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Can a Theory of Interpretation Make a Difference?

George H. Taylor

Can a theory of interpretation make a difference? The question has been posed most prominently by Judge Richard Posner, who, in recent work, has criticized the ability to make a difference of both theory writ large and of a theory of interpretation in particular.¹ Consider, for example, Posner's evaluation of the theory of interpretation known as hermeneutics:

The problem of interpretation, after all, is not that people don't know how to read carefully and with due allowance for cultural distance; the problem is that there are no techniques for generating objective interpretations of difficult texts. Hermeneutics poses the problem; it does not offer a solution. It is neither the salvation of legal interpretation nor the annunciator of its doom. Hermeneutics will not teach you how to interpret the Eighth Amendment or the Sherman Act. It will not even tell you whether to construe legal texts broadly or to hew close to the surface meaning. (*Jurisprudence* 298)

In other work I contend, contrary to Posner, that a theory of interpretation can make a difference at the level of *methodology*. Using the example of constitutional and statutory interpretation in law, I develop a theory that argues for the propriety and value of certain methods of interpretation over others.² In the present essay, my concern is more expansive, if the development is more brief. My claim is that a theory of interpretation can make a difference at an *ontological* level, at the level of what it means for humans to be.

The interpretive problem I want to address is presented by the predominant sensibility of those who accept that we now reside in a postmodern world: we have no access to a world of absolutes; we have available no bedrock truths. Certainly, many today do not accept this characterization of our world; they reject postmodernism and find truths still exist, whether in ethical or religious norms. But I do not want to bypass postmodernism; I want to challenge from within its general presumptions about the lack of access to some deeper sense of reality. The posture I want to reject is represented by such works as Richard Rorty's *Philosophy and the Mirror of Nature*.³ Expressed in Kantian terms, Rorty and others find there to be an absolute divide between the phenomenal world in which we are located and the noumenal world of the absolute, if any such world indeed exists. For them, we are caught in the world of our signs, of our texts. We cannot get beyond these signs to something more. In a world that is socially constructed, the only kind of knowledge available is "nonfoundational."

My argument accepts the postmodern claim that we are caught in a world of signs, that we exist in a world where everything is mediated through constructs—words, concepts, and so on. We do not have direct, unmediated access to anything beyond our signs. Yet my argument also claims that more is at work in the world of signs than is often recognized. More precisely, I want to engage, in part, in an inquiry into the philosophy of language—a prototypical arena for the investigation of signs—and show that we can find *within* language a mediated opening to something lying potentially beyond our signs. I undertake this inquiry through Paul Ricoeur's theory of metaphor.

Stereotypically, Anglo-American philosophy has treated metaphor as a form of substitution. Metaphor is considered ornamental and non-cognitive, something either deviant from or finally reducible to the literal.⁴ Donald Davidson, for example, restricts the definition of meaning to literal meaning and maintains that a metaphor has no meaning besides its literal sense.⁵ A metaphor such as "law is war" provides a useful compression of a number of law's literal attributes—that it is adversarial, has a winner-takes-all nature, etc.—that can be unpacked and delineated. The metaphor is nothing more than a summary of literal characterizations of law that pre-exist the metaphor; the metaphor imparts no new knowledge.

Ricoeur views metaphor differently. When a metaphor is first formed, it creates literal nonsense, literal dissonance. The “is” connecting law and war conceals an “is not.” The equivalence contained in the “is” is not literal; the “is” in fact presents a clash, a tension between the two terms. Metaphoric predication is a process of “categorical transgression” (*Rule of Metaphor*, 21); in metaphor “the identity and the difference do not melt together but confront one another” (199). The juxtaposition of the two terms creates a “metaphorical twist,” and this twist *creates* meaning. “[T]he metaphorical *twist* is at once an event *and* a meaning, an event that means or signifies, an emergent meaning created by language.”⁶ The metaphor “law is war” creates new meaning for the term law. Law’s meaning does not remain the same; the meaning of the metaphor is not reducible to pre-existing literal attributes. Metaphor shatters the prior structure of language.⁷ Metaphor is perhaps the best example of the *generative* energy and force available in language.

