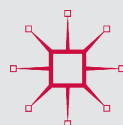# WORD MEANING AND LEGAL INTERPRETATION

AN INTRODUCTORY GUIDE

CHRISTOPHER HUTTON

WORD MEANING AND LEGAL INTERPRETATION

AN INTRODUCTORY GUIDE

Word Meaning and Legal Interpretation

An Introductory Guide

By

Christopher Hutton
School of English, University of Hong Kong

Contents in Detail

List of Figures and Tables

Figures

Tables

Acknowledgements

Note on Conventions

Key specialist terms in the study of law or of meaning are presented in bold: **semantics** when used for the first time. General terms, categories, and words and phrases at the centre of the cases are presented in italics: *vehicle*. Meanings or **glosses** are given in inverted commas: 'self-propelled means of transport'. Inverted commas are also used for 'scare quotations' and for direct quotations, except for displayed quotations which appear without inverted commas. Secondary sources are cited using the 'author, date: page number' convention: Durant, 2010: 27. Law cases are cited by party names and date in the body of the text: *Smith v US* (1993). This is not the conventional way to cite legal cases, but it avoids the need for footnotes. Page and paragraph numbers for quotations from law cases are given using the convention 'at 56', or 'para. 5'. Full case citations and bibliographical references are given at the end of the book. Cases from a range of jurisdictions are included, in particular England and Wales, the United States and Hong Kong. Since 2009 the judicial functions of the House of Lords have been vested in the Supreme Court of the United Kingdom. It should be clear from the context whether *Supreme Court* refers to the UK or the US.

Abbreviations

ADA	Americans with Disabilities Act (1990)
AFDC	Aid to Families with Dependent Children
AG	Attorney-General
Anor	Another
Art.	Article
Arts	Articles
c.	chapter
Cap.	chapter
CFA	Court of Final Appeal of the Hong Kong Special Administrative Region of the People's Republic of China
CJ	Chief Justice
CR	Congressional Record
ECHR	European Convention on Human Rights
GID	gender identity disorder
HK	Hong Kong (Special Administrative Region of the People's Republic of China)
HKRPA	Hong Kong Racing Pigeon Association
HMRC	Her Majesty's Revenue and Customs
HTSUS	Harmonized Tariff Schedule of the United States
ICCPR	International Covenant on Civil and Political Rights
J	Justice, judge
LJ	Lord Justice
MR	Master of the Rolls
NYT	*New York Times*
OED	*Oxford English Dictionary*
PAC	Political Action Committee
para.	paragraph
paras	paragraphs
per	in the judgment of; according to
PRC	People's Republic of China
Pt	Part
REOP	reasonable expectation of privacy
s.	section
Sch.	Schedule
ss.	sections
SRS	sex reassignment surgery
TSUS	Tariff Schedules of the United States
UK	United Kingdom of Great Britain and Northern Ireland
UP	University Press
US	United States of America
v	versus
VAT	value added tax
VP	Vice President

Introduction

This book is about word meaning, linguistic categories and the classification in law of objects, events, actions and people. It is concerned with how words at issue in legal cases are assigned interpretative meanings. The aim is to give the reader a strong sense of the texture of legal problems, and to that end this book presents actual cases, analyzed so as to be comprehensible to someone without legal training. It analyzes legal **meaning troublespots** (Durant, 2010: 27) such as: Is a bicycle a *carriage*? Are Sikhs a *race*? Is a company a *person*? These involve ordinary words, commonsense categories and problems of classification: 'Meaning troublespots are less about understanding something that seems out of reach than about settling on a meaning for something understood in too many different ways right in front of us' (Durant, 2010: 31). If the statute states that 'No games are allowed in the park', a judge may have to decide whether playing an electronic game on an I-pad is against the law, i.e., whether the e-game is a *game* for the purposes of the legal rule. Law must reach decisions in relation to individual people and concrete circumstances against a background of a dynamic socio-cultural order, and yet justify those decisions in terms of abstract legal categories and impersonal rules. This is a basic human dilemma in relation to moral principles, as well as the crux of the interpretative problems that confront law.

