

One Up for Statutory Interpretation and Two Down for Separation of Powers

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Abstract— *The research aims to assess the impact of applying the rules of interpretation on the doctrine of separation of powers. The question is whether the judiciary performs its function of statutory interpretation as prescribed by the law or exceeds its legal limits relying on the context. Therefore, this study attempts to explore the link between the political and constitutional concept of separation of powers and the judicial approach of applying the rules of statutory interpretation. Furthermore, implications of concepts such as constitutionalism and parliamentary sovereignty would be concerned in establishing such position. Moreover, this would employ qualitative analysis of primary data and secondary data. Primary data would include statutes, case laws, and secondary data would include text books and journal articles. As widely accepted, doctrine of separation of powers is concerned with three main powers of governance as exercised by separate and independent bodies. Although one institution could have a check over the other, overwhelming influence is unpermitted since it leads to a violation of the said doctrine. The legislature is assigned the task of passing statutes while the judiciary is entrusted with interpreting them in order to arrive at a determination. Hence, the judges engage in statutory interpretation under the purview of four rules; the literal rule, the golden rule, the mischief rule and the purposive rule. The impact of the said rules on separation of powers differs according to their application. Thereby, the judges in different jurisdictions have been criticized for violating the said doctrine in applying the rules of interpretation in line with their own subjective levels of technicality and flexibility. Therefore, the judges are expected to be rational in deciding cases. It could be submitted that the functional value of statutory interpretation is protected as long as separation of powers is upheld and specific circumstances are taken into consideration to achieve justice.*

Keywords— *Statutory Interpretation, Separation of Powers, Constitutionalism*

I. INTRODUCTION

Judges incline to establish the link between judicial functions and political concepts when arriving at just decisions. Thus, the significance of statutory

interpretation as a judicial function is to be reviewed with regard to its impact on the doctrine of separation of powers. Aristotle noted that the three elementary functions that are required for the organization of any state should be carried out by three separate organs under the concept of separation of powers. Hence, it follows that each body is vested with separate and independent powers, so that powers of one branch are not in conflict with the powers associated with the other branches¹²⁷ However, it seems that there are instances where statutory interpretation by the judiciary and separation of powers are in conflict. This is mainly with regard to the purposive rule of interpretation which is of a more flexible approach. Thereby, the application of different rules of interpretation by judges would decide whether separation of powers is upheld or violated. At first instance, it's important to know what is meant by interpretation of statutes. Statutory interpretation is simply referred to as the process by which the courts determine the meaning of a statutory provision for the purpose of applying it to the situation before them.¹²⁸ It implies that interpretation gives effect to the intention of Parliament by which the statute is passed, thus parliamentary sovereignty is assured through statutory interpretation. In a country based on constitutional supremacy, the constitution sets out the framework for the governance of a country. Governing requires the exercise of powers such as the legislative, the executive and the judicial powers¹²⁹ identified under the notion of separation of powers. In such instance, the judiciary has a legal obligation to comply with the constitution in performing their function of construing statutes. Therefore, it could be submitted that statutory interpretation is variable according to the political background of a particular country, whether having

¹²⁷ Montesquieu, B. (1948) *Spirit of Laws*, Newvell edn., France, Chatellain:.

¹²⁸ Bell, J. & Engle, G. (2005) *Cross Statutory interpretation*, 3rd edn, New York: Oxford University Press, p.34.

¹²⁹ The Constitution of Sri Lanka 1978, Art. 4

parliamentary sovereignty or constitutional supremacy. Therefore, the research aims at analysing the judicial approach of statutory interpretation in certain jurisdictions and its effect on separation of powers.

II. METHODOLOGY AND EXPERIMENTAL DESIGN

The research would employ qualitative analysis of primary data such as statutes, case laws and secondary data of text books, journal articles. Principally, this would be a case law based analysis since judges engage in statutory interpretation when a matter is presented before them to be determined. In line with that, the study attempts to engage in a comparative analysis on the Common law and Sri Lankan context. Furthermore, the Sri Lankan Constitution would be referred as it is the main source of law in a Constitutional sovereign country as opposed to Parliamentary sovereignty in England. Therefore, the discussion would be grounded on different approaches of statutory interpretation identified in these two jurisdictions.

