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## CONTEMPORARY LEGAL HERMENEUTICS: A CRITIQUE OF TRADITIONAL METHODS OF INTERPRETING THE LAW

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**Abstract.** *The historical evolution of interpretive techniques in legal hermeneutics reveals a rich and dynamic tradition, shaped by the complexities of law throughout the centuries. Early legal interpretation drew inspiration from classical philosophy and religious exegesis, gradually forming a distinct discipline dedicated to clarifying statutes and constitutional texts. These interpretive methods reflected broader intellectual movements, such as the Enlightenment's focus on reason and the rise of legal positivism, which emphasizes the text of the law as the primary source of meaning. The evolution of these currents has influenced not only the tools of interpretation but also contemporary debates regarding the legitimacy of judicial discretion. Key figures such as Friedrich Carl von Savigny and Hans-Georg Gadamer revolutionized the field through innovative perspectives, establishing fundamental principles based on the primacy of statutory language, the role of legislative intent, and the application of canons of construction. However, traditional legal hermeneutics faces significant criticism: strict textualism can generate rigid results in unforeseen situations, and reconstructing legislative intent proves difficult within the complex legislative process. Jurisprudence and precedent, while providing stability and predictability through the doctrine of stare decisis, may perpetuate outdated doctrines. Purposivist interpretation and teleological methods offer adaptive flexibility but introduce risks of subjectivism. Contemporary critique highlights that neutrality in interpretation is illusory, being inevitably influenced by the interpreter's context. Interdisciplinary perspectives from philosophy, linguistics, and sociology have enriched legal analysis, while postmodern hermeneutics challenge notions of fixed meaning and grand narratives, emphasizing the multiplicity and contextuality of interpretation. Technological innovations and artificial intelligence introduce new challenges and opportunities for digital legal hermeneutics, requiring adapted interpretive frameworks. In conclusion, contemporary legal hermeneutics evolves from traditional methods toward more reflective, context-sensitive, and socially responsive approaches, ensuring the relevance and fairness of law within an ever-transforming social landscape.*

**Key words:** *Legal Hermeneutics, Statutory Interpretation, Legislative Intent, Textualism, Purposivism, Judicial Precedent, Originalism, Interpretive Bias, Postmodern Legal Theory, Digital Legal Hermeneutics*

### Introduction.

The historical development of interpretive techniques in legal hermeneutics reveals a rich and evolving tradition shaped by the needs and complexities of law throughout the centuries. Early legal interpretation drew heavily from classical philosophy and religious exegesis, gradually forming a distinct discipline aimed at clarifying statutes, contracts, and constitutional texts. Over time, these interpretive



methods have reflected broader intellectual movements, such as the Enlightenment's focus on reason and the subsequent rise of legal positivism, which emphasized the text of the law itself as the primary source of meaning. These historical currents have not only influenced the tools and strategies of legal interpretation but have also contributed to the ongoing debate about the legitimacy and boundaries of judicial discretion.

### **Main text**

Key figures have played pivotal roles in shaping traditional legal hermeneutics, each bringing unique perspectives and innovations to the field. Thinkers like Friedrich Carl von Savigny advanced the historical school of legal interpretation, which underscored the importance of understanding legal texts within their cultural and temporal context. Similarly, scholars such as Hans-Georg Gadamer brought philosophical rigor to hermeneutics, arguing for the interpretive process as a dialogue between the text and the interpreter. These intellectual contributions have laid the groundwork for modern debates on legal interpretation and have ensured that traditional hermeneutics remains a living, contested practice.

Core principles guiding traditional interpretation are rooted in the pursuit of objectivity, consistency, and fidelity to the legal text. At the heart of this tradition lies a commitment to:

- 1) The primacy of statutory language, where meaning is sought first in the text itself
- 2) The role of legislative intent, considering the purpose and context behind the law's enactment
- 3) The application of established canons of construction to resolve ambiguities.

These principles collectively aim to ensure that interpretation is neither arbitrary nor overly subjective, fostering predictability and stability in legal outcomes. By adhering to these foundational tenets, traditional legal hermeneutics aspires to balance respect for the written law with the realities of changing social and historical circumstances.

