

JUSTICE IN THE VIEW OF CONSTITUTIONAL INTERPRETATION: PURPOSIVE V LITERAL APPROACH

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Abstract

Law, as known by many, was introduced to bring order into society. However, with the ever-changing times resulting due to the rapid developments of humanity, both the concept and purpose of law have evolved into much more than just maintaining public order in the State. Thus, to maintain the consistency of law to prevent any irregularities and injustice, the Constitution was introduced as the supreme law of the land.

With all the other laws being derived from the Constitution of the State, the application of the deriving legislations and statutes became complicated as many provisions needed to be interpreted in a way that they are not in contravention of the Constitution. To achieve this, judicial philosophy in relation to the method of interpretations emerged; with the literal interpretation and purposive interpretation being the most popular among the rest.

In this paper, we explore the concepts and emergence of the aforesaid methods of interpretation while also diving into the history behind the philosophy of the methods and how they came to be. The elements of each method are also briefly touched upon. Their development through the past few decades will also be discussed through constitutional landmark judgements of both Indian and international origin.

The paper concludes with a detailed comparison between the two while highlighting the need for both methods of interpretation. After all, the purpose of all the laws is to allow people to find justice, live peacefully, and have room for growth while maintaining a sense of status quo.

Keywords: Constitution, judicial philosophy, Literal interpretation and purposive Interpretation.

Introduction

Society, as we know it, only came to be as such in the presence of law – let it be in codified form or uncoded form. It is the consistency of law that helped bring order to the State. And thus, to maintain this consistency, the concept of the Constitution was introduced to bring a supreme law of the land from which all the other laws of the State can be derived. It is the Constitution only that establishes provisions to protect the rights of the citizens while also giving the power to the State to control the law and order within its boundaries.

However, with changing times, the law also needs to change to accommodate the ever-changing needs of the people. In such cases, while the Legislature tries its best to catch up, it is unable to follow through in every instance. In these scenarios, it is the Judiciary that steps up to deliver justice by interpreting the law in a manner that can attain the purpose of the statute while also being up with the changing times.

In this paper, we will explore the Judicial philosophies of interpretation and how these forms of interpretation differ from each other while also accompanying each other to deliver justice in a rapidly changing world.

Judicial Philosophy Behind the Interpretations

Judicial philosophy is the centric ideology that a jurist adopts while interpreting the law. It is based upon a set of principles of construction and perhaps also a sense of morality. It shapes how justice is meted out. It brings consistency in how the law is perceived and applied throughout a judge's tenure. The absence of judicial philosophy would bring out a sense of randomness and leads to judgements being injudicious.¹

Judicial philosophy plays an essential part in making judgements especially when the question is regarding the Constitution. In fact, the interpretation of the Constitution is the beginning of the adoption of a judicial philosophy for a judge. Every judge adopts their own version of interpretation of Constitutional provisions which is mainly based upon their intrinsic values and political opinions. Some judges may have a liberal stance which would allow room for change and improvement in law while others may stick to the original intention without looking beyond the literal words of the makers.

It is this difference in their philosophies and stances which gave birth to debates on loose constructionism versus rigorous constructionism or literal interpretation versus purposive interpretation or living document versus original intent; whichever way one may want to refer to it. This debate has been going on in the legal field for over a few decades and has brought much

¹ Naman Prakash, *Judicial Philosophy*, The Advocates League, (Aug. 15, 2023, 9:30 PM), <https://theadvocatesleague.in/blogs/view/Judicial-Philosophy-QTq8vZ.html>.

insight into how the law is perceived and applied and how a balance may be reached between what law is and what it ought to be.

It is important to note that these philosophies often overlap each other. This means that most of the time, despite having different philosophies of interpretation, judges reach the same conclusions. For instance, consider the question of political scrutiny. In the case of *The State of Rajasthan v. Union of India*,¹ the Judiciary followed the rigorous interpretation and stated that political scrutiny must be avoided as it is outside their role to enter the political fray and analyse the political choices made.² Though the Judiciary followed a literal interpretation, a liberal stance will most likely come to the same conclusion that any action to investigate the political matter would be an unjustifiable intervention with the Legislature.

