Forensic Linguistics in the Philippines

Series Preface

The Elements in Forensic Linguistics series from Cambridge University Press publishes across four main topic areas: (1) investigative and forensic text analysis; (2) the study of spoken linguistic practices in legal contexts; (3) the linguistic analysis of written legal texts; and (4) explorations of the origins, development, and scope of the field in various countries and regions. Forensic Linguistics in the Philippines: Origins, Developments, and Directions by Marilu Rañosa-Madrunio and Isabel Pefianco Martin provides our first Element in the last of these categories.

Madrunio and Martin are significant figures in bringing forensic linguistics to the Philippines and in this Element they describe and evaluate the progress of the discipline from their first attendance at the International Summer School in Forensic Linguistic Analysis in 2012, held in Malaysia, to the development of research and teaching largely through work at the University of Santo Tomas (UST) Department of English. A decade after the Malaysia summer school, with the publication of this Element they also look forward to hosting the International Association for Forensic and Legal Linguistics’ biennial conference in July 2023.

Early on in establishing the Cambridge Elements in Forensic Linguistics series, Tammy Gales and I decided that we wanted to include a sub-series which would reflect the rise of the discipline around the world and this will be the first of these Origins Elements in our broader series. We are particularly delighted that in the first of these Elements, the spotlight is turned on an area of the world where forensic linguistics is relatively new rather than well developed. As the discipline grows and spreads, it is likely that it is from these areas that we will find not only growth but also real innovation in the application of linguistics to forensic texts and contexts.

We have future Origins Elements contracted for both Australia and China, and we look forward to receiving proposals from any country or region where forensic linguistics as a discipline is well established or just starting out.

Tim Grant
Series Editor

1 Introduction

Forensic linguistics (FL) as an interdisciplinary, multidisciplinary, and trans-disciplinary area of study extends its reach to domains outside linguistics alone. The discipline of FL is specifically concerned with language in legal systems, including all issues in which there is an interface between language and law. These include disputes on authorship, courtroom discourse, trademark
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protection, speaker identification, text authenticity, textual fraud and deception, comprehensibility of legal writings, and similar concerns in forensic contexts. Issues of FL also touch on language choice, language policy, issues of social justice, and inclusivity.

The field of research of FL in the Philippines is in its infancy. Fewer than ten years since it first attracted serious attention in education and research, FL has become a subject of growing interest in many universities in the country. Studies conducted in this area have since been published, with several more studies that are forthcoming. To date, there is already a critical mass of research undertakings on FL in the Philippines. Interesting areas of study have emerged and continue to do so as young researchers become motivated to venture into this field.

This Element offers a critical survey of FL studies in the Philippines. The studies, which represent research over a period of eight to nine years, reveal relevant themes from texts concerning courtroom proceedings, legal writings, and police investigations. The studies also delve into issues of language choice and language policy. The Element begins with a description of language policy in the Philippines, focusing specifically on language in the legal domain. The main body of the Element presents a critical survey of Philippine FL studies. This critical survey takes a sociolinguistic stance by positioning issues of language and law through the lens of social meanings and social practice. This Element concludes by charting future directions for FL research and practice in the Philippines.

The next section discusses significant concerns that need to be addressed by the government in relation to the language used in the field of law. It describes the linguistic diversity in the country, the issues that have emerged from current language/education policies, as well as the dim prospects for resolving such pressing issues over the coming decades.

2 Language in the Philippine Legal Domain

In the Philippines, language issues have often been contentious and controversial. This may be attributed to the fact that the country is one of the most multilingual and linguistically diverse nations in the world. The Philippines is home to about 185 individual languages; globally, it occupies the twenty-fifth rank among the most linguistically diverse nations, with a score of 84 percent in the Greenberg Linguistic Diversity Index (Lewis et al., 2016). Such linguistic ecology is further validated by the reality that virtually every Filipino can speak at least two or three different languages. These include their mother tongue, the national language of Filipino, and English, a colonial language that has been
embraced and developed by Filipinos into a language of their own.\textsuperscript{1} However, despite this rich linguistic repertoire, to what extent have multilingualism and linguistic diversity been appreciated in language policies? In the domain of law, how have language policies and practices addressed the need to be inclusive of Filipinos who are not knowledgeable about English, which is the dominant language in national legal practice?