This generative power of metaphor rests not only at the level of language. Ricoeur asserts:

[M]etaphor not only shatters the previous structures of our language, but also the previous structures of what we call reality. When we ask whether metaphorical language teaches reality, we presuppose that we already know what reality is. But if we assume that metaphor redescribes reality, we must then assume that this reality as redescribed is itself novel reality. My conclusion is that the strategy of discourse implied in metaphorical languages is . . . to shatter and to increase our sense of reality by shattering and increasing our language. . . . With metaphor we experience the metamorphosis of both language and reality. (“Creativity in Language,” 132-33)

The theory of metaphor challenges the conception that we are entirely caught within a world of signs. Metaphor allows us to pierce the veil. The world of signs is not one of complete enclosure. We have access to a potentially larger world than the world of our signs. Ricoeur himself does not note the point directly, but his theory confronts and undermines the postmodernist claim of Rorty and others that we have nowhere to live but within the world of our constructed signs. Just as many nonfoundationalists appeal to the operation of language as representative of the caught world of signs in which we find ourselves, so Ricoeur’s theory, in my view, challenges nonfoundationalism on these very same grounds. Metaphor proceeds not by direct intuition but by the mediation of—the metaphoric twist between—signs themselves. Metaphor expands the nature of how we understand signs to function. Metaphor functions *within language* to shatter the boundaries of language, to expose our openness to a potentially larger world, a potentially larger reality. Metaphor’s figurative power is generative. It brings into language and reality what cannot be enclosed by present language or reality and in so doing it changes them both.

Metaphor is in turn exemplary of a larger category of indirect discourse characterized by symbols, parables, and myths. These forms of discourse may be described as *poetic*, in the sense of *poiesis*: the productive, the creative, the generative, the referential. To talk of symbols, parables, and myths obviously alerts us to the possible operation of moments of religious inspiration within our world of signs. In a journal such as this, this point is deserving of special attention, and I shall return to it very shortly. But the broader insight is the availability—in the linguistic or social text, *in* the world of signs—of an indirect discourse of poetic dimension. Kant was mistaken to divide the phenomenal world from the “noumenal.” He did not have the vocabulary to contemplate how indirect discourse bridges this division. Through the generative, poetic power of indirect discourse exemplified by metaphor, the “unheard” can erupt *in* our language.⁸

Let me provide an exemplification of this claim about the generative power of indirect discourse, especially metaphor. My example is drawn from New Testament hermeneutics, more precisely, from studies of the parable.⁹ I offer the illustration not out of any claim for the “truth” announced in any parable but more as a suggestive demonstration of the operation of indirect discourse. Consider the now familiar parable told by Jesus of the Good Samaritan: a man on a journey is beaten by robbers and left half dead. A priest going down the same road passed by the man, as did a Levite. A Samaritan, however, took pity on the man, cared for his wounds, and brought him to an inn. Jesus concludes by asking, which of the three proved to be the neighbor to the man? (Luke 10:30-36). What is the metaphoric quality of this parable? Scholars have shown that Jews of Jesus’ time generally abhorred Samaritans on both religious and racial

grounds. Thus, “when the parable confronts the hearer of Jesus at the literal level with the combination of *good* and *Samaritan*, it is asking that the hearer conceive the inconceivable.”¹⁰ The literal conflict between terms requires the contemporaneous listener to throw into doubt basic assumptions; the juxtaposition of terms literally confounds. The literal dissonance opens the way for the metaphoric twist, the transformation of the literal clash.

The metaphoric point is that *just so* does the Kingdom of God break abruptly into a person’s consciousness and demand the overturn of prior values, closed options, set judgements [sic], and established conclusions. . . . The hearer struggling with the dualism Good Samaritan is actually experiencing in and through this the inbreaking of the Kingdom upon him.¹¹

The parable is revelatory; it reveals a new reality. It disorients in order to reorient.¹² It confounds our existing world of signs in order to open us to a new world.¹³

The example of the parable deepens the larger methodological insight. We are not caught in our world of signs because metaphor can break through “to a pre-scientific, ante-predicative level, where the very notions of fact, object, reality, and truth, as delimited by epistemology, are called into question” (Ricoeur, *The Rule of Metaphor*, 254). The metaphoric is not a deviation from and so reducible to the literal. Instead, Ricoeur claims, the order of derivation should be reversed.

[C]ould we not imagine that . . . order itself is born in the same way that it changes? Is there not, in Gadamer’s terms, a ‘metaphoric’ at work at the origin of logical thought, at the root of all classification? . . . The idea of an initial metaphorical impulse . . . suggests that order itself proceeds from the metaphorical constitution of semantic fields.¹⁴

The logical, the literal, the rational are not originary but lexicalizations (whether in a written or social text) of the initial metaphoric impulse. This overturns and displaces the usual way we view the derivation of order.

