APPLIED LINGUISTICS AND THE LAW: A STUDY

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ABSTRACT

Applied linguistics includes forensic linguistics as one of its components. People in this profession are responsible for examining laws, legal procedures, language in the courtroom, and evidence presented in both civil and criminal cases. Applied linguistics in this context differs from other types in that data collection is unnecessary as it is readily available. The responsibility of a linguist entails the use of a range of linguistic tools, including but not limited to pragmatics, phonetics, morphology, syntax, discourse analysis, language change, stylistics, semantics, lexicography, sociolinguistic variation and graphemics, in order to work with pre-existing data. Forensic linguists approach their work from a legal standpoint and use linguistic techniques to address legal matters. In order to be recognised as experts, linguists who provide testimony in trials must satisfy specific legal criteria. During forensic linguistic analysis, it is incumbent upon the linguist to impart knowledge to legal practitioners, including but not limited to judges, jurors, and lawyers regarding the fundamental principles of linguistic analysis as they relate to the legal issues under consideration. The increasing prominence of forensic linguistics suggests that applied linguistics is broadening its scope beyond conventional emphasis on language acquisition, instruction, and assessment, thereby constituting a favourable advancement. The study shows how language is essential to the judicial system and how it ironically fosters injustice. Therefore, the significance of critical legal analysis and the participation of linguists is demonstrated.

INTRODUCTION

A strange thing about the field of applied linguistics is that it took a while for people to realise that the law field is a good place to use language skills. Even though language constitutes a fundamental aspect of law, the intersection between linguistics and law remained largely unexplored until the last 25 years. Forensic linguistics, the study of law and language, is growing and attracting legal and linguistic specialists. Many contributions in the field of linguistics and law have originated from Europe and the United States. However, there has been a notable increase in interest in these areas in other regions of the world, particularly in Asia. What were the reasons for the delayed integration of these two disciplines? Both parties can be held accountable, however, it is likely that most of the responsibility falls upon linguists as lawyers were not informed of the potential assistance that linguists could provide. Since its inception, applied linguistics has prioritised educational concerns, particularly those related to language acquisition, assessment, and instruction. Presently, these subjects continue to hold a prominent position in conferences and journals pertaining to applied linguistics. Apart from its significance in education, language plays a

crucial role in various other domains of life, encompassing but not limited to medicine, law, politics, advertising, diplomacy, commerce, religion, therapy, and bureaucracies. Linguistic experts have been criticised for their limited perspective and insufficient efforts to engage with other fields. They have not effectively shared their expertise with these disciplines nor attempted to adopt alternative viewpoints.

REVIEW OF STUDIES

In the UK, Germany, Sweden, and Australia, forensic linguistics has formed part of the criminal court system in the past 20 years. Spain is also seeing it. When we highlight pioneers in this discipline from various countries. Many are still practising. Prof. Jan Svartvik of Lund University, Sweden, founded forensic linguistics. He was the first to adopt the phrase "forensic linguistics" and the first to analyse confession falsification in Europe. Prof. Roger Shuy, previously of Georgetown University, was the first US linguist to use forensic discourse analysis to recorded and written communications relating to criminal and alleged criminal activity. For over 40 years, Prof. Harry Hollien of the University of Florida at Gainesville has pioneered speaker identification, acoustic analysis, and audio augmentation. Prof. Ron Butters has been involved in forensic work for many years, especially in intellectual property problems like trade mark investigation. Dr. Carole Chaski pioneered syntactic authorship analysis in the US. Prof. Gerald McMenamin (University of California, Fresno) has produced multiple forensic stylistics textbooks and testified in many US prosecutions.

Dr Theodor (Ted) Strehlow conducted the first linguistic analysis of confession statements in Australia in 1959. This was after an Arrernte man named Rupert Max Stuart was convicted of murder. Prof. Diana Eades from the University of New England, New South Wales, has been studying Aboriginal English since the 1980s. She has also provided expert testimony in several criminal cases. Dr John Gibbons from the University of Western Sydney in Australia has been hired multiple times for forensic linguistics and has authored numerous articles and books. Dr Gibbons and Prof. Dr. Teresa Maite Turell from Universitat Pompeu Fabra in Barcelona have collaborated on a new book in the field of forensic linguistics. You can find the book in the Bibliography. An Australian named Dr. Kate Storey-White has made a significant contribution to forensic phonetics and has testified in hundreds of cases. She works in both Australia and the United Kingdom.

