
ANALYSING THE VALIDITY OF THE LITERAL RULE OF STATUTORY INTERPRETATION IN INDIAN JUDICIAL REASONING

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ABSTRACT

The long-standing debate between judicial activism and the tendency of judges to go beyond the traditional scope of the constitution, as contrasted with a more “conservative,” strict and literal interpretation continues to shape contemporary discussions on the limits of judicial power and statutory interpretation. Both, the strengths and contradictions of the literal rule of statutory interpretation are explored through this paper as it contributes to broader debates on interpretive methodology and ultimately advocates for a nuanced and cautious exercise of judicial discretion. Arguments such as the inherent ambiguity of language, the evolving meanings of static terms, and legislative drafting errors are examined alongside a more orthodox but yet notable perspective of judicial bias and constitutionality. Drawing from prominent Indian jurisprudence, the paper interrogates the practical efficacy of the literal rule in the Indian context and argues that literalism, while theoretically ideal, is inadequate to meet the interpretive demands of India's constitutional democracy.

Sometimes, the placement or absence of a mere comma is enough to change an entire judicial outcome;¹ thus showing that syntax often rivals precedent in statutory interpretation. Lord Atkinson once stated that, “*In the construction of statutes, their words must be interpreted in their ordinary grammatical sense,*”² thus defining the, “literal” or “grammatical” rule of statutory interpretation. This rule acts as a gatekeeper of parliamentary supremacy as it lays heavy emphasis on adhering to the exact wording and grammatical construction of a piece of legislation, without even the slightest forms of modification or alteration. This method is one of the oldest approaches to interpretation, with its roots dating back to early modern jurisprudence. As Sir Francis Bacon observed in his 17th century essay, *Of Judicature*, that judges ought to know that their office is “*to interpret law, and not to make law, or give law.*”³ However, such an instrument is often a two-fold peril, as this linguistic rigidity might pave the way for injustice to prevail on the basis of a technicality. The ever-evolving meanings of static words and phrases also pose big challenges for courts and warrant educated interpretations to be made in the name of rendering justice. This article aims to analyse the appropriateness of the literal rule of statutory interpretation on broader judicial pronouncements with respect to Indian courts.

In a theoretical sense, the literal and plain inference of statutes seems to be the only ethical way to render justice.⁴ This is because the framers of the Indian Constitution had adopted the doctrine of, “procedure established by law,” while strategically avoiding the American Constitutional doctrine of, the “due process of law,”⁵ as finalised in February 1948, in the Draft Constitution. This formulation would, it was hoped, bind “judicial imagination”⁶ to the laws made by the legislature, as allegedly championed by Benegal Narsinga Rau in the Constituent

¹ *Mohd. Shabir vs State Of Maharashtra*, 1979 AIR 564. The judgement, authored by Justices Syed Murtaza Fazalali and A.D. Koshal, stated on Page 3,

“*The absence of any comma after the word "stocks" clearly indicates that the clause "stocks or "stocks or exhibits for sale" is one indivisible whole and it contemplates not merely stocking the drugs but stocking the drugs for the purpose of sale and unless all the ingredients of this category are satisfied, section 27 of the Act would not be attracted.*”

² Tanmay Gujarathi. “Interpretation of Statutes.” *Academia.edu*, 31 July 2020, www.academia.edu/43757716/Interpretation_Of_Statutes. Accessed 18 Nov. 2025.

³ Bacon, Francis. “Of Judicature.” *Litigation*, vol. 9, no. 3, 1983, pp. 64–54. *JSTOR*, www.jstor.org/stable/29758802, <https://doi.org/10.2307/29758802>.

⁴ *Joginder Singh Surmukh Singh vs Smt. Balkaran Kaur* 1972 CRILJ93. The judgement, authored by Justice H.R. Sodi, endorsed this approach by stating,

“*It is a well-settled and cardinal rule of interpretation of statutes that normally the words used in the Act of a Legislature must be given, their plain, ordinary and natural meaning*”

⁵ C, Chauhan D. “PARLIAMENTARY SOVEREIGNTY vs. JUDICIAL SUPREMACY in INDIA.” *The Indian Journal of Political Science*, vol. 74, no. 1, 2013, pp. 99–106, www.jstor.org/stable/24701031, <https://doi.org/10.2307/24701031>.

⁶ *Ibid.* 100

Assembly Debates.⁷ Such a provision makes sense, because even judges of the highest courts of law (mainly puisne judges) are vulnerable to mundane problems like peer pressure,⁸ personal bias,⁹ erroneous assessments etc. Thus, when judges turn a blind eye towards their personal interpretation of linguistic nuances, judgements tend to be more consistent in nature, as a strict application leaves little room for ambiguity or contention. This makes it easier for lower courts to implement similar judgements which may alleviate some of the massive burden on the judiciary.

