

Students of English take linguistics courses. Syntax, phonology, and morphology: the theory behind language yields all its secrets to the inquisitive students. But language is everywhere, and, as

William Labov would say: it's the application of the theory that determines its value.

Episode 1: Linguistics and the Law

Everybody has presumably seen an episode of a television show featuring some sort of forensic detective. These guys can find everything and incorporate all kinds of different skills in their work: sophisticated methods involving computers and finding minute traces. One thing they don't use too often however is language. There are of course cases in which a ransom note is analysed on handwriting, or where a disguised voice is unmasked, but they are limited in scope. The truth is, as always, much more exciting: language plays an important role in a lot of judicial cases. The field, where linguistics and the law overlap, is called (rather unsurprisingly) forensic linguistics.

Forensic linguistics

As stated above, any encounter between linguistics and the law can be called forensic linguistics. This includes the actual language of the law, on which a lot of books have been written (by Tony Foster for instance, *Dutch Legal Terminology in English* and *Legal English for Bachelors*). Language is all-important in the law, because people get fined or go to prison based on certain social agreements that are worded in certain ways. Because of this, the language is usually complex (so as to avoid loopholes), and this complexity causes a lot of problems. The leading figure in trying to introduce plainer language in legal environment is actually a Dutchman

(although he emigrated to the US at age 5), called Peter Tiersma.

There are a number of other ways in which linguistics and the law meet. In this article I want to try to give readers an idea of the different possible roles that linguistics can play in the courtroom. The first two cases are well known in linguistic circles. The third case is different: it is based on recent articles in Dutch newspapers and magazines, and is in no way 'finished', in the sense that it, importantly, has not been fundamentally looked into by linguists.

The Case of the Bostonian Bomber

In October 1984, PanAm employee Paul Prinzivalli was accused of having made bomb threats to that airline. The evidence was pretty flimsy: several executives (who didn't know Paul, a baggage handler, very well) thought that he sounded like the voice on the tape making the threats, and he seemed to have a motive. As it happened, he held a grudge against the company because of a changed working schedule. For these reasons he was held in custody for eight (!) months. That was when the unlikely hero Sociolingo-Man arrived at the scene: William Labov.

Labov, as an expert on the New York dialect, had received two tapes: one of the actual bomb threats, and one of Paul saying the same words. "As soon as I heard

the tapes I knew Prinzivalli was innocent”, Labov says in his article about the case (see below): Prinzivalli had a clear New York accent, while the original caller was definitely a Bostonian. But how to explain this to lay people, who never had a linguistics course in their life? More so, how would he explain this to people who, as Californians, wouldn’t necessarily hear the difference between one East Coast dialect and another?

Labov showed that especially the vowels were very different between the two speakers. He explained phonetics, about dialects, about mergers (the appearance of homophones because of vowel change), and he got his point across. The prosecution then focussed on the question, whether it was possible for a New Yorker to *imitate* a Bostonian accent so well, that it would be indistinguishable. To this Labov simply replied, that if Prinzivalli was the greatest imitator the world had ever seen, and if he also had a long acquaintance with the Bostonian dialect, then it was possible. But he would have been the first person ever to do such a thing.

Prinzivalli was acquitted based on the linguistic evidence. Everyone, judge, defence, and prosecution, agreed that the clarity and objectivity of the linguistic evidence had been the determining factor in the case. Labov, a linguist, had helped save an innocent man.

The Case of the Aboriginal Power Struggle

All languages are different, not only on such mundane levels as pronunciation and grammar, but also in the way they are used to communicate between people. Questions for instance are used in completely different

ways between languages (Tzeltal). One can easily understand the problems that may arise when speakers with different question-answer patterns find themselves in cross-linguistic situations. An example of this consists of the way in which certain Aboriginal speakers use Aboriginal English, and was investigated by Diana Eades.

In 1988 Robyn Kina, an Aboriginal woman, was convicted to life imprisonment with hard labour for murdering her husband. Part of the reason why she was sentenced was that she provided no evidence that was in concord with her plea (not guilty, self-defence). Four years later however she was interviewed for a documentary, and in this film she gave a lot of ‘new’ evidence, which convinced the State Attorney a new trial was in order. At this trial she was found not guilty. Her release partly came about because of sociolinguistic evidence provided by Eades.

