A text does not have a "real" meaning. By dwelling on a text's "real" meaning, there is no way of comparing its meaning before and after its interpretation. All comprehension is the consequence of interpretation, because only after a text has been accessed it can be interpreted. There is no prior knowledge of the text.

Every text requires translation. It is impossible to comprehend a text without first having it translated. "The process of interpretation, then, albeit typically simple and sometimes undetected, is always present, being intrinsically indispensable."²⁹

The claim that a "simple" text does not require interpretation is not only false, but also harmful, as it conceals an unintentional act of interpretation. The real question isn't whether a plain text has to be interpreted. The essential question is what principles of interpretation are required to get the plain sense of the text. Even a simple text necessitates interpretation, and it is only via interpretation that we may determine that its meaning is simple. That isn't to say that no text isn't plain.³⁰

The rising prominence given to the concept of interpretation has been one of the most fascinating developments in current legal thought. While the ideas of discourse communication, language, text, and sign have long been hotly debated in philosophy, literary theory, and cultural studies, lawyers and, in particular, the legal academy, have only recently begun to take a serious, if defensive, interest in these debates.³¹

On the one hand, French structuralism and its descendants within the growing *Critique du Droit* movement are mixed with German hermeneutics and Anglo-American critical linguistics traditions to produce a still somewhat incoherent or superficial critical legal studies. Institutional jurisprudence, on the other hand, has responded with a mix of European positivist philosophy of science, Anglo-American speech-act theory, analytical theories of *verstehen* or

²⁸ See also F.A.R. Bennion, *Statutory Interpretation* 14 (3d ed. 1997))

²⁹ *Ibid*

³⁰ Friedmann, 'On the Interpretation of the Phrase Interpretation, and Notes on the *Apropim Decision*' 6 *Hamishpat* 21 (2002).

³¹ Peter Goodrich, 'Historical aspects of legal interpretation' *Indiana law journal*, vol:61 page 332

purposiveness in rule following, and, on rare occasions, more weighty theories of an essentially Germanic deontic logic or semiotics³².

The persuasion study of written texts seeks to break through the closure of legal knowledge and open the narrative of legal textual activity what can be called the politics of legal signification.

As known, there are three organs of state (a) Legislature (b) Executive (c) Judiciary. Legislature makes laws, executive enacts laws and judiciary interprets laws. It is rather the functional aspects of the law. Judiciary is the organ which puts the law in operation or puts the law in use. When law is put in use then could be possibility of absurdity hardship or inconvenience, ambiguity which makes the law futile. Hence to put the law in use or get into functional role the judiciary has to put efforts to remove the absurdity, hardship, ambiguity and inconvenience having the rules of interpretation and this is called construction / interpretation.³³

The function of interpretation or construction is guided by the Maxim as per positivist school, “jus dicere et non jus dare” i.e., to declare the law and not to give it. i.e., office of judges is not to make the law but to declare the law. A statute is an edict (Proclamation by sovereign state or government official) the most accepted mode of interpretation or construing the statute is to adopt the interpretation or construction according “to the intent of them that make it”.

It is the duty of Judicature is to act upon the true intention of the legislature. This is guided by the Maxim. “Sententia Legis” i.e., true intention of legislature. Intention of the legislature always serves as reference to the meaning of words used by legislature which are objectively determined. It is nowhere seen or expressly provided, it has to be assessed by the guiding rules of interpretation.

According to Salmond the duty of the judicature is to discover and to act upon the true intention of the legislature under the Maxim, ‘sententia legis’ or mens. As essence of the law lies in the spirit, not in its letter, but letter are the only way in which intentions are expressed. The words are external manifestation of intention that it involves. When there is possibility of one or more interpretation of statute, courts has to adopt that interpretation which reflects the ‘true intention of legislature’ which can also be considered legal meaning statutory provisions.