Another important point to consider is that philosophies of interpretation are not simply about the judicial ideology; though that plays the most important role, it also depends on the law itself. For instance, remedial laws and laws which have come to be enacted on demand of the permanent public policy generally receive a liberal interpretation,³ while taxing laws are to be construed strictly.⁴

In the case of *U. Unichoyi v the State of Kerala*,⁵ the validity of the Minimum Wages Act of 1948 was questioned against Article 19(1)(g)⁶ of the Constitution, for which the Court liberally interpreted the statute in alignment with Article 19(1)(g) and declared that the statute, being remedial legislation, must be construed in favour of the workers.

Meanwhile, in the case of *Atlas Cycle Industries Ltd. v the State of Haryana*,⁷ a notification was issued to extend rules, orders, directions, etc., of taxes. The question regarding the validity of such notification imposing the tax was raised in front of the Court, to which the Court held that tax provisions must be strictly interpreted and such extension is not permissible automatically.

Besides literal and liberal philosophies of interpretation, the Constitution of India is also subject to two major schools of thought – ‘living document’ and ‘original intent’. The latter years of the 20th century and the early years of the 21st century witnessed the prominent part of heated debate between these two schools of thought.

The advocates of ‘original intent’ focus on the intention the makers of the Constitution had while making the Constitution. They argue that by changing or going beyond the words written by our makers, we are challenging the authority of the Constitution. Besides, it is the role of the Legislature to amend the Constitution for bringing any necessary change; the Judiciary cannot construe the Constitution in such a manner that suits its stance.⁸

Contradicting this opinion, the advocates of ‘living document’ justify their stance by stating that it is impossible for the Legislature to amend Constitution continuously especially when they do not understand the issues Judiciary run into while applying it practically. Also, the terms like ‘life and liberty’, ‘welfare of citizens’, etc. are ever-evolving concepts. The meaning of these concepts is dependent on changes in social norms, values, and circumstances.

Both these philosophies have a place in modern judicial thought. It is these contrasting views which work together to create a balance for a healthy Judiciary. And, as B.R. Ambedkar has stated before, “*Constitution is not a mere lawyer's document. It is a vehicle of life, and its spirit is always the spirit of the age.*”⁹

Importance of Interpretation

Judicial philosophy has a very important role in shaping how justice is perceived; however, interpretation is also similarly important. This is because while judicial ideology is centric on justice, it is also of similar significance to consider the very nature of the law applied. Certain provisions are related to societal benefit and welfare while others might be penal or related to taxation. Either way, the nature of the legislation or provisions drastically influences the attitude the Courts take to decide on a certain matter.

Interpreting the law is also important because it is of immense significance that the bare mechanical application of the law does not defeat the very objective of the law. It is the duty of the Judiciary to expound the law the Legislature has enacted in a manner conducive to the circumstances of a case and alignment with the needs of society.¹⁰ Since needs, values, and circumstances change constantly, there exists no single rule or formula which can interpret the law and apply it in every case.

Hence, despite that being true and there being no single rule which *fits them all*, the Courts cannot interpret the laws casually. There must be a set of principles that Courts adhere to which are applied in similar circumstances to keep consistency in their judgements.

¹ *State of Rajasthan & Ors. vs Union of India*, 1977 AIR 1361.

² Prakash, *supra* note 1.

³ *District Registrar and Collector v Canara Bank*, (2005) 1 SCC 496.

⁴ *Hans Raj and Sons vs State of Jammu And Kashmir*, 2003 (2) JKJ 245 SC.

⁵ *U. Unichoyi v State of Kerala*, AIR 1962 SC 12.

⁶ INDIA CONST. art. 19, cl. 1 (g).

⁷ *Atlas Cycle Industries Ltd. v the State of Haryana*, AIR 1972 SC 121.

⁸ Prakash, *supra* note 1.

