

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# **“JUDICIAL METHOD- SHIFTING IN STATUTORY INTERPRETATION: AN INSTITUTIONAL THEORY OF INTERPRETATIVE CHOICE”**

AUTHORED BY - GAURI MALHOTRA

## **ABSTRACT**

Statutory interpretation is often presented as a contest between competing theories textualism, purposivism, and intentionalism, each claiming methodological superiority. Yet, judicial practice tells a more complex story. Courts do not adhere rigidly to any single interpretative philosophy; instead, they move between methods, sometimes within the same case, in ways that appear inconsistent at first glance. This paper argues that such a judicial method-shifting is neither accidental nor purely doctrinal. It reflects a deeper, institutionally grounded logic. Drawing on key decisions such as *Vishaka v. State of Rajasthan* and *Navtej Singh Johar v. Union of India*, this paper demonstrates how courts adopt expansive, purposive reasoning in rights-based adjudication, while displaying restraint and textual fidelity in matters involving policy or economic regulation. It contends that interpretive methods function less as binding rules and more as flexible tools. Developing an institutional theory of interpretive choice, this paper contends that court select interpretative methods in response to structural constraints, legitimacy concerns, and the demands of constitutional governance. Factors such as the nature of the statute, the clarity of legislative text, the stakes of the dispute, and the judiciary’s relationship with the legislature all shape interpretative outcomes. Through, an analysis of Indian, U.S., U.K. jurisprudence, the paper demonstrates that interpretive flexibility often serves as a tool for maintaining judicial authority while navigating the limits of adjudication. This paper ultimately suggests that interpretive pluralism is not merely unavoidable but, in some contexts, desirable. Rather than insisting on methodological purity, it may be more useful to recognise the conditions under which different interpretive approaches are likely to be employed.

## **KEYWORDS**

Statutory Interpretation, Judicial Method-Shifting, Interpretive Choice, Institutional theory, Legal Realism, Rule of Law, Textualism, Judicial Restraint, Supreme Court, Interpretive Theory

## 1. INTRODUCTION

Statutory interpretation is often described, in both academic writing and judicial opinions, as if it were a matter of methodological commitment. Judges are frequently labelled as textualists, purposivists, or, less commonly, intentionalists, the categories that suggests a degree of coherence and predictability in how statutes are read. On this view, disagreement in hard cases is explained by prior allegiance to competing interpretive theories. The assumption is that once a judge adopts a method, the outcome of interpretation should, at least in principle, follow from it.<sup>1</sup>

That assumption does not sit comfortably with how courts actually decide cases.

A closer look at judicial reasoning particularly in appellate courts shows that interpretive methods are not applied with the kind of consistency that theory would suggest. Courts often begin with the statutory texts, move to the purpose when the text appears indeterminate, and occasionally invoke consequences to justify a particular reading. In some instances, these shifts occur without any explicit acknowledgment. The reasoning appears continuous, but the underlying method changes. This is visible, for instance, in decisions such as *K.P. Varghese v. ITO*, where the Supreme Court of India moved away from a strictly literal reading of the statute in favour of a purposive construction to avoid what it considered as an unjust outcome<sup>2</sup>, and in *Pepper v. Hart*, where the House of Lords relaxed the traditional exclusion of legislative history in order to resolve ambiguity. In contrast, in *Union of India v. Deoki Nandan Aggarwal*, the court adopted a strictly textual approach and refused to supply what it saw as a legislative omission. These are not isolated instances, nor are they easily explained by reference to judicial ideology alone.

The persistence of such decisions points to a deeper problem: existing theories of statutory interpretation are better at describing ideal methods than explaining actual interpretive behaviour. They assume methodological fidelity where there is, in practice, considerable fluidity.

This paper takes that gap as its starting point. It argues that interpretive method is not chosen solely on doctrinal grounds, but it is shaped by the institutional position of the courts. Factors such as the need to maintain legitimacy, respect the limits of judicial power, and manage the consequences of interpretation play a significant role by determining how statutes are read. Methodological shifts, on this account, are not deviations from the principle but responses to

---

<sup>1</sup> Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 33 (2012)

<sup>2</sup> *K.P. Varghese v. ITO*, (1981) 4 SCC 173 (India)

institutional pressures.

