Sociolinguistic issues in Language Analysis for Determination of Origins

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Mirror, mirror, in the tongue…

- Language assessment of refugees in the process of applying for asylum
  - LADO - Language Analysis for Determination of Origins (focus may be national, regional or ethnic)
- Gatekeeping mechanism employed by governments to weed out false claims of origin
  - Performed in context of general governmental and public disbelief or hostility to immigration & refugees
    - E.g. belief that most are economically motivated, as opposed to motivation by "a well-founded fear of being persecuted"
- Assumes language reflects citizenship (?!?)

Institutional Pressures on LADO

- Three key institutional positions
  - Government immigration bureau: civil servant
  - Commercial analysis firm: employee/owner
  - Independent individual: academic linguist, free-lance interpreter, non-expert native-speaker (=NENS) informant (i.e., native speaker who lacks extensive scientific training)

- Differentially exposed to pressures such as
  - Rules of procedure, staffing levels, caseload, costs, profit motive, government policies
  - Also varying institutional norms & practices

- All exert influence on beliefs, practice, assumptions

Issues of Expertise & Training

- Different areas of knowledge/expertise required by participants in the asylum process
  - Scientific linguistic knowledge (analyst = linguist)
  - Native-speaker knowledge (informant, interpreter)
  - Qualified interpreting skills (interpreter)
  - Knowledge of country info (bureau officer, ?analyst?)
  - Correct basic understanding of relation of language to social experience/identity (all participants)

- Problem: Different levels of training/qualification
  - Undermines validity/reliability of LADO process now

'Language analysis' requires expertise in Linguistics

- Scientific, comparative study of language systems
- Structure of sounds, words, grammar, meaning
- Study the range of human languages to discover:
  - What elements are necessary/possible in human language?
  - In which ways can they be organized into systems?
  - How languages change, are learned, and disappear
  - How we manipulate systems/elements for social functions
- "Linguist" has both folk and expert senses:
  - Untrained person who speaks several languages?
  - Specialist with post-graduate training in linguistic science

What Linguists Do and Are

- Analyse elements & structures of recorded speech data
- Identify them as organised into recognized systems – languages/dialects described in the scientific literature
- Familiar w/contact processes between languages (not random, but according to empirically-studied principles)
- Professional training means post-graduate specialization
- Experts w/knowledge based in literature & own research on 1 or more languages (besides native ones, usually)
- Contribute to scientific knowledge: present research at open conferences, publications reviewed by peers

People who aren't linguists may be

- Spoken-word interpreters or translators of written word
  - May be trained, but little/no linguistics, rarely do research
- Students of "foreign" languages at university/elsewhere
  - Typically no linguistic analytic or comparative training
  - Rarely any formal training in 'exotic'/unwritten languages, hence no standards for knowledge of such languages
- Native speakers of exotic or un(der)-studied languages
  - Any study/training usually literary not scientific, text not speech
- Language firms offer such qualifications for analysts but
- They do not satisfy requirements for linguistic analysis

More on the 'Native Speaker'

- Linguists often work w/native speakers as informants
  - NSs who are representative of their speech community can unreflectively produce typical and idiomatic speech data
- By itself, NS status does not amount to expertise
  - NSs also have typical attitudes/bias to Standard/Majority, unaware of variation & diversity, lump Others together
  - Education: reinforce bias vs minorities, conflate Language w/Nation, stress purism, privilege writing, ignore variation
- Linguistic training works to eliminate native bias, separate normative response from scientific fact

Relevance of Sociolinguistics

- Socio-linguistic premise of analysis in asylum context:
- Vernacular use of native language(s) is intimately connected w/ language socialization & long-term membership of a speech community, esp. early in life
  - Sociolx connects social characteristics w/language behaviour
- LADO thus requires training in sociolinguistic issues, eg
  - How unequal power in bureaucratic contexts affects speech, &
  - Ethnic/racial/class conflict affects cross-cultural comunication
  - Why people code-switch & language mix, and what it means
  - Pressure to assimilate to Standard/Majority speech/ideology

Case for Applied Sociolinguistics

- Language often ascribed gatekeeping functions:
  - Workplace: hiring, discrimination, language choice
  - Education: admissions, testing, evidence of disability
  - Courts/policing: witness/suspect credibility, probity

- Applied Sociolinguistic Questions:
  - Does LADO assessment serve appropriate functions?
  - What linguistic expertise is required to do LADO properly?
  - Which procedures should (not) be employed in LADO?
  - Which cases/contexts are (not) decidable by LADO?
  - Are existing resources utilised? What needs development?

Who is performing LADO?

