

Legal Interpretation as Language and Narrative: A Study Based on Richard Posner's Law and Literature

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Abstract

Over the past few years, the Law and the Humanities, especially the discipline of law and literature, have engaged in a renewed contest with jurisprudential theory and the practical art of adjudication. On the one hand, it has inspired scholars to view legal interpretation as an issue of language, narrative form, and rhetorical justification, rather than as an exercise of mere doctrine. Conversely, it has focused debates on institutional authority with the question of who has the right to stabilize meaning where text, precedent, and professional convention do not determine the outcome. This paper develops an analytical model of legal interpretation as an interdisciplinary meaning-making practice, specifically examining how Richard Posner discusses the issue of interpretation and constraint in the article "Law and Literature." It subsequently applies that framework to a detailed case study of *Shehabi v Kingdom of Bahrain* ([2024] EWCA Civ 1158). This state immunity case turns on the interpretation of the concepts of territoriality and acts of legal relevance in a digital and transnational context. The article first demonstrates that pragmatism clarifies why judicial preference often entails system-preserving interpretations, whereas literal readings of statutory schemes risk crippling them. Second, it contends that the most decisive interpretive labour of the case takes place not just in the pragmatic consequence reasoning, but in the construction of narratives that transform policy liable judgment into institutionally viable legality. The article provides an empirical account of how interpretive authority is managed and bounded in complex cases, and why narrative is a mechanism of institutional legitimacy rather than interpretive freedom, by tracing the process of performing interpretive authority through professional community norms, justificatory rhetoric, and legitimacy-based storytelling.

Keywords: law and literature; Richard Posner; legal interpretation; narrative; rhetoric; interpretive communities; pragmatism; state immunity; legitimacy