

FORENSIC LINGUISTICS: ORIGIN, HISTORY OF DEVELOPMENT, PROSPECTS

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Abstract. *The article dwells on one of the branches of applied linguistics, i.e. Forensic Linguistics. Forensic Linguistics is presented as a relatively new and expanding discipline. The article presents its history, development, importance and applications, as well as the use of linguistic evidence in legal proceedings. Finally, the conclusions are introduced and the projections for the future are made – in the future Forensic Linguistics can be widely used for better crime solving.*

Keywords: *linguistics, forensic linguistics, forensic linguistics development, language of law, language in forensic procedures, authorship attribution, analysis of defendant statements.*

Linguistics is the scientific study of language as a human activity. It studies the language structure as well as the ways of language functioning in different settings. “It focuses on theories of language structure, variation and use, the description and documentation of contemporary languages, and the implications of theories of language for an understanding of the mind and brain, human culture, social behavior, and language learning and teaching” [1].

The field of linguistics, like any complex unit, includes several major branches:

- *formal linguistics* studies the structures and the processes of language, i.e., how language is organized and how it works;
- *sociolinguistics* studies languages as social and cultural phenomena;
- *psycholinguistics* studies the relations between language and psychological behavior, the acquisition of the first and the second languages and how humans store and extract linguistic information);
- *historical linguistics* studies the evolution and origins of languages;
- *comparative linguistics* studies the similar and dissimilar aspects of languages with common origins;
- *applied linguistics* implements the theories and tools of formal linguistics, sociolinguistics and psycholinguistics in a wide range of socially useful ways.

One of the increasingly prominent areas of applied linguistics is Forensic Linguistics.

The word “forensic” is defined in Longman Dictionary of Contemporary English as an adjective “relating to the scientific methods used for finding out about a crime” [2].

From this definition, we can conclude that Forensic Linguistics is an interface between language, crime and law [3]. Dr John Olsson, who has extensive experience in British, American and Australian courts clears up that law includes law enforcement, judicial matters, legislation, disputes or proceedings in law, and even disputes which only potentially involve some infraction of the law or some necessity to seek a legal remedy [4].

This branch of linguistics has developed from a research-based understanding of language – law is codified in language. So, without language, there is no law. One of the researchers, Roger Shuy, considers that the average person cannot read x-ray in the same way the physicians do. That is just because they are trained to do this. In the same manner, linguists are well trained to see and hear structures that are invisible to laymen [5].

So, it can be said that Forensic Linguistics involves the application of scientific knowledge to language in the context of criminal and civil law.

Forensic linguists are interested in the language of the written law, its complexity and its origin, as well as the use of language in forensic procedures. They also study the judicial procedures from point of arrest, and through the interview, charge, trial and sentencing stages. For example, linguists study

the language of police interviews with witnesses and suspects, as well as the language of lawyers and witnesses in cross-examination [6].

Forensic Linguistics is important for the people working in courts, or studying law in particular, and to laymen in general. According to R. Shuy, ordinary people very often have to deal with a number of legal documents and processes like real estate, lease agreement, wills, contacts. etc.

Let's have a look at the process of Forensic Linguistics development. As in case with practically all sciences, it is difficult to say that Forensic Linguistics began at a specific moment in time.

Questions of authorship have arisen in ancient Greece where the playwrights accused each other of plagiarism. Since XVIII century many scholars and even amateurs have speculated on the authorship of some of the world's most famous texts, including sacred texts and the plays of Shakespeare.

In XIX-XX centuries some British and American mathematicians and statisticians made an attempt to develop some methods for attributing the authorship (Augustus de Morgan, TC Mendenhall, Udney Yule, etc.). Their studies were concentrated on easily measurable attributes like word length average, mean sentence length, etc. But the application of these exercises could be hardly called forensic and had little to do with linguistics.

In 1949 the term "forensic English" was first used by F.A. Philbrick in the title of his book on legal English, "*Language and the Law: the Semantics of Forensic English*", but the phrase was never taken up [7].

