

# INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION

PART 1



# INTRODUCTION

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

# Definition of Statutes

- **Definition of *statute as per merriam webster*** “a law enacted by the legislative branch of a government”
- The word statutes is derived from the latin term ‘**statuere**’ which means ‘to be made’ or ‘to set up’ or ‘eracted’

# DEFINITION

- The constitution of India does not define the term Statute. Instead it uses the term 'law'. The term 'law' is defined as **Article 13(3)(a)** as-In this article, unless the context otherwise requires.-"law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usages having in the territory of India the force of law;

# DEFINITION

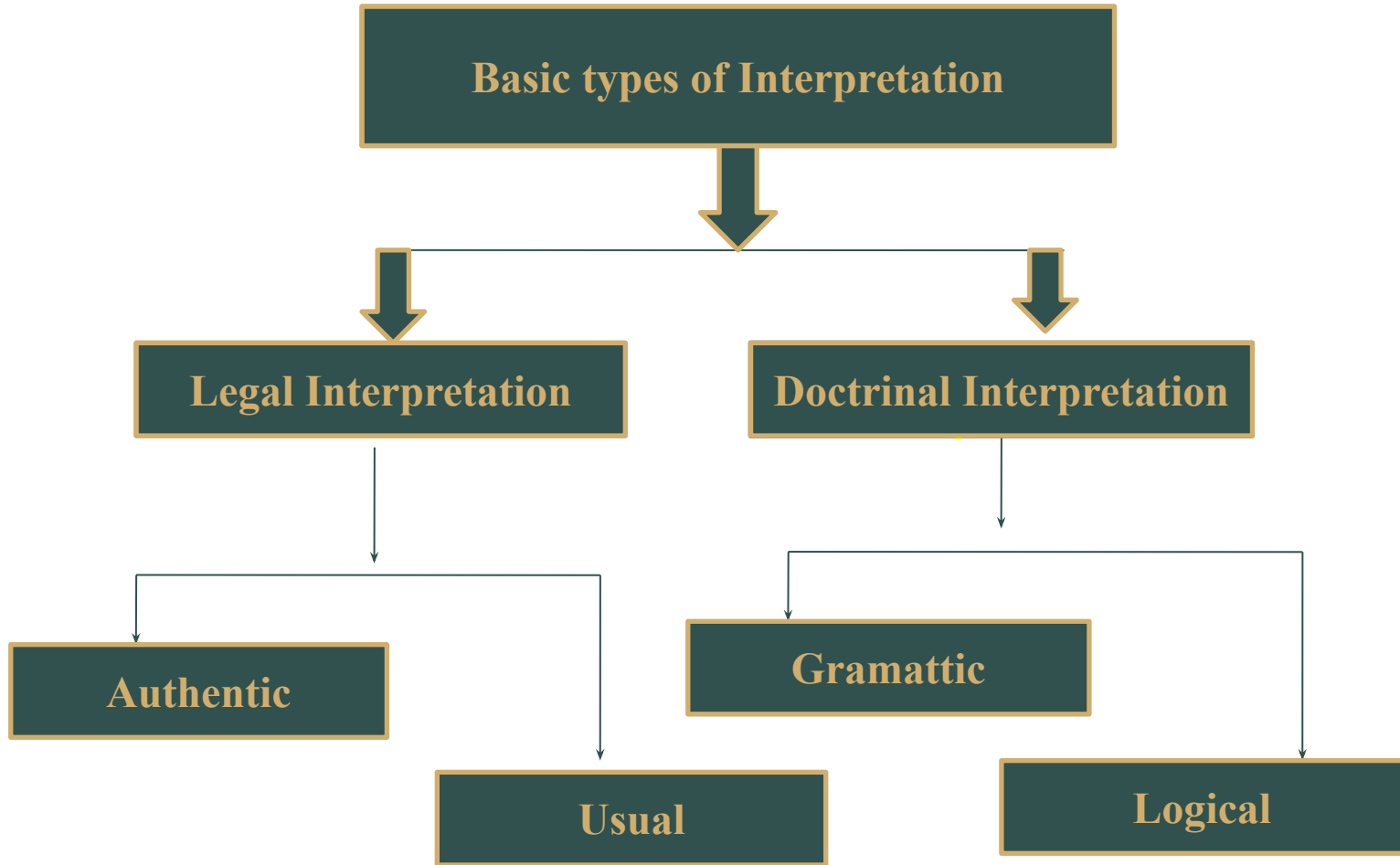
- According to **Black's Law Dictionary** The word "Statute" denotes an act of legislature declaring ,commanding or prohibiting something i.e., the written will of legislature. Solemnly expressed according to the forms necessary to constitute it, the law of the state, may be declaratory or mandatory in nature.
- A statute has been made taking into consideration of matters like promotion of public justice, social gain, public policy, humanist consideration and the legislature tries its best to avoid any length of litigation regarding its intention.

