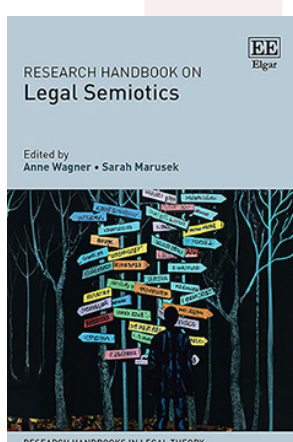


Semiotics in matters legal

punctum.gr

BY: Panagiotis G. Krimpas



Anne Wagner and Sarah Marusek

Research Handbook on Legal Semiotics

Research Handbooks in Legal Theory Series. Cheltenham and Northampton, MA: Elgar, 2023, pp. 516, Hardback £ 230.00, ISBN 9781802207255, eBook £ 48.00, ISBN 9781802207262.

The purpose of this comprehensive Research Handbook is to explore the multifaceted research conducted in the field of legal semiotics to get insights into the sign and symbol-based function of law and, ultimately, show the nature of law as a strategic system of fluctuating signs, the ever-evolving conceptualizations of non-verbal and verbal aspects of law. Unfortunately, the space limitations of a short review make it impossible to discuss all 33 contributions comprising the volume. Necessarily adopting a selective approach, based not on merit but on my more immediate research interests, I will limit myself to discussing only one contribution from each part.

The volume opens with a Foreword by John Brigham, Professor Emeritus at the University of Massachusetts, who recalls his first contact with semiotics in the 1980s at a law-and-semiotics roundtable. Significantly, he addresses semiotics “in the context of the current confusion about the authority of law” (p. xx) and explores the symbolism of power by studying the semiotics of the Trump-Biden electoral encounter. Turning to law perceptions in Western democracies, he reminds us that “[r]especting the semiotic means respecting ideas and symbols as part of our reality.” In their Preface, the editors retrace the history of the *International Roundtables for the Semiotics of Law* (IRSL), reminding the prime movers and the spirit and

ARTICLE INFO:

Volume: 09

Issue: 02

Winter 2023

ISSN: 2459-2943

DOI: 10.18680hss.2023.0029

Pages: 241-245

Lic.: CC BY-NC-ND 4.0

objectives of this renowned association of semiotically-minded scholars of law, that next to its heavily attended annual meetings also publishes the widely respected *International Journal for the Semiotics of Law*.

In their Introduction, the editors Anne Wagner and Sarah Marusek initiate the reader to the cultural dimension of law and legal semiotics, drawing on legal theorists like Gény (1922) and Hart (1961), semioticians like Peirce (1931-1966) and Eco (1984, 1995), legal linguists like Mellinkoff (1963), Gémar (2023) and Mattila (2016), and philosophers like Wittgenstein (1958). They proceed to outline the relationship between legal semiotics and legal reasoning and the field of visual legal semiotics as a figurative sign system. Their conclusive statement “[t]he variety of legal semiotics” covered by the contributors to the volume “provides the reader with a broad understanding of how the law works through signs and symbols,” briefly summarizes the Handbook’s project and value.

Part I of the book, titled “Legal semiotics as an arena for legal thoughts,” comprises ten chapters and mainly addresses philosophical and rhetorical aspects of legal semiotics. In Chapter 9 (‘Classical rhetoric, legal argumentation and the semiotic of law’), Miklós Könczöl draws on Aristotle’s *Rhetoric* and Bernard Jackson’s *Law, Fact, and Narrative Coherence* (1988) to look at the technical sources of legal persuasion from a semiotic standpoint. In highlighting “the connection between *ēthos* and *logos*, character and argument, in rational persuasion” (p. 156), Könczöl addresses such issues as judicial rhetoric, legal definition, equity, style, and character. He explains that Aristotle “seems to limit *lexis* to linguistic form and regards substantive elements supporting the expression of character as topics” (p. 155). Evoking the Aristotelian definition of *epieikia* (clemency), which includes toning down one’s own strongest arguments against the opponent, explicitly passing over specific facts, and “speaking in an easily accessible manner,” Könczöl explains that, in Aristotle’s thought, the rhetorical concept of style seems to have two different aspects, and hence a bi-directional use of signs, namely, meaning-making as *perception* and style as *construction*. He concludes that arguments can establish character, and the latter can provide the speaker with arguments. Apart from jurists, this chapter would be equally exciting and helpful to philosophy and classical philology researchers.