Prof. Malcolm Coulthard from the University of Birmingham (now at the University of Santa Catarina in Brazil) conducted the earliest significant authorship analyses in the forensic context in the United Kingdom. The user mentions that they have co-authored a significant work on forensic linguistics with Dr. Alison Johnson from the University of Leeds. Prof Coulthard established the Centre for Forensic Linguistics at Aston University with the help of his deputy director, Dr Tim Grant. Dr Grant is an experienced forensic authorship expert witness and author in the field. Dr Michelle Aldridge-Waddon from Cardiff University was the first to study how language is used when interacting with children during criminal investigations. The authors of this book, Dr. Aldridge-Waddon and another writer, have written a lot about how vulnerable witnesses and victims use language in the justice system. David Woolls developed plagiarism software in the 1980s, and it is now widely used in forensic and other applications around the world. David Woolls has worked with multiple universities to create software that can be used for detecting collusion and infringement in

various scenarios. This includes monitoring the submission of assignments by an entire course cohort.

Forensic linguistics is a field that is currently flourishing in various regions such as Europe, the United States, and Australia, where it is used for criminal investigations. Additionally, it is a subject that is extensively taught in universities worldwide. Forensic linguistics has been a topic of lectures and presentations in various countries that have not been previously discussed, as noted by the authors and other experts in the field. Forensic linguistics has gained global attention from various sectors, including academia, law professionals, law enforcement departments, lawyers, and police officers. More academics and practitioners are getting involved in the field, and courts are recognising the crucial role that forensic linguists can play in assisting them.

First, let us look at how pronunciation affects conversation. A linguist might be asked to figure out what someone said or to say if an accent or a bad recording makes it hard to understand. At the level of vocabulary and grammar, linguists may be able to say both what a certain phrase means and if it is hard to understand because it has complicated vocabulary or grammar.

McMenamin writes about a case where the meanings of the words "syndrome," "accident," and "disease" were at issue. McMenamin stated on behalf of parents whose 16-month-old child died of SIDS (Sudden Infant Death Syndrome). The father's life and accident insurance, which included the statement, covered the child's life. "The plan pays a benefit for any kind of accident-related loss...." At first, the insurance company said no because the policy didn't cover deaths caused by illness or sickness. McMenamin's reading of medical literature and the dictionary definition showed that a "syndrome" is different from a "disease" in that a "syndrome" is a pattern of events that cannot be explained in terms of physical malfunctioning, like that caused by bacteria, viruses, etc. A "disease," on the other hand, happens at a specific time in a specific person, between being healthy and either getting better or dying. "Syndromes" McMenamin says that "disease" is a state that is both healthy and dead at the same time. A sick person either gets better or stays sick for a long time and dies. SIDS is either present or absent in a healthy baby. Even with a "near-miss," the effect is either health or death. There is nothing in between. SIDS cannot be called a sickness because of this. McMenamin's proof was considered. Based on grammar and lexical analysis, linguistics could be used to decide what laws mean and how they should be applied in certain situations. This is called "legal interpretation," but lawyers often disagree with this idea.

Over the last 20 years, Dinna Eades and a lot of other people have carefully written down how hard it is for Australian Aborigines and the law to talk to each other. They talk about how people who speak Aboriginal English have trouble with the justice system. In Aboriginal society, the "knowledge economy" is a problem that goes to the heart of the matter. In traditional Aboriginal societies, most material goods were shared, and status was based on having secret information, not on how much money someone had. This is also true in other indigenous societies. Because of this, a lot of information will not be freely shared. Some of it can only be seen by people who have been ceremonially given permission to see it. It might only belong to women or only to men (women's/men's business). In Aboriginal societies, bringing up a topic or asking a question is done with great care and is often done indirectly, leaving it up to the other person to share what information she or he is willing to. People

think it is rude and annoying to ask questions straight out. You do not have to answer, since a straight answer might reveal something secret or give the questioner status they have not earned. There is a clear difference between being questioned by cops and being questioned in court. The right to question and the duty to answer are important parts of police investigations and court cases. Eades has testified in court more than once about how this has made it hard for people to talk to each other.