The book is divided into three parts. Part I, 'Meaning and Interpretation' (three chapters), reviews approaches to word meaning and interpretation in linguistics, philosophy and law. Part II, 'Case Studies', consists of 10 chapters and makes up the core of the book. The cases discussed are drawn from common law jurisdictions, primarily those of England and Wales, the United States and Hong Kong. They turn on the meaning of a particular word or phrase and the classification of an object, event, person or group. Readers should note that these cases are drawn from different time periods and social contexts, and the explanations are not intended to state definitively the current state of the law. In Part III, 'Concluding Remarks', the fundamental issues are identified and reviewed.

It should be stressed that there are many interpretative issues in law concerning word meaning not covered by this book. It does not deal with specialized topics such as legal translation, defamation law, hate crimes, obscenity law and trademark law, nor with evidential texts, such as confessions, witness statements, suicide notes and so on. It is confined to genres of text defined by law, primarily statutes, but also contracts and wills. The reader is referred to

standard introductions to law such as *The Law-Making Process* (Zander, 2004), to legal reference works on statutory interpretation (e.g. Bennion, 2010; Scalia and Garner, 2012), and to general studies on language and law such as Tiersma (1999) and Solan (2010).

Issues concerning linguistic categories and systems of classification (**taxonomy**) permeate specialized discourses such as natural science or anthropology, bureaucratic and administrative regimes, as well as everyday talk about the world and the mundane things, people and events observed within it (Jaworski and Coupland, 1999: 3). Legal decisions belong to the social history of classification and can reflect deep-seated tensions in intellectual culture and social organization. The issue in the New York case of *Maurice v Judd* (1818) was whether a tax that applied to *fish oil* also applied to *whale oil*. This question was staged as a confrontation between an emergent but unstable scientific taxonomy, according to which whales were *mammals*, and the traditional Biblical order, whereby living beings were classified according to their domain: 'the fish of sea', the 'fowl of the air', and living things that move 'upon the earth', according to which whales were *fish* (Burnett, 2007).

Modern social theorists regard categories and classification systems as **social constructs**. In this book the related term **fiction** is used at various points. Fictions operate within law in various ways, for example to maintain the coherence of legal discourse or to fill an evidential gap (Fuller, 1967). Other forms of legal fiction involve stipulating the nature of an entity, for example the idea that a registered company has **legal personality** or is a **legal person** (see Chapter 14). An example of a fiction as to fact is the rule that where two people die together in unknown circumstances, the younger one is deemed to have survived longer. The 'fact' that the younger survived the older is treated 'as if' it has sufficient existence for law to operate upon it (see Chapter 5). More fundamentally, many of the forms of authority, evidential assumptions, classification schemas and interpretative methodologies on which law draws have been characterized as fictions. The category is intrinsically contentious (Smith, 2007). One question that this book raises is the status of two concepts fundamental to legal interpretation, namely **decontextual** (**abstract**) **meaning** and **ordinary meaning**. Both can be seen as fictions or constructs, and 'ordinary meaning' is arguably a key legal fiction. Using the term 'fiction' or 'construct' does not necessarily provide the answer to a set of intellectual problems; rather it is an invitation to look behind the category in order to understand the role it plays in the interpretative culture of law.

The interdisciplinary study of law has a number of potential aims. It might seek to apply frameworks from disciplines outside law into the study of law, in order (i) to impact directly on the practice of law, including decision-making by judges; (ii) to influence legal education (see Dorato, 2013) and academic debates in legal theory; and (iii) to inform non-specialist readers about law, and thereby contribute to public understanding of legal topics. A further interdisciplinary aim, with scrutiny directed in the reverse direction, would be (iv) to use the study of law to reflect critically on the concepts and methods of academic disciplines such as linguistics and the philosophy of language.