Literalism in legal hermeneutics is grounded in the principle that statutory wording should be the primary focus when interpreting the law, reflecting a belief in the clarity and sufficiency of legislated language. This approach contends that the



meaning of a legal provision is best discovered by adhering closely to the text itself, emphasizing the plain and ordinary meaning of words as they appear in statutes and legal documents. Proponents argue that such textual fidelity promotes predictability and consistency in judicial decisions, as it limits subjective or extraneous considerations that could otherwise influence interpretation. Moreover, by prioritizing the statutory wording, literalism aims to respect legislative intent by enforcing the law as it is written, rather than as it might have been meant or could be improved.

Advocates for textual determinacy present several arguments to support the primacy of literalism in legal interpretation. They maintain that focusing on the explicit language of statutes ensures objectivity, as it minimizes the influence of personal biases or ideological preferences among judges. Key points commonly raised include:

- The text serves as a democratic anchor, reflecting the will of the legislature.
- Literal interpretation provides a clear framework for legal actors, reducing uncertainty.
- By adhering to the text, courts avoid engaging in judicial lawmaking, which is traditionally seen as the prerogative of the legislature.

These arguments collectively underscore the belief that strict textualism upholds the separation of powers and the legitimacy of the legal system.

Despite its apparent strengths, strict adherence to textualism exposes several limitations that can undermine effective legal interpretation. Legal texts often contain ambiguities, gaps, or broad terms that defy a singular, determinate meaning, especially when applied to complex or unforeseen situations. Additionally, language evolves over time, and the context in which a law was drafted may not align neatly with contemporary realities. These challenges can lead to rigid or unjust outcomes if courts are bound solely by the literal text, ignoring the broader purpose or intent behind a statute. Thus, while textualism seeks to constrain judicial discretion, it may paradoxically necessitate interpretive strategies that extend beyond the text in practice.

One of the central concerns in legal hermeneutics is how courts and interpreters ascertain legislative intent, as this intent is often positioned as a guiding principle in statutory interpretation. Traditional methods for discerning legislative intent include



examining legislative history, committee reports, floor debates, and related documents to reconstruct the lawmakers' objectives at the time of enactment. These techniques are designed to supplement the statutory text by providing crucial context, which can clarify ambiguous provisions or resolve interpretive uncertainties. As such, the role of legislative intent operates in tandem with the primacy of text, aiming to ensure that statutes are interpreted in a manner faithful to both their letter and their spirit.

Despite the prominence of legislative intent in legal interpretation, reconstructing the original purpose behind a statute poses significant challenges. The legislative process is often complex and involves multiple actors with divergent motivations, making it difficult to pinpoint a unified intent. Moreover, documentation such as debates or reports may reflect only the views of a subset of legislators, rather than the collective will of the legislative body. These difficulties are compounded by the passage of time, changes in societal context, and the evolution of language, all of which can obscure or distort the lawmakers' original aims. As a result, efforts to recover legislative intent frequently confront the risk of subjective interpretation and historical anachronism.

Contemporary scholars have increasingly critiqued the reliance on legislative intent, questioning its practicality and philosophical coherence in modern hermeneutics. Critics argue that the search for intent can devolve into speculation, undermining the objectivity that legal interpretation strives to achieve. Furthermore, some maintain that overemphasis on intent may inadvertently privilege the views of a few influential actors, rather than reflecting the democratic process as a whole. In response, modern hermeneutic theory, drawing on thinkers like Gadamer, suggests a shift toward viewing interpretation as a dynamic process shaped by present-day understandings and values, rather than a static recovery of historical motives.

Judicial decisions play a pivotal role in the interpretation of law, serving as authoritative guides for courts faced with similar issues in the future. The doctrine of *stare decisis*, which means "to stand by things decided," ensures that the principles established in prior rulings are generally adhered to by subsequent courts, thereby fostering consistency and predictability within the legal system. This reliance on



precedent not only constrains judicial discretion but also reflects a broader interpretive turn within legal theory, where the act of interpretation becomes a central judicial function.

Over time, the body of precedent itself evolves, shaped by new legal challenges, societal shifts, and reinterpretations by later courts. As judges encounter novel circumstances or reconsider past doctrines in light of changing social values, they may refine, limit, or even overturn earlier decisions. This dynamic process highlights the fluid nature of legal interpretation, where precedent is not static but constantly negotiated and redefined through ongoing judicial engagement.