FUNCTIONS OF FORENSIC LINGUISTS

Initially, it is advantageous to attempt to articulate the definition of forensic linguistics. Defining the field narrowly has proven to be a challenging task, as is often the case with newly developed fields. There appears to be a consensus among practitioners that this field of applied linguistics pertains to the legal domain. However, there has been a lack of consistent agreement regarding the specific nature of the work involved. Based on observations, professionals tend to define it based on their individual perspective and level of involvement. In certain cases, practitioners of authorship identification perceive the discipline as encompassing syntax, style, and lexicon. Individuals who examine recorded conversations, on the other hand, see forensic linguistics as a subset of discourse analysis. Both points of view are fundamentally valid; yet, the subject matter transcends beyond the scope of any of these specialised sectors. They cover all linguistic tool domains.

Forensic linguistics involves examining language that pertains to the legal system, whether it is used as evidence or in legal communication. The use of language involves identifying who wrote a piece of text and understanding its intended message. Legal discourse encompasses various forms of language, such as the language used in statutes, the discussions that take place during judicial proceedings, the language used in courtrooms, and the language used in conversations between lawyers and individuals outside of the courtroom. Forensic linguists have conducted research on various types of communication, including those that occur in correctional facilities and among law enforcement personnel. Forensic linguistics is increasingly focusing on interpreting legal terminology. Forensic linguistics, while still an emerging field, appears to use a set of tools in five primary areas based on current research in this domain.

ANALYSIS

The user suggests that there is a significant emphasis on improving the legal system from within, with a focus on legal principles and processes. Forensic linguists who possess advanced degrees in linguistics and have a background in law and legal education use their linguistic expertise to analyse language-related matters pertaining to laws, statutes, and legal proceedings. Efforts have been made to simplify legal language and improve the clarity of jury instructions.

Forensic linguists specialise in analysing the use of language, both written and spoken, by judges and lawyers during legal proceedings. Cross-cultural issues can arise in the legal process, especially for those who do not speak the language used in the courtroom. Those with a cultural heritage that differs from that of the court may also face significant obstacles during legal proceedings. The focus of some studies is on conducting a thorough linguistic analysis of individual trials. Examples of such studies include Matoesian's (2001) analysis of the William Kennedy Smith trial, Robin Lakoff's examination of the Thomas/Hill hearings

(2000), Cotterill's (2003) study of the O.J. Simpson trial, and Coulthard and Johnson's (2007) analysis of the Harold Shipman trial.

Lawyers often seek assistance from linguists in criminal cases where the evidence takes the form of written messages such as suicide notes, hate mail, threat messages, or wills. These types of cases are likely to be the most prevalent. In trademark, contract hazard notice, discrimination, product liability, and deceptive trade practise claims, written language evidence is vital. Linguists with a good background in phonetics are often asked to work on cases where speakers need to be identified. Recordings of spoken interactions, such as conversations, business meetings, police interrogations, and interviews with children who have experienced sexual abuse, are frequently presented as evidence in both criminal and civil legal proceedings. The quality of these recordings is not always the best, so linguists and high-tech listening equipment are needed to make transcripts that are ready for a jury before other types of linguistic analysis can be done. Linguists who are experts in more than one language are needed when more than one language is spoken. Linguists also look at the interviews of children who have been sexually abused or victims of sexual crimes, as well as police interviews where they think someone is lying. Numerous studies have been conducted about ambiguity and vagueness in legal frameworks, including laws, procedures, jury instructions, and business contracts. The investigations in this area are closely related to other fields of applied linguistics, including the Plain English movement. Forensic linguists collaborate with various industries, including bureaucratic entities, to facilitate the production of coherent and comprehensible documents for their intended recipients.