The 1987 Philippine Constitution (Article 14, Section 6) mandates that the Filipino language is “a medium of official communication and language of instruction in the educational system.” The Constitution also states (Article 14, Section 7) that “for purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English.” Thus, even as there is a constitutional promotion of the national language, the law also points to English as a language of vital importance in Philippine society. To this day, English remains the dominant language in official communications in government, in trade and commerce, and in legal proceedings and transactions.

It should be pointed out that the Filipino language remains an important lingua franca in the country. The large number of speakers of this language may be attributed to its entrenchment in the lives of Filipinos through mass media. The decision to adopt a national language was formalized only in 1935 during the American colonial period. At that time, the Philippine Constitution of 1935 mandated that “Congress shall take steps toward the development and adoption of a common national language based on one of the existing native languages” (Article 14, Section 3). The language itself was not yet named. The process for selecting this national language from among the many Philippine languages was, as linguist Br. Andrew Gonzalez, FSC pointed out, “fraught with problems that only time can solve” (Gonzalez, 1996, p. 223). Speakers of the five most dominant Philippine languages, namely, Tagalog, Cebuano, Ilocano, Hiligaynon, and Bikol, engaged in seemingly endless arguments and debates. In the end, lawmakers opted to base the national language on Tagalog, the language of the ruling elite who reside in the political center of Manila. Thus, from a linguistic standpoint, Tagalog and Filipino are the same languages in structure.

It was in 1973 that Filipino was formally named as the national language, through a provision of the Philippine Constitution. Previous to this, the language was referred to as Pilipino. The shift to its present reference as Filipino

was brought about by efforts to present the national language as inclusive of all the other Philippine languages. It should be recalled that the speakers of other Philippine languages had earlier objected to the selection of Tagalog as the basis for the national language. In Filipino, the national language is imagined to integrate lexicon from other Philippine languages, hence its intended inclusivity. Over the years, Tagalog-based Filipino spread throughout the archipelago and has become a stable lingua franca in the country. However, despite its widespread use as a lingua franca, the language remains at the margins of important domains of society. Perceptions that Filipino is not a fully developed language persists. One domain that continues to resist the use of the national language is the legal system.

If language issues in the Philippines tend to be contentious and controversial, the place of English in the legal setting is even more problematic. Despite studies that have revealed the disadvantages of using English in various domains, English remains the dominant language in the Philippine legal domain. Martin (2012) underscores this in exposing the nonuse of Filipino and other local languages in courtroom trials, arguing that “the Filipino masses . . . depend on this legal system that continues to confound them, while frustrating attempts to gain genuine redress of grievances and uphold people’s rights” (p. 12). Rañosa-Madrunio (2013) argues that if a judicial system employs English, legalese takes its place in the legal process. While legalese in legal discourse is expected, in contexts such as the Philippines, legalese in English only heightens the disparity between the English-knowing interrogators and the English-deficient interrogated. Most countries in Asia have been using their mother tongues in legal proceedings, but the Philippines continues to rely heavily on English (Powell, 2012). This is despite the fact that a large majority of participants in legal processes belong to the lower economic classes who are likely to receive less exposure to the English language, together with lower-quality English-language instruction.

In contrast to language policy in the legal domain, education policy in the country has already begun to seriously address the marginalization brought about by the English language. This was done through the institutionalization of Mother Tongue Based Multilingual Education (or MTB-MLE) in 2009, which was later enacted into law in 2013. Previous to MTB-MLE, basic education students were schooled in the Bilingual Education Policy (BEP), which required the use of English and Filipino only. This policy, which was in place for almost thirty years, did not contribute significantly to improving the learning outcomes of Filipino schoolchildren. In fact, the BEP was found to have contributed more to the deterioration of student progress because a large majority of Filipino students did not have functional knowledge of English. High dropout rates in
schools were attributed to the fact that students could not understand their teachers. Because of this, the Department of Education introduced MTB-MLE, which allowed teachers to draw from the students’ linguistic repertoire, their mother tongues, in order to learn. In contrast, the legal domain remains a stronghold of English. Laws and court decisions are largely written in English, and these are rarely translated into the national language, Filipino.