Then the phrase "forensic linguistics" was mentioned in 1968 when a linguistics professor Jan Svartvik published his "*The Evans Statements: A Case for Forensic Linguistics*" [8]. The case was the following. Timothy John Evans was accused of the murder of his wife and baby daughter. He was found guilty and hanged in 1950. Some years later a man, who lived in the same house as Evans, confessed to have killed Evans's wife and daughter.

Jan Svartvik was commissioned to analyze the statements. With the help of tables and diagrams the linguist examined in an objec-

tive way the text of the four Evans statements, especially the part that contained the confession of two murders. He quickly realized that the statements contained two styles – an educated written style and a marked spoken style, e.g. *the 12.55.a.m. train vs the five to one train*, and some others [8].

The results based on the analysis fulfilled by J. Svartvik along with other evidence collected in the course of research showed that Evans could not be the author of the two statements attributed to him. The results of the study were presented to the Parliament and in 1966 the Home Secretary gave a posthumous free pardon to T.J. Evans.

Initially, the growth of forensic linguistics was slow. That was due to the specific character of making witnesses or suspects' statements. There existed special prescriptions known as Judges' Rules.

According to these prescriptions suspects and witnesses were to dictate their statements to the police officers and the police officers, in their turn, were not allowed to interrupt the narrations given. Also, they were not allowed to ask any questions in the process of narration except for minor clarifications.

In reality that wasn't the case. The police officers used to ask a series of questions, take down some notes and then write a witness or a suspect's statement with their own words using the patterns the customs prescribed. Thus, this type of phrasing was not peculiar to a particular person but reflected the way of phrasing, which later became known as "police register".

So, the problem with the Judges' Rules was that they did not work, because those judges who had formulated them couldn't realize that the process of making statements was rather difficult for both the people who dictated them and for the police officers who were to transcribe them. As J. Olsson notes "dictating a narrative in a coherent, sequential, articulate form is extremely difficult, but the person taking the statement has an even harder task if the speaker is not skilled at pacing his/her delivery" [4]. Then he continues speculating that usually, people do not deliver their statements in a coherent, ordered way: they speak too fast or too slow, they can omit important details or speculate aloud, some-

times they backtrack, and so on. That was the reason why police officers had their own way of taking and in many cases making statements. It was impossible to follow the prescriptions of the Judges' Rules, as the words of the witnesses and suspects were taken in through the words of the police. That is why at the initial stages of forensic linguistics development the majority of cases involved questioning the authenticity of police statements. But the focus shifted to the suspects and witnesses' themselves after appearing of Forensic Linguistics. It clarified many issues regarding the stages of criminal or legal proceeding that attracted the attention of scholars all over the world [4].

The first expert evidence given from the witness box on this problem was at a murder trial in 1989, which took place at the Old Bailey. Peter French, professor of Forensic Speech Science, demonstrated an incriminating statement registered by the police and claimed to be "entirely in the words of one of the defendants" [9].

Other cases included appealing against the convictions of Derek Bentley (posthumously pardoned) the Birmingham Six, The Guildford Four, the Bridgewater Three, and so on. These last cases all relied on the work of Britain's most distinguished forensic linguist, Professor Malcolm Coulthard from Birmingham University, a discourse analyst who had first taken an interest in forensic questions following an inquiry from a colleague.

In the United States Forensic Linguistics has been developing a little bit differently, but it also concerned the rights of people during interrogation process. One of the brightest examples is the case of Ernesto Miranda. In 1963 E. Miranda was found guilty of the armed robbery, but he appealed on the grounds that he had not understood his right to keep silence or to have a lawyer during the process of interrogation. In 1966 the decision of the Court of Appeal was to overturn Miranda's conviction. Later, all over the USA there were a lot of such cases which were called *Miranda* cases.

Miranda rules are rather simple: police officers are to warn people who are arrested, that they can keep silence if they want to, that they have a right to have a lawyer in the pro-

cess of interrogation, and that everything they say can be used against them in court. But as Professor R. Shuy notes many issues arise: 1) the confession must be given voluntarily, 2) questioning should not be coercive, 3) police must ask arrestees if they understand their rights, etc. [10].

