

# Book Review: Linguistics for Legal Interpretation

## Terrence R Carney (UJ Press Auckland Park 2023)

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### Abstract

This contribution provides a review of the publication: "Linguistics for Legal interpretation" written by Prof TR Carney.

### Keywords

Language, law, linguistics, linguistic toolbox, understanding, meaning.

## Review

Language and law are inseparable and -as this publication points out- case law involves real people using real language which often leads to very real language problems that must be solved.<sup>1</sup> The latter is the focus of this publication. The author, Terrance R Carney, is an associate Professor of Afrikaans and Theory of Literature at the University of South Africa who specialises in the language of law.

The book discusses a wide variety of topics, and every chapter focusses on understanding - understanding meaning; non-verbal communication; language use; dictionaries and corpus linguistics. The author's analogy in the introduction about what exactly constitutes a shop sets the scene for the rest of the book, since this simple, yet profound analogy serves the purpose of relating language to legal interpretation, semantic interpretations and how meaning becomes exceptionally important, and often hotly contested, when it comes to legal matters.<sup>2</sup>

The aims to provide a "linguistic toolbox" and the latter refers to a "linguistic skillset comprising of phonetics and phonology; morphology; syntax; semantics, pragmatics and the various theories that underlie them " taken from well-known forensic linguist Roger Shuy's publications "Warning Labels: Language, Law and Comprehension" and *Terrorism and Forensic Linguistics: Linguistics in Terrorism Cases*.<sup>3</sup> Carney wants to expose you to the world of linguistics and show the reader, specifically the legal practitioners and presiding officers, the variety of language tools that are available which will assist in providing more clarity when it comes to the interpretation of words.

To me this is one of the strengths of this book: it uses examples and discussions from more than 70 South African court cases and also incorporates a wide range of local legislation in its analyses and discussions. It aims to be practical and assist legal practitioners to unlock meaning. Carney points out that the book is aimed at legal practitioners and presiding officers and specifically if they lack official training in unlocking lexical semantic and pragmatic meaning as contested in case law. Herein lies the core focus of the publication – introducing and guiding legal

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<sup>1</sup> Carney *Linguistics for Legal Interpretation* 1.

<sup>2</sup> Carney *Linguistics for Legal Interpretation* 3.

<sup>3</sup> Shuy 1990 *American Speech* 302; Shuy "Terrorism and Forensic Linguistics" 446.

practitioners and presiding officers in unlocking a deeper understanding of linguistics which will lead to the interests of justice being served even better.

The second chapter on "Understanding meaning" lays the foundation for the rest of the book and there are some interesting observations by Carney. A critical aspect he delves into is the statement that presiding officers and legal scholars often use the words grammatical meaning and ordinary meaning interchangeably to refer to the same thing.<sup>4</sup> This Carney clearly highlights the difference between these two forms of meaning and also refers extensively to the standard Wallis set in *Natal Joint Municipal Fund v Endumeni Municipality* 2012 4 SA 593 (SCA).<sup>5</sup> Additionally, the continuum representing the notion of ordinary meaning also proves to be helpful.<sup>6</sup>

There are some aspects in certain chapters that can tend to be a bit technical for the non-linguist, but Carney aims to explain these terms in a practical manner. The chapter on "Understanding language use" has some thought-provoking discussions and Carney mentions that the issue with context is often not that users don't appreciate its importance, but that it can be problematic to decide where the borders of context lie which is a topic that can cover various chapters.<sup>7</sup>

Chapter 6 tackles the interesting topic of "Understanding dictionaries" which proves to be a much-needed discussion. In Chapter 7 "Understanding Corpora" Carney points out that corpus linguistics is used increasingly more by forensic linguists to solve statutory enquiries as well as assist in identifying authors.<sup>8</sup> Carney does, however, caution that corpora must be used together with other investigations into aspects such as conceptual mapping and word relations.<sup>9</sup>

The conclusion sums it up perfectly when Carney states that the relationship between law and linguistics tends to reflect a limited understanding of linguistics by legal scholars and practitioners. He adds that "Even though law needs language to function, it does not depend on linguistics to be understood" and therefore its value is not appreciated, and it is not necessary in all areas of law.<sup>10</sup> However, areas such as the law of contracts,

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<sup>4</sup> Carney *Linguistics for Legal Interpretation* 33.

<sup>5</sup> *Natal Joint Municipal Fund v Endumeni Municipality* 2012 4 SA 593 (SCA).

<sup>6</sup> Carney *Linguistics for Legal Interpretation* 35-40.

<sup>7</sup> Carney *Linguistics for Legal Interpretation* 116.

<sup>8</sup> Carney *Linguistics for Legal Interpretation* 199.

<sup>9</sup> Carney *Linguistics for Legal Interpretation* 232.

<sup>10</sup> Carney *Linguistics for Legal Interpretation* 232.

will and legislative drafting rely heavily on linguistics for better understanding and greater clarity.<sup>11</sup>

And to me, this is where the value lies in this publication. The book invites you to embrace linguistics and see its merit in certain areas of law. The greatest use will be gained from this publication by readers who engage with the theory and the practice of linguistics and legal interpretation.

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<sup>11</sup> Carney *Linguistics for Legal Interpretation* 235.