Seen in this way, what is often described as inconsistency begins to appear structured. A court may favour textual restraints in cases involving regulation, while adopting a more purposive approach in matters affecting rights or welfare. The choice of method is therefore context-dependent, even if it is not always presented as such in judicial reasoning.

The central claim advanced here is that judicial method-shifting is an institutional phenomenon rather than a purely doctrinal one. By developing this claim, the paper seeks to move beyond the conventional debate over which interpretive theory is normatively superior, and instead asks a different question: under what conditions do the courts rely on a particular interpretive methods? This discussion proceeds in three parts. The first outlines the dominant interpretive approaches and the assumptions underlying them. The second examines patterns of method-shifting in judicial decisions across jurisdictions. The third proposes an institutional framework for understanding the interpretive choice, and considers its implications for debates on judicial discretion and legal certainty.

## **2. THE LIMITS ON CONVENTIONAL THEORIES OF STATUTORY INTERPRETATION**

The dominant theories of statutory interpretation are textualism, purposivism, and intentionalism, are often presented as competing frameworks, each offering a self-contained account of how judges ought to read statutes. Despite their differences, these approaches share a common structure: they attempt to stabilise interpretation by privileging a single source of meaning, whether it be a text, purpose, or intent. This section argues that while these theories provide useful normative guidance, they are descriptively incomplete. They do not adequately account for the variability observed in the judicial reasoning.

### **2.1 TEXTUALISM AND THE ILLUSION OF DETERMINACY**

Textualism proceeds on the premise that statutory meaning is primarily, if not exclusively, derived from the ordinary meaning of the enacted text. Its appeal lies in the apparent objectivity: by focusing on the linguistic meaning, it seeks to constrain judicial discretion and reinforce the legislative supremacy.<sup>3</sup>

However, the claim that the text alone can determine meaning is difficult to sustain in practice. Language is inherently determinate. Words acquire meaning from the context, and statutory

---

<sup>3</sup> Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* 23 (1997)

provisions are often drafted at a level of generality that leaves room for multiple plausible interpretations. Even committed textualists have acknowledged that interpretation cannot proceed without some reference to broader context.

Judicial decisions reflect this limitation. Courts frequently begin with textual analysis but move beyond it when confronted with ambiguity or unintended consequences. In *K.P. Varghese v. ITO*, for instance, the Supreme Court declined to adopt a literal interpretation of a tax provision, observing that such an approach would produce results inconsistent with the object of the statute<sup>4</sup>. While the judgment is often cited as an example of purposivism, it is equally significant for what it reveals about textualism: that its application is contingent, not absolute. Textualism, therefore, operates less as a strict rule and more as a starting point, one that courts are willing to depart from when it becomes difficult to justify the outcome on broader grounds.

## 2.2 PURPOSIVISM AND THE PROBLEM OF INDETERMINACY

Purposivism shifts the focus from the text to the objective of the statute. It asks what the legislature sought to achieve and interprets provisions in a manner that furthers that objective. This approach is often justified on the ground that statutes are instruments designed to address social problems, and their interpretation should reflect that function.<sup>5</sup>

Yet purposivism introduces its own set of difficulties. The identification of “purpose” is rarely straightforward. Legislative objectives are not always clearly articulated, and even where they are, they may be multiple or conflicting. Courts must therefore engage in a process of selection, deciding which purpose to prioritise, which inevitably involves an element of judgment.

The decisions in *Maneka Gandhi v. Union of India*, illustrates both the strength and the indeterminacy of purposive reasoning. The Supreme Court adopted an expansive interpretation of “procedure established by law,” effectively reading substantive due process into the Constitution<sup>6</sup>. While the outcome has been widely endorsed, the method raises a question: to what extent does purposivism allow courts to reshape statutory or constitutional meaning in light of evolving values.

In this sense, purposivism does not eliminate judicial discretion; it relocates it. The constraint of text is replaced by the flexibility of purpose, but the underlying problem of interpretive choice remains.

---

<sup>4</sup> *K.P. Varghese v. ITO*, (1981) 4 SCC 173

<sup>5</sup> Henry M. Hart, Jr. & Albert M. Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* 1374 (1994).