Part II, titled “Culture-bound legal semiotics, the backbone of the law,” comprises eleven chapters and addresses religious, visual, journalistic, cognitive-linguistic, forensic, human rights, commercial, cultural heritage, gender, childhood, and colonial aspects of legal semiotics. By titling her contribution, ‘Beware of (bad and dangerous) metaphors: Remarks made at the intersection of cognitive linguistics and law’ (Chapter 14), Angela Condello explicitly evokes Ebbesson’s suspicion about metaphors (2008). After clarifying the etymological and semantic basics of *metaphor*, she examines the semiotic aspects of metaphors used by government and health authorities during the

first phases of the pandemic, all of which involved a comparison between the virus and a war enemy. In her fascinating analysis, she cautions against metaphors that “seem to work well, and instead, they can be more confusing than a complex or long and detailed explanation,” without, however, negating that war, as a prototypical event, was indeed “useful to understand those situations where the features were similar to the paradigmatic or symbolic features typical of warlike times (for instance the frequent use of curfew)” (p. 212). Drawing on Lakoff and Johnson (1980) and Vaihinger (2021), Condello explains that “[t]he problem with metaphorical conceptualization, in other words, is that, to be used properly, it requires more discernment and capacity for judgment than ordinary conceptualization,” which she reasonably ascribes to the inherent tendency of metaphors to “absorb” some of the characteristics of the metaphorized concept, even though such traits “might be relevant from perspectives which hadn’t been taken into consideration” (p. 215). Discussing the intersection of cognitive linguistics and law, and mainly drawing on Goodrich (2017) and Ebbesson (2008), Condello explains that “[i]nasmuch as in ordinary language, in legal language figurality plays an essential function. In the legal realm, in fact, we find metaphors anywhere and everywhere,” like the widely entrenched terms *defence* and *defendant*, both borrowed from military terminology (216 - 217). Condello’s valuable conclusion is that, after all, metaphors are not inherently good or bad since the interpreter is responsible “to pick the right parallels and build on them, in the awareness that those parallels – [...] – all have consequences” (p. 219). Let me note that Chapter 26 of the volume, authored by Nathalie Hauksson-Tresch, also discusses, in a very insightful way, the semiotics of the pandemic, mainly from a visual standpoint.

Part III, titled “Visual legal semiotics as a figurative sign-system,” comprises eleven chapters and addresses visual and artistic aspects of legal semiotics, with emojis, comics, photography, scenography, and music being its primary foci. In ‘Law, music, and semiotics’ (Chapter 33), Robbie Sykes and Julia J.A. Shaw begin by aptly criticizing many jurists’ obsession with the linguistic aspect of law and their self-image “as guardians of these sacred artifacts which establish law’s authority and, being convinced of their completeness and rightness, tolerate no resistance or attempts at revision and advancement” (p. 460). Sykes and Shaw ingeniously put legal semiotics in the broader framework of interdisciplinary fields, including, e.g., law and literature and visual jurisprudence, all of which investigate “the primordial connection between the arts and humanities and law’s social context,” reminding that “aesthetic ideals are shown to perform a role of equivalent value and significance as that played by formal legal structures and institutions” (ibid.). Drawing on work by Shaw (2019), Watt (2020), and Manderson (2014), and even bringing in Keith Richards from the Rolling Stones, the authors discuss law and music “in concert,” in the light of the “ancient art of weaving.” Their problematic highlights the influence of music on law through the

societal shifts it both reflects and generates, as well as the theatrical aspect of the law, i.e., law as performance, which is intriguingly explored through Ramshaw's concept of "law as improvisation" and his enlistment of the saxophonist Ornette Coleman and the philosopher of deconstruction Jacques Derrida. The authors explain that music, as an ancient form of communication, was thought by philosophers such as Rousseau, von Humboldt, or Jespersen to predate and shape language in terms of syntax and prosody. This view faded after the 12th century with the rise of Roman law and Gutenberg's printing press. Among their main conclusions is that music "responds to any context; and perhaps most importantly, stimulates the senses of the *iuris civitatis* and creates a sense of participation, engagement, and agency which is too often lacking in the legal context alone" (p. 476).