Intention of legislature is assessed either in express words or by necessary implication in keeping mind the purpose or object of the statute. A mechanical interpretation of the words and application of legislature intent devoid of concept will make most of the remedial and beneficent

³² *Ibid*

³³ Ankita Ghosh Jain. *Jusprudentia*, Jusprudentia - Soceity for Transcendence in Law, 2 Jan. 2018, www.jusprudentia.com/single-post/2018/01/02/Meaning-of-Interpretation-of-Statutes-and-The-Intention-of-Legislature.

legislation futile (ineffective)³⁴. Judiciary would mold or creatively interpret legislation as they are finishers, refiners and polishers of legislation.

A "Statute" is the will of the Sovereign Legislature that governs the functioning of governments. The executive must act, and the judiciary must apply the law as laid down by the legislative will in the process of administration of justice. The courts will be called upon on a regular basis to interpret the statute's words, phrases, and expressions³⁵. Over the years, the courts have established specific principles known as "Rules of Interpretation of Statutes" in the course of such interpretation.

Most statutes include a "Statement of Objects and Reasons" as well as a "Preamble," both of which serve as guides for interpreting the true meaning of the terms and idioms used in the statute. Judges are responsible for interpreting and applying laws. Statutes are written expressions of official formulae, and the words themselves are part of the law. The process by which the Courts endeavour to determine the Legislature's objective through the medium of the authoritative form in which it is expressed is known as interpretation or construction.³⁶ The law is regarded as the Court's interpretation of it.

'Interpretation' connotes the introduction of elements which are necessarily extrinsic to the words in the statute³⁷. Despite the fact that the terms 'interpretation' and 'construction' are sometimes used interchangeably, the concepts are distinct.

The procedure through which the true sense or meaning of a word is understood is known as interpretation. It is not a legal question to determine the meaning of a common English word. According to Gray³⁸, interpretation is the process by which a judge develops a meaning from the words of a statute book that he either believes is that of the legislator or that he wants to give to it. Interpretation or construction, according to Salmond³⁹, is the process by which courts attempt to determine the meaning of legislation by the use of authoritative forms in which it is expressed. Interpretation differs from construction both literally and figuratively⁴⁰.

According to Cooley⁴¹, interpretation varies from construction in that the former is the art of discovering the actual meaning of any form of words, whereas construction is the drawing of

³⁴Sen, *A Development as freedom*(2006) New Delhi: Oxford India.

³⁵ Aiyer,P.Ramnathan, *Law Lexicon* 1134 (2nd ed).,Wadhwa and Co (2002)

³⁶ Deepak Jain, *Interpretation Of Statutes: A Treatise* http://www.Itatonline.Org/Articles_New/Index.Php/Interpretation-Of-Statutes-A-Treatise/

³⁷ Justice G.P Singh, *Principles Of Statutory Interpretation* 53(11th Ed Wadhwa Nagpur 2008).

³⁸ N.S Bindra, *Interpretation Of Statutes* 4 (9th Edn Lexis Nexis Butterworths, 2002).

³⁹ P J Fitzgerald, *Salmond On Jurisprudence* 152 (12th Ed., Universal Law Publishing Co.Pvt.Ltd.,2008)

⁴⁰ *Supra* Note 37

⁴¹ *Id*

conclusions about matters that are beyond the text's direct expression.

In *CWT vs. Hashmatunnisa Begum*⁴², the term "construction" was defined as "something more being gotten out in the explanation of the subject-matter than can be gotten out by strict interpretation of the terms utilised." Judges have sunk their teeth into this section of the law in an attempt to rewrite it in their own image.

The intention of the Legislature is primarily to be gathered from the language used which means that attention should be paid to what has been said⁴³. As a consequence a construction which requires for its support addition or substitution of words or which result in rejection of words as meaningless has to be avoided⁴⁴.

That legal interpretation aims to identify legal responsibilities is intended to be a useful regimentation of everyday usage in part. When attorneys and judges analyse statutes, rules, contracts, and wills, they are usually looking for legal duties. In contrast, it does not refer to a judge's decision-making process as legal interpretation when he or she makes a discretionary choice, such as establishing a criminal sentence that is not stipulated by sentencing guidelines or conducting fact-finding.

That isn't to imply that nothing else is ever thrown into the mix when the term 'legal interpretation' is used. Courts are involved in a variety of activities that are not always clearly differentiated from determining what the law is. Finding a way to decide a matter that is not covered by applicable law, making law, determining whether implementing the law is outside the court's institutional capacities, and so on are examples of these activities.

