

## INTERPRETATION OF STATUTES: ROLE OF JUDICIARY

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### ABSTRACT

*Statutes serve as the foundation of the legal framework. It guides the rights and duties of individuals in a civilized society. However, the language of statutes can be complex and ambiguous. Hence, there should be an official body empowered by the right, to interpret it in a just and clear manner. This tectonic task is laid on the shoulders of the Judiciary. In India, provisions regarding the judiciary are enshrined in Part V i.e., the Union under Chapter IV known as “The Union Judiciary” and Part VI i.e., the States under Chapter VI known as “Subordinate Courts” respectively<sup>1</sup>. It makes sure that the legislature stays within the four corners of the Constitution. It is one of the pillars of democracy. This article explores the pivotal role of the judiciary in interpreting statutes and principles employed by courts in this process. From the doctrine of literal interpretation to the purposive approach, the judiciary employs diverse techniques to ascertain legislative intent. These processes assist them in applying the law in a just and equitable manner. By scrutinizing cases and applications of rules of interpretation, this article sheds light on the judiciary's crucial role in maintaining and upholding democratic principles and hence safeguarding justice through proper interpretation of statutes.*

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### INTRODUCTION

In any legal system, statutes form the bedrock of legislation. They define the rights, duties, and responsibilities of individuals and organizations within a society. However, the language of statutes can sometimes be ambiguous or open to multiple interpretations. It is the role of the judiciary to interpret these laws, ensuring their proper application and enforcement. This article explores the essential principles and methods used by the judiciary in interpreting statutes. And thus, the significance of their decisions in shaping society.

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<sup>1</sup> Constitution of India, 1950 < <https://legislative.gov.in/constitution-of-india/> < [www.itforchange.net](http://www.itforchange.net) > accessed 21 August 2023

The three pillars of Indian democracy are the Legislative, the Executive, and the Judiciary and the judiciary is said to be the *guardian of the Constitution of India*. It is armed with one of the most important responsibilities of interpreting the statute or law. To fulfill such duty the Judges, follow basic guideline or principles which delivers unambiguous meaning to the word of law. Imagine, if there was no one to understand the core substance of the law, how chaotic and disputed the world would be. Hence the correct interpretation of statutes is the key to a stable society.

### **WHAT IS A STATUTE?**

According to Black's Law Dictionary, statutes are formal written enactments of a legislative authority that governs a country state, or city. The word *statute* is not defined in the Constitution of India. Law, on the other hand, has been referred to in Article 13 *as an ordinance, order, by-law rule, regulation, notification, custom, or usage having in the territory of India the force of law. The law includes rules made by the legislature or passed by a competent authority.*<sup>2</sup>

### **WHAT IS THE INTERPRETATION OF STATUTES AND WHY IS IT IMPORTANT?**

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

From Salmond's point of view, we can comprehend that law is more than words, it encompasses in itself the intention of its maker. In simple words, interpretation is the understanding of the legislature's intention, and who made the law.

Black's Law Dictionary defines interpretation as “The art or process of discovering and expounding the meaning of a statute, will, contract, or another written document.”<sup>3</sup>

Interpretation can be said as the procedure through which, we reach the core of the legislation. It includes those rules, which may not necessarily be binding but if followed can assist the reader to understand the crux of the law, as it was envisioned by its drafters.

*Interpretation has been derived from the Latin word 'interpreter', which means explaining something or translating it.* It is the process that enables the judges to derive the intention behind the making of such a law. In other words, they interpret the reasoning behind the law

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<sup>2</sup> Constitution of India 1950 < <https://legislative.gov.in/constitution-of-india/> >

<sup>3</sup> Henry Campbell Black, *Black's Law Dictionary*, 4th Edition < <https://thelawdictionary.org/interpretation/> >

they have drafted. Interpretation thus, is pivotal not only for understanding the correct intention of the legislature but also its correct application for the benefit of the society.