If we put linguistics into the scheme above then the aim of legal linguistics might be (i) to change how judges make decisions about meaning and interpretation in actual cases. Since the medium of law is primarily language, expertise about language, it is argued, is relevant to the ways in which judges make decisions about what words mean. This would suggest that linguists can teach lawyers how better to perform the linguistic tasks of law. More modestly, the aim (ii) might be to transpose or translate the linguistic and interpretative culture of law into the conceptual framework of a discipline such as linguistics or anthropology. This would be done not with the aim of correcting the interpretative culture of law, but of understanding legal interpretation as a set of cultural and institutional practices. This might extend to (iii) popular discussions of meaning and interpretation in law. To scrutinize linguistics through the lens of law (iv) would involve using law as a critical testing ground for the models of meaning and interpretation proposed by linguists. It might be argued that the study of language has much to learn from the study of law, since law is a social domain in which linguistic issues with which all members of society have to deal are treated in a hyper-explicit or **reflexive** manner (Hutton, 1996). It has been argued by linguists that law's dealings with meaning and interpretation are problematic; yet, from the point of view of law, it might be argued that linguistics is itself naive about the nature of language and interpretation, in particular the kind of contentious and strategic decisions that are made by judges.

A claim to know what words mean represents a claim to a specific kind of intellectual or institutional authority. While language is a social institution, no one has ultimate authority or control over it. No theory of meaning allows the analyst, as a matter of incontrovertible method, to determine what a word means in the abstract or in a particular context. Language is best understood as an open-ended and disorderly participatory democracy. Yet linguistics seeks to identify an underlying order in the form of stable sets of form-meaning pairings that make communication possible. It claims a particular form of authority in relation to its statements about language. Law involves the institutional creation, recognition and application of its own specific forms of authority, and within law, interpretation is a highly specialized domain for the exercise of that authority. However, while law has multiple discourses about categories and classification, it has ultimately 'no all-purpose theory of things' (Madison, 2005: 382). And while law claims authority over interpretation within its domain, it equally has no 'all-purpose' theory of language and interpretation.

The dilemma that haunts all interdisciplinary discussions is that intellectual questions frequently make sense only within a certain disciplinary framework. To bring two or more frameworks together risks creating a conceptual clash. But one question the reader should be able to ask is: Does this idea from linguistics or philosophy offer useful insights when applied to problems of legal interpretation? Even if the answer is ambivalent or negative, the reasoning process is itself highly revealing. It is conceptual tensions such as these that make the topic of language and law such a fascinating one.

Meaning and Interpretation

Linguistic Meaning

The discussion below reviews in brief approaches to the study of linguistic meaning or **semantics**. The word **meaning** is notoriously difficult to define (Ogden and Richards, 1923), as is the word **word** itself (Hanks, 2013: 25ff.). There is little agreement about the questions to be asked, let alone the answers (Stout, 1982), and the student is confronted by a bewildering array of terminology and frameworks. Two points should however be kept in mind. First, there is an underlying ideal of **one word–one meaning**, to which at some level every theory of meaning is responding. Secondly, each language user has the extensive resources of his or her linguistic and interpretative experience on which to draw.

Basic terms and concepts

The term **linguistic meaning** implies that there are particular properties that words (phrases, sentences, etc.) possess and by virtue of which they function as signs. One common way to explain the meaning of a word (**lexical meaning**) is by the identification of a **synonym**, that is, a word with the same or a similar meaning. Synonyms are used, for example, when an unfamiliar or difficult word is explained with reference to a familiar one. A student of Latin who looks up *arbor* in a Latin–English dictionary will find it defined or glossed as 'tree'. If we look up *unctuous* in a monolingual English dictionary, we find that it means 'oily, greasy' and that it can be applied to people, with the implication that they are smooth-talking, affected, insincere and untrustworthy. In these cases the dictionary explains the less familiar by reference to the more familiar. However, basic words such as *oily*, and even simple words such as *mouse*, *the* and *in*, also appear in standard dictionaries, and have to be explained with reference to less basic or more difficult words.