Eades argued that the problem with Kina’s initial conviction was that she had communicated in the Aboriginal way, whereas her lawyers had not. The lawyers conducted what is called a one-sided interview: one party asks the questions; the other party provides the answers. This is very different from the way communication works in Aboriginal culture. Most Aboriginal communities are small. Information is valuable. Questions about new information, or about personal information, are not asked directly. These subjects are approached in an indirect way. Furthermore, information is exchanged two-ways: you give some and you get some. Clearly, the interrogations in Kina’s case were not of this nature. This is why she didn’t respond to her lawyers. When councillors later questioned her she was much more responsive, mostly because the councillors would wait for her

to speak: they respected her communicative behaviour. By doing this, they finally learned the truth: Robyn Kina did kill her husband, who had abused her for years, but it was clear from her story that it was out of self-defence. Another innocent life was saved by applied linguistics.

The Case of the Hobo, the Policeman and the Ant

Everybody likes to do what he wants. Sometimes we even like to do things that are not allowed by law, but which we see as harmless (say, urinating in public after a night of heavy drinking). If we are then caught doing this by the police, it is only too likely that, under the stress of too many beers and a not completely emptied bladder, we call the policeman some rude name. I urge you: do NOT do this. Penalties for insulting policemen have skyrocketed in the last five years. The cursing of policemen has recently received a lot of attention in the Netherlands. The reason for this was the following case.

Somewhere in the spring of 2010 a homeless person in Enschede is send away by policemen. They also throw away a can of beer that he had in his possession. At this point the hobo says: "Jij bent een mierenneuker" (literally translated as "you are a nitpicker", although the Dutch idiom is somewhat stronger). This prompted the officers to fine the gentleman, who took the matter to court. A long road followed, taking the case from court to higher court. Politicians got involved. Every newspaper wrote about it. Most of them condemned the cursing. The question is, however, whether this can be justified or not.

The official reason why insulting a policeman is punishable is both because it

infringes upon the liveability of the public space, and that it furthermore undermines the authority of the lawman. From a judicial point of view there are several problems with this law. The biggest problem is that it is very hard to determine what insults are, and what are not.

In the verdict of a case in 1902 (the "Kraai-arrest") the following point of view was brought forward: "A word that is not insulting in its own right nor in its transcendental meaning, does not become so by using it as a curse word with the objective to insult someone". From a linguistic point of view this is very interesting: the meaning of an utterance is in the word, not in the speech act: it is an explicitly semantic approach.

The problem with this semantic approach is evident: who decides which words are insulting and which aren't? In a famous case the court in Eindhoven decided to let a man walk unpunished because he called a policeman a "homo" ('gay'). The judge said that this could not be insulting, since this word was not in listed in the dictionary as being a bad word. This does not show a lot of understanding of dictionaries on the part of the judge: aside from the fact that dictionaries always lag behind actual speaker use, they have good reason not to list certain pejorative connotations of words (such as those associated with 'gay' or 'Jew'), because they want to discourage people from using these words. This judgment however is in accordance with the Kraai-arrest: the word cannot have negative connotations, and is therefore not punishable. Furthermore, there is a clear authority from which to take guidance: the dictionary.

Recently the semantic approach seems to have lost its standing. Several authors have commented on the fact that nowadays the context rather than the semantics decides whether or not a word is insulting or not. Following this reasoning, the abovementioned case would have had a different verdict: the policeman in question apparently felt insulted, and was therefore justified in giving the man a ticket. From a linguistic point of view this means that the emphasis has shifted from semantics to pragmatics.

With this shift the authority problem also resurfaces. Who will decide what contexts are bad? Does this mean that any word you say to a policeman gets you fined (up to 600 euros!)? This seems a bit harsh, and most legal writers, such as Blom, explicitly argue against it. Blom has done research into which words judges find offensive, and which are usually tolerated. After asking some thirty judges, he found out that a small amount of words were always considered offensive (usually words containing the word for cancer, Dutch 'kanker'), while some words (comparable with English 'jerk') were almost never considered to be bad.

The problem arises however with words like the abovementioned 'mierenneuker'. Some judges considered this to be bad and would fine the offender, while other didn't see it as problematic at all. This is of course the downside of abandoning the dictionary as authority: nobody decides on which words are offensive and which are not. The power now seems to lie with the individual judges, and Blom signals this as problematic: different cases have yielded different verdicts, and this is, from a legal standpoint, extremely unwanted.

How to proceed with this now? Blom recognizes the difficulty of the situation: he seems to prefer to have a list of words that are really offensive, which would be punishable. He furthermore would like to see more legal guidelines for specific situations in which policemen are offended: he pleads for more nuances. From a linguistic standpoint this again is difficult, because it creates the same problem that existed with the dictionary: the subjectivity of any list. This is why it is important that linguists look into the matter, to see if any helpful and insightful view can be developed to solve this highly problematic situation.

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