

1. Department: NA
2. Faculty: Legal Studies
3. Course Code: LW007
4. Course Title: Legal Interpretation
5. Number of Credits: 02
6. Course objectives

The course aims to help the student develop a learning approach that combines the theory and practice of judicial reasoning in the application of law. This will be pursued by studying the representative literature, including the general rule and supplementary means of treaty interpretation, on the key methods of legal justification for understanding major questions of legal interpretation. Thus, upon successfully completing the course, the student will be able to distinguish various types of ambiguity: lexical, syntactic, referential, show how a judicial outcome can be justified, explore the different ways of legal justification, and give some theoretical tools of appraisal of judicial outcome.

7. Minimum prerequisites for taking this course, if any: None

8. Course Structure with units if applicable:

- 8.1 Introduction
- 8.2 Forms of Interpretive Text
- 8.3 Meaning of Interpretation
- 8.3 Need for Interpretation
- 8.4 Text in Interpretation
- 8.5 Context in Interpretation
- 8.6 Object and Purpose in Interpretation
- 8.7 Subsequent Agreement, Subsequent Practice and Relevant Rule in Interpretation
- 8.8 Special Meaning in Interpretation
- 8.9 Preparatory Work and Concluding Circumstances in Interpretation
- 8.10 Liberal and Restrictive Interpretation
- 8.11 Equity and other considerations in interpretation

9. Reading suggestions: Text books/Web resources/other

9.1 Textbooks

A Barak (2005) *Purposive Interpretation in Law* (Princeton: Princeton University Press) Chapter 1.  
C Ogden and I Richards (1923) *The Meaning of Meaning* (New York: Harvest).

Fitzmaurice, Elias and Merkouris, eds. (2010) *Treaty Interpretation and the Vienna Convention on the Law of Treaties* (The Hague, Martinus).

Jerzy Wróblewski (1992) *The Judicial Application of Law* (London: Springer).

Marmor (ed.) (1995) *Law and Interpretation* (Oxford: OUP) 31.  
 Ravindra Pratap (2010) *Interpretation of Statutes — A Reader* (New Delhi: Manak).  
 Richard Gardiner (2017) *Treaty Interpretation* (London: OUP).  
 Roscoe Pound (1922) *An Introduction to the Philosophy of Law* (New Haven: Yale).

## 9.2 Web resources/other

<http://library.sau.ac.in/>

*Additional District Magistrate, Jabalpur v S S Shukla etc. etc.*, AIR 1976 SC 1207.

Agreement Establishing the World Trade Organization, 1994.

Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994.

Alexander Orakhelashvili, 'Restrictive Interpretation of Human Rights Treaties in the Recent Jurisprudence of the European Court of Human Rights' (2003) 14 EJIL 529.

American Convention on Human Rights, 1969, Article 1.

American Convention on Human Rights, Article 29.

*Anglo-Iranian Oil Co. (Preliminary Objections)*, ICJ Reports (1952), 93.

*Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v Russian Federation)*, Judgment, International Court of Justice, 31 January 2024.

Article 1 (2) of the Convention on the Conservation of Antarctic Marine Living Resources, 1980 (CCAMLR) *International Status of South West Africa*, ICJ Reports 1950, 128.

*Asian Agricultural Products Ltd. v Republic of Sri Lanka*, ICSID Case No. ARB/87/3, Final Award, dated 21 June 1990.

*Atala Riffo and Daughters v Chile*, Judgment of the Inter-American Court of Human Rights, dated 24 February 2012.J.

Bangladesh's Right to Information Ordinance 2008, Section 3 (b).

Başak Çali, 'Specialized Rules of Treaty Interpretation: Human Rights' in Duncan B. Hollis (eds) (2012) *The Oxford Guide to Treaties* (London: OUP) 525–50.

Brian H Bix, 'Legal interpretation and the philosophy of language' in Peter Tiersma and Lawrence Solan (eds), *The Oxford Handbook on Language and Law* (Oxford, 2012), Chapter 10.

*Brown v. Board of Education* 347 US 483 (1954).

Campbell McLachlan, 'The Principle of Systemic Integration and Article 31(3)(c) of the Vienna Convention' (2005) 54 ICLQ 279.

Case 157/86 *Mary Murphy and Others v Bord Telecom Eireann*, Judgment of the European Court of Justice, dated 04 February 1988.

Case 26/62, *Van Gend & Loos*, Judgment of the European Court of Justice, dated 5 February 1963.

*Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali)*, ICJ Reports (1986), 559.

*Case of the S.S. "Wimbledon"*, PCIJ Ser A 1923, 23, at 24.

*Certain Expenses of the United Nations*, ICJ Reports 1962, 151.

Charter of the United Nations and Statute of the International Court of Justice, 1945.

*Chevron U.S.A., Inc. v Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

Constitution of India, Preamble.

Constitution of Sri Lanka, Article 154J.

CONSTITUTION PETITION NO.1, 7, 8, 10 and 12/2002, Judgment of the Supreme Court of Pakistan, dated 10 April 2002.

Daniel Peat, 'Ordinary Meaning: A Theory of the Most Fundamental Principle of Legal Interpretation' (2016) 75 Cambridge Law Journal 629.

David O Brink, 'Legal Interpretation, Objectivity, and Morality' in Brian Leiter (ed), *Objectivity in Law and Morals* (Cambridge: Cambridge University Press, 2001) 12–65.

David S Jonas and Thomas S Saunders, 'Object and Purpose of a Treaty: Three Interpretive Methods' (2010) 43 Vanderbilt Journal of Transnational Law 565.

*Diamond, Commissioner of Patents and Trademarks v. Chakrabarty*, Judgment of the Supreme Court of the United States, 16 June 1980.