# MEANING

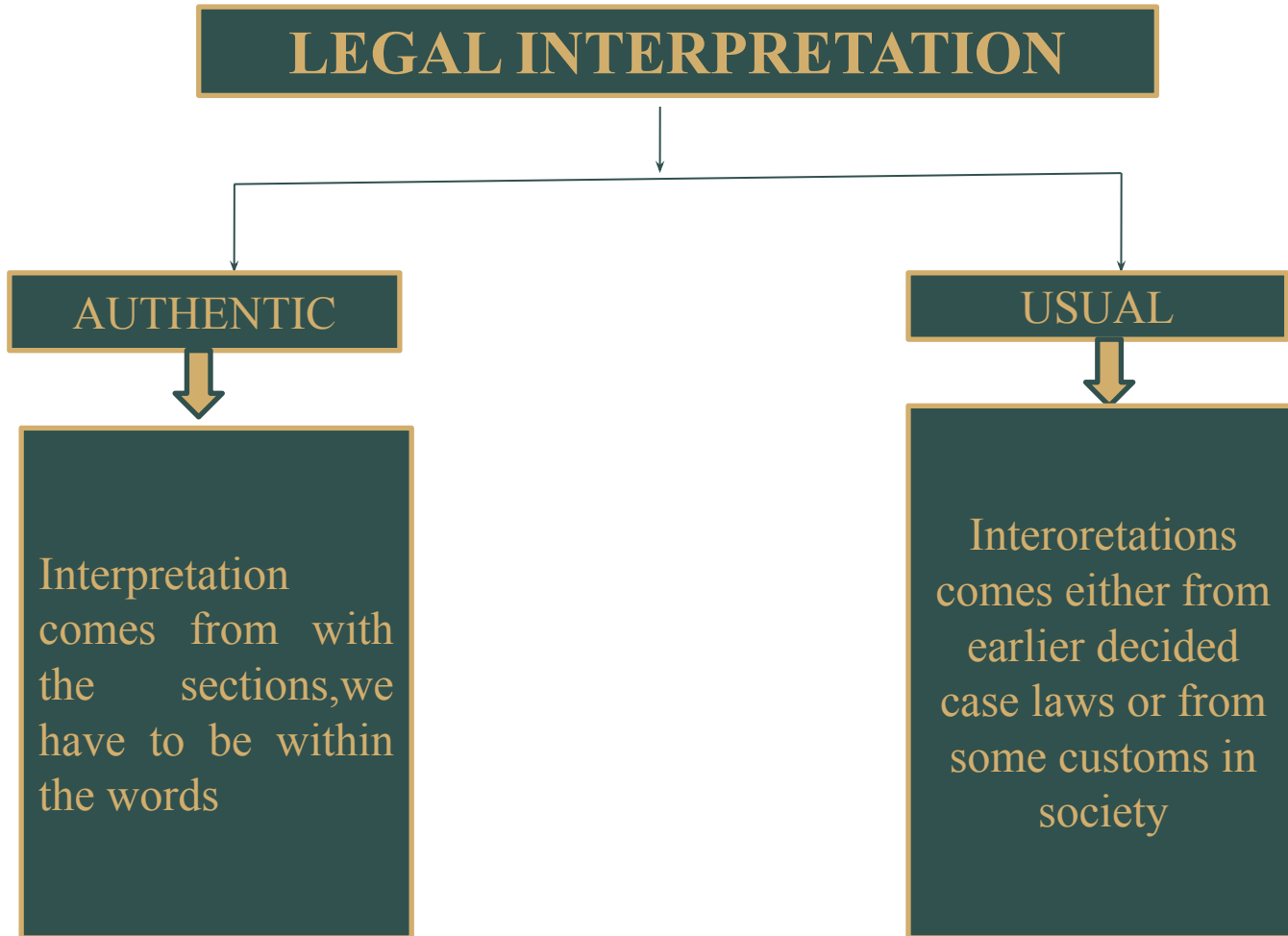
- Interpretation means the art of finding out the true sense of an enactment by giving the words of the enactment their natural and ordinary meaning. It is the process of ascertaining the true meaning of the words used in a statute. The Court is not expected to interpret arbitrarily and therefore there have been certain principles which have evolved out of the continuous exercise by the Courts. These principles are sometimes called ‘rules of interpretation’.

# OBJECT

- The object of interpretation of statutes is to determine the intention of the legislature conveyed expressly or impliedly in the language used. As stated by SALMOND, "by interpretation or construction is meant, the process by which the courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed."