⁹ Somesh Jain, *Originalism v. Living Constitutionalism: The Debate goes on*, SCC Online, (Aug. 16, 2023, 2:30 PM), <https://www.scconline.com/blog/post/2022/09/13/originalism-v-living-constitutionalism-the-debate-goes-on/>.

¹⁰ *Russell v Ledsam* (1845) 14 M and W 574 (589) per Parke, B.

For instance, in the case of *UP State Agro Industrial Corporation Ltd. v Kisan Upbhokta Parishad*,¹ the Mimamsa Rules of interpretation used by Vijaneshwar, the great jurist who authored Mitakshara, was given due consideration and the Supreme Court stated that these rules may be observed in appropriate situations.

Consistency in judgements is one of the take away from these rules but a more important reason for the existence of these rules of interpretation is to prevent arbitrary decisions from the Judiciary. As Sedgwick has stated, "...subject as important as construction and interpretation cannot be left to the mere arbitrary discretion of the Judiciary, otherwise their power would become superior to Legislature. Hence, there must exist certain general principles which may control the matter."²

The method used to interpret the laws are often literal with barely any divergence from what is already written. However, every now and then, the Judiciary strays from the literal meaning of the statement to include or exclude a certain aspect of that law. This forms the two major schools of thought or rules of interpretation, known as literal interpretation and purposive interpretation.

However, the interpretation is not that simple. Despite the general rules being laid out in a clear-cut manner, the interpretation may still not always be clear. For instance, in many cases the judges may agree that the word must be interpreted in a plain manner, yet, the judges may disagree upon what the plain meaning of the word is.

Consider the cases of *Tej Kiran Jain v N. Sanjeeva Reddy*³ and *P.V. Narsimha Rao v State*.⁴ In these cases, the Court had to interpret Article 105(2) of the Indian Constitution,⁵ which reads, 'No member of Parliament shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.'

In the Tej Kiran case, the Supreme Court held that the language of the Article is plain and thus interpretation will remain literal but in the case of P.V. Narsimha Rao, there was a divergence of opinion. In the bench of five judges, everyone agreed that if an MP receives bribery for voting and does not vote then that MP can be prosecuted under the Prevention of Corruption Act, 1988. However, a majority of three against two declared that an MP receiving bribery for voting and then votes cannot be prosecuted as any proceeding regarding his vote as it is barred under article 105(2). Hence, in this example, the judges agreed that the interpretation of language should be plain but what the meaning of the plain language was is debatable.

Therefore, rather than purely following one school of thought and interpreting in two extremes manner (either too liberal or too literal), Court strikes a balance between the two and ensures that the objective of the Legislature is not hampered. Some primary rules that they mostly observe include:⁶

1. The presumption that the Legislature has made no mistake and hence interpreting the law literally or in a plain manner.
2. Interpretation of provision can only take place when the language is ambiguous and must be interpreted in a manner which would not make the law either otiose or dead letter⁷ and is in alignment with the intention of the Legislature.
3. The Court has no power to change the language of any given provision and can only work with that part of the provision which is simply absurd, unreasonable, and irreconcilable with the rest.⁸

Literal interpretation

The first and primary rule of interpretation is the literal rule. As per this rule, the law is presumed to mean what its language would mean in the most ordinary and natural sense. Unless the law is ambiguous and logically defective, it is to be understood as per its given literal meaning.⁹ Therefore, ordinarily, the Court is to construe the law in the literal sense because any change done on a random instance (that is when the law is not ambiguous) would be considered as amending the law in the garb of interpretation, which is not permissible.¹⁰

This rule of literal interpretation is applicable to both private and public law¹¹ and is often understood under the following heads:

1. *Natural and grammatical meaning*: At first instance, the Court must construe a law as per its natural, ordinary, and popular meaning. However, if such construction leads to absurdity or ambiguity, the Court shall look beyond the mere grammatical, natural, and popular meaning of the words. The Courts cannot be overenthusiastic in finding ambiguity when the meaning of the words is plain.¹²

In the case of *Jugalkishore Saraf v Raw Cotton Co. Ltd.*,¹³ the Court stated that the literal rule is the cardinal rule of construction. Hence, the Court, in ordinary instances, shall take the language of the law in its natural, popular, and grammatical meaning, unless such reading leads to absurdity and brings another meaning.

