

# Interpretation in Law

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# Scheme of Presentation

- Understanding Interpretation in your discipline
- Why a familiarity with the process of interpretation in law beneficial?
- How to understanding Interpretation in Law
  - Institutionally
  - Technically
  - Contextually
  - Precedential

# Statistics and Interpretation

- Does it happen?
- Can different interpretations emerge from same data
- What causes these differences?
- Interpretation is a process of meaning-making

# Law and Interpretation

- Law is supposed to be certain, same and predictable
- At the same time it needs to be fair and just and contextual
- One size does not fit all
- Interpretation is the process of customisation in law

# Why beneficial?

- Despite claims of certainty and fixity there is free play in joints
- Explains how the same law plays out differently in different situations
- Acknowledge that internal change is possible
- Most importantly, the interpretational choice is not just available with judges

# Interpretation is a composite process

- Rules of interpretation are inextricably woven into how a system functions
- Rules cannot be understood as standalones
- A whole range of factors influence their operation
- And they influence each other
- No one way of doing things
- There is flexibility
- Flexibility comes from skills of navigation

# Institutional Structures and Interpretation

- The relationship between the legislature, executive and the judiciary
- There is a hierarchical relationship
- There is separation of powers
- It is not a mechanical separation

# Ideological Approaches and Interpretation

- How are the judicial and legislative roles envisaged?
  - Essentialist
  - Metademocratic

## In Metademocratic

- Preservationist
- Complementarian
- Reconstructionist



# Technical Rules and Interpretation

- Canons of Construction
  - literal
  - mischief
  - golden
- Nature of Statute
  - Constitution
  - Penal / Tax
  - Welfare
- Presumptions / Maxims

# Precedents and Interpretation

- Similar kinds of cases should be decided in the same way
- Rule of fairness and predictability
- Yet change happens and earlier decisions are altered, sidelined overruled
- Strict and liberal construction of the reason for the decision

# Significance of knowing the process of interpretation

- Act of meaning making
- Need epistemic reflection
- And epistemic freedom