Obviously, determining the law is governed by different principles than activities such as establishing law or deciding a matter that is not controlled by existing law. It is a distinct type of action with a different goal, so it requires different methods. As a result, it's critical to distinguish legal research from other activities that courts and lawyers engage in.

The goal of legal interpretation theories is to figure out how statutory and constitutional provisions, as well as other legal instruments, affect the law's content. This point is made more or less explicitly in certain ideas. The point is implicit in others.

As a result, interpretation is a well-known and important activity. Because of the intrinsic character of legislation as a source of law, interpretation is critical in connection to statute law. The process of enacting statutes and the process of interpreting statutes are conducted

⁴² [1989] 176 ITR 98 (SC).

⁴³ *Gwalior Rayon Silk Mfg. Co. Ltd v. Custodian of Vested Forests*, AIR 1990 SC 1747.

⁴⁴ *Shyam Kishori Devi v. Patna Municipal Corporation*, AIR 1966 SC 1678

separately, and two different agencies are involved. An interpretation of the Act serves as a communication link between the two.

Depending on the nature of the matter, judicial assessment of legal issues necessitates the use of various sorts of resources. The material utilized to interpret statutory provisions will, by definition, have a clearly legal character, as opposed to the application of a general common law concept, which may have a more diffused character. As a result, greater accuracy is required in statutes. In contrast to the application of common law norms, the statutory interpretation procedure is more legalistic and makes more intensive use of the legal approach.

In his Lectures on Jurisprudence, Jolowicz⁴⁵ says of interpretation, "It is frequently stated to be either 'legal' or 'doctrinal.'" It is 'legal' when there is a specific rule of law that requires the Judge to use a specific reading of the statute. It is 'doctrinal' when the goal is to figure out what the statute's 'real' and 'true' meaning is. The two types of 'legal' interpretation are 'genuine' and 'usual.' When a rule of interpretation originates directly from the legislator, it is called "genuine"; when it derives from another source, such as custom or case law, it is called "usual."

Thus, when Justinian ordered that all difficulties arising from his legislation be referred to him for resolution, he was ensuring 'authentic' interpretation, as was the case with the Prussian Code of 1794, which stipulated that judges should report any doubts about its meaning to a Statute Commission and follow their decision.

Again, there are two types of 'doctrinal' interpretation: grammatical and logical. It is 'grammatical' when the court uses merely conventional principles of speech to determine the meaning of the statute's language. On the other hand, when a court goes beyond the words and tries to figure out what the statute's objective was in some other way, it is said to use a 'logical' interpretation.

Fitzerald distinguishes between two types of interpretation: 'literal' and 'functional.'⁴⁶ The literal interpretation is one that considers the law's word expression conclusively. It doesn't look past the 'literalis.' The Court's job is to figure out what the legislature intended and look for it in every legal way possible, but especially in the words and terminology used. 'Functional' interpretation, on the other hand, deviates from the letter of the law in search of more convincing evidence of the legislature's genuine intent.

In other words, the relative claims of the letters and the spirit of the established law must be

⁴⁵ William Baude, Stephen E Sachs 'The Law Of Interpretation' Harvard Law Review, Vol 130 Number 4 Page 1082

⁴⁶ Jhon Salmond 'Salmond on Jurisprudence', 12th ed., pp. 131-132

determined. In most circumstances, courts must be satisfied to accept the letter of the law as the sole and decisive evidence of the spirit of the law. It is critical to accurately determine the relationships that exist between the two methodologies.

At this point, it's also important noting the distinction between the phrases 'interpretation' and 'construction.' While the two terms are frequently used interchangeably to refer to a method used by courts to determine the meaning of the legislative form in which it is stated, they have distinct meanings.

The basic rule of statutory construction is to read it literally, which means to give the legislature's words their usual, natural, and grammatical meaning. The court may adopt this reading if it leads to absurdity and the words are amenable to another meaning. If no other meaning is possible, the court must rely on traditional literal interpretation rules.

The cardinal rule of interpretation is that if the wording is clear and unambiguous, it should be construed with the legislation's clear aim in mind⁴⁷.

