

## FORENSIC LINGUISTICS: EMERGING FIELD IN CRIMINAL LAW AND JUSTICE

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### ABSTRACT

*Forensic Linguistics (FL) is a comparatively a fresh branch of applied linguistics which analyses various crossings between legal field and language. With the purpose of have a just legal and operative procedure, whosoever involved in a legal process (police, investigating officers, advocates, judicial magistrates, jury, and many more) aids if having some definite consciousness of linguistic doctrines. Having this objective, the professional testimony of forensic linguist can help in recognition and understanding of probable clarifications or versions of its which else might have got overlooked. Forensic Linguistics helps to explore the clues, read between the lines, and predict the subsequent plot on basis of some written or spoken words. This research paper will dive one into the fascinating field of forensic linguistics. This study will discuss about is language truly significant, define different features in forensic linguistics and will discuss on if FL merely about law and language or is it applicable to different fields and areas. Moreover, acclaimed cases did this special science use are also discussed. This research paper emphasizes common linguist with an outline of the vast area of Forensic Linguistics and highlights various ways this discipline could subsidies to judicial system. This discusses few legal cases and summaries the junctures between forensic linguistics and legal system. This research paper deliberates on forensic linguistics, its branches, historical development, procedures and methods, types of forensic texts, tools, practice of linguistic evidence in court proceedings, status of FL in India and challenges and limitations in this ocean of forensic linguistics.*

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Keywords: Forensic Linguistics (FL), Applied Linguistics, Forensic Applications, Legal Language, Linguistic Evidence

### INTRODUCTION

Forensic linguistics (hereafter referred as FL), is evolving sub-branch of forensic science, is interdisciplinary arena of applied/descriptive linguistics that involves research, interpretation and measure of language in form of crime, legal proceedings/ legal quarrels. The link amongst vocabulary, law and crime could be observed, example; throughout study of the courtroom

debate, the interpretation and clarification of trial, readability or comprehensibility of legal records, and comprehensibility of police caution to offenders. At present, it is far from being as precise as DNA testing, forensic linguistics uses the skills of informative and applied linguists to uncover legal problems, so to speak. Informal use of forensic linguistics includes familiarity with the wider application of linguistics as a social science, sociolinguistics, phonetics, phonology, morphology, grammar, pragmatics, dialectology, corpus linguistics, and discourse analysis.

The forensic linguist shall apply linguistic expertise and procedures to the language used in court cases or litigation and private disagreements between the parties which could lead to legal action. Law is codified in and then umpired by, words. That implies there is not at all statute without language. Yet, vocabulary of law is somewhat distinct as compared to that of common language, and also consequences in drawbacks for common people. For this cause, linguists those extend their understanding of linguistic theory to the forensic sense of the law i.e. forensic linguists, also have to analyze the significance of the legal language meticulously: just as doctors are qualified to watch things X-ray which normal person can't see and understand. Therefore linguists are qualified to watch and hear systems which are inaccessible to amateur people. The purpose of this research paper is to give analysis of this field of Forensic Linguistics (FL) by demonstrating various aspects in which the discipline has made vital roles to the judiciary.

This article will firstly consider what is forensic linguistics exactly, its sub-branches and major areas of study. Then it will provide an overview of what does forensic linguistics do, types of forensic texts, historical background, forensic linguistics in context of western countries, interaction and intersection of law and language, use as forensic linguistic evidence in legal proceedings, and forensic linguistics in Indian Legal Context. This article will conclude by raising some challenges in FL, relevance in social media nowadays, its applications and lastly discuss future prospects. The following sections will also describe some legal cases and summaries junctures between FL and applied linguistics in three interconnected fields: language as a means to contact amongst law implementation officials and witnesses/ suspects, law's language (lucidity problems, understanding and building of legal language, language and linguistic proof (usage, legitimacy and authenticity in court of law).

### **UNDERSTANDING THE TERM 'FORENSIC LINGUISTICS'**

Let's break this term into two, forensic and linguistics. Forensic is investigation of some crime or while working with legal things. Linguistics is work on language using this scientific procedure (observing, by experimentation and qualitative and quantitative analysis). So when we use linguistics for investigation of some crime or while working with legal things, we can say we are dealing with forensic linguistics. It is offset of applied and socio-linguistics that applies linguistic theory, research, methods and principles to real life language in legal context, including valuation of evidence in written/ spoken form and legislation's language.