All chapters in the volume are infused with an interdisciplinary perspective and offer valuable insights into law's cognitive, affective, social, cultural, and political dimensions. As such, they provide a new impetus to legal research, disentangling it from traditional, language-centered views and foregrounding law as a broader semiotic system where signs, texts, and interpretations interact with a view to regulate human action. The volume can be of interest not only to jurists but also to linguists, semioticians, philosophers, philologists, and others. However, notwithstanding the standpoint from which one tries to understand how legal meaning works, one thing is sure: law itself is elusive, and even legal meaning is negotiable (see McBarnet and Whelan 1991: 848, 872, 873). But this is an excellent reason to try more ways to decode and comprehend the multi-layered character of legal semiosis.

References

- Ebbesson, Jonas 2008. Law, power, and language: Beware of metaphors. *Scandinavian Studies in Law* 53: 259–269.
- Eco, Umberto 1984. *Semiotics and the Philosophy of Language*. Bloomington, IN: Indiana University Press.
- Eco, Umberto 1995. *The Role of the Reader: Explorations in the Semiotics of Texts*. Bloomington, IN: Indiana University Press.
- Gémar, Jean-Claude 2023. *La quête de l'expression optimale du droit: le langage du droit à l'épreuve du texte: Essai de jurilinguistique*. Montréal: Thémis.
- Gény, François 1922. *Méthodes d'interprétation et sources en droit privé positif: Essai critique*. Paris: Librairie générale de droit et de jurisprudence.
- Goodrich, Peter 2015. *Legal Emblems and the Art of Law: Other Depicta as the Vision of Governance*. Cambridge and New York: Cambridge University Press.
- Goodrich, Peter 2017. *Imago Decidendi: On the Common Law of Images*. Leiden: Brill.
- Hart, Herbert L.A. 1961. *The Concept of Law*. Oxford: Oxford University Press.

- Jackson, Bernard S. 1988. *Law, Fact, and Narrative Coherence*. Merseyside: Deborah Charles Publications.
- Lakoff, George and Mark Johnson 1980. *Metaphors We Live By*. Chicago: The University of Chicago Press.
- Manderson, Desmond 2014. Towards law and music: Sara Ramshaw, Justice as Improvisation: The Law of the Extempore. *Law and Critique* 25 (3): 311–317.
- Mattila, Heikki E.S. 2016. *Comparative Legal Linguistics: Language of Law, Latin, Modern Lingua Francas*. Trans. by Christopher Goddard, 2nd ed. Farnham: Ashgate.
- McBarnet, Doreen and Christopher Whelan 1991. The elusive spirit of the law: Formalism and the struggle for legal control. *The Modern Law Review* 54 (6): 848–873.
- Mellinkoff, David 1963. *The Language of the Law*. London: Pluman.
- Peirce, Charles Sanders 1931-1966. *The Collected Papers of Charles Sanders Peirce*, edited by Charles Hartshorne, Paul Weiss, and Arthur W. Burks (Vols. 1–8). Cambridge, MA: Harvard University Press.
- Ramshaw, Sara 2013. *Justice as Improvisation: The Law of the Extempore*. Oxford: Routledge.
- Shaw, Julia J.A. 2019. *Law and the Passions: Why Emotion Matters for Justice*. London and New York: Routledge.
- Vaihinger, Hans 2021. *The Philosophy of the 'As If.'* London: Routledge.
- Watt, Gary 2020. Law making music. *Law and Humanities* 14 (1): 26–56.
- West, Martin Litchfield 2007. *Indo-European Poetry and Myth*. Oxford: Oxford University Press.
- Wittgenstein, Ludwig 1958. *Philosophical Investigations*. Oxford: Blackwell.

AUTHOR

Panagiotis G. Krimpas Associate Professor, Democritus
University of Thrace, Greece

