

Abstracts

Keynote talk:

On the evidentiary value of pragmatic discourse analysis of data: A Danish counter-terrorism case

Tanya Karoli-Christensen,
University of Copenhagen

In recent years, intelligence agencies in Denmark and abroad have warned of a heightened terror threat from returned *foreign fighters*, i.e., civilians from around the globe who travel to Syria or Iraq to join in armed conflict on the side of ISIS (Barrett 2015; Forsvarets Efterretningstjeneste 2016).

Denmark has one of the highest rates of foreign fighters per capita, and the highest reported proportion of returnees (almost 50%, cf. Barrett 2015: 7-8). In response, the country passed a series of regulations in early 2015 restricting freedom of movement for suspected foreign fighters, by, e.g., revoking their passports. Danish police have since faced the challenge of establishing that suspects were indeed planning to travel to conflict zones with the intent of participating in military training or combat.

This is the backdrop of a high-profile, potentially precedent-setting 2015 case against a Danish citizen of Turkish decent who was accused of planning a return to Syria, having enlisted into ISIS there on two prior visits. Among the evidence presented were 192 instant messages exchanged between the defendant and another male, ostensibly located in a country close to Turkey. The messages were written in Danish with short ritualized Arabic phrases mixed in. The police asked me to assist in an interpretation of this language data, seemingly with the purpose of checking their own intuitions as to what information could reasonably be gleaned from these messages.

In this talk, I explain my analytical procedure and court testimony, concerning both linguistic and forensic issues, and then turn to a discussion of specific linguistic features in the data. An important point is the use of pronouns, which both point to a non-native command of Danish for both interlocutors, and to an extended common ground (shared background knowledge) between them (Jucker & Smith 1996).

References

Barrett, Richard. 2015. *Foreign Fighters. An Updated Assessment of the Flow of Foreign Fighters into Syria and Iraq*. The Soufan Group. URL: http://soufangroup.com/wp-content/uploads/2015/12/TSG_ForeignFightersUpdate_FINAL3.pdf

Forsvarets Efterretningstjeneste [Danish Defence Intelligence Service]. 2016. *Efterretningsmæssig Risikovurdering 2016. En aktuel vurdering af forhold i udlandet af betydning for Danmarks sikkerhed*. [Intelligence-based Risk Assessment 2016. A current evaluation of matters abroad impacting Danish security]. URL: <https://feddis.dk/SiteCollectionDocuments/FE/EfterretningsmaessigeRisikovurderinger/Risikovurdering2016.pdf>

Jucker, A. H., & Smith, S. W. (1996). Explicit and implicit ways of enhancing common ground in conversations. *Pragmatics*, 6, 1–18.

**Language as evidence in international criminal trials:
A cognitive perspective on the guilty mind of history, politics and culture
from Nuremberg to the Hague**

Predrag Dojčinović,
University of Connecticut

The ontology of all mass atrocity crimes, like social ontology in general, is ultimately decided in and by language. That is why the key to understanding the evidentiary complexities of genocide, crimes against humanity and war crimes begins at its conceptual-linguistic foundations. Lexicon from the Nazi Germany evolved and revolved around the concepts such as *Jude* (Jew), *entjuden* (dejew), *arisieren* (aryanize), implying the purification of the Germanic ancestral blood, followed more than half a century later by the Rwandan concepts of *Inyenzi* (cockroaches), connoting all Tutsis and some Hutus, or *Inkotanyi*, a reference to the nineteenth century military forces in Rwanda, and multifaceted derogatory terms such as *poturica*, *Baliya* and *Ustasha*, used during the conflict in the former Yugoslavia. In light of these and many other examples, international criminal proceedings have seen the emergence of a new type of evidence: a historically, politically and culturally determined plural of the many manifestations of language as the instrument of mass atrocity crimes. As a result, this type of evidence can neither be interpreted nor understood without an advanced forensic approach to the specific speech acts and utterances found in the records of the international criminal trials. Utilizing a cross-disciplinary combination of philology, philosophy, history, psychology, anthropology, political science, linguistics, literary studies and other relevant fields of research, including law, as an amalgamation of cognitive and social science research with the humanities, this paper employs a novel hybrid method to criminal and legal analysis. Applying this approach to the records of some of the major historical trials demonstrates how and why this combination of legal and non-legal research and reasoning should be introduced as a standard operating procedure in all international criminal cases.

**Right to 'competent' interpretation in international criminal law proceedings:
What role do judges play?**

Dragana Spencer,
University of Greenwich

Access to a 'competent' interpreter in criminal proceedings is a matter of fundamental due process guarantees. However, rights to 'competent' interpretation and 'meaningful' participation in criminal proceedings against oneself, as provided for in international criminal and human rights provisions, remain poorly and inconsistently applied in international criminal trials. There is also an increased risk that these key fair trial guarantees may be compromised in domestic war crimes prosecutions, under case referral and deferral mechanisms (e.g. ICTY) and the ICC complementarity model. Defective interpretations that may be caused, *inter alia*, by a lack of interpreters' accreditation standardization and competence assessment at all levels of the criminal process, from police questioning, initial hearings to the serving of sentences foreign prisons, can infringe defence rights and lead to inaccurate findings of facts and unsound verdicts. The non-compellability of interpreters and translators as witnesses in international criminal proceedings, as seen particularly within the ICTY, further undermines basic procedural rights and the principle of equality of arms.