One of vital targets of Forensic Linguistics is to incorporate a careful and efficient investigation of the language. The discoveries of this examination can be utilized by a wide range of specialists. For instance, cops may utilize this data not exclusively to talk with witnesses and suspects all the more precisely, yet in addition to determine and crimes reliably. Advocates, judicial magistrates and members of jury may practice these analyzes to aid determine problems of guilt and innocence more equally. Moreover translators and transcribers may use the research to communicate more precisely. Forensic Linguistics serves justice and helps public discover facts when a crime is been committed.

### **BRANCHES OF FORENSIC LINGUISTICS**

There are three key areas of use for linguists employed in forensic contexts<sup>1</sup>. — To grasp the written law's language; Analyzing the use of vocabulary in judicial and forensic trials; and Provision of linguistic evidence. Forensic linguistics as a discipline is heterogeneous; it includes wide variety of specialist, researchers and analysts in various aspects of this field. Nowadays Forensic Linguistics is widely divided into two primary fields that has further several distinct sub-branches. — Spoken Language and Written Language. Spoken language is the language spoken by transcribers during formal interviews with victims, perpetrators and witnesses; language used by victims/criminals in the crime. Emphasis of the field is what has been said and how it has been said. Written language is the language used in local, countrywide and foreign law, nowadays and earlier; transcripts of cops conversations with suspects and witnesses, criminal communications used in cases of suicide, abduction, extortion, terrorist threat, and many

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<sup>1</sup>Centre for Forensic Linguistics, *What is forensic linguistics*, ASTON UNIVERSITY (June 1, 2021, 10:05 AM), [https://web.archive.org/web/20100927010829/http://www.forensiclinguistics.net/cfl\\_fl.html](https://web.archive.org/web/20100927010829/http://www.forensiclinguistics.net/cfl_fl.html).

more; conversion of legal papers from one language to other; review of script or written content to reply queries on the who might be the author and who might not be.

### **WORK OF A FORENSIC LINGUIST**

A forensic linguist conducts a language study of written/ preserved documents aids to solve criminal cases. Forensic linguist research on sentence structure, parlance, phonetics, grammar, and additional areas of linguistics to assess authenticity and safeguard accurate understanding. Forensic linguists can analyze the written language in several different forms: phone messages, documents, hand-written letters, social media posts, etc.

### **EXAMPLES OF FORENSIC TEXTS**

1. Suicide Notes: It is normally short, succinct and propositional in nature, and a tinge of vagueness.
2. Ransom demands: Menace communication is corresponding to the promise and is a significant aspect of the ransom demand.
3. Death row statements: Death row comments either admit crime, leave witness with an imprint of integrity and authenticity/ refute the crime, parting the witness with an imprint of goodness.
4. Social Media, Text messages and Emails: These are specific to particular context, and their analysis may be differ from person to person.
5. Emergency call: The ability of the emergency operator/ receiver to retrieve principally linguistic data in situations of danger and to provide appropriate response in the timely manner is vital to the successful conclusion of a call.
6. Others: Contracts, Wills, Confessions, Phone call transcripts, Trademarks, Witness statements, Courtroom transcripts, Police inquiry transcripts, and so on.

### **HISTORICAL DEVELOPMENT OF FORENSIC LINGUISTICS**

The term forensic linguistics first emerged when Jan Svartvik, teacher of linguistics, applied it in the study of Timothy John Evans' remarks in 1968. This was a matter of re-examining the

testimonials given to cops in Britain during 1949 in case of the suspected killing by Evans. He had been accused of killing his child and wife, and he was convicted and hanged for this crime. However once Svartvik analyzed the testimonials supposedly made by Evans, Svartvik found that it had various stylistic markers in this, and Evans didn't in effect, make his testimonials to the policemen as they had been told during trial<sup>2</sup>. As a result of the case, early forensic linguistics in United Kingdom concentrated upon challenging authenticity of police interrogations. As noticed in many prominent cases, many of biggest issues were the statements used by police officers.

