

“Language and Law”

Harshvardhan Singh Khichi
NMIMS University,
Mumbai

INTRODUCTION

Language is important in any legal system, not only in the same way that it is in politics in general but also in specific ways. A good philosophical account of the meaning and use of language can help the philosophy of law. The law must provide for the authoritative resolution of disputes over the effects of language. Legal philosophers are interested in applying insights from language philosophy to problems of law's nature. ¹Legal philosophers are political philosophers who have a particular interest in language, which gives it a special status. It is claimed that legal philosophers must account for the possibility of linguistic disagreements and why there might be a good reason for resolving disagreements in one way or another.

Historical Introduction to law and language

Systematic applications of the ideas in the philosophy of law are not very new. Jeremy Bentham may well be considered to be the first person to have attempted it. He developed a radically empirical theory of language which supported his utilitarianism. Bentham wished to abolish the old ideas of natural rights and duties. He sought 'sensible' phenomena to understand the nature of law. According to him, linguistic acts were observable and respectable. legal positivism was founded on his claims about the meaning and usefulness of words Bentham seems to have thought of a word in causal terms, as having the capacity to influence a subject using image association. Trends in twentieth-century philosophy were anticipated by Jeremy Bentham's ideas about words and their definitions. It was on this theory that he built his innovative conception of law. The job of the legal theorist is to find appropriate definitions for legal terms in general, the summit of the art of language use in legal philosophy.²

Hart proposed in 1961 that law appears to confer rights and responsibilities about imposing obligations. We are in a better position to understand that facet of his law theory if we know where Bentham and his nineteenth-century disciple John Austin went wrong with regard to the nature of normative language. Hart's new approach was the starting point for discussions on the law's normativity of the 1960s. Norberto Bobbio started to consider law as a language, as well as a meta-language that implements a noncognitivism ethical theory legal realism, in the

¹ *Law and Language (Stanford Encyclopedia of Philosophy)*. (2016, April 15). <https://Plato.Stanford.Edu>. <https://plato.stanford.edu/entries/law-language/>.

² *A brief note on Utilitarianism: A study on Bentham and J.S.Mill views*. (n.d.)

[Http://Www.Legalserviceindia.Com](http://Www.Legalserviceindia.Com). Retrieved March 31, 2021, from

<http://www.legalserviceindia.com/legal/article-3093-a-brief-notes-on-utilitarianism-a-study-on-bentham-and-j-s-mill-views.html>.

20th-century school of thought is summed up by the concept of “Legal terminology is completely absent of semantic meaning”³

THE USE OF LANGUAGE IN LAW

Signs and the law

In practical terms, law is the governance of a society through a set of ethical principles that governs members of the community and their organisations. It must be in line with the way things in society. Linguistically the best English words have no statutory spelling or phraseology; as a result, such a range of agreed criteria. It was also claimed by the thinkers of the Bentham and Austin era that there are laws of law that are not described in words. They predicted rules which were apparent because they had been included in the Sovereign's order. To have legitimacy, a norm must not be formulated with the use of signals.⁴ Many such objections exist, according to David Wheeler. While he maintains that laws should be made by writing, he adds that not all laws are in written form. Any legal framework has legal precedents that were not written up with reference to words. Laws are not linguistic acts.

Interpretation of language and law

Legal theorists have attempted to construct theories of legal interpretation and theories of the meaning of legal language. I'll discuss aspects of language that pose problems for legal philosophy. The 'pragmatic' effects of language use have long been a source of legal contention. Gricean and post-Gricean pragmatics have become a major point of contention among philosophers of language and law. Any attempt to give a true account of legal interpretation faces insurmountable difficulties because of these pragmatic features of communication. It is now illegal to drive a 'vehicle' on a road that does not have pneumatic tyres. Lawrence Burr outfitted his chicken coop with iron wheels and towed it down the road behind his tractor.

