VOLUME 1 | ISSUE 3

INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

LEGAL SCIENCE AND INTERPRETATION OF STATUTES

- MIHIR POPAT & AYUSH SHUKLA[1]

ABSTRACT

In this paper, we will examine legal science and interpretation of statutes. We will discuss definitions and expressions given by various legal jurists. In the first half of the paper, we will analyze the definitions of legal science and interpretation of statutes. In the other half, we will try to discuss various models of legal science and how these could pave the way for interpreting statutes.

INTRODUCTION

In today's modern era, jurisprudence revolves around two main traditions when it comes to the nature of law. The first is a form of jurisprudential reflection that observes law as an arrangement of moral values and can be analysed by a system of social, moral and political practices[2], while the other form is a scientific approach which says that all legal events contain universal legal characteristics referring to positivism. In our opinion, Legal Science emphasises sociological factors such as the practice of maintaining social order but this concept cannot surpass theoretical speculations and it may not because legal science is all about fulfilling "practical purposes and not vindicating the principles of logic."[3]

As Nino observes, the explanation of 'Legal Science' is covered by a cloud of vagueness, since a lot of different expressions can be attached to it.[4] The vagueness comes because legal science is attached to the study of positive law which studies the structure and basis of all legal orders. On one hand, there are judges who provide analysis after examining civil, criminal or

[1] JINDAL GLOBAL LAW SCHOOL LL.B 2019-2022
[2] Sean Coyle, Modern Jurisprudence- A Philosophical Guide, Chapter 2, Second Edition, Hart Publishing, 24-08-2017
[3] Helen Silving, A Plea for a Law of Interpretation, University of Pennsylvania Law Review, pp. 499-529. Available at: </http://scholarship law /article/>
[4] Alvaro Nunez Vaquero, Five Models of Legal Science, Revus, Open Edition Journal, pp.53-81. Available at:</http://doi.org/revus/>

constitutional law and on the other hand, we have legal theorists who talk about moral and social order. Overall, legal science is not merely a collection of meanings; rather it's about what legal jurists, theorist and people from different communities speak of, to contribute towards societal order and tries to make legal science a medium of interpreting a statute.

If we observe the normativism model of legal theory, legal science is a branch whose 'object of study is constituted by rules'[5], it is believed so because legal science has an objective quality where clear set of rules are applied. Various legal jurists have examined and observed legal science from their school of law's lens and have come up with a number of expressions but sticking to what we have discussed above we will proceed to explain how legal science or a branch of legal science can be used as a tool to interpret a statute, but before that let us discuss what interpretation of statute means.

The sole purpose of interpreting a statute is to make sure that the judges don't give their own personal judgements instead they interpret the law through the various rules provided, in order to improve the implementation of the laws and provide access to justice. In simpler words, a written law passed by the legislature may work differently in different circumstances.

At the end of the day, to interpret a rule or a law as per the intention of the legislature, it may seem very reasonable but in reality, it involves going through facts, circumstances and a lot of inquiries, where the interpretation could either be 'wholly lacking or exceedingly voluminous'[6]. In all cases, there is highest degree of uncertainty. So, for that matter, one should always look at the exact words of the statute and apply them as per different circumstances.

Interpreting a statute, as a whole, means finding a consistent and sensible way that can be applied to the law while interpreting it. It is a process in which all possible meanings, relevant or irrelevant parts of the statute and different doctrines of law are examined in order to analytically interpret the law. Now, one branch of interpreting statutes, is statutory interpretation but for 'statutory interpretation it is said that it is also a part of science rather legal science.'[7] It is said so because 'statutory interpretation involves all the modes of thinking in various topics of law for the purpose of giving objectivity to several techniques or processes

[5] Id

[6] Ernest Bruncken, 'Interpretation of the Written Law' Yale Law Journal, pp. 129-140. Available at: </http://digital commons yale.edu/content/>

[7] Frederick J. De Sloovere, 'Contextual Interpretation of Statutes' 5 Fordham L. Rev. 219 (1936). Available at: </http://ir.lawnet.fordham.edu/flr/vol5/iss2/2/>

involved.'[8] We can say that while interpreting, the process may not be different from the judicial process when it comes to bifurcating and choosing legal relevancy, doctrines or law principles and then eventually applying them in order to get the final result. Since, statutory interpretation involves a similar process as legal science; it can take a similar position in judicial interpretation and juristic thinking.

