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Chapter 8

Conceptions, Categories and Embodiment: Why Metaphors are of Fundamental Importance for Understanding Norms

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Introduction

An important point of sociology of law which is often brought up is law's social dependence (Aubert, 1972: 13; Mathiesen, 2005; Hydén, 1978: 26; Svensson and Larsson, 2012). This is also one of the key arguments for using the concept of norms to analyse society (Hydén and Svensson, 2008; Svensson, 2008). This chapter demonstrates how the fundamental lingual and conceptual meanings of metaphors and conceptions support this point. The propositions in this chapter are, to a large extent, drawn from an existing thesis (Larsson, 2011b), but with some important additions, not least concerning the implications of categorization. The chapter is explorative in bringing findings from cognitive linguistics into the quite common socio-legal task of studying norms. Its aim is not to debunk, but to assemble. The promise of cognitive theory is here found in its ability to make explicit the unconscious and cognitive operations that structure our conceptions of reality.

Emphasis is put on the importance of understanding how language, meaning and thought are connected. A main advantage of the metaphor-theoretical connection to general norm analysis lies in how language-based expressions and metaphors relate to the mind, how our thoughts are framed and thereby both controlled and enabled by how different conceptions are constructing metaphors. This goes for the most mundane and everyday events as well as law. This perspective indicates the significance of detailed studies of the surface structures, which have the potential to reveal underlying conceptions that may control a legal or social norm (Larsson, 2011b; Larsson and Hydén, 2010).

Cognitive linguistics is here argued to be of significance to norm studies. The important findings not only take into account the fact that metaphors play a much more fundamental role in thought and language than is traditionally acknowledged in the theory of law. The key findings concern how categorization is (really) done, the case of 'prototype effects' (that is, some members of a category are regarded as more 'true' representatives of that category than other members of the same category), and the framing aspects of conceptions and metaphors. This is further

emphasized by the process of embodiment of metaphors, and, hence, law. In simple terms, law is in need of a reification in order to be talked and thought about. This process is therefore of great interest for anyone concerned with understanding law's place in society as a cognitive, lingual and cultural artefact. This chapter considers all of these contributions from cognitive linguistics, to see what may benefit the study of norms in sociology of law.

In the development of metaphor theories, Max Black (1962) has been influential, introducing a cognitive dimension. Black stated that metaphor is not just an aesthetic embellishment of language, but organizes and transforms our perception of the original term. The cognitive metaphor studies that have inspired this chapter started around 1980, with Lakoff and Johnson (1980).

Metaphors and policy

Of extra importance for this chapter is the analysis of law that has been made based on the work of Lakoff and Johnson (see Berger, 2004, 2007 and 2009; Blavin & Cohen, 2002; Herman, 2008; Hunter, 2003; Johnson, 2007; Joo, 2001; Larsson, 2011b, 2012b, 2012c and 2013a; Morra, 2010; Ritchie, 2007; Tsai, 2004; Winter, 2001, 2007 and 2008). Metaphor studies have found their way into policy research and political analysis. An example is the collection of chapters in Carver and Pikalo (2008). The anthology emphasizes the impact of our metaphoric language, and puts forwards the productive element of metaphors in the subtitle, 'interpreting *and* changing the world'. However, many of the contributors draw their theoretical foundation from the conceptual metaphor theory of Lakoff and Johnson, and inspiration is also found in Black (1962 and 1979) and the pragmatic philosophy of Schön (1979), for instance.

Metaphors and norms

Metaphors cannot only be studied in relation to legal norms, but in relation to social norms as well. It has been suggested that they may be fruitful when studying the imperative essence of social norms (Larsson, 2011b: 52–3, 65–8, 123–4), as defined by Svensson (2008) and Hydén and Svensson (2008). The major methodological difference between studying legal metaphors versus socially embedded metaphors affecting social norms is found in the formalized character of the legal norm. The legal formalization creates certain and fixed metaphors, and hence 'locked-in' conceptions, whereas the socially embedded metaphors and conceptions probably require another type of empirical evidence when studied (Larsson, 2011b: 85–7).