Doha Declaration on the TRIPS Agreement and Public Health, 2001.

*European Communities – Customs Classification of Certain Computer Equipment*, WTO AB Report, para 94.

G L Williams, 'Language and Law' (1945) 61 Law Quarterly Review 71.

GA Res A/RES/51/210 of 17 December 1996.

General Agreement on Tariffs and Trade, Article XX(g)

Georg H Taylor, 'Legal interpretation: The window of the text as transparent, opaque or translucent' (2011) 3 RECHTD 169.

*Grey v Pearson* [1857] 6 H.L.C. 61.

H L A Hart, 'Positivism and the Separation of Law and Morals' (1958) 71 Harvard Law Review 593.

J Arato, 'Subsequent Practice and Evolutive Interpretation: Techniques Interpretation over Time and Their Diverse Consequences', 9(3) *Law & Practice of International Courts and Tribunals* 443 (2010).

J Raz, "Intention in Interpretation" in Robert P. George, ed. (1996) *The Autonomy of Law: Essays on Legal Positivism* (London: OUP) 249.

John F Manning, "The Absurdity Doctrine", 116 *Harvard Law Review* (2003) 2387.

*Kesavananda Bharati v State of Kerala*, AIR SC 1461.

Lauterpacht, "Restrictive Interpretation and the Principle of Effectiveness in the Interpretation of Treaties", 26 *British Yearbook of International Law* (1949), 48.

*Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of the International Court of Justice*, 08 July 1996.

Lon L Fuller, 'Positivism and Fidelity to Law—A Reply to Professor Hart' (1958) 71 Harvard Law Review 630.

*Luther R Campbell aka Luke Skywalker, et al v. Acuff Rose Music, Inc.* Judgment of the US Supreme Court of the United States, 7 March 1994.

M Waibel, 'Demystifying the Art of Interpretation' (2011) 22 EJIL 571.

*M. Azath S. Salley v Colombo Municipal Council and Others*, Judgment of the Supreme Court of Sri Lanka in S.C. (F/R) No. 252/2007, dated 04 March 2009.

McDougal, Lasswell and Miller (1961) *The Interpretation of International Agreements and World Public Order: Principles of Content and Procedure* (New Haven: Yale University Press) Chapter 1.

*North Sea Continental Shelf Cases*, ICJ Reports (1969), 3.

*Novartis AG v. Union of India and Others*, Judgment of the Supreme Court of India, dated 01 April 2013.

- O W Holmes, "The Theory of Legal Interpretation", 12 *Harvard Law Review* (1899), 417.
- Obligations Concerning Negotiations Relating to the Cessation of Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v India)*, Jurisdiction of the Court and the Admissibility of the Application, ICJ Judgment of 5 October 2016.
- Palm Oil Research and Development Board and Anr. v Premium Vegetable Oil Sdn Bhd*, Judgment of the Federal Court of Malaysia, dated 27 February 2004.
- Pepper (Inspector of Taxes) v Hart* [1993] 1 All E.R. 42.
- Philip Allott, 'Interpretation—An Exact Art' in Andrea Bianchi, eds. (2015) *Interpretation in International Law* (London: OUP) Chapter 18.
- Philo Riggs v Elmer E. Palmer*, 115 NY 506 (1889).
- Regina v Bow Street Metropolitan Stipendiary Magistrate and Others, Ex parte Pinochet Ugarte* (No. 3), [2000] 1 A.C. 147.
- Regina v Immigration Officer at Prague Airport and another (Respondents) ex parte European Roma Rights Centre and others (Appellants)* [2004] UKHL 55.
- Richard H Fallon Jr, 'The Meaning of "Legal Meaning" and Its Implications for the Theory of Legal Interpretation' (2015) 82 *University of Chicago Law Review* 1235.
- Ronald Dworkin, 'Law as Interpretation' (1982) 60 *Texas Law Review* 530.
- Sabel BV v. Puma AG, Rudolf Dassler Sport*, Judgment of the European Court of Justice, 11 November 1997.
- Scalia, "Common-Law Courts in a Civil-Law System: The Role of United States Federal Courts in Interpreting the Constitution and Laws", The Tanner Lectures on Human Values, Princeton University, 8 and 9 March 1995, 79.
- Subsequent agreements and subsequent practice in relation to the interpretation of treaties, Text of draft conclusions 1–5 provisionally adopted by the Drafting Committee at the sixty-fifth session of the International Law Commission, 6 May–7 June and 8 July–9 August 2013, Draft Conclusion 2.
- Supreme Court Advocates-on-Record Association and Anr. v Union of India*, Judgment of the Supreme Court of India, dated 06 October 1993.
- T Endicott, "Putting Interpretation in Its Place," 13 *Law and Philosophy* (1994) 451.
- The Heydon* [1584] EWHC Exchequer J36.
- The Island of Timor Case*, PCA (1914).
- United States – Gambling and Betting Services*, WTO AB Report, paras. 248 and 249.
- United States – Import Prohibition of Certain Shrimp and Shrimp Products*, WT/DS58/AB/R (12 October 1998).
- United States – Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R (29 April 1996) 23.
- United States v Kirby*, 74 U.S. 482 (1868).
- W.N. Eskridge Jr., "Dynamic Statutory Interpretation." 135 *University of Pennsylvania Law Review* 1479 (1986–87).
- William N. Eskridge and Philip P. Frickey, eds., 'The Making of the Legal Process' (1994) 107 *Harvard Law Review* 2031.

#### 10. Evaluation and Weightage of different components of evaluation

There will be two written examinations of 40 marks each and a case study/written assignment/term paper of 20 marks.