Regarding the first point R. Shuy objects that no arrestee wants to be interrogated. Also, he speculates on the meaning of the word "voluntarily". With regard to the second point he states that "the very nature of questioning (as pointed out by the US Supreme Court) is coercive" [10]. As to the third point he cites a case when police read the rights to a fifteen-year-old boy from Houston, Texas, and after that the boy signed a confession of murder. The linguist analyzed tape-recordings of the interviews between that boy and his lawyer and made a conclusion that the boy's level of understanding was rather low and very often he was unaware what he had been asked. Later, his school confirmed that his comprehension ability was at the level of an eight-year-old child. Thus, in this case R. Shuy tries to show the difference in the meaning of the word "understand" – does it mean "I say I understand" or "I actually understand"?

The works of R. Shuy, and other US linguists, have covered many areas of civil and criminal practice.

Forensic Linguistics was also concerned with the status of trademarks as words or phrases in the language at the early stages of its development in the United States. One of the well-known cases was a dispute between the brand name of "McDonald's" and the owners of the fast food chain. The linguists in this case were G. Lentine and R. Shuy.

Quality Inns International was going to open a chain of hotels under the name "McSleep". But "McDonald's" argued that they were the first to attach the unprotected words to the 'Mc' prefix, such as "Fries" in "McFries" or "Nuggets" in "McNuggets", etc. and had already run advertising campaigns which illustrated this. In this case it was a claim over a morphological principle, i.e. the attachment of a particular prefix to any noun. G. Lentine and R. Shuy showed in their evidence the prefix "Mc" had been used as a commercial application earlier, but "McDon-

ald's" had never objected, so they had no reason to do so in this case. Despite this overwhelming evidence, the court decision was in favour of the plaintiff and Quality International Inns were not allowed to start their chain of hotels under the "McSleep" name [12].

In Australia language specialists started applying the science of linguistics to legal issues in 1980s. These issues were connected with the rights of individuals in legal process, particularly the difficulties Aboriginal suspects faced during the process of interrogation. The linguists quickly realized that the dialect spoken by many Aboriginal people and known as 'Aboriginal English' was rather different from English spoken by white Australians. While the greater part of white Australians wrongly thought it to be a simplified form of English they spoke, it was a real dialect. So, during the process of questioning Aboriginal people used to bring their own understanding and usage of the language, as well as their own interactional style to the interview. "An individual's own interactional style, if perceived to be at variance to that of the dominant culture, might compel responses to questions in particular, non-confrontational ways which could lead to a false assumption on the part of a questioner that the suspect was being evasive or, worse still, that an admission of guilt was being made" [12].

Some Australian scientists studied the process of understanding the legal language in land claim hearings by Aboriginal witnesses and defendants. They also examined the influence of cross-cultural differences on presentation and results of the cases between Aboriginal people and white settlers. In this context J. Gibbons, the author of two major researches on Forensic Linguistics noted "the...system...around interrogation in the courtroom is alien to Aboriginal culture" [13]. In his books "Language and the Law" and "Forensic Linguistics: An introduction to language in the justice system" he presents his own experience as a Forensic Linguistics expert in court, as well as the process of Forensic Linguistics development.

In Germany, one of the first cases was about an alleged slander between two tenants in an apartment complex. The argument was

about the word *concupine*, i.e. if it was an insult or not. Linguists stated that for some speakers this word might be diverting, for others such way of addressing each other might be considered a joke, but under particular circumstances some people might find it insulting. The conclusion of the linguist was as follows: a given word did not have a universally-agreed one meaning in a speech community, so it was impossible to say that it was an insult or a verbal injury – "the relationship between speaker and hearer, the context of situation, the speaker's education level – all needed to be taken into account" [14].