¹ *UP State Agro Industrial Corporation Ltd. v Kisan Upbhokta Parishad*, AIR 2008 SC 777.

² Theodore Sedgwick, *A Treatise on the Rules which Govern the Interpretation and Construction of Statutory and Constitutional Law*, p 192 (Baker, Voorhis & Company, 1874).

³ *Tej Kiran Jain v N. Sanjeeva Reddy* (1971) 1 SCR 612

⁴ *P.V. Narsimha Rao v State*, AIR 1998 SC 2120; JT 1998 (3) SC 318

⁵ INDIA CONST. art. 105, cl. 2.

⁶ Dr. Avtar Singh, Prof (Dr) Harpreet Kaur, *Interpretation of Statutes*, p 4 & 5 (5th ed. 2020).

⁷ Maxwell, *Interpretation of Statutes*, p 58 (12th ed.).

⁸ *Bavnagar University v Palitana Sugar Mill Pvt Ltd*, (2003) 2 SCC 111; (2003) 2 Guj LR 1154.

⁹ *Land Acquisition Officer v Karigowada*, (2010) 5 SCC 708.

¹⁰ *Raghunath Rai Bareja v Punjab National Bank*, (2007) 2 SCC 230.

¹¹ *Steel Authority of India Ltd v National Union Waterfront Workers*, (2001) 7 SCC 1.

¹² *Tata Consultancy Services v State of AP*, (2005) 1 SCC 308.

¹³ *Jugalkishore Saraf v Raw Cotton Co Ltd*, AIR 1955 SC 376, p 381; 1955 SCR (1) 1396.

2. *Explanation:* The rule states that the language of the law must be understood in its natural, ordinary, and popular meaning. However, besides the ordinary and popular meaning words often have secondary meaning which has more technical or scientific connotation. This meaning might not be so common but if, in the given context, such meaning makes more sense, then the word is to be understood to have that meaning.

In the case of *Commissioner of Sales Tax, MP Indore v Jaswant Singh Charan Singh*,¹ the Supreme Court construed the word 'coal'. While applying the literal rule, the Court stated that for consumers, coal ordinarily and popularly means fuel and hence, coal would include charcoal and not simply the coal obtained from the mineral under the Sales Tax Act.

However, in Colliery Control Order, the word coal is to be understood in its technical meaning which would only include coal from the mineral and not charcoal, as opposed to its meaning in the context of Sales Tax.

3. *Exact meaning to be preferred over the loose meaning:* In the rule of literal interpretation, the exact meaning is preferred over the loose meaning of a word. A word can have more than one meaning; for instance, the word 'set' can mean to place things in a specific manner; for example, set the dinner table means to put crockery in specific places. While another meaning of the word 'set' is to adjust; for example, set the time of your watch according to the local timings of your destination. In the ordinary course, the meaning of the word is kept as exact as possible.

In the case of *Prithipal Singh v the Union of India*,² the word 'contiguous' was construed in exact meaning as 'touching' as opposed to its loose meaning as 'neighbouring'.

Now, a point to keep in mind is that to realise the actual objective of the law, the secondary meaning of the word may be taken into consideration rather than its more popular meaning but this approach does not mean that a loose meaning has been adopted. This is because the purpose of interpretation is to discover the intention of the makers as deduced from the language used.

4. *Technical sense is adopted when context points to the same:* Literal interpretation does not mean that words would be understood at their face value without the context of the words being taken into consideration. Consider the term 'rate'; in an ordinary sense, it could mean assigning value, for example: diamonds are rated as the most valuable stones. However, the rate has acquired a more technical meaning when in the context of tax laws.³ In *Workmen of National and Grindlays Bank Ltd v National and Grindlays Bank Ltd*,⁴ the Court decided that the words 'working funds' when used in a banking context must be understood in the technical meaning it has acquired in the same context.

