restitution of value that the claimant has transferred to the defendant or the restitution of rights that the claimant has transferred to the defendant: "Claims for restitution from an innocent defendant should not impose the cost of rescue on that defendant regardless of whether the claim is for value or rights" (p. 121). In a very careful discussion, Meier suggests that the best justification for recognising a defence of bona fide purchase to a claim in unjust enrichment is that such a defence has to exist if the rules protecting a defendant from having a proprietary claim made against him in a case where he has in good faith purchased property belonging to the claimant are not to be stultified. If, in such a case, the claimant could sue the defendant for the value of her property, there would be little point in a bona fide purchase rule giving the defendant a good title to the claimant's property. If this is right, then the defence of bona fide purchase in unjust enrichment "will have to be restricted to cases where the defendant acquired title in a property received from a third party by way of bona fide purchase" (p. 267). Against this, it could be objected that, in the case where I have paid you £100 by mistake, no one objects to your being held liable to me on the basis that doing so stultifies the effect of the rule that passes good title to the £100 from me to you despite my mistake. However, it might be the case that different purposes are served by (1) the rule giving you good title to the £100 that I paid you by mistake and (2) a rule giving good title to the good-faith purchaser of property to which the seller had no title. It might be argued that rule (1) exists for the benefit of people who receive the £100 from you and is, therefore, not undermined if your receipt of the £100 that I paid to you results in your being held liable to me. In contrast, rule (2) exists for the benefit of the good-faith purchaser, and would therefore be undermined if that same purchaser ended up being held liable to the person whose property he purchased. If this is right, then it seems that a proper understanding of the law of defences in unjust enrichment depends on one's understanding not only of the basis of claims in unjust enrichment, but also the basis of the rules on when someone will acquire good title to property.

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Ordinary Meaning: A Theory of the Most Fundamental Principle of Legal Interpretation. By Brian G. Slocum [Chicago: The University of Chicago Press, 2015. x + 355 pp. Hardback US$70. ISBN 978-0-226-30485-4.]

The concept of ordinary meaning plays a pivotal role in the interpretation of legal texts in jurisdictions throughout the world. Where else could interpretation begin, one might ask? Over the years, arguments have been adduced to demonstrate that attributing the ordinary meaning to a legal text is not just common sense, but is also desirable: in the case of legislation, it gives citizens fair notice of the legal consequences of their actions, it protects the separation of powers by giving force to the legislatively enacted text and it provides the surest indication of the intentions of the author. Yet, whilst the ordinary meaning of a text plays an important role in the reasoning of courts, there remain fundamental questions about both what exactly the ordinary meaning of a text is and how it might be evidenced.

In his book, *Ordinary Meaning*, Brian Slocum attempts to address some of the more theoretical questions regarding the use of the concept. Slocum's book is largely based on his analysis of linguistic theory and how its application to legal issues may enrich lawyers' understanding of the concept of ordinary meaning. His main thesis is that ordinary meaning is constituted largely through social conventions and is thus objectively determinable. Although focused on the US Supreme Court's approach to statutory interpretation, Slocum's combination of linguistic and legal analysis will be of interest not just for scholars of US law or statutory interpretation, but also all those who wish to deepen their understanding of the theoretical underpinnings of this ubiquitous concept.

Whilst the first substantive chapter (ch. 2) is necessary for Slocum's line of argument, it does not break new ground. However, it does very competently demonstrate why interpretation cannot simply be the search for authorial intent on the part of the interpreter. Slocum's principal claim is that authors must adhere to the conventional meaning of words if they want their utterances to be comprehensible and thus meaningful in communication (p. 55). The author deftly picks apart various strands of the intentionalist thesis, highlighting not only its improbability given the conventional nature of language, but also the practical difficulties encountered in determining what a legislature's intention might be (pp. 51–53, 62–63).

