

BBA.LL.B (HONS.) – III SEMESTER

INTERPRETATION OF STATUTES

COURSE CODE:

Course Objective: Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? The two basic reasons for the need of interpretation of statutes are to understand in the true spirit the Legislative Language and the Legislative Intent. While the legislative language may be complicated for a layman, legislative intents assimilates the concept of meaning and the concept of purpose and object or the reason or the spirit pervading through the statute. With the emergence of legislation, interpretation of statutes has become a method by which judiciary explores the intention behind the statutes.

Course Outcomes:

1. To understand the principles to interpret the laws and judgements.
2. Learning of basic principles and approaches of judicial bodies to interpret the legal provisions.
3. To Understand legal theory and concepts from multiple perspectives
4. To acquaint with the functioning of the various bodies to legislate on any subject, at central, state and local levels and the responses of these systems in addressing the concerns of the people
5. To understand the interface of theory and practice in implementation of rules and judgements.

UNIT-I: Meaning and Object of Interpretation, and Principles of Legislation, Law-making - the legislature, executive and the judiciary, Principle of utility, Relevance of John Rawls and Robert Nozick - individual interest to community interest, Operation of these principles upon legislation, Distinction between morals and legislation, Interpretation of Statutes, Aids to Interpretation, Internal aids, External aids: Dictionaries, Translations, Travaux Preparatoires, Statutes in pari materia, Contemporanea Exposito, Debates, inquiry commission reports and Law Commission reports

UNIT-II: Rules of Statutory Interpretation: Primary Rules, Literal rule, Golden rule, Mischief rule (rule in the Heydon's case), Rule of harmonious construction, Secondary Rules: Noscitur a sociis, Eiusdem generis, Reddendo singula singulis, Presumptions in statutory interpretation: Statutes are valid, Statutes are territorial in operation, Rule of Law: Doctrine of Independence of the Judiciary as an aspect of Separation of Powers-Notion of the Independence of the Judiciary and the Legal Profession: Appointment of Judges-Transfer of Judges, Search for the Legislative Intention-Methods of Judicial Interpretation-Role of Philosophy (Logic),

UNIT-III: Notions of Judicial Review-Constitutional Basis-Democratic Character of Judicial Review-Power of Judicial Review Supreme Court's Approach to the Question of Its Own Jurisdiction-Article 32 & Article 136; Judicial and Juristic Activism-Judicial Creativity and its Limitations-Judicial Activism vis- a-vis Judicial Self-Restraint-Problems of Accountability of Justice; Presumption as to jurisdiction, Presumption against what is inconvenient or absurd,

Presumption against intending injustice, Presumption against impairing obligations or permitting advantage from one's own wrong, Prospective operation of statutes

UNIT-IV: Maxims of Statutory Interpretation: Delegatus non potest delegare, Expressio unius exclusio alterius, Generalia specialibus non derogant, In pari delicto potior est conditio possidentis, Utres valet potior quam pareat, Expressum facit cessare tacitum, In bonam partem, Interpretation with reference to the subject matter and purpose, Restrictive and beneficial construction, Taxing statutes, Penal statutes, Welfare legislation

UNIT-V: Interpretation of substantive and adjunctival statutes, Interpretation of directory and mandatory provisions, Interpretation of enabling statutes, Interpretation of codifying and consolidating statutes, Interpretation of statutes conferring rights, Interpretation of statutes conferring powers, Principles of Constitutional Interpretation, Harmonious construction, Doctrine of pith and substance, Colourable legislation, Ancillary powers, "Occupied field", Residuary power, Doctrine of repugnancy

Text Books

1. G.P.Singh, Principles of Statutory Interpretation, (7th Edition) 1999, Wadhwa, Nagpur.
2. K.Shanmukham, N.S.Bindras's Interpretation of Statutes, (1997) the Law Book Co. Allahabad.
3. M.P.Jain, Constitutional Law of India, (1994) Wadhwa & Co.
4. M.P.Singh, (Ed.) V.N.Sukla's Constitution of India, (1994) Eastern, Lucknow.
5. Narotam Singh Bindra, N.S. Bindra's Interpretation of Statutes, LexisNexis Butterworths, 2007

Reference Books

1. P. St. Langan (Ed.). Maxwell on The Interpretation of Statutes (1976) N.M.Tripathi, Bombay.
2. Rupert Cross, Statutory Interpretation, London Butterworth's.
3. Sandeep Bhalla, Principles of Interpretation in India: (with Legal Maxims), IEbooks Inc., 2015
4. U.Baxi, Introduction to Justice K.K.Mathew's, Democracy Equality and Freedom (1978) Eastern, Lucknow.
5. Vepa P. Sarathi, The Interpretation of Statutes, (1984) Eastern Book Company, Lucknow
6. A. S. Anand: 'Judicial Review: Judicial Activism-Need for Caution', 42 Journal of Indian Law Institute 149 (2000)
7. Benjamin Cardozo: The Nature of Judicial Process, Yale University Press, USA.
8. Edgar Bodenheimer: Jurisprudence-The Philosophy and Method of the Law, Universal Law Publishing-An imprint of LexisNexis; Delhi.
9. Henry J. Abraham: The Judicial Process, OUP, USA.
10. John Rawls: A Theory of Justice, Harvard University Press, Cambridge.
11. Julius Stone: Legal System and Lawyer's Reasoning, Universal Law Publishing Co., New Delhi