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Jadwiga Stawnicka
Akademia Wychowania Fizycznego
im. Jerzego Kukuczki w Katowicach
Katowice, Polska
e-mail: j.stawnicka@awf.katowice.pl
ORCID 0000-0002-0404-5383

Diana Lubandy
Vienna University of Economics and Business
Wiedeń, Austria
e-mail: diana@diananowek.com
ORCID 0000-0002-9759-2238

ANALYSIS OF THE LEGAL FRAMEWORK AND EVOLUTION OF FORENSIC LINGUISTICS IN POLAND AND WORLDWIDE

EXPLORING THE EVOLUTION AND LEGAL ASPECTS OF FORENSIC LINGUISTICS: A COMPARATIVE ANALYSIS OF POLAND AND GLOBAL CONTEXTS

Keywords: linguistics, law, forensic linguistics, forensic expertise
***Słowa kluczowe**: lingwistyka, prawo, lingwistyka kryminalistyczna, ekspertyzy sądowe*

Abstract
The article explores the intersection of forensic linguistics with legal and law enforcement frameworks, delineating its status and applications globally and specifically in Poland. It traces the historical evolution of forensic linguistics in Poland, detailing its practical implementations within the justice system. Additionally, the article forecasts future trends and developments in the field. Emphasizing the significant potential of forensic linguistics, the authors highlight the valuable contributions linguists can make to the justice system through their expertise and qualifications

Streszczenie
Artykuł opisuje status prawny i zastosowania lingwistyki kryminalistycznej, zajmującej przestrzeń pomiędzy lingwistyką ,nauką o języku: a prawem, w tym organów ścigania. Autorzy podjęli próbę wyznaczenia statusu lingwistyki kryminalistycznej na świecie i w Polsce. Artykuł przedstawia rozwój lingwistyki kryminalistycznej w Polsce w ujęciu historycznym, oferuje praktyczne zastosowania dla wymiaru sprawiedliwości oraz podsumowuje przyszły rozwój i trendy w tej dziedzinie w Polsce. Autorzy wskazują na ogromne możliwości, jakie otwiera lingwistyka kryminalistyczna w zakresie wykorzystania lingwistów, ich wiedzy i kwalifikacji w pracy na rzecz wymiaru sprawiedliwości.

INTRODUCTION

Forensic linguistics, or legal linguistics or language and the law, is a specialised field that examines the interaction and interrelationships between language, criminality, and law [Stawnicka, 2022, p.10]. It encompasses the study of language use in legal contexts, legal texts, and courts and the application of linguistic analysis to legal issues. Forensic linguistics involves the examination of language in various legal and forensic settings, including police and law enforcement interactions, interviews with witnesses and suspects, courtroom proceedings, legal documents, and linguistic evidence and expert testimony in trials [Wright, 2020, p.611–627]. It also encompasses the analysis of authorship and plagiarism, forensic phonetics, speaker identification, and the study of hate speech and disinformation in legal and social media contexts [Stawnicka, 2022, p.10–15].

Forensic linguistics is a multidisciplinary science that plays a critical role in providing linguistic evidence, analysing language use in legal and forensic settings, and contributing to the efficient presentation of evidence in court proceedings. [Ariani et al., 2014, p.222–225]. The status of forensic linguistics in the world and in Poland and its development trends are topics of growing interest and significance in both academic and practical domains.

In the global context, forensic linguistics has gained recognition as a valuable tool in legal proceedings, law enforcement, and judicial decision-making. The field has witnessed significant advancements in methodology, technology, and interdisciplinary collaborations, contributing to its evolving status and expanding relevance in diverse legal systems worldwide [Perkins, 2018, p.68–78].

In the specific context of Poland, the status and development of forensic linguistics reflect the broader trends observed in the international arena. As a member of the European Union with its unique legal and linguistic landscape, Poland presents distinct opportunities and challenges for integrating and advancing forensic linguistic practices within its legal and criminal justice systems.

Thus, exploring linguistic evidence, language analysis in legal contexts, and the training of forensic linguists are of particular interest to authors in the Polish context, shaping the current state and future trajectory of forensic linguistics within the country.