An important corollary to draw from this argument is the fact that the doctrine of the, “Separation of Powers” as theorised initially by John Locke and subsequently modified by Charles Montesquieu¹⁰ finds its way in the Basic Structure doctrine as elaborated in the *Keshvananda Bharti* verdict.¹¹ In Montesquieu’s design, the judiciary occupies a deliberately narrow but crucial position, which is to pose as an adjudicating body instead of a policymaking one. This is brought out in his book, “*L’Esprit Des Loix*” (The Spirit of The Laws) when he says,

*“Were it (the judiciary) joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Were it (the judiciary) joined to the executive power, the judge might behave with violence and oppression.”*¹²

This illustrates the rather scholarly agreement that judicial power must be confined to

⁷ Raghavan, Vikram. “The Curious Case of “Due Process” in the Indian Constitution.” *The India Forum*, TheIndiaForum, 13 Feb. 2023, www.theindiaforum.in/law/curious-case-due-process-indian-constitution.

⁸ Abhinav Chandrachud, *Supreme Whispers*, 51 (Penguin Viking 2018) stated,

“Chief Justice M. Hidayatullah admitted to “ragging” two of his colleagues who dissented from him in the very first case they heard together; because he was responsible for bringing them to the court.”

⁹ Ibid. 28 (Judicial Rivalries: Activists and Conservatives)

¹⁰ Montesquieu, Charles. *The Spirit of the Laws*. 1748. Cambridge ; New York, Cambridge University Press, 1989.

¹¹ *His Holiness Kesavananda Bharati Sripadagalvaru and Ors. vs State Of Kerala And Anr* 1973 4 SCC 225.

The judgement, authored by Justices S.M. Sikri, A.N. Grover, A.N. Ray, D.G. Palekar, H.R. Khanna, J.M. Shelat, K.K. Mathew, K.S. Hegde, M.H. Beg, P. Jaganmohan Reddy, S.N. Dwivedi, Y.V.Chandrachud stated on Page 8

The true position is that every provision of the Constitution can be amended provided in the result the basic foundation and the basic structure of the Constitution remains the same. Basic-structure may be said to consist of the following features:(a) Supremacy of the Constitution (b) Republican and democratic form of government (c) Secular character of the Constitution (d) Separation of powers between the legislature, the executive and the judiciary

¹² Montesquieu, Charles. *The Spirit of the Laws*. 1748. Cambridge ; New York, Cambridge University Press, 1989.

prescribed and predefined functions, rather than be allowed to expand unchecked.

An additional, and arguably, equally forceful rationale in favour of the literal rule especially in the Indian context is the democratic legitimacy enshrined exclusively to the legislative furthers the proposition that their views coincide with the “will of the people.”¹³ In a democratic republic such as India, the will of the people is of paramount importance, especially in legislative drafting and enactment procedures. Extensive parliamentary debate between the ruling party and the opposition, which is standard practice prior to voting for a piece of legislation,¹⁴ acts as another safeguard for the rights of the people and the constitutionality of the proposed bills. This perspective again furthers the notion of a simple, straightforward and stipulative interpretation of the laws as a relief for an already chaotic judicature.

However, some of the contentions endorsing the merits of the literal rule are paradoxically self-defeating. This is because the premise of the rule itself is that all legislation is unanimously clear and unambiguous, however, that is rarely the case in a realistic sense. Another contradiction to this rule is the legislature has its own grammatical lapses, which can distort the intended meaning of a statute. A prominent example of these drawbacks is The Jammu & Kashmir Reorganisation Act¹⁵ which received presidential assent after being passed by both houses of India’s bicameral legislature in 2019.¹⁶ A month after its enactment, India’s Ministry of Law and Justice issued a three-page *corrigenda* citing and rectifying 52 grammatical and spelling mistakes in 55 pages of act.¹⁷ These rectifications had “left the government embarrassed”¹⁸ and received enormous media backlash. Such shortcomings often create confusion with lower-level bureaucracy and administration. This is because misreferences and

¹³ Chatterjee, Sreyan. “An Analysis of the Scope of Judicial Overreach in the Context of Legislative Intent.” *Christ University Law Journal*, vol. 3, no. 1, 1 June 2014, pp. 31–41, <https://doi.org/10.12728/culj.4.3>. Accessed 17 Dec. 2021.

¹⁴ Basnotra, Amishi, and Aryav Goyal. “Balancing Accountability and Independence: A Study of Parliamentary Privileges in India - IJLSSS.” *IJLSSS*, 16 June 2024, ijlsss.com/balancing-accountability-and-independence-a-study-of-parliamentary-privileges-in-india/. Accessed 18 Nov. 2025.