Construction is not the same as interpretation. Interpretation is the process of determining the true meaning of any form, while construction is the process of forming conclusions about themes that are not directly expressed in the text as held in *Bhagwati Prasad Kedia v. C.I.T*⁴⁸ In *State of Madras v. Gannon Dunkerly Co.*⁴⁹ it was stated that when the meaning of an Act can be equitably derived from the language employed, it is the obligation of the courts to give effect to such meaning. Words of legal significance appearing in a statute that have acquired a distinct and precise meaning must be interpreted in that light.

Only when legislature uses words that have developed a distinct meaning over time, it must be considered that they have been used in the same context.

Thus, it would be 'interpretation' of the words if the Court adhered to the simple meaning of the legislature's language, but if the meaning is not plain, the court must assess whether the phrase was designed to cover the circumstance before the court. The court would use what is known as 'construction' in this case; however, the phrases 'interpretation' and 'construction' overlap, making it difficult to determine where 'interpretation' ends and 'construction' begins.

Despite the fact that today's laws are prepared by legal specialists, they are still stated in language, and no language is precise enough to leave no ambiguity. Furthermore, by its very nature, a statute is an edict of the legislature, and the legislature's meaning must often be

⁴⁷ *CWT v. Smt. Muthu Zulaika* AIR 2000

⁴⁸ AIR 2001

⁴⁹ AIR 1958

deduced not only from the text but also from the surrounding circumstances at the time the legislation was adopted. If a statute's provision is open to two readings, the Court must adopt the interpretation that best reflects the legislature's genuine intent.

Furthermore, it is beyond human capacity to anticipate the vast array of realities that may happen in the future, and even if it were, it would be impossible to provide for them in words that are devoid of all ambiguity. All of these factors combine to highlight the importance of interpretation and construction in the practical application of the law.

It is worth noting what Denning L.J.⁵⁰ has stated about the necessity for statutory interpretation: It is not within human powers to anticipate the myriad sets of facts that may happen; and, even if it were, it is impossible to provide for them in terms that are devoid of all ambiguity. The English language is not a mathematical precision instrument.

If that were the case, our writing would suffer greatly. The draughtsman of Acts of Parliament have often been harshly chastised in this regard. A judge, believing himself to be bound by the seeming rule that he must look just at the text, bemoans the draftsmen's failure to prepare for this or that, or their ambiguity in some way. Acts of Parliament designed with divine foresight and faultless clarity would surely save the judges' time. In the lack of it, a judge cannot just fold his hands and blame the draughtsman when a flaw surfaces.

He must begin the constructive task of determining Parliament's intention, which he must do not only from the language of the statute, but also from a consideration of the social conditions that led to it and the mischief that it was passed to remedy, and then he must supplement the written word in order to give 'force and life' to the legislature's intention.

A statute, it has been correctly stated, is the legislature's will. The basic criterion for interpreting a statute is that it should be interpreted in accordance with the intent of those who enacted it.

Because statutory terms are precise and unambiguous in themselves, all that is required is to explain them in their natural and usual sense: so far and no further. This is because the legislature's objective is clearly stated in these terms. The goal of interpretation is to determine the meaning given by the language employed, whether explicitly or implicitly. If the aim is expressed, the task becomes solely a matter of verbal construction. However, if the statute does not express any intention on the subject to which it gives rise, and some intention must be attributed to the legislature regarding it, the interpretation must determine it by inference based

⁵⁰ Yule Kim, *Statutory Interpretation: General Principles And Recent Trends*, CSR Rep. For Con. 1 10 (2008)

on specific legal principles.

In such a case, the interpretation has to be one which is commensurate with the public benefit. Consequently, if a statute levies a penalty without expressly mentioning the recipient of the penalty, then, by implication, it goes to the officers of the State.

The subject of the interpretation of a statute, therefore, seems to fall under two general heads:

- (a) What are the principles which govern the construction of the language of an Act of Parliament?
- (b) What are those principles which guide the interpreter in gathering the intention on those incidental points on which the legislature is necessarily presumed to have entertained an opinion but on which it has not expressed any?