APPLICATIONS OF FORENSIC LINGUISTICS GLOBALLY

The use of forensic linguistics in investigations, criminal cases, law enforcement, and court proceedings is evident in various countries. For instance, in the United States, forensic linguistics has been used in cases of disputed authorship in police statements [Goźdź-Roszkowski, 2021, p.1515–1540]. Similarly, in the UK, the emergence of forensic linguistics as a discipline is closely related to cases of disputed authorship in police statements [Goźdź-Roszkowski, 2021, p.1515–1540]. In Australia, forensic linguistics has been applied in asylum seeker cases, highlighting the role of applied linguistics in questions of national origin [Eades, 2005, p.503–526]. In Germany, linguistic analysis has been conducted in trademark cases, demonstrating the application of systemic and sociolinguistic approaches in analysing legal contexts from the perspective of forensic linguistics [Okawara, 2008, p.101–104].

In Indonesia, forensic linguistics has been applied in broadcasting talks, specifically in the "Indonesia Lawyers Club, " to study honesty in language in a particular fugitive scandal, showcasing its role in analysing language use in legal and forensic contexts [Musawir et al., 2022, p.40–49]. In England and Wales, streamlined reporting of forensic evidence has been implemented, emphasising the proportionate use and staged production of forensic evidence at court through abbreviated forensic reports, contributing to the efficient presentation of linguistic evidence in legal settings [Sallavaci, 2016, p. 235–249]. Additionally, the Aston Forensic Linguistic Databank (FoLD) has been developed, aiming to improve justice delivery through language analysis, highlighting the significance of linguistic analysis in legal contexts [Petyko et al., 2022, p.9–24].

These examples demonstrate the diverse applications of forensic linguistics in different countries, showcasing its role in analysing language use in legal and forensic contexts, providing linguistic evidence in criminal cases, and contributing to the efficient presentation of evidence in court proceedings.

THE CURRENT STATE OF FORENSIC LINGUISTICS IN POLAND

In Poland, experts use several terms to name this discipline: forensic linguistics, criminal linguistics, and investigative linguistics. There has been interest in the language for legal and forensic purposes since the mid-19th century. One of the first researchers to use quantitative methods in linguistic research was Wincenty Lutosławski, the creator of the term stylometry.

The first doctoral dissertation devoted to the issues of forensic linguistics was the dissertation by Antoni Feluś, defended in 1976 at the Department of Criminalistics of the Faculty of Law and Administration of the University of Silesia, and the problems raised in it were reflected in the monograph *Identyfikacja*

kryminalistyczna na podstawie języka pisanego Identyfikacja kryminalistyczna na podstawie języka pisanego [Feluś, 2000] and in the monograph *Z zagadnień językoznawstwa kryminalistycznego* [Feluś, 2011].

There is no tradition of conducting linguistic analysis independently of the analysis of writing, writing technique, pressure, measurable parameters: and the stylistic "fingerprint" of each author, i.e. individual features of the language that can be measured, or detected in another way:. A stylistic fingerprint means unconscious stylistic habits manifested, for example, by the overuse of certain words or phrases [Eder, 2014, p.92].

The development of forensic linguistics is primarily related to Poland, with the scientific activity not of linguists but of lawyers. In the 1990s, B. Hołyst dealt with the "forensic branch of linguistics", which helps identify the creator or author of an evidentiary text [Hołyst, 1997, p.28 – 45]. In turn, the Lingwistyka kryminalistyczna chapter in the book *Psychologia kryminalistyczna* [Hołyst, 2011, p.1325 – 1332] contains indications of the three main bases of stylometry, i.e. the most frequently occurring linguistic features found in the document, determining varieties and deviations using statistical analysis.

Already in the 1970s, interest in the topic of author identification appeared. Then the articles were published: *Z zagadnień roli języka w ekspertyzie pisma* [Feluś, 1975, p.273 – 276], *Z zagadnień roli języka w ekspertyzie pisma* [Feluś, 1976, p.769 – 773], and *O potrzebie badania języka na użytek kryminalistyki* [Feluś, 1979], *Granice interpretacji kryminalistycznej śladu języka pisanego* [Feluś, 1983]. The linguistic aspect is – according to the author – a natural source of information in the expert opinion. It should be obligatorily considered in comparative handwriting research, and the synchronisation of graphic research and linguistics should become a universally applicable principle [Feluś, 2011, p.125]. Although the book *Identyfikacja kryminalistyczna na podstawie języka pisanego* contains a catalogue of linguistic and content features, it remains to be examined how to characterise individual documents from the structural and content point of view.

