

Guidelines for the use of language analysis in relation to questions of national origin in refugee cases

Language and National Origin Group

(an international group of linguists whose names appear below)

Language analysis is used by a number of governments around the world as part of the process of determining whether asylum seekers' cases are genuine. Such analysis usually involves consideration of a recording of the asylum seeker's speech in order to judge their country of origin. Use of language analysis has been criticized on a number of grounds, and some uncertainty has arisen as to its validity. This paper responds to calls for qualified linguists to provide guidelines for use by governments and others in deciding whether and to what degree language analysis is reliable in particular cases.

We, the undersigned linguists, recognize that there is often a connection between the way that people speak and their national origin. We also recognize the difficulties faced by governments in deciding eligibility for refugee status of increasing numbers of asylum seekers who arrive without documents. The following guidelines are therefore intended to assist governments in assessing the general validity of language analysis in the determination of national origin, nationality or citizenship. We have attempted to avoid linguistic terminology. Where technical terms are required, they are explained (e.g. 'socialization' in Guideline 2, and 'code-switching' in Guideline 9c). The term 'language variety' which is used in several guidelines, refers generally to a language or a dialect.

GENERAL GUIDELINES

1 Linguists advise, governments make nationality determinations

Linguistic advice can be sought to assist governments in making determinations about national origin, nationality or citizenship. Linguists should not be asked to make such determinations directly. Rather, they should be asked to provide evidence which can be considered along with other evidence in the case.

2 Socialization rather than origin

Language analysis can not be used reliably to *determine* national origin, nationality or citizenship. This is because national origin, nationality and citizenship are all political or bureaucratic characteristics, which have no necessary connection to language.

In some cases, language analysis CAN be used to draw reasonable conclusions about the country of socialization of the speaker. (This refers to the place(s) where the speaker has learned, implicitly and/or explicitly, how to be a member of a local society, or of local societies.) The way that people speak has a strong connection with how and where they were socialized: that is, the languages and dialects spoken in the communities in which people grow up and live have a great influence on how they speak.

It is true that the country of a person's socialization is often the country of their origin. Therefore linguistic conclusions about a speaker's country of socialization may, in conjunction with other (non-linguistic) evidence, be able to assist immigration officials in making a determination about national origin in some cases. However, linguistic expertise cannot directly determine national origin, nationality or citizenship, which are not inherently linked to language, in the way that socialization is.

3 Language analysis must be done by qualified linguists

Judgements about the relationship between language and regional identity should be made only by qualified linguists with recognized and up-to-date expertise, both in linguistics and in the language in question, including how this language differs from neighboring language varieties. This expertise can be evidenced by holding of higher degrees in linguistics, peer reviewed publications, and membership of professional associations. Expertise is also evident from reports, which should use professional linguistic analysis, such as IPA (International Phonetic Association) transcription and other standard technical tools and terms, and which should provide broad coverage of background issues, citation of relevant academic publications, and appropriate caution with respect to conclusions reached.

4 Linguists' degree of certainty

Linguists should have the right and responsibility to qualify the certainty of their assessments, even about the country of socialization. It should be noted that it is rarely possible to be 100 per cent certain of conclusions based on linguistic evidence alone (as opposed to fingerprint or DNA evidence), so linguistic evidence should always be used in conjunction with other (non-linguistic) evidence. Further, linguists should not be asked to, and should not be willing to, express their certainty in quantitative terms (e.g. '95per cent certain that person X was socialized in country Y'), but rather in qualitative terms, such as 'based on the linguistic evidence, it is possible, likely, highly likely, highly unlikely' that person X was socialized

in country Y'. This is because this kind of language analysis does not lend itself to quantitative statistics such as are often found in some other kinds of scientific evidence.

5 Language analysis requires useful and reliable data

Linguists should be allowed to decide what kind of data they need for their language analysis. If the linguist considers the data provided for analysis to be insufficiently useful or reliable, he or she should either request better data or state that a language analysis can not be carried out in this case. Some relevant examples include a recording of poor audio quality, a recording of insufficient duration, or an interview carried out with an interpreter who is not speaking the language of the interviewee.

To avoid such problems, it is preferable for linguists to collect the language sample(s) for analysis, or to advise on their collection.

6 Linguists should provide specific evidence of professional training and expertise, with the right to require that this information remain confidential

Linguists should provide specific evidence of their professional training and expertise, for example in a curriculum vitae, so that a court may have the opportunity to assess these matters. But linguists should have the right to require that this information is kept confidential, and not revealed to either the asylum seeker, or the country from which they are fleeing.