III. RESULTS

It was found that application of the literal rule upholds the doctrine of separation of powers extensively whereas the application of the purposive rule is criticized for violating the said doctrine in certain circumstances. However, the former is engaged in ensuring the rule of law while the latter is concerned with serving the needs of the public and thereby achieving justice. In addition, the golden rule and the mischief rule are likely to protect the separation of powers as they are only adaptable in the settings of preventing absurdity and ambiguity. Therefore, it is established that the purposive construction immensely affects separation of powers than other three rules of statutory interpretation although it is able to meet the needs of the modern welfare state.

IV. DISCUSSION

Interpretation is only appropriate to statutes when there is a dispute about the meaning of a statutory word. If the words of a statute are clear and unambiguous it is the function of a Court of law to give effect thereto. However, if they are unclear or ambiguous or doubtful the judges do not stop at the words of the section. They call for help in every direction open to them. They look at the statute as a whole. They look at the social conditions which gave rise to it. They look at the mischief which it was passed to remedy. By this means they clear up many

things which would be unclear or ambiguous or doubtful and give effect to the spirit of statutory words.¹³⁰

A. Rules of Construction

The rule in law when construing a statute is to give the plain, literal and grammatical meaning of its words. Because, it's believed that the intention of parliament is expressed through the words of the statute. This is primarily identified as 'the literal rule' of interpretation. However, the primary meaning of a word varies in its setting or context and with the subject matter to which it is applied. The primary rule of construction may be deviated from only in exceptional circumstances to avoid absurdity and resolve ambiguity. When it would lead to absurdity or a result which is 'unjust, unreasonable or inconsistent with other provisions' 'the golden rule' as expounded by Lord Wensleydale in the case of *Grey v Pearson*¹³¹ may be used and the language modified. On the other hand when ambiguity is present 'the mischief rule' as expounded in *Haydon's case* may be employed. This rule permits an examination of the historical background for the statute from which the purpose of the legislation can be inferred and the words are then read in the light of that purpose. The purposive approach requires that interpretation should not depend exclusively on the literal meaning of words according to grammatical analysis. It indicates that the context of the words of a statute becomes relevant only when ambiguity or absurdity flow from the words' ordinary grammatical meaning.¹³² In such occasions, the judiciary tends to fill in the lacuna of the law which parliament has left. This flexibility could be seen in the application of 'the purposive rule'. Early there was a tendency among some judges to over-emphasise a narrow version of the literal rule and refused to go beyond the meaning of a statutory provision in the light of its immediate and obvious context.¹³³ However, later it was proposed that judges should adopt a purposive approach to the construction of statutes. Moreover, the interpreter must endeavour to infer the design or purpose which lies behind the

¹³⁰ Denning, LJ, *Statutory interpretation again to the fore*, p.98.

¹³¹ [1857] 6 HL CAS 61, 106

¹³² Devenish, G.E. (1992) *Interpretation of Statutes*, p.28.

¹³³ *The Interpretation of Statutes* (Law Com no 21; Scottish Law Com no 11) para 80 (c)

legislation.¹³⁴ Lord Denning was of the opinion that the approach of the courts should be emulated because 'when they come upon a situation which is to their minds within the spirit, but not the letter of the legislation, they solve the problem by looking at the design and purpose of the legislation at the effect which it was sought to achieve. They then interpret the legislation so as to produce the desired effect.'¹³⁵ In *Carter v Bradbeer*¹³⁶ Lord Diplock states '...I'm not reluctant to adopt a purposive construction where to apply the literal meaning of the legislative language used which would lead to results clearly defeat the purposes of the Act...' One aspect of interpretation rule is that the interpreter should treat the express words of the enactment as illuminated by consideration of its context or setting. Because the words are not deployed in a vacuum. Rather, as Steyn has said, "in law, context is everything".¹³⁷ The overall context of the Act provides the colour and background to the words used, and thus helps the interpreter to arrive at the meaning intended by Parliament.¹³⁸ Therefore, it seems that intention of parliament is an essential element of statutory interpretation where the court looks into, in performing their function of interpreting statutes. Referring to the parliamentary materials in seeking out such intention was initially identified in the case of *Pepper v Hart*.¹³⁹ Lord Brown observed 'the exclusionary rule should be relaxed so as to permit reference to parliamentary materials where legislation is ambiguous or obscure, or leads to an absurdity.'¹⁴⁰ However, later this approach was criticized on the ground that what is said in Parliament is manifestly unreliable as a guide to the legal meaning of