Other problems which arose at the initial stages of Forensic Linguistics development in Germany included authorship attribution and methodology work out. One of the early cases, reported by H. Kniffka, involved the research work made by two sisters. According to university authorities the previous researches sisters had completed were at a lower level than the work they presented for their final examination. Kniffka noted that in this particular case an authorship attribution was impossible as sisters used meta-language of the law in their research and such a language could not be attributed to any given individual. He suggested the sisters should be subjected to a written examination on their research works to test their knowledge, instead of "relying on subjective comparisons with their previous, known, work" [14].

On the whole, it can be said that Forensic Linguistics entered the limelight in 1988 when the Federal Criminal Police Office (Bundeskriminalamt) held a two-day conference and presented the phonetic-acoustic method of speaker identification. France hosted their Forensic Linguistics conference in 1991, then, in 1992, the University of Birmingham in Britain organized the first seminar on Forensic Linguistics, which was attended by linguists from Greece, UK, Brazil and Germany. It finally reached international level academic discipline when Australia held a meeting in 1995, and the US held one in 1997. In 1999, the first MA in Forensic Linguistics was granted at Cardiff University [15].

When Forensic Linguistics has become an independent science its area has grown con-

siderably. From questioning witnesses and analyzing defendant statements, linguists have started giving evidence in different types of cases, such as authorship attribution in terrorist cases, product contamination cases, suspicious deaths, meaning interpretation in legal documents, the analysis of text messages in mobile phones to establish a time of death.

Today Forensic Linguistics is a widely recognized science. There are many specialist journals and associations. The International Association of Forensic Linguistics has been established with the aim of bringing together those working on all dimensions of law and language. It tries to promote and develop research, practice and principles of expert testimony, provision of linguistic evidence and legal interpretation. The ultimate goal is to devise and to establish standards upon which forensic linguist experts can work. The main categories under consideration are: study of written legal texts (language), spoken interaction and investigations [16].

With the help of Forensic Linguistics and other disciplines like psychology, sociology, etc. which can prove that the diversity of cultures can and do influence the legal proceedings, “the court system in the future may be better culturally responsive. It means that the court recognizes and takes account not only language but also beliefs, values, norms, traditions, rituals” [17].

In I. Baggili and F. Breitinger’s opinion technology has already integrated so deeply in people’s lives and is developing so rapidly

that Forensic Linguistics will soon be able to cover “real-time intelligence instead of only postmortem data” [18]. If a suspect disagrees to give his/her voice sample for investigation it is now legal in many countries to record his/her authentic voice secretly [19] or to get it from individuals’ social accounts. So, social networks and social media content can be used for better crime solving, “perhaps predict deception, fraud, corruption and prevent them from happening in the first place” [20].

From all above-mentioned the following conclusions can be made:

- Forensic Linguistics is an interface between language, crime and law and involves the application of scientific knowledge to language in the context of criminal and civil law.

- The first signs of Forensic linguistics can be seen in ancient Greece.

- The first scientists to make an attempt to attribute the authorship were the British and American mathematicians.

- The phrase “forensic linguistics” was mentioned in 1968 by a linguistics professor Jan Svartvik.

- Main problems at the initial stages of Forensic Linguistics development included mostly authorship attribution and methodology work out.

- Today Forensic Linguistics is a widely recognized science with many specialist journals and associations.

- In the future Forensic Linguistics can be widely used for better crime solving.

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СУДЕБНАЯ ЛИНГВИСТИКА: ПРОИСХОЖДЕНИЕ, ИСТОРИЯ РАЗВИТИЯ, ПЕРСПЕКТИВЫ

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***Аннотация.** Статья посвящена одному из направлений прикладной лингвистики, а именно, судебной лингвистике. Судебная лингвистика представлена как относительно новая и развивающаяся дисциплина. В статье представлены история развития, значение и способы применения в судебной практике. Наконец, делаются выводы и прогнозы на будущее – судебная лингвистика может широко использоваться как средство более эффективного раскрытия преступлений.*

***Ключевые слова:** лингвистика, судебная лингвистика, история развития судебной лингвистики, язык права, язык в судебном процессе, определение авторства, анализ заявлений ответчика.*