It should be emphasised that although the perpetrator cannot be unambiguously identified through linguistic analysis as through DNA analysis or a dactylogram, nevertheless, through linguistic profiling, the linguist can limit the group of suspects, indicate the perpetrator's age and origin, and determine whether the perpetrator is a native speaker of the language, what is his/her education, etc. Questions arise: Can linguistics be used in the criminal profiling of unknown perpetrators? Is there a need for linguistic intervention in the judicial and forensic context? Can analysing the individual use of linguistic means at the lexical and grammatical-syntactic level contribute to identifying the perpetrator?

A surprising amount can be said about the author of a text-based only on what he wrote. With a high degree of probability, it is possible to determine gender, age, ethnic and social origin, language proficiency, education, or even the presence of emotion or intoxication.

The first conference in Poland devoted to forensic linguistics, "Forensic linguistics in Poland. Theory and Practice", occurred on June 26, 2017, at the University of Wrocław. The conference became an inspiration to prepare a publication with the same title, which refers to the history and present-day forensic linguistics in the world and, above all, presents Polish achievements in this field [Zaśko-Zielińska, Kredens, 2019]. Individual articles are devoted to theoretical and practical issues, which is particularly important due to the need to use the latest research achievements in forensic expert opinions, which have been verified during the material analysis and can significantly influence the objectivity of the opinions prepared.

In addition, there were several articles published on forensic linguistics by Jadwiga Stawnicka: *Co autor miał na myśli?* [Stawnicka, 2012], *Twój język Cię zdradza – czy „anonimowy cyberstalker" to oksymoron?* [Stawnicka, 2014], *Językoznawstwo w służbie wymiaru sprawiedliwości* [Stawnicka 2015, p.40–42]; *Psycholingwistyczny portret sprawcy przestępstw. Wstęp do dyskusji* [Stawnicka, 2016, p.27 – 40], *Manipulacja w cyberprzestrzeni. Mity i prawdy o anonimowości* [Stawnicka, 2016, p.27 – 40], *Typowanie sprawców przestępstw z perspektywy lingwistyki kryminalistycznej* [Stawnicka, 2018, p.263–274], *Restrykcyjność a liberalizacja. Rozważania o mowie nienawiści i granicach wolności wypowiedzi* [Stawnicka, 2020, p.7 – 32], *Znaczenie kryminalistycznego śladu językowego dla rekonstrukcji przebiegu zdarzenia. Czy istnieje „językowy odcisk palca"?* [Stawnicka, 2020, p.146 – 165]; *Demaskowanie dezinformacji poprzez cechy językowe. Perspektywa lingwisty kryminalistycznego* [Stawnicka, 2021/3, p.35–44], *Lingwistyka kryminalistyczna* [Stawnicka, 2021, p.101 – 114], *Maskowanie przestępstwa poprzez manipulację przekazem komunikacyjnym przez sprawcę* [Stawnicka, 2022, p.239–260], *Metody lingwistyki kryminalistycznej z perspektywy analizy kryminalistycznych śladów językowych*, w druku:.

A book by Jadwiga Stawnicka was published entitled *Innowacyjność metod wykrywania sprawców przestępstw na podstawie kryminalistycznego śladu językowego* [Stawnicka, 2022]. The book is the result of 40 years of research in forensic linguistics by the author. The author introduces the concept of a forensic linguistic trace. This concept is the starting point in analysing the possibility of using forensic linguistics when performing expert opinions on determining the authorship of anonymous persons. The book also addresses the issue of constructing a psycholinguistic profile based on the reconstruction of the world image, hate speech, and freedom of speech, as well as the basics of determining the likelihood of committing plagiarism. The book is intended for judges, prosecutors, police officers, law students, psychologists, sociolinguists, linguists, and everyone interested in forensic linguistics.

M. Grądziel is convinced of the usefulness of linguistic analyses in determining the author of the questioned text [Grądziel, 2018, p.45–55]. Farewell letters are the subject of analyzes by M. Zaśko-Zielińska, author of the monograph *Listy pożegnalne. W poszukiwaniu lingwistycznych wyznaczników autentyczności tekstu* [Zaśko-Zielińska, 2013].

The author carried out a research project financed by the Ministry of Science and Higher Education in 2010–2012, and one of its results was the publication *The Polish Corpus of Farewell Letters.* The corpus built in these years enables the analysis of this type of text using qualitative and quantitative methods. It consists of three parts: a corpus of authentic letters, a subcorpus of simulated letters and a corpus of forged letters collected as a result of the experiment.

