

Encyclopedia of Law & Society: American and Global Perspectives

Symbols in Law

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Book Title: Encyclopedia of Law & Society: American and Global Perspectives

Chapter Title: "Symbols in Law"

Pub. Date: 2007

Access Date: December 08, 2014

Publishing Company: Sage Publications, Inc.

City: Thousand Oaks

Print ISBN: 9780761923879

Online ISBN: 9781412952637

DOI: <http://dx.doi.org/10.4135/9781412952637.n665>

Print pages: 1449-1452

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<http://dx.doi.org/10.4135/9781412952637.n665>

Although interpretation in legal discourse and practice could be restricted to the level of direct meaning, in practice it often leads to indirect meaning. If it appears that signs (linguistic or other), acts (for example, rituals), spaces, or images (including architecture) stand for something beyond their immediate, direct meaning, then they acquire symbolic potential. In legal texts, for example, the uses of metonymy, metaphor, and allegory often betray symbolic import. The symbolic meaning of the use of a phrase such as *green belt land* in environmental law and jurisprudence, for example, stretches beyond the mere denotation of the dominant color in a particular area. As it bears a visual and sensual image, the phrase may betray and [p. 1449 ↓] aesthetically communicate the more or less melancholy need, felt by some, to defend a certain, perhaps idealized way of life, rural and traditional or Arcadian, as it is assumed to once have been, in the “green and pleasant land” of yore. The phrase *legal texts* in this entry covers textual signs, acts, spaces, and images in law (also broadly meaning jurisprudence). The black and white gowns of barristers and other legal personnel, for example, may betray much more than a particular dress code. As some have argued, black and white dress may well be a remnant of an early modern aesthetic taste of a bygone elite, who desired to distinguish themselves culturally from others by demonstrating or suggesting moral restraint. However, such gowns may later have come to symbolize the impassive impersonality and neutrality to which members of the judiciary often aspire.

As law and jurisprudence are spheres where the circulation of signs tends to be couched in universalistic, or at least in hegemonic aspiration and logic, legal symbols, or more generally, signs, acts, spaces, and imagery in law, almost invariably point to indirect meaning. They will often lead interpretation to meanings beyond the direct meaning of their immediate forms and shapes. Symbols in law, along with their interpretation—in short, legal symbolism—is characterized, then, by the existential need for law to connect signs, acts, spaces, and images generated in particular contexts with a legal order that is often alleged to be universal, and vice versa. The production, circulation, reception, and interpretation of symbols in law thus emerges and unfolds in this space between the particular and the universal. This production, circulation, reception, and interpretation of symbols in law can be part of consciously and deliberately planned strategies or tactical maneuvers. To a certain extent, however,

legal symbolism also tends to be the result (often subconsciously so) of cultural taste and sensual desire, and in most cases, it will prove to be impossible to trace a firm dividing line between planned strategy and sensual or aesthetic attraction.

Interpreting Legal Symbolism

Several theoretical perspectives are available to enable students of legal symbolism to make sense, or indeed, to *interpret* the production, circulation, reception, and interpretation of symbols in law. They range from materialist or neo-Marxist perspectives, psychoanalytical perspectives, pragmatist perspectives, ethnomethodological perspectives, and structuralist perspectives, down to poststructuralist perspectives and deconstruction. However, regardless of theoretical inspiration, most research and scholarship on legal symbolism focuses on two broad types of hermeneutical reconstruction. The first is *syntagmatic reconstruction*, which locates the indirect or symbolic meaning of texts within their contexts, that is, within their textual environment. The second is *paradigmatic reconstruction*, which traces the symbolic dimension of texts toward their cultural environment, within society's collective meaning. In the period after World War II, research about legal symbolism tended to focus first on the syntagmatic reconstruction of the symbolic meaning of legal acts and spaces, mostly from pragmatist or ethnomethodological perspectives. Later, the emphasis shifted toward the paradigmatic reading of the symbolic meaning of textual material and legal discourse from structuralist and neoMarxist perspectives and, still later, from deconstructionism. Recently, the focus seems to be falling on the aesthetics and sensual dimension of the symbolism of visual material (images) and imagery in law.

