



External Aids to Interpretation

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ABSTRACT

This research paper examines the use of external aids in interpreting legal statutes, focusing on the historical evolution and application of these aids. It highlights the importance of *contemporanea expositio*, which advocates for interpreting statutes based on their original intent.

The study examines the types of external aids, their purpose, and their role in enhancing comprehension across various contexts. It also examines the relationship between internal and external aids, highlighting the challenges and scepticism associated with external aids.

The paper also explores the interplay between legislative intent and judicial interpretation, emphasizing the need to balance external aids with internal resources for a well-rounded and contextually appropriate interpretation, ultimately serving justice and legal clarity.

Introduction

External aid, often referred to as foreign aid or international assistance, plays a crucial role in addressing global challenges and promoting development in countries around the world. This form of assistance encompasses financial, technical, and humanitarian support provided by governments, intergovernmental organizations, non-governmental organizations (NGOs), and other entities to nations in need. Firstly, external aid contributes to humanitarian efforts during crises such as natural disasters, conflicts, and pandemics, providing essential resources like food, shelter, and medical supplies to affected populations.

Additionally, it facilitates the improvement of healthcare systems, education infrastructure, and access to clean water and sanitation, thereby enhancing the well-being of communities. Moreover, external aid fosters economic growth by investing in infrastructure projects, supporting small businesses, and promoting trade and investment opportunities.

It also aids in building institutional capacity and governance structures, fostering transparency, accountability, and the rule of law. Furthermore, external aid plays a pivotal role in advancing sustainable development goals, addressing climate change, and promoting peace and security through initiatives that focus on environmental conservation, conflict resolution, and peacebuilding. However, effective utilization of external aid requires collaboration, transparency, and accountability among stakeholders to ensure its efficient and equitable distribution and maximize its impact on the ground.

What are External Aids to the Interpretation of Statutes?

External aids to interpreting statutes are sources of information and guidance utilised by courts and legal professionals to understand the meaning and intent behind a particular statute. These aids are external to the statute's text and provide supplementary context for its interpretation.

External aids provide valuable assistance in the interpretation of statutes. They help resolve uncertainties and fill gaps in the statutory text. The legislative history, including committee reports, debates and statements made by lawmakers during the drafting process, is a commonly used external aid. It provides insights into the statute's objectives, purpose and context, assisting in determining the lawmakers' intent. Case law is another important external aid. Judicial decisions on related statutes or similar legal issues can help understand the interpretation given by courts in previous cases. These precedents serve as a guide for future interpretations and contribute to the development of legal principles.

Other external aids include dictionaries, legal treatises and scholarly articles. Dictionaries help ascertain the ordinary meaning of words used in a statute. Legal treatises and scholarly articles provide academic analysis and expert opinions on statutory interpretation, aiding in understanding complex legal concepts.

Importance of external aid of interpretation of statutes

External aid serves as a vital tool for interpreting global events, trends, and dynamics by providing insights into the socio-economic, political, and cultural landscapes of different regions. Through financial assistance, technical expertise, and humanitarian support, external aid enables organizations and governments to gather valuable data, conduct research, and analyze complex issues.

Firstly, external aid facilitates information gathering and analysis by supporting initiatives such as data collection, surveys, and studies, which help in understanding the needs, challenges, and opportunities present in recipient countries. This data-driven approach enhances the accuracy and depth of interpretation regarding various aspects of development, human rights, and conflict resolution.

Moreover, external aid fosters cross-cultural exchange and collaboration, enabling interpreters to gain firsthand experiences and perspectives from diverse communities and stakeholders. This cultural immersion enhances their ability to interpret nuances, language subtleties, and contextual factors that influence decision-making and behavior in different contexts.

Furthermore, external aid promotes capacity building and skill development among interpreters, enabling them to navigate complex socio-political environments, bridge communication gaps, and facilitate meaningful dialogue between stakeholders. This enhances the accuracy, relevance, and effectiveness of interpretation efforts in addressing critical issues and promoting mutual understanding. External aid serves as a vital tool for interpreting global events, trends, and dynamics by providing insights into the socio-economic, political, and cultural landscapes of different regions. Through financial assistance, technical expertise, and humanitarian support, external aid enables organizations and governments to gather valuable data, conduct research, and analyze complex issues.

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External aids to interpretation

External aids are the aids which are not available inside the statute but outside the statute, the court may seek help to the external aids in case of repugnancy or inconsistency in the statutory provision which are as follows:

Dictionaries

When a word used in the statute is not defined therein or if defined but the meaning is unclear only in such situation, the court may refer to the dictionary meaning of the statute to find out meaning of the word in ordinary sense.

The meaning of such words shall be interpreted so to make sure that it is speaking about the particular statute because words bears different meaning in different context.