## **BASIC RULES OF INTERPRETATION**

### **The Statute, to be read as a whole**

When the question arises as to the meaning of certain provisions, the statute must be read as a whole. The context here is, the complete statute, along with the earlier state of the law, other statutes in pari materia (on a similar subject matter), the general subject of matter, and the mischief that it was intended to remedy. This statement of the rule was embraced by the Honourable Supreme Court of India in the case of *Union of India v/s Elphinstone Spinning and Weaving Co. Ltd.*<sup>4</sup>

In the instant case, the Hon'ble Supreme Court observed that in case of dispute, the cardinal principle is to read the statute with its true and legal meaning to fulfill the purpose of the enactment.

Lord Cranworth, L.C said, "*There is no possibility of mistaking midnight for noon: but at what precise moment twilight becomes darkness is hard to determine.*" Thus, the role of the judiciary becomes substantial as it not only explains the law in its true sense but also imparts justice.

In a recent case<sup>5</sup> regarding the status of an adopted son, whether or not the adopted son falls under the scope of 'family' under Rule 54 (14) (b) of the Central Civil Services CCS (Pension) Rules<sup>6</sup>, wherein the son was adopted by a Hindu widow under Hindu Adoption and Maintenance Act, 1956<sup>7</sup>.

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<sup>4</sup> *Union of India v/s Elphinstone Spinning and Weaving Co. Ltd.* AIR 2001 SC 724

< <https://indiankanoon.org/doc/76430/>> < [www.latestlaws.com](http://www.latestlaws.com) >

<sup>5</sup> *Shri Ram Shridhar Chimurkar v Union of India*, 2023 SCC Online SC 33 [www.sconline.com](http://www.sconline.com)

<<https://www.sconline.com/blog/post/2023/01/18/central-civil-service-pension-rules-definition-family-does-not-include-adopted-child-after-death-of-deceased-government-employee-hindu-widow-personal-law-supreme-court-law-legal-updates-knowledge-rese/>>

<sup>6</sup> Central Civil Services CCS (Pension) Rules <<https://cag.gov.in/uploads/media/CCS-Pension-Rules-1972-as-from-DoPT-website-20200717165308.pdf>> accessed 16<sup>th</sup> August 2023

<sup>7</sup> Hindu Adoption and Maintenance Act 1956

<<https://iddashboard.legislative.gov.in/actsofparliamentfromtheyear/hindu-adoptions-and-maintenance-act-1956>> accessed 16<sup>th</sup> August 2023

The Hon'ble Supreme Court described the purview of the definition of 'family' under the Central Civil Services (Pension) Rules, 1972 [CCS (Pension) Rules]<sup>8</sup> and held that the *definition is a restrictive and specific one and cannot be widened to include, all heirs, as provided under Hindu law, or other personal laws*. Therefore, a child, whether son or daughter adopted by the widow of a deceased government servant, does not come within the ambit of the definition of 'family' under CCS (Pension) Rules<sup>9</sup>. It is crucial that caution needs to be exercised while understanding the true nature of the word in the statute.

Observing that, there lies a crucial difference between the rights of an adopted son and his rights to draw a family pension. The Court held that the right which burdens the public exchequer cannot be the same as the rights entitled to an adopted son.

### THE LITERAL RULE

The literal Rule is viewed as the primary rule of interpretation. According to this rule, *the words of a statute are to be given general and natural connotations, and if such interpretation is unambiguous, the effect should be given to the statute no matter the consequences*.<sup>10</sup>

The Literal Rule is used by the judiciary to interpret statutes based only on the simple and ordinary meaning of the words used in the statute. In this approach, the focus is on the literal text of the statute itself, without considering external factors such as legislative history, intent, or policy considerations.

