

SUBJECT : INTERPRETATION OF STATUTES
SUBJECT CODE : HXE

Objective of the Course:

Good enactments are those which have least ambiguities, inconsistencies, contradictions or lacunas. Bad enactments are gold mine for lawyers because for half of the litigation the legislative draftsmen are undoubtedly the cause. The purpose of the interpretation of the statute is to unlock the locks put by the Legislature. For such unlocking, keys are to be found out. These keys may be termed as aids for interpretation and principles of interpretation. It is not within the human powers to foresee the manifold permutations and combinations that may arise in the actual implementation of the act and also to provide for each one of them in terms free from all ambiguities. Hence interpretation of statutes becomes an ongoing exercise as newer facts and conditions continue to arise. Lord Denning rightly pointed out, “English Knowledge is not an instrument of mathematical precision... It would certainly save the judges from the trouble if the acts of parliament were drafted with divine precision and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold hand and blame the draftsman...” This subject gives the basic inputs for the students to know the subject matter.

UNIT – I

Law Making: Legislature, Executive and the Judiciary - Principle of Utility - Law and Public Opinion - Law and Social Control - Relevance of John Rawls and Robert Nozick - individual interest to community interest - Law and Morals – Meaning, objectives and scope of ‘interpretation’, ‘construction’ and ‘statute’ – Public opinion and law making.

UNIT - II

Nature and Kinds of Indian Laws: Statutory, Non-statutory, Codified, Uncodified, State-made and State-recognised laws – Parts of a Statute - Commencement, operation and repeal and revival of statutes - Purpose of Statutory Interpretation – Basic Sources of Statutory Interpretation – The General Clauses Act, 1897: Nature, Scope and Relevance – Definition clauses in various legislations: Nature and Imperative Role.

UNIT-III

Rules of Statutory Interpretation – Literal and Logical Rules of Interpretation – Legalism and Creativity – Legal Language, Legal Riddles and Logic – Golden Rule and Mischief Rule – Strict construction of Penal Laws and Taxation Laws – Judicial Activism, Judicial Process and Judicial Restraint – Internal Aids and External Aids of Interpretation.

UNIT-IV

Interpretation of Constitution – Principles and Theories - Preamble as a tool – Reading Directive Principles and Fundamental Duties with Fundamental Rights – Interpretation of International Instruments - Presumptions: Presumption against ousting established jurisdiction - Presumption against exceeding territorial nexus - Presumption against ouster of jurisdiction of courts - Presumption against changes in common law - Presumption against including what is

inconvenient or unreasonable - Presumption against intending injustice or absurdity - Presumption against retrospective operation of Law - Presumption against violation of international law - Presumption on favour of constitutionality of a statute.

UNIT – V

Legislative Drafting – Principles and Process of Legislative Drafting - Simplicity, Preciseness, Consistency, Alignment with Existing law, Brevity – Drafting General Laws – Special Laws – Rules – Orders.

Statutory Materials :

General Clauses Act, 1897
Constitution of India, 1950

Books Prescribed:

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| 1) Maxwell | - Interpretation of Statutes |
| 2) P.M. Bakshi | - Interpretation of Statutes |
| 3) Vepa Sarathi | - Interpretation of Statutes |
| 4) M.P. Tandon | - Interpretation of Statutes |
| 5) Bindra | - Interpretation of Statutes |
| 6) Cross | - Interpretation of Statutes |
| 7) G.P. Singh | - Principles of Statutory Interpretation |
| 8) M.P. Jain | - Constitution Law of India |
| 9) V.N. Shukla's | - Constitution of India |
| 10) Indian Law Institute | - The Drafting of Laws |

Books Recommended :

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| 1) Jeremy Bentham | - Theories of Legislation |
| 2) Jeremy Bentham | - Principles of Morals and Legislation |
| 3) Dicey | - Law and Public Opinion |
| 4) P.K. Tripathi | - Spotlights on Constitutional Interpretation |
| 5) Swarup Jagdish | - Legislation and Interpretation |
| 6) Bindra | - Commentary on the General Clauses Act, 1897 |
| 7) Thornton, G.C. | - Legislative Drafting, Butter worths, London |