In United States, the emergence of this study of forensic linguistics, this field actually started with case of Ernesto Miranda in 1963. Miranda's case contributed to development of Miranda's right and pushed forensic linguistics to concentrate on interviewing of witness rather than on cop's statements.

The pioneer of forensic linguistics is broadly viewed as Roger Shuy, former University of Georgetown educator and writer of such key reading material as (Creating) Language Crimes. The field's later sources may be followed to a plane trip in 1979, when Shuy ended up conversing with advocate sitting close to Shuy. Before they finish of flight, Shuy suggested a specialist observer in his assassination case. From that point forward, he's been associated with various cases in which scientific investigation uncovered how significance had been twisted by the way toward composing or recording.<sup>3</sup>

### **FORENSIC LINGUISTICS IN CONTEXT OF WESTERN COUNTRIES**

The work of Forensic Linguistics is used to find the guilty and also to defend the innocent. An amazing example of how this can be achieved is a special fixed-form written text called "Miranda Warnings." The fact that someone has been arrested does not imply that he or she is guilty; and even if an accused person has committed a crime, the policemen are still obliged by law to ensure that the rules of the country are upheld and protected. In order to ensure that these rules and protocols are always complied with the police are expected to read the formal text in

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<sup>2</sup>Vinko Žigmundovac, *Forensic Linguistics*, J. J. STOSSMAYER UNIVERISTY OF OSIJEK (June 2, 2021, 10:30 AM), <https://zir.nsk.hr/islandora/object/ffos:634/datastream/PDF>.

<sup>3</sup> Jack Hitt, *Words on Trial*, THE NEW YORKER, July 23, 2012, at 3.

many countries. This text is called the "Miranda Warnings"<sup>4</sup> in the USA. Forensic Linguists who specialize in "Miranda Rights" research will demonstrate how differences in how the text is interpreted can change the way it is understood. They can also examine how translations of the text could alter the original legal purpose.

### **INTERACTION AND INTERSECTION OF LAW AND LANGUAGE<sup>5</sup>**

Legal Text's Language — analysis of legal document's language includes diverse variety of forensic texts. This involves analysis of text styles and modes of analysis. Any text/ piece of language spoken could theoretically be used in a legal or criminal context as forensic text. Legal Process's Language — this part discusses the use of language in cross-examination and interview, the interpretation of evidence, the guidance of the judge, the police alerts, the police testimony in court, the overview of the jurors, the interviewing methods, the investigation procedure in court and in other fields such as police inquiry and cross-questioning.

### **USE OF FORENSIC LINGUISTIC EVIDENCE IN COURT AND JUDICIAL PROCESS**

Language at times itself acts as evidence in civil or criminal cases. The use of language as evidence to turn judgments in our favor is accepted. To create evidence out of semantic sources requires a linguist to contemplate the overlapping meaning or form of the clues provided. Forensic Linguistic evidence is used in courts to escape miscommunication due to diverse dialects, languages or codes. Forensic Linguists interpret the gist behind linguistic actions of accused during cross-examination or inquiring.<sup>6</sup> Forensic linguistic evidence is some form of text (signed/ written/ spoken) that may aid in forensic case or as proof in court of law. This communications comprises phone calls, secret emails/calls, instant messages, suicide notes, confessions, ransom notes, police documents and many more. Even if best known role forensic linguists perform as expert witnesses may be to classify authors, they too deal with another language crimes, like intimidation, theft, fraud, perjury, forgery etc.

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<sup>4</sup>MIRANDRA WARNING, <http://www.mirandawarning.org/> (last visited June 3, 2021).

<sup>5</sup>Maitie Correa, *Forensic Linguistics: An Overview of the Intersection and Interaction of Language and Law*, 23 KALBU STUDIJS STUDIES ABOUT LANGUAGES 5, 5 (2013).

<sup>6</sup>MALCOLM COULTHARD ET. AL., AN INTRODUCTION TO FORENSIC LINGUISTICS: LANGUAGE AS EVIDENCE 5 (Routledge 2010).

**FORENSIC LIGUISTICS CAN PROVIDE PROOFS IN<sup>7</sup>:**

Author identification. — Identifying whether a person has said or written anything is dependent on an interpretation of his/her style/ on specific patterns of use of language (grammars, terminology, accent, and spelling).