In this rule, the context behind the legislation is often ignored, and the legislation, as it is adopted. Hence few jurists like Lord Scarman criticized this rule and believed that it was no longer needed. He believed that this rule was based on the foundation that words had a simple and ordinary meaning and no context was required. Although giving an interpretation using literal rule, the goal of the legislation must also be examined. The Literal rule was applied by the Hon'ble Supreme Court in *Bharat Aluminium Company v/s Kaiser Aluminium Technical Services Inc.*<sup>11</sup>

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<sup>8</sup> Central Civil Services < <https://cag.gov.in/uploads/media/CCS-Pension-Rules-1972-as-from-DoPT-website-20200717165308.pdf> > accessed 16<sup>th</sup> August 2023

<sup>9</sup> *ibid*

<sup>10</sup> Dr Avtaar Singh and Prof (Dr) Harpreet Kaur (First Edition 2001, Reprint 2022) *Introduction to Interpretation of Statutes* p 27

<sup>11</sup> *Bharat Aluminium Company v Kaiser Aluminium Technical Services Inc.* (2012) 9 SCC 552 < <https://indiankanoon.org/doc/173015163/> > accessed 16 August 2023

## THE GOLDEN RULE

Lord Wensleydale explained this rule in the *Grey v/s Pearson case* (1857)<sup>12</sup> that the grammatical and simple sense of words must be interpreted unless, it creates *inconsistency confusion, or absurdity with the rest of the words, in which case the words may be adapted to avoid the confusion*. The words should be modified only to the extent to remove the absurdity, not more than that.

A recent case<sup>13</sup> of the Hon'ble Supreme Court of India observed that in the absence of ambiguity, the literal meaning of the word should be applied, which is the golden rule of interpretation. Hence, the cardinal principle is that ordinarily prima facie meaning of the word must be construed and *full effect must be given to every word of the rule of statute*.

Lord Wesleyan postulated this rule, in *Grey v Pearson*<sup>14</sup>. Henceforth, the golden rule was also known as “**Wensleydale’s Golden Rule**”<sup>15</sup>. This rule was applied in *the R v Allen case*<sup>16</sup>. In the instant case, the defendant was charged with bigamy. In the instant case the interpretation of the word “marry” was construed, using the golden rule of interpretation.

The Golden Rule of interpretation is also known as the compromise method between the literal and mischief rules. In another case<sup>17</sup> (*Lee v/s Knap*) called the “*Hit-Stop-Run case*”, the court used the Golden Rule. Under section 77(1) of the Road Traffic Act, of 1960<sup>18</sup> a duty is set upon the driver of a motor vehicle to stop where an accident has occurred. He is bound to stop for a reasonable period.<sup>19</sup> However, in the instant case, the driver did stop after the accident, but for a very short duration. Following the literal rule of interpretation, the driver stopped the vehicle. The court interpreted the word ‘stop’ applying the golden rule and held that the driver had not stopped for a reasonable time to make necessary enquiries thus, it was held that the driver did not follow the law in its proper context.

<sup>12</sup> *Grey v Pearson* 6 HL 61, p 106, 26 LJ Ch 473, p 481 <[https://www.sconline.com/blog/post/2021/12/17/the-golden-rule-of-interpretation-and-section-2542-a-income-tax-act/#\\_ftn16](https://www.sconline.com/blog/post/2021/12/17/the-golden-rule-of-interpretation-and-section-2542-a-income-tax-act/#_ftn16)> accessed 16<sup>th</sup> August 2023

<sup>13</sup> *The National Highways Authority v Pandarinathan Govindarajulu C Appeal No. 4035-4037/2020*

<sup>14</sup> *Grey v. Pearson* (1857) 6 H.L.C. 61,106 <[www.latestlaws.com](http://www.latestlaws.com)> <[https://www.sconline.com/blog/post/2021/12/17/the-golden-rule-of-interpretation-and-section-2542-a-income-tax-act/#\\_ftn16](https://www.sconline.com/blog/post/2021/12/17/the-golden-rule-of-interpretation-and-section-2542-a-income-tax-act/#_ftn16)> accessed 16<sup>th</sup> August 2023