However, the reliance on precedent introduces inherent tensions between the need for legal stability and the imperative of adaptability. While *stare decisis* provides a foundation of certainty for individuals and institutions, it can also impede necessary legal reforms or perpetuate outdated doctrines. Contemporary scholars argue that a rigid adherence to precedent may hinder the law's responsiveness to evolving social and moral understandings, emphasizing the importance of balancing respect for past decisions with the flexibility to reinterpret or depart from them when justice so requires.

Purposivism and teleological interpretation represent a significant evolution in legal hermeneutics, as they urge interpreters to look beyond the literal text and consider the broader purpose that underlies a given law. Instead of focusing solely on the precise wording, this approach emphasizes the importance of understanding legislative intent and the societal goals a statute was meant to achieve. By centering on the law's purpose, purposivism seeks to ensure that legal decisions remain relevant and responsive to contemporary challenges, fostering a more dynamic and adaptive system of interpretation. This method aligns with the broader philosophical shift in hermeneutics, which acknowledges the complexity and context-dependence of legal texts.

To extract legislative objectives, judges and legal scholars employ a variety of interpretive techniques. These may include examining legislative history, committee reports, preambles, and statements made during debates, all of which can shed light on



the drafters' intentions. Additionally, courts may consider the social and political context in which a law was enacted, as well as the problem it was designed to address. The following techniques are often utilized to discern legislative objectives:

- Analyzing historical records and drafting documents
- Reviewing policy statements and governmental reports
- Considering expert testimonies and amicus briefs.

Collectively, these methods aim to provide a clearer understanding of the law's intended function and help ensure its application remains faithful to its original purpose.

Despite its strengths, purposivism carries inherent risks, particularly the danger of subjective judicial reasoning. By prioritizing the perceived purpose or spirit of the law, judges may inadvertently project their own values or policy preferences onto the statute, potentially diverging from the legislature's actual intent. Such subjectivity can undermine predictability and stability, as different judges might identify different purposes or weigh them differently. This tension highlights the ongoing challenge within legal hermeneutics: balancing the need for interpretive flexibility with the imperative for consistent, objective application of the law.

The traditional promise of objectivity in legal interpretation often rests on the assumption that legal texts possess a fixed and discoverable meaning, independent of the interpreter's influence. However, contemporary legal hermeneutics challenges this notion by highlighting the inherent subjectivity involved in any act of interpretation, arguing that claims of neutrality are, in many ways, an illusion. While judges and legal scholars may strive to apply rules consistently, the process of ascribing meaning to statutes, constitutions, or precedents invariably involves interpretive choices shaped by context, language, and competing values. This realization calls into question the belief that legal reasoning can ever be truly neutral, given the complex interplay between text, history, and the interpreter's perspective.

The influence of an interpreter's background and values is a central concern in critiques of traditional legal interpretation. Factors such as personal beliefs, cultural context, and political ideology inevitably shape the way legal actors understand and



apply the law. For instance, two judges with differing worldviews may approach the same statutory text but arrive at divergent conclusions due to their underlying assumptions about justice, fairness, or social order. This dynamic underscores the importance of recognizing that legal interpretation is not a purely technical task, but one deeply affected by the interpreter's own experiences and biases. As a result, claims to objective reading are often undermined by the subtle yet pervasive influence of individual perspective.

Several case studies vividly illustrate how interpretive bias manifests in judicial decision-making. For example, landmark cases in constitutional law often reveal how judges' political leanings and prior experiences influence their readings of ambiguous provisions. In these instances, ostensibly neutral legal principles are filtered through the lens of personal conviction, leading to divergent outcomes even in cases involving similar facts or legal questions. Such examples make clear that the myth of objective interpretation is frequently exposed in practice, as the law's meaning is actively constructed—rather than merely discovered—by those tasked with its application. This reality highlights the ongoing relevance of hermeneutic critique in understanding the limitations of traditional interpretive methods.

Legal interpretation has increasingly needed to adapt to rapidly shifting social and cultural contexts, challenging the static assumptions of traditional hermeneutic methods. As society evolves, legal texts are confronted with new realities—technological advancements, changing family structures, and emergent social norms—that often defy the original intentions or expectations of lawmakers. Consequently, contemporary hermeneutics argue that interpretation must remain flexible and responsive to the present context rather than rigidly adhering to historical meanings or the purported neutrality of earlier methods. This adaptive approach acknowledges that law is not a closed system but one deeply embedded in the ongoing fabric of societal change.