It has been shown that legal metaphors can allow rather substantial changes in meaning without necessarily changing concepts, as Larsson (2011b) has shown in relation to 'intellectual property' and the 'copy' in copyright law in a digital society

(see also Larsson 2012a and 2012b). This means that the study of legal metaphors is a study of fixed metaphors, whereas the study of the metaphors that control a social norm needs to be separately formulated. For example, when Svensson and Larsson (2012) studied the strength of social norms corresponding to copyright among approximately 1,000 respondents in Sweden, they had to define the social norm in similar (but not exactly the same) terms as the legal norm. This means that the the understanding of the social norm, to a greater extent than the legal norm, is likely to be sensitive to and dependent on the choices of the formulator. This is the case especially where a study is made of social norms that do not correspond to legal norms (that is, that do not have a pre-formulated conception of a norm on which they are based).

According to Mark Johnson, a professor in philosophy, there is a Western moral tradition in which we make ethical decisions by applying universal laws to concrete situations. Contrary to this conception, Johnson (1993) shows how research in cognitive science undermines this view of normatively controlled and enlightened behaviour and reveals that imagination has an essential role in ethical deliberation. How we conceptualize and imagine how we can act not only has implications for how we actually act, but also for what we think is just and appropriate behaviour. These imaginative paths are probably not unforeseeable and random, as Winter puts it: 'Despite the fact that it is conventional to think of imagination as random, unpredictable, or indeterminate, it is actually orderly and systematic in operation' (Winter, 2001: 259).

It is a task for the sociologist of law, among others, to depict the implications of these systematic and orderly processes of imagination in terms of implications for behaviour and social norms. However, for us to understand these implications, we must turn to how metaphors operate in detail, as well as relate them to underlying conceptions.

Metaphors

The key idea of metaphors is that they are analogies which allow us to map one experience (the target domain) in the terminology of another experience (the source domain), and thus to acquire an understanding of complex topics or new situations. The metaphors often tend to be viewed as exclusively linked to linguistic structures, rather than to thinking and the mind. In contrast to this minimalist conception of metaphors, cognitive scientists George Lakoff and Mark Johnson (Lakoff & Johnson, 1980/2003: 3) showed that 'metaphor is pervasive in everyday life, not just in language but in thought and action. Our ordinary conceptual system, in terms of which we both think and act, is fundamentally metaphorical in nature'. This means that metaphors are not simply a figure of speech, but a 'figure of thought' (Lakoff, 1986) – that is, focusing on metaphors not merely as lingual features but as conceptual features. Consider the following examples:

Source Domain	Target Domain
Lion	My dad
Journey	Love

There is a major difference between these two metaphors. They both share the mapping from source domain to a target domain, which is the essence of metaphoricity, but the first one ('my dad is a lion') is an easily detected and figurative metaphor, whereas the other ('love is a journey') is a conceptual metaphor, from which a number of other metaphors relating to each other can be derived in a 'metaphor cluster' (see Larsson, 2011b: 60–1, 72–3; Larsson, 2012b; Loughlan, 2006).

The first example creates the figurative metaphor of 'my dad is a lion'. It is, as stated, pretty clear to most people that this is a metaphor for something, and that some aspects of the source domain are mapped onto the target domain in order to achieve some effect on the target domain. Since there are also cultural patterns involved in this, these aspects are likely to relate to something similar to the assertion that my dad is strong, fierce and perhaps something of a leader – in our culture, the lion is sometimes described as the 'king of the animals' (this bears evidence to how a lion is conceptualized, which emphasizes its cultural dependence). Consequently, the ordinary use of this metaphor would also exclude aspects from the source domain that could just as well be meaningful but are not, such as 'my dad is a lion – and is therefore covered with fur and eats antelope'.

For the other metaphor, which describes that 'love is a journey', there are a number of expressions that are connected to this metaphor according to Lakoff and Johnson: it is a conceptual metaphor, from which follows that it is meaningful to say, for instance, that 'our relationship has hit a dead-end street', 'we're going in different directions', or 'our relationship is at a crossroads' (Lakoff, 1986; Lakoff & Johnson, 1999: 123). It is meaningful to speak of several other related versions of the same conception of 'love is a journey'. This means that this is rather a cluster of metaphors derived from one conception of relationships. While some of the metaphors in the cluster may be clearly seen as metaphorical, others might not be perceived as so clearly figurative or metaphorical, such as 'this relationship isn't going anywhere'. This pattern of cross-domain mapping is of extreme importance here. There is one conception (in my terminology – see Larsson, 2011b) creating meaning for one cluster; not many completely unrelated metaphors. Such expressions can be part of everyday language, because the 'love is a journey' mapping is part of our ordinary, everyday way of conceptualizing love and relationships and how to reason about them.