The Court uses the interpretation process to try to figure out what the law means by looking at the authoritative ways in which it is expressed.

As previously said, 'interpretation' can be grammatical or logical. 'Grammatical interpretation' is limited to the language statement of the law and does not extend beyond the letter of the law. 'Logical interpretation,' on the other hand, seeks more convincing proof of the legislature's genuine intent.

The only acceptable form in all common instances is 'grammatical interpretation.' The Court cannot deviate from or add to the letter of the law in order to change it. However, there are some exceptions to this rule: first, if the letter of the law is logically faulty due to ambiguity, inconsistency, or incompleteness.

In the case of ambiguity, the Court has a duty to look beyond the wording of the legislation to ascertain the genuine meaning of the legislator from other sources. When a statutory language is found to be deficient due to inconsistency, the court must determine the law's spirit. Second, if the text leads to a result that is so illogical that it is self-evident that the legislature could not mean what it says, the court may resolve the deadlock by inferring the legislature's intent rationally.

There appears to be no disagreement on one point: a statute is enforceable at law, no matter how irrational it may be. The court's job is to follow the law as it is written. It is not within its purview to determine whether the law is reasonable or not. The legislature has sole authority over determining the validity or reasonableness of a legislation, and it is the only body that can contemplate changing or amending a law it has passed. The court has no alternative but to

enforce the law as it is until it is changed, modified, or amended.

The text is the subject of interpretation. The interpretandum is the text. This is true of the constitution and statutes, as well as case law and tradition, as well as contracts and wills. The legal (constitutional, case-law, contractual, etc.) norm is extracted or extricated from its semantic vessel by interpretive effort. The extracted textual norm is the result of interpretation. It isn't something that can be interpreted. The text is what is being interpreted.

The text is engaged by interpretation, which results in the norm. After the interpreter has finished interpreting the text, the norm appears to him or her. Judges are not concerned with the status of the standard, its validity, or its relevance to other norms in their function as interpreters. Interpretive rules, for example, do not govern the connection between a superior norm (such as a constitution) and an inferior norm (like a statute). The text of the constitution and the text of the statute are the subjects of interpretation. The interpretative effort ends when an interpreter pulls the norm from them, and the non-interpretive task of establishing the standard's validity and status begins.

To be more specific, in order to interpret one text, additional relevant texts and the norms extracted from them must be considered. The way a judge interprets the text of a constitution has an impact on how a court interprets the text of a statute. However, once judges have read the various texts and extracted legal principles from them, they are confronted with other concerns that are not interpretive in nature, such as the statute's legality and link to the constitution.

Adjudication and courts appear to be evident key institutions of legal systems from various perspectives. The importance of the judge in the legal system is possibly overemphasised in Anglo-American legal philosophy. An American Supreme Court judge described law, polemically, at the turn of the first half of the 12th century as the prophecies of what the court will rule.

Roger Cottrell believes that the worship of judicial oracles, i.e. judges, reached its pinnacle when American legal scholar John Chipman Gray stated that even statutes enacted by legislatures are not law, but only a source of law, because their meaning and legal effect are determined only after they have been considered in court cases.

The law is made up of judicial rulings. As a result, the function of a judge necessitates adherence to statutory interpretation and decision-making. However, every democracy governed by the rule of law is confronted with one basic and fundamental question: what is the role or function of a judge? Is it a judge's job to simply declare the law as it is, or to interpret it and enforce the

legislative and constitutional intent? Whether they must interpret law "ita scriptum est" (it is so written), in which they seek to determine the law's intent (sentential legis) solely through the words used (litera legis), or whether they must interpret law "ita scriptum est" (it is so written) in which they seek to determine the law's purport (sentential legis) solely through the words used (litera legis).

The Anglo-Saxon belief that a judge does not make law, but rather interprets it, has persisted. The judge just discovers the law, which already exists and is eminent. He's just repeating what the legislature has said. This is the judicial function's photographic hypothesis. "The role of a judge is essentially to find the law as it is," Lord Chancellor Jowett declared in a speech at the Australian Law Convention. He does not have the power to make laws; that power belongs to the legislature." This way of thought, on the other hand, obscures a stage of the judicial process in which a judge is charged with upholding the rule of law and, ultimately, the constitution.