A second semantic function of the dictionary is to provide authoritative generalizations about the meanings of a word, including organizing these into sub-categories. In semantics the distinction is made between **polysemy** (where a word has a range of distinct but related meanings) and **homonymy** (two words which have the same form but a different meaning), and this is also reflected in the structuring of dictionary entries. **Hyponymy** is a semantic relationship of inclusion: *cat* is a **hyponym** (or subordinate category) of *animal*, and *animal* is a **hypernym** (superordinate term) of *cat*.

Dictionary entries tend to deal with polysemy by arranging meanings from the more common to the less common, and from the **literal** to the **figurative**. The *Oxford English Dictionary*'s entry for *rose* begins with a section of meanings under 'flower or plant' ('flower or a flowering stem of any of numerous wild and cultivated plants of the genus *Rosa*'); section 2 of the entry gives the 'allusive, emblematic, or figurative' meanings, especially metaphorical meanings. This corresponds to the intuition that the concrete or literal meaning – in this case also the botanical – is more basic than the figurative. In the *Oxford English Dictionary*'s on-line definition for *female* there is the same emphasis on biological reality (<oxforddictionaries.com>):

- of or denoting the sex that can bear offspring or produce eggs, distinguished biologically by the production of gametes (ova) which can be fertilized by male gametes: a herd of female deer
- relating to or characteristic of women or female animals: a female audience; female names
- (of a plant or flower) having a pistil but no stamens
- (of parts of machinery, fittings, etc.) manufactured hollow so that a corresponding male part can be inserted.

Definitions come in many styles. Charles Dickens (1812–70) in his novel *Hard Times* parodied a soulless form of pedagogy in the figure of the teacher Mr Gradgrind. For Gradgrind, the word *horse* is properly defined in terms of facts about horses (Dickens, 1854: 16):

> Quadruped. Graminivorous. Forty teeth, namely twenty-four grinders, four eye-teeth, and twelve incisive. Sheds coat in the spring; in marshy countries, sheds hoofs, too. Hoofs hard, but requiring to be shod with iron. Age known by marks in mouth.

(*Graminivorous* means: 'eating grass or the seeds of grass'.) In terms of lexicographical theory, Gradgrind prefers so-called **real definition** (encyclopedic definition of things, people or events) to **lexical definition** (definition in terms of conceptual meaning) (see Harris and Hutton, 2007: 37ff.).

Metaphor is the most familiar category of figurative language. According to an influential definition, its essence is to be found in 'understanding and experiencing one kind of thing in terms of another' (Lakoff and Johnson, 2003: 5). A celebrated literary metaphor is 'All the world's a stage', from Shakespeare's *As You Like It* (Act 2: vii). Theatrical metaphors are commonly used for the courtroom trial (Friedman, 2000) and even the legal process as a whole: 'All the law's a stage' (Ball, 1999). Metaphor involves a tension between perceived similarity or **analogy** and perceived deviation from the norm or **anomaly**. The phrase *justice is blind*, for example, brings to mind the female figure of justice (often called Lady Justice), carrying a sword in one hand and a pair of scales in the other. This is a visual metaphor based on **personification**, in that an abstract idea, 'justice', is depicted in terms of a human figure. The figure is

frequently, though not always, blindfolded. This loss of vision represents, by analogy, the idea of impartiality or objectivity. By virtue of being unable to see, the figure is freed from the biases of ordinary perception. The blindfold further represents self-restraint, since the figure could see, but elects not to. In addition, there is a second analogy between weighing and judging. A scale, like justice, should be objective; it is a public instrument of measurement, used as a comparative reference point.