Examples of evolving societal values vividly illustrate the necessity for dynamic legal interpretation. Consider the shifting legal landscape regarding LGBTQ+ rights, digital privacy, or gender equality—areas where past statutes often failed to anticipate



present-day understandings and needs. As a result, courts and legal scholars have been compelled to reinterpret existing laws to better align with contemporary ethical standards and public expectations. This process is evident in landmark rulings that have expanded civil liberties, demonstrating how legal meaning is not fixed but continuously reshaped by the progression of collective social values.

Despite these adaptive pressures, significant resistance persists within traditional interpretive frameworks. Many legal theorists and practitioners remain committed to formalist or originalist approaches, arguing that adherence to the “plain meaning” of texts or the intentions of the framers ensures stability and predictability in the law. This resistance is driven by concerns that too much interpretive flexibility could undermine the legitimacy and coherence of legal rules. However, such reluctance often overlooks the inherently interpretive nature of law and the inevitability of change as new social realities emerge, prompting ongoing debates about the best path forward for legal hermeneutics.

The integration of interdisciplinary perspectives has significantly enriched the field of legal hermeneutics, with philosophy, linguistics, and sociology each offering unique contributions to the interpretation of law. Philosophical insights, particularly from thinkers like Gadamer, have emphasized the interpretive nature of legal meaning and challenged the dominance of intentionalist approaches that focus solely on the original intent of lawmakers. Linguistics, by analyzing the structures and ambiguities of legal language, provides tools for understanding how meaning is constructed and communicated in legal texts. Meanwhile, sociological perspectives highlight the role of social context, power relations, and cultural norms in shaping both the creation and interpretation of legal rules. These interdisciplinary approaches collectively broaden the scope of legal analysis and foster a deeper understanding of how law operates within society, encouraging legal scholars and practitioners to consider not only textual meaning but also the broader human and societal factors at play.

Emerging legal methodologies reflect this growing interdisciplinary engagement, as new theoretical frameworks are developed to address the complexities of contemporary legal interpretation. Legal hermeneutics, for example, is increasingly



rooted in philosophical traditions, focusing on the nature and construction of legal meaning rather than simply applying mechanical rules of interpretation. Recent scholarship has also examined the interplay between law and literature, drawing on hermeneutic theory to explore how narrative, rhetoric, and storytelling shape legal understanding. Additionally, comparative constitutional studies now incorporate insights from various disciplines to understand how legal principles function across different cultural and historical settings. These innovative methodologies challenge traditional, rigid approaches to legal interpretation, advocating for more nuanced and context-sensitive analyses that account for the multifaceted nature of law.

Despite the evident benefits, the expansion of interdisciplinary influence in legal hermeneutics has sparked ongoing debates regarding its appropriate scope and limitations. Critics argue that an overreliance on external disciplines can dilute the specificity of legal reasoning and undermine the coherence of legal doctrine. On the other hand, proponents of interdisciplinary approaches contend that greater self-awareness and methodological pluralism are essential for addressing the evolving challenges of law in a complex, globalized world. This debate has led to increased scrutiny of evaluative standards within legal scholarship, as academics grapple with questions about the legitimacy and utility of borrowing concepts and methods from other fields. The tension between traditional legal frameworks and interdisciplinary innovation continues to shape contemporary discussions about the future of legal interpretation.

Postmodern legal interpretation distinguishes itself through a set of features that fundamentally question the assumptions of traditional hermeneutics. Central to postmodern approaches is the rejection of a single, objective meaning in legal texts, instead highlighting the multiplicity of interpretations that arise from the interplay of context, language, and the interpreter's perspective. These approaches emphasize that legal meaning is not static but continually evolves in response to changing social, political, and historical circumstances. As a result, postmodern hermeneutics often foregrounds the indeterminacy of language and the importance of narrative, suggesting that legal interpretation is inherently contingent and pluralistic. This shift has led to the



adoption of interpretive strategies that prioritize dialogue, reflexivity, and the acknowledgment of interpretive biases over rigid adherence to precedent or statutory text.