7 The expertise of native speakers is not the same as the expertise of linguists

There are a number of reasons why people without training and expertise in linguistic analysis should not be asked for such expertise, even if they are native speakers of the language, with expertise in translation and interpreting. Just as a person may be a highly accomplished tennis player without being able to analyze the particular muscle and joint movements involved, so too, skill in speaking a language is not the same as the ability to analyze a language and compare it to neighboring language varieties.

MORE SPECIFIC GUIDELINES

8 Where related varieties of the speaker's language are spoken in more than one country

In many regions throughout the world, national borders are not the same as linguistic borders, and the same language, or closely related varieties of the same language, is/are spoken in more than one country (e.g. ethnic Armenians living in both Armenia and Azerbaijan speak what is known as 'Standard East-Armenian', and ethnic Hazaras living in both Afghanistan and Pakistan speak Hazargi Dari).

In such situations, while linguistic analysis may often be able to determine the *region* in which the speaker's socialization took place, it can not be used to determine in which *nation* the speaker's socialization took place. In such situations, an analyst should:

- (a) be able to specify in advance whether there exist linguistic features which can reliably distinguish regional varieties, and what they are,
- (b) be able to devise reliable procedures, similar to linguistic field methods, for eliciting these features from the speaker without distortion or bias,
- (c) be prepared to conclude, in the event that such features do not exist or do not occur in the data, that in this case linguistic evidence simply cannot help answer the question of language socialization.

9 *Language mixing*

It is unreasonable in many situations to expect a person to speak only one language variety in an interview or other recording, for the following reasons:

- (a) Sociolinguistic research shows that multilingualism is the norm in many societies throughout the world.
- (b) In many multilingual societies, it is common for two or more language varieties to be used on a daily basis within a single family. In such families, it is also common for the speech of individuals in one language variety to show some influences from other varieties spoken in the family.
- (c) Many bilingual or multilingual speakers use more than one language variety in a single interaction: this use of 'code-switching' or 'style shifting' is very complex, and often subconscious.
- (d) Further, there is variation in all language varieties, that is, more than one way of saying the same thing.
- (e) It can often be hard for linguists to determine the difference between variation within a single language variety, and code-switching between related varieties. For example, when analyzing the speech of a person from Sierra Leone, it may be very difficult to know for some particular utterances whether they are in Krio, the Creole language, or Sierra Leonean English. It is also important to note that while linguists distinguish these as separate varieties, their speakers often do not.
- (f) Another factor which complicates this issue is that language varieties are always in the process of change, and one of the most influential sources of change is the vocabulary and pronunciation of related language varieties.
- (g) A further complicating factor is that interviews may be done several years after an asylum seeker has left their home country, and their lan-

- guage variety/varieties may have undergone change in the interim.
- (h) While linguists are devoting a great deal of research to language mixing, they have been unable to determine the extent to which an individual can consciously control the choice of language variety or of variables.

10 Where the language of the interview is not the speaker's first language

In addition to the use of language to assess national origin, issues of professional concern to linguists also arise during the interview in relation to the assessment of the truthfulness of the applicant's story. We note that in some countries, such as Germany, an international lingua franca (e.g. English) is the language of asylum seeker interviews, used either for language analysis in the determination of national origin, and/or in the assessment of the applicant's truthfulness. These cases call for particular care.

An interviewee with limited proficiency in the language of the interview may – simply because of language difficulties – appear to be incoherent or inconsistent, thereby leading the interviewer to a mistaken conclusion concerning the truthfulness of the interviewee.

In many post-colonial countries there are a number of language varieties related to the former colonial language, such as English or Portuguese. These varieties may include pidgin and/or creole languages. There are frequently not clear-cut boundaries between these different varieties (see point 9 above). Asking a person to speak only English or only Krio (the creole language of Sierra Leone), for example, may well be a linguistically impossible demand.

11 Where the dialect of the interviewer or interpreter is different from the dialect of the interviewee

In some situations interviewees who are speakers of a local dialect are interviewed by an interpreter speaking the standard dialect of the language. In such situations it is common for people to accommodate to the interviewer's way of speaking, whether consciously or subconsciously. This means that interviewees will attempt to speak the standard dialect, in which they may not necessarily have good proficiency. This accommodation, brought about by dialect or language difference, may make it difficult for interviewees to participate fully in the interview.

CONCLUSION

For all of the reasons outlined in these guidelines we advise that language analysis should be used with considerable caution in addressing questions of national origin, nationality or citizenship.

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