As said by Roscoe Pound, three steps are involved in the adjudication of disputes by the court. They are:

- Finding the exact rule among the body of rules in the legal system that is applicable to the dispute.
- Interpreting the rule so chosen, to find the meaning of the rule with respect to the facts of the dispute in hand.
- Applying the rule so found and interpreted to the dispute.

Primitive statutes were ambiguous and sententious, so the first step for an early judge was to determine the legal meaning of the regulation. This, combined with the role of equity, resulted in the over personalization of justice in the past, and in order to limit the judge's wider discretion, a concept was developed that visualised judicial application of law as merely a mechanical process of fitting the case with the straight rule or remedy. The notion of separation of powers, developed in the 17th century, gave this concept a conceptual expression.

Although it was acknowledged in Anglo-Saxon legal philosophy that courts must interpret in order to apply, the interpretation was limited to ascertaining the meaning as given by the legislators, and the judges had no creative role in determining the meaning. The judge's function in this mechanical process is limited to declaring the law that applies to the dispute at hand. It was dubbed "declaratory theory" by Blackstone. Others dubbed it the "slot machine hypothesis," in which the facts of the conflicts are fed into one end, and the judge, like the machine's operator, makes the decision, and thus becomes an impersonal operator.

All rules of interpretation were developed by the court under the influence of this principle, with the primary goal of determining the intention of the lawmakers that lie behind the particular rule. According to Maxwell, the goal of all interpretation is to determine parliament's objective from the language employed in the statute, not from the views and preconceptions of those who drafted it.

Every piece of legislation, it is widely believed, has a soul and a meaning, and every institution looks to this essence when making decisions. This is the rationale given by the judiciary for interpreting statutes in light of the statute's origins.

IV. CONCLUSION

The legal community always looks to the preamble of the statute or comments provided by members of the legislature to determine the aim of the legislation. However, it is now widely acknowledged that seeking the written word, meaning, or intention of the statute's creator is a mistake. The search for the intention to understand the meaning of the term employed in the act overlooks the fact that the written word, once formed, acquires a meaning independent of the creators' intentions.

"Only a day or two ago, when counsel talked of the legislature's aim, I was subtle enough to declare, I don't care what their objective was," wrote Justice Holmes. I only know what the words imply." Holmes' position questions the fundamental premise from which interpretation rules arose. If there was any doubt about the standards of interpretation based on the courts' efforts to determine the legislature's meaning, the Indian legislature affirmed it.

It is evident to mention about Justice V.R Krishna Iyer wrote in one of his judgment⁵¹ by quoting C.P Curtis ".....The legislature which passed the statute has adjourned and its members gone home to their constituents or to a long rest from all law-making. So why bother about what they intended or what they would have done? Better the prophetic than archaeological, better deal with the future than with the past, better pay a decent respect for a future legislature than stand in awe of one that has folded up its papers and joined friends at the country clubs or in the cemetery."

Jurists argue that what ultimately emerges from the courts process is not the legislature's goal, but the legislature's own intention. This area provides a fertile ground for judicial legislation, which Gohen⁵² refers to as "legiputation." Gray's point was expanded upon by Richard Posner

⁵¹ Union of India v. Sankal Chand, AIR 1977 SC 2374

⁵² Judicial Legiputation , 1961 , 36 Indiana Law journal 414-23

in the shape of a new style of interpretation known as 'imaginative reconstruction.'

When the courts interpret technical words, they must provide technical meaning, and phrases and sentences must be created according to grammatical norms⁵³. If nothing else can be done, the statute's language should be changed or qualified. It must be built in such a way that the meaning of words and phrases is conveyed in a common and natural manner. The safest and more accurate method of literal interpretation is to determine the meaning of the words without regard to the context.

When using the purpose-based norms of interpretation, the courts assume that the legislature had an intention for every problem that occurs as a result of the statute's implementation. However, no human forum can possibly anticipate every difficulty that may happen in the future and have a plan in place to deal with the hypothetical scenario

⁵³ Maxwell ,*Interpretation Of Statutes*,10th Edition ,1985 ,Pp.38