Study Stages and Theoretical Foundations of Legal Terminology in Linguistics

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Abstract

An introduction to the broad and expanding field of language and law is provided in this chapter. It gives a general overview of the key topics in the field, organized under two overarching headings: the language of the legal system and the function of linguistic analysis in that system. The first section takes into account the analysis of texts like courtroom exchanges, police interrogations, and legal documents. The second section discusses how linguists are increasingly being called upon as expert witnesses in cases involving authorship analysis, linguistic crimes, and trademarks. The chapter as a whole sheds light on the crucial function that language plays in the administration of justice while also highlighting the numerous ways in which the justice system ironically perpetuates injustice through language. It demonstrates how crucial a contribution linguists can make by engaging with and critically analyzing the legal system.

Keywords: legal terminology, applied linguistics; forensic linguistics; legal language; language as evidence; expert witness.

Introduction. Although the term "applied linguistics" primarily refers to applications involving language learning, it is now used to describe the expanding practice of applying linguistic research theories and findings to a wide range of fields, including medicine, business, the media, and many others. Legal contexts provide the linguist with a significant opportunity for truly meaningful "real world" applications for their research because of the language's important role and the extraordinarily high stakes involved. However, due to the difficulties in obtaining access to and conducting research on what is frequently highly sensitive and well-protected personal data, this field of applied linguistics has not yet realized all of its potential. 'Forensic linguistics' may be a term that readers are already familiar with. Lawyers love nothing more than debating definitions and scope, whereas linguists are very interested in the labels used to define concepts. Therefore, it is not surprising that there is no consensus regarding what "forensic linguistics" actually entails [1, 351-364].

The term is used broadly to refer to any intersection of language and law, which includes linguistic analysis of the language used in the legal system; however, the more widely accepted and possibly more accurate meaning is the use of linguistic evidence in the judicial process, typically in the form of linguist expert testimony. Putting definitions aside, this highlights an important distinction between the two main subfields of the academic study of language and law: linguistic analysis (and typically critique) of the language used in the legal system, and linguistic participation in the legal system. Although there are bound to be areas of overlap, these two broad categories serve as the framework for this chapter. It should be noted that forensic phonetics is a closely related and thriving field, but that is outside the purview of this chapter. In keeping with the 'applied' agenda of the field, the work described in this chapter lacks a unified methodology; instead, a large portion of the research has adopted the 'toolkit' approach, which

makes use of an analytical approach, or combination of approaches, that is best suited to producing specific, 'real world' solutions to problems or challenges[2, 4-25].

That is not to say, however, that there is not a strong interest in creating and maintaining methodological rigor; in fact, this is a key area of activity in forensic linguistics to guarantee that any linguistic evidence provided is of the highest validity and reliability, not least so that it will meet the ever-stricter standards being applied to the admissibility of expert witness evidence in court. Even though we are frequently blissfully unaware of it, legal language is a constant in our lives. Practically everything we do is governed by written legal texts of some kind. It might start with the sound of your alarm clock going off, to use an example from an average day. Your alarm clock is powered by an energy provider with whom you will have signed a written agreement outlining the terms of the supply. Even though we depend on the company to uphold its end of the contract daily, you probably haven't thought about it, especially at this hour of the morning. But because you need to get up, the alarm has already gone off. This might be the case since you have a contract that requires you to work today if you are employed, in which case[3].

Another possibility is that you are a student, in which case the alarm is likely set a little later. Your contract with your educational institution will be legally binding, and it may be able to impose sanctions if you fail to meet certain obligations, like attendance. Our overwhelming desire to stay in bed longer is thwarted by these obligations, so perhaps we should set our alarm to be very loud. However, depending on where you live, you might violate local noise nuisance laws or even bylaws. Therefore, a lot of legal texts are created to convey a particular message to other legal professionals and are meant to be understood and interpreted in that context[4,19-34]. It can be considered a form of technical language in that sense, which is perhaps the most accurate. With the aid of specialized software, which is also used to create aircraft maintenance manuals, UK primary legislation is created.

To use that analogy, we don't expect to be able to understand the maintenance manual when we board an airplane; what matters to us is that the maintenance engineer understood it, which means the wings won't fall off. Perhaps the same perspective should be applied to legislative text. Though that justification might apply to legislation, it cannot be applied to all categories (or subcategories) of legal language. Comprehensibility should be given far more consideration than it currently is for many legal texts. This is especially true for texts whose primary goal is to communicate with a lay audience, such as product warnings or instructions given to jurors on how to reach a verdict. Linguists have found that many of these texts fall short of effectively conveying their message to the target audience, frequently with grave repercussions. Using a US case as an illustration, Dumas explains how experts hired to evaluate the effectiveness of jury instructions in a death penalty case concluded that "the death sentence was imposed by jurors who did not understand their instructions."[5]

These text types, despite their intended audience and purpose, frequently contain highly perplexing elements like intricate embedded clause structures, archaisms, and cryptic jargon. Even when there is little justification, it appears that authors of all different kinds of legal texts have a propensity to use the conventions of the genre. We have only dealt with written text up to this point. In reality, a sizable portion of legal text is created orally, usually as a result of direct communication between the general public and the legal system. The majority of the judicial process, through which the written legal texts discussed above are enforced and upheld, is carried out through spoken discourse in Common Law jurisdictions like the US, UK, and Australia. The themes of misunderstanding and disadvantage are still present, but this leads to a different kind of linguistic analysis[6]

The legal system is a formal structure with distinct organizational procedures and communication standards. Interactional issues frequently arise when members of the general public need to contact this institution. Through the use of Bruner's concept of paradigmatic (typically legal) versus narrative (typically lay) modes of reasoning, the tension has been helpfully explained, particularly in the work of Heffer. An important theory explaining why communication between a legal institution and members of the general public is frequently

complicated is that the legal system operates based on a different conceptualization of what is significant or relevant in a story and of the most logical expected order of the parts.

Conclusion. Overall, there are a lot of topics that relate to both law and linguistics, and this chapter hasn't covered them all. Additionally, there is an apparent tension: law is about justice, Nevertheless, examples of how the legal system uses and interprets language include linguists to cause injustice to be perpetuated—or even created. This appears to be frequently caused by Rather than any actual miscommunication or ignorance of the fundamentals of language and communication intentionality with purpose. Therefore, it is up to linguists to dispel those myths, argue for our involvement, and show why it is important to put our research into action. Although it is just the beginning, a lot of the work mentioned in this chapter is already making that contribution. This chapter should serve to inspire others to continue pursuing this goal.

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