<sup>6</sup> *Maneka Gandhi v. Union of India* (1978) 1 SCC 248.

### 2.3 INTENTIONALISM AND THE FICTION OF LEGISLATIVE INTENT

Intentionalism attempts to resolve ambiguity by identifying the intent of legislature at the time of enactment. This often involves reliance on legislative history, including debates, committee reports, and explanatory statements.<sup>7</sup>

The central difficulty with this approach lies in its foundational assumption, that a collective legislative body can be said to possess a single, identifiable intent. Modern legislatures are composed of numerous actors with differing motivations, and the statutes are frequently the product of compromise. To attribute a unified intention to such processes is, at best, a simplification.

Courts have recognised this problem, though not always consistently. In *Pepper v. Hart*, the House of Lords permitted reference to parliamentary materials to clarify ambiguity marking a departure from earlier restrictions.<sup>8</sup> However, the judgment also acknowledged the risks associated with selective reliance on legislative history.

Intentionalism, therefore, faces a paradox: while it seeks to ground interpretation in legislative authority, it relies on materials that may not reliably reflect that authority.

### 2.4 BEYOND THEORY: THE DESCRIPTIVE GAP

Taken together, these theories offer competing accounts of how statutes should be interpreted. What they do not offer is convincing explanation of how courts actually behave. Judicial decisions routinely combine elements of textual, purposive, and contextual reasoning, without treating such combinations as theoretically problematic.

This suggests that interpretive practice is not organised around strict methodological commitments. Instead, courts appear to treat interpretive tools as resources that can be drawn upon as needed. The choice between them is not dictated solely by doctrine, but influenced by factors that lie outside the formal structure of interpretive theory.

## 3. JUDICIAL METHOD-SHIFTING IN PRACTICE

The preceding discussion has suggested that conventional theories of statutory interpretation do not fully explain judicial behaviour. This section turns to the case law to examine whether a consistent pattern of interpretive method can, in fact, be identified. What emerges from this analysis is not methodological fidelity, but a recurring pattern of method-shifting, a movement

---

<sup>7</sup> Richard A. Posner, *Statutory Interpretation—In the Classroom and in the Courtroom*, 50 U. Chi. L. Rev. 800, 817 (1983)

<sup>8</sup> *Pepper v. Hart*, (1993) AC 593 (HL)

between interpretive approaches that is often unarticulated, yet central to judicial reasoning.

### 3.1 MOVEMENT WITHIN JUDGEMENTS: LAYERED REASONING

One of the clearest indicators of method-shifting is the structure of the judicial reasoning itself. Courts frequently begin with the statutory text, treating it as the primary source of meaning. However, where the text admits of more than one interpretation, or where its application produces outcomes perceived as problematic, courts tend to move beyond it.

This layered approach is evident in *K.P. Varghese v. ITO*. The Court initially engaged with the language of the provision, acknowledging its apparent breadth. Yet, it declined to adopt a literal reading, instead invoking the object of the legislation and the potential for the misuse if the provision were interpreted strictly. The transition from the text to purpose is not framed as a methodological shift; rather, it is presented as a continuation of interpretation. Nonetheless, the underlying basis of reasoning changes.

A similar pattern can be observed in common law jurisdictions. In *Pepper v. Hart*, the House of Lords began with the statutory language but ultimately relied on the parliamentary materials to resolve ambiguity. The judgement did not abandon textual reasoning; instead, it supplemented it. This suggests that interpretive methods are not applied in isolation, but in combination.

Such decisions indicate that courts do not treat interpretive theories as mutually exclusive frameworks. Instead, they operate with a repertoire of tools, shifting between them as required.

### 3.2 DIVERGENCE ACROSS CASES: CONTEXT-DEPENDENT METHOD SELECTION

Method-shifting is not confined to individual judgements; it is also visible across different cases decided by the same court. This is particularly significant because it cannot be explained by variations in judicial composition alone.