Motipur zamindary company private limited v. State of Bihar [10], the question was whether sales tax can be levied on Sugarcane.

The applicant argued that it is green vegetable and should be exempted from tax. The dictionary meaning of vegetable said anything which derived or obtained from the plants. The SC rejected dictionary meaning and held that in common parlance vegetable is something which is grown in kitchen garden and used during lunch and dinner and held that sugarcane is not vegetable.

Text Books

The court while construing an enactment, may refer to the standard textbooks to clear the meaning. Although, the courts are not bound to accept such view. The court time and again referred to mulla, kautiliya, manu, arthshastra.

Example: in **Kesavananda Bharthi case** [11], judges quoted large number of books.

Statement of objects and reasons

The statement of object and reasons are attached to the bill which describe the objects, purpose and the reason for the bill. It also gives understanding of the background, the antecedent state of affairs and the object the law seeks to achieve. The parliament before passing a bill must take into consideration that what object a bill serve to achieve. However, it is not considered as conclusive aid to interpretation because doesn't impart the true meaning to the statutory provision

Constituent Debates/Speech

It shall compromise all such debate which had taken place in the parliament at the time of formation of Constitution of India. In case of inconsistency or repugnancy in the Constitution the court can clearly refer to such debates.

Indra Sawhney v. Union of India [12], the interpretation of the expression backward class of citizen' used in Article 16(4) was in question before the court. The SC under this case referred to the speech given by B.R. Ambedkar to understand the context, background and object behind its use of the given expression.

Legislative Debates/Speech

It is referred as to debates or speeches which are made in the course of passing a bill in the parliament by the parliamentarians to put forth their view.

It is not considered as a conclusive aid to interpretation and is therefore, not admissible because many times speeches are influenced by the political pressure or maybe incorrect to rely upon.

Committee Reports

Before the framing of the Bill, usually the matter is referred to a committee to consider it in detail and give its report thereon.

These reports of the commissions and committee have been referred to as evidence of historical facts or of surrounding circumstances and used for interpreting the Act.

When there is an ambiguity in the meaning of a provision and the act was passed on the recommendation of a committee report, aid can be taken from that report to interpret the provision.

Example: the criminal amendment act was based on the recommendation by J.S. Verma Committee Report such report can be referred in case of any ambiguity in amendment.

Foreign laws and decisions

Judges may refer to foreign laws and decision if the jurisprudence of both the countries is same, similarity in political system and ideology, when there is no domestic law on point and if the Indian court believe that decision passed by the foreign court is not arbitrary. However, the foreign courts or decision have only persuasive value as the courts in India are not bound by the foreign courts.

However, the foreign courts or decision have only persuasive value as the courts in India are not bound by the foreign courts. Example: in Right to Privacy case, judges refer to foreign judgements.

External Aids

- External aids are resorted to when ambiguity persists even after exhausting the internal aids.
- In order to find out the intent if the legislature in true sense, external aids like parliamentary debates, dictionaries, etc. can be looked upon.
- *B. Prabhakar Rao v. State of Andhra Pradesh*

“Where internal aids are not forthcoming, we can always have recourse to external aids to discover the object of the legislation. External aids are not ruled out. This is now a well settled principle of modern statutory construction

Parliamentary History

- Parliamentary history may include:
 - The bill in its original form or the amendments considered during its progress in the Legislature
 - Statements of Objects and Reasons (Speech of the minister)
 - Parliamentary debates
 - Reports submitted by different Committees and commissions.

These were not used as an aid to interpretation initially. However, occasionally courts have adhered to use them for expounding the true meaning of legislation

- *Pepper v. Hart (1993)*

“The reference to Parliamentary material should be permitted as an aid to the construction of legislation which is ambiguous or obscure or literal meaning of which leads to absurdity.”

Chiranjit Lal Chowdhury v. UOI (1951) Fazal Ali, J., admitted Parliamentary History including the speech of the minister introducing the bill as evidence of the circumstances which necessitated the passing of the Act

- ***Indira Sawhney v. UOI* (1993)**

While interpreting Article 16(4) of the Constitution the Supreme Court referred to Dr. Ambedkar’s speech in the Constituent Assembly as the expression backward class of citizens’ is not defined. The court held that reference to Parliamentary debate is permissible to ascertain the context, background and objective of the legislatures but at the same time such references could not be taken as conclusive or binding on the courts.