But there is also an anomaly in the way we read the figure of Lady Justice, and in the related phrase *justice is blind*. Justice, after all, is not a person; weighing goods on a scale is very different from evaluating evidence or assessing arguments. Furthermore, vision (rather than its absence) can also represent understanding and insight. When the figure is blindfolded, we interpret this as representing impartiality; yet when the figure is not, we still read the figure as representing law's impartiality. Both the ability to see and the inability to see can stand for similar metaphorical meanings. Conversely, the phrase *justice is blind* can be used to praise law's impartiality, or to bemoan its inability to get at the truth.

Contemporary theorists of metaphor stress the essential role it plays in our understanding of self, society, culture and nature, as well as of basic processes and categories such as causality, time, and space (Lakoff and Johnson, 2003). Metaphor, they argue, is grounded in our bodily experience, and is integral to the fundamental ways in which we make sense of the world. Yet the metaphors we use are always contentious, or potentially so. One person's insightful metaphor is another's manipulative rhetoric. Metaphor highlights or proposes sameness (analogy), but it simultaneously conceals or downplays incompatibility and difference (anomaly). The boundary between analogy and anomaly is at stake in our most profound disagreements. Is it a helpful analogy or a linguistic anomaly to call the brain a *computer*? Is a nation a *family*? Should we conceptualize official action against illegal drugs as a *war*? Is a foetus a *person*? In what sense is the *pain* of animals like (or unlike) the pain of human beings? What does it mean to say that God is *happy* or *angry* (Kołakowski, 2012)?

The relationship between literal and figurative meaning plays a fundamental role in the study of word origins and history known as **etymology**. The etymology of a word is understood as a relationship between different stages of the history of a word (x becomes x^1), and among words in languages that are related or in contact (x is related to y). But etymological meaning is not simply a historical curiosity. Modern linguistics has rejected the relevance of etymology for current meaning (the **etymological fallacy**), arguing that words mean what people take them to mean in current usage. *Prestigious* means 'having high status' not 'full of trickery' (its etymological meaning), since that is how ordinary speakers of English now use the word. The origin of a sign is not necessarily relevant to its meaning. For example, a woman in Tokyo carrying a handbag with a Union Jack design is presumably not making a statement of loyalty to the British flag. Yet in asking for the literal meaning of a word, we often look for the historical and usually more concrete meaning that is felt to underlie it. Since literal meaning is profoundly important as a frame for thinking about word meaning, etymology can be used as an analytical tool where

peripheral and contingent meanings of a word are stripped away in order to reveal the original, core concept. To invoke the literal meaning therefore often involves appealing (explicitly or implicitly) to the etymology; further, etymological analysis is frequently exploited for a variety of rhetorical purposes, including in legal interpretation.

In their search for an understanding of word meaning, linguists, literary critics and philosophers tend to draw a distinction between **ambiguity** and **vagueness**, though they make the distinction in a variety of ways (see Schane, 2006: 12ff.; Solan, 2012; Poscher, 2012). In general a sentence is said to be ambiguous if there are two (or more) distinct readings that can be offered of it. An example would be: *The chickens are ready to eat*, which can mean 'The chickens can now be eaten' or 'It is time for the chickens to be fed'. A vague sentence would be one such as *Sam bought a lamp*, since it is not specified how much the lamp cost (Lakoff, 1970). On the level of words, *bank* would be ambiguous, since it can refer either to a financial institution or to the shore of a body of water; the word *friend* might be considered vague, since it covers a wide range of relationships. But, arguably, *The chickens are ready to eat* represents two distinct sentences, just as there are two distinct words (homonyms) spelled *bank*.

