

4.8 Constitutional interpretation as an effective armoury for social transformation

Words as skins of living thoughts have elasticity to accommodate new meaning in the light of changed circumstance through the process of interpretation. Application of this feature has greatly helped the mission of social transformation. Some of the key principles in this regard may be highlighted.

4.8.1 *Progressive interpretation*

The approach of progressive interpretation has helped in culling out the new implications of old expressions. As stated in *M. Nagaraj case*¹⁷³:

“Constitution is not an ephemeral legal document embodying a set of legal rules for the passing hour. It sets out principles for an expanding future and is intended to endure for ages to come and consequently to be adapted to the various crisis of human affairs. Therefore, a purposive rather than a strict literal approach to the interpretation should be adopted. A constitutional provision must be construed not in a narrow and constricted sense but in a wide and liberal manner so as to anticipate and take account of changing conditions and purposes so that con-

¹⁷⁰ Report of the National Commission to review the working of the Constitution.

¹⁷¹ Granville Austin, *Working a Democratic Constitution* (Oxford University Press, New Delhi 1999) at p. 6.

¹⁷² *Ibid*, at pp. 638–60.

¹⁷³ *M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

stitutional provision does not get fossilised but remains flexible enough to meet the newly emerging problems and challenges."

It is viewed by P. Jaganmohan Reddy, J. in *Kesavananda*¹⁷⁴ that while the law declared in the past was in accord with the settled judgment of the society, the social and economic conditions then existing, and that if those judgments are not likely to subserve the subsequent generations or the requirements and needs of the society as it may then be conditioned, they will have to be changed by the process known to law, either by legislative action or judicial re-review where that is possible. The Courts, therefore, have a duty, and have indeed the power, to re-examine and restate the law within the limits of its interpretative function in the fullness of the experience during which it was in force so that it conforms with the socio-economic changes and the jurisprudential outlook of that generation. As viewed in *I.R. Coelho*, "The Constitution is a living document. The constitutional provisions have to be construed having regard to the march of time and the development of law."¹⁷⁵

4.8.2 Purposive interpretation

Since the very text of the Constitution itself is sufficiently oriented towards social transformation, and rightly deserves a description as programmatic charter,¹⁷⁶ the task of accentuating its purpose goes a long way in its progressive interpretation. This specifically involves purposive interpretation in keeping with the theory that state is a purposive entity for ensuring overall human happiness. Dr. A.S. Anand, C.J. in *S.R. Chaudhuri v. State of Punjab*¹⁷⁷ observed, "Constitutional provisions are required to be understood and interpreted with an object-oriented approach. A Constitution must not be construed in a narrow and pedantic sense." V.R. Krishna Iyer, J. in *Sunil Batra* observed, "Time works, changes, brings into existence new conditions and purposes. Therefore, a principle, to be vital, must be capable of wider applica-

¹⁷⁴ *Kesavananda Bharati v. State of Kerala*, (1993) 4 SCC 225: AIR 1973 SC 1461, para 1118.

¹⁷⁵ *I.R. Coelho v. State of T.N.*, (2007) 2 SCC 1: AIR 2007 SC 861.

¹⁷⁶ R. Sudarshan, "The Political Consequences of Constitutional Discourse" in T. V. Sathyamurthy (Ed.), *State and Nation in the Context of Social Change*, Vol. I (Oxford University Press, New Delhi 1997) at pp. 55, 64; William J. Brennan, "The Constitution of the United States: Contemporary Ratification" extracted in Walter Murphy, *American Constitutional Interpretation* (3rd Edn., New York Foundation Press, New York 2003) at p. 249 considers US Constitution as embodying aspiration to social justice, brotherhood and human dignity.

¹⁷⁷ (2001) 7 SCC 126: AIR 2001 SC 2707.

tion than the mischief, which gave it birth. This is peculiarly true of constitutions."¹⁷⁸ K. Ramaswamy, J. in *Appa Balu Ingale*¹⁷⁹ said:

"Law should subserve social purpose. Judge must be a jurist endowed with the legislator's wisdom, historian's search for truth, prophet's vision, capacity to respond to the needs of the present, resilience to cope with the demands of the future and to decide objectively disengaging himself/herself from every personal influence or predilections. Therefore, the Judges should adopt purposive interpretation of the dynamic concepts of the Constitution and the Act with its interpretative armoury to articulate the felt necessities of the time. The Judge must also bear in mind that social legislation is not a document for fastidious dialects but a means of ordering the life of the people."

As a tool of value-based interpretation, purposive construction has paid rich dividends by looking beyond the words, times and contexts, and in building the supreme law on a sound footing of enduring values.¹⁸⁰