FORENSIC LINGUISTICS AS APPLIED LINGUISTICS

The emergence of forensic linguistics prompts a discussion on the similarities and differences between this field and other forms of applied linguistics. Applied linguists aim to tackle human issues, such as inequality, ignorance, and justice, on a large scale. The process of forensic linguistics typically involves starting with language data, which can be a challenging and lengthy process to collect. Linguistic experts then choose the most suitable linguistic tools and apply their knowledge of research, linguistic theory, and practise to discuss various human issues. Applied linguists share their research findings with professionals in various fields in a way that is easy to comprehend and can be put into practice. Applied linguists and forensic linguists share similarities in their working methods. This section focuses on the methods used by forensic linguists to achieve their applied linguistics objectives within the legal field.

DATA COLLECTION

In many instances of applied linguistics research, the linguist is required to allocate a significant amount of time and resources towards the acquisition of relevant data that is suitable for the given applied objective. Forensic linguists, in contrast, are provided with most of the data they require prior to commencing their analysis. One significant contrast that distinguishes forensic applied linguistics from nearly all other domains of applied linguistics. The linguistic data used in forensic linguistics exhibits variations across different categories of cases. When linguists work on civil litigation cases, they often use written and spoken materials such as letters, insurance policies, emails contracts, lectures, articles, and speeches as evidence to support their analyses. The fundamental information used in conflicts related to trademarks comprises the designations and catchphrases of the entities in question. The

initiation of defamation cases typically involves the scrutiny of verbal or written expressions. Linguists are frequently summoned to scrutinise warning labels in product liability litigations. The prevalent forms of evidence in instances of deceptive trade practise are advertisements, letters, and memos. Linguistic analysis can also be conducted using data derived from criminal cases. Linguists often commence their analysis with recorded conversations or email correspondences that are frequently obtained through undercover sting operations, instances of fraudulent business practises, or cases of sexual misconduct. Instances of fraudulent activities and price manipulation can provide both written and oral information for examination.

RATIONALE

As already mentioned, varying legal cases necessitate distinct linguistic analyses. Proficient language experts employ various analytical techniques for each individual case. The field of linguistics employs a range of specialised areas of study, including sociolinguistics, phonetics, semantics morphology, syntax, discourse analysis, pragmatics, speech acts, lexicography, and language change. Occasionally, proficiency in languages other than English is required. Adequate training is a prerequisite for individuals pursuing a career in forensic linguistics. Linguistic experts who do not possess the necessary resources to resolve an issue ought to refrain from acknowledging it. Linguists are required to possess a comprehensive understanding of the tools. However, they may specialise in one or more of these tools, which can aid in their determination of which cases to accept and which to defer to other specialists. Phoneticians possess expertise in the area of speaker identification. Trademark, contract, and defamation issues are addressed by syntacticians and semanticists, who consider language structure and meaning to be of utmost importance. Conversations and extended written texts are favoured by discourse analysts. The process of identifying a speaker necessitates the application of phonetics, as it is through the analysis of linguistic sounds that individuals can be matched with their respective speech patterns. The resolution of contract disputes necessitates a comprehensive comprehension of both morphology and syntax. Irrespective of their area of expertise, linguists use a vast array of tools as syntax is intricately linked with phonology, syntax is a crucial component of semantics, and sociolinguistics draws upon most of these tools. The complexity of discourse, which encompasses phonetics, grammar, and semantics, necessitates the employment of advanced tools. Therefore, it is imperative for legal applied linguists to possess the same level of knowledge as skilled linguists.

It is important to understand that the goal of applying linguistics in law is the same as the goal of using linguistics to help people with problems like teaching children a second language or making it doctors and patients can talk to each other more easily so that health results are better. However, unlike in the courtroom, the context of educational and medical uses of linguistics typically does not involve the acute shock of a trial. Forensic linguists' clients are often on opposite sides of heated court conflicts over fundamental questions of fairness and justice. Of course, linguists cannot ensure that the law is applied fairly, but they can help when linguistic concerns arise.