In order to expedite the processing of cases, the Supreme Court in 2007 directed trial courts in Bulacan, a Tagalog-speaking province north of Manila, to conduct court proceedings in Filipino only, thus launching the 2007 Bulacan Experiment. This move was a recognition by the Supreme Court that English represented a language barrier in the courtrooms. However, the experiment may be considered to have failed in that only one court persisted in the practice of using Filipino in trials. This may be attributed to the challenges faced by the stenographers who could not adjust to Ikilat, which is Filipino stenography. Soon after the launch of the project, judges and stenographers petitioned the Supreme Court to reconsider its directive, to which the Supreme Court acceded. Only one court maintained its Filipino-only policy, and this was Branch 80 of Malolos, Bulacan, which was at that time under the helm of Presiding Judge Ma. Resurreccion Ramos-Buhat. With the untimely demise of Judge Buhat in 2012, the practice of using Filipino only in court trials also ended (Martin, 2012).

Legal stakeholders themselves are not convinced that local languages have roles to play in the legal domain. In a survey on access to court justice conducted by the Social Weather Station (SWS) in 2003–4, a large majority of the lawyers and judges surveyed disagreed about the use of Filipino and other Philippine languages in the courts (SWS, 2005). This finding was reinforced by Martin’s (2012) interviews with Visayas-based lawyers, who mostly believed that local languages would not thrive in the legal system. Most of these lawyers pointed out that extensive work must first be done to find equivalences of English legal terminology in Philippine languages. In addition, Filipino lawyers have been educated in English and would most likely find the use of non-English languages too challenging in both courtroom hearings and legal writing. With the diversity of languages in the Philippines, legal stakeholders might not be able to converse in other Philippine languages, let alone argue using these languages in a court of law. Thus, it appears that not much could be done as regards changing the language(s) of the law in the country or even providing spaces for local languages. Despite the notable attempts to introduce Filipino into the judicial system, the predominant lack of support from legal stakeholders makes the language situation in the legal domain seemingly hopeless.

In this section, we have presented the language situation in the Philippines, focusing specifically on language in the legal domain. We have demonstrated
that English remains the language of choice among legal stakeholders, not only because this is the official language identified in policy documents, but also because of the perception that no other Philippine language can seem to fit the bill. In the next section of this Element, we will provide a critical survey of developments in Philippine FL studies, examining almost thirty FL research studies conducted over the last decade.

3 Developments in Philippine Forensic Linguistic Studies

This Element on the origins, developments, and directions of FL studies in the Philippines should ideally begin with the so-called ground-zero study that inspired other studies on the interface between linguistics and law. Linguistics in the Philippines has mostly focused on applied linguistics, with a large body of studies mainly on language pedagogy and education. Studies identifying themselves as FL research only began to be published in 2013 after a group of four Philippine academics were trained at the 2012 International Summer School in Forensic Linguistic Analysis (ISSFLA) held in Malaysia. This being the first such training event in Asia, it allowed these academics to bring their newly acquired knowledge and skills back to Manila. However, a few studies published prior to the 2012 ISSFLA training in Malaysia may also be considered as FL studies, and these are included in this critical survey. In total, this Element surveys twenty-seven studies that may be categorized according to two strands: (1) analyses of language as deployed in legal processes, and (2) analyses of the language of legal texts. Table 1 presents a summary of these studies and their focus.

Among the early studies focusing on the interface between linguistics and law is that of Castro (1997), which analyzed the cognitive structuring of

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2 The University of Santo Tomas (UST) Department of English has been very active in promoting FL in the Philippines. The university has been offering the course “Forensic Linguistics” in its graduate program since 2014 and “Language and Law” in its BA English Language Studies Program since 2018. To complement its academic program offerings, the university, through its Department of English and the Graduate School, hosted the 2nd Asian Regional Conference of the International Association of Forensic Linguists (IAFL) and the 12th International Summer School in Forensic Linguistic Analysis (ISSFLA) in 2016, as well as the 1st International Conference on Forensic Linguistics in the Philippines in 2021. It also hosted monthly webinars on the different areas of FL from August 2020 to May 2021. More researchers from the university have presented their FL studies at international conferences since 2015. Some of their research outputs have been published in local and international peer-reviewed journals. In July 2023, the University of Santo Tomas will host the 16th IAFLL Biennial Conference in Manila. Additionally, the university has been teaming up with the national police and government judicial bodies to conduct training programs for police and court judges. Currently, a national professional organization on FL is being organized. It will be initially composed of language specialists, academics, legal and judicial professionals, police investigators, and other professionals who have a serious interest in FL.

