

Comparative Law

Chapter 1: Legal Translation and Comparative Law

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Chapter 1, Section 1: Legal Languages Around the World

§2: Languages & the Law

'Meaning' and 'Context'

Meaning

In linguistics, 'meaning' refers to the denotative and connotative value of words and phrases. Meaning is heavily dependent on context.

Context(s)

Linguistic context includes the surrounding text and situational factors. For (legal) translation, 'context' is paramount, encompassing the entire legal and cultural framework, the specific document's purpose, and the target audience's legal understanding (target audience in the source language, not in the target language). This framework dictates how meaning is truly conveyed.

'Meaning' and 'Context' in Law

Context: The Quest for Certainty

Legal rules are intended to enhance legal certainty. Lawmakers strive to eliminate ambiguity by strictly identifying the context of each rule and the specific situations to which it applies. Judicial decisions typically provide extensive contextual elements to justify their conclusions.

Meaning: The Single Solution Dogma

The study and practice of Law frequently revolve around a 'single solution dogma,' which posits that a legal rule can possess only one authoritative meaning. This singular meaning is intended to be accessible through precise interpretation, actively excluding other possible interpretations. Judicial rulings often reflect adherence to this dogma by debating the proper interpretation of a rule.

Language

Language is a complex system of communication that allows humans to express thoughts, feelings, and ideas. It comprises a structured collection of symbols, sounds, and gestures governed by rules, enabling individuals to interact, share knowledge, among other things.



Natural vs. Formal Languages



Natural Languages

Evolved organically for daily human communication. They are rich in nuance, context-dependent, and often inherently ambiguous.



Formal Languages

Constructed systems with explicit rules, designed for precision and unambiguous communication, such as mathematics and programming.

Savigny on Law and Language

Friedrich Carl von Savigny, a central figure of the Historical School of Law, posited that law originates from a nation's collective spirit, the *Volksgeist*.

He argued that law, much like language develops organically from a people's shared experiences, just like language.