The conception defines what is a socially meaningful use of language for a given phenomenon, and it does so through metaphor. By emphasizing the social aspects of meaning-making, the context-dependency and the 'situated' (cf Svensson, 2008: 52 onwards), the socio-cultural implications are of great importance. Winter expresses this in terms that '(m)eaning is a shared social

phenomenon that constrains how we as embodied and culturally situated humans understand our world' (2001: 315). A further generalization that we can make regarding metaphor comprehension is that it is mandatory, in the sense that it is an 'automatic' interpretation made by us (Glucksberg, 2008). This means that literal meaning has no priority; the associative paths creating meaning are there anyway. The metaphor cluster – what Lakoff and Johnson call a 'conceptual metaphor' – highlights the question of what it is that conceptually ties the cluster together as one meaningful entity. How is it framed and delimited, and by what structures does it operate?

Conceptions

To focus the conceptions is to focus the framing structures of thought (Larsson, 2011b: 65–70, 130–2). They are seen as underlying metaphors and can be regarded as the acting fundamental behind, for example, legal statutes, or the basis for a metaphor cluster. The concept of conceptions that is proposed by Larsson (2011b) is inspired by both the conceptual metaphor theory (Lakoff & Johnson, 1980), including 'cognitive models' of cognitive linguistics (Lakoff, 1987) as well as the concept of 'figures of thought' from social science, stemming from Asplund (1979) and Foucault (2001). Views of conceptions have further been used in teaching and learning science, often to display student thinking and 'conceptual change'. It has played a significant role in this line of research since the late 1970s – for instance, speaking of conceptions as learners' mental models of an object or an event (Glynn and Duit, 1995; Treagust & Duit, 2008).

Conceptions focus the building blocks and frames for the mind and for thinking, rather than the pictorial of figurative aspects of them. The conception is seen here as a subsurface structure. The conception is, in this sense, not what is explicit (for instance, in a legal regulation), but what the legal regulation (often) implicitly emanates from. It forms its 'logic'. By studying legal metaphors, or metaphors in legal imperative formulations, it is possible to reveal the conceptions upon which they are formed. This is relevant because of what was just stated about metaphors – they are often not perceived as metaphors – their work is often hidden on a subconscious level and might erroneously be perceived as though we actually 'speak of Things as they are', as John Locke expressed it (Locke, 1975/1690). When the metaphors are not perceived as metaphors, the conceptions behind them will be perceived as the only possible alternative for the purpose of a given regulation. It does not seem possible to find any meaningful alternatives to a certain logic or thought structure, or – which may be even more important – there is no reason for even trying to find an alternative. This means that any attempted revisionary arguments will then be framed within the prevailing conception, no matter what arguments are being produced. That is, unless the conception is analytically unlocked and displayed via the metaphors that reproduce it. I will return to this issue below when studying norms.

Social norms and conceptions

A metaphor theory revealing conceptions can be used not only to analyse metaphors hidden in formulated legal norms. When a debate about an abstract relation develops, it needs some sort of conceptualization in order for the debaters to position themselves in relation to each other. Depending on this conceptualization, which can be contested or not contested by any party, based on conscious or unconscious choices, the frame is set for the debate, with the result that some aspects are easier to talk about than others. To bring this abstract talk into clearer relief, the example can be provided from the political debates that started in the mid-1990s in Sweden regarding professional household services (*hushållsnära tjänster*), and the possibility of deducting tax when employing these. Further back in Swedish history, it was common for households with well-ordered finances to employ a 'maid' (*piga*). In Swedish, however, the word '*piga*' signalizes the hierarchy between the maid and the members of the family, where the maid is subordinate. It implies a social structure of classes in a way that brought negative connotations to the political debate. Those who were against the political proposition of offering tax deductions for household services brought up this old concept and termed the debate the 'maid debate'. The concept struck a chord in the debate, and thereafter reframed the debate itself, forcing everyone who was in favour of tax deductions for household services to deal with the 'maid' conceptualization of the debate (see Platzer, 2004). In this particular context, this conceptualization was very advantageous to the critics of the proposal.

