

The Role of Forensic Linguistics in a Modern Judicial System

Nowadays more and more cases in Russian court are demanding forensic linguistic analysis, especially those ones which deal with fraud, corruption, extremism and so on. This phenomenon shows that there is a necessity in attendance in legal proceeding of such a qualified specialist as a forensic linguist [Galyashina 2016]. The existence of some international organizations also proves the importance of a new branch of linguistics – forensic linguistics (there two of them – the International Association of Forensic Linguists and the International Association of Forensic Phoneticians). *Forensic linguistics* is a field of applied linguistics. It is founded with the help of correlation between language, the law, and crime. Besides it applied linguistic achievements, especially its methods to the forensic context of law, language, crime investigation, trial, and judicial procedure. In spite of the fact that there are some programmes in several universities (mostly in the UK) and online courses which educate students in this field, the system of terms is not worked out properly. Nevertheless, it is necessary to add that European and American judicial systems have much more experience in this area so we can use their achievements to improve the Russian forensic linguistic expertise.

First of all, we should mention that there are many areas connected with crime which can demand the forensic linguistic analysis and some professional terminology. The mentioned analysis helps to solve crimes and absolve people wrongly accused of committing different types of offences. It may involve the following aspects:

- the analysis of discourse, i.e. the analysis of spoken or written utterance to identify, for example, whether a suspect agreed to commit an offence willingly or he/she was threatened to do it;
- forensic phonetics or voice identification, it may help to determine whether the voice on a threatening tape recording belongs to the defendant;
- forensic stylistics which identifies the person who wrote a particular text by comparing it to known writing samples of a suspect;
- dialectology, it is used to find out which dialect a person speaks, usually to show that a defendant has a different dialect from that on an incriminating tape recording.

Peter Tiersma has proposed other two types of forensic linguistics analysis: “linguistic origin analysis” (it defines the process of trying to determine what a person’s native language is) and “linguistic veracity analysis”(which shows whether a speaker or writer is truthful) [Tiersma 2002].

Generally speaking, a legal proceeding, which can demand a forensic linguistic analysis, includes investigative, trial and appeal stages. The investigative stage is also called the intelligent one. Linguistics intelligence work may include analysis of ransom notes, letters purporting to provide information on a case, mobile phone text messages, and letters with threats. Sometimes linguists are asked to analyze suicide notes, because in some cases it may throw a light on the cause or circumstances of death.

Moreover, at the investigative stage, the police may need to have a professional linguistic opinion on a text or an interview tape. There are cases which need a forensic linguist's assistance at an interview and interrogation stages. But, of course, any linguist's statement about veracity cannot be accepted as an evidence in court.

As for the trial stage, there are many types of linguistic analysis which are often called for. Thus, the questions of authorship are the most frequent ones, i.e. experts are to answer the questions by whom the given text was written or who is speaking in the recording? To find out the real meaning and to interpret some words of a suspect may be also very important for the court. It is needless to say, that threat analysis can be done professionally only by a forensic linguist. There is one more thing for forensic linguistic expertise which can give an answer on the following questions: *was the text dual-authored?* or *was it written rather than spoken?* etc.

As we have mentioned above a forensic linguist deals with a discourse analysis. A forensic discourse belongs to the institutional type and takes place within a professional setting. So it is mostly motivated by the needs and goals of this institution. Every institutional discourse can have a particular selection and use of grammar, vocabulary and structure, moreover, it may have its own genres, roles and goals.

When linguists analyze a discourse, they use a great variety of interpretative tools, methods and theories. Meanwhile, approaching it in a forensic context the analyst needs to consider how it is similar and what distinguishes it from other texts in other contexts and which theories and methods are most appropriate to analyze it. As it has been already said the texts, which linguists usually deal with, can be both spoken and written (for example, transcripts of recordings of spoken interaction). Before analyzing it, experts consider some of the key features of an orientation to core goals, tasks or identity conventionally associated with the institution – ‘goal orientations’; constraints on ‘allowable contributions’; specific ‘inferential frameworks’ in the context [Levinson 1979].

This means that the institutional members of legal conversations – police officers in interviews or barristers in court – are in control of the legal

goals and agendas in talk and are aware of the constraints on the meaning of particular words or phrases, such as *intend* or *admit*, whereas lay members do not understand the talk in the same way and could be described as being at the mercy of these goals. These aspects of the interaction contribute to the asymmetrical relationships that exist in institutional discourse settings, with the institutional member having the upper hand and the lay member often occupying the less powerful position.

The asymmetrical relationship does not always mean that the institutional member is always powerful in a negatively constraining way. For example, in a court room the lawyer, when questioning a witness called for his own side or party, uses his powerful position and linguistic skills to support the witness's testimony, designing his turns to help her/his present her/his case in the best way. However, when cross-examining a witness, lawyers use very different tactics. Dominance, facilitation and restriction in institutional discourse have, therefore, to be viewed in terms of who is speaking, when and for what purpose. As Drew and Heritage point out, 'the character of institutional interaction varies widely across different institutional tasks and settings'. As the tasks change, so does the status and identity of the institutional speaker and his relationship to the other [Drew, Heritage 1992].

Drew and Heritage say that the question that is posed for empirical research is how we identify the ways in which activity in institutional settings is 'done differently'. Text and talk in forensic settings are done differently from social talk. A legal conversation takes place in both a physical and an interactive context, one which constrains social evaluation – we do not expect institutional speakers in legal contexts to evaluate stories with interjections like 'Oh my God' or 'You don't say' – and instead produces no reaction or a legal evaluation – 'Did you intend to injure him?'. Lay speakers collaborate in this institutional work by making their stories factual [Drew, Heritage 1992: 20].

In institutional interactions such as courtroom examinations or police interviews there is also the interesting complication of the issue of 'shared knowledge' [Labov, Fanshel 1977]. Many of the questions posed are not real information-seeking questions, since the questioner already knows the answer and the questioned person generally knows that they know the answer. This is not an unknown type of interaction, since it is present in much teacher-pupil and parent-child interaction, but it presents particular challenges for the interlocutors in institutional settings. Witnesses may resist what they see as unnecessary questions or questions that challenge their view of events, but expect to be asked some questions that in other settings would appear unnecessary. Labov and Fanshel refer to a second level of shared knowledge,

information that is ‘known to everyone present’ or could reasonably be considered to be shared [Labov, Fanshel 1977: 73]. For example, it could be assumed that adults would agree that for a shopper to conceal items in their garments, rather than put them into a shopping basket, is the action of a thief, not a shopper.

In conclusion, we would like to summarize the main points. Thus, forensic linguistics deals with legal goals in the judicial system. It focuses on all branches of linguistics, such as phonetics, semantics, discourse etc. This science is not studied enough in Russia; whereas, it can have a lot of applications in judicial system.

The growth of forensic linguistics has increased for the last decade. There has been a rapid growth in the amount of cooperation between courts and linguists. Linguistic findings in legal process show development of a new science which joins the relationship between linguistics and law. This new science can be as effective as legal medicine, legal psychology etc.

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