- **Warwickshire County Council v Johnson** (1993).
- **Stubbing v. Webb** (93)
- **Chief Adjudication Officer v. Foster** (93)
- **Workmen, Firestone Tyre and Rubber Co. v Management** (1973)
- **Keshavananda Bharti Case**
- **Aruna Roy v. UOI** (2002)
- **In Re Gujarat Assembly Elections Case** (2002).
- **Harsharan Varma v. Tribhuvana Narain Singh** (1971)
- **Santa Singh v. State of Punjab** (1976) **Historical Facts And Surrounding Circumstances**
- These are essential to understand the subject matter of the statute or to have regard to the surrounding circumstances which existed at the time of passing of the statute.
- According to *Blackstone*, the most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and spirit of it, or the cause which moved the legislators to enact it.
- **Developments—Social, Political, Economic and Scientific**
- According to Waisman:

“Judges are not robots. They have to evolve various methods and techniques to tackle a problem which confronts them.”

- ***R v. Ireland* (1997)**

The psychiatric injury which was caused by silent telephone calls was held to amount to “assault” or “bodily harm” under sections 20 and 47 of the Offence Against Person Act, 1861 in the light of the current scientific appreciation of the link between the body and psychiatric injury.

Foreign Judgments

- Reference to decisions of the English Courts was a common practice in the administration of justice in pre independent India.
- However, courts have also referred to American decisions, especially when matter is connected with Fundamental Rights.
- These judgments have persuasive value, when there is no law on point.
- ***General Electric Company v. Renuagar Power Company* (1987)**

When guidance is available from Indian decisions, reference to foreign decisions may become unnecessary.

- **Bhagwati J. in *National Textile Workers Union v. P.R. Ramakrishnan* (1983)**

The courts in India will have to build their own jurisprudence though they may receive light from whatever source it comes. They can’t surrender their judgement and accept as valid in India whatever has been decided in England.

- ***Express Newspaper (P) Ltd. v. UOI* (1985)**

Reference to the decisions of the US SC for interpreting Art.19(1)(a) of the Constitution of India is allowed.

Reference to other statutes

- This may include referring to statutes in *pari materia* and earlier statutes.

- Statutes which relate to the same subject, the same person or thing or the same class of persons or things are deemed to constitute one system of law, they are considered as one statute.
- *R v. Loxdale*

“Where there are different statutes in pari materia though made at different times, or even expired, and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other”.

- *Ahmedabad Pvt. P.T. Association v. Adm. Officer*

It was observed that the word “employee” defined in section 2(e) of Payment of Gratuity Act is to be construed by referring to other Labour Enactments dealing with the same subject.

- When the two legislations have different scopes it cannot be said that they are in pari materia.
- *Shah and Co., Bombay V. State of Maharashtra*

The Bombay Rents, Hotel and Lodging Rates Control Act, 1947 and the Bombay Land Requisition Act, 1948 were not held to be Acts in *pari materia* as they do not relate to the same persons or thing or to the same class of persons or things.

- When a word is not defined in the Act, it is permissible to refer to dictionaries.
- Though dictionaries are not to be taken as authoritative in regard to the meanings of the words used in statutes.
- In *Rev. Stainslaus v. State of M.P. (1977)* SC the court quoted the meaning of the word ‘Propagate’ from the Oxford and Century dictionaries.
- **Bihar v. R.K.Singh (1983)**

SC observed that the dictionaries can always be referred to in order to ascertain not only the meaning of the word but also the general use of it.

- *AR Antulay v RS Nayak*

While it may be permissible to refer to dictionaries to find out the meaning in which a word is capable of being used or understood in common parlance, the unrestricted reference to the dictionaries should be avoided and the well known canon of construction that the meaning of the words and expressions used in a statute ordinarily take their colour from the context in which they appear, should be kept in mind.

- *Ram Narayan v. State of U.P.*

In selecting one out of various meanings of the word regard must always be had to the context as it is a fundamental rule that the meanings of the words and expressions used in an Act must take colour from the context in which they appear.

International Law

- India being a dualist country does not allow the courts to apply International law in adjudication without enactment.
- However, since International law requires non-violation of objectives of the treaty, it may be considered by the courts.
- The constitution also ordains to fulfil international commitments.
- Reference to international law can only be made when there is absence of domestic jurisprudence on the impugned matter.
- **Pratab Singh v. State of Jharkhand (2005)**
- Court held that the International treaties, covenants and conventions although may not be a part of our Municipal Law can be referred to and followed by the courts having regard to the fact that India is a party to the said treaties.
- **Research Foundation For Science v Union Of India (2005)**
- Court referred to Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