Interplay between the models of Legal Science and Interpretation of Statutes

Now that we have understood the terms 'Legal Science' and 'Interpretation of Statues', we could throw light on the various models of legal science that pave the way for interpreting statutes. Starting with:

1. The Normativist Model:

This particular model considered to be the classics of legal science. Some authors like Kelsen, Jori etc., viewed that, legal scholars must direct their efforts towards expressing the set of rules belonging to the legal system followed by its structuring (looking for a solution to the logical flaws of the legal system). We could fit the definition of lawful science with the normative discipline since the base lies on a directive. The implication drawn is that conditions of the normative statements indicate an objective standard, shaped by the application of rules conditioned on order and clarity. Moving on, how could Legal Interpretation play a chief role in this model of legal science? Well, the authoritative directive regarding sound law claiming the 'rule' to be a part of the legal system comprises of the following[9]:-

a) A demonstrative statement about a norm exhibited by a legal disposition.

b) Denoting the validity of such a norm

The Interpretation is crucial for determining the validity of a norm and not describes it as expressed by the authoritative directive. The belonging criteria for a chunk of our legal systems poised on constitutional texts are usually vague and ambiguous, due to which the question seems to be irrelevant.[10]

2. The Realistic Model:

[8] Id.
[9] Tecla Mazzarese, 'Norm-proposition': Epistemic and Semantic Queries, Rechtstheorie (1991) 22, pp. 39-70
[10] Id 4

This model of legal science brought in by Alf Ross and is best suited for the civil law culture. Alf Ross states that this theory used to make predictions regarding how judges would resolve the upcoming controversies. Ross combines the two types of realism that is behavioral by Holmes and psychological by Olivecrona. What happens next is an argument made by Ross states, "the existing law is a set of norms considered to be binding by the judges and, they won't hesitate to apply if there is an action described in the antecedent of the norm."[11]

3. The Argumentativist Model:

Over and above the two models, the Argumentative model comes up with a radical criticism stating that the theory of legal science must be ideological since it is not purely descriptive or, the whole thing could be practically irrelevant[12]. The method provides us with a model used by the legal scholars to depict solutions to any legal disagreements and going against that of moral philosophers for placing their decisions on rules, principles and values[13].

4. The Realistic-Technological Model:

The realistic-technological method pays particular attention to the reprocessing of legal concepts besides providing solutions for crucial matters. Now, according to this method or model, what happens is, firstly, all the valid concepts reduced to a set of empirical facts that could be referred to, followed by dismissing ideas from lawful language that touch on non-existing entities which fail to confirm[14]. Further, the traditional legal concepts broken into notions of a smaller scope referred to as the type of cases represented richly. Finally, these concepts updated keeping in light of the possible changes that could occur in social reality.[15]

5. The Critical Model:

While talking about this model, "if an unbiased knowledge of law seems to be impossible and it is expressed and viewed politically, then, according to the critics, it would be better to make the legal dogmatic aware of such conditioning and make them consciously committed."[16] What happens is, as per their interpretations, the jurists would be encouraged to swap how the law is applied or probably change the law itself. And, also to advance society is the ultimate goal of

[11] Id 9, 4
[12] Neil MacCormick, Legal Reasoning and Legal Theory, Oxford, Clarendon Press, 1994
[13] Id 10
[14] Alf Ross, Tutu, Harvard Law Review, (1956-1957) 70, pp. 812-825
[15] Id 12
[16] Christian Courtis and Alberto Bovino, Id 14

this model[17].

The model divided into two heads that is the critical phase and the construction phase. Drawing some insights from this phase, we realize that the critics are highly interested in denouncing the material presented as objective interpretations and necessary decisions that are entirely contingent and are dependent on legal operators' ideologies and fondness. When we look at the construction phase, it does portray an image of an intellectual jurist trying to carry out a particular form of justice. Moreover, it is trying to construct a field that brings us closer to social change and the idea of justice. What it tries to say is, legal scholars must understand the law as a part of a vast social system and must update their knowledge based on a variety of disciplines and approaches to the law.[18]

Conclusion

We conclude that the field of legal science inevitably involves the entire personality of a lawyer with emotional discretion. To this, we can say that Legal Science is a power pack of extra-legal and extra-scientific components[19]. The spirit of interpreting statutes enshrined in the law tells us that the capacity of interpretation used consciously to promote sound law and principles of the legislation. "The results tend to be weighed heavier than the painstaking fidelity to the supposed legislative intent".[20] Lastly, the intent in question is considered to be fiction in reality and, the Legislature is mindful that the explicit language of the law subjugated to the judicial power of interpretation.[21]

[17] Id
[18] Id
[19] Herman U. Kantorowicz and Edwin W. Patterson, Legal Science- A Summary of its Methodology, Columbia Law Review, Jun 1928, Vol 28, No 6, pp. 679-707. Available at: </http://jstor/stable/>
[20] Interpretation of Statutes, University of Pennsylvania Law Review and American aw Register, Founded 1852, Vol. 65, January 1917, No. 3, pp. 207-231
[21] Id