Magistrates acquitted him, presumably because a chicken coop isn't a "vehicle."⁵ That decision was overturned by the appeals court. The magistrates and the appeal court appear to disagree on the impact of two principles: a. that statutes should only be read as imposing criminal liability if they do so unequivocally, and, that the purposes for which Parliament passed the statute should be pursued⁶ The two courts disagreed not over language, but over whether they should convict Mr. Burr in order to give effect to Parliament's obvious purpose of protecting

³ Rumble, W. E. (n.d.). *Legal Positivism of John Austin and the Realist Movement in American Jurisprudence*. Scholarship@Cornell Law: A Digital Repository. Retrieved April 1, 2021, from <https://scholarship.law.cornell.edu/clr/vol66/iss5/4/>.

⁴ *Legal Theory Lexicon 098: Speaker's Meaning and Sentence Meaning*. (n.d.). <https://lsolum.typepad.com>. Retrieved April 1, 2021, from https://lsolum.typepad.com/legal_theory_lexicon.

⁵ Garner vs burr.

⁶ Danial G. Stroup, Law and Language: Cardozo's Jurisprudence and Wittgenstein's Philosophy, 18 Val. U. L. Rev. 331 (1984). Available at: <https://scholar.valpo.edu/vulr/vol18/iss2/3>.

roads. This common type of disagreement may appear to reveal nothing about language, other than the fact that language isn't particularly important in law.

However, because Parliament intended to protect roads from iron wheels, the Lord Chief Justice did not rule that Burr should be convicted regardless of the meaning of the word "vehicle." The magistrates should have found that the chicken coop was a vehicle "for the purposes" of the Road Traffic Act, he claimed. In *Garner v Burr*,⁷ the Lord Chief Justice was correct in stating that a dictionary definition of "vehicle" could not resolve the issue of whether the chicken coop was a vehicle. The purpose of a dictionary definition is to point the reader to aspects of the word's usage that can be more-or-less important in a variety of more-or-less analogous ways in different contexts.

The legal language's pragmatics

Legal pragmatics is the study of how language is used in specific contexts. The *Garner v Burr*⁸ a decision can be viewed as an exercise in pragmatism. Practical or theoretical linguistics over the last few years has concentrated on Gricean and post-Gricean pragmatics. Andrei contends that the pragmatics of legal terminology is somewhat distinct. To his mind, the Gricean maxims do not directly extend to legislative correspondence. Laws tend to elide useful in different fields of communication. In the sense of small talk, plain speaking is the law.

The pragmatic results of communication are required in all modes of language, as well as in use of legislation. This is relevant for 'near-sighted' and 'far-sighted' The *Garner* discussion on the bill in *Garner* shows how meaning can affect the reference to words such as "vehicle". Using words to make law is not part of a reciprocal communication with those that one writes legislation is discussed. Tribals are inevitable in every legal system, he claims. He insists that the position of a court in the judicial system restricts the arguments.⁹ The branch of linguistics dealing with pragmatics is in its infancy. It serves as a constant reminder that all conditions promote argument as a mechanism and method for settling conflicts.

The Semantic Phenomenon

According to the 'contact paradigm,' a lawmaker establishes the legislation by expressing it through words. The communication paradigm has been criticized by Mark Greenberg. Ronald Dworkin argued against the notion that a country's legislation is just a set of laws. Such scholars contend that civil rights and obligations cannot be determined solely on reality. Law philosophers like Hart, according to Dworkin, were unable to justify theoretical conflict in legal practice. We all obey laws that our shared language imposes on us that we aren't completely conscious of. He writes that "our guidelines for using the word "law" tie law to plain historical

⁷ *Garner v Burr* (1951)

⁸ *Supra*

⁹ *Pragmatics (Stanford Encyclopedia of Philosophy)*. (2019, August 21). <https://plato.stanford.edu/entries/pragmatics/>

fact." Dworkin concluded that legal theory has to start over in order to address the problem of explaining legal disagreements. He argued that any philosophy of law would be a "constructive view" of legal procedure. Legislation must be a positive experiment in interpretation. If those that are subject to the legislation are forced to apply a test that is contentious in its interpretation, disagreements over the law's substance will emerge. In certain circumstances, it can still be ambiguous (and contentious) whether the legislature has the authority it appears to have exercised.¹⁰

The structure of law and evaluative considerations

Incorporation of evaluation to the relevance of the meaning of the issue in Garner and Burr
Incorporation of evaluations of the context of the term
Without assessing if the values such as equity, fairness, or equity versus respectability are to be weighed, it is impossible to get at the sense and application of the words of the law. As a matter of law, we must determine whether the chicken coop was used for that which the legislature respected. Legal rulings are about what the law is and what we can do according to what the law has defined it to be.