In this context, the aim of the presentation is to examine the shifting application of specific language rights in international criminal jurisprudence and propose that judges remain responsible for the overall effectiveness and fairness of proceedings; under fair trial and due process guarantees, they ultimately should ensure the competence of interpreters on case by case basis as well as possess necessary skills to determine levels of language manipulation of defendants, defence lawyers and witnesses. Therefore, a suggestion is made here that, at a minimum, given the unique multilingual and multicultural nature of international war crimes trials, levels of linguistic proficiency of judges (normally of English and French as working languages on international courts and tribunals) should be elevated as well as formally and more transparently measured.

Court interpreting: Key issues and concerns

Bente Jacobsen,
Oslo and Akershus University College of Applied Sciences

The role of the court interpreter is to translate faithfully the utterances of primary parties. In performing this role, the court interpreter's objective is to ensure that the primary parties understand each other fully as if they spoke the same language. Various factors may complicate the achievement of this objective, some of which are within the interpreter's control and some of which are not.

Key issues in court interpreting are: (1) The requirements of the interpreting process. (2) The significance of language differences. (3) The complexities of remote interpreting. (4) Attempts by primary parties to manipulate or put pressure on an interpreter. (5) Questions and answers that are fragmented or ambiguous, or intended to provoke, threaten or cause a similar reaction. (6) Interpreters who lack the necessary training and skills for interpreting legal interaction. (7) Lawyers and police officers who have limited knowledge of interpreting and/or fail to understand the role of the interpreter.

In my presentation, I will discuss the above issues and illustrate them with examples from my own data from Danish trials.

Improving Court Interpreter Certification Exams with Basic Concepts from Testing Theory

Melissa Wallace,
University of Texas at San Antonio

Interpreting studies stakeholders, including practicing professionals, educators, language services end-users, and researchers, express broad consensus on the justification for further inroads into empirical studies focusing on assessment and credentialing protocols in interpreting studies. Assessment is vitally important not only for the purpose of screening applicants for entry into educational programs, providing feedback for students as they progress in their training, or testing their knowledge and skills at the end of a course of study, but most germane to the present discussion, it is also essential for credentialing court interpreters with the objective of delivering the mutual trust and due process rights promised by European Directive 2010/64/EU.

In the United States, court interpreter certification is entirely performance-based, in contrast to some countries in which interpreters are considered qualified to practice in court based on success on written exams or completion of specific undergraduate degrees. Others combine performance-based with competence-based accreditation schemes. But even in flexible systems like the Finnish and Norwegian ones, which contain exam components that test substantive (cultural, ethical, terminological, procedural) knowledge as well as the skills needed to interpret effectively in legal settings, are the performance-based components psychometrically sound? This presentation acknowledges the importance of flexibility in national accreditation systems and proposes some possible contributions from the American credentialing system in light of basic concepts in testing theory.

Police interviews and court interpreting in Norway: my experience during a life in the courts

Tor Langbach,
former judge and director general, The Norwegian Court Administration

This will be a presentation of my experience with police interviews and court interpreting during a life as advocate and judge. Who are the judges and the police officers, do they have knowledge of interpreting, and do they understand the role of the interpreter? How are interpreters recruited, and do they have the necessary skills? What has been done to improve the situation? How can linguistic science and research contribute to a better practice in the police and the courts?

The presentation of rights and obligations in Norwegian police interviews: A case study from an interview with a non-native speaker

Marit Olave Riis-Johansen,
Norwegian University of Science and Technology

The presentation of the interviewee's rights and obligations is an important part of every police interview. In some countries, such as in the US, these rights and obligations are formulated in a standard text that interviewers read out to the interviewees. In other countries, such as Norway, no such pre formulated version of the rights and obligations exists. This leaves each police interviewer responsible for finding a suitable way to present the relevant rights and obligations in each interview situation.

The data for this presentation is a transcribed audio recording of one interview with a non-native speaker. The interviewee clearly does not speak Norwegian fluently, but is still interviewed without an interpreter. I will show how rights and obligations are presented in this interview, and compare this with findings from interviews of native speakers (presented in my PhD-thesis, Riis-Johansen 2016). The aim of this presentation is to identify linguistic and communicative phenomena in the presentation of rights and obligations that could be of interest for further research regarding Norwegian police interviews of non-native speakers.