As for vagueness, there is always potentially a fuzzy edge to any identified meaning. A sentence that is ambiguous out of context might be perfectly clear in context. In a discussion of the scope of the word *knowingly*, the court in *US v Jones* (2002) stated that: 'Although the language was ambiguous, the potential for confusion was not realized' (at 750). Conversely, a sentence that appears unambiguous in the abstract might be ambiguous when used on a particular occasion. The literary critic William Empson (1906–84) effectively merged ambiguity with vagueness when he defined ambiguity as 'any verbal nuance, however slight, which gives room for alternative reactions to the same piece of language' (Empson, 1953: 1). For Endicott, a word or expression is vague 'if there are borderline cases for its application' (Endicott, 2000: 31). This suggests that all language is ambiguous or potentially so, and moves close to the position that language is **indeterminate** (see 'Indeterminacy' below).

Negotiating the semantic maze

In semantics there are three basic modes of explanation for the meaning of a word or phrase (Harris, 1980). These are:

(a) conceptual or cognitive;
(b) referential;
(c) interactive.

On the first view, meanings are concepts that 'reside in people's heads, as part of words' (Elbourne, 2011: 156). These meanings may be realized in the form of **intentions**. On the second, words possess meaning in virtue of referring to objects, states of affairs and facts. Children are often taught words by having

objects pointed out to them (so-called **ostensive definition**). Children's reading primers traditionally present words organized alphabetically, with the name of the object accompanied by a picture: 'A is for Apple', 'B is for Boy', etc. In Genesis, God brings the animals before Adam and 'whatsoever Adam called every living creature, that was the name thereof' (2:xix). The basic picture is one word–one meaning–one object (or object-class). On the third view, meaning arises out of interaction and communicational behaviour. It is a contextual phenomenon which needs to be understood in terms of language's role in maintaining social cohesion, focusing social action and achieving practical ends: 'Meaning is not what happens in our individual, monadic minds; it is something that is constructed within the discourse' (Teubert, 2010: 7). One consequence of this 'construct view' is that meaning cannot be identified solely, if at all, with the communicative intention of the speaker, since it arises in the course of the interaction itself.

The idea that meaning is primarily conceptual ('in the head') is associated with the Swiss linguist Ferdinand de Saussure (1857–1913). Saussure rejected the idea that meaning was a relationship between the word and the world outside the human mind. Words for Saussure did not stand directly for things; a language was not a **nomenclature**, that is, a list of labels for things in the world (Saussure, [1916] 1972: 97–98). Meaning was best understood as 'difference in value' in a relational system (*langue*) that existed as a set of form–meaning correlates in the minds of the speakers of a language (Saussure, 1972: 155ff; 2002: 28). On this model, each part of the vocabulary of a language might be understood as a conceptual space structured by interdefining sub-fields. Examples of such sub-fields would be colours, cooking terms, kinship terms and other **semantic fields**. For Saussure, the primary reference point is the **language system** or *langue* itself, understood as a set of conceptual structures (largely) shared as a social fact by members of the speech community.

These conceptual structures have been analyzed through the postulation of underlying atomic elements of meaning known as **semantic features** or **components**. In **componential analysis**, the words *father* and *child* would both be defined by the component [+ HUMAN], but differ in the presence or absence of the feature [ADULT]; *father* would be [+ MALE], whereas *child* would be +/− i.e. neutral with respect to this component (see Lyons, 1968: 470ff.). A more recent framework, known as **Natural Semantic Metalanguage** (NSM) (Wierzbicka, 1996), analyzes word meaning by means of **reductive paraphrase**. Here is a definition of the word *women* following this technique (Goddard, 2012: 722):

a. people of one kind
b. someone can be someone of this kind after this someone has lived for some time, not for a short time
c. there are two kinds of people's bodies, people of this kind have bodies of one of these two kinds
d. some parts of bodies of this kind are not like parts of bodies of the other kind

e.   the bodies of people of this kind are like this:

at some times there can be inside the body of someone of this kind a living body of a child [m]

'[m]' refers to a so-called **semantic molecule**. These are held to be ultimately 'decomposable' into **semantic primes** (Goddard, 2012: 720). Both componential analysis and the NSM approach seek a more fundamental level at which meaning can be unambiguously represented: one component–one meaning.