<sup>15</sup> <[www.sociallawstoday.com](http://www.sociallawstoday.com)> accessed on 21<sup>st</sup> August 2023

<sup>16</sup> *R v Allen* [1872] 2 ALL ER 641

<sup>17</sup> *Lee v/s Knap* (1967) 2QB 42

<sup>18</sup> Road Traffic Act 1960 <<https://www.legislation.gov.uk/ukpga/Eliz2/8-9/16/section/77/enacted>> accessed

<sup>19</sup> Golden Rule of Interpretation <<https://lexforti.com/legal-news/golden-rule-of-interpretation/>> <[www.lexforti.com](http://www.lexforti.com)> accessed on 21<sup>st</sup> August 2023

## THE MISCHIEF RULE

Mischief Rule is also known as the purposive construction which was laid down by Lord Coke in Heydon's case<sup>20</sup>. It formulates that for the interpretation of the statute, the main focus should be on the mischief that the statute is trying to cure. For its application, certain questions should be considered.

- Which Law prevailed before making the act?<sup>21</sup>
- For what mischief or defect the prevailing law did not provide?<sup>22</sup>
- What remedy did the Act, provide?<sup>23</sup>
- Under what reason, does the Act provide the remedy?<sup>24</sup>

The intention behind the rule is to reduce the mischief and augment the remedy. Hence, the Court must construct the statute in a way that discourages mischief and promotes the remedy as envisioned by the drafters of the Act.

The "mischief rule" is a principle of interpretation of statutes that assists the courts in determining the intention behind a statute by analyzing the "mischief" or problem that the statute was drafted to remedy. This rule helps judges interpret statutes in a way that aligns with the legislative intent, even though the literal wording of the statute seems ambiguous. The mischief rule originated in English common law and is one of the three main rules of interpretation of statutes, alongside the "literal rule" and the "golden rule."

*One prominent case that shows the application of the purposive rule of interpretation is the Royal College of Nursing of the United Kingdom v. Department of Health and Social Security (1981) case<sup>25</sup> in the United Kingdom.*

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<sup>20</sup> Samuel L. Bray "The Mischief Rule"

<[https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=2474&context=law\\_faculty\\_scholarship](https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=2474&context=law_faculty_scholarship)>

<sup>21</sup> <[www.mastermindsindia.com](http://www.mastermindsindia.com)> accessed on 21<sup>st</sup> August 21, 2023

<sup>22</sup> ibid

<sup>23</sup> ibid

<sup>24</sup> ibid

<sup>25</sup> *United Kingdom v. Department of Health and Social Security* [1981] UKHLJ0205-3 Great Britain. England. House of Lords (5 Feb 1981) [and] Court of Appeal, Civil Division (7 Nov 1980) [and] Queen's Bench Division (31 Jul 1980). *Royal College of Nursing of the United Kingdom v. Department of Health and Social Security*. All Engl Law Rep. 1981 Feb 5; 1:545-78. PMID: 11648331.< <https://pubmed.ncbi.nlm.nih.gov/11648331/>> accessed on 21<sup>st</sup> August 2023

The case dealt with the interpretation of the Abortion Act 1967<sup>26</sup> in the United Kingdom. The Act allowed the medical practitioners to abort the pregnancy if they believed in good faith that it may harm the mother in case, she continued with it.

*The main issue was whether the term "medical practitioner" in the Abortion Act 1967 included non-medical staff such as nurses.*

The House of Lords considered the wider objective of the Abortion Act of 1967, which was to provide safe and accessible abortion services to women in need. It was held that the purpose of the Act was to facilitate abortions efficiently and without delay while ensuring the safety and well-being of pregnant women. Considering this objective, the House of Lords concluded that non-medical staff, such as nurses, could participate in performing abortions but under the supervision of a medical practitioner. This interpretation was in sync with the legislative intent of the Act as its purpose was to provide timely and safe abortion services to women.