- Varies widely from one jurisdiction to another
- Swiss, Germans use independent academic experts
- UK, Australia, Austria, Belgium, Denmark, Ireland, Norway, Sweden have all used commercial analysts
  - Eg Skandinavisk Språkanalysis – 'Sprakab' – focus here
- Typical UK Somali report by 1-2 'analysts', 1 'linguist'
  - 'Analysts' speak target language; do analysis; sign reports
  - 'Linguists' rarely speak TL; check analysis; responsibility for reports unclear - do not sign statements of truth or compliance
  - But note UK BA *Guidance* says "report will be produced by a linguist working alongside the analyst" – so who's responsible?

Credentials: Sprakab Linguists

- BA: Sprakab linguists have equivalent of linguistics MA
- Sample: 14 Somali cases in UK, 3 linguists
  - L01: BA Nordic Languages, Computational Linguistics
  - L02: BA Linguistics, coursework in Arabic/Nordic languages
  - L04: MA Linguistics, misc. coursework
  - None claims any expertise or ability in Somali languages
  - "Attend conferences/workshops": defend current methods, but no presentation of research or data, no peer review
  - Members of international linguistic societies (which have either endorsed the 2004 *Guidelines* critical of Sprakab practices, or declined motions to endorse some of Sprakab's key principles)

Credentials: Sprakab Analysts

- 14 Somali cases: only 1 Sprakab 'analyst' on 1 case had a Linguistics degree – in 13/14 cases, no degree
  - Credentials cited in Law, Maths, Chemistry, Computer Apps
  - Falsifies Sprakab claim "Analysts typically have background in linguistics", also UKBA claim that "Language analysts have linguistics backgrounds and experience in dialectology"

- In 11 of 14 cases, 'analyst' credentials conflated with Linguist's: unclear who possesses which qualification

- Training: Analysts "taught at Sprakab to think critically & analytically regarding language"– no details provided
  - Tested before joining Sprakab – periodic spot checks? No info

Language Analysis in the UK

- UKBA: LADO by Sprakab 'routinely permitted' for Somalis

- Eligible: anyone incl. unaccompanied children > age 12

- Besides Somalis/Afghanis, anyone 'strongly suspected':
  - 'Unable to speak primary language'; 'inconsistent' language use
  - I.e., language judgment is made <u>before</u> language testing is done
    - Who makes judgment? UKBA officials? Interpreters? On what basis?

- Phone interview b/w applicant and Sprakab analyst, "who will speak the language… at mother-tongue level"
  - Preliminary result given 15 mins (!) after interview is finished
  - Sprakab will analyse data & provide report within 2-4 hrs (!)
    - Source: UKBA *Language Analysis Guidance* (28 Jan 2009)

Data for Linguistic Analysis

- LADO interviews range 12-25 mins, mean = 17 mins
  - UKBA *Guidance*: "interviews will ordinarily last for 20-30 mins"
  - Sociolinguists recommend min. 30 mins, better 1-2 hours
- Analysis of phonology, morphology/syntax, lexicon
- 'Analysts' judge likelihood of the language spoken by the applicant being found in the claimed area:
  - Found "with certainty, most likely, likely, possibly"
- Results in 14/14 cases: "with certainty" the speech is found in S Somalia (once: "…though not Reer Hamar dialect")
  - Academic & forensic linguists find many cases very complex; "have right/responsibility to qualify certainty of assessments"

What question is posed?

- "Does applicant speak a language/dialect consistent with the area they claim to originate from?" (*inexplicit*)

- Somalis of persecuted Benadiri clan eligible for asylum
  – Clan has a distinctive stigmatized dialect: Af-Reer Hamar
  – Most Benadiri can speak & understand Standard Somali, so
  – Finding that they "speak Somali" is neither here nor there.

- Key Q: does applicant speak Af-Reer Hamar dialect?
  – Detailed analysis routinely ignores this issue, instead contrasts Southern Somali with Northern Somali
  – No analysis of any Af-Reer Hamar features in any of 14 reports

What answers are given?

- 14/14 cases agree w/the applicant's claim –
  - to speak Somali like someone from Mogadishu/the South
- Typically 1 sentence finds that "the person did not speak Reer Hamar dialect"; no justification is given
  - No indication of attempts to elicit speech in RH dialect
  - No details of how ability to speak RH has been tested
- Only one 'analyst' even claims to speak RH natively
  - Only conducted 1 of 14 analyses, "confirmed" 2 others
- How can key Q be answered if the 'analyst' neither speaks RH, nor attempts to test applicant's ability?