Linguists and philosophers debate the level of the primary unit of linguistic analysis. Is it the word? The sentence? Or do we have to begin at the level of the paragraph, the conversation, or the text? For the lexicographer, the unit of analysis is normally the single word. The meaning of complex phrases and sentences is, on this view, best understood as derived from the meaning of the parts (primarily words), together with the rules of combination: 'words are atomic elements' (Katz, 1964: 742). This is known as the **principle of compositionality** (Grandy, 1990: 557). But for many philosophers of language and logicians, the basic unit of analysis is generally the sentence (or more precisely, the proposition expressed by the sentence). The philosopher J.L. Austin (1911–60) saw word meaning as essentially derivative from sentence meaning: 'It may justly be urged that, properly speaking, what alone has meaning is a *sentence*' (Austin, 1979: 56). Language users had various ways of finding out the meaning of a word, such as looking in a dictionary, giving examples of possible sentences in which it might be used, or by offering real or imaginary experiences or situations. But 'concepts' or 'abstract ideas' were 'fictitious entities' (Austin, 1979: 60). For Austin, *the meaning of a word* was a spurious phrase (1979: 75). A range of theories in philosophy and sociology have focused on **utterance meaning**, and on the inferences that speakers make from the conventional or literal statement ('It's cold in here!') to arrive at the contextual meaning ('Please shut the door!'). Two important exemplars are the philosopher H. Paul Grice's (1913–88) pragmatic **theory of implicature** (Carston, 2013) and the sociologist Harold Garfinkel's (1917–2011) **ethnomethodology**. For such theorists, people do not and cannot say exactly what they mean, since they and their listeners draw on an unspoken (and largely unconscious) reserve of background assumptions and principles.

An explanation in terms of components of meaning looks like a classic **regress**: how do we know what the components themselves mean? They look like ordinary English words dressed up as universal components. The philosopher Hilary Putnam decisively rejected the idea of cognitive meaning: 'Cut the pie anyway you like, "meanings" just ain't in the head!' (Putnam, 1973: 700) Others deny that word meanings exist at all, at least not 'inside' the words of a language: 'meanings are not somehow contained in language' (Threadgold, 1997: 103). Similarly, if the sentence, rather than the word, is the primary unit of meaning, surely it must in turn derive its meaning from higher units of discourse such as the paragraph or the conversation?

Yet the questions 'What does this word mean?' and 'What does *this* word mean *here*?' are an inescapable part of our linguistic practices, and central to

the culture of law. We cannot avoid thinking about what words mean, even if the harder we think, the deeper we enter the philosopher's maze. One way out of the maze was proposed by the philosopher Ludwig Wittgenstein (1889–1951): 'For a *large* class of cases – though not for *all* – in which we employ the word "meaning" it can be defined thus: the meaning of a word is its use in the language' (Wittgenstein, [1953] 1978: para. 43). But **use in the language** suggests that each word follows a stable pattern of use and that the pattern can be observed over time and across different contexts. This raises the problem of the observer's point of view: where should one stand in order to observe linguistic usage objectively?

One way to access usage might be through introspection or observation, or a mixture of the two. Wittgenstein evidently drew on a mix of intuition and observation in explaining his notion of **family resemblance** (1978: para. 66):

> Consider for example the proceedings that we call 'games'. I mean board games, card games, ball games, Olympic games, and so on. What is common to them all? Don't say, 'There must be something common, or they would not be called "games"' – but look and see whether there is anything common to all. For if you look at them you will not see something common to all, but similarities, relationships, and a whole series of them at that. To repeat: don't think, but look!

There is no single feature or set of features that all games have in common; rather, if we look at all the phenomena we call *games*, we find an open-ended set (1978: para. 66): 'And the result of this examination is: we see a complicated network of similarities overlapping and criss-crossing: sometimes overall similarities, sometimes similarities of detail.'