In *Union of India v. Deoki Nandan Aggarwal*, the Supreme Court of India adopted a markedly different approach from that seen in *Varghese* case. The Court emphasised that it could not “rewrite, recast, or reframe” legislation under the guise of interpretation, and adhered closely to the statutory text<sup>9</sup>. The decision reflects a strong commitment to textual restraint, even where the statutory scheme appeared incomplete.

When read together, these cases do not suggest inconsistency in the sense of error. Rather, they

---

<sup>9</sup> *Union of India v. Deoki Nandan Aggarwal*, 1992 Supp (1) SCC 323.

reveal the Court calibrates its interpretive approach depending on the context. Where the consequences of a literal reading are perceived to be unjust or disruptive, purposive reasoning becomes more prominent. Where concerns of institutional overreach arise, textualism is invoked to reinforce restraint.

This pattern complicates the conventional view that judges are committed to stable interpretive philosophies. It suggests instead that interpretive choice is responsive to the nature of the dispute.

### **3.3 SUBJECT-MATTER SENSITIVITY: RIGHTS, TAXATION, AND WELFARE**

A further dimension of method-shifting becomes visible when cases are grouped by the subject matter. Different categories of legislation appear to attract different interpretive tendencies.

In matters involving fundamental rights, the courts have shown willingness to adopt expansive and purposive interpretations. The decision in *Maneka Gandhi v. Union of India* is illustrative.

The court read procedural safeguards into Article 21 in a manner that significantly broadened its scope. The interpretive approach here is not strictly anchored in the text; it is informed by constitutional values and the perceived need to prevent arbitrariness.

Welfare legislation presents yet another pattern. Courts often interpret such statutes liberally, with an emphasis on advancing their remedial purpose. The shift towards purposivism in these cases is frequently justified by reference to social objectives rather than textual clarity.

These variations suggest that interpretive method is not neutral. It is shaped, at least in part, by the type of statute under consideration and the values associated with it.

### **3.4 THE SILENCE AROUND METHOD: THE ABSENCE OF EXPLICIT JUSTIFICATION**

An important feature of method-shifting is that it is rarely acknowledged explicitly. Courts seldom state that they are departing from one interpretive approach in favour of another. Instead, the reasoning is presented as unified and continuous. Instead, the reasoning is presented as a seamless process, even when it involves multiple and potentially conflicting methods.

The silence is significant. It indicates that interpretive theories function more as justificatory frameworks than as binding rules. Judges do not typically feel compelled to defend their conclusions within whichever framework appears most appropriate in the circumstances. By avoiding explicit discussion of methodological choice, courts maintain the appearance of doctrinal consistency and neutrality. The decision is framed as flowing naturally from the

statute, rather than as the result of a discretionary choice among competing interpretive approaches.

However, this lack of transparency obscures the reality of judicial reasoning. It conceals the extent to which the interpretation involves selection, adjustment, and justification, rather than mechanical application. Recognising this silence is crucial to understanding how interpretive methods operate in practice.

### **3.5 TOWARDS AN EXPLANATION: METHOD-SHIFTING AS INSTITUTIONAL STRATEGY**

The patterns identified above, layered reasoning within judgments, divergence across cases, subject-matter sensitivity, and silence around methods point towards a broader explanation. Judicial-method shifting is not incidental; it reflects an underlying institutional logic.

Courts operate within a framework that requires them to balance competing demands: fidelity to legislative texts, protection of constitutional values, and maintenance of institutional legitimacy. In navigating these demands, interpretive methods become tools that can be adjusted to suit the context.

Thus, method-shifting can be understood as a form of institutional strategy, enabling the Courts to respond flexibly to different types of cases while preserving their authority and credibility. This perspective moves beyond doctrinal debates and situates statutory interpretation within the realities of judicial decision-making.

## **4. INSTITUTIONAL THEORY OF INTERPRETIVE CHOICE**

Judicial recourse to different interpretive methods cannot be explained solely by reference to doctrinal preference. The variation observed across cases suggests that interpretive choice is shaped by considerations that lie beyond the internal logic of interpretive theory. The courts operate within a constitutional structure that imposes both constraints and expectations, and these conditions influence how statutory meaning is constructed in practice.