Variation. — Intra-author differences are methods in which the texts of an author vary from the other. They are means in which the writing of various writers differs.

Forensic phonetics. — It deals with the development of correct transcripts of what has been said. Transcripts can disclose details on the social and regional context of a speaker. Forensic phonetics could distinguish correlations amongst speakers of 2 or more different records.

Discourse analysis. — It deals with the analysis of use of sign language/ literary/ oral/ other important textual occurrence.

Detection of Plagiarism. — The prevalent use of technology and invention of Internet also done it possible to plagiarize work of computers. Plagiarism could be seen in almost every area, counting science articles, art designs and source code. Identification of Plagiarism could be either manually by forensic linguist or AI based software with algorithms of forensic linguistics tools.

Linguistic dialectology. — Analysis of dialects in a methodical and logical way focused on anthropological knowledge. Organized understanding of dialects, particularly in the language, English, are becoming more relevant.

Forensic transcription. — Primary kinds of transcripts are printed records, audio and video files. Accurate and trustworthy transcription of the text is necessary since the text is information that becomes available evidence.

Forensic stylistics. — Corresponds to spoken/written materials/ both for scientific examination for determination and assessment of substance, authorship, context, or speaker identity for detection of plagiarism.

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<sup>7</sup> Mohsen Ghasemi Ariani, Fatemeh Sajedi, et.al., *Forensic Linguistics: A Brief Overview of the Key Elements*, 158 *PROCEDIA – SOCIAL AND BEHAVIORAL SCIENCES* 222, 222-225 (2014).

## FORENSIC LINGUISTICS IN INDIAN LEGAL CONTEXT

The multilingual nature and linguistic diversity of India provide a wide scope for Forensic Linguistics, There are many challenges as well because India had more than 1600 languages and only 23 recognized languages out of those by the constitution. Very few reports are there of use forensic linguistics in police investigations, court trials, and law interpretations. FL can modernize and sophisticate our investigations. For instance, accused statement is recorded by policemen in language of that policemen, which is near to the language of accused and not exact same. Often this under represents the events, attitudes, and view of the accused. The accused very often dictated statements by the policemen which can be seen in villages in India where investigating officers fool, misinterpret and impose their statements for accused to make them speak what they want.

In a country like India with literacy of 74%, practice of FL techniques to check the correctness of documentation of statement of the accused and with witness will enhance the Right to Fair Trial by Article 21<sup>8</sup> of the Constitution of India. Section 277<sup>9</sup> in the CrPC ensures the access of trail in the accused's language. The role, importance and relevance of Forensic Linguistics is primordial in India. The Perceptive Plan of Indian Forensic<sup>10</sup> (2010) reported that only Chandigarh Laboratory (one of the 4 Central Laboratories in India) is minimally equipped with speaker identification infrastructure. Needless to tell other potentials of Forensic Linguistics in India currently has after this example. Government did made Directorate of Forensic Science Service<sup>11</sup> in 2002 for innovation in FL, but no effort had been reported so far in building capacity in linguistics to assist courts and investigating agencies in law of language and forensic linguistics.

### CHALLENGES AND LIMITATIONS TO FORENSIC LINGUISTICS

Limitations on what we could speak or write, limitations about what we should talk about, short time limits set by the case law, and limitations on how to write, an audience that is almost entirely unfamiliar with our field. Then, necessity to characterize difficult practical knowledge in terms which could be interpreted by public who don't understand anything about this profession

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<sup>8</sup>INDIA CONST. art. 21.

<sup>9</sup> The Code of Criminal Procedure, 1973, § 277, No. 2, Acts of Parliament, 1974 (India).

<sup>10</sup>Ministry of Home Affairs Report, *Perceptive Plan of Indian Forensic* (December 18, 2010).

<sup>11</sup>Ministry of Home Affairs, Gazette of India, Order no. 25011/41/2001-GPA.II/PM-II (Issued on December 31, 2002).



though retaining the position as specialist who has a deep understanding of these difficult technical notions, constant modifications/ conflicts in authority in area of legal system itself, and sustaining an impartial, non-advocacy approach in field in that advocacy is a central mode of exhibition. Moreover, change in the mode of communications, different social media platforms coming up with dynamic features and increasing cybercrime<sup>12</sup>.