Following Wittgenstein's idea of family resemblance, **prototype theory** proposed an influential modification of the one word–one meaning framework. This rejected the so-called 'classical' view of categories, attributed to Aristotle (384 BCE–322 BCE), based on *per genus et differentiam*. If we take a word that represents a category or class of objects, then defining that word involves identifying the fundamental category (*genus*) to which the object belongs, and the feature by which it is distinguished from other members of the same category. The example often given is the sentence: *Man is a rational animal*. It is in virtue of being rational that man is distinguished from other animals, and in virtue of being an animal that man is distinguished from plants, gods, natural phenomena, etc. Categories have features which (i) are individually necessary and, in conjunction, sufficient to differentiate each from the other categories; (ii) are purely binary, that is, 'yes/no' features; (iii) have clear boundaries; and (iv) have members that are of equal status (Taylor, 1995: 22–24).

For the prototype theorist, by contrast, *bird* is not a 'yes/no' category. Some birds are more 'bird-like' than others. If one asked a hundred people to list the 10 species of bird that come most readily to mind, one can show that some birds are more salient or core members of the category (*wren*, *robin*, *sparrow*), and others more marginal (*ostrich*, *penguin*). The meaning of the word *bird* is not a single unitary concept but includes the awareness of

a category with a range of meanings and with a fuzzy boundary. Categories are 'networks with prototypical members clustered in the center […] with less prototypical members at various distances from the central members' (Johnson, 1987: 192). One could study the fuzzy boundary between categories such as *cup* and *mug* from the point of view of conceptual variation (Labov, 1973; Kempton, 1978).

Prototype theorists reject the idea that word meaning is disordered or unstructured. Given that 'we form our concepts the same way', there will be within a speech community a 'relative consensus about the application of words to situations in clear cases' (Solan, 2010: 41). Prototype effects result primarily in different judgements at the margins of linguistic categories, whereas there is agreement at the core, the so-called **core meaning** (Schane, 2006). In this way, prototype theory seeks to reconcile the idea that meaning is primarily conceptual or 'mental', with the variation in the intuitive judgements that people make about meaning.

A second, related modification to the one word–one meaning ideal stressed the social rather than psychological nature of categories. This might involve the study of **stereotypes** (Geeraerts, 2008: 24; Vilinbakhova, 2013). However, any study of categories must deal with the effect of different methods of elicitation and analysis. This may be hard to distinguish from variation as a result of personal and group identities or arising in different institutional and occupational domains. Put simply, the word *tree* might mean something different to an urban teenager, a villager and a forester. Literary critics have likewise stressed that for both individuals and groups, words have associations, connotations or particular affects. There are 'feelings in words', to use a phrase from William Empson (Empson, 1985). Ullmann (1966: 10–11) speaks of the **associative field** of a word. The associative field is 'an unstable and highly variable structure: it differs from one speaker to another, from one social group to another, and possibly even from one situation to another'.

Some linguists have sought to make systematic use of their own intuitions and those of 'native speakers' (Chomsky, 1965), and various proposals have been made to deal with the methodological problems this raises (Schutze, 1996). But for more sociologically oriented linguists, what was needed was objective observation. There was no way to measure intuition or ensure consistency in introspective judgements. The 'intuition of the theorist' should be replaced by 'observation of language in use' (Labov, 1973: 370). In contemporary sociolinguistics there is a wide range of approaches focusing on actually occurring texts, that is, on discourse, and the social relationships and interactional strategies embedded within it. Examples would be conversations, media products (films, websites, chatrooms, etc.), interaction in the classroom or the court, and so on.

'Observation of language in use' now can be carried out with the aid of large databases of texts. A **corpus** is a database of primary texts (e.g. transcribed speech, newspaper articles, literary texts, etc.). Some corpora are **marked up**, that is, they are coded for various kinds of grammatical or semantic information. The World Wide Web itself can also be thought of a vast, disordered and open-ended corpus, and the entire Web, or a subset of it, can be searched