Assessment guidelines for ENG4169, English legal language: Interpretation and meaning
Autumn 2021

The course

This course explores ways that theoretical tools from linguistics can be applied to deepen understanding of legal interpretation, and, conversely, ways in which legal texts provide challenging problems and data for theories of language and its use. We focus on legal texts from common law (Anglo-American) jurisdictions.

Key questions for this course include:

- Can you commit perjury while telling the strict and literal truth?

- How do legal texts and their interpretations differ from other kinds of language use?

- What is the illocutionary force of statutes? Do they create new legal facts or are they (also) orders to be followed?

- What determines the meaning of a legal text? The original meanings of the words used, their meanings now, intentions of the legislature, or something else?

- How do judges and other consumers of legal texts understand and interpret them? What are the roles played by linguistic decoding, inference, and more creative legal decision-making?

- What is 'speech' in the context of 'freedom of speech' and when is it protected by law?

- What does it take to consent to something – e.g. to be searched by the police – and do the relative power of the police and ordinary citizens make a difference?

Learning outcomes
The term paper tests the following general learning outcomes as specified in the course description (https://www.uio.no/studier/emner/hf/ilos/ENG4169/):

After completing this course you will have:

- be familiar with the application of linguistic theories to the analysis of legal texts, particularly statutes
- be familiar with legal canons of interpretation such as *noscitur a sociis*
- have knowledge of theoretical accounts of implicature, pragmatic enrichment, and speech acts
- have insight into the contested notion of the meaning of a legal text, and some of the competing accounts, including textualism and intentionalism
- have advanced skills in scholarly writing that applies one or more linguistic theories to legal texts

Topics covered, with reading

	Topic	Reading
1.	Welcome to the course! Perjury, lies and pragmatics	*Theory*: **§§8.1–8.3 of Kroeger, P. (2019). *Analyzing Meaning : an Introduction to Semantics and Pragmatics* (Second corrected and slightly revised ed.). Berlin:** Language Science Press. (**6 pages**) *Paper*: **pp. 373–402 of Tiersma, P. M. (1989). The language of perjury**: Literal truth, ambiguity, and the false statement requirement. *Southern California Law Review*, 63(2), 373-432. (**31 pages**)
2.	Pragmatics and	*Theory*: **pp. 214–215 of Saeed, J. I. (2016). Semantics** (4th ed.). Malden, Mass.:

	rules for legal interpretation	Wiley. (**2 pages**) *Paper*: **§§1–5 and 7 (i.e. all except §6)** of **Carston, R. (2013). Legal texts and canons of construction: A view from current pragmatic theory.** In M. D. A. Freeman & F. Smith (Eds.), Law and Language (pp. 8-33). Oxford: Oxford University Press. (**21 pages**) *Background* – on rules of interpretation: **pp. 257–267 and 270–274 of Holland, J. A. & Webb, J. S. (2013).** *Learning Legal Rules* : *A Students' Guide to Legal Method and Reasoning* (8th ed.). Oxford: Oxford University Press. (**15 pages**)
3.	Speech acts and statutes	*Theory*: **pp. 229–240 of Saeed, J. I. (2016). Semantics** (4th ed.). Malden, Mass.: Wiley. (**11 pages**) *Papers*: **pp. 2–4 of Marmor, A. (2011). Truth in law**. *University of Southern California Legal Studies Working Paper Series*, 11-3. Retrieved from http://ssrn.com/paper=1760053 (**3 pages**) *and* **Allott, N. & Shaer, B. (2017). The illocutionary force of laws.** *Inquiry*, 61(4), 351-369. doi:10.1080/0020174X.2017.1371865 (**20 pages**)
4.	Enrichment and underspecification	*Papers*: **pp. 423–430 of Marmor, A. (2008). The pragmatics of legal language**. Ratio Juris, 21(4), 423-452. doi:10.1111/j.1467-9337.2008.00400.x (**7 pages**) *and*: **pp. 83–109 of Allott, N. & Shaer, B. (2017). Inference and intention in legal interpretation**. In J. Giltrow & D. Stein (Eds.), *The Pragmatic Turn: Inference and Interpretation in Legal Discourse* (pp. 83-118). Berlin: De Gruyter Mouton. doi:10.1515/9781501504723-004 (**27 pages**) *Theoretical background*: **§9.3 of Kroeger, P. (2019).** *Analyzing Meaning* : *an Introduction to Semantics and Pragmatics* (Second corrected and slightly revised ed.). Berlin: Language Science Press. (**4 pages**)
5.	The value of vagueness	*Theoretical background*: **Legal Theory Lexicon 051: Vagueness and Ambiguity** https://lsolum.typepad.com/legal_theory_lexicon/interpretation/ (**about 2 pages**) *Paper*: **Endicott, T. (2011). The value of vagueness**. In A. Marmor & S. Soames (Eds.), *Philosophical Foundations of Language in the Law* (pp. 14-30). Oxford: Oxford University Press. (**16 pages**)
6.	Textualism	*Theoretical background*: **Legal Theory Lexicon 030: Textualism** https://lsolum.typepad.com/legal_theory_lexicon/2004/04/legal_theory_le_3.html *On the relevant part of the US constitution:* **US government webpage: "Prohibition on the Infliction of Cruel and Unusual Punishments: Doctrine and Practice"** at https://constitution.congress.gov/browse/essay/amdt8-2-1-2/ALDE_00000964/ *Paper*: **Perry, J. (2011). Textualism and the discovery of rights.** In A. Marmor & S. Soames (Eds.), *Philosophical Foundations of Language in the Law* (pp. 105-129). Oxford: Oxford University Press. (**24 pages**)
	Study break: no seminar!	
7.	What is speech?	*Paper*: Tiersma, P. M. (1993). Nonverbal communication and the freedom of "speech". Wisconsin Law Review, 1993(6), 1525–1590.
8.	The language of consent in police stops	*Theory revision:* **pp. 229–240 of Saeed, J. I. (2016). Semantics** (4th ed.). Malden, Mass.: Wiley. (11 pages) *Paper:* **Nadler, J. & Trout, J. D. (2012). The language of consent in police encounters**. In P. M. Tiersma & L. Solan (Eds.), *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press.