an enactment.¹⁴¹ Farewell LJ said of reference to parliamentary debates to interpret legislation 'would be quite untrustworthy'.¹⁴² In *Black-Clawson International Ltd v Papierwerke Waldhof-Aschaffenburg AG* Lord Reid said,¹⁴³ 'We often say that we are looking for the intention of Parliament, but that is not quite accurate. We are seeking the meaning of the words which Parliament used. We are seeking not what Parliament meant but the true meaning of what they said.' The remark is somewhat cryptic, but it does point to the fact that the intention to be attributed to the legislator is to be determined from the objective words used, rather than from any subjective intentions which were not expressed in the text.¹⁴⁴ Thus, statutory interpretation gives effect to the parliamentary sovereignty as the judiciary must comply with what parliament has intended. In that sense, the legislature stands above the other two branches of government. However, in contrast constitutional sovereignty in Sri Lanka strikes a balance between powers of government as prescribed by the supreme law of the land. Furthermore, it governs functions of each institution according to the Constitution. Thereby, the application of interpretation rules must give effect either to parliamentary sovereignty or constitutional supremacy in construing statutes.

B. The effect of statutory interpretation rules on separation of powers

Cross comments that 'the essential rule is that words should generally be given the meaning which the normal speaker of the English language would understand them to bear in the context in which they were used'. This is the literal or ordinary meaning rule.¹⁴⁵ Thus words should be given their ordinary and grammatical meaning as the first step in the process of interpretation.¹⁴⁶ Although it is believed that the literal methodology ensures certainty of the law, its application does not necessarily lead to legal

¹³⁴ Devenish, G.E. (1992) *Interpretation of Statutes*, p.36.

¹³⁵ Denning, LJ. (1979) *The Discipline of Law*.

¹³⁶ [1975] 1 WLR 1204 at 1206-1207

¹³⁷ *R v Secretary of state for the Home Department* (2001) 2 AC 532,548.

¹³⁸ Jones, O. (2013) *Bennion on Statutory Interpretation*, 6th edn. p.540.

¹³⁹ [1993] 1 All ER 42

¹⁴⁰ Steyn, J. *Pepper v Hart; A Re-examination*, Oxford Journal of Legal Studies, VOL 21, No.1 (2001) p.62.

¹⁴¹ Jones, O. (2013) *Bennion on Statutory Interpretation*, 6th edn. p.601.

¹⁴² *R v West Riding of Yorkshire Country Council* [1906] 2 KB 676

¹⁴³ [1975] AC 591 at 613

¹⁴⁴ Bell, J. & Engle, G. (2005) *Cross Statutory interpretation*, 3rd edn., New York: Oxford University Press.p.26.

¹⁴⁵ *ibid*.p.1.

¹⁴⁶ Devenish, G.E.(1992) *Interpretation of Statutes*,p.26.

certainty, since what may be clear or reasonable to one person may be obscure or absurd to another.¹⁴⁷ However, it is assumed that the application of the literal rule upholds separation of powers since judges apply the meaning of the words as it is without any modification. It implies that separation of powers requires parliament to make the laws and the judiciary to interpret them. Where the meaning of the statutory word is plain and unambiguous, it is not for the judges to invent fancied ambiguities as an excuse for failing to give effect to its plain meaning. Because, they consider that the consequences of doing so would be inexpedient, unjust or immoral.¹⁴⁸ Moreover, as stated in *Sussex Peerage case* 'If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver.'¹⁴⁹ Thereby, the literal approach preserves parliamentary supremacy. As Judges' personal beliefs and opinions are irrelevant when applying the literal rule, there would be less issues in arriving at determinations. This obligation to follow the plain meaning of statutory words thus protects the principle of separation of powers. Thereby, the law making power of parliament is not challenged by subordinate law making of the judiciary. Conversely, the literal rule is subject to criticism for its rigidity and thereby restricting the development of the law. Judges are criticised for being technical and too tied to the words of the statute. As a result, justice is avoided at certain instances and the law is upheld. This was demonstrated in *Whitely v Chappel*¹⁵⁰ where the defendant used the vote of a dead man. The statute relating to voting rights required a person to living in order to be entitled to vote. The court applied the literal rule and the defendant was thus acquitted. It is appeared that there are two units of enquiry in statutory interpretation, the text and the intention of Parliament that the judge must harmonize the two. However this appearance is deceptive. English law takes the view that the two are closely connected, but that primacy is to be given to the text in which the intention of Parliament has

