

Grice's Theory of Communication and the Interpretation of Law

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Introduction

In the famous legal case *Garner v Burr* (1951) Lawrence Burr was accused of a violation of the Road Traffic Act. In this act the legislation had made it an offence to use vehicles that are not fitted with pneumatic tires on public roads. What did Burr do? As a farmer he tried to transport his chicken coop between his farm and his property and in order to do so he attached iron tires to the chicken coop and pulled it behind his tractor on a public road. The question at law was: Is a chicken coop on iron wheels a *vehicle*? It must be said that, in general, interpreters of the law are supposed to use the *Plain Meaning Rule* which states that one has to stick to the 'ordinary' meaning of the words (Bix, 1995; Charnock, 2013; Scalia, 1997). However, in the case at hand answering the question merely on the basis of the ordinary meaning of the term 'vehicle' does not seem to deliver any clear result simply because the term lacks a clear-cut meaning and can be construed in a wide or a narrow sense. Whereas a car, for example, certainly is a vehicle and a toothbrush is not, an uncontroversial classification will not always be possible, as for bucket-wheel excavators, soapbox carts and segways.

Although the outcomes of cases like *Garner v Burr* might not always be of a high significance for the persons involved, they are frequently discussed by legal theorists (Carston, 2013; Charnock, 2013; Endicott, 2010) because they point to an important problem that not only judges but all interpreters of the law have to face:

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given the general requirement that a statute is supposed to be interpreted according to its ordinary or conventional meaning, how should we interpret statutes if this meaning does not clearly determine how a case should be decided? Put more generally, legal theorists are looking for a general method of statutory interpretation that can guide legal decision-making.

Because the enactment of law is a communicative act, it is worthwhile to consider theories of communication when faced with methodological considerations of statutory interpretation. I will argue that Paul Grice's theory of communication can serve as an aid to statutory interpretation especially when the conventional meaning of the statute is vague and cannot determine how a case should be decided.

Textualism and Purposivism

Because of its importance for the institution of law the challenge of formulating a method of statutory interpretation has, of course, been taken up by several legal theorists and many different answers have been proposed. Especially in the United States and the UK one of the core issues that divides legal scholars is whether interpreters of the law should take into account the intentions of the legislators with respect to a statute when they enacted it (Marmor, 2012).¹ On the one hand there is the position of so-called *textualists* who hold that the intentions of legislators are mostly irrelevant to the interpretation of law. Instead, interpreters

1 I will focus on the American and English legal systems where the *Plain Meaning Rule* still seems to have a higher status than in other systems such as Continental systems (Van Hoecke, 2002). However, it should be clear that similar interpretive problems arise in all legal systems (see, for example, Azar (2007) for a similar discussion of the meaning of “vehicle” in Israeli law and Van Hoecke (2002) for a disagreement about what exactly a “cheque” is in a Belgian court). This is of course due to the fact that vagueness and indeterminacy are features of many, if not all, linguistic expressions in every natural language (Recanati, 2004).

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should only focus on the wording of the statute. The central argument for this view seems simple and compelling: because it is only the wording of the statute that is voted on in parliament and not the intentions of the legislator, only the literal meaning of the statute should be legally binding. As textualist Antonin Scalia puts it, “It is simply incompatible with democratic government, or indeed, even with fair government, to have the meaning of a law determined by what the lawgiver meant, rather than by what the lawgiver promulgated” (1997: 17). As a further consequence, when interpreting a statute one must not consider the intentions of the legislator which might be apparent from the documented history of the statute because the documentation was not voted on either (Scalia, 1997).

In direct opposition to textualists *purposivists* claim that what should be given effect to when interpreting the law is what the lawmaker intended and that a statute should be interpreted in the light of those intentions. The intentions of the lawgiver manifest themselves in the statute but can also be gathered from other sources such as legislative history (Marmor, 2012).² The main motivation for purposivism is probably best understood by considering the major deficiencies of textualism. Textualism is not only a very limited interpretive method that leads to a ri-

2 Apart from plain meaning and legislative history there is a further means of interpreting statutes which I have not mentioned yet, the use of so-called *canons of construction*. These are interpretive rules which are not obligatory but which can be used to lend support to a decision (Carston, 2013; Scalia, 1997). Examples are *expressio unius est exclusio alterius* which excludes one class of referents if another class is mentioned, or *noscitur a sociis* according to which the meaning of a word is given by the words that surround it in the text (Scalia, 1997: 27). The status of these canons is not clear for at least four reasons: it is left to the judge to apply them or not (Carston, 2013; Scalia, 1997; Marmor, 2012); they are sometimes in need of interpretation themselves (Hart, 1994:128); there are very many of them (Andrei Marmor (2012) says that at least 57 of them apply in U.S. adjudication); and they can easily conflict with each other (Scalia, 1997: 26). Because of their unclear status in statutory interpretation they will not be considered here.