More innovative are Slocum's later chapters in which he elaborates the conventional nature of semantic and pragmatic linguistic phenomena. Of particular note is Slocum's analysis of the ordinary meaning of indexicals (ch. 3), such as "now" or "here", which he contends are based on conventional default interpretations. For example, the conventional ordinary meaning of the indexicals in the sentence "it is lovely weather here now" on a postcard is determined by the context in which the postcard was written, not the context in which it is read. Similarly, the conventional ordinary meaning of the indexicals in the command "come here now" uttered by a parent to a child is determined by the context in which it is said. However, in each of these sentences, "here" and "now" clearly carry different conventional ordinary meanings, leading Slocum to claim that such context-specific conventionality allows an interpreter to give an ordinary meaning to a text that contains indexicals. His development of this argument demonstrates a mastery of the linguistic literature on the topic and provides a solid linguistic theoretical framework for future discussions in the field (p. 131).

Slocum's analysis of categorisation is similarly impressive (ch. 5). He recognises that legal categorisation ascribes legal meaning to an object, action or individual. However, such categorisation is generally binary (either something fits within a legal category or it does not) – a requirement that sits uneasily with the operation of natural language (p. 235). His principal claim in this chapter is that legal categorisation could be better performed if one understands how categorisation operates in natural language. Slocum's main contribution is his insight into the literature on prototype theory – an approach to categorisation that posits one or more prototypical members of the category and criteria of similarity as the bases of category membership, thus creating degrees of membership of the category. Take the category of fruit, for example: a banana may be slightly less representative of a fruit than an apple, whilst an avocado would be even less so. Although Slocum argues that this is how categorisation occurs in natural language, he is not blind to the difficulties encountered in applying this concept to the legal field. Importantly, he recognises that, whilst prototypes form the basis of categorisation, the interpreter is free to impute to those prototypes what he or she considers to be the most salient properties of the relevant concept (p. 240): whilst most people might choose sweetness, juiciness or use as a dessert as criteria of similarity for fruit, a botanically

minded interpreter may well consider "edible seed-bearing part of a plant" to be a relevant criterion. Slocum admits therefore that basic prototype theory cannot provide an objective benchmark against which to judge whether categorisation is correct or not (p. 234). However, he argues that a better understanding of the operation of natural language should provoke judges to explain and evidence (e.g. by reference to language *corpora*) their categorisation choices (p. 246).

Applications of prototype theory to the law could yield particularly interesting results. For example, it could fruitfully be applied to the thorny issue of statehood. Whilst the question of what constitutes a state has been the subject of heated academic debate throughout the twentieth and twenty-first centuries (see in particular J. Crawford, *The Creation of States in International Law*, 2nd ed. (2007)), it has almost unfailingly been analysed in terms of the necessary and sufficient conditions required for category membership, paradigmatically by the "checklist" approach adopted in Article 1 of the Montevideo Convention. From a purely descriptive standpoint, adopting a prototypical approach to statehood may provide a better explanation as to why certain states are considered more or less "state-like" than others, leaving scholars free to argue whether such categorisation is desirable or not.

Although Slocum does an admirable job in demonstrating the objective nature of ordinary meaning, his argument does raise some questions. First, some academics, such as Fred Schauer, have argued that the ordinary meaning of a legal text is different to the ordinary meaning of a non-legal text. In their view, courts in reality give effect to the "ordinary legal meaning" of the text, which takes into account factors such as past interpretations of the text and relevant neighbouring laws. Slocum rejects this view from the outset, arguing that such an approach conflates the legal content of the text with the ordinary meaning of its words and phrases (p. 13). However, in order to answer the "constitutive" question posed at the beginning of the monograph (i.e. ordinary according to whom?), Slocum posits a hypothetical interpreter with intimate knowledge of the conventions of language in society (p. 106). This is in itself not a problem (although it is perhaps unnecessary), but Slocum argues that the hypothetical interpreter should also take account of textual canons of interpretation, such as *ejusdem generis*, when determining ordinary meaning (p. 211). The hypothetical interpreter which inhabits the heart of Slocum's thesis is not therefore the man or woman on the street, but the highly educated lawyer-linguist. As a result, the reader is left wondering whether Slocum downplays the specificity of the ordinary meaning in the legal context too much.

