UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Theories of Interpretation

2627-3-A5810033

Learning objectives

The main learning objective of the course in Theories of Interpretation is to achieve, on the one hand, a critical awareness of the theoretical and practical problems inherent in the interpretation of norms and, on the other hand, a basic knowledge of some fundamental interpretive arguments.
More specifically, the course objectives consist of:

• **Knowledge and understanding:** knowledge of semiotics, linguistics, and categorization theory notions that are essential for understanding interpretive activity; understanding of theories regarding the relationship between norms and language; knowledge of the assumptions and arguments of the main theories of legal interpretation; knowledge of some fundamental interpretive arguments;
• **Applying knowledge and understanding:** acquisition of an adequate capacity to develop an autonomous, rigorous, and critical reflection on cultural and legal problems connected to the interpretation of normative texts, and an adequate capacity to recognize and employ interpretive arguments;
• **Making judgements:** development of an adequate autonomy of judgement and evaluation in relation to interpretive arguments, supported by the application of pertinent conceptual categories;
• **Communication skills:** development of an adequate capacity to present contents, theses, and arguments in a clear and rigorous manner, through the use of a pertinent and appropriate theoretical-conceptual vocabulary;
• **Learning skills:** development of an adequate capacity to autonomously continue one's learning path concerning further interpretive and argumentative techniques relevant to specific contexts of legal practice.

Contents

The course will be articulated in four main parts.

The *first part* will be dedicated to acquiring some fundamental categories of contemporary semiotics and linguistics to foster more conscious reflection on interpretive activity in general and on legal interpretation in particular.

The *second part* will be dedicated to critical reflection on the role of legal norms as "interpretive schemes" of social phenomena and to the theoretical distinction between subjective legal meaning and objective legal meaning.

The *third part* will be dedicated to critical discussion of the theses and assumptions of the main theories of legal interpretation, and in particular to the comparison between cognitive theories and skeptical theories of interpretation.

In the *fourth part*, more specifically oriented toward the acquisition of practical skills, some of the main interpretive techniques used in the field of legal interpretation will be examined and an introductory reflection will be initiated on the tools that topics and rhetoric can offer for the analysis and construction of interpretive arguments in the legal context.

Detailed program

1. Fundamental categories of semiotics and theory of interpretation
   1.1. The concepts of communication, signification and reception
   1.2. The concept of sign: natural signs and artificial signs
   1.3. Interpretation and categorization
   1.4. Theories of meaning
   1.5. Interpretation and conversation
   1.6. Doing things with words: speech acts and law
   1.7. Problems of meaning: vagueness, ambiguity, ambivalence

2. Legal norms as interpretive schemes
   2.1. Natural fact and legal meaning
   2.2. Causal interpretation vs. normative interpretation
   2.3. Subjective legal meaning vs. objective legal meaning
   2.4. The dynamic structure of law and the necessity of interpretation

3. Theories of legal interpretation
   3.1. Cognitive, reproductive and normative interpretation
   3.2. Cognitive theories of interpretation: interpretation as an act of knowledge
   3.3. Skeptical theories of interpretation: interpretation as a discretionary act of will
   3.4. The role of the judge and interpretation in the construction and application of law

4. Interpretive techniques and argumentation
   4.1. Interpretive techniques or arguments
   4.2. Argumentation, topics and rhetoric in legal practice

Prerequisites

The course in Theories of Interpretation does not require particular prerequisites, except for a general knowledge of basic legal concepts, which will be rediscussed in class.

The fundamental notions of semiotics and linguistics necessary for acquiring the course's learning objectives will be provided and discussed during the development of the first part of the course.

Teaching methods

The course, which will take place in the *second semester*, will consist of 24 lessons of 2 hours each. The lessons will be held in *Italian*.

During the lessons, phases of *lecture-based instruction* (frontal instruction) and phases of *interactive teaching* will be alternated: some particularly significant texts will be examined and discussed in class, in order to promote critical reflection and active participation of students through the Socratic maieutic model.

