

Interpretation of Statutes

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Scheme of Presentation

Interpretation is a composite process

Institutional Structures and Interpretation

Ideological Approaches and Interpretation

The Technical Rules of Interpretation

Precedents and Interpretation

What does all this mean to your and my work?

Interpretation is a composite process

- Rules of interpretation are inextricably woven into how a system functions
- Rules cannot be understood as standalones
- A whole range of factors influence their operation
- And they influence each other
- No one way of doing things
- There is flexibility
- Flexibility comes from skills of navigation

Institutional Structures and Interpretation

- The relationship between the legislature, executive and the judiciary
- There is a hierarchical relationship
- There is separation of powers
- It is not a mechanical separation

Ideological Approaches and Interpretation

- How are the judicial and legislative roles envisaged?
 - Essentialist
 - Metademocratic

In Metademocratic

- Preservationist
- Complementarian
- Reconstructionist

Technical Rules and Interpretation

- Canons of Construction
 - literal
 - mischief
 - golden
- Nature of Statute
 - Constitution
 - Penal / Tax
 - Welfare
- Presumptions / Maxims

Precedents and Interpretation

- Art 141 of the Constitution makes the law pronounced by the Supreme Court binding on all courts in the country
- Supreme Court has held that it is not bound by its own decisions so reversal is possible
- Eclectic way of using theory of precedents
- Yet some decisions have more binding value than others

What does All this Mean to Us?

- Shows interpretation is an evolving exercise
- The techniques available to judges are also available to us
- May not be authoritative but holds ground till challenged
- Introduces nuance into the whole process of providing reasons
- Offers possibilities of finality at the first levels of decision-making