
Edinburgh: Edinburgh University Press. pp. 256

Reviewed by Joanna Garbutt

When considering the various debates and questions relating to how meaning is assigned to language, the legal context is an arena where such questions have very important consequences. Chris Hutton examines how language, meaning and interpretation are affected by the procedure and process of the law, identifying how previous studies have dealt with these factors and how these debates have repercussions for the study of linguistics as a whole. He concerns himself with how law represents itself through language and, using examples from real cases, how legal professionals theorise and interpret.

The introduction begins by examining philosophical ideas of meaning and symbolism, what the difficulties of interpretation are and also what difficulties these interpretations cause. There are also questions regarding whether human cooperation through language is only through a form of coercion, thereby impacting on language choice, which in turn effects how these words are then assigned meaning. From examining these questions theoretically, Hutton provides a starting point for more practical implications of these issues later on in the book, as ideas regarding control are inherent within the constitution of law, particularly with the divisions between every day conversation and that language which can be characterised as ‘legal language’.

Part one begins with a look at legal theory and language, starting with a discussion as to the nineteenth century idea of law as absolute where determine modes of reasoning are critical to the process of the court. However,
following this, a movement from formalism to realism saw the emergence of ideas concerning liberalism, including ideas of equality, special rights and Marxist and Feminist approaches to the institution of law. By incorporating these different approaches, the new ideal was perceived as an encouragement of a more effective, free and easy communicative flow. This has resulted in models of law which expect language to cope with high levels of accuracy and transparency simultaneously, posing many questions for the linguist as to how law professionals view language and how they view their status as authors and readers of this language.

When studying language, the concept of a ‘system’ is applied by linguists; during the legal process, Hutton believes this concept of the ‘system’ raises a number of practical and theoretical problems. In law, the language is brought into a process where there is maximal explicitness and terminological and conceptual coherence, demanding a lot more than the studied ‘system’ of language is able to cope with. From identify this demand on language, it will be shown where gaps and areas of tension can arise. It may be clear to see that perhaps the law is problematic to linguists, as it includes issues regarding accountability, which can be difficult, particularly with questions regarding moral accountability. The way that language is used in legal processes has been developed has left little room for contextualisation, which is problematic when considering the meanings that may have been intended by those using the language. The chapter brings together how the study of language creates a system and how this can often be at odds with the ‘system’ of the law.

When identifying the differences between these two systems, Hutton considers how language is influenced by individual thought. Language can be largely subjective, shaped to a certain extent by a unique individual insight, thereby making consistency difficult. This can cause tensions, as it can become difficult to isolate what would be considered the best use of language as such judgements are largely subjective.

Hutton then identifies the issues of legal interpretation, comparing this to religious interpretation of a sacred text. He also identifies the changes that led to ways in which law should represent the people. In the UK, the law has developed in retrospection, particularly in regard to common law. Recent issues regarding the plain English arguments, such as difficulties posed by the jargon of legal speech, suggests that although the language itself may be clear, the legal application of those words used may not be. Through this development, law professionals accept the boundaries that the law has, as law itself is not a bound entity. Therefore, the language of the law itself is movable and can be often readjusted depending on the needs of particular cases.

Law students learn three rules for interpretations, literal, golden and mischief, and cases are interpreted according to these three approaches. Hutton also
notes the cases where interpretation has been contested between common sense and literalism. This highlights the role of contextualism in meaning but also subjectivity. In conclusion, interpretation and legal language exhibit a large amount of ideological contestation. Language has the ability to bend and flex as the law demands but the law does fundamentally need to incorporate a degree of consistency. Therefore, the change in the way law has progressed from the nineteenth century has, to a certain extent, identified and accepted this lack of absolutism that language provides.

Part two begins by separating two forms of historical investigation: constitutional and semantic originalism; law and language provide an arena to these two specific forms of investigation. When defining the status of literal meaning, terms are relational and dependent on the fields of semantical identification. This can be seen in the consideration of concrete objects versus more abstract meanings. For example, Hutton uses the dictionary definitions of ‘sheep’ which apart from the literal meaning, also include the definitions of someone who is easily influenced or led or a person regarded as a protected follower of God (p. 86). Such definitions are contextually bound, as the meanings have evolved over time reflecting ‘largely unexamined historical and cognitive assumptions’ (p. 86). In law, definitions are often provided by ‘experts’, as in the cases of such as with the meaning of a statute, the variation of meaning for receivers and the effect of historical and contemporary meanings on what can be interpreted from this language in a particular context. Hutton highlights this with what he believes are the dangers of the reliance on dictionary definitions, leading to questions as to whether it is a point of law or a point of definition which is at stake. However, dictionaries often provide a crude and unreliable method to applying meaning to terms used, and there are many arguments that linguists would use, either to specific cases or to the general, broad use of dictionary definitions in legal procedure, which would argue against the absolute meaning bestowed on the definitions of these terms. Cunningham et al. (1994) is highlighted as having looked specifically at this point, examining how isolated words will have different meanings in different contexts and that, unlike the linguist, the dictionary will have no knowledge of the facts of the case and is closed as to the meaning. This will make it neutral but less flexible and perhaps less able to provide meaning as they are a closed simple way to provide a definitive, albeit inaccurate, answer. However, the flaws of these definitions from a linguistic perspective are exactly what can make them attractive to the legal professional.