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gid practice of interpretation but sometimes also to absurd results (Marmor, 2012). For example, taking the wording of the First Amendment of the U.S. Constitution literally, which forbids the obstruction of the freedom of speech and the press, seems to imply it does not apply to handwritten letters. However it seems to be clear to every interpreter that the purpose behind the law is to ensure uncensored communication and that a reasonable interpretation should take this into account.³

But the position of purposivists is also not unproblematic. Most importantly, it runs the risk of disregarding the statute's meaning and arguing on the basis of what interpreters hold to be the unvoiced intention of the legislator. As many legal scholars have pointed out, purposivism can lead to adjudication that misuses the notion of legislative intentions in order to put forward a political agenda (Marmor, 2012; Scalia, 1997). Justice Scalia gives several examples from legal practice in which the excessive reference to the legislators' intentions leads to bizarre cases where the legislative history is investigated before the wording of the statute is even considered (1997). As the joke goes, “One should consult the text of the statute 'only when the legislative history is ambiguous” (Scalia, 1997: 31).

The difference between the two methodological approaches can also be illustrated by applying them to the case of Lawrence Burr. For textualists the decision in this case will depend on how broadly the term 'vehicle' is interpreted. In fact, in a first verdict by the magistrate court it was decided that chicken coops should not be considered vehicles and therefore do not fall under the wording of the statute. However, the decision was reversed by the appeals court on the basis

3 The example is taken from Justice Scalia (1997). He is not a proponent of such a radical form of textualism and grants the absurdity of such an interpretation. Some details of his account will be discussed further below.

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that the statute makes it clear that it is aimed at the protection of public roads. Therefore, the intention of the lawgiver allows it to apply to everything that travels on public roads which might damage them if it is not equipped with pneumatic tires (Carston, 2013; Charnock, 2013).

Grice's Theory of Communication

Because the current situation (especially in U.S. adjudication) seems to be entrenched in a fundamental opposition between these two camps (Marmor, 2012; Scalia, 1997), some theorists have tried to breathe new life into the debate by turning to theories of communication that have been developed by philosophers of language (Carston, 2013; Charnock, 2013; Marmor, 2008; Poggi, 2011). The consideration of these theories seems worthwhile because the enactment of a statute is, at bottom, itself a communicative act that is supposed to get a certain meaning across (Van Hoecke, 2002; Van Schooten, 2007). To many, one particular theory seemed

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to be especially promising, Grice's Theory of Communication.⁴ The theory is relevant to the legal context not only because it offers a theory of how linguistic expressions should be interpreted but also because it is an attempt to explain the meaning of an expression in terms of the intentions of speakers which, as we have seen, is a central issue in debates about statutory interpretation.

Grice's *Theory of Communication* consists of two parts (Neale, 1992). One is Grice's *Theory of Meaning* and the other is Grice's *Theory of Conversation*.⁵ The Theory of Meaning will be of special importance in this essay and its purpose is to explain how certain objects can be said to have meaning at all. In order to do so,

4 Another theory of communication that has been proposed as an alternative is *Relevance Theory* (Carston 2013). Relevance Theory bases on psychological processes and ascribes special importance to the first interpretation of an utterance that becomes consciously accessible as indicative of its relevance (Carston, 2013; Sperber and Wilson, 1995). I think that especially the latter feature already hints at why it would not be a good theoretical basis for the interpretation of legal texts: in many cases the first interpretation would not give us a satisfying account of the meaning of a given term. In *Garner v Burr* the first interpretation of the term 'vehicle' that becomes available would likely include the standard examples of vehicles such as cars (or something very similar). However, there are also other objects that can certainly be labelled 'vehicle' (such as tractors or quad bikes) in the context of the statute even though they might not be the first consciously accessible interpretation (for an opposing view, see: Carston, 2013). That Grice's theory is the most enlightening theory of communication for statutory interpretation is even acknowledged by theorists who are generally critical of the use of theories of communication in statutory interpretation (Greenberg, 2011). Another, quite different, account of linguistic practice and meaning that some theorists have tried to apply to legal interpretation is Wittgenstein's account of rule-following as developed in his *Philosophische Untersuchungen* (for two recent discussions, see: Finkelstein, 2010; Markell, 2005).