Literal rule is a general presumption that Court adopts when interpreting any law but it is more strictly followed when the laws are related to penal or taxing provisions.

In any provision entailing penal consequences, the Court must observe strict construction. It can inflict punishment only when there exists no ambiguity and the circumstances of the case align with the words of the law perfectly. In case of doubt, the benefit must go to the accused. Hence, when there are multiple interpretations, such interpretations must be taken into consideration which avoids hardship and injustice. Penal provisions therefore cannot be construed in a manner which would exclude any such case which ordinary will be within its ambit or in such manner which would express the language of the provision as opposed to its spirit.⁵

In the case of *Kedar Nath v State of W. Bengal*,⁶ the punishment of the offence committed was amended to enhance the punishment. The Court observed that such enhancement cannot be applied as the interpretation of penal laws are to be prospective and strict. Also, when there exists more than one possible interpretation then the interpretation for the benefit of the accused must be adopted otherwise it will be violative of Article 20(1) of the Constitution.⁷

Like penal provisions, provisions imposing taxes must also be strictly construed. The logic behind this is that imposing tax is like imposing a penalty and hence a person cannot be taxed unless the letter of the law unambiguously says so. Nothing can be drawn from implication, nor any intendment or presumption as to tax exists.

If the natural meaning of the provision does not permit tax imposition, then tax cannot be imposed despite the spirit of the law being on the contrary. The opposite of this view also stands, meaning that if the language of the law is so expressed as to seek tax, then interpretation removing such burden cannot be made.⁸

In the case of *Azamjha v Expenditure Tax Officer, Hyderabad*,⁹ the question raised was regarding the interpretation of the term 'dependant' as per the Expenditure Tax Act. The provision stated that '*dependant means where the assessee is an individual, his or her spouse or child wholly or mainly dependent on the assessee for support and maintenance.*'¹⁰ The Court construed that the wife and child will remain dependant even when they have a separate independent income as the last part does not refer to the wife and the child. The Court accepted that the interpretation was not logical or in the spirit of the law. However, the taxing provisions are to be strictly constructed.

¹ *Commissioner of Sales Tax, MP Indore v Jaswant Singh Charan Singh*, AIR 1967 SC 1454, p 1457.

² *Prithipal Singh v the Union of India*, AIR 1982 SC 1413: (1982) 3 SCC 140.

³ *Gordhandas Hargovindas v Municipal Commissioner Ahmedabad*, AIR 1963 SC 1742, p. 1749.

⁴ *Workmen of National and Grindlays Bank Ltd v National and Grindlays Bank Ltd*. (1976) 1 SCC 925.

⁵ Prof. T. Bhattacharyya, *Interpretation of Statutes*, p. 107 & 108 (11th ed. 2020).

⁶ *Kedar Nath Bajoria vs The State of West Bengal*, AIR 1953 SC 404

⁷ INDIA CONST. art. 20, cl. 1.

⁸ Bhattacharyya, *supra* note 29, p. 120.

⁹ *Azamjha v Expenditure Tax Officer, Hyderabad*, AIR 1978 SC 2319.

¹⁰ Expenditure Tax Act, 1957, § 2 (g), No. 29, Acts of Parliament, 1957 (India).

Purposive interpretation

The rule of literal interpretation is not always a safe guide. Therefore, sometimes, the Court needs to look beyond the verbal expression of the written text to understand the purpose and objective of the law. This is because many times taking the legal words at their face value would defeat the very purpose of the law.¹

As Judge Learned Hand has stated, a judge is often in a precarious position where, on the one hand, he cannot simply enforce what he thinks is for the best but what the 'common will' is expressed by the Legislature, while on the other hand, he must not apply law slavishly but in a manner, which expresses the underlying meaning of the law.