The "Royal College of Nursing" case illustrates the use of the Purposive Rule of interpretation, where the court looked beyond the strict literal meaning of the statute's words to give effect to its intended purpose and policy.

### **THE THIN LINE OF INTERPRETATION: IMPORTANCE OF A BALANCED APPROACH**

The controversial Skin-to-skin contact case<sup>27</sup> of the POCSO Act<sup>28</sup> is an example of the poor and dangerous interpretation of the law, which was exhibited by the Bombay High Court's attenuated interpretation of Section 7 of the POCSO Act 2012<sup>29</sup>. *Section 7 defines 'sexual assault' as touching the private parts (vagina, penis, anus, or breast) of the child with sexual intent or making the child touch a person's private parts, or doing any other act with sexual intent which involves physical contact without penetration.*<sup>30</sup>

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<sup>26</sup> Abortion Act, 1967 < <https://www.legislation.gov.uk/ukpga/1967/87/contents> >

<sup>27</sup> *Attorney General for India v. Satish*, 2021 SC 1076 [www.sconline.com](http://www.sconline.com) accessed on 21<sup>st</sup> august 2023

<sup>28</sup> THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 [No. 32 of 2012] < <https://wcd.nic.in/sites/default/files/POCSO%20Act%2C%202012.pdf> > accessed on 21<sup>st</sup> august 2023 < [www.itforchange.net](http://www.itforchange.net) >

<sup>29</sup> THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 [No. 32 of 2012] < <https://wcd.nic.in/sites/default/files/POCSO%20Act%2C%202012.pdf> > accessed on 21<sup>st</sup> august 2023 < [www.itforchange.net](http://www.itforchange.net) >

<sup>30</sup> *Ibid* < [www.blog.ipleaders.in](http://www.blog.ipleaders.in) > accessed on 21<sup>st</sup> august 2023

The Hon'ble Supreme Court setting aside the order of the Bombay High Court explained that the paramount ingredient accounting for the offence of assault of a sexual nature is 'sexual intent' and not skin-to-skin contact under Section 7 of the POCSO Act.<sup>31</sup>

Defining that the goal of POCSO is to protect children from sexual abuse, the court emphasized that "physical contact made with sexual intent comes under POCSO, and skin-to-skin contact is not the criteria."<sup>32</sup>

The Supreme Court asked about the interpretation of touch during the hearings. "What does touch mean, simply a touch? Even if you're wearing a piece of clothing, they're not trying to touch clothing. We must see touch in the meaning that Parliament intended."<sup>33</sup> Hence from the instant case, we can understand that a narrow and pedantic interpretation of the provision would defeat the purpose of the Act.

*The role of the Judiciary therefore is pre-eminent and the rule of interpretation may not be the rule of law but is the, guiding light through the dark web of ambiguity, leading the interpreter to a clear path of justice.*

#### **“I will see you in Court”- Faith behind these words**

The common man's faith is so blind that, in times of conflict, the only hope is the Court. "I will see you in Court" are the words generally uttered by parties in dispute. This not only expresses the trust in the Judiciary but also the confidence that justice will prevail. In the Skin-to-Skin case<sup>34</sup>, the Hon'ble Supreme Court of India, not only regained trust in the justice system by its judgment but also set a precedent that the intention of the legislature is above the words in the legislation.