5 Grice's Studies in the Way of Words is a collection of most of his important essays on this topic. Especially important with respect to his *Theory of Meaning* are the essays 5, 6, 14 and 18. His *Theory of Conversation* is developed in 2, 3, 7 and 17. Limitations of scope make it impossible to give more than a rough outline of the theory here. My reconstruction of his *Theory of Meaning* is based mainly on his essay *Meaning* and the *Theory of Conversation* on the essay, *Logic and Conversation*. For more detailed discussion (especially of the *Theory of Meaning*), see: Avramides, 1997; Borg, 2006; Neale, 1992.

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Grice makes a fundamental distinction between *natural* and *non-natural* meaning. *Natural meaning* is meaning that an object naturally has, for example, smoke means that there must be fire or a rash on a person's skin means that she has measles. *Non-natural meaning* on the other hand is a form of meaning that objects do not naturally have and that is constituted in a different way. Grice gives the example that three rings of the bell on a bus mean that the bus is full. However, the rings do not have this meaning naturally. Differences between these two kinds of meaning are, for instance, that non-natural meaning might fail to give the right indication (the bus might be empty because the conductor made a mistake) which cannot happen with natural meaning, or that non-natural meaning depends on the fact that someone must be meaning something by using the relevant sign, for instance the conductor.

The prime example of non-natural meaning is linguistic meaning (although, as the bell example shows, it does not have to be linguistic). Linguistic expressions do not have their meaning naturally, instead it is arbitrarily associated with them. No natural fact makes “snow is white” mean that snow is white and in other languages different words would be used to convey this information. But if our words do not have their meaning naturally, how else do they acquire their meaning? In order to explain this, Grice distinguishes *sentence meaning* and *speaker meaning*.⁶ Sentences mean by dint of a convention that is shared by members of a linguistic community (Borg, 2006). Roughly, this means that there is a *regularity* in what speakers intend to get across by uttering the relevant sentences (Avramides, 1997; Neale, 1992). So what a sentence means depends on what speakers usually mean

⁶ In the following the term 'sentence' refers to an abstract entity and 'utterance' refers to an actual use of a sentence on a given occasion.

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when they utter the sentence.

In a second step, Grice analyses *speaker meaning* in terms of a speaker's intentions. The notion of intention is at the heart of Gricean analysis and is important here because it will help to clarify the notion of intentions involved in legal interpretation. According to Grice, the intention involved must be of a specific and complex kind, it must be a *communicative intention*. To express a *communicative intention* several conditions have to be met.

One condition is that by uttering a sentence in the indicative mood, the speaker has to intend to get his audience to believe the communicated content. This condition is necessary for the informative character of communication. Another condition is that the intention must be overt which means that it must be publicly accessible to the audience. Grice illustrates this by a non-linguistic example: imagine that a person leaves the handkerchief of a personal enemy near the scene of a murder in order to make the police believe that the owner of the handkerchief was the murderer. Although there is an intention to induce a belief in another person, one would not be inclined to call it a communicative intention. After all, the whole point of the action requires that the detective not believe that the handkerchief was put there intentionally. Finally, the recognition of the intention must be at least part of the reason why the audience forms the belief in question. This is based on the following observation. Imagine that a person shows a friend a photo of another man displaying undue familiarity with the friend's wife. Now contrast this with the scenario where instead of showing a photo, one draws a picture of the same situation. The intuitive difference here seems to be that in the first scenario the intention of the person to make his friend believe that his wife is unfaithful is irrelevant

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to the formation of the belief – the photo itself is sufficient to induce the belief – whereas in the second scenario the recognition of the intention to communicate the unfaithfulness is necessary for the formation of the belief.

Two remarks are important. First, although this analysis is designed primarily for the indicative mood, it is also supposed to be applicable to the imperative or quasi-imperative mood (Grice, 1989: essay 6; Neale, 1992). In this case the communicative intention is not supposed to induce a belief in the audience but to induce the intention to perform what is communicated. It is important to mention this because in the case of law this seems to be the more relevant effect. Second, it is important to note that only communicative intentions determine the meaning of an utterance; no other intentions, for example the intention that a hearer perform a certain action on coming to believe the content that the speaker communicated, are constitutive for the meaning if they do not satisfy the conditions for communicative intentions. For instance, telling a person that “snow is white” and thereby intending to make her believe that this is the case, one might also intend the utterance to have an unlimited number of unvoiced further effects beyond the formation of the belief, for example one might intend the hearer to build a snow man or take a photo of the snow, etc. But none of this will be relevant for the speaker meaning that snow is white. Grice calls this type of intentions *secondary intentions* (Grice, 1989: 221) and contrasts them with communicative intentions.