been expressed.¹⁵¹ The argument is that it totally ignores the context and results in absurd consequences. The literal methodology functions as inflexible, hence judges have no opportunity of considering the context. These drawbacks of literal interpretation recognize the significance of the golden rule. The ordinary sense of the word is to be adhered to, unless it would lead to absurdity. The ordinary sense may be modified to avoid the absurdity but no further.¹⁵² This provides a restriction on the function of judges as they cannot go beyond the extent of avoiding absurdity. However, in comparison to the literal rule, judges applying the golden rule have more independence when interpreting since they have power to modify the meaning of words. The absurdity required for contextual interpretation must be an obvious absurdity, it must be extracted from the whole instrument and it must lie in the words of the statute rather than in the consequences of the application of the statute to a particular case.¹⁵³ Thus the absurdity must be objective rather than relative. According to De Villiers JA, the golden rule is problematic in that 'what seems an absurdity to one man does not seem absurd to another.'¹⁵⁴ Nevertheless, it is to be born in mind that the office of the judge is not to legislate, but to declare the expressed intention of the legislature even if that expressed intention appeared to the court to be injudicious.¹⁵⁵ This reveals that although the ordinary meaning can be modified under the golden rule, judges are not permitted to make laws overriding the function of the legislature. Consequently the judiciary has only a check over Parliamentary function of making laws and is grounded on the basis of separation of powers. In application of both the literal and the golden rule, the words of the statute are to provide the intention of the Parliament. The intention of the Parliament can be different from the intention of the Parliament expressed through words. Therefore, there may be instances where the intention of the legislature cannot be found clearly from the words of the statute. Thereby the mischief rule and the purposive rule are applied concerning the

¹⁴⁷ *ibid*.p.31.

¹⁴⁸ Per Diplock LJ in *Duport Steel v Sirs* [1980] 1 All ER 529

¹⁴⁹ [1844] 11 Cl & Fin 85 at 143

¹⁵⁰ [1868] LR 4 QB 147

¹⁵¹ Bell, J. & Engle, G. (2005) *Cross Statutory interpretation*, 3rd edn., New York: Oxford University Press.p.22.

¹⁵² *Grey v Pearson* [1857] 6 HL CAS 61, 106

¹⁵³ Driedger, *The Construction of statutes*, p.48.

¹⁵⁴ *Shenker v The Master & another* 1936 AD 136 at 143

¹⁵⁵ *River wear Commissioner v Adamson* [1877]HL

context in which statutory words were born. Parliament intends that an enactment shall remedy a particular mischief. It is presumed therefore that Parliament intends the court, in construing the enactment, to endeavour to apply the remedy provided by it in such a way as to suppress that mischief.¹⁵⁶ The famous resolution in *Heydon's case*¹⁵⁷ has been of great importance in the development of statutory interpretation. In this case it was found that for the sure and true interpretation of all statutes in general, four things are to be discerned and considered; What was the common law before the making of the Act, what was the mischief and defect for which the common law did not provide, what remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth and the true reason of the remedy.¹⁵⁸ Thus, the function of the judiciary is to make such construction as to suppress the mischief and advance the remedy for private and public benefit. As the mischief rule gives effect to the historical context in which the statute was passed, it does not undermine the doctrine of separation of powers. Because, judges do not step out of the four corners of the statute when arriving at decisions. A purposive approach means at least: judges ought not to go by the letter of the statute, they ought to go by the spirit of it.¹⁵⁹ A purposive construction of an enactment is one which gives effect to the legislative purpose by following the literal meaning of the enactment. When the legislative purpose cannot be understood by the letter of the statute the purposive rule comes into effect. Appealing to 'the intention of Parliament restricts the large creative role of the judiciary in the interpretation of statutes.¹⁶⁰ Nevertheless Denning LJ presented his sentiments in favour of the purposive rule in the case of *Magor and St. Mellons RDC v Newport Corpn.*¹⁶¹ He stated, 'We do not sit here to pull the language of Parliament and of Ministers and make

