

INTERPRETATION OF STATUTES

UNIT – V

Principles of Legislation

Law-making organs · Utility · Morals and legislation

20 slides · Bentham, constitutional process, judicial role

ROADMAP

What this unit covers

1. What legislation is

2. Why principles matter

3. Legislature

4. Executive in law-making

5. Judiciary's role

6. Separation & overlap

7. Principle of utility

8. Bentham's method

9. Pleasure-pain calculus

10. Operation on legislation

11. Limits of utility

12. Morals vs law

13. Hart-Devlin echo

14. Indian constitutional
morals

15. Delegated legislation

16. Pre-legislative process

17. Key cases

18. Critique

19. Takeaways

20. Close

Legislation as a source of law

Legislation is law made in a set form by an authority recognised for that purpose. In a modern State it is the chief source. This unit asks how it ought to be made, and by whom.

Form

Bills, Acts, Ordinances, rules, bye-laws – all are legislation in a wide sense.

Authority

Competence comes from the Constitution, not from good intentions.

Principles

Utility, justice, rights, workability and democratic consent.

Link to Units I–IV

Bad drafting produces the ambiguities that interpretation then has to cure.

Three organs in law-making

Legislature

Primary law-maker. Parliament and State legislatures under Arts. 245–246.

Executive

Ordinances (123/213), delegated rules, and the political impulse behind Bills.

Judiciary

Does not pass Acts, but declares meaning, fills gaps, and strikes down invalid law.

People

Elections, consultation, and sometimes referendum-like politics around a Bill.

Commissions

Law Commission, expert committees
– drafts without votes.

Course question

What must each organ reckon with before a rule becomes law?

The legislature as law-maker

The syllabus asks: what matters must the legislature reckon with while enacting? Present needs, future needs, competence, rights, cost, and enforceability.

Competence

Union, State or Concurrent List; money-bill procedure; federal courtesy.

Rights

Part III is a hard limit. Directive Principles are a policy compass.

Facts

Good law rests on real social facts – reports, data, hearing of those affected.

Prospect

A law must work not only on the day of passing but as society changes.

Executive role in legislation

Most Bills are government Bills. The executive therefore designs, times and implements legislation. Ordinance power is emergency legislation by the executive.

Policy to Bill

Cabinet, ministry and draftsman convert a programme into clauses.

Ordinance

Arts. 123 / 213 – only when the House is not in session and circumstances require immediate action (D.C. Wadhwa warning against re-promulgation).

Delegated legislation

Rules and notifications give the Act its daily teeth.

Risk

Executive convenience can swallow parliamentary deliberation.

Judiciary – creative but bounded

The course note says the judiciary plays a highly creative role in construing statutes. That is not a licence to legislate. The court interprets, tests validity, and sometimes issues guidelines where the field is empty.

Interpretation

Units I-IV – the ordinary judicial tool.

Invalidation

Ultra vires and rights review remove a law; they do not replace it with a new code.

Guidelines

Vishaka-type directions until Parliament acts.

Restraint

Policy choices with many options belong to the legislature.

Separation of powers – working picture

Not a wall

Indian model is functional overlap under a Constitution.

Core functions

Enact / administer / adjudicate remain distinct at the centre.

Checks

Judicial review, parliamentary control of rules, executive dependence on the House.

Kesavananda / Indira Nehru Gandhi

Basic structure stops one organ from swallowing another.

Delegated legislation cases

In re Delhi Laws Act – the leading map of how far delegation may go.

Student line

Organs cooperate; they do not merge.

Principle of utility (Bentham)

Jeremy Bentham's principle of utility: the right action or law is that which tends to produce the greatest happiness of the greatest number. Legislation is a science of consequences, not of natural-law mysteries.

Happiness

Pleasure and the absence of pain, counted across persons affected.

Against natural law

Bentham called natural-rights talk 'nonsense upon stilts' – law must be justified by effects.

Codification

Utility favours clear, public, prospective codes over scattered custom.

Indian echo

Law Commission style – identify harm, measure options, draft a rule.

Bentham's felicific calculus – the headings

Intensity

How strong is the pleasure or pain?

Duration

How long does it last?

Certainty

How likely is it?

Propinquity

How soon?

Fecundity / purity

Will it lead to further pleasures, or to opposite pains?

Extent

How many people are affected? This is the legislative question.

How utility operates upon legislation

The legislator is to ask, of every clause: who gains, who suffers, by how much, and is there a cheaper way to the same good?

Criminal law

Punish only so far as needed to deter – a utility root of Utilitarianism.