Slocum's hypothetical interpreter causes further problems. The author quite rightly identifies one of the justifications for ascribing the ordinary meaning in the interpretation of statutes as the notice that it gives to citizens regarding the legal implications of their actions (p. 97), enabling them to plan their affairs accordingly. Yet, it is unclear how the doctrine may serve this purpose if the ordinary meaning given to the text is that of an idealised interpreter and not the man or woman in the street. Slocum could avoid this problem by arguing that it is not necessary to have knowledge of the linguistic convention in order to understand the ordinary meaning of a legal text – in other words, that people may abide by linguistic conventions even if they are not cognisant of them. However, this presupposes a certain conception of conventionality that is neither defined nor explored in Slocum's work.

In this respect, it is disappointing that Slocum did not engage with recent work of Andrei Marmor, who, in his excellent 2009 book, *Social Conventions: From Language to Law* (2009), critically re-examines David Lewis's classic model of social conventions. Marmor explores numerous aspects of conventionality that are of particular relevance to Slocum's thesis, including whether those who sustain a

convention must have knowledge of it, and whether literal, semantic and pragmatic aspects of meaning are conventional. Considering that the bulk of Slocum's book is dedicated to these linguistic phenomena, one feels that his argument would have been greatly enriched by drawing on Marmor's work.

Despite these shortcomings, Slocum's book is a useful addition to the literature on interpretation. His knowledge of linguistics provides the reader with a comprehensive – if, at some points, rather dense – account of meaning and conventionality in a neighbouring field of study. One can only hope that legal scholars will heed his advice that legal interpretation "should be viewed as intrinsically linguistic phenomena subject to linguistic insights, operations, and advances" (p. 284).

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A Purposive Approach to Labour Law. By Guy Davidov [Oxford: Oxford University Press, 2016. xi + 289 pp. Hardback £60. ISBN 978-0-198-75903-4.]

Most labour lawyers would agree that labour law is in crisis. Nonetheless, there is still no consensus as to the nature or causes of this crisis and no reasonable prospect of a solution. In *A Purposive Approach to Labour Law*, Guy Davidov attempts to bring a new perspective to bear on the issue. In 10 extremely engaging chapters, he analyses in depth what he believes to be the main problems facing labour law today. Even more importantly, he suggests how those problems might be addressed in practice.

Davidov's basic argument is that labour law's crisis is the product of a mismatch between labour law's goals and its means (p. 2). He argues that labour law exists for a purpose and has, over time, developed methods appropriate for achieving it. The problem is that these mechanisms have become misaligned in recent years as a result of changes in the labour market. According to Davidov, the solution is that courts and practitioners should adopt a purposive approach when formulating and applying the law, for this is the first step towards realigning labour law's goals with its means (p. 4).

It has long been recognised that labour law responds to the vulnerabilities inherent in employment relationships, such as subordination and dependency (pp. 34, 251). Davidov advocates a context-sensitive application of the law in order to address these vulnerabilities in all the different forms they take in a modern capitalist society. He suggests that subordination should be understood to refer to the democratic deficits (pp. 38–43) and inability to spread risk (p. 47) that result from the employee's subordination to the employer's control. Davidov also suggests that the employee's dependency should be understood as extending beyond economic dependence to the social and psychological dependence peculiar to employment relationships. Labour law is primarily concerned with addressing these basic vulnerabilities.

In many respects, Davidov's arguments reiterate Kahn-Freund's insight that subordination is inherent and unavoidable in all employment relationships. Davidov's arguments reinforce the view that labour law's main rationale is to counter subordination by adjusting relationships of subordination and control so that they resemble relationships of co-ordination (O. Kahn-Freund, *Labour and the Law* (London 1972), 7). Davidov goes further than Kahn-Freund, however, and stresses the importance of expanding our understanding of dependency (p. 43) and the