THE FUTURE OF FORENSIC LINGUISTICS

The future of forensic linguistics holds promising prospects as it continues to evolve and expand its applications. The utilisation of corpus-based studies on legal discourse contributes substantially to the existing literature of discourse analysis, corpus linguistics, and forensic linguistics, offering valuable insights into future investigations into legal discourse [Zhao & Li, 2021, p.256–257]. Critical reviews of forensic linguistics studies aim to chart future directions for forensic linguistic studies and research, indicating a growing interest in advancing the field [Rañosa-Madrunio & Martin, 2023]. The increasing attention given to topics such as fact-checking and forensic linguistics suggests a broader range of applications likely to come to light shortly [Cardoso et al., 2023, p. 1150–1187].

Moreover, the role of forensic linguistics in analysing honesty in language [Musawir et al., 2022, p.40–49], extremist internet discourse [Galyashina, 2020, p.81–90], expressive speech on social media ["Expressive Speech Has a Legal Impact on Social Media of Banyumas People", 2022], and hate speech acts "Hate Speech Acts on Social Media [Forensic Linguistics Study 2022" indicates its relevance in addressing contemporary societal challenges. Additionally, the application of forensic linguistics in investigating academic plagiarism [Sousa-Silva, 2022, p. 2409–2433] and fake news detection [Sousa-Silva, 2014] demonstrates its potential to address academic integrity and disinformation issues.

Furthermore, the construction of discursive identity for forensic linguistic experts [Clarke & Kredens, 2018, p.79–107] and the assessment of methods and techniques used in forensic linguistics [Toghuj, 2021] highlight the need for systematic studies and the development of reliable practices in the field. The future of forensic linguistics also involves addressing gender-based violent crimes [Benedetti, 2023, p.140–157], providing evidentiary and investigative support [Toghuj, 2022], and contributing to the analysis of legal terms and criminal speech acts [Ali, 2020,p.39–56].

In conclusion, the future of forensic linguistics is characterised by its expanding applications, including addressing contemporary societal challenges, advancing research in legal discourse, and contributing to the analysis of criminal speech acts and academic integrity. The field is poised to be crucial in addressing emerging linguistic and legal issues, thereby advancing justice and societal well-being.

However, it is essential to note that applying forensic linguistics in criminal investigations is challenging. The field faces limitations regarding methodological uncertainties in detecting linguistic signs of extremist statements, requiring cautious approaches in forensic applications. Furthermore, challenges exist in the manual extraction and supervision of linguistic data, limiting the processing of large amounts of data due to the substantial human work needed. Additionally, the field needs

further research and improvements in computational linguistics and natural language processing to enhance the accuracy and reliability of forensic procedures, particularly in plagiarism detection.

RECOMMENDATIONS

The authors advocate for incorporating forensic linguistics as a specialisation in linguistic studies within Polish academia, alongside advanced training for professionals in this field. They posit that fruitful research in forensic linguistics in Poland hinges on interdisciplinary collaboration, particularly in analysing sophisticated forensic interviews and audiovisual recordings from investigative agencies such as the police and prosecutor's office. This includes focusing on verbal and non-verbal communication, and the accompanying pragmatic phenomena.

The paper aims to stimulate research in forensic linguistics and jurislinguistics. The authors propose the integration of linguistics expertise, particularly forensic linguistics, into the Government Security Center's efforts against disinformation as part of the Government Crisis Management Team for Hybrid Threats.

Furthermore, they suggest establishing forensic linguistics programmes for students in philology and developing training for linguists working in agencies under the jurisdiction of the Minister of Interior and Administration, the Prime Minister, and other central government bodies. Such expertise is increasingly vital for detective work. As demand for linguistic analysis grows, compiling relevant documentation becomes essential.

Like DNA testing, forensic linguistic analysis can significantly narrow down suspect pools or exclude individuals, aiding in truth discovery in legal proceedings. The authors also stress the importance of forensic linguistics in authorship attribution, plagiarism detection, intent determination, understanding criminal dialogue, and interpreting contractual language, particularly in cases of textual ambiguity. Given its underutilisation in Poland and its broad potential, they hope this paper will encourage law enforcement and the justice system to reconsider the application of forensic linguistics.

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