In more general terms, this could be described as the underlying conception setting the interpretative frames for what will seem like the logical consequences of any given debate surrounding a particular phenomenon. And those who manage to steer this framework, by applying particular metaphors, can also guide the development of debates. Yanow (2008) highlights the framing aspect of metaphor with the example of the American debate on abortion. By framing the issue as 'pro-life', the movement against abortion, by the logic of language use, forces the oppositional label 'anti-life'. Not wanting to be forced into such negative language, the 'for access to abortion' camp narrates itself as 'pro-choice' (Yanow, 2008: 228). In other words, the conception can be perceived as a frame of mind – a frame that we in no way have to be conscious about. However, when it is a conscious practice, this frame-like essence of conceptions is useful as a rhetoric skill. This applies also to the 'framing' of debates and arguments, of which legislative processes are not free from. As Lakoff explains:

> Remember, don't just negate the other person's claims; reframe. The facts unframed will not set you free. You cannot win just stating the true facts and showing that they contradict your opponent's claims. Frames trump facts. His frames will stay and the facts will bounce off. Always reframe. (Lakoff, 2005)

This is when the use of metaphors, and the framing of conceptions (although they are not necessarily perceived as metaphors and frames), have become a rhetorical

strategy. Beginning from an opponent's metaphor is a difficult rhetorical stance, so choosing one's own metaphor or conception from which to begin is generally a much better strategy. The trick in a debate is to attach a metaphor to it that carries with it normative values that are beneficial to one's own position. However, the framing aspects of metaphors and their underlying conceptions probably apply to most abstract phenomena. The borrowing of a concept from one domain to another – considering our conceptual system as being 'fundamentally metaphoric in nature' – is often done with bodily operations, spatial relations or physical artefacts as source.

Embodiment

Embodiment, and what here to some extent may be called spatialization, is of great importance for the process of something becoming meaningful, according to the focused strand of cognitive science (Gibbs, 2005; Johnson, 1987; Lakoff, 1987; Lakoff & Johnson, 1999). In conceptual metaphor theory, this is often referred to as the embodiment of the metaphors (Kövecses, 2008; Lakoff, 1993; Winter, 2001). This follows from the fact that metaphors are so common and a fundamental part and process of language and the mind. This statement means that there is constant borrowing in progress, and interdependence on the surrounding context, in order for language to become meaningful. In short, metaphors are often based on our interaction with our physical and social environment. They are derived from bodily sensations, for instance found in image-schemas, such as that balance keeps you 'upright'; more is 'up', for when you add things to each other, you increase the pile upwards (Lakoff, 1993: 240).

The conceptual metaphor theories fitted well with the 'conduit metaphor' system first identified by Michael Reddy (Reddy, 1979; see also Winter, 2007: 884; Winter, 2001: 52–6). It is a systemic set of mappings from the source domain of physical objects to the target domain of mental operations:

Source Domain	Target Domain
PHYSICAL	MENTAL
object	ideas
seeing	knowing
container (vehicle)	words
content	ideational content
sending	communicating
grasping (receiving)	understanding
container	mind

These are conceptions that guide and also control how new metaphors develop, and they can be represented by the mnemonics 'Ideas are objects', 'Knowing is seeing', 'Words are containers', 'Communication is sending', 'Ideational content

is (physical) content', 'Communication is sending', 'Understanding is grasping', and 'The mind is a container'. The 'conduit metaphor' system enables us to automatically extend the conceptual mapping by modelling other actions in the physical domain – as a result of embodiment. It is thus meaningful to speak of the 'content' of this chapter, trying to 'grasp' the concept of norms in sociology of law, or to 'see' the point I am trying to make here.

Expressing the dependency on the physical and spatial can be made in the words of Steven F. Winter:

> Thought is not primarily linguistic and propositional, but embodied and imaginative; language is neither entirely arbitrary nor merely socially contingent, but grounded in our embodiment and motivated by our interactions with the physical and social world. (Winter, 2001: 47)

We borrow constantly from the physical world, from the objects, the body and the spatial sphere, in order to describe and talk about the abstract. This is where we must be extremely attentive in relation to how our understanding is built. Many of the building blocks for how this works, even for much less obviously metaphorical concepts, can be found in cognitive linguistics, but also in the symbol- and language-oriented legal (critical) discourse. In terms of the ontological account, the embodiment should, however, probably not be taken as evidence that the values attached to specific metaphors or any language can be constructed completely unrestrained by patterns, as a more social constructionist perspective would imply, nor that they are 'natural' and completely rationally fixated (see Larsson, 2012c). There are patterns, and they can be strong patterns and be perceived as 'natural', but they are, to some extent, negotiated socially and culturally. A point here is not that a freedom exists in general, but that these patterns are probably often different from the rationalistically defined and outspoken patterns and categorizations (Johnson, 2007).