The challenges Ricoeur’s theory of metaphor presents to more usual accounts of human language and human understanding should not be underestimated. More is open to our language and our understanding than nonfoundationalists such as Rorty will acknowledge. The challenges of Ricoeur’s theory go even further. Much is made in contemporary cognitive theory of the human mind as a construct with inherent categorial organization. Children could not pick up language so quickly and so early, says Chomsky, without such categorial organization already in place.¹⁵ Other theorists build on evolutionary theory to argue that the mind is entirely a product of the algorithmic process of natural selection.¹⁶ Whatever the difference between these theories,¹⁷ they are grounded in bedrock categories of explanation that argue we can go no further. As we have observed, Ricoeur’s theory disagrees. Metaphor, in his terms, opens us “to a pre-scientific, ante-predicative level” that proceeds beyond these explanatory categories; the metaphoric impulse underlies categorial order, not the reverse. On the horizon of the present inquiry lies the task, which I intend to pursue elsewhere, of trying to show more thoroughly how Ricoeur’s theory of metaphor survives—indeed transforms—the theory of language advanced by Chomsky and his heirs.¹⁸

A theory of interpretation makes a difference, then, both in its appraisal of the nature of human understanding and in its appraisal of the range of reality that our human understanding is open to. Theories of interpretation have a tendency to be reductive, a tendency to reduce experience to structured concepts. Ricoeur does not disparage this predisposition but argues for an interpretive style attentive at once to categorization but also to preservation of “the dynamism of meaning.” Metaphor vivifies; it brings to life. The experience of metaphor causes “a ‘thinking more’ at the conceptual level. This struggle to ‘think more,’ guided by the ‘vivifying principle,’ is the ‘soul’ of interpretation” (Ricoeur, *The Rule of Metaphor*, 303 [emphasis added]). We may have more reality, more new reality available to us than our existing signs, concepts, or categories now admit.

A theory of interpretation makes an ontological difference, then, to the extent it opens us to the potential range of reality. Our horizons may be broader than nonfoundationalists such as

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Rorty allow. Does, though, the interpretive theory of metaphor provide an ontological answer, that is, tell us what reality is in fact out there? No, it does not. In this sense, Posner's criticism of interpretation, adverted to at the essay's outset, remains proper. But the ability of an interpretive theory to open us to the possible range of reality retains immense significance. We are not caught in the world of our signs, concepts, or categories, because metaphor can break through this world. Let me close with a brief illustration of this proposition. To my mind, perhaps the best example of this understanding in law comes from some recent work in critical race theory. In opposition to the claims of some in critical legal studies that "rights" are simply social constructions with no larger purchase or hold upon us, some critical race theorists have argued that "rights" characterize something more fundamental—a "really-out-there" object,¹⁹ "a 'real' reality out there"²⁰—onto which one can hold. The metaphorical understanding of that reality is retained, however; understanding cannot reduce that reality to literal terms. In trying to comprehend and implement these rights, we must "make our categories explicitly tentative, relational, and unstable."²¹ Our stance must be one of "humility" (Harris, "Jurisprudence of Reconstruction," 78). But we may have normative resources available to us that provide enduring inspiration and sustenance.