9.	Pragmatics, lies and audio tape	*Main reading:* **Chapter 4 of Shuy, R. W. (2005).** *Creating Language Crimes : How Law Enforcement Uses (and Misuses) Language.* Oxford; New York: Oxford University Press. (9 pages)
		Background: **§§24.1–24.2 (pp. 340–344) of Tiersma, P. M. & Solan, L. (2012). The language of crime.** In P. M. Tiersma & L. Solan (Eds.), *The Oxford Handbook of Language and Law* (pp. 340-353). Oxford: Oxford University Press. (3 pages)
		Chapters 1 and 2 of Shuy, R. W. (2005). *Creating Language Crimes : How Law Enforcement Uses (and Misuses) Language.* Oxford; New York: Oxford University Press. (27 pages)
10.	Courtrooms, cross-examination and interpreting	**pp. 101–108 of Schane, S. (2012). Contract formation as a speech act**. In P. M. Tiersma & L. Solan (Eds.), *The Oxford Handbook of Language and Law* (pp. 101-113). Oxford: Oxford University Press.
		most of Davies, P. S. (2013). Construing commercial contracts: No need for violence. In M. D. A. Freeman & F. Smith (Eds.), *Law and Language* (pp. 434-456). Oxford University Press. doi:10.1093/acprof:oso/9780199673667.003.0266
11.	Your presentations	As appropriate from the above and other resources.

Term paper

Official overview at https://www.uio.no/studier/emner/hf/ilos/ENG4169/#exam
and https://www.uio.no/studier/emner/hf/ilos/ENG4169/h20/eksamen/

The term paper was to be based on some of the content of the course, providing a written answer, supported by argumentation, to a question about legal interpretation. It could be primarily theoretical, mainly concerned with the analysis of data, or a combination of the two.
Students were to choose their question during the second half of the course, with help from the course teacher, and subject to his approval.

The term paper allows students to show their:
• knowledge of theories and the associated terminology
• ability to analyse legal texts or address questions about their interpretation by applying linguistic theory or theories
• ability to explain clearly both theoretical claims and their analysis of legal texts
• ability to extract and summarise claims and arguments from research papers.

The quality of the candidates' own written academic English is also assessed, with focus on clarity and on the correctness of terminology that is specific to linguistics and legal interpretation.

The submitted term paper must comply with the normal rules for correct use of sources and citations.

Grades are awarded according to the national qualitative descriptions of letter grades (https://www.uio.no/english/studies/examinations/grading-system/index.html):

Symbol	Description	General, qualitative description of evaluation criteria
A	Excellent	An excellent performance, clearly outstanding. The candidate demonstrates excellent judgement and a high degree of independent thinking.

B	Very good	A very good performance. The candidate demonstrates sound judgement and a very good degree of independent thinking.
C	Good	A good performance in most areas. The candidate demonstrates a reasonable degree of judgement and independent thinking in the most important areas.
D	Satisfactory	A satisfactory performance, but with significant shortcomings. The candidate demonstrates a limited degree of judgement and independent thinking.
E	Sufficient	A performance that meets the minimum criteria, but no more. The candidate demonstrates a very limited degree of judgement and independent thinking.
F	Fail	A performance that does not meet the minimum academic criteria. The candidate demonstrates an absence of both judgement and independent thinking.