The metaphor researcher Ning Yu develops the dual connection of metaphor to both body and culture. Yu shows how an analysis of the distinction between primary and complex metaphors allows us to determine which aspects of metaphor are bodily or culturally based. This allows Yu to set up a hypothesis that primary metaphors, derived from bodily experience, are likely to be widespread and universal, while complex metaphors, based on conceptual mappings and cultural beliefs, are likely to be more culturally specific (Yu, 2008).

A consequence of this embodiment is that law is also constructed from embodied metaphor and linguistic operations, relying on the in-the-mind cognitive approach (Johnson, 2007; Larsson, 2012b and 2013a and 2013b; Winter, 2001: 22–42). These findings question the 'objectivist' approach in law (Johnson, 2007). As law is an abstract social phenomenon, it is more the case that the need for metaphors is greater than ever. We need to 'reify' and embody law in order to talk about it, think about it and understand it. As a result, Winter claims that law can constantly be found in a dependent position, which requires object-making,

a reification, where we talk about law as something physical (Winter, 2001 and 2008). This is particularly noticeable in clear metaphors: 'as the long arm of the law' (Berger, 2009: 262–6) and how we 'take law in our own hands', but perhaps slightly less clearly in how we 'break' the law, sign a 'binding' contract or 'trespass' when sharing files that we are not authorized to share. We speak of a *corpus juris*, and how we understand law is depending on this reification (Larsson, 2011b: 64–5; Larsson, 2012b; Winter, 2001: 334).

Norms and embodiment

The embodiment of metaphors probably also means that norms are dependent on the same processes of embodiment. When norms emerge and are formulated (as with legal norms), they do so in interplay with the surrounding culture, milieu or architecture, in 'interactions with the physical and social world' (Winter, 2001: 47). They are somehow 'cognitively situated', as Måns Svensson describes the norm concept in sociology of law, outlined above (Svensson, 2008; see also Svensson and Larsson, 2012). This means that the focus should not be on the individual's cognition, but on the context that the individual is in. As Svensson explains:

> Cognition is basically about how people perceive their environment – in an extension of perception, memory, concept formation, reasoning, problem solving and attention. All these processes are active in some way when people create an impression of societal norms and how their surroundings expect that they should relate to different phenomena in everyday life. (Svensson, 2008: 52, author's translation)

The point of view of situated cognition sees knowledge as inseparable from social, cultural and physical contexts. It is the shared expectations, social norms and social control that, to a large extent, control the cognitive processes (Svensson, 2008). The situated cognition can possibly work as a link between conceptions on the one hand, and social norms on the other, connecting the two, adding to the explanation of the social processes that contribute to makes us share conceptions. This means that, if cognition changes from being situated (that is, if the embodiment is processed under new constraints of a changing reality), the norms may change as well (Larsson, 2011b: 124–6; cf Larsson, 2013a; 2013b).

Further, embodiment supports the argument of Stanley Fish, namely that the distinction between text and context is impossible to maintain because there can be no such thing as a non-contextual sense (Fish, 1989: 329). This means that it is not the focus on the text that is of essence, but the bundle of tacit assumptions that organize the world for us, for our thinking, our actions and, hence, our norms.

Metaphors and law

If art is the 'legitimate paradigm of unconscious activity' (Kofman, 1993: 31), then law, it seems, is often hailed as the complete opposite. The legal concepts are presented in an 'objectivist view', with 'strict, fixed boundaries defined by necessary and sufficient conditions' (Johnson, 2007: 847). There is a growing field of research into interpreting legal metaphors. Many persons interested in legal analysis, influenced by this school of metaphor theory, start their presentation with the conflicting perspective on metaphors in law. They often do that by citing the early American legal realist, Justice Cardozo, who observed that 'metaphors in law are to be narrowly watched, for though starting as devices to liberate thought, they end often by enslaving it' (see Berger, 2004; Herman, 2008; Patry, 2009; Winter, 2008). Ironically enough, and as is often pointed out, this statement by Cardozo uses at least two important metaphors – liberation and slavery (Loughlan, 2006). Cardozo's view follows in the same tradition as the famous enlightenment philosopher, John Locke, who condemned metaphor and other figurative speech as 'perfect cheat' and insisted on literal prose 'if we speak of Things as they are' (Locke, 1975/1690). Conceptual metaphor theories collide with a more formal approach to meaning and truth. A formal approach underlines the objective, literary and linear thinking, whereas metaphors are considered only as colourful, figurative linguistic symbols or expressions, used to express a point clearly. This includes law and legal thinking. Robert Tsai writes:

> Legal scholars have traditionally understood metaphor as, at worst, a perversion of the law, and at best, as a necessary but temporary placeholder for more fully developed lines of argument. On this view, metaphors are vague and inherently manipulable, appealing to base instincts, whereas explicit legal argumentation represents the rigorous, authentic core of law. (Tsai, 2004: 186)

This conception in the legal field has been durable and strong. The British philosopher Jeremy Bentham (1748–1832) thought that metaphors were the anti-thesis to legal reasoning (Bentham & Ogden, 1931). The traditional legal perception of the unimportant place and function of metaphors in law is, in other words, completely at odds with what language and cognition research has shown from 1980 onwards. The philosophy professor and cognitive scientist Mark Johnson is using these insights to study the language-based judicial system and to ask how we can gain a better understanding of how legal knowledge and reasoning works, and sees part of the answer in cognitive legal research, in a 'cognitive science of law' – that is, how thinking works in relation to legal concepts and legal decision-making (Johnson, 2007). Johnson argues that legal reasoning and legal concepts are based on a sort of self-image of objectivity. This 'objectivist view' includes the idea that concepts have strict limits and are defined by necessary and sufficient conditions, which contradicts the empirical

findings in cognitive and linguistic research (see, for instance, Winter, 2001). Johnson's main point for including cognitive science in the study of law is that the legal 'objectivist view' is based on an incorrect understanding of how thinking and language works (Johnson, 2007: 847).

Metaphors in law

Linda Berger, an American professor of law, has successfully used metaphor theory to analyse the judicial decision-making in custody disputes (Berger, 2009), rhetorical choices in (the US) Supreme Court Decisions on campaign finance regulation (Berger, 2007), and to help lawyers shape the law (Berger, 2004). Her conclusion is that lawmakers cannot avoid being affected in their decision-making by myths, metaphors and symbols. Berger analyses cases involving determining which parent is best suited to have custody, when there is often no rational basis for choosing one parent over another. Decisions must, however, be taken, and Berger argues that there are 'embedded knowledge structures' that influence judicial decision-making in a negative and unconscious way. This is sometimes a disadvantage to individual families which are not constituted according to a more traditionally rooted picture of what families ('should') look like. Berger makes what she calls a rhetorical analysis in order to 'uncover the symbols and stories that affect judicial decision-making and then to construct arguments that may overcome deeply rooted constraint, help individual clients, and persuade policy makers' (Berger, 2009: 260):

> The rhetorical analysis indicates that the best interests of the child standard fails to explain child custody outcomes, and the analysis suggests that the cognitive setting for custody disputes – cluttered with outmoded metaphors, simplistic images, and unexamined narratives – interferes with the ability of judges to attend to complex and radical transformations of parent-child relationships. (Berger, 2009: 260)

In this sense, she argues that better understanding of the cognitive role of metaphor can help display how law is dependent on symbols and metaphors, which is of extra importance when these are 'outmoded' or perhaps not in line with those of the rest of society.

Categorization

Categorization is a fundamental activity in language, thought, decision-making – and, not least, law – which probably correlates with how norms affect behaviour. How we categorize – be it socially reproduced or neurologically connected – probably determines which social norms are alerted in a given situation and which

legal norms should apply for a specific case. There is a classic Aristotelian approach to categorization that sees it as based on grouping objects on the basis of their similar properties. According to the classical view, categories should be clearly defined, mutually exclusive and collectively exhaustive (Lakoff and Johnson, 1999: 373–414). However, a cognitive approach following Lakoff and Johnson (1999) renounces the classic approach, in that it accepts that natural categories are graded (they tend to be indistinct at their boundaries) and inconsistent in the status of their constituent members. It is not that the classic view is entirely wrong, according to the cognitive approach; it is just that the categorization based on shared properties only displays a (small) part of the story (Lakoff, 1987: 5). This means that even categories are, to some extent, culturally biased, and connected to embodiment. This has implications for the study of norms in the sense that, whenever it concerns categories, the study should include an empirical approach to the categories that the norms are dependent on, instead of an ideal or analytic definition of the category. How we categorize (in practice) probably has implications for how we reason about and justify behaviour. For example, Goodenough and Becker (2008) studied neurological aspects of how people experience property in relation to intellectual property by looking at neurological functions. They concluded that traditional approaches to property, in particular those relating to tangible objects, are supported, at least in part, by functional neurological structures or networks in the brain that help to recognize property-related choices and to link them to emotional, inhibitory processing. Further, they state that these property-related primitives and/or networks are not readily elicited and mobilized by concepts of intellectual property. Following the point made by Goodenough and Becker, this could be expressed as the way in which we experience reality has something to do with defining what we find right and wrong. The Goodenough and Decker conclusion, in the field of 'cognitive jurisprudence', suggests that people do not experience illegal file sharing as stealing, in its physical sense. This is supported by studies which have found the social norm corresponding to copyright to be extremely weak (Svensson and Larsson, 2012; see also Larsson et al., 2013) – regardless of the letter of the law.