Now, one might say, these conditions are all quite interesting but it is still not clear which means a speaker has to communicate his intention because the intentions of a speaker cannot be somehow simply and directly accessed by the audience. Put differently: which clues does the audience have for inferring what the

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communicative intention is? Of course, in most situations the most important clue will be the conventional meaning of the sentence itself – what speakers usually mean.⁷ However, and this is the crucial bit, a mere convention about the meaning of certain words will often not give a sufficient picture of the intentions of a speaker. This is clearly the case for context-sensitive expressions such as indexicals like 'I' or 'here' and ambiguous expressions such as 'bank' and 'crane' where one has to look at the context in order to get behind the speaker's intention. But this is not everything: it might also happen that a speaker explicitly expresses the intention to use a word in a specific sense, for example, I might stipulate that in the remainder of this article the word 'meaning' will be reserved for non-natural meaning. This type of intention will be called the *terminological intention*.

One final and very important source that interpreters can exploit in order to get behind the communicative intention of the speaker is the fact that communication is governed by certain principles which one can expect to be followed. To give a full account of these principles is the aim of Grice's *Theory of Conversation* (Grice, 1989: essay 2). Roughly put, the important observation that guides this theory is that in communication interlocutors behave cooperatively otherwise commu-

7 This line of reasoning might seem circular because sentence meaning is explained in terms of speaker meaning (what speakers usually mean) and speaker meaning is explained in terms of intentions which, in turn, are inferred from what speakers usually mean. Grice argues it is not circular because although sentence meaning is constituted by speaker meaning and speaker meaning is constituted by intentions, intentions are not constituted by sentence meaning. Sentence meaning (or what people usually mean) is only a means to indicate a speaker's intentions and does not constitute them (Grice, 1989: 138–139). Anita Avramides has characterized this as a “reciprocal” (1997: 69) relationship between the concepts involved. Although there is no clear consensus on how exactly the relationship between the concepts should be understood, at this point it is only important to note that it is not refuted by objections of circularity.

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nication would fail (Grice, 1989: 26). On this basis, Grice formulates his famous cooperative principle according to which a speaker should make her “conversational contribution such as is required, at the stage at which it occurs, by the accepted purpose or direction of the talk exchange” (1989: 26). Grice adds further maxims to this principle which include that a speaker should only say things that she believes to be true, not to say too much or not enough, and say something relevant (1989: 26–27).

The explanatory power of these principles becomes clear especially when the communicative intention behind an utterance does not coincide with its conventional meaning. Imagine, for example, a person makes the remark that “Bill Gates is a poor guy,” knowing that it is common knowledge that the opposite is the case. An interpreter who expects the speaker to behave cooperatively and to speak truthfully will be entitled to conclude that the literal meaning of the utterance cannot be what she means because this would be an obvious violation of the maxim to speak the truth. Because of this overt violation it is clear that the utterance was meant ironically and that the speaker intended to stress the exact opposite. Grice calls this phenomenon *conversational implicature*. Importantly, since the violation of the maxims is obvious and the hearers are supposed to come to believe the opposite because of this intention, conversational implicature satisfies the conditions for communicative intentions. Therefore, the hearers can infer the communicative intention even if the conventional meaning and the speaker meaning do not coincide.

In sum, Grice explains sentence meaning in terms of what speakers usually intend to get across when uttering the sentence on different occasions (what speak-

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ers mean). Speaker meaning is analysed in terms of the communicative intention that the speaker conveys by making the utterance. Communicative intentions are characterized as intentions to induce a certain belief in the hearer. Only these communicative intentions constitute speaker meaning unlike secondary intentions which are aimed at further effects that the utterance might have. In order to get behind the communicative intentions of a speaker, the hearer can exploit several clues which of course include the standard meaning but also context and the terminological intentions of a speaker. Furthermore, Grice's Theory of Conversation shows that hearers are entitled to have certain expectations towards the speaker when interpreting an utterance; this becomes especially clear in cases in which conventional meaning and speaker meaning come apart.