# DOCTRINAL INTERPRETATION

## GRAMMETICAL

As per plain English  
grammar  
Example – ‘and’ ‘or’  
‘ ’  
;

## LOGICAL

When the court goes  
beyond words to  
discover the true  
intention of the  
statutes.



Who makes  
Statutes ?

Who  
Impliments  
the Statutes ?

Who  
Interpretate  
s ?

# Law Making Organs in India



**MAIN FUNCTION : TO ENACT LAWS(also known a Legislative Authority)**



**MAIN FUNCTION: TO IMPLEMENT LAW(also known as Executive Authority)**



**MAIN FUNCTION: TO SETTLE DISPUTES(also known as  
Judiciary Authority)**

# CONSTITUTION

LEGISLATIVE



MAKES LAWS

EXECUTIVE



EXECUTES LAWS

JUDICIARY



INTERPRETATES LAWS

## **Legislative Powers**

### **(7<sup>TH</sup> SCHEDULE OF INDIAN CONSTITUTION)**

The legislative powers of centre and state are clearly defined in the constitution. These powers are split into three different lists.

***Union List:*** The Union list consists of 100 items on which only the Parliament has exclusive powers legislation because of their concern to the Centre.

***State List:*** The State list consists of 61 items where the state legislative assembly has the authority to make laws that would be applicable in that particular state. However, under certain circumstances, the parliament also has legislative powers in matters of the state list.

***Concurrent List:*** The Concurrent List consists of 52 items where both the parliament and the state legislature have the authority to make their own laws under their own domains because it concerns both the parties.



# Need For Interpretation

In his *The Law-Making Process*, Michael Zander gives three reasons why statutory interpretation is necessary:

1. Complexity of statutes in regards to the nature of the subject, numerous draftsmen and the blend of legal and technical language can result in incoherence, vague and ambiguous language.
2. Anticipation of future events leads to the use of indeterminate terms. The impossible task of anticipating every possible scenario also leads to the use of indeterminate language. Judges therefore have to interpret statutes because of the gaps in law. Examples of indeterminate language include words such as “reasonable”. In this case the courts are responsible for determining what constitutes the word “reasonable”.
3. The multifaceted nature of language. Language, words and phrases are an imprecise form of communication. Words can have multiple definitions and meanings. Each party in court will utilize the definition and meaning of the language most advantageous to their particular need. It is up to the courts to decide the most correct use of the language employed.

# KINDS OF STATUTES

- Codifying Statutes
- Consolidating Statutes
- Declaratory Statutes
- Remedial Statutes
- Enabling Statutes
- Disabling Statutes
- Penal Statutes
- Taxing Statutes
- Explanatory Statutes
- Amending Statutes
- Repealing Statutes

## Codifying statutes

- The purpose of this kind of statute is to give an authoritative statement of the rules of the law on a particular subject, which is customary laws. **For example- The Hindu Marriage Act, 1955 and The Hindu Succession Act, 1956.**

## Consolidating statutes

- This kind of statute covers and combines all law on a particular subject at one place which was scattered and lying at different places. Here, the entire law is constituted in one place. **For example- Indian Penal Code or Code of Criminal Procedure.**

## Declaratory statutes

This kind of statute does an act of removing doubts, clarifying and improving the law based on the interpretation given by the court, which might not be suitable from the point of view of the parliament. **For example-** the definition of house property has been amended under the Income Tax (Amendment) Act, 1985 through the judgement of the supreme court.

## Remedial statutes

Granting of new remedies for enforcing one's rights can be done through the remedial statutes. The purpose of these kinds of statutes is to promote the general welfare for bringing social reforms through the system. These statutes have liberal interpretation and thus, are not interpreted through strict means. **For example- The Maternity Benefits Act, 1961, The Workmen's Compensation Act, 1923 etc.**

# Enabling statutes

The purpose of this statute is to enlarge a particular common law. **For example-** Land Acquisition Act enables the government to acquire the public property for the purpose of the public, which is otherwise not permissible.

# Disabling statutes

- It is the opposite of what is provided under the enabling statute. Here the rights conferred by common law are being cut down and are being restrained.

# Penal statutes

- The offences for various types of offences are provided through these statutes, and these provisions have to be imposed strictly. **For example- Indian Penal Code, 1860.**

# Taxing statutes

- Tax is a form of revenue which is to be paid to the government. It can either be on income that an individual earns or on any other transaction. A taxing statute thus, levies taxes on all such transactions. There can be income tax, wealth tax, sales tax, gift tax, etc. Therefore, a tax can be levied only when it has been specifically expressed and provided by any statute.