Illustrations

Harold Garfinkel offered a syntagmatic reconstruction of courtroom proceedings, reading the rituals and words through which they are expressed as symbolic acts, by which those who are deemed “out of the ordinary” or “outsiders” are suitably “degraded.” Michel Foucault's (1926–1984) analysis of prison architecture and the spatiality of punishment, on the other hand, read the symbolism of spatial arrangements

both syntagmatically and paradigmatically. Read in conjunction with other texts, such as penal routines, guidelines, and so on, early nineteenth-century prison spatiality, in Foucault's view, both expressed and symbolized a much broader and clearly consolidating modern culture of discipline and normalization. This includes visuality (beginning with the warden's gaze at the center of the *Panopticon*) and the strict regimentation of time and bodies as its predominant, indeed constitutive elements.

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The symbolic meaning of textual materials relating to law, including whole pieces of legislation, or, more broadly, social discourse on issues of legal and social order, have often been the object of hermeneutic reconstruction and analysis. Within the field of the sociology of law (criminal law in particular), many groundbreaking studies have emerged over the past few decades. Joseph Gusfield's study of the U.S. temperance movement is one of those. The symbolic meaning of nineteenth and early twentieth-century temperance and prohibition legislation stretches beyond its mere prophylactic effects. Prohibition also expresses and symbolizes the growing moral dominance and political clout of certain social groups (middle-class women, notably). Through the enactment of temperance legislation and the symbolic crusade that precedes the enactment, these groups are able to demonstrate symbolically their moral rigor and political strength. They often succeed, again symbolically, in making it seem that their particular worldview and their utopian vision of moral order are superior to those of others, or in any case the only ones worthy of legal universalization.

Another original and highly influential study was conducted by Stuart Hall and his collaborators. Inspired by the Marxist writings of Antonio Gramsci (1891–1937), notably by Gramsci's notion of hegemony, Hall analyzed how, in Britain, the symbolic meaning of a particular constellation of textual signs and imagery such as “law and order” and “black muggers,” during the 1970s, exceeded the then-much-reported issue of street robbery and violent crime. The figure of the black mugger in public discourse came to symbolize a vast number of social, economic, and cultural threats, perceived or experienced, in a society in which an old order marked by economic growth in manufacturing, social security in a welfare state, and moral and cultural stability was gradually crumbling apart. Against the backdrop of the mourning of the loss of empire, and hence also of confidence and selfcontrol, and in an age of increasing moral and

cultural permissiveness, whether perceived or experienced, the figure of the black mugger managed to capture a deep social malaise. The black mugger—uncontrollable violence unleashed from the colonies—symbolized the unpredictable and unchecked dangers of a time and a place in decline. This symbol ultimately occupied the heart of an emerging political law and order discourse that, both authoritarian as well as populist, would provide the hegemonic base for the neoconservative political and economic revolution of the 1980s.

Recent Developments

The hermeneutic reconstruction of legal symbolism, since the spread in the 1980s of deconstructionism, with its emphasis on boundless intertextuality and on the endless deferral of ultimate meaning (what Jacques Derrida, 1930–2004, called *différance*), has led many scholars and researchers to focus on the aesthetics and sensual experiences involved in the production, circulation, reception, and interpretation of symbols in law. The symbolic use and meaning of images in particular, and the role of the body and the senses in legal symbolism, has been at the heart of this undertaking.

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<http://dx.doi.org/10.4135/9781412952637.n665>

See also

- [Deconstruction](#)
- [Derrida, Jacques](#)
- [Ethnomethodology](#)
- [Foucault, Michel](#)
- [Interpretation and Reasoning, Legal](#)
- [Language, Law and](#)
- [Literature, Law and](#)
- [Semiotics](#)
- [Visual Communication in and about Law](#)

Further Readings

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