For at least 2 of the 24 lessons, prior reading of brief essays with presentation in class by students in *flipped classroom* mode will be proposed.

Attendance at lessons is strongly recommended, also by reason of the fact that, given the markedly interdisciplinary nature of the topics covered, during the course reflections and conceptual categories not always familiar in the context of legal studies will be introduced. The topics discussed in class will make understanding of the reference texts and course program easier and will favor, in particular, deeper reflection and the development of a critical spirit on the topics covered.

In any case, to favor the achievement of learning objectives by any *working students*, up to 4 lessons of 2 hours each can be organized, in the face of an actual request, to be held remotely in synchronous mode during evening hours or on non-working days.

For students from other degree programs, the possibility of agreeing with the professor on a partially differentiated program according to their field of study is provided.

Assessment methods

Assessment will consist of an** oral examination on the topics covered in class and on the reference texts** indicated in the subsequent section of the present *syllabus*. The results achieved in relation to the course's learning objectives will be evaluated, in particular:

- knowledge of the categories, theories, arguments, and interpretive techniques discussed during lectures and in the bibliography texts;
- critical understanding of the fundamental theoretical, legal, and philosophical problems connected to the interpretation of normative texts, and an adequate capacity to recognize and employ interpretive arguments;
- capacity to analyze and synthesize the contents, theses, and arguments of the authors and of the bibliography texts, also through the comparison of different authors and the essential reference to the bibliography texts;
- ability to clearly and rigorously present and reconstruct the theses and topics covered during lectures and in the bibliography texts, using a pertinent legal and theoretical-conceptual vocabulary;
- ability to develop an autonomous, rigorous, and systematic critical reflection through the pertinent and rigorous use of the acquired conceptual categories, also with reference to concrete cases.
- development of an adequate autonomy of judgment and evaluation in relation to interpretive arguments, supported by the application of relevant conceptual categories;

In general, the evaluation of the oral exam will highly value precise and critical references to the bibliography texts, and the development of an autonomous critical reflection on the exam syllabus topics.

Although the overall syllabus and educational objectives of the course do not differ for attending and non-attending students, students can choose to prepare for the exam in one of the following two ways:

(i) the first option, recommended only for attending students (and not advised for those who cannot regularly attend lectures), consists of preparing for the exam by drawing on the explanations and critical discussions from lectures, as well as the analysis of the reference texts that will be indicated during the course;
(ii) the second option, strongly recommended for non-attending students, consists of preparing for the exam using the recommended reference texts for non-attending students, as indicated in the subsequent section of this syllabus.

Please note that in both cases, the critical reading of the texts is considered an essential step for achieving the course's educational objectives, and preparing for the exam relying solely on notes taken by other students does not allow these objectives to be met.

There are no interim assessments (mid-term exams).

Textbooks and Reading Materials

Reference texts indicated for *attending* students

Given the interdisciplinary nature of the subject, the bibliography for attending students will be defined during the course, and will include *specific parts* (which will be indicated during the lessons) of the following volumes:

1. Lorenzo CANTONI/Nicoletta DI BLAS, *Teoria e pratiche della comunicazione*. Milano, Apogeo, 2002.
2. Umberto ECO, *I limiti dell'interpretazione*. Milano, La nave di Teseo, 2016.
3. Umberto ECO, *Trattato di semiotica generale*. Milano, La Nave di Teseo, 2016.
4. H. Paul GRICE, *Logica e conversazion*e. In: Marina SBISÀ (ed.), Gli atti linguistici. Aspetti e problemi di filosofia del linguaggio. Milano, Feltrinelli, 1978, 1995, pp. 199-219.
5. Riccardo GUASTINI, *Le fonti del diritto e l'interpretazione*. Giuffrè, Milano, 1993.
6. Riccardo GUASTINI, *Lezioni di teoria del diritto e dello stato*. Torino, Giappichelli, 2006.
7. Hans KELSEN, *Lineamenti di dottrina pura del diritto*. Torino, Einaudi, 1952.
8. Lelio LANTELLA/Raffaele CATERINA, *Se X allora Y. Volume II: lavorare con le regole*. Torino, Giappichelli, 2009.
9. Giuseppe LORINI/Lorenzo PASSERINI GLAZEL (eds.), *Filosofie della norma*. Torino, Giappichelli, 2012.
10. Giovanni PASCUZZI, *Riconoscere e usare gli argomenti interpretativi*. In "Diritto e formazione", 7 (2007), n. 2, pp. 289-297.
11. Lorenzo PASSERINI GLAZEL, *La forza normativa del tipo. Pragmatica dell'atto giuridico e teoria della categorizzazione*, Macerata, Quodlibet, 2005.
12. Ugo VOLLI, *Manuale di semiotica*. Roma-Bari, Laterza, 2003.