### **4.1 LEGITIMACY AND THE JUSTIFICATION OF OUTCOMES**

Judicial reasoning does not occur in a vacuum. Courts are required not only to decide disputes, but to justify their decisions in a manner that sustains institutional authority. Where a strictly literal interpretation produces outcomes that appear disproportionate or anomalous, reliance on the text alone may be insufficient to discharge that justificatory burden.

This dynamic is visible in *K.P. Varghese v. ITO*, where the Supreme Court declined to adopt a

literal construction of the statutory provision, noting such an interpretation would enable arbitrary application.<sup>10</sup> The reasoning moves beyond the text, but the shift is not presented as a departure from interpretation. Instead, purposive analysis is introduced as if it were implicit in the interpretive process itself. The method changes, but the justification remains continuous. A similar pattern emerges in rights-based adjudication. In *Maneka Gandhi v. Union of India*, the Court's reading of "procedure established by law" cannot be accounted for through textual analysis alone.<sup>11</sup> The interpretive move reflects a concern with ensuring that the state action remains non-arbitrary. Here, purposive reasoning provides a framework through which the court can articulate a result that is normatively defensible.

Interpretive method, in such instances, functions as a means of aligning legal reasoning with outcomes that can be publicly justified.

#### **4.2 INSTITUTIONAL LIMITS AND THE DISCIPLINE OF TEXT**

The interpretive flexibility observed in certain cases is counterbalanced by a recurring emphasis on restraint. Courts remain attentive to the limits of their institutional role, particularly in contexts where statutory schemes are closely tied to policy choices.

This concern is clearly articulated in *Union of India v. Deoki Nandan Aggarwal*, where the Court refused to supplement what it perceived as legislative omissions, observing that to do so would exceed the judicial function. The insistence on adhering to the statutory text operates here as a form of institutional discipline. It marks the boundary between interpretation and legislation.

Textualism, in this setting, is not merely a theory of meaning. It becomes a mechanism through which the courts signal deference to legislative authority. The choice of method is thus tied to the need to preserve the structural separation between branches of government.

#### **4.3 CONSEQUENCES AND THE STRUCTURE OF ACCEPTABLE INTERPRETATION**

Judicial reasoning often reflects an implicit sensitivity to the consequences of interpretation. While courts do not openly frame their decisions in terms of policy preferences, concern with outcomes is frequently embedded in the selection of interpretive arguments.

Where a literal reading generates results that are difficult to reconcile with the broader statutory scheme, courts tend to adopt more flexible approaches. In *Varghese*, the potential for misuse of

---

<sup>10</sup> K.P. Varghese v. ITO, (1981) 4 SCC 173.

<sup>11</sup> Maneka Gandhi v. Union of India, (1978) SCC 248.

the provision played a central role in the Courts's rejection of a strictly textual construction. Similarly, in *Pepper v. Hart*, the use of parliamentary materials was permitted in order to resolve ambiguity that could not be addressed through the text alone.<sup>12</sup>

Consequences do not displace interpretation; they shape the range of interpretations that appear tenable. Interpretive method, in this sense, operates within a field structured by practical considerations.

#### **4.4 DOCTRINAL CONTEXT AND SUBJECT-MATTER SENSITIVITY**

Patterns of method selection become more pronounced when decisions are examined across different areas of law. Courts do not approach all statutes in the same manner; interpretive tendencies vary depending on the nature of the legal domain.

In constitutional cases, particularly those involving fundamental rights, courts have adopted expansive approaches that extend beyond the immediate text. The reasoning in *Maneka Gandhi* reflects this orientation, with emphasis placed on fairness, non-arbitrariness, and the broader structure of constitutional guarantees.

By contrast, in areas such as taxation, interpretive approaches have traditionally been more restrained, with greater emphasis on certainty and predictability. However, even here, departures from strict textualism are not uncommon where the statutory framework would otherwise produce outcomes that appear inconsistent with its purpose.

Welfare legislation presents a further variation. Courts have often interpreted such statutes liberally, emphasising their remedial character. The interpretive approach in these cases reflects an underlying assumption about the legislative intent, even where such intent is not explicitly stated.

These patterns suggest that interpretive method is responsive to the normative expectations associated with different types of statutes.