For applying law appropriately in a manner where a balance is reached the concept of purposive interpretation has evolved. This liberal approach to interpretation has evolved over a long period of time. Below is the chronological order through which purposive interpretation developed:

1. *Golden rule*: This rule is a slight modification to the literal rule of interpretation. Ordinarily, the Court is to interpret the language of law in a plain manner but when the plain meaning of the word would create absurdness, repugnance, inconvenience, hardship, injustice, or evasion, then the Court can modify the meaning to such an extent which would remove such consequence.

This rule, therefore, gives more importance to the consequence of the interpretation rather than the true meaning of a provision. This rule allows Court to restrict the meaning of the language to such a point beyond the intention of the Legislature while the literal interpretation might have an unreasonably wide scope.

In *Tirath Singh v Bachitter Singh*,² Section 99(1)(a) of the Representation of People Act, 1951³ was interpreted. The aforesaid section stated that the tribunal was obligated to record all those who are guilty of corrupt charges including both the parties and non-parties of the petition and under a proviso, they all must be given notice. The Court observed that such practice would be absurd as parties to the petition would have prior knowledge of the petition without notice. Hence, notice is to be issued only to the non-parties.

2. *Mischief rule*: This rule came from *Heydon's case*.⁴ Through this rule, the Court must interpret the law in such a manner which suppresses the mischief and encourages the remedy. The Court must determine the following four points to apply this rule:
 - a. The common law before the present provision came into being;
 - b. The mischief that the common law was unable to prevent;
 - c. The remedy the present provision provides for that mischief;
 - d. The reason for this remedy.

This means that the Court must understand the context of the provision, the previous state of the law and other provisions in *pari materia*, the scope of the present provision and the intended remedy for the mischief sought to be suppressed.

In the case of *Bengal Immunity Co.*,⁵ the Court applied the mischief rule in the construction of Article 286 of the Indian Constitution.⁶ Here due to inter-state trade and commerce, there was much confusion caused due to the taxing laws of different provisional Legislatures. The Court observed that to cure the mischief of multiple taxation and to preserve the free flow of the economy, the makers of the Constitution regarded India as one economic unit without any provincial barriers and adopted Article 286. Hence, in the present case imposing multiple taxes would be violative of their intent.

3. *Harmonious construction*: One of the principles of interpretation is that the Legislature never intends to contradict itself. However, in the case where within the same enactment there exist two contradicting provisions, the Court should, as much as possible, interpret the enactment in such a manner as to give effect to both the provisions; rendering either of them inoperative should be the last resort.

A good example of this principle is how Courts have come to interpret fundamental rights and Directive Principles of State Policy (DPSP) harmoniously. In the case of *Kesavananda Bharati v. State of Kerala*,⁷ Justice HR Khanna stated that both fundamental rights and DPSP were not contradicting concepts with one giving power to the State and the other to the citizens. Rather, they are complimentary concepts where DPSP outlined the socio-economic goals that the State must achieve to reach a more conducive place for the development of fundamental rights.

4. *Beneficial construction*: certain laws are established for the benefit of a certain class of people and such laws must be interpreted liberally so that it is in favour of that class of people. In the case of *Smt. Shashi Gupta v Life Insurance Corporation of India*,⁸ where a circular was issued by the respondent, the Court held that the interpretation must be made for the benefit of the policyholders.
5. *Purposive construction*: After the development of principles of interpretation, a new principle evolved from the mischief rule. The Court began taking the stance that a purposive approach must be taken to keep the objective in mind. In a welfare state like India, the bare language may not always reflect the intended benefit for the people. Hence, the legal language must be interpreted here in such a manner as to realistically reach the general masses.⁹

¹ C.K. Allen, *Law in the Making*, p. 489 (7th ed. 1967).

² *Tirath Singh v Bachitter Singh*, AIR 1955 SC 850.

³ Representation of People Act, 1951, § 99 (1) (a), No. 43, Acts of Parliament, 1951 (India).

⁴ *Heydon's case*, 3 Co. Rep. 7a; 76 ER 637.

⁵ *Bengal Immunity Co. Ltd vs State of Bihar*, AIR 1955 SC 661.

⁶ INDIA CONST. art. 286.