Tax and welfare

Redistribution justified if total welfare rises and rights are respected.

Procedure

A process that is slow and costly fails utility even if the rule is just on paper.

Sunset / review

Utility supports reviewing laws that no longer produce net good.

Limits of the utility principle

Minorities

A majority's pleasure can crush a minority unless rights constrain the count.

Measurement

Happiness is hard to add up; lobbying can fake 'public good'.

Justice as desert

Some wrongs should be answered even if deterrence is weak.

Rights trump

Part III is not a utility suggestion; it is a legal bar.

Mill's harm principle

Later liberal limit – interfere mainly to prevent harm to others.

Use in answers

Utility is a guide to legislative design, not a solvent of constitutional limits.

Distinction between morals and legislation

Morality is about good and bad character and conscience. Legislation is about enforceable public rules. They overlap, but they are not the same system.

Morals

Broader, often higher, enforced by shame, religion and conscience.

Law

Narrower, public, backed by State sanction.

Not all immorality is crime

Lying between friends is immoral; it is not an offence.

Not all law is moral

A technically valid but unjust law can exist – and can be struck down if it breaks the Constitution.

How far may law enforce morals?

Devlin

Society is entitled to enforce a shared morality that holds it together.

Hart

Law should not punish private immorality that harms no other.

Mill

The harm principle – the leading liberal limit on legislation.

Indian courts

Privacy (Puttaswamy) and the reading down of s.377 show a Hart-leaning turn on private life.

Opposite pole

Laws on public decency, hate speech and some sexual offences still moralise in public space.

Exam stance

State both sides; then place the Constitution (privacy, dignity, public order) as the Indian test.

Constitutional morality and legislation

In India the relevant 'public morality' for a legislator is increasingly constitutional morality – liberty, equality, dignity, fraternity – not only social majoritarian morals.

Navtej / Joseph Shine

Popular morality yielded to constitutional morality.

Legislative duty

Parliament may still act, but it must aim at constitutional values.

Not anti-democratic

The Constitution is itself a democratic enactment of limits.

Drafting lesson

A clause that humiliates a class will face Art. 14 / 21 even if it matches a social taboo.

Healthy legislative process

Consultation

Those who will be bound should be heard.

Law Commission / expert bodies

Evidence instead of impulse.

Plain language

A law people cannot read will not guide them.

Delegated limits

Essential legislative policy must stay in the Act (Delhi Laws Act).

Publication

Unknown rules cannot be fair rules.

Review

Judicial review and parliamentary committees after the law is live.

Delegated legislation – a principle of modern law-making

Parliament cannot write every tariff and form. It may delegate detail, but not the essential legislative function.

Allowed

Filling up details, commencement dates, schedules, technical standards.

Not allowed

Abdication of policy; taxing without guidance; creating new offences without a parent standard.

Controls

Laying on the table, publication, ultra vires review.

Cases

In re Delhi Laws Act; Hamdard Dawakhana; later Aadhaar / excessive-delegation arguments.

Organs, delegation and constitutional morals

In re Delhi Laws Act (1951)

How far Parliament may delegate.

D.C. Wadhwa (1987)

Repromulgation of Ordinances is a fraud on the Constitution.

Kesavananda Bharati (1973)

Legislature itself is limited by basic structure.

Vishaka (1997)

Judicial guidelines where the legislature had left a vacuum.

Puttaswamy (2017)

Privacy as a limit on both legislation and executive design.

Navtej Johar (2018)

Constitutional morality over social morality in legislation / interpretation.

What a good legislative principle set looks like

Utility

Count consequences; prefer the cheaper effective cure.

Rights

Do not buy majority happiness with a minority's dignity.

Clarity

Interpretation units exist because draftsmen fail this test.

Competence

Federal and rights limits first, policy second.

Honesty of process

No ordinance-as-routine; no hidden rules.

Humility

Leave some morals to conscience; use criminal law only for public wrongs.

Key takeaways

- 01** Legislation is made by the legislature, shaped by the executive, and bounded by the judiciary.
- 02** Utility asks: greatest happiness, measured by consequences – Bentham's working tool.
- 03** Utility cannot override Part III or basic structure.
- 04** Morals and law overlap; they are not identical. Hart / Mill vs Devlin is the classic debate.
- 05** Indian courts now test legislation against constitutional morality.
- 06** Cite Delhi Laws Act, D.C. Wadhwa, Kesavananda, Vishaka, Puttaswamy, Navtej.

End of UNIT – V

Interpretation of Statutes & Principles of Legislation • All units complete

20 slides • Light academic edition