A common practice in law-making and legal decision-making is to form categories. The legal categorization is often viewed in a conventionalist standard view, which states that categories are descriptive, definitional, and have exact delimitations. It follows from this view that any example chosen from within a category will represent the category equally well. In contrast to this view, cognitive science claims that there is a pattern, and it is empirically detectable, but it is often not the same pattern as the conventionalist or rationalist view. From this practical approach to categorization follows that certain members of a category are generally regarded as more representative members of that category than others. For instance, when speaking of furniture, 'chair' is more frequently cited than 'stool' (Rosch 1975 and 1978; see also, for instance, Lakoff, 1987). 'Prototype theory' is a departure from the Aristotelian logic – that categories are logical, clearly bounded entities, whose membership is defined by an item's possession

of a simple set of criterial features, in which all instances possessing the criterial attributes have a full and equal degree of membership. Prototype effects mean a sort of graded categorization, again as opposed to a traditional objectivist view (Amsterdam & Bruner, 2000; Lakoff, 1987; Winter, 2001). In addition to this, the categorization that we do in our everyday lives, just as with the use of metaphors, is automatic and unconscious (Lakoff, 1987). This is a fact that makes any study of norms – which includes categorization of some sort – in need of at least some reflection upon how this categorization is being done.

Scientific categorization as ontological politics

There is a methodological difference between a legal scholar who wants to investigate existing law and a social scientist who seeks to state something about the circumstances of the world. To connect to the knowledge of categorization from cognitive science, there are more than just language-level reasons for broadening this presentation of how scientific work is being done. If we look at arguments in the theory of science, Brante (2008 and 2009) discusses the elements of scientific analysis, and claims that there is a third element which is often missed, which works as an intermediary between theory and empirical data as a condition for making it useful. Brante proposes what he calls 'fundamental categories'. By means of this, he highlights the extreme importance in science of defining categories, as the results are heavily dependent on them:

> In other words, classification is no innocent activity but, on the one hand, is a presupposition for a discipline's observation and identification of significant facts, and, on the other, provides the building blocks – basic concepts – between which associations and causal relations can be established. (Brante, 2008: 274)

This places the focus on what cognitive science claims regarding categorization in general. According to Brante, the first of the three elements of scientific work is the descriptive part, meaning measurements, calculations, observations, experiments, representations, narratives and so on. The second is the specific way in which a science divides the object of study into categories and subdivisions. In other words, categorization is a condition for scientific observations and identification of relevant facts. At the same time, the categorization supplies the science with the basic concepts between which connections and causal relations can be determined. This determination is thus the third element, which is not surprising; the explanations are the same as connecting concepts and categories to each other. A main point that Brante makes is that descriptions are category-dependent. The typologies and concepts that we use to sort facts, in order to determine relevance, can also sometimes 'produce' facts. Social science is highly dependent on categorizations – for example, Durkheim (organic/mechanic, repressive/restitutive), Marx (classes), Tönnies (Gemeinschaft/Gesellschaft),

Merton (dysfunctional/functional, manifest/latent), and how we as scientists use divisions of history such as traditional, modern, post-modern; industrial society/knowledge society, analogue/digital, classes, gender, ethnicity, globalization, non-globalization, humanist/post-humanist. And think for a moment about law – it is an 'empire' of categorization. How do you study such a categorized domain as sociologists of law? Generally, we trade these categorizations for others, hopefully more theoretically justified, but in a sense we are trapped in the categorizations that the domain brings. And these can be normative, producing aspects of reality and control of how we conceptualize the phenomena that they categorize.