#### **4.5 REFRAMING INTERPRETIVE METHOD**

The cumulative effect of these observations is to challenge the view that interpretive methods function as stable, theory-driven commitments. Judicial reasoning does not exhibit the kind of methodological consistency that such theories presuppose. Instead, interpretive approaches are selected in response to institutional considerations that vary across cases.

Method, in this sense, is better understood as contingent rather than fixed. Courts draw upon

---

<sup>12</sup> *Pepper v. Hart*, (1993) AC 593 (HL)

different interpretive tools as circumstances require, without treating such movement as a departure from principle. The appearance of continuity in judicial reasoning is maintained, even where the underlying basis of interpretation shifts.

## **5. IMPLICATIONS OF JUDICIAL-METHOD SHIFTING**

If interpretive method is shaped by institutional considerations rather than fixed doctrinal commitments, this has significant implications for how statutory interpretation is understood and evaluated. The variability observed in judicial reasoning is not merely a descriptive concern; it raises questions about predictability, judicial discretion, and the coherence of legal doctrine.

### **5.1 PREDCTABILITY AND DOCTRINAL STABILITY**

One of the principal objections to method-shifting is that it undermines legal certainty. If courts do not adhere consistently to a single interpretive approach, it becomes more difficult for litigants to anticipate how statutes will be applied. From this perspective, the absence of methodological stability risks producing outcomes that appear contingent rather than principled.

This concern is not without force. Interpretive theories such as textualism derive much of their appeal from the promise of constraint, an assurance that judicial reasoning will be anchored in identifiable rules rather than shifting considerations. Where courts move between methods without explicit justification, the line between interpretation and discretion becomes less clearly defined.

At the same time, the expectations of start predictability may be overstated. Statutes are often drafted in general terms, and ambiguity is an inherent feature of legislative language. In such conditions, the idea that a single interpretive method can generate determinate answers across cases is difficult to sustain. Methodological rigidity may create the appearance of certainty, but it does not necessarily resolve underlying indeterminacy.

Method-shifting, viewed in this light, reflects an attempt to manage complexity rather than a departure from principle. The lack of uniformity in interpretive approach does not automatically translate into arbitrariness; it may instead indicate responsiveness to the demands of the particular cases.

### **5.2 JUDICIAL DISCRETION AND THE RISK OF ARBITRARINESS**

A related concern is that method-shifting expands judicial discretion. If judges are free to move

between interpretive approaches, there is a risk that method becomes a post hoc justification for outcomes reached on other grounds.

This critique gains traction in cases where courts do not clearly explain why a particular interpretive approach has been adopted. The absence of explicit reasoning can create the impression that method selection is outcome-driven. For instance, the contrast between *K.P. Varghese v. ITO* and *Union of India v. Deoki Nandan Aggarwal* may be read as reflecting differing judicial attitudes towards intervention, rather than principled methodological choice.<sup>13</sup>

However, the risk of arbitrariness should not be overstated. Judicial reasoning is subject to institutional constraints, including the need to provide reasons, the possibility of appellate review, and the discipline imposed by precedent. These factors limit the extent to which interpretive choice can be exercised freely.

Moreover, even where method-shifting occurs, it is not entirely unconstrained. As the previous section has shown, shifts tend to follow identifiable patterns, shaped by legitimacy concerns, institutional limits, and the nature of the statute. The presence of such patterns suggests that interpretive discretion operates within a structured framework, rather than in an open-minded manner.

### 5.3 COHERENCE OF INTERPRETIVE DOCTRINE

Method-shifting also raises questions about the coherence of interpretive doctrine itself. If courts do not consistently adhere to any single methodology, it becomes difficult to sustain the view that interpretive theories function as binding frameworks.

This does not necessarily imply that such theories are irrelevant. Textualism, purposivism, and related approaches continue to play an important role in structuring legal argument. They provide a vocabulary through which judicial reasoning can be articulated and evaluated. What method-shifting suggests, however, is that these theories operate more as resources than as rules.

Judicial opinions rarely present interpretive choice as a matter of theoretical allegiance. Instead, they invoke different approaches as needed, often without acknowledging the tension between them. The resulting doctrine appears coherent at the level of individual judgments, but less so when viewed across cases.