### **FORENSIC LINGUISTICS IN REFERNCE TO SOCIAL MEDIA**

There are many cases of crimes and murders from Facebook<sup>13</sup>, Instagram and even WhatsApp where a written note was used to convict the suspects. Forensic linguistics can and do, contribute to cybercrime inquiries, even through basic linguistic skills which used by investigators. There is also a need to raise awareness as well as incorporate this in area of forensic linguistics and its future uses in the cybercrime field.

### **APPLICATIONS OF FORENSIC LINGUISTICS**

Forensic linguists work mostly as experts and support law enforcement authorities with the identification and detection of crimes. They give specialized advice on legal disputes, judicial trials, criminal and civil inquiries. Forensic linguists are consulted alongside legal firms on cases concerning infringements of copyright, defamation and patents and infringements. The government employs forensic linguists for Foreign Service. Forensic Linguists collaborate in a team to protect the government from international counter-intelligence attacks, corruption, sabotage, cybercrime and other criminal offences.

Forensic linguistics contributes in a number of areas to address issues relevant to linguistic questions. They use various methods as there's none standard way to extract necessary data. E.g. forensic linguistics aims to make legal documents (contracts, jury instructions, and agreements) easy to understand and more detailed. Forensic linguistics also help attorneys to provide a concise interpretation to courts for legitimate terminologies using more widely used terms as way of establishing contract with parties further simpler. E.g. often linguistics forensics is asked

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<sup>12</sup>Ria C Perkins, *The Application of Forensic Linguistics in Cybercrime Investigations*, 15 (1) POLICING: A JOURNAL OF POLICY AND PRACTICE 68, 68-78 (2018).

<sup>13</sup> Raif Shenai, Press Association, *Man jailed for killing girlfriend after Facebook row*, INDEPENDENT, March 09, 2010, <https://www.independent.co.uk/news/uk/crime/man-jailed-killing-girlfriend-after-facebook-row-1918589.html> (last visited June 5, 2021).

by the courts or by them to testify and explain sense of such written or spoken words when a disagreement occurs in true sense of words.

Setting trademark disputes is one other feature of forensic linguistics. When two sides are in disagreement over a trademark, its responsibility of forensic linguistics to decide who actually holds right to use trademark. Moreover examine the credit of authorship (who spoke/ wrote) of the language. Sometimes, Forensic linguist is requested to offer forensic support or specialist testimony for use in court. There has been a significant emphasis in the linguistic literature on laws for the admitting of authorship to criminal proceedings, though part of forensic linguist in the supply of evidence is wider than that. Assistance a forensic linguist may offer is advisory and not binding on court of law.

## CONCLUSION

Therefore, linguistics is a scientific study of languages and that is referred to as forensic linguistics when used it in the resolution of crimes or legal problems. Forensic linguistics leads to solving problems related to linguistic issues in a number of means, including by observing patterns, parallels or other differences in speech or written content. The fields of forensic and legal linguistics give legalists a chance at improving the prestige of right and justice. Language and law have come a long way hand in hand, growing at their distinct aspects and also the interdisciplinary aspects. The collaboration of both knowledge of legal as well as linguistic methods and procedure can help in faster and smoother settlement of disputes. With the world running ahead with globalization as well as technology, legal norms require developments to fit in this world of data and communication. This present age requires new remedies to the seemingly unmanageable problems created by technology.

The responsibility lies on forensic linguists to bring research into exercise and provide remedies to the misinterpretation and ambiguity of legal norms. Legal institutions are required to collaborate with other specialised fields in helping them maintain the social order. Hence, Forensic Linguistics is one of the fastest developing areas of applied linguistics. Its importance to law and justice standards makes it a very significant and fascinating field of science. The variety of disciplines and the scope for research, as well as its connection to allied disciplines such as Pragmatics, Law Sociolinguistics, Psychology, and Sociology, attract interest and make

it much more popular among young scholars and practitioners. A variety of organisations and societies put together forensic linguists and other practitioners dealing with language as evidence like International Association of Forensic Linguistics, International Association for Forensic Phonetics and Acoustics, and many more.



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