Notes

- ¹ See, e.g., Richard A. Posner, *The Problematics of Moral and Legal Theory* (Cambridge: Belknap Press, 1999); *The Problems of Jurisprudence* (Cambridge: Harvard University Press, 1990).
- ² See George H. Taylor, *The Dynamism in Legal Interpretation* (Ann Arbor: University of Michigan Press, forthcoming).
- ³ Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton: Princeton University Press, 1979).
- ⁴ See, e.g., Paul Ricoeur, *The Rule of Metaphor: Multi-Disciplinary Studies of the Creation of Meaning in Language* (Toronto: University of Toronto Press, 1977), 45-46 (discussing substitution theory); Max Black, *Models and Metaphors* (Ithaca: Cornell University Press, 1962), 31-37. The work of Black and others who criticize substitution theory indicates that the Anglo-American view is certainly not uniform. Ricoeur's own theory builds on this alternative perspective.
- ⁵ See Donald Davidson, "What Metaphors Mean," *On Metaphor*, ed. Sheldon Sacks (Chicago: University of Chicago Press, 1979), 30. Arguing on allied grounds, see John Searle, "Metaphor," *Metaphor and Thought*, ed. Anthony Ortony (Cambridge: Cambridge University Press, 1979), 92-123; "Literal Meaning," *Erkenntnis* 13 (1978), 207-24.
- ⁶ Ricoeur, *Rule of Metaphor*, 293 (alluding to Monroe Beardsley, "The Metaphorical Twist," *Philosophy and Phenomenological Research*, 22 (1962), 293-307).
- ⁷ Paul Ricoeur, "Creativity in Language," *The Philosophy of Paul Ricoeur*, eds. Charles E. Reagan and David Stewart (Boston: Beacon Press, 1978), 132.
- ⁸ See Paul Ricoeur, "Biblical Hermeneutics," *Semeia* 4 (1975), 127, 143.
- ⁹ Suggestive of the larger theme here is a title of a chapter in a book by Robert Funk: see "The Parable as Metaphor," *Language, Hermeneutic, and Word of God* (New York: Harper and Row, 1966), 133-62.
- ¹⁰ Norman Perrin, *The New Testament: An Introduction* (New York: Harcourt Brace Jovanovich, 1974), 293. Notice the relevance of an originalist understanding to comprehension of the parable's significance.
- ¹¹ Perrin, 293, quoting John Dominick Crossan, "Parable and Example in the Teaching of Jesus," *New Testament Studies* 18 (1971-72), 295 (emphasis added by Perrin).
- ¹² See Paul Ricoeur, "The Logic of Jesus, the Logic of God," *Christianity and Crisis* 39 (1979), 326.
- ¹³ Although from a quite different religious tradition, Zen Buddhism also presents a similar transformative methodology.
- ¹⁴ Ricoeur, *The Rule of Metaphor*, 22-23. See also 197-98; Ricoeur, "Creativity in Language," 131; Paul Ricoeur, "The Metaphorical Process as Cognition, Imagination, and Feeling," *On Metaphor*, ed. Sacks, 147.
- ¹⁵ For a recent account of this theory, see Steven Pinker, *How the Mind Works* (New York: W. W. Norton, 1997).

- ¹⁶ See, e.g., Daniel C. Dennett, *Darwin's Dangerous Idea: Evolution and the Meanings of Life* (New York: Simon and Schuster, 1995), 426-27.
- ¹⁷ See, e.g., Dennett, 384-400 (challenging Chomsky on the biological origins of the mind).
- ¹⁸ The challenge to grant priority to metaphor within linguistic and cognitive theory has been taken up by George Lakoff and Mark Johnson. See, e.g., George Lakoff and Mark Johnson, *Philosophy in the Flesh: The Embodied Mind and its Challenge to Western Thought* (New York: Basic Books, 1999); *Metaphors We Live By* (Chicago: University of Chicago Press, 1980). For their commentary on Chomsky, see, e.g., *Philosophy in the Flesh*, 469-512. Despite their differences with Chomsky, however, Lakoff and Johnson still emphasize categorial structuring, what they call "conceptual mapping." Most critically, they reverse the priority Ricoeur grants to the basic metaphoric impulse as the originative source of order. They emphasize instead that novel metaphors are extensions of conventional metaphors, of existing conceptual mappings. See, e.g., 66-67, 70, 149-50. Therefore, if Ricoeur's theory is to be shown accurate, the work of Lakoff and Johnson must be challenged as well. In legal scholarship, the implications of Lakoff and Johnson's work have been pursued most prominently by Steven Winter. See, e.g. Steven L. Winter, *A Clearing in the Forest: How the Study of the Mind Changes Our Understanding of Life and Law* (forthcoming book).
- ¹⁹ Angela P. Harris, "Foreword: The Jurisprudence of Reconstruction," *California Law Review*, 82 (1994) 751.
- ²⁰ Harris, 753. I also find similarly provocative within critical race theory the appeal to a spiritual dimension, in part here also as a reply to critical legal studies. See, e.g., Anthony E. Cook, "The Death of God in American Pragmatism and Realism: Resurrecting the Value of Love in Contemporary Jurisprudence," *Georgetown Law Journal*, 82 (1994) 1431-1517; "The Spiritual Movement Towards Justice," *University of Illinois Law Review*, 1992 (1992) 1007-20; "Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.," *Harvard Law Review*, 103 (1990) 985-1044.
- ²¹ Angela P. Harris, "Race and Essentialism in Feminist Legal Theory," *Stanford Law Review*, 42 (1990), 585.