A law may be recognized and supported only by referring to other evidence. His idea holds that there can be government mandates without getting the compliance effect they're supposed to have. However, the court must look at what the "vehicle" the law is being referred to in order to in order to recognize its relevance.

Ambiguity in language as well as in law

Vague rules are difficult for law and theory to deal with. It is dangerous driving if you do so much as drive with bald tyres. Complex laws are applicable to regulating behaviour that lack the pinpoint, reproducible element to control. When you want to argue with people using abstract words, slippery language, the nature of your claims may shift but the coherence of your logic may not. Philosophers of law have commented on cases that straddle the boundary between justice and injustice, and how their positions could be described. if the implementation of indeterminate laws is permitted, a judge is not able to resolve any situations In addition, some legal philosophers argue that judges never face this dilemma. Descriptive terminology is commonly used to discuss the sorites paradox. According to Ronald Dworkin, though, abstractions are completely incomprehensible and non-vague.

It's likely to be irresponsible if the tyres are bald, although several other information sources may substantiate the theory that driving with a broken vehicle is careless. Though it may be impossible to produce an infinite sequence of literal applications for legal principles, one may be able to fabricate a non-specific paradox. Road traffic rules can only be interpreted where

¹⁰ Skoczzeń, I. (n.d.). *Minimal Semantics and Legal Interpretation*. International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique. Retrieved April 1, 2021, from https://link.springer.com/article/10.1007/s11196-015-9448-3?error=cookies_not_supported&code=62b52872-3e29-4884-8715-fdd301c9e125.

there is an underlying legal framework to guide them. The proper use of the word must take into account specific legal considerations as well as the aims of the law. The judge's ruling did not violate the statute in any way. At the time of the ruling, the statute permitted the courts to transfer the matter to another judge.¹¹

USE OF THEORY OF LANGUAGE IN LEGAL PHILOSOPHY

Definition as a mechanism in legal philosophy

Bentham's theory was interpreted as a description. It is now commonly agreed in legal theory that Bentham and Austin were wrong in trying to define such terms. Only those who need to understand the meaning of a word will benefit from a definition, and legal philosophers already know the meaning. A suggestion that would support someone who didn't know what the word meant would not fix their issues or conflicts. The phrase "law" may be used in a number of ways, and a concept must account for these variations. However, a study of culture and human thought holds no unique promise for understanding group law. It may be an interesting study to clarify the analogies between certain senses, but it holds little hope for law-making in general. The law of the jungle, the law of gravity, the rules of thought, Murphy's law, and so on are all examples.

The normativity of law and the use of language

Law can be said by using phrases like "obligation", "right", "necessary" the normativity of law is the difficulty of defining legal circumstances Bentham and John Austin did not share the same views on natural rights, though they've discovered a method for normalizing the usage of legal terminology. to demonstrate how to describe the term 'obligation' by reference to pain and pleasure of obedience That is my duty; if I don't do, I will be subject to criminal penalties, according to law. political economy Doing one's job is one's way of expressing one's preferences to say the rule is to be performed. He took advantage of 20th-century philosophical methods to refute the idea. No one could make a distinction between the word 'obligation' and the order a gunman gave them.

Due to Bentham and Austin, we need something other than the principle of responsibility for the sake of this debate. The method Hart used was original. Instead of defining the difference in terms of duty and compulsion according to the law-centered philosophy, he attempted to apply the logic of a natural law theorist. His insistence on talking about "obligation" is intentional; it's not a slip of the tongue. He said that we use the word 'significant' a lot. His discussion of lawfulness relies on the use of common terms to show how common such attitudes are. There was little concern in his normative use of language in terms of meaning,

¹¹ *Misunderstanding in language and ambiguity in Law* | Diplo Foundation. (n.d.). <https://www.diplomacy.edu>. Retrieved April 1, 2021, from <https://www.diplomacy.edu/blog/misunderstanding-language-and-ambiguity-law>.

but in that people behave in a certain manner when they employ the terminology. Non-assertion varied only in that one respect.