This does not render interpretation incoherent; rather it indicates that coherence is maintained

---

<sup>13</sup> *K.P. Varghese v. ITO*, (1981) 4 SCC 173; *Union of India v. Deoki Nandan Aggarwal*, 1992 Supp (1) SCC 323.

at the level of reasoning within cases, rather than through adherence to a single overarching method.

#### **5.4 DEMOCRATIC LEGITIMACY AND INSTITUTIONAL BALANCE**

This institutional account for method-shifting also has implications for democratic legitimacy. Critics of purposive and pragmatic interpretation often argue that such approaches allow courts to encroach upon the legislative domain. From this perspective, deviations from textualism risk undermining the authority of elected bodies.

However, strict adherence to text is not the only way to preserve democratic values. Where statutory outcome is ambiguous or produces outcomes that conflict with the fundamental principles, a rigid textual approach may itself undermine the objectives that legislation seeks to achieve.

The decision in *Maneka Gandhi v. Union of India* illustrates this tension. A narrow reading of “procedure established by law” would have limited judicial scrutiny of the state action, potentially weakening the constitutional protections.<sup>14</sup> The Court’s interpretive choice expanded the scope of review, but it did so in a manner that reinforced, rather than displaced, constitutional commitments.

Method-shifting, in such cases, can be understood as a way of maintaining institutional balance. It allows courts to remain sensitive to legislative intent while also ensuring that statutory interpretation does not produce outcomes that are difficult to justify within the broader legal framework.

#### **5.5 RETHINKING THE AIM OF INTERPRETIVE THEORY**

The implications discussed above suggest that the objective of the interpretive theory may need to be reconsidered. Rather than seeking to identify a single, correct method of interpretation, it may be more useful to focus on the conditions under which different methods are appropriately employed.

This shift in perspective does not abandon the search for principled interpretation. Instead, it recognises that principled interpretation. Instead, it recognises that principles may operate at a different level—not as rigid methodological rules, but as guidelines shaped by institutional context.

Understanding interpretation in this way allows for a more realistic account of judicial

---

<sup>14</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

reasoning. It acknowledges variability without collapsing into relativism, and it provides a framework for evaluating interpretive choices without insisting on uniformity.

## **6. METHOD, CONTEXT, AND THE LIMITS OF INTERPRETIVE THEORY**

The persistence of method-shifting calls into question the terms in which interpretive debates are usually framed. Much of the literature proceeds on the assumption that the central issue is the choice between competing methodologies. That assumption may be misplaced.

If courts do not consistently adhere to any single method, then the search for a universally applicable interpretive theory becomes less compelling. The more pressing question is not which method is correct, but how interpretive choices are made in practice. Methodological debates, as they are commonly famed, tend to obscure this inquiry.

This does not render interpretive theory irrelevant. Textualism, purposivism, and related approaches continue to shape legal argument. They provide the language through which decisions are justified and criticised. Their role, however, is better understood as structuring reasoning rather than determining outcomes.

Reframing the debate in this way shifts attention from abstract methodological commitments to the conditions under which interpretation occurs. It allows for a more precise account of judicial behaviour, one that recognises both the constraints and the flexibility inherent in the interpretive process.

## **7. CONCLUSION**

Statutory interpretation is often described as a matter of method. Judicial practice suggests otherwise. Courts do not apply interpretive theories in any fixed or consistent manner. They move between them, sometimes subtly, sometimes decisively, depending on the demands of the case.

This paper has argued that such movement is not a failure of legal reasoning, but a reflection of the institutional setting in which courts operate. Interpretive choice is shaped by the need to justify outcomes, to respect the limits of judicial power, and to manage the consequences of adjudication. Method, in this sense, is neither fixed nor arbitrary; it is irrelative.

Recognising this does not dissolve concerns about predictability or discretion. It does, however, change how those concerns are understood. The difficulty lies not in the absence of a single method, but in the expectation that such a method should exist.

Interpretive theories continue to matter, but not in the way they are often presented. They do not bind judicial reasoning; they frame it. The task for scholarship is therefore not to defend methodological purity, but to examine the conditions under which interpretive choices are made, and the limits within which they can be justified.