It is also important that the authority of the deciding factors within the meaning and status of a representation is considered. Usually, this would lie with the author, but will often require the interpretation of an audience. One case examined in the book looks at a clothes shop in Hong Kong which sold a T-shirt that incorporated what could be interpreted as imagery relating to gang
membership. However, other interpretations of this image could be, and were, given, so interpretation of the meaning of the T-shirt by the observer was key. Interpretations are also important in determining deception and fraud, as well as in determining whether offence has been caused from the usage of certain words or symbols. In all these cases, a higher subjective opinion is made from the audience's understanding of the meaning of these words and symbols, and whether this was knowingly caused by the author. The definition of symbols is more difficult, as Hutton himself states, ‘In legal terms, authors are responsible for meanings which they do not control’ (p. 115).

Law often conflicts with the more liberal views of language, and with language in the community, such as freedom of speech. For example, companies often place impositions on use and ownership of certain terms under the confines of trademark law. This acts as a ‘badge of origin’, but there is the difficulty of words not having the same meaning and also not having the meaning which companies want to ascribe when identifying their own rights to ownership. For example, this has been seen with McDonalds. Their investment in the ‘Mc-’ prefix has led to it acquiring a powerful association which has often been used in a negative manner, such as in the term ‘McJobs’. In previous literature, the view of trademark law has been contentious, and the example highlighted is of Shuy characterising trade mark law as a form of language planning (Shuy, 2002), believing in these cases that the authority of law overrides the authority of the public.

Part three identifies selected topics of the practicalities within the legal process as a whole, looking at the constraints of the legal materials and conventions of legal reasoning by judges, the interpretations which deal with ‘hard cases’ and how meaning can often be a process of how definitions set limits and borders. Those hard cases which are identified are often where meaning will end up between two definitions, but the practice of law will reduce this zone of uncertainty. There is also the reflexivity of language – how it engages on a self-conscious and playful level to throw off the weight of accumulated narratives, pushing past its usual boundaries, and recontextualising what is deemed as ‘normal usage.’ In this sense, legal professionals test whether a certain group, action, etc is identified by the particular boundaries within the law. In this sense, the law tests what is taken for granted in common usage, but also runs parallel to what can be taken for granted within these legal practices themselves. Part three concludes by examining the Single Meaning Rule and defamation law, looking at how law examines what is inferred besides literal meaning. As mentioned previously, the difficulties lie in the subjective assignment of meaning. However, under these laws, the responsibility of meaning and true meaning does not shift, raising questions about the authority of interpretation.
In the conclusion, Hutton highlights the interpretative space where the intent of the author is either not relevant or assumed by the words themselves. In this view, language cannot serve as a set of pre-determined labels, and linguists themselves recognise this particular shift between the ideal fixity of language and real motion. The appendices include a number of facts relating to real legal cases, and discussions of the relevant points and questions which are incorporated in the interpretation of meaning from these cases. The reader is encouraged to engage with the points previously discussed, examining the practical applications. The book finishes with a comprehensive section on further reading.

*Language, Meaning and the Law* raises many questions regarding the shifting and complex relationship between language and the law, providing a thorough examination of the theoretical and philosophical questions which arise from the quest of legal professionals to ascribe absolute meaning and those difficult cases where both the law and language flex to ascribe meaning, creating an important point for discussion. From identifying points in legal theory, subjectivity and objectivity are found to conflict with the absolute model that law demands of language, which linguists sought to discuss and ratify through the many rules and functions which linguistics adds to the argument. In as such, the function of linguistics can conflict with the function of language in law. Hutton does not suggest a practical, problem solving approach but identifies areas of tension. In so doing, he builds a clear picture of the confines and constraints of language in law and what could emerge as the resulting meaning of these pressures which legal professionals and the process of the law themselves impact on language. Its search for equality demands consistency, but when dealing with the needs of language, which is devised by individuals, it becomes difficult to see as to how both ideals can be combined.

**References**