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criminal appeal cases in the Philippines. In this study, the researcher hoped to “bring to the fore the interplay between the text and the various linguistic, sociolinguistic, and psycholinguistic factors” (p. 85) that provide structure to the cases. Although legal cases are usually expected to conform to a preferred pattern or logical sequence in the moves used, it was argued that appeal cases may have a different set of features, hence the choice of appeal cases for the corpus of the study. In this study, Castro underscored the need to approach legal texts as having a cognitive structure, or “the way by which members of a legal community write the way they do because they are influenced by the shared linguistic, sociolinguistic and psycholinguistic conventions they practice so that the texts they produce exhibit specific discoursal and organizational characteristics and patterns” (Castro, 1997, p. 87). The corpus of the study included seventy-four Philippine criminal appeal cases from 1974 to 1990. The mode of analysis, which used Bhatia’s (1983) cognitive structuring model, focused on the choices made by the judge as writer in making known their intention. This model uses a four-move structure: (1) Identifying the case, (2) establishing the facts of the case, (3) arguing the case, and (4) pronouncing judgment. The third move, arguing the case, has three sub-moves: (1) Stating the history of the case, (2) presenting arguments, and (3) deriving ratio decidendi (Bhatia, 1983). By revealing the underlying cognitive structure of the legal texts, Castro attempted to describe the communicative functions of obligatory and optional moves.

Castro’s work may represent the first attempt of a Philippine linguist to investigate the language of legal proceedings using linguistic tools. It is notable that the goal of the study was to eventually facilitate the comprehension of legal texts by nonlawyers or law students, hence its publication in a journal on teaching English for Specific Purposes (ESP). The hope was that awareness of the cognitive structuring of legal texts may pave the way for “developing
easification procedures” (Castro, 1997, p. 104) for the development of English for Academic Legal Purposes (EALP). However, knowledge of cognitive structuring alone does not guarantee better comprehension of legal texts or influencing the “easification” of legal writing. The study stops at describing the cognitive structuring of the texts and its communicative functions without extending the argument to strategies for ensuring easification, and thus better comprehension of these legal texts. Bhatia (1983) presents easification as different from simplification, in that the former aims at “making a text more accessible to the learner, not by modifying its content or form but by developing in him specific strategies considered essential for that task” (p. 46). In ESP contexts, which Castro hoped to target, a discussion of these strategies for easification would have contributed tremendously to the community the study aimed to serve.

Another early study on the language of legal processes is that of Brylko (2002), employing two different sets of corpora, ten of which were decisions of Philippine appeal cases taken from Supreme Court Reports Annotated (SCRA) and another ten of which were American appeal cases taken from Lex Libris, an electronic collection of US Supreme Court decisions. Replicating Castro (1997), the two sets of corpora were compared and analyzed using Bhatia’s (1983) model of cognitive structuring in legislative writing.

Careful examination of the cognitive structure of legal decisions in judicial settings revealed that both sets of data exhibited the same obligatory parts: (1) History of the case, (2) appeal proper, and (3) decision on the appeal. The sequence of these parts was likewise fixed. However, it was in the sub-moves where differences could be identified. For instance, in the Philippine sample, it can be noted that the decisions contained a very detailed presentation of the facts of the case, while the US sample only briefly presented the facts of the case. Overall, a marked similarity is recognizable in terms of cognitive structure. This demonstrates that members of the legal discourse community share a certain set of communicative purposes that dictate the style, structure, content, and intended audience of legal discourse.

Brylko’s (2002) study set out to promote the importance of analyzing legal decisions, most especially those that are difficult to understand. Legal decisions also benefit teachers of legal English as they expose students to the discourse structure of criminal appeal cases, which may pave the way for easier understanding of the vocabulary in legal cases. An interesting point to consider in this article is the fact that it intersects with other research areas such as world Englishes, contrastive rhetoric, and discourse analysis. Although it was a replication of Castro (1997), Brylko’s study expanded the methodology by comparing legal documents in two established varieties of English. It validated
the findings of Castro (1997) conducted at least six years earlier. Both Brylko and Castro cited the pedagogical implications of their studies for students of EALP in relation to the discourse structure of appeal cases, which is clearly pedagogical and academic in nature.