CONGRUITY OF LINGUISTICS TOOLS AND LAW CASES

The principal focus of forensic linguistics is the current legal matter. To demonstrate the pertinence of linguistic proficiency to legal professionals, linguists must commence by meeting lawyers at their current level of understanding and considering their viewpoints

regarding their respective legal cases. Likewise other forms of applied linguistics, it is essential in this context to begin with the learners' existing level. Because many lawyers are unfamiliar with language tools, it is unlikely that they would actively seek out a semanticist for a case involving product liability. Their natural tendency is to look in vain for someone who can handle the language in a legal situation. It is obvious that changes to the tools may be made depending on the specific circumstances and facts of each individual situation. It is worth noting that a variety of instruments can be applied to various sorts of cases, stressing the importance of forensic linguists having thorough knowledge and expertise in using them. It is unreasonable to assume that legal professionals possess knowledge of the various linguistic tools available to them and their respective applications. Linguists are required to adopt a legal perspective when approaching a problem, which frequently involves analysing the type of case at hand.

SEMANTIC ASPECT

The aspect of meaning is a significant field where linguists' expertise is highly valued. The assessment of various aspects can be done in different ways, such as determining if an individual's language constitutes a criminal offence, evaluating if the way a police interview is interpreted is true to the source, assessing the sufficiency of a product warning, or examining if the expression of an agreement truly encompasses what a party says. The task at hand can present difficulties as it involves reconciling legal requirements with linguistic expertise. The legal system places a high value on certainty, whereas linguists recognise that communication is often implicit or open to interpretation, and the way that word is used has a big impact on what it means. Linguistics has the potential to enhance and optimise the decision-making process of courts in various domains.

SCOPE OF APPLIED LINGUISTICS IN LAW

It is difficult to make accurate predictions, but it appears that the use of language within the legal industry is poised to improve. The acquisition of experience is a valuable method for acquiring knowledge, and this holds true for forensic language as well. Professionals in the language and law domain, like those in the field of linguistics, face the challenge of dispelling misconceptions held by the general public regarding the nature and scope of linguistics. This involves correcting erroneous beliefs about what linguistics entails and its limitations in terms of its ability to make claims. Second, investigative linguistics needs to keep growing and getting better, just like the subfield of sociolinguistics, which has only been around for a few decades. Third, forensic linguistics, like the subfield of applied linguistics as it is at present practised, needs to make it clearer what kind of language training people need to do this kind of work. Forensic linguists are expected to maintain objectivity and avoid taking on the role of an advocate. The individuals in question are impartial analysts who are examining the data in each instance. The individual's role appears to be solitary or independent in nature. The effectiveness of an analyst's work is determined by its ability to assist the lawyers they collaborate with, regardless of which party they represent. The likelihood of being further involved in the case is low if the lawyers' analysis does not aid. The linguist's identification of weaknesses in a lawyer's case is often appreciated by lawyers as a valuable contribution.

To rectify the misapprehension regarding the function of the forensic linguist, it is imperative that they maintain a consistently impartial and unbiased stance in their written reports and

testimonies presented during legal proceedings. Regrettably, it is improbable that such a course of action would effectively eliminate the allegation of bias from adversarial solicitors. Nevertheless, it is anticipated that this circumstance will ameliorate with the expansion of the discipline and the enhanced acknowledgement of the authentic function of linguistic experts. Furthermore, forensic linguistics is in its early stages according to academic criteria. Sociolinguistics is an example of a new area of study that has been developing for about thirty years before it was thought that it was ready for a comprehensive introduction. Valuable insights can be gleaned from these experiences. It may require a considerable amount of time for a field to ascertain its own dimensions and appropriate scope.

CONCLUSION

In the field of investigative linguistics, it has been used since it was first used in the field of applied linguistics, the study of how language is used to explain laws and legal processes, how language is used in court, and how written and spoken language evidence is used in legal cases is growing quickly. Applied linguists face a variety of challenges related to the intersection of language and law. The data might be either frustratingly scarce or overwhelming big, each presenting unique difficulties for the use of traditional language methods. However, one thing is most important: the forensic linguist should be an expert linguist who can stay neutral and objective in a place where people often back one side or the other. Even the function, method, and content of instruction differ greatly depending on the "students" (opposing counsel, judges, and jurors) in question. In the area of forensic linguistics, there are still many things to work out, such as how the public views the subject, how young the field is, and the best way to teach and train future professionals.

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