Law and Urry make the case of hidden politics or world views in social science, and they claim that 'social and physical changes in the world are – and need to be – paralleled by changes in the methods of social inquiry' (Law and Urry, 2004: 390). First, they argue that social inquiry and its methods are productive, in the sense that they contribute in the making of social realities and social worlds. They do not simply describe the world as it is, but also enact it. Second, they press some of the implications of this claim. In particular, if social investigation makes worlds, then it can, in some measure, think about the worlds that it wants to help to make. It gets involved, in other words, in the business of ontological politics. At the same time, they argue that its methods – and its politics – are still stuck in, and tend to reproduce, nineteenth-century, nation-state-based politics. The problem is then naturally the question of how we move in social science from the enactment of nineteenth-century realities? The authors suggest that there are many possibilities. For instance, they suggest a commitment to what they call 'sociology of the elusive', and elaborate on the potential of a 'social science of complexity'.

To return to Brante, categories are prerequisites for descriptions, but also for explanations. Categorization is a type of 'ontological model' that is chosen, derived or for some reason prevailing in a scientific tradition. When focusing on 'categorization' in social science, there is a risk of getting stuck in something of a surface phenomenon, which would miss the importance behind simply dividing descriptions and explanations under different titles. The category-dependency tells something more about how to reach a conclusion, and which conclusions will be perceived as proper in the scientific context. In search of his fundamental categories, Brante refers to concepts such as 'Denkstiel' (Fleck, 1979), 'paradigm' (Kuhn, 1997), and 'thought style' (Douglas, 1996) in order to focus on this 'third element' of scientific method. He refers to Walter Buckley, who writes: 'Scientific work, analytically speaking, goes on at three, not two, distinguishable levels: besides empirical and logico-deductive theory we have the equally important, though all too implicit, frameworks, models, or philosophies that inform our approach to both of the former' (Buckley, 1967: viii).

Speaking of this 'third level' is a way to acknowledge that part of scientific work which refers to some sort of choices of structurization, the moment where the scientist affects the explanations in the research. When studying norms (legal

or social), this argument calls for an awareness of the steering capabilities of categorization.

Conclusion

Language is fundamentally metaphoric in nature, and the framing aspects of our perhaps surprisingly metaphoric language is of great relevance, not only to legal analysis in a way not generally spoken of or acknowledged, but also to analysis of norms other than legal norms. Metaphors in language, and law, do not passively describe reality better or worse. In fact, it is quite the opposite: metaphors in a sense produce (our construction of) reality, as they frame our conceptions in certain patterns, and categorize metaphors and concepts into seemingly necessary but often falsely indispensable categories. Much of this stems from the fact that our conceptual system is fundamentally metaphoric in nature, and thus relying on embodiment and the surrounding physical and cultural context. Further, although the metaphor and conception analysis is thankfully applied to legal norms due to their often text-based sources of interpretation, this type of analysis may also aid the understanding of the operation of other types of norms as well. For instance, a metaphor representing a particular social norm may reveal underlying conceptions that affect and are relevant for a particular behaviour without being spoken of or conscious to us. The analysis of metaphoric patterns is a way to outline what the underlying and ruling conceptions are. The theory's explanatory function works in just the same way, although the methodology is possibly different, due to the difference in how the norm types are represented.

A theory or elaborated concept of conceptions can help to deconstruct the frameworks or underlying cognitive models on which a norm is based or to which it correlates. A part of the necessity of this lies in the fact that we may not even be aware that a norm is based on a particular conception in the first place; we might perceive it as 'objectively' describing the circumstances when, in fact, it is framed within a particular conception. For example, metaphor analysis can both reveal hidden and automatically associated values in legal metaphors, as well as outline the conception on which a particular law or legal rule is based (and framed).

Recognition of metaphorical thought, and the methods of conceptual analysis, demonstrate how legislative statutes express significant aspects of our social reality which cannot be devalued by reductive approaches to legal reasoning (see Larsson, 2011b; Winter, 2008). A main point is that, although the meaning is very much bound to specific patterns, these patterns can be, and probably often are, different from the 'objectively' defined patterns of meaning. The concept of prototype effects clearly displays this in terms of categorization – in a general as well as a legal context (Johnson, 2007; Lakoff, 1987; Winter, 2001: 331). The approach of cognitive linguistics to norms offers a toolbox of deconstructive tools for norm analysis.

Categorization is a fundamental activity by which we make sense of the world. This activity is heavily dependent on metaphors, which are often embodied. It is an activity that therefore cannot be neutral or objective, but represents (ontological) 'choices' which have implications for norms, actions, law, as well as for scientific enquiry as a whole.

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