A defining element of postmodern and critical hermeneutics is their critique of grand narratives and the notion of fixed meaning in law. Traditional legal interpretation frequently relies on overarching frameworks—such as formalism or intentionalism—that purport to deliver universal and stable meanings. However, postmodern theorists argue that such frameworks are illusory, as they overlook the diverse voices and power dynamics that shape legal discourse. Instead, they contend that meaning is constructed through social practices and is always subject to contestation and revision. This perspective challenges the legitimacy of seeking one “true” interpretation and calls into question the authority of any interpretive methodology that claims neutrality or finality. Consequently, debates in legal theory increasingly revolve around issues of power, marginalization, and the politics of interpretation, rather than the search for immutable legal truths.

The embrace of postmodern hermeneutics in legal interpretation has significant implications for legal certainty and predictability. While traditional methods strive to anchor judicial decision-making in stable interpretive frameworks, postmodern approaches highlight the fluidity and contextuality of meaning, potentially undermining the predictability that legal actors and the public often expect. Critics argue that this could erode the rule of law by making outcomes less foreseeable and increasing judicial discretion. Nevertheless, proponents maintain that acknowledging interpretive plurality enhances justice by ensuring that the law remains responsive to evolving social realities. Key considerations arising from this shift include:

- The balance between flexibility and stability in legal interpretation
- The legitimacy of judicial creativity and adaptation
- The role of transparency and justification in legal reasoning.

Ultimately, the postmodern critique invites ongoing reflection on how legal systems can navigate the tension between interpretive openness and the need for reliable guidance in the application of law.



The proliferation of digital legal materials has introduced a new array of challenges for legal hermeneutics, fundamentally altering the way legal texts are accessed, stored, and interpreted. Unlike traditional print sources, digital documents are often fragmented, hyperlinked, and subject to rapid updates, which complicates the task of establishing authoritative versions and stable meanings. Furthermore, the sheer volume and diversity of digital legal information make it increasingly difficult for legal professionals to thoroughly review all relevant materials, raising concerns about completeness and reliability in legal interpretation. These challenges have prompted scholars and practitioners to reconsider established hermeneutic approaches, as digital environments demand new strategies for ensuring the integrity and traceability of legal texts.

Automated interpretation and artificial intelligence represent a significant technological innovation in the realm of legal hermeneutics, offering both promise and peril. On one hand, AI systems can process vast quantities of legal data at speeds unattainable by human interpreters, potentially enhancing efficiency and uncovering patterns that might otherwise go unnoticed. On the other hand, critics argue that the unreflective application of machine learning and predictive analytics risks perpetuating biases embedded in training data, while also obscuring the normative and contextual elements essential to legal reasoning. As a result, the integration of AI into legal interpretation requires careful consideration of both its technical capacities and its limitations in capturing the nuanced, value-laden nature of law.

Looking ahead, the prospects for future legal hermeneutics are shaped by the ongoing interplay between technological innovation and the enduring complexities of legal interpretation. As digital tools become more sophisticated and AI systems more deeply integrated into the legal process, there is a growing need for interpretive frameworks that can address the unique affordances and pitfalls of these technologies. Key issues for future research and practice include:

- Developing standards for the authentication and preservation of digital legal texts
- Ensuring transparency and accountability in automated interpretive processes
- Balancing the efficiency of AI with the need for human judgment and ethical



oversight.

Ultimately, these developments invite a broader re-examination of what it means to interpret the law in a digital age, challenging hermeneutic scholars to adapt traditional theories to new technological realities.

### **Summary and conclusions**

Contemporary legal hermeneutics reflects a dynamic evolution from traditional methods, critically examining the foundational principles that once guided legal interpretation. While classical approaches emphasized textual clarity, legislative intent, and precedent, they often overlooked the influence of social context, interpretive biases, and the fluidity of societal values. The rise of interdisciplinary perspectives and postmodern critiques further challenge notions of objectivity and fixed meaning, advocating for more nuanced and adaptable interpretive frameworks. Additionally, technological advancements open new frontiers for legal interpretation, raising questions about automation and the future role of human judgment. Overall, embracing these diverse approaches enables a more reflective, context-aware, and responsive understanding of the law—crucial for maintaining relevance and fairness in an ever-changing social landscape.

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