⁷ *Kesavananda Bharati v. State of Kerala* (1973) 4 SCC 225; AIR 1973 SC 1461.

⁸ *Smt. Shashi Gupta v Life Insurance Corporation of India*, AIR 1995 SC 1960.

⁹ *Abhiram Singh v CD Commachen*, (2017) 2 SCC 629; AIR 2017 SC 401.

Through this method, the judge determines the scope of the purpose of the law, linguistic context, subject matter, and background of the law. It is a slightly broader version of the mischief rule. It allows more flexible interpretation and its origin lies in common law.

In the case of *Abhiram Singh v CD Commachen*,¹ the Court held that interpreting election rules or statutes must be electorate centric rather than candidate-centric. Since such laws cherish democratic ideals, interpretation assisting electors or the electorate should be adopted rather than the ones interpreting assisting candidates.

Comparison of the approaches

Both rules of interpretation have various advantages. For instance, the literal rule of interpretation is rigid and conservative which ascertains that Judiciary is not encroaching on the role of the Legislature. However, the purposive rule has a more practical approach as interpreting laws plainly is not always possible and while it construes in a liberal manner, it remains in alignment with the intention of the Legislature.

The advocates of literal interpretation state that if any provision requires modification and alteration, then the law must be amended with the procedure established; that is, through the Legislature. Yet, it cannot be denied that it is impossible for the Legislature to understand the practical shortcomings of enactment unless it is expounded and applied by the Judiciary. This means that they cannot make amendments for every issue that the Judiciary might run into.

Literal interpretation avoids inconsistency. The law is what has been explicitly mentioned by the Legislature and would remain the same despite the changing circumstances; hence, being just and consistent. The purposive interpretation allows flexibility as the idea is to interpret the underlying meaning of the law and apply it in accordance with the changing circumstances.

The most obvious limitation of literal interpretation is that it insists on interpreting the law at its face value which could lead to ambiguity. For instance, in the case of *R v Harris*,² literally interpreting 'stab' to include only such acts which require a weapon created ambiguity.

However, purposive interpretation is quite a tricky method. It requires the judge to know the intent of the Legislature. However, the process of deriving the intent of the Legislature could vary from judge to judge and the meaning that is determined can end up being very subjective. For instance, consider a record of a conversation between husband and wife in a divorce case. A judge may conclude that the record is inadmissible as it is violative of the right to privacy, while another judge may come to a different conclusion considering the record to be admissible in the Court.

A point to note is that the nature of law is essential for determining which method of interpretation should be applied. As previously mentioned, for penalising or taxing provisions a stricter interpretation is applied while for laws like human rights or citizens welfare, a more liberal interpretation is adopted.

In most cases, it is inevitable that the Courts adopt a mixed approach. The key is to strike a balance between upholding legislative intent and maintaining legal certainty. Also, the interpretation of law must remain bound by the maxim *lex injusta non est lex*, meaning that an unjust law is no law. Therefore, principles of justice, fairness, and the overall purpose of the legal system must be kept in mind no matter the interpreting method adopted.

Conclusion

In society, without laws, there exists no absolute value. It is impossible to remain unchanged, especially with recent developments in technology and its use in everyday life. However, certain things must remain unchanged, for instance, our right to live and thrive remains unchanged though what it means to live and thrive still evolves.

Interpretation of law is inevitable, the needs of society, changing norms and values, and other changing variables make it impossible to enforce law as it is. Also, a word can have a variety of meanings and two different enactments might refer to the same word but employ different meanings. Hence, interpretation is a vital role of the Judiciary.

Despite the criticism of purposive interpretation stating it allows the Judiciary to encroach on the role of the Legislature, the practical aspect of enforcing the law forces Judiciary to give such powers to the judges to manoeuvre the law to some extent. Also, adopting a purposive approach to interpretation does not mean that the literal or plain meaning of the language would be ignored. After all, without the literal interpretation, there would be no structure or consistency in the interpretation of the law itself.

¹ *Id.*

² *R v Harris*, (1836) 7 C & P 446.