Grice's Theory of Communication and the interpretation of law

We can now ask how Grice's Theory might be helpful for interpreting the law. I will argue that Grice's insights can clarify and evaluate the use of the notion of intention in the debate between proponents of purposivism and textualism . Furthermore, I will show that the theory undermines textualism's claim that legislative history should not play a role in statutory interpretation.

First, it is important to see that Grice's theoretical framework can be used to show that both methodological approaches make questionable claims. On the one hand, the Gricean analysis makes it clear that the kind of intentions that purposivists invoke in order to address interpretive questions are what Grice calls *secondary intentions* which refer to the intended but not communicated effects of a statute. In *Garner v Burr* for example the intention to protect public roads is not directly communicated by the requirement that vehicles must be equipped with pneu-

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matic tires. It is merely likely that it is the intended effect of the statute but the legislators are by no means committed to this intention. They might, for example, have intended to stimulate the economy by boosting the demand for tires when enacting the statute. The distinction between different kinds of intentions therefore shows that purposivists should be cautious when they invoke such secondary intentions because they are not directly communicated and therefore must be given an independent justification.

On the other hand, the textualists' claim that intentions should not be considered in the interpretation of statutes is also problematic; interpreting statutes always involves a consideration of intentions. As acts of communication, statutes are no more than means to communicate the intention of the lawgiver. The words used in the statute do not mean what they do naturally but are intended by the legislature to get a certain content across.

However, a textualist might argue that the objection that communicative intentions should be the subject of statutory interpretation is not a real threat because the disagreement is merely a terminological dispute about whether to label what interpretation aims at 'literal meaning' or 'communicative intention'. Textualists only have to maintain that the only relevant basis for legal decision-making is the wording of the statute. So the normative requirement that it is only the law that is voted on and nothing else is not affected by the Gricean analysis. For instance, Scalia accepts that interpreters should “look for a sort of 'objectified' intent – the intent that

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a reasonable person would gather from the text of the law” (1997: 17).⁸

Yet, if we look closer we can see this reply misses the point. To begin with, it is clear that textualists interpret the words of statutes in their conventional sense. Using the Gricean terminology, this would mean the *sentence meaning* because sentence meaning is constituted by the regularity of intentions which people conventionally want to get across when uttering the sentence. In a next step, textualists agree that what a hearer interprets is not sentence meaning but what speakers mean by uttering the sentence. However – and this is crucial – they claim that these concessions do not affect their views on the method of statutory interpretation because what legislators mean and what the words conventionally mean must be taken to be identical.

The problem with this reasoning however is that voting on wording always assumes a certain understanding of the words and nothing guarantees that this understanding will coincide with their conventional meaning! As we have seen, speaker meaning and sentence meaning can come apart, and conventional meaning does not always determine the communicative intention. Grasping the communicative intention behind an utterance requires consulting further sources such as context, terminological intentions and the legislator's expectations. This is especially important with respect to statutes which have to be applied to a wide variety of different cases in which the correct application of the statute often cannot simply be

8 According to Scalia however it is not always quite clear what this exactly means (Carston, 2013: 25). For example, he accepts that the relevant passage of the First Amendment as outlined above allows consideration of handwritten letters but it is not quite clear how one arrives at this interpretation **if one does not consider secondary intentions**. Therefore it seems that, at least in some respects, Scalia's method comes close to purposivist positions. The crucial difference that remains, however, is that he is reluctant to consider legislative history.

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settled by the mere consideration of the conventional meaning of the text (Endicott, 1994; Marmor, 2012).

Now, textualists might try to turn the tables and use Grice's Theory of Conversation to defend the claim that one should stick to the conventional meaning of the words simply because one is entitled to expect that the legislator is cooperative and will therefore use the words in a conventional way. To some extent this is certainly correct – of course the legislator will not use the word 'vehicle' in order to refer to kangaroos. And this argument becomes even stronger if one takes into account that legislators expect their statutes to be interpreted by applying the *Plain Meaning Rule* and therefore are likely to use words conventionally and not indulge in the use of irony or metaphors in statutory language.⁹

Although this argument might be compelling in cases where the conventional meaning is enough to decide the case, it does not work in cases where the meaning of an expression is vague because those are precisely the cases where the *conventional meaning* of the expression cannot determine the outcome, As H. L. A. Hart already recognized, in such cases the rule does not clearly determine what is in accordance with it and “no convention or general agreement dictates its use” (1994: 127). These cases are of special importance in the disputes about statutory interpretation.