These kinds of statements are intended to signify a distinctive attitude. According to him, a social behaviour consists of a normal pattern of behaviour and a critical attitude that accompanies it¹², instead, the emphasis of speech acts is on the users of normative expression.¹³

CONCLUSION

These observations return us to the original questions. Therefore, we grasp why the older laws also use rhyme and rhythm easily swayed by words. Also, it must be noted that the supply is likely to be subject to random shortages from time to time due to fluctuations in its price. The enforceability of law powers increased focus on internalization has resulted in a greater number of controls. Law will only work if people accept it of their own free will, because creative analogue of an internal stimulus mechanisms are all alike in the details, but different in degree of intensity. You can learn a lot about a person by their choices of vehicle, as well as the lessons in their nose." their first priority; it's just a means to an end. It's one thing to make an assertion and another to stick to the conviction That is the creed, and to guide the singers to take the melody. Faith and intellectual belief both have different purposes. Intellectual belief tells you how things work, but faith tells you if they're true. Nothing has changed with the rule. There is a rule that does not have a word in it for creativity to reflect the cultural values of our society. International law is seldom used as part of our judicial interpretation of the constitution. Good law is impossible to maintain. It is in this position that vocabulary and law and vocabulary The modern legal systems are both necessary for our proper functioning as an organisation and for the survival of the species. a testament to how legal cultures have changed. One thing that a great communicator knows is how to do is influence people through words. be a big legal foundation. It greatly influences the legal process. Larger, diverse organisations, which we prefer to refer to as 'organisations of our Western societies', are prime targets for state-directed subversion.

BIBLIOGRAPHY

- Law and Language (Stanford Encyclopedia of Philosophy). (2016, April 15). <https://Plato.Stanford.Edu>. <https://plato.stanford.edu/entries/law-language/>
- A brief note on Utilitarianism: A study on Bentham and J.S.Mill views. (n.d.). [Http://Www.Legalserviceindia.Com](http://Www.Legalserviceindia.Com). Retrieved March 31, 2021, from <http://www.legalserviceindia.com/legal/article-3093-a-brief-notes-on-utilitarianism-a-study-on-bentham-and-j-s-mill-views.html>

¹² (Hart, 2012, 255).

¹³ Morrison, M. J. (n.d.). *Excursions into the Nature of Legal Language*. EngagedScholarship@CSU. Retrieved April 1, 2021, from <https://engagedscholarship.csuohio.edu/clevstlrev/vol37/iss2/5/>.

- Rumble, W. E. (n.d.). Legal Positivism of John Austin and the Realist Movement in American Jurisprudence. *Scholarship@Cornell Law: A Digital Repository*. Retrieved April 1, 2021, from <https://scholarship.law.cornell.edu/clr/vol66/iss5/4/>
- Legal Theory Lexicon 098: Speaker's Meaning and Sentence Meaning. (n.d.). <https://lsolum.Typepad.Com>. Retrieved April 1, 2021, from https://lsolum.typepad.com/legal_theory_lexicon
- Danial G. Stroup, Law and Language: Cardozo's Jurisprudence and Wittgenstein's Philosophy, 18 Val. U. L. Rev. 331 (1984). Available at: <https://scholar.valpo.edu/vulr/vol18/iss2/3>
- Pragmatics (Stanford Encyclopedia of Philosophy). (2019, August 21). <https://Plato.Stanford.Edu>. <https://plato.stanford.edu/entries/pragmatics/>
- Skoczeń, I. (n.d.). Minimal Semantics and Legal Interpretation. *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*. Retrieved April 1, 2021, from https://link.springer.com/article/10.1007/s11196-015-9448-3?error=cookies_not_supported&code=62b52872-3e29-4884-8715-fdd301c9e125
- Misunderstanding in language and ambiguity in Law | Diplo Foundation. (n.d.). <https://Www.Diplomacy.Edu>. Retrieved April 1, 2021, from <https://www.diplomacy.edu/blog/misunderstanding-language-and-ambiguity-law>
- Morrison, M. J. (n.d.). Excursions into the Nature of Legal Language. *EngagedScholarship@CSU*. Retrieved April 1, 2021, from <https://engagedscholarship.csuohio.edu/clevstlrev/vol37/iss2/5/>