Issues of language choice

- Most Benadiri clan recognised to be bi-dialectal: speak/understand Standard (S) Somali and also RH

- Sociolinguistic patterns of bilingualism well-known:
  - In-group languages are chosen for kin, clan members
  - Standard/prestige languages for outsiders, those in power
  - Stigmatized dialect speakers may not be able to say which language they have just used, or claim dialect as standard

- In bureaucratic context, choice of Somali is expected
  - Esp. to non-clan member, person in power, non-RH speaker

- Choice <u>not</u> to use RH in interview is what we predict:
  - It cannot prove that the speaker is unable to use RH

Problems with report conclusions

- "Person did not speak Reer Hamar" is ambiguous:
  - ? CANnot speak RH? But where is test to determine this?
  - ? DID not choose to use RH? But this proves nothing.
- Reports should contrast S Somali w/RH, but fail to
  - Details of analysis given are thus irrelevant to main issue
- Most fail to address primary issue w/relevant expertise
- "Sprakab's report must be rejected… There is no reasoning to support, what is for me, its central finding, namely that appellant does not speak the Reer Hamar dialect."
  - *Determination in FA (AA/08895/2008), 24 March 2009, IJ Malone*

Quality Control Issues for UKBA

- UKBA often fails to ensure that the crucial question for Somali cases is addressed by language analysis

- This Q appears not to be explicitly posed to Sprakab; judges in many cases fail to note this shortcoming

- Due to lack of basic language expertise within UKBA?
  - Point: in recent Sierra Leone Krio case, the Sprakab report provided by HO to lawyers contained analysis details not in Int'l Phonetic Alphabet as claimed, but in Greek characters!
  - Not 1 in 14 reports cites a reference – dictionary, grammar, dialect study – of Standard Somali or Reer Hamar.

- UKBA unaware this fails to meet their own standards?

Credentialling of Experts in Court

- Details/limits of expert's relevant qualifications – in public
- Duty to provide independent, unbiased, objective opinion
- Make explicit all evidence, data, assumptions relied upon
- Cite relevant scientific or professional literature in reports
- Testimony is the product of reliable principles & methods which are generally accepted in the scientific community
- Methods tested, subjected to peer review & publication
- Were all analyses/tests/measurements made by expert?
- Acknowledge range of opinion, motivate the choices made
- Fairly give facts/arguments counter to opinion expressed

Credentialling of Experts in LADO

- Hardly any of the criteria are met by Sprakab reports.
- Can Sprakab linguists train analysts to become expert?
  - One "teaches a university course in phonetics", but it is not possible that s/he can adequately train hundreds of analysts –
  - Qualifications from accredited academic bodies w/no £ interest
- "Expertise" likely to be rejected by courts in the very nations to whose governments Sprakab retails reports.

➢ Asylum & Immigration Tribunal 2007. *Practice directions*, sec. 8A.

➢ Bowman, R v [2006] EWCA Crim 417. "Requirements for Expert Reports."

➢ Federal Rule of Evidence 702, US Supreme Court. (*Daubert v. Merrell Dow, Inc.* 43 F.3d 1311 (9th Cir. 1995) cert. denied, 516 U.S. 869 (1996)

Guidelines for best practice

- As a result of linguists' growing awareness of cases, efforts to codify best practice have begun to occur.
- 2003 report by Eades, Fraser, Siegel, McNamara & Baker
  - Study of 58 Australian Refugee Review Tribunal cases
  - Language analysis by overseas agencies based on 'folk views'
  - Such language analysis by NENS "not valid or reliable"
  - RRT scrutiny discredited LADO, not used now in Australia
- 2004 LNOG *Guidelines for the use of language analysis…*
  - 19 coauthors/signers from Africa, Europe, Australia, USA (incl. me)
  - Published and discussed in peer-reviewed linguistics journals
- None yet based on systematic comparison of data from multiple sources, independent of institutional pressures

Who defines LADO expertise?

- This question remains unanswered & contested.
- So long as that is the case,
  - Govt. procedure will be perceived as on shaky ground
  - Judgments will continue to be successfully challenged
  - Different standards will prevail across host nations
  - Linguists will actively criticise LADO procedures
  - Scholarly organisations will compete to specify them
- Future: LADO needs a secure, scientific research base against which expertise can be established.
- Now: Sprakab reports cannot be routinely accepted.

Endorsements of 2004 *Guidelines*

- AAAL – American Association for Applied Linguistics
- AIDA – Association Internationale de Dialectologie Arabe
- ALAA – Applied Linguistics Association of Australia
- ALS – Australian Linguistic Society
- ANELA – Netherlands Association for Applied Linguistics
- AVT – Netherlands Society for General Linguistics
- BAAL – British Association for Applied Linguistics
- IAFL – International Association of Forensic Linguists
- LAGB – Linguistic Association of Great Britain
- LSA – Linguistic Society of America
- SPCL – Society for Pidgin and Creole Linguistics

Contact Info & Resources

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- *Guidelines* for use of language analysis in relation to questions of national origin in refugee cases:

  …/~patrickp / language-origin-refugees.pdf

- Linguistic Human Rights website:

  …/~patrickp / lhr/ linguistichumanrights.htm