nonsense of it. This is an easy thing to do. We sit here to find out the intention of Parliament and of Ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactment'. However, his approach of judicial law making was criticised by the House of Lords at the time on the view that filling in the gaps would violate separation of powers. Approving the said impression, Lord Simonds said that for the judges to fill in a gap was 'a naked usurpation of the legislative function under the thin disguise of interpretation. Thus it clearly provides that making laws is not the function of the judiciary under the principle of separation powers. As per Lord Simon of Glaisdale 'a more restrictive approach to analogy and to interpretation reflects the concern for the rule of law and the separation of powers'. In this view, the rule of law requires Parliament to state clearly what it intends, and the separation of powers requires the judge not to presume that he knows how best to complete the legislative scheme.¹⁶² The question whether judges can fill the gaps in a statute lies at the heart of statutory interpretation today. The answer to it has been provided by some recent cases. In some of them the House of Lords filled the gaps and did justice. In the others the gap was not filled and injustice resulted.¹⁶³ In *Fothergill v Monarch Airlines*, the House of Lords reversed the decisions of the trial judge and the Court of Appeal and filled in a gap. They justified their attitude by reliance on a purposive interpretation. In latter cases however, the House of Lords have refused to fill in a gap. In *R v Barnet London Borough Council, ex parte Nilish Shah*¹⁶⁴ the literal approach of interpretation allowed a student from overseas to be entitled to a mandatory grant to have his university fees paid by the local authorities. The current tendencies among English judges would appear to incline away from the role proposed by Denning LJ and more towards the rule of law approach. In Sri Lanka too the purposive approach has gained recognition excessively through interpretation given to the constitutional provisions. This was identified mainly in the landmark case of *Sriyani Silva v Iddamaligoda*¹⁶⁵ where the decision of Bandaranayake.J. involved a broad interpretation to Article 126 read with Article 17 of the

¹⁵⁶ Jones, O. (2013) *Bennion on Statutory Interpretation*, 6th edn. p.817.

¹⁵⁷ [1584] 3 Co Rep 7a.

¹⁵⁸ Jones, O. (2013) *Bennion on Statutory Interpretation*, 6th edn. p.820.

¹⁵⁹ Per Lord Renton's committee report in May 1975

¹⁶⁰ Bell, J. & Engle, G. (2005) *Cross Statutory interpretation*, 3rd edn., New York: Oxford University Press.p.29.

¹⁶¹ [1952] AC 189

¹⁶² *ibid.* p.47.

¹⁶³ Denning LJ, *Statutory interpretation again to the fore*, p.102.

¹⁶⁴ 1983 2 WLR 16

¹⁶⁵ [2003] 1 SLR 14

Constitution. In this case, the question before the court was whether the wife or a third party of a deceased person has a right to institute proceedings in the court in terms of the provisions of the Constitution, seeking relief for the alleged infringement of a deceased person's fundamental rights. The majority held that Article 126(2) of the Constitution, when construed according to the ordinary, grammatical, natural and plain meaning of its language, gives a right of complaint to the person affected or to his attorney-at-law and to no other person. Nonetheless the view of Bandaranayake J. was 'a strict literal construction should not be resorted to where it produces an absurd result.'¹⁶⁶ Her interpretation allowed the petitioner to institute proceedings on behalf of the victim as it was appeared that the literal meaning provides no justice to the aggrieved party. According to the context of this case, justice could be achieved only through a flexible approach to the said constitutional provisions as the person whose rights have been infringed was no more alive. This case therefore sets an example that the context is an essential component which is to be considered by the judiciary in interpretation. Thus the context of a dispute before the court paves way to identify the specific rule to be applied in order to serve the needs of the affected party. This methodology was similarly adopted in the cases of public interest litigation as developed by the Indian Supreme Court. Thereby recent developments under judicial activism have permitted third parties to bring cases before the court even in Sri Lanka although they are not the persons affected.¹⁶⁷ This is in contrast to the general practise of making pleadings only by the person aggrieved. Since most of the public interest litigation cases involve fundamental rights violations, this benefits the public widening the scope of Article 126 and Article 17 through interpretation. At first sight, modifying the words of a statute or a constitution by the judiciary amounts to violation of separation of powers. However, if such adaption is necessary in a context to achieve justice, the doctrine of separation of powers must step down from its original position. This indicates that when statutory interpretation reaches one step up, the doctrine of separation of powers drops two steps.

C. Constitutional Supremacy v Parliamentary Sovereignty

¹⁶⁶ Per Bandaranayake J. p.15.