This is amongst thousands of cases, wherein the judiciary has interpreted the law, for the relief and welfare of the society. When individuals believe in the fairness, impartiality, and effectiveness of the judicial system, they are more likely to accept its decisions, follow the rule of law, and have confidence in the overall justice system. Trust in the judiciary often hinges on

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<sup>31</sup> *Attorney General for India v. Satish*, 2021 Reported by [Sukirti Dwivedi](#), Edited by [Akhil Kuma](#) <https://www.ndtv.com/india-news/supreme-court-sets-aside-bombay-high-courts-skin-to-skin-judgement-2615494> accessed on 16th August 2023

<sup>32</sup> *Attorney General for India v. Satish*, 2021 Reported by [Sukirti Dwivedi](#), Edited by [Akhil Kuma](#) <https://www.ndtv.com/india-news/supreme-court-sets-aside-bombay-high-courts-skin-to-skin-judgement-2615494> accessed on 16th August 2023

<sup>33</sup> *ibid*

<sup>34</sup> *Attorney General for India v. Satish*, 2021 SC 1076 <[www.scconline.com](http://www.scconline.com)> accessed on 21<sup>st</sup> august 2023



the perception that judges are impartial and fair in their decision-making and will interpret the law in its truest form.

“I will see you in court” not only shows the faith but also an assurance that knocking on the doors of the Court, will ultimately deliver justice most unambiguously.

## CONCLUSION

As statutes form the backbone of legislation, their proper understanding and application are crucial for upholding the rule of law and ensuring justice. Throughout this article, the author has explored various methods employed by the judiciary to interpret statutes, including the literal approach, the Golden Rule, the Mischief Rule, and the Purposive Approach. The judiciary ensures that the law remains relevant and adaptive to societal needs. The responsibility of the Judges is such that there is no room for error. As we can observe in the skin-to-skin contact case, a narrow and pedantic approach can be regressive and dangerous to society, especially for vulnerable sections.

In Shankari Prasad's case<sup>35</sup> (Shri Shankari Prasad Deo v/s State of Bihar) the issue of the amenability of fundamental rights was raised. One of the issues the word ‘law’ expressed in Article 13(2)<sup>36</sup> also includes the Constituent laws. The word ‘law’ in Article 13(2)<sup>37</sup> was observed to include only ordinary laws and not constituent ones. The court adjudged that the ability to amend under Article 368<sup>38</sup> also covers the ability to amend fundamental rights. Hence any amendment that curtails fundamental rights under Article 13(2)<sup>39</sup> of the Constitution will not be void.

This Judgement finally led to the Basic Structure Doctrine, propounded in Kesvananda Bharti Case<sup>40</sup>. Consequently, we can affirm that the part of the judiciary in interpreting law holds great substance in saving democracy.

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<sup>35</sup> *Shri Shankari Prasad Deo v/s State of Bihar* 1951 AIR 458, 1952 SCR 89

<<https://indiankanoon.org/doc/1706770/>>

Accessed on 21<sup>st</sup> August 2023

<sup>36</sup> Art 13(2) Constitution of India 1950 < <https://legislative.gov.in/constitution-of-india/>>

<sup>37</sup> *ibid*

<sup>38</sup> Art 368 C Constitution of India 1950 < <https://legislative.gov.in/constitution-of-india/>>

<<https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfd1b99b5d8f/uploads/2023/05/2023050195.pdf>>

<sup>39</sup> Art 13(2) Constitution of India 1950 < <https://legislative.gov.in/constitution-of-india/>>

<[www.itforchange.net](http://www.itforchange.net)> accessed on 21<sup>st</sup> August 2023

<sup>40</sup> *Kesavananda Bharati Sripadagalvaru and Ors V State of Kerala and Anr*

(1973) 4 SCC 225: AIR 1973 SC 1461 < <https://indiankanoon.org/doc/257876/>> <[www.slideshare.net](http://www.slideshare.net)>

The common man's faith is so blind that, in times of conflict, the only hope is the Court. "I will see you in Court" are the words generally uttered by parties in dispute. This not only expresses the trust in the Judiciary but also the confidence that justice will prevail. As stated by George Washington, "*The administration of justice is the firmest pillar of good government.*"<sup>41</sup> The Judiciary hence plays a pivotal role in keeping the foundations of democracy robust and well-fortified.



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<sup>41</sup> Library of Congress < <https://www.loc.gov/resource/mgw2.022/?sp=177&st=text> > Accessed on 21 august 2023