EXTERNAL AIDS TO INTERPRETATION IN INDIA: STERN OPPOSITION TO GRADUAL ACCEPTANCE

Before the admissibility of the 183rd law commission report, various questions were raised as to the credibility of external aids. Doubts were raised as to the reliability of external aids of interpretation while construing any statute. In cases such as *A.K Gopalan v. State of Madras*,²⁴ it was pointed out that external aids are not permissible unless statute was vague or ambiguous. It was settled that proceedings or discussions in assembly, reports, and debates are to be used with great caution and only when latent ambiguity are to be resolved. The basic premise was that the intention of the legislature is to be gathered from the language of the statute itself and no external evidences is admissible to construe those words.²⁵ After the 183rd Law Commission Report²⁶ and the historic landmark judgment of *Pepper v. Hart*,²⁷ external aids became admissible for the interpretation of statutes. Thus, whenever

literal construction leads to absurdity, external aid of construction can be resorted to. However recourse to extrinsic aid in interpreting a statutory provision would be justified only within well recognized limits and primarily the effect of statutory provision must be judged on a fair and reasonable construction of the words used by the statute itself.²⁸ Thus where the words of the statute are clear, unambiguous, and explicit, there is no scope to have recourse to external aid for their construction.²⁹ The courts would not be justified in putting up external aid in such cases as it would lead to violence of the plain language of the provision.³⁰ Henceforth, where the language is vague and ambiguous, or does not clearly spell out the object and spirit of the act, external aids in the nature of parliamentary debates, reports of drafting or select committees may be permissible to determine and locate the real intention of the legislature. Thus, external aids are used when a statute is not clear, cloudy, uncertain or susceptible to one or more meanings or shades of meaning

Navigating External Aids:

While interpreting the statutes court generally take the internal aids such as preamble, headings etc. which are available inside the statute to understand the meaning. They also have the liberty to take the external aids. Other than the internal aids to interpretation which is the part of the statute itself other aids which are outside the statute are known as external aids such as dictionaries, textbook, legislative history, practice judicial, administrative and commercial.

Judges frequently turn to intrusive investigation to uphold legislative intent, and a research- oriented pursuit of understanding the words and provisions in statutes will be a continual and ongoing judicial endeavor. For this purpose apart from the source of internal aids court will use the outside the statute which is external aids.

External aids are one of the judicial tools used to ascertain the actual meaning or solve the confusion in the particular provision. This tool is used by the judiciary to solve the problems arising from the meaning of the particular provision by using the external judicial sources apart from that statute when the internal aids are not enough to solve the Chaos in that provision.

However when there is a attempt to canon of interpretation of statutes is like a journey through a jungle we have to take note of everything which are related to that statute, relating the current situation with that statute, effects of the statute, reason for continuing that statute, public opinion about that statute, Background of that statute and the main object of that statute. The Court examine these all sources then if the court thinks, there is necessary for the changes in that statute then it will changed by the proper procedure. And the court will clear the Chaos arising by the particular provision in that statute for its meaning.

How is the Mischief rule of interpretation connected to external aids of interpretation?

Historical facts provide a background to the statute and are important in establishing the environment in which the statute was brought forward. This external aid is specifically important when applying the Mischief rule, which seeks to answer four questions:

- a) The law before making the statute in question
- b) The mischief (or injury, if loosely stated) for which the earlier law did not provide
- c) The remedy provided by the statute in question
- d) The reason for the remedy so provided

These points directly correspond to the historical facts of the statute, i.e. the setting in which the statute is being enacted.

Conclusion

The utilization of external aids in the interpretation of statutes is a fundamental aspect of legal analysis, serving to elucidate legislative intent, resolve ambiguities, and ensure consistent application of the law. Through a multifaceted approach that draws upon various sources, including legislative history, precedent, dictionaries, treatises, maxims of construction, and official interpretative aids, courts and legal practitioners endeavor to glean the true meaning of statutory provisions.

Legislative history stands as a beacon for understanding the intent behind statutory enactments, shedding light on the motivations, debates, and compromises that shaped the law. Precedent provides valuable guidance by offering insights from prior judicial interpretations, establishing patterns of application, and promoting consistency in legal outcomes. Dictionaries serve as linguistic guides, defining terms and clarifying language to ascertain the ordinary or technical meanings of statutory text.

Treatises and commentaries offer scholarly analysis and expert opinion, enriching understanding with historical context, legislative background, and nuanced interpretations. Maxims and canons of construction provide interpretative principles to resolve ambiguities, reconcile conflicting provisions, and ensure fidelity to legislative intent. Official interpretative aids, issued by legislative bodies or governmental agencies, offer authoritative guidance and clarity on statutory interpretation.

By employing these external aids, courts navigate the complexities of statutory language, harmonize conflicting interpretations, and uphold the rule of law. While each aid possesses inherent strengths and limitations, their collective application facilitates a comprehensive and nuanced understanding of

statutory provisions, fostering legal certainty, predictability, and fairness in the administration of justice. Thus, the judicious use of external aids in statutory interpretation stands as a cornerstone of legal reasoning, promoting fidelity to legislative intent and the effective functioning of the legal system.