# Explanatory statutes

- The term explanatory itself indicates that this type of statute explains the law and rectifies any omission left earlier in the enactment of the statutes. Further, ambiguities in the text are also clarified and checked upon the previous statutes.

# Amending statutes

- The statutes which operate to make changes in the provisions of the enactment to change the original law for making an improvement therein and for carrying out the provisions effectively for which the original law was passed are referred to as amending statutes. **For example-** Code of Criminal Procedure 1973 amended the code of 1898.

# Repealing statutes

- A repealing statute is one which terminates an earlier statute and may be done in the express or explicit language of the statute. **For example-** Competition Act, 2002 repealed the MRTP Act.

# Construction

- In simple words, construction is the process of drawing conclusions of the subjects which are beyond the direct expression of the text. The courts draw findings after analysing the meaning of the words used in the text or the statutes. This process is known as **legal exposition**. There are a certain set of facts pending before the court and construction is the application of the conclusion of these facts.

# OBJECT OF

# CONSTRUCTION

- The objective is to assist the judicial body in determining the real intention of the legislature. Its aim is also to ascertain the legal effect of the legal text.

# Difference between Interpretation and Construction

- Interpretation
  1. In law, interpretation refers to exposing the true sense of the provisions of the statutes and to understand the exact meaning of the words used in any text.
  2. Interpretation refers to the linguistic meaning of the legal text.
  3. In the case where the simple meaning of the text is to be adopted then the concept of interpretation is being referred to.
- Construction
  1. Construction, on the other hand, refers to drawing conclusions from the written texts which are beyond the outright expression of the legal text.
  2. The purpose of construction is to determine the legal effect of words and the written text of the statute.
  3. In the case where the literal meaning of the legal text results in ambiguity then the concept of construction is adopted.

# Manmohan Das Shah v. Bishun Das

## Kamta Prasad Aggarwal v. Executive Engineer, Ballabgarh



# Commencement of laws

- **IF DATE IS PROVIDED**

If any act provides that it will come into operation on a date fixed by the President or a Premier by proclamation in the Gazette, different dates may be fixed in respect of different provisions of that act.

- **IF NO DATE PROVIDED**

If a day is not set for the coming into operation of a law, that day will be the day when the law was first published in the Gazette as a law

# **Exercise of conferred powers between passing and commencement of a law**

**Where a law confers a power to do anything required to bring the law into operation (for example, making appointments, actions of regulators, prescribing forms or making regulations) that power may be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation. However, those acts (for instance the making of regulations) only come into operation when the law comes into operation.**

# Notification in Gazette of official acts under authority of law

- When an act is by law to be done by the President, a Premier, a Minister, or any public officer, the notification of that act may be by notice in the Gazette unless a specified method is prescribed.
- Certain enactments must be published in the Gazette but there are also other ways stated for the promulgation and commencement of laws and publication of notices when publication in the Gazette is impractical. It has become common in recent legislation to permit publication on an official website.

# Repeal and

# substitution of laws

- When a law repeals any law and substitutes new provisions for that law, the repealed law remains in force until the substituted provisions come into operation.
- Where a law repeals and re-enacts any provision of a law (with or without modifications), references in any other law to the repealed law are construed as references to the re-enacted provision.
- Repealing a law will not:
  1. Revive laws not in force at the time;
  2. Affect the previous operation of the repealed law; or
  3. Affect any rights or obligations already accrued under the repealed law.

# OBJECT OF REPEALING ACT

- The primary object of this act is to bring necessary changes in the existing law for changing socio-economic and cultural conditions from time to time. The purpose of this Act is to remove the outdated or obsolete matter from the body of law. After the removal of obsolete matter, it is the court that decides whether the new provision meets its goal and has different intentions or not. This act is the editorial revision by abolishing obsolete and unnecessary matter of the statute and adding new and proper information in the books of the statute.

# What are the kinds of repeal

- There are two types of repeal:
  1. Express repeal
  2. Implied repeal

# Express repeal

- Express repeal is an expression which means the abolition of the previously enacted statute by the newly enacted provisions of a statute through expressed words embedded under the new statute enacted. The statute which has been repealed is called repealed statute and the one which replaces the earlier statute is called the repealing statute. In general, when an earlier statute or some of its provisions are repealed through express words embedded under the newly enacted statute stating that the provisions are now of no effect is called the express repeal.

# Implied repeal

- The term implied means implicit or hinted. So when a statute becomes obsolete and it is inferred that it is no longer and shall be repealed with the newly enacted statute then this process of repealing is called implied repeal.
- For example, if we enter a car showroom it is intended that we are there to buy cars. It is implied, similarly, if there arises any inconsistency in the statute and due to certain circumstances it becomes necessary to repeal the statute with the new one though such situation is not expressly stated, then it is implicit for the implication of repeal.