¹⁶⁷ *Bulankulama & six others v Ministry of Industrial Development and seven others* [2000] 3 SLR 243

The courts' legal obligation is to interpret and apply every statute in a way that is consistent with Parliament's legal authority to enact it.¹⁶⁸ An exception to this rule exists in most democratic countries which have a written Constitution, where it is provided that the Supreme Court can strike down legislation which it determines to be inconsistent with the constitution. In contrast, Sri Lanka Supreme Court has no such power. It only has sole and exclusive authority to determine whether any Bill or any provision is inconsistent with the Constitution.¹⁶⁹ This embodies the principle that the Constitution is supreme and even the legislature is subject to it. This is identified under the concept of 'constitutionalism' where the constitution is supreme over all other branches of governance. The nature and authority of all legislation is rooted in constitutional law. Even in Britain where the constitution is not formally embodied in a written instrument it must follow that, unless the contrary intention appears. Hence, Parliament is presumed to conform the established constitutional patterns. Since constitutional law is the framework of the state, Acts are taken to operate within its confines. The constitution of a state, even when unwritten, is not to be altered by a side wind.¹⁷⁰ In Sri Lanka, the constitutional sovereignty requires the consistency of all legislation passed by Parliament with the constitution. Therefore, it is assumed that ultimately statutory interpretation gives effect to the supreme law of the land, the constitution. Furthermore, the constitution provides the manner in which separation of powers is exercised by the three main institutions of government¹⁷¹ thus, the constitution itself recognizes the value of upholding the doctrine of separation of powers. Thereby, the judiciary is inevitably bound to follow the said doctrine in performing their function of statutory interpretation. The maintenance of parliamentary sovereignty is that every statute passed by the legislature are legally valid and each individual including the courts are obliged to obey it. The courts' responsibility is therefore to interpret every statute that is enacted by Parliament without any inconsistency with Parliament's

¹⁶⁸ Goldsworthy, J. (2010) Parliamentary sovereignty and statutory interpretation. In: Goldsworthy, J.(ed.) *Parliamentary Sovereignty*. England: Cambridge University Press.

¹⁶⁹ The Constitution of Sri Lanka 1978, Art.120

¹⁷⁰ Jones, O. (2013) *Bennion on Stutory Interpretation*, 6th edn. p.937.

¹⁷¹ The Constitution of Sri Lanka 1978, Art.4

legal authority. Occasionally Judges also engage in law making by interpreting Acts of parliament, thus their role complements that of parliament. In that, parliament can override judicial law making, while judges cannot override what Parliament does.¹⁷² Therefore, is it inequitable to cast the blame for violating the doctrine of separation of powers by the judiciary in interpreting statutes since in every respect Parliament's law making powers are foremost.

V. CONCLUSION

It is submitted that each rule of interpretation is unique in its application and observed in distinct perspectives by judges in different jurisdictions. While some judges are stuck to the law applying the literal rule, some emphasise more on achieving justice adopting a purposive approach. Hence, the former tends to uphold the doctrine of separation of powers whereas the latter is criticized for violating the said doctrine. Although the rule of law and separation of powers are upheld in the application of the literal rule, being more technical would amount to critique as it may produce absurd results. Therefore, it's up to the judge to decide whether they follow only the law and avoid justice or meet the needs of the public as opposed to a literal approach. 'Justice' is distinct from one person to another. What may be seen as justice to one person would not be justice to another. One could argue that the literal rule is best able to reach justice since it does not go beyond the expressed words of the statute. However, it must be understood that whatever the rule applied the expectation of the courts must be to provide justice for those who seek redress. In line with that the context of the presented matter is an important element to be considered when interpreting a statute. Doctrines or principles must be concerned by the judiciary so long as to safeguard the rights of the people aggrieved. Because, the judiciary as the guardian of protecting the rights of each individual has a duty to provide relief to those who seek justice. However, it does not mean that the judges could be subjective in their determinations. Therefore, being biased or having personal interests are not expected from any judge within their scope of jurisdiction even when applying the purposive rule. Thereby, the judges are permitted to be flexible only up to the extent of achieving justice although it makes the doctrine of separation of powers step down. Because, the value of statutory interpretation is not protected only by ensuring the said political,

constitutional doctrine, nevertheless providing justice to those whose ultimate resort is the court.

ACKNOWLEDGEMENT

This research would not have been a success without the support of many individuals. Therefore, we would like to extend our sincere gratitude to Ms.Bhagya Wickramasinghe and Ms.Thilini Meegaswatta for their commendable assistance provided in preparing the abstract and the full paper. Moreover, we are grateful to our parents for their encouragement and support in completion of this task. Finding sources for the research was a challenge since the subject matter was uncommon. Therefore, we would like to thank the library of General Sir John Kotelawala Defence University for helping us to find out the relevant books. Furthermore, we appreciate the support given by Ms.Siumi Fernando in accomplishing this task.

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