The presentation of rights and obligations in police interviews in the USA

Aneta Pavlenko, Center for Multilingualism, University of Oslo; Scott Jarvis, University of Utah; & Elizabeth Hepford, Arcadia University

The purpose of the Miranda rights is to ensure that suspects know their fundamental rights under the law, including the right not to incriminate themselves. Research shows that even native speakers of English do not always understand their rights (Rogers et al., 2010, 2011) and are vulnerable to trivialization tactics used by the police (Leo, 2008; Scherr & Madon, 2013). The problems are even greater among speakers with limited proficiency in English (Bowen, 2017; Eades, 2010; Pavlenko, 2008; Pavlenko et al., 2016) but until now there have been no empirical studies to examine linguistic challenges faced by this population. The purpose of the present study was to compare understanding of the Miranda rights by L1 English speakers with that of L2 English speakers.

The findings revealed that even advanced-level speakers do not fully understand the Miranda rights. Predictably, their performance was affected by the L1 background, level of proficiency, sentence length and complexity, and word frequency and type (everyday vs legal vocabulary). Unexpectedly, the participants did not realize that they did not understand – instead, they constructed alternative meanings that created an ‘illusion of understanding’. These findings have important implications for communication of rights in police interviews.

Interpreter-assisted investigative interview: What works vs. what does not work, and why

Katrina Mayfield, official Russian interpreter for London Metropolitan Police, UK
& Luna Filipovic, University of East Anglia, UK

This presentation will be dedicated to highlighting linguistic features in police interviews that cause difficulties in communication. These difficulties will be shown to have a variety of sources, which can include, for example, the use of specific formulations whose meaning and intention are not easy to understand even in a single language. Another source of difficulty pertaining to interpreter-assisted communication is surmounting language differences that are hard to resolve without additional explanations, which would break the narrative flow and require interpreter to use more words than those given in the original. We have used authentic monolingual and bilingual interview transcripts from the UK and also from the US for comparison and illustration of similar linguistic observations to illustrate this topic.

Our focus will be on the precise points of conflict in the interview that can result in distraction and divergence in the narrative flow. Occasionally, these language-driven conflicts in communication can also be detrimental to accuracy and proper elicitation of facts. We conclude with suggestions of strategies that both police officers and interpreters can apply in an interview situation in order to achieve a mutual goal, which is efficient (i.e. accurate and cost-effective) communication.

We will show the value of a correct standard procedures and protocols for practitioners and the value of a proper pre-interview briefing for an interpreter in achieving *best evidence*.

Bionotes



Filipović, Luna is Professor of Language and Cognition in the School of Politics, Philosophy, Language and Communication Studies, University of East Anglia. Her research interests are in psycholinguistics and forensic linguistics, with a focus on bilingualism, language typology and language effects on memory. She leads the research project TACIT (Translation and Communication in Training), whose current focus is on police interviews in the UK. Luna has worked as a researcher in various jurisdictions in California (USA) where she collected bilingual police transcript data and carried out extensive analyses, which were presented in many academic publications. She delivers courses of professional development related to conflict resolution in communication and translation.

Mayfield, Katrina MA, MSc, MITI, RPSI, DPI is a highly experienced professional English-Russian interpreter and translator. She holds an MSc Biology and MA Conference Interpreting. For her MA thesis Katrina conducted research on the issues and challenges surrounding interpreter-assisted investigative interviews of victims and witnesses. Katrina has been the Interpreting and Translation Services Manager in Cambridgeshire Constabulary in the UK in 2006–2017, during which time she has gained national and international recognition for her work in developing operational procedures protocols, delivering excellence and influencing the culture of the practitioners. As a leader in the field Katrina developed and delivered training to police officers of Cambridgeshire Constabulary and in 2010 launched the continuous professional development (CPD) programme for Cambridgeshire Interpreters which included a number of national joint training days for police officers and interpreters.



<http://whatworks.college.police.uk/Research/Research-Map/Pages/ResearchProject.aspx?projectid=326>

Providing Trauma Support within the Investigative Interview

Kristina Kepinska Jakobsen*, Åse Langballe, Jon-Håkon Schultz

The aim of an investigative interview is to obtain a detailed and reliable account from the interviewee, while the police remain objective. The study explores the challenges involved in interviewing traumatized victims and providing trauma support within the legal framework. Nineteen videotaped investigative interviews of highly traumatized young victims of the 2011 Utøya terror attack in Norway and research interviews with the 17 detectives who conducted the police interviews form the basis of the study. The research interviews, which provide the main data, have been analysed using qualitative, inductive methods. The videotaped investigative interviews have been used as a framework for the analysis. Various types of constraints and support were identified. The results indicate that the requirement of objectivity is central for the interviewers' understanding of their professional role. This results in phased-bound support: At the beginning and at the end of the interview, there are many possibilities for being supportive which are in accordance with recommended trauma care. However, the interviewing detectives become more passive when the conversation is about the criminal offence, and seem less confident about being supportive. This study provides new insights into how the police experience interviewing traumatized victims and insights relevant to the field of practice.