So when faced with the problem of how to figure out whether a statute ap-

⁹ I won't discuss here whether conversational implicatures should be considered in statutory interpretation because this would require a much richer elaboration of Grice's Theory of Conversation which is beyond the scope of this paper. I will only mention that many theorists have claimed that conversational implicatures are not relevant to statutory interpretation because legal discourse is different from everyday discourse in several respects; for example, it is less cooperative because it is strongly influenced by political interests (Charnock, 2007; Chiassoni, 1999; Marmor, 2008, 2012; Poggi, 2011).

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plies to a given case, the mere claim that it is the wording that is voted on does not exclude further considerations about what this wording means. One cannot say what the statute means just by looking at the words; as Andrei Marmor puts it, “Trying to pay closer attention to what the law says, in such cases, is like hoping to get richer by gazing at your wallet” (Marmor, 2012: 12). Therefore, insisting that the legislation votes on a certain wording does not necessarily exclude the consideration of context such as the terminological intentions that might become apparent from the legislative history because such intentions might give us important hints as to what the legislature actually intended to communicate with the wording. More importantly, such considerations can provide interpreters with a better guidance in legal decision-making than unprincipled stipulations on the range of applicability of vague terms. If an interpreter wants to take the wording of the statute seriously, then she should try to get behind how this wording was meant instead of stipulating a use that would lack a legal justification. So if one accepts that statutes do not have an independent literal meaning that can settle every question of applicability, then the textualist emphasis on the wording of the statute does not show that legislative history is irrelevant. Quite the contrary: it calls for its consideration.

One example of how the consideration of legislative history might aid interpretation is the UK case, *Yemshaw v. London Borough of Hounslow* (2011). In a detailed study of this case Donald Drakeman (2014) shows that the consideration of legislative history can be very useful for deciding legal disputes. In the case the question was whether the term 'domestic violence' as used in the Housing Act of 1996 was limited to physical violence or also applies to psychological abuse such as threatening or intimidating behaviour. The Act prescribes that a person has to be

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considered homeless “if it is probable that [staying at a certain location] will lead to domestic violence against him” (quoted from Drakeman, 2014: 128). The question arose in the case of a married woman who left home with her children because she was afraid that her husband would abuse her and take the children away from her, maybe even hit her, if she confronted him with infidelity. Although her husband never hit her, she said that she had already been psychologically abused by him and not treated “like a human” (quoted from Drakeman, 2014: 128).

Now, it is not always clear if psychological abuse is a form of violence. This question was discussed by the judges as well and, again, it seems that the relevant statute does not provide a clear answer. In his case study, however, Drakeman shows clearly that all the relevant documents of the statutory history point to an understanding of 'violence' that includes psychological and emotional violence. Discussions from both the House of Lords and the House of Commons point to this understanding, as well as a broad cross-party agreement and even the fact that before the enactment of the act the British government had signed a declaration of the United Nations that was aimed at elimination of violence against women which also included psychological and emotional harm in its definition of violence (2014: 128–140).

Of course, nothing guarantees that legislative history will give us any conclusive hints about how to interpret vague expressions in statutes (Greenberg, 2011; Marmor, 2012). Sometimes the legislative history does not provide any insights into how a word was understood or shows that the parties did not clearly agree on one definition. However, as the case study shows, in some cases it can be a useful and principled way to decide issues of statutory interpretation.

Conclusion

The application of Grice's Theory of Communication to methodological considerations of statutory interpretation delivers important results. First, it shows that viewing legislation from the perspective of communication yields a better understanding of classical methods of statutory interpretation. Grice's distinction between communicative and secondary intentions shows that the purposivist's appeal to secondary intentions is problematic because they are not strictly encoded in the statute and that the textualist's claim that intentions are irrelevant to interpretation is false because reasoning about communicative intentions is essential in interpretation.

Furthermore, the Gricean analysis of meaning can be used as an argument against the central normative claim of textualists that the wording of a statute should be interpreted in its ordinary sense and without the consideration of the legislative history. The mere fact that it is the words that are voted on does not mean the words are used in a conventional way. Especially in cases of vagueness the Gricean proposal to appeal to contextual information from legislative history can provide further clues to what the legislators meant. More generally, the analysis shows that even without engaging in the normative argumentation about whether it is the wording of the law or the purpose behind it that must be given effect in statutory interpretation, considerations from philosophy of language can contribute to the field of legal theory.

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