Since awareness of FL as an area of study in the Philippines began only after 2012, these studies by Castro in 1997 and Brylko in 2002 may be considered as products of their time, undertaken in the context of the need to promote studies on ESP rather than to contribute to linguistic studies of legal documents. For Castro (1997), raising awareness about the cognitive structure of legal texts may facilitate better understanding of these texts. Brylko (2002) called for the introduction of authentic and unsimplified materials to learners of legal English at an appropriate level, at a point when the learners are prepared to handle the materials.

In contrast to the studies reviewed above, one early study on the linguistics of court proceedings did not extend its investigation to ESP and language learning. Santos’s (2006) pragmatic linguistic analysis of triadic verbal exchanges among lawyers, court interpreters, and witnesses is noteworthy in underscoring the context of multilingualism in Philippine legal practice. The corpus of the study consisted of thirteen criminal cases in Zamboanga City, the Philippines, which analyzed lexico-semantic choice, syntactic question forms, as well as question- ing patterns and strategies of lawyers during courtroom interrogation. The study was also interested in the interpretative strategies used by court interpreters in conveying lawyers’ questions and witnesses’ answers. The findings revealed that the modal auxiliaries can and could (as interpreted from the local language) were most frequent in direct examinations and were used as softening devices or as indirect requests by lawyers. Nominals of address such as Mister/Sir and Miss/Madam were employed equally by both prosecution and defense lawyers. Regarding the syntactic structure of questions, it was found that direct examinations were characterized mostly by wh-questions, followed by yes–no bi-polar questions or tag questions. Meanwhile, open-ended questions were hardly used by either prosecution or defense lawyers. Finally, on the interpretative strategies, the study revealed that self-repair strategies were predominantly employed by court interpreters; they were also found to frequently recast lawyers’ questions or witnesses’ answers to ensure that their messages were correctly conveyed to either party. Self-repair strategies came in the form of repetition or reformulation or a combination of both, thus underscoring the vital role of court interpreters in mediating communication in court proceedings.

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Santos (2006) anchored the premise of the study upon the prestige status of English in the Philippines and how this has “uprooted [participants of courtroom trials] . . . from their natural and informal speech community to participate in a formal and highly conventionalized speech event” (p. 28). This prestige has even greater impact in a setting such as Zamboanga City, where the criminal cases are set, and where litigants do not normally use English in their everyday lives. Santos stressed the crucial role that court interpreters play in Philippine courtroom practice. The participants of the courtroom hearings were multilingual speakers of at least the dominant languages in the region, namely, Chavacano, Cebuano, and Tausug. However, one interesting dimension that was not addressed in the study is the impact a specific Philippine language may play in the type of self-repair strategies necessary for effective communication to take place among multilingual speakers in court proceedings. Self-repair in oral communication happens when speakers revise utterances in order to help listeners gain a better understanding of messages. In everyday conversations, speakers normally self-repair in their mother tongues. In situations where their mother tongue is a nondominant language, such as the case of courtroom hearings in English in the Philippines, how will self-repair happen? This dimension of language use was not tackled by Santos. Despite this, Santos’s study is noteworthy in that it may represent the first attempt by a Filipino linguist to recognize in a formal study the multilingual context of legal proceedings in the country.

As previously mentioned, publications on FL as such began only in 2013 after the ISSFLA training in Malaysia in 2012. One of these studies is that of Martin (2013), which investigated court interpreting and the issues attached to the use of English as the language of the legal domain in the country. Like Santos’s study in 2006, Martin underscored the vital role of interpreters in court hearings. In describing and analyzing court interpreting practices, Martin also identified the challenges Filipino interpreters face in the courtroom.

The English-centric language policy in the Philippines does not necessarily favor the majority of Filipinos who are not well versed in the language. It is in this context that Martin’s work opens with a description of a noteworthy undertaking of the Supreme Court of the Philippines, through its Committee on Linguistic Concerns, which spearheaded the 2007 Bulacan Experiment aimed at promoting the use of Filipