When Lawyers Are More Logical Than Ordinary Speakers and When They Are Not

— An Empirical Enquiry into Laypersons' and Legal Experts' Understanding of Pragmatic Meanings

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Abstract

There is currently underway a wide debate on the nature of legal interpretation. At issue, in particular, is whether legal interpretation is a form of communication that can be assimilated to ordinary communication or whether it is marked by an irreducible specificity. One aspect of this debate concerns pragmatic meanings, i.e., meanings which are not expressed by the semantic content of legal provisions, but which can be grasped through pragmatic inferences. According to some authors, legal experts do not ordinarily rely on such meanings, or, better to say, they do not rely on them as routinely as ordinary speakers do. In order to test the hypothesis that legal experts are less prone to rely on pragmatic meanings, we have designed a pilot experiment comparing the way in which pragmatic meaning factors into the way people with legal training at university level (target group) and people with nonlegal training at university level (control group) interpret both nonlegal (ordinary) sentences and legal texts. Our findings show that a legal education does not make one any less inclined to attribute pragmatic meanings to legal texts. This suggests that legal experts conceive of legal interpretation as a form of communication, not significantly different from ordinary interpretation. What this also seems to suggest is that pragmatic theories of ordinary meaning can be useful in explaining and predicting the ways in which legal texts are interpreted.

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1. Introduction

The standard picture of legal interpretation is focused on language and the linguistic tools by which to work out the meaning of a statute, and legal interpretation is therefore regarded as a subfield of linguistics (Baude & Sachs, 2017). More to the point, the mainstream view is that, in the effort to set down what the meaning of a legal text is and how that meaning is grasped, we need to rely on the different theories that have been developed to explain our everyday linguistic understanding (Poggi, 2020b). The basic assumption sounds reasonable enough: since legislation mainly employs natural language, and since it needs to be understandable by its recipients if it is to guide and direct their conduct, it seems to follow that legal interpretation does not or should not differ significantly from ordinary understanding. And since in ordinary understanding speakers and listeners often rely on pragmatic meanings, it follows that legal texts, too, are or should be interpreted by attributing pragmatic meanings to them. However, this conclusion, as well as its premises, is highly disputed in legal theory.

Some authors contend that legal interpretation is a totally different enterprise from ordinary understanding, and they accordingly make the case for the specificity of legal interpretation. However, they strongly disagree over what this specificity amounts to. We can find theories and doctrines that are very different from one another, from the sceptical view supported by Guastini (2011) and Troper (1999), among others, to the hermeneutical approaches and various versions of so-called interpretivism, such as Dworkin's and Greenberg's theories, from Baude and Sachs's view, focused on the specificity of legally binding interpretive rules (Baude & Sachs, 2017) to Sunstein's idea that there is nothing that legal interpretation just is, and that any approach can be defended only on normative grounds (Sunstein, 2015).

Other authors, by contrast, claim that legal interpretation does not significantly differ from ordinary understanding apart from the fact that it rests – or should rest – on literal meaning only (see, e.g., Raz, 2009).[1]

Finally, still other scholars claim that, given certain conditions, which are disputed, legal interpreters rely – or should rely – on pragmatic meanings as well (Carston, 2013; Sbisà, 2017; Macagno et al., 2018).

In order to test some of the positions just mentioned, we have designed a pilot experiment. Using an anonymous rating-task questionnaire, we have compared the way in which people with legal training at university level (target group – e.g., lawyers, judges, and legal scholars – and people with nonlegal training at university level (control group) interpret both nonlegal (ordinary) texts and legal texts with regard to their pragmatic meanings. The broad research question was whether legal experts are more cautious than ordinary speakers in interpreting texts according to their pragmatic import. The answer

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[1] The notion of literal meaning is not clear-cut, with different authors giving different accounts of it. In particular, it is debated whether the literal meaning of a legal text only amounts to its minimal content (Borg, 2012, 2019) or whether it also includes some pragmatic elements (e.g., saturation of indexicals and explicatures).

turns out to be both yes and no, and in a pretty surprising way: our findings show that legal experts are not more cautious than ordinary people in attributing pragmatic meaning to legal texts, whereas they are more cautious in attributing pragmatic meaning to ordinary utterances.

We will proceed as follows. First, we will present in greater detail the debate on legal interpretation and pragmatic meanings (§2). Next, we will describe our research design and findings (§3). And, finally, we will draw some tentative conclusions, while also highlighting some limitations of our research, suggesting aspects that need further investigation (§4).[2]

2. Can Law Imply More Than It Says?

In ordinary conversation we usually communicate and understand more than what is literally said.[3] In particular, speakers and listeners usually rely on pragmatic meanings, i.e., meanings which are not expressed by a sentence's semantic content but are driven by pragmatic inferences. This is a well-known phenomenon, and nobody denies it. But there is much debate about how that works: by what linguistic or psychological mechanisms are we enabled to go beyond what is expressly said? In the literature, we find a huge number of answers that differ in several respects. Generally speaking, where one comes down on the issue depends in large part on the position one takes in the so-called border wars. These concern the division of labour between semantics and pragmatics (Börjesson, 2014; Pirker & Smolka, 2018), with one camp defending and the other rejecting the primacy and autonomy of semantics. Another strong marker is the way in which the theoretical enterprise is conceived of: as a reconstruction of actual cognitive mechanisms or as a posterior linguistic explanation.

We will not engage with these problems here. For our purposes it suffices to point out that, while in ordinary conversation it is commonplace that speakers and listeners usually rely on pragmatic meanings, in legal interpretation this is debated. This takes us back to the issue of legal interpretation in relation to ordinary understanding. As noted (§1), there are three positions on this issue, with some arguing for the specificity of legal interpretation, others arguing that legal interpretation is akin to ordinary understanding, and oth-

[3] Some experiments also show that listeners sometimes understand the pragmatic import of an utterance – its metaphorical or ironic meaning, for example – even before understanding or fully understanding its literal meaning (see Gibbs, 1984, 1994, 1999, 2002).

ers still claiming that the only difference between the two is precisely that legal interpretation rests solely on literal meanings. The third position has notably been defended by Joseph Raz:

> [G]iven that normally, legislation is institutionalized in a way which virtually removes the risk of a slip of the tongue, loss of physical control, or any other explanation for misfire actions, and given that any conceivable theory of authority puts a high premium on relative clarity in demarcating what counts as an exercise of authority and what does not, the possibility of having to go behind what is said to establish what was meant becomes very rare. For practical purposes it may altogether disappear. (Raz, 2009: 287)

The basic idea is that the language of legislation is more precise than ordinary language (it cannot afford to be otherwise), so it leaves no room for pragmatic import.[4]

Generally speaking, the debate on pragmatic meanings mainly concerns statutory interpretation, but it has also extended to international law and treaties (Pirker & Smolka, 2017, 2018, 2019) and, especially in the United States, to constitutional interpretation (Molot, 2006; Sunstein, 2015). Our experiment concerns statutory interpretation and, therefore, in what follows we will mainly refer to that area. In the debate at stake two broad perspectives can be distinguished: on one hand are descriptive theories, which aim to describe how legal experts, and especially judges, interpret statutes; on the other hand are normative theories or doctrines, which aim to prescribe how legal experts, and especially judges, should interpret statutes. Descriptive theories can be either true or false, and their truth value is likely to vary from one legal system to another. In fact, their criterion of truth is actual interpretive practice, which may change across different legal cultures. Normative doctrines are neither true nor false. They can only be more or less justified by good reasons, shared principles, or values.

To explore the debate on pragmatic legal meanings, we can consider the abiding question of whether Grice's theory of conversational implicatures is suitable for statutory interpretation. Conversational implicatures are types of pragmatic meanings, which according to Grice are driven by (*a*) the cooperative principle (and the conversational maxims), (*b*) what is (expressly) said, (*c*) the speaker's intention, and (*d*) the context (see Grice, 1989).

At least since the publication of Sinclair (1985), many authors have claimed that Grice's conversational theory could explain legal interpretation, since legal interpretive criteria amount to versions of Grice's maxims (Miller, 1990; Morra, 2015, 2016; Slocum, 2016). So, to quote a common example, the legal interpretive criterion *Expressio unius est exclusio alterius* or *Ubi lex dixit voluit, ubi noluit tacuit* boils down to a version of Grice's first maxim of quantity: "Make your contribution as informative as is required" (Grice, 1989: 26). Other theorists instead argue that Grice's conversational maxims should always be applied in legal interpretation even if that is not in fact the practice (Ekins, 2012; Macagno et al.,

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[4] In legal literature the idea that law does not or should not express pragmatic meaning is often called "textualism." However, textualism comes in many versions, and not all of them rule out pragmatic meanings (see, e.g., Nelson, 2005). On the similarities between the legal debate between textualists and nontextualists and the linguistic debate between literalists and contextualists, see Pirker & Smolka (2017).

2018). Still other theorists claim that Grice's account is not suitable for legal interpretation, some criticizing the intentionalist view of legal meaning (Marmor, 2011; Poggi, 2018), some stressing that the nature of legal practice is not cooperative (Chiassoni, 1999; Marmor, 2007, 2011; Poggi, 2020a). Finally, other authors maintain that Grice's theory holds in the legal domain only so long as some peculiar and unusual circumstances obtain (Asgeirsson, 2017) or only on condition of making some radical revisions (Skoczén, 2019). So, for example, according to Asgeirsson, "non-literal legislative speech is successful only if the legislature and its audience share a great deal of (relatively) specific background assumptions regarding the interrelationship between the legislature's desires/ends/values/preferences" (Asgeirsson, 2017: 88). Since this is rarely the case, it follows that, as a matter of fact, legal interpreters will be in doubt about both whether to attribute a pragmatic meaning to the statute and, if so, which pragmatic meaning is to be attributed.

It is worth noting that few deny that sometimes judges interpret legal provisions by grasping their implicatures. Indeed, several actual examples of such interpretations have been provided in the literature (Sinclair, 1985; Miller, 1990; Ekins, 2012; Morra, 2016; Slocum, 2016). However, the literature has also provided several examples of actual legal cases in which judges did not grasp implicatures which would have been obvious in ordinary conversation (Asgeirsson, 2017; Marmor, 2018; Poggi, 2020a). As Marmor says, "Every first-year law student learns […] that courts are not very consistent in applying […] implicatures" (Marmor, 2018: 101). Thus, according to some authors, judges follow Gricean maxims randomly (Asgeirsson, 2017; Poggi, 2018) or strategically (Chiassoni, 1999; Marmor, 2011; Skoczén, 2019). In particular, it has been argued that, while in ordinary conversation there is a general mutual expectation that everyone follows the cooperative principle and the maxims, "in legal interpretation there is not a general expectation that the [cooperative principle] will be respected, and therefore, […] in that field, there is not, so to speak, a convention to employ conversational maxims" (Poggi, 2018: 61).

In the legal domain the debate on pragmatic meanings has a number of relevant implications. Most notably, if legal experts – especially judges – do not consistently rely on pragmatic meanings, or are in doubt about whether to rely on such meanings, then the legislature should not rely on them, either. Otherwise, there could be not only misunderstandings but also different and inconsistent interpretations. And this situation, in turn, can undercut the principles of equality and legal certainty. Thus, if the legislature does not want these principles to be violated, then the legislature should not rely on pragmatic meanings. If, by contrast, legal experts – especially judges – consistently do rely on pragmatic meanings, then legal drafting should rely on them as well, at least if they are clear enough. It is therefore crucial to establish whether, in point of fact, legal experts usually interpret legal texts by also taking their pragmatic meaning into account.

This study seeks to contribute to the above debate by drawing on the methods of experimental philosophy of law, an emerging field of investigation that studies "jurisprudential questions using empirical methods" (Knobe & Shapiro, 2021: 15). In this field there are a few published works on legal interpretation, but none of them are directly concerned

with pragmatic legal meanings.[5] Thus, as far as we know, this is the first study of its kind devoted to this topic. To be sure, there are studies that bear some relevance to our subject, but in addition to not dealing directly with pragmatic meanings, they suggest conflicting conclusions. So, for example, Farnsworth et al. (2011) have shown that legal interpretation is strongly influenced by the participants' political preferences, but that this influence decreases when participants (law students) are asked to interpret the law as an ordinary reader would. Interestingly enough, the ordinary reader's interpretation of legal texts has been shown to usually take account of pragmatic meanings. Struchiner et al. (2020) have found that when participants (a mix of laypeople and legal experts) were asked whether or not a given rule had been infringed, their judgment was based more on the wording of the rule than on its purpose, suggesting that people tend to interpret law according to its literal meaning. Finally, Tobia (2020) revealed a discrepancy between the dictionary meaning of ordinary words, such as *vehicle,* and the linguistic intuitions of the participants (again a mix of laypeople and legal experts). This research could either suggest that literal meaning carries little weight or, more likely, that people have incorrect linguistic intuitions.[6]

Our study focused on descriptive theories that seek to determine whether or not legal experts, as a matter of practice, consistently rely on pragmatic meaning. We tested these theories using an Italian anonymous rating-task questionnaire, as described in the next section. What we wanted to find out, more specifically, was whether legal experts interpret legal texts differently from ordinary speakers in responding differently to these texts' pragmatic meaning. In fact, ordinary speakers are not likely to distinguish between legal and non-legal texts, but they are likely to interpret them in the same way (and our experiment confirms this assumption: see §4). In particular, since in ordinary conversation people rely on pragmatic meanings, ordinary speakers will also rely on such meanings in interpreting legal texts (and our experiment also confirms this expectation too: see §4). Thus, if legal experts, when interpreting legal texts, grasp pragmatic meanings less often than ordinary speakers, then this suggests that they do not consistently rely on such meaning, or, at least, that they are in doubt about whether to rely on them. Hence, in order to test whether legal experts grasp pragmatic meanings randomly or strategically, we compared their interpretations with those provided by ordinary speakers with nonlegal training at university level. In particular, we looked at two sets of responses in comparison: (1) those to a legal text's *pragmatic* reading (the reading that embraces its pragmatic meaning) and (2) those to its *literal/logical* reading. Hence the following two research questions we set out to answer:

RQ1: Do legal experts differ from ordinary speakers in the degree to which they agree or disagree with the pragmatic readings of legal texts?

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[5] For a review, see Prochownik (2021).

[6] Further empirical research has been carried out in the field of international law (see Pirker et al., forthcoming).

RQ2: Do legal experts differ from ordinary speakers in the degree to which they agree or disagree with the literal/logical readings of legal texts?

Our prediction was that if legal experts, as compared to ordinary speakers, agree less strongly or less often with the pragmatic readings than with the literal ones, then they are more cautious in interpreting legal texts according to their pragmatic import. This would suggest that they do not rely on pragmatic meanings or that they do not rely on them as much as ordinary speakers do. On the other hand, if no significant differences can be observed – i.e., the two groups are more or less evenly distributed in agreeing with the pragmatic or the literal interpretation of legal texts – then legal experts can be said to rely on pragmatic meanings as much as ordinary speakers do. This would suggest that pragmatics plays in legal interpretation exactly the same role as in ordinary conversation, i.e., a notable one.

As a control measure, we also compared how strongly the two groups agreed or disagreed with the literal and pragmatic readings of ordinary sentences. We did not expect any significant differences to come up here (between ordinary speakers and legal experts in their interpretation of ordinary sentences). But, as we will see, we were wrong.

3. The Experiment

3.1. Method

We created two blocks of twelve sentences each, one (the legal block) containing legal sentences – i.e., sentences which were presented to the participants as belonging to a statute –, the other (the ordinary block) containing ordinary sentences – i.e., sentences which were presented to the participants as uttered in an ordinary conversation. Each sentence generated two possible readings: a literal/logical one and a pragmatic one. For example, sentences (1) and (2) below belong to the legal block and the ordinary block, respectively, generating pragmatic readings, (1a) and (2a), and literal/logical readings, (1b) and (2b):

(1)   A statutory provision punishes "anyone who uses a firearm in a violent crime."
       a. This provision punishes anyone who commits a violent crime by using a firearm.
       b. This provision punishes anyone who uses a firearm in no specific way while committing a violent crime.

(2)   Mario says to Luigi, "Use a wrench in the hydraulic disassembly."
       a. Mario is telling Luigi to use a wrench as a tool to carry out the disassembly.
       b. Mario is telling Luigi to use a wrench in no specific way while carrying out the hydraulic disassembly.

Our manipulation resulted in a 2x2 mixed design where the sentence's interpretation and the type of block were independent variables; the sentence's interpretation was a *between*-subjects factor, and the type of block was a *within*-subjects factor.

Participating in the study were 243 native Italian speakers (136 F, 1 Intersex). Of these, 137 had obtained a master's degree in law (the law group), while 106 had obtained a BA or an MA in nonlegal areas (the control group). We therefore divided the sample of participants into two groups according to their type of university education, i.e., legal or nonlegal.

Within the law group, out of the 137 master's graduates, 90 of them declared to be attorneys, 27 to be working as university lecturers of legal subjects, 7 to be working in a profession that requires legal competences, 4 to be PhD students in legal subjects, 1 to be a judge. Three participants declared they had worked in one of these professions but to be now retired, and 5 of them stated none of these professions accurately described theirs, therefore suggesting they went on to work in a profession where legal competences are not required.

The experiment consisted in administering a rating task. Participants were presented with all the sentences in both blocks, each sentence paired with one of the two possible compatible interpretations, i.e., literal/logical or pragmatic (chosen at random). Participants were asked to read each sentence and rate the degree to which they agreed or disagreed with its randomly paired interpretation on a 1-to-6 point Likert scale (1 totally disagree; 6 completely agree). The idea was to explore which interpretation type (literal/logical vs. pragmatic) was felt to be more appropriate by participants depending on their group (law group vs. control group) and on the block type (legal block vs. ordinary block).

3.2. Results

Typically, Likert-scale data are analyzed by way of parametric tests such as t-tests, provided that there is an adequate sample size and that the data are normally distributed or nearly so (Jamieson, 2004; Sullivan & Artino, 2013). However, our data failed Levene's test for homogeneity of variance. Thus, we analyzed our data using the unpaired two-samples Wilcoxon test (i.e., Wilcoxon rank sum test or Mann-Whitney test), i.e., a nonparametric alternative to the unpaired two-samples t-test. Table 1 and Figure 1 report the mean responses per group and per condition (with standard deviation).

Table 1: Mean (SD) responses per group and per condition

Condition	Control Group	Law Group
Literal	3.68 (1.97)	3.60 (2.09)
Pragmatic	4.07 (1.88)	3.83 (1.97)

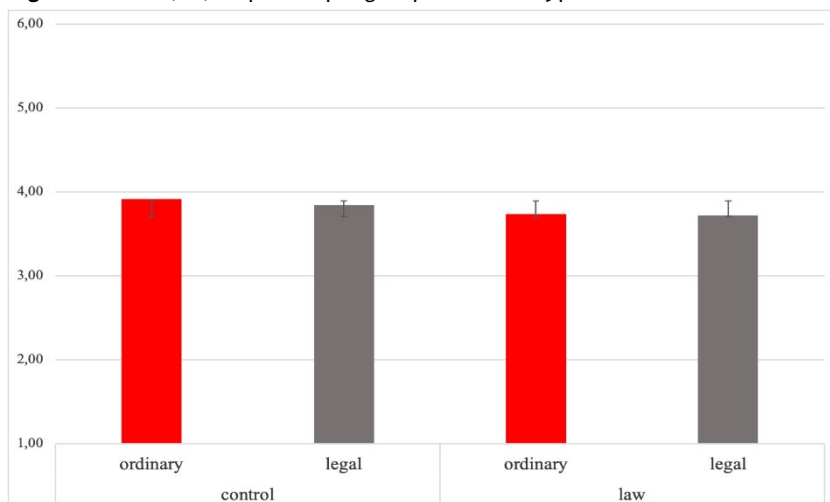**Figure 1:** Mean (SD) responses per group and per condition
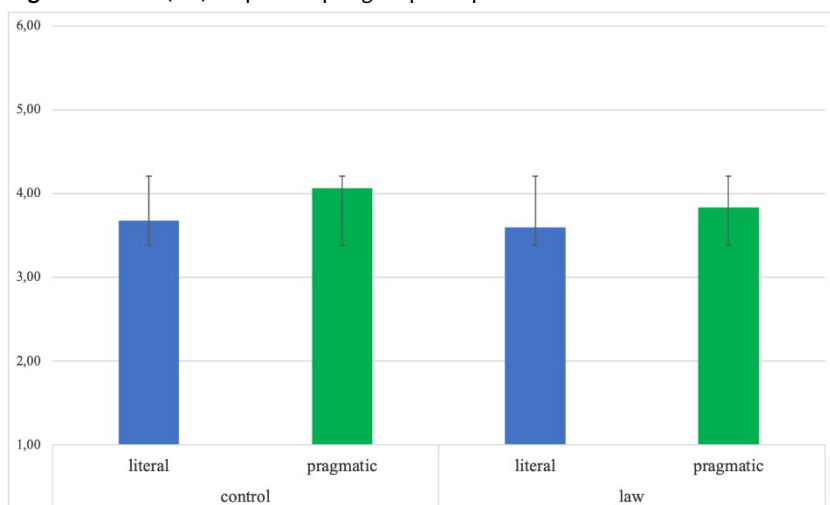
The Wilcoxon rank sum test run on the two groups separately revealed a significant difference between responses in the two conditions for both the law group (W=1252130, p=0.005) and the control group (W=722432, p<0.0001). On the contrary, the Wilcoxon rank sum test run on the two conditions separately revealed no significant difference between responses by the two groups in the literal condition (W=963734, p=0.318), but they did significantly differ in the pragmatic condition (W=1209571, p<0.001).

Per block of utterances (ordinary vs. legal)

Table 2: Mean (SD) responses per group and block/type of utterance

Block/Type	Control Group	Law Group
Ordinary	3.91 (1.91)	3.73 (1.98)
Legal	3.84 (1.97)	3.72 (2.08)

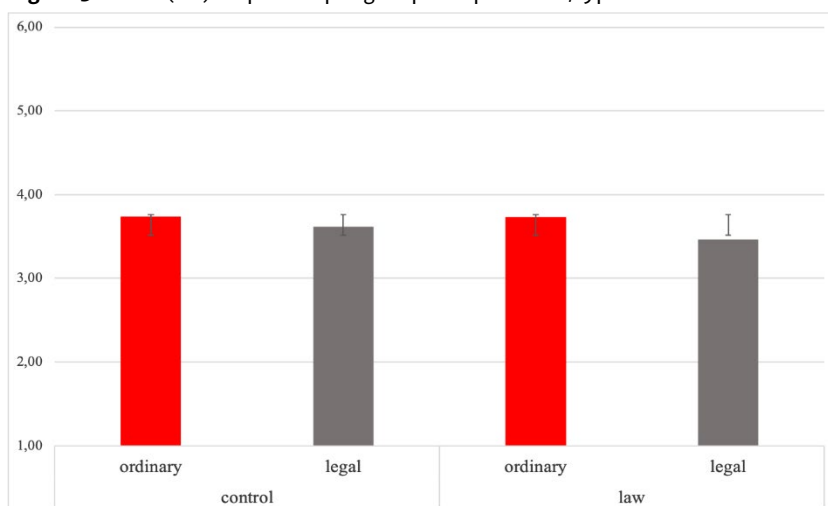**Figure 2**: Mean (SD) responses per group and block/type of utterance

The Wilcoxon rank sum test run on the two blocks separately revealed a significant difference between responses by the two groups in the ordinary utterances (W=1093092, p=0.01) but not in the legal utterances (W=1067402, p=0.15).

Per block of utterances (ordinary vs. legal) and per condition
Literal Condition

Table 3: Mean (SD) responses per group and per block/type of utterance in the literal condition

Block/Type	Control Group	Law Group
Ordinary	3.74 (1.95)	3.73 (2.03)
Legal	3.62 (2.00)	3.47 (2.14)

Figure 3: Mean (SD) responses per group and per block/type of utterance in the literal condition
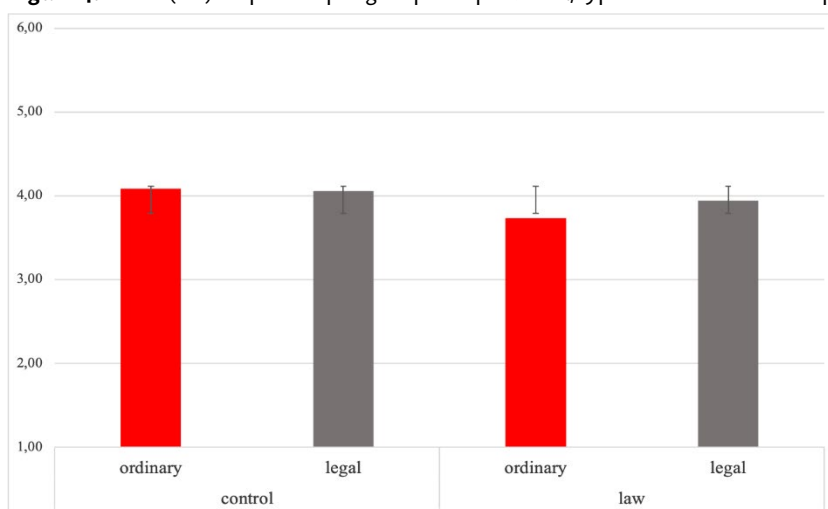

The Wilcoxon rank sum test run on the two blocks separately in the literal condition revealed no significant difference between responses by the two groups in the ordinary utterances (W= 236591, p=0.97) or in the legal utterances (W= 245411, p=0.14).

Pragmatic Condition

Table 4: Mean (SD) responses per group and per block/type of utterance in the pragmatic condition

Block/Type	Control Group	Law Group
Ordinary	4.08 (1.85)	3.73 (1.93)
Legal	4.06 (1.92)	3.94 (2.01)

Figure 4: Mean (SD) responses per group and per block/type of utterance in the pragmatic condition

The Wilcoxon rank sum test run on the two blocks separately in the pragmatic condition revealed a significant difference between responses by the two groups in the ordinary utterances (W= 313668, p= 0.0003) but not in the legal utterances (W= 291567, p=0.34).

3.2.2. Intra-Group Analysis

An additional analysis was run on the two groups separately only to test whether the difference between responses by the group in the ordinary and the legal utterances depending on condition was significant.

Control Group

Table 5: Mean (SD) responses per condition and per block/type of utterance in the control group

Block/Type	Literal Condition	Pragmatic Condition
Ordinary	3.74 (1.95)	4.08 (1.85)
Legal	3.62 (2.00)	4.06 (1.92)

**Figure 5:** Mean (SD) responses per condition and per block/type of utterance in the control group
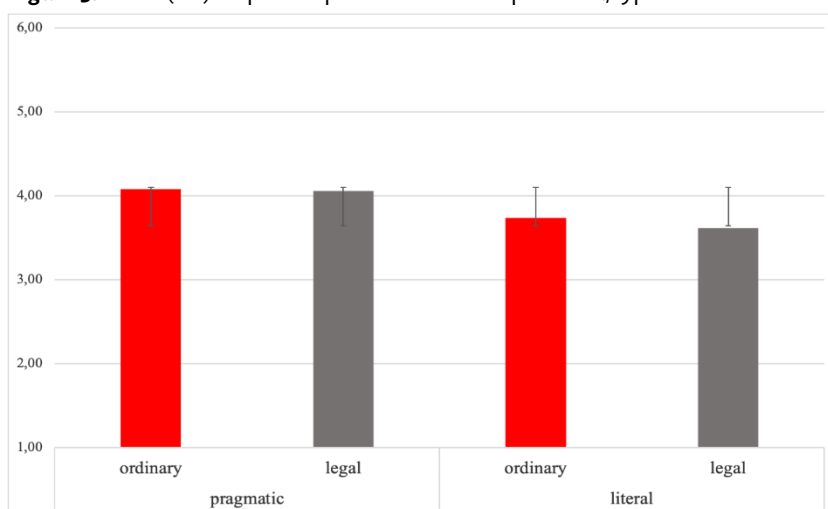
The Wilcoxon rank sum test run on the responses from the control group in the two conditions separately revealed no significant difference between the ordinary and legal utterances in the pragmatic condition (W= 500990, p=0.58) or in the literal condition (W= 201240, p=0.29).

Law Group

Table 6: Mean (SD) responses per condition and per block/type of utterance in the law group

Block/Type	Literal Condition	Pragmatic Condition
Ordinary	3.73 (2.03)	3.73 (1.93)
Legal	3.47 (2.14)	3.94 (2.01)

Figure 6: Mean (SD) responses per condition and per block/type of utterance in the law group
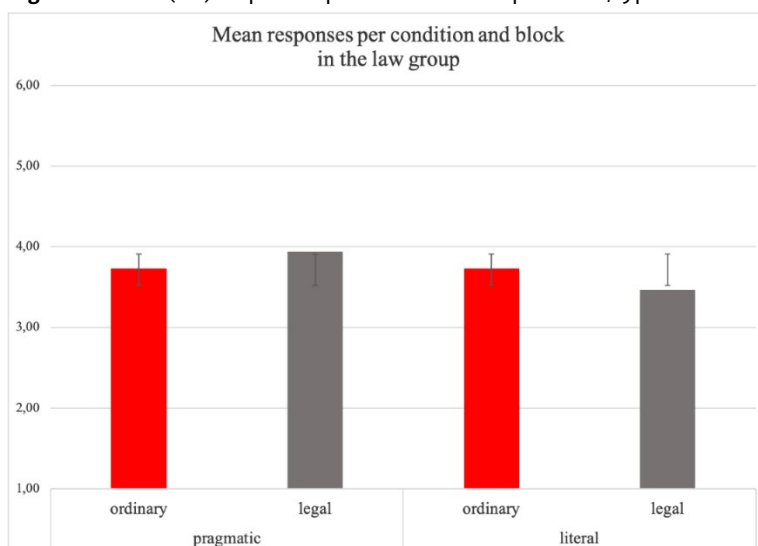
The Wilcoxon rank sum test run on the responses from the law group in the two conditions separately revealed a significant difference between the ordinary and legal utterances in both the pragmatic condition (W= 356403, p=0.008) and the literal condition (W= 306721, p=0.01).

4. Discussion and Provisional Conclusions

Overall, the analysis shows that both legal experts and laypeople agree more strongly with pragmatic interpretations than with literal ones, i.e., both groups express a higher degree of agreement when the interpretation that is proffered to them embraces pragmatic meanings (Table 1). With regard to our two original research questions (RQ1 and RQ2), no

significant difference was found between responses by the two groups. In fact, when interpreting legal texts, legal experts agree with pragmatic interpretations to the same degree as ordinary (lay) people do (Tables 4 and 6).

These results show that legal experts are not more cautious than ordinary people in interpreting legal texts according to their pragmatic import. This finding is important since it seems to challenge the descriptive thesis according to which legal experts do not rely on pragmatic meanings in interpreting legal texts, as well as the normative thesis according to which legislatures should (accordingly) not rely on such meanings.

As we have seen (§2), some authors claim that, while in ordinary conversation people usually grasp and successfully communicate pragmatic meanings, in legal interpretation legal experts rely on such meanings only randomly or strategically. This view holds that in legal domain there is not that mutual and general expectation that everyone will grasp pragmatic meanings, which instead exists in ordinary conversation. This fact is seen as a specificity of legal interpretation which is tied with its strategical or conflictual nature. If this picture were correct, we should expect legal experts to agree with pragmatic interpretations less often than ordinary speakers. Indeed, ordinary speakers are not likely to distinguish between legal and non-legal texts, but they are likely to interpret them in the same way. However, our findings do not corroborate such expectation.

In particular, our findings confirm that lay people do not discriminate between legal and non-legal texts, expressing the same degree of agreement in both scenarios (Table 5). Yet, legal experts, when interpreting legal utterances, agree with pragmatic interpretations to the same degree as ordinary (lay) people do (Table 2), and, for both groups, this degree of agreement is stronger than their degree of agreement with literal interpretations (Table 3 and 4). These results challenge the above view, according to which legal experts, when interpreting legal texts, rely on pragmatic meanings only randomly or strategically. Actually, they seem to rely on them as much as lay people. This suggests that pragmatics plays the same role in legal experts' statutory interpretation as it does in laypeople's ordinary conversation.

However, as mentioned, a surprising result emerged from our analysis of ordinary utterances. Which is to say that legal experts seem less prone than ordinary speakers to agree with pragmatic interpretations, but only when interpreting ordinary utterances (Tables 1 and 4). In fact, for ordinary utterances, legal experts express a similar degree of agreement with literal and pragmatic interpretations, while ordinary speakers tend to agree more strongly with pragmatic interpretations (Tables 5 and 6).

Surely, our study has to be refined and confirmed, as it suffers from some limitations, and four in particular that stand out. Firstly, our legal expert group was quite heterogeneous: even if its subjects all had a master's degree in law, their legal experience could vary significantly. It would therefore be interesting to repeat the experiment by recruiting only experienced lawyers and/or judges. Secondly, our experiment only tests linguistic intuitions even if legal interpretation is not just a matter of such intuitions. A key (and often

preponderant) role is played by legal argumentation. Therefore, it would be useful to design a different experiment in which participants are also provided with reasons in favor of or against literal and pragmatic interpretations. Thirdly, our questionnaire was written in Italian and the participants were Italian legal experts. Certain features of the Italian law – and, in particular, the Italian legal rules on legal interpretation – may have influenced our results.[7] In this regard, it should be noted that Italian legal rules on statutory interpretation are very similar to those of other civil law countries, especially those influenced by the Code Napoleon – such as Spain, French and, through Spanish domination, many Central and South American countries. Moreover, such rules provide a preference for literal interpretation[8] and, therefore, should have led to different results.

Finally, further enquiries are needed to confirm our finding that legal experts are less disposed than ordinary speakers to agree with the pragmatic interpretation of ordinary utterances. In fact, as remarked, this finding is rather surprising, and as of this writing we do not yet have any good hypotheses by which to explain it. This finding, however, highlights that legal experts, by contrast, do have an inclination to agree with the pragmatic interpretation where legal texts are concerned.

To conclude, even if further investigations are needed, the experimental results highlight that legal education does not make one less likely to attribute pragmatic meanings to legal texts. This result suggests that, at least where interpretation rests on linguistic intuitions, legal experts approach legal interpretation in much the same way as laypeople approach ordinary interpretation. Which in turn suggests that pragmatic theories of ordinary communication are useful in explaining and predicting legal interpretation.

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[7] We thank an anonymous reviewer for pointing out this problem.

[8] See, e.g., art. 12 "preleggi" to the Italian Civil Code; art. 3 Spanish Civil Code; art. 27 Colombian Civil Code; art. 19 Mexican Civil Code; art. 2 Argentinian Commercial and Civil Code.

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Annex: Questionnaire

Schermata introduttiva

Buongiorno, siamo un gruppo di ricercatori dell'Università degli Studi di Milano e dell'Università degli Studi di Genova. Stiamo svolgendo una ricerca per cui abbiamo bisogno del suo aiuto: le chiediamo di compilare un breve questionario che richiederà circa 15 minuti del suo tempo. L'obiettivo della ricerca le sarà comunicato al termine del questionario, per non condizionarla.

Il questionario è totalmente anonimo. All'inizio le verranno chiesti alcuni dati, quali sesso, laurea e professione, ma da questi non sarà assolutamente possibile risalire alla sua identità. Faccia attenzione a selezionare la sua risposta, perché non sarà possibile tornare indietro.

Questa ricerca è stata approvata dal Comitato Etico dell'Università degli Studi di Milano, in data 13/07/2021. Se volesse ottenere più informazioni, può scrivere a: francesca.poggi@unimi.it

La ringraziamo per il suo contributo e per il tempo che ci dedica. Prema spazio per iniziare!

Blocco 1

1. Lei è madrelingua italiano/a?
   a. Sì
   b. No

2. Qual è il suo sesso biologico?
   a. Intersex
   b. Maschio
   c. Femmina
   d. Non rispondo

3. È laureato/a in giurisprudenza o scienze dei servizi giuridici?
   a. Sì
   b. No

3a. [Se la risposta a 3. è "Sì":] Esercita attualmente una delle seguenti professioni?
   a. magistrato
   b. avvocato
   c. docente universitario in materie giuridiche
   d. dottorando/a in una materia giuridica;
   e. professione che richiede competenze giuridiche
   f. svolgevo una delle precedenti professioni (a-e), ma ora sono in pensione
   g. nessuna delle precedenti risposte.

3b. [Se la risposta a 3. è "No"]: È studente/ssa da almeno tre anni in giurisprudenza o scienze dei servizi giuridici?
   a. Sì
   b. No

3b_1 [Se la risposta a 3b. è "No"]: Ha una laurea triennale o magistrale o frequenta da più di tre anni un corso di laurea?
   a. Sì
   b. No

Blocco 2

Legga le seguenti frasi o dialoghi, assumendo che si svolgano in un ordinario contesto di conversazione, e indichi quanto è d'accordo da 1 a 6 con l'interpretazione proposta. 1: per niente d'accordo; 6: assolutamente d'accordo.

Potrà dare la sua valutazione premendo i tasti da 1 a 6 sulla sua tastiera.
Faccia attenzione nel dare la sua risposta, perché non sarà possibile tornare indietro per modificarla.

Prema spazio per iniziare.

1a.   Mario dice a Luigi: "Domani il sindaco premierà chiunque ha tre mucche"
Mario comunica che il sindaco premierà chiunque ha esattamente tre mucche.

1b.   Mario dice a Luigi: "Domani il sindaco premierà chiunque ha tre mucche"
Mario comunica che il sindaco premierà chiunque ha tre mucche, forse anche chi ne ha di più.

2a.   Mario dice a Luigi: "Quando avrai terminato l'operazione, l'elettricista che abbiamo incaricato redigerà la relazione di conformità"
Mario comunica che l'elettricista che hanno incaricato redigerà la relazione di conformità, non si sa se anche altre persone lo faranno.

2b.   Mario dice a Luigi: "Quando avrai terminato l'operazione, l'elettricista che abbiamo incaricato redigerà la relazione di conformità"
Mario comunica che solo l'elettricista che hanno incaricato redigerà la relazione di conformità.

3a.   Luigi dice a Mario: "Mia figlia ha comprato uno scooter e ha trovato un fidanzato"
Mario comunica che sua figlia ha comprato uno scooter e, non si sa se prima o dopo, ha trovato un fidanzato.

3b.   Luigi dice a Mario: "Mia figlia ha comprato uno scooter e ha trovato un fidanzato"
Mario comunica che sua figlia ha comprato uno scooter e poi ha trovato un fidanzato.

4a.   Mario dice a Luigi: "Tutti sanno usare un cacciavite nello smontaggio idraulico".
Mario comunica a Luigi che tutti sanno usare un cacciavite in un modo non precisato mentre effettuano lo smontaggio idraulico.

4b.   Mario dice a Luigi: "Tutti sanno usare un cacciavite nello smontaggio idraulico".
Mario comunica a Luigi che tutti sanno usare un cacciavite come strumento per effettuare lo smontaggio idraulico.

5a.   Luigi dice a Mario: "Ieri ho visto una stupenda fiera a Milano. Lo sai che io adoro i nani da giardino!".
Luigi comunica che ieri ha visto una fiera e che adora i nani da giardino, ma non si sa se le due cose siano correlate.

5b.   Luigi dice a Mario: "Ieri ho visto una stupenda fiera a Milano. Lo sai che io adoro i nani da giardino!"
Luigi comunica che ieri ha visto una fiera in cui erano esposti anche nani da giardino, che lui adora.

6a.   Mario dice a Luigi: "Questa sera andremo oltre i confini della Regione a fare una festa o qualche altra cosa di divertente".
Mario comunica che andranno oltre i confini della Regione a fare una festa o faranno qualche altra cosa che reputano divertente, non si sa se simile o totalmente diversa dal fare una festa.

6b.   Mario dice a Luigi: "Questa sera andremo oltre i confini della Regione a fare una festa o qualche altra cosa di divertente".
Mario comunica che andranno oltre i confini della Regione a fare una festa o qualche altra cosa di divertente simile a fare una festa.

7a.   Mario dice a Luigi: "I bar chiudono alle 18.00"
Mario comunica che i bar chiudono alle 18.00, ma non si sa se possano subito riaprire.

7b.   Mario dice a Luigi: "I bar chiudono alle 18.00"
Mario comunica che i bar chiudono alle 18 e restano chiusi fino al mattino successivo.

8a.   Mario dice a Luigi: "Se hai fame, puoi mangiare alcune fette della torta che è in forno"
Mario comunica che Luigi, se ha fame, può mangiare alcune fette della torta, forse anche tutte.

8b.   Mario dice a Luigi: "Se hai fame, puoi mangiare alcune fette della torta che è in forno"
Mario comunica che Luigi, se ha fame, può mangiare alcune fette della torta, ma non tutte.

9a.   Luigi dice a Mario: "Carlo e Maria coabitano e sono giudizialmente separati"
Luigi comunica che Carlo e Maria coabitano e sono giudizialmente separati, non si sa se siano anche divorziati.

9b.   Luigi dice a Mario: "Carlo e Maria coabitano e sono giudizialmente separati"
Luigi comunica che Carlo e Maria coabitano e non sono divorziati.

10a.   Luigi dice a Mario: "È possibile richiedere un permesso, prima di iniziare i lavori"
Luigi comunica che è possibile, non si sa se necessario, richiedere un permesso prima di iniziare i lavori.

10b.   Luigi dice a Mario: "È possibile richiedere un permesso, prima di iniziare i lavori"
Luigi comunica che non è necessario richiedere un permesso prima di iniziare i lavori.

11a.   Luigi dice a Mario: "Alcuni apprendisti idraulici hanno superato il corso"
Luigi comunica che alcuni degli apprendisti idraulici, forse tutti, hanno superato il corso.

11b.   Luigi dice a Mario: "Alcuni apprendisti idraulici hanno superato il corso"
Luigi comunica che alcuni degli apprenditi idraulici, ma non tutti, hanno superato il corso.

12a.   Luigi dice a Mario: "Carlo e Luisa sono sposati e abitano nello stesso comune"
Luigi comunica che Carlo e Luisa sono sposati, non si sa se tra di loro, e abitano nello stesso comune.

12b.   Luigi dice a Mario: "Carlo e Luisa sono sposati e abitano nello stesso comune"
Luigi comunica che Carlo e Luisa sono sposati tra di loro e abitano nello stesso comune.

Blocco 3

Legga le seguenti frasi assumendo che si tratti di disposizioni aventi forza di legge in vigore in un dato ordinamento giuridico, e indichi quanto è d'accordo da 1 a 6 con l'interpretazione proposta.
1: per niente d'accordo; 6: assolutamente d'accordo.

Potrà dare la sua valutazione premendo i tasti da 1 a 6 sulla sua tastiera.
Faccia attenzione nel dare la sua risposta, perché non sarà possibile tornare indietro per modificarla.
Prema spazio per iniziare.

1a.   Un articolo di legge punisce "Chiunque ha tre mucche".

Questo articolo punisce chiunque ha esattamente tre mucche.

1b.   Un articolo di legge punisce "Chiunque ha tre mucche"
Questo articolo punisce chi ha tre mucche, forse anche chi ne ha di più.

2a.   Un articolo di legge dispone: "Quando l'operazione è terminata, il pubblico ufficiale incaricato redige il processo verbale di sequestro".
Questo articolo prescrive che il pubblico ufficiale incaricato deve redigere il processo verbale di sequestro, ma non si sa se possano o debbano farlo anche altre persone.

2b.   Un articolo di legge dispone: "Quando l'operazione è terminata, il pubblico ufficiale incaricato redige il processo verbale di sequestro".
Questo articolo prescrive che solo il pubblico ufficiale incaricato deve redigere il processo verbale di sequestro.

3a.   Un articolo di legge prevede un'aggravante per "chiunque ruba un motoveicolo e uccide il coniuge".
Questo articolo punisce chiunque ruba un motoveicolo e, non si sa se prima o dopo, uccide il proprio coniuge.

3b.   Un articolo di legge prevede un'aggravante per "chiunque ruba un motoveicolo e uccide il coniuge".
Questo articolo punisce chiunque ruba un motoveicolo e poi uccide il proprio coniuge.

4a.   Un articolo di legge punisce "Chiunque usa un'arma da fuoco in un reato violento".
Tale articolo punisce chiunque usi in un modo non precisato un'arma da fuoco mentre commette un reato violento.

4b.   Un articolo di legge punisce "Chiunque usa un'arma da fuoco in un reato violento".
Tale articolo punisce chiunque usa un'arma da fuoco come strumento per commettere un reato violento.

5a.   Una disposizione di legge stabilisce: "Il contratto è annullabile per vizi evidenti. I difetti strutturali possono essere occulti".
Questa disposizione stabilisce che il contratto è annullabile per vizi evidenti e che i difetti strutturali possono essere occulti, ma non si sa se le due cose siano correlate.

5b.   Una disposizione di legge stabilisce: "Il contratto è annullabile per vizi evidenti. I difetti strutturali possono essere occulti".
Questa disposizione stabilisce che il contratto è annullabile per vizi evidenti e difetti strutturali occulti.

6a.   Una disposizione di legge punisce "Chiunque trasporti oltre i confini dello Stato minorenni a scopo di prostituzione o per un altro scopo immorale".
Tale disposizione punisce chiunque trasporti oltre i confini dello Stato minorenni scopo di prostituzione o per un altro scopo che venga reputato immorale, non è detto se simile o totalmente diverso dalla prostituzione.

6b.   Una disposizione di legge punisce "Chiunque trasporti oltre i confini dello Stato minorenni a scopo di prostituzione o per un altro scopo immorale".
Tale disposizione punisce chiunque trasporti oltre i confini dello Stato minorenni a scopo di prostituzione o per un altro scopo immorale simile alla prostituzione.

7a.   Una disposizione di legge stabilisce: "I bar chiudono alle 18.00".

Tale disposizione prescrive che i bar chiudano alle 18.00, ma non si sa se possano subito riaprire.

7b.   Una disposizione di legge stabilisce: "I bar chiudono alle 18.00".
Tale disposizione prescrive che i bar chiudano alle 18.00 e restino chiusi fino al mattino successivo.

8a.   Una disposizione di legge stabilisce: "Se le offese sono reciproche, il giudice può dichiarare non punibili alcuni degli offensori".
Tale disposizione stabilisce che, se le offese sono reciproche, il giudice può dichiarare non punibili alcuni degli offensori, forse anche tutti.

8b.   Una disposizione di legge stabilisce: "Se le offese sono reciproche, il giudice può dichiarare non punibili alcuni degli offensori".
Tale disposizione stabilisce che, se le offese sono reciproche, il giudice può dichiarare non punibili alcuni degli offensori, ma non tutti.

9a.   Una disposizione di legge punisce "Le coppie giudizialmente separate che coabitano".
Tale disposizione punisce le coppie giudizialmente separate che coabitano, non si sa se anche quelle divorziate.

9b.   Una disposizione di legge punisce "Le coppie giudizialmente separate che coabitano".
Tale disposizione non punisce le coppie divorziate che coabitano.

10a.   Una disposizione di legge stabilisce: "È possibile richiedere un'autorizzazione prima di recarsi all'estero".
Tale disposizione stabilisce che è possibile, non si sa se necessario, richiedere un'autorizzazione prima di recarsi all'estero.

10b.   Una disposizione di legge stabilisce: "È possibile richiedere un'autorizzazione prima di recarsi all'estero".
Tale disposizione stabilisce che non è necessario richiedere un'autorizzazione prima di recarsi all'estero.

11a.   Una disposizione di legge stabilisce: "Alcune disposizioni previgenti s'intendono abrogate"
Tale disposizione stabilisce che alcune disposizioni previgenti, forse tutte, s'intendono abrogate.

11b.   Una disposizione di legge stabilisce: "Alcune disposizioni previgenti s'intendono abrogate"
Tale disposizione stabilisce che alcune disposizioni previgenti, ma non tutte, s'intendono abrogate.

12a.   Una disposizione di legge stabilisce: "Le persone sposate devono abitare nello stesso comune"
Tale disposizione stabilisce che le persone sposate, non si sa se tra di loro, devono abitare nello stesso comune.

12b.   Una disposizione di legge stabilisce: "Le persone sposate devono abitare nello stesso comune"
Tale disposizione stabilisce che le persone sposate tra di loro devono abitare nello stesso comune.

Schermata finale

Grazie per aver partecipato!

La presente ricerca si propone di confrontare il modo in cui esperti ed esperte in discipline giuridiche e parlanti comuni intendono i testi di legge, con particolare riguardo ai significati impliciti. Premendo spazio, l'esperimento sarà terminato e potrà chiudere la finestra.