¹⁵ THE JAMMU AND KASHMIR REORGANISATION ACT, 2019 Act No. 34 of 2019 (India)

¹⁶ *Ibid.*

¹⁷ Joy, Shemin, and DHNS. “Law Ministry Issues JK Act Corrigenda, Fixing 52 Errors.” *Deccan Herald*, 12 Sept. 2019, www.deccanherald.com/india/law-ministry-issues-jk-act-corrigenda-fixing-52-errors-760956.html. Accessed 19 Nov. 2025.

¹⁸ PTI. “Missing ‘T’, Additional ‘T’ -- 52 Errors in J-K Reorganisation Act Corrected by Govt.” *The Economic Times*, Economic Times, 12 Sept. 2019, economictimes.indiatimes.com/news/politics-and-nation/missing-i-additional-t-52-errors-in-j-k-reorganisation-act-corrected-by-govt/articleshow/71101943.cms? Accessed 19 Nov. 2025.

incorrect cross-citations may lead to delays and incorrect action taken by such institutional bodies.

Moreover, the literal rule claims to uphold certainty and limit judicial discretion, but language is inherently ambiguous and can easily be contextually manipulated. Maxwell's Interpretation of Statutes,¹⁹ as acknowledged by the Supreme Court of India in *Tirath Singh v. Bachittar Singh*, captures this succinctly,²⁰

"Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence."

This reflects upon the preservation of the spirit of the law over its letter as upheld by the apex court, which serves to question the validity of the application of the literal rule in standard practice.²¹

Furthermore, the ever-changing meanings of seemingly static words make their application often subjective, and open to interpretation. A wide, ever evolving array of meanings attributed to one word creates a convenient "grey area" which can be exploited against the interest of justice. This sentiment is echoed in the 1981 judgement of the Supreme Court, where the judgement quoted Judge Learned Hand when it said,

*"It is true that the words used, even in their literal sense, are the primary and ordinarily the most reliable source of interpreting the meaning of any writing: be it a statute, a contract or anything else. But it is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning."*²²

¹⁹ Peter Benson Maxwell *Maxwell's Interpretation of Statutes* 229 (10th Edition)

²⁰ *Tirath Singh vs Bachittar Singh And Ors.* 1955 AIR 830

²¹ Maley, Yon. "The Language of Legislation." *Language in Society*, vol. 16, no. 1, 1987, pp. 25–48. JSTOR, www.jstor.org/stable/4167814, <https://doi.org/10.2307/4167814>.

²² *Tirath Singh vs Bachittar Singh And Ors.* 1955 AIR 830

The metaphor, “*fortress out of the dictionary*”²³ in itself is enough to paint a picture of the counterproductive outcome from the seemingly progressive school of thought. This shows us how, a limited and controlled use of discretion by the courts accomplishes the goal of remedying the mischief which the piece of legislation intended to remedy. While the slope between educated prudence and outright arbitrariness is a slippery one, it is imperative that the judiciary treads with caution, and a certain degree of autonomy.

Lastly, and perhaps the argument of greatest significance, is the one that discusses the prominent doctrine of Judicial Review, adopted by Indian lawmakers from American jurisprudence. This term was established in the landmark case of *Marbury v. Madison*,²⁴ and holds significant importance in Indian *doctrina juris*. This is because the Indian judiciary has expanded its jurisdiction over the past decades. The Court’s role is no longer limited to striking down legislative or executive action but also analyses the constitutionality of policy-making.²⁵ Astonishingly, most issues of governance find their way to the Supreme Court for a decision.²⁶ This shows us that while there is a dire need of the separation of powers in the country, there is often bureaucratic interdependence and a system of, “checks and balances” which ensures that the governing system works as a functioning unit, rather than isolated and fragmented institutes. This perspective strengthens the case against the literal rule, as it shows us that mutual relationships between the organs of the government makes it necessary for the judiciary to use erudite acumen as the custodian and guardian of the constitution.

In conclusion, the literal rule, though rooted in democratic legitimacy and parliamentary supremacy, often proves to be insufficient as an exclusive method of statutory interpretation in the Indian framework. Factors like the fluidity of language, evolving connotations of stagnant terms etc. demonstrate the perils that could be faced by Indian democracy if a purely textbook approach is used. In a system where judicial review forms an essential facet of the basic structure, the judiciary cannot be confined to the narrow contours of literalism. This creates a requirement to adopt a principled interpretive stance and a more nuanced paradigm that upholds the underlying normative commitments of the statute.

²³ Ibid.

²⁴ *Marbury v. Madison*, 5 U.S. 137, 138 (1803)

²⁵ Sindhu, Jahnavi. “A Responsive Theory of Judicial Review — a View from India.” *SSRN Electronic Journal*, 2023, repository.nls.ac.in/cgi/viewcontent.cgi?article=1392&context=nlsir, <https://doi.org/10.2139/ssrn.4421636>.

²⁶ See pt II of this article; Nick Robinson, ‘Expanding Judiciaries: India and the Rise of the Good Governance Court’ (2009) 8 Washington University Global Studies Law Review 1.