Reference texts indicated for *non-attending* students

In order to enable all students to achieve the course learning objectives, non-attending students may prepare for the examination using the following bibliography (it is recommended to follow the order of reading indicated):

1. Lorenzo CANTONI/Nicoletta DI BLAS, *Teoria e pratiche della comunicazione*. Milano, Apogeo, 2002 (limitatamente ai paragrafi 1.1, 1.2., 1.3, 1.4., 1.5., 1.6.).
2. Ugo VOLLI, *Manuale di semiotica*. Roma-Bari, Laterza, 2003, Cap. 1., §§ 1.1., 1.2., 1.3., pp. 3-12.
3. Umberto ECO, *I limiti dell'interpretazione*. Milano, La nave di Teseo, 2016, limitatamente alle pp. 13-19.
4. Umberto ECO, *Trattato di semiotica generale*. Milano, La Nave di Teseo, 2016. Limitatamente ai §§ 0.1.3., 0.3., 0.5., 0.6.1., 0.7.1.
5. H. Paul GRICE, *Logica e conversazione*. In: Marina SBISÀ (ed.), Gli atti linguistici. Aspetti e problemi di filosofia del linguaggio. Milano, Feltrinelli, 1978, 1995, pp. 199-219.
6. Lorenzo PASSERINI GLAZEL, *La forza normativa del tipo. Pragmatica dell'atto giuridico e teoria della categorizzazione*. Macerata, Quodlibet, 2005 (limitatamente al capitolo 3.).

7. Hans KELSEN, *Lineamenti di dottrina pura del diritto*. Torino, Einaudi, 1952 (limitatamente al cap. I e al cap.VI).
8. Riccardo GUASTINI, *Le fonti del diritto e l'interpretazione*. Giuffrè, Milano, 1993 (limitatamente ai capitoli I, II, XXIV, XXV, XXVI, XXIX).
9. Riccardo GUASTINI, *Lezioni di teoria del diritto e dello stato*. Torino, Giappichelli, 2006 (limitatamente a: Parte seconda, capitoli I, II, III).
10. Giovanni PASCUZZI, R*iconoscere e usare gli argomenti interpretativi*. In "Diritto e formazione", 7 (2007), n. 2, pp. 289-297.
11. Lelio LANTELLA/Raffaele CATERINA, *Se X allora Y. II: lavorare con le regole*. Torino, Giappichelli, 2009 (limitatamente al cap. 1, e, esclusivamente come eventuale esercizio di analisi facoltativo, i §§ 2.1. e 2.2.1. del cap. 2.).
12. Giuseppe LORINI/Lorenzo PASSERINI GLAZEL (eds.), *Filosofie della norma*. Torino, Giappichelli, 2012 (limitatamente ai seguenti saggi della parte II.: John R. Searle, *Regole regolative vs. regole costitutive*, pp. 93-97; Gaetano Carcaterra, *Norme costitutive*, pp. 99-105; Amedeo Giovanni Conte, *Regole eidetico-costitutive e regole anankastico-costitutive*, pp. 99-105; Giampaolo M. Azzoni, *Regole ipotetico-costitutive*, pp. 119-136).

Sustainable Development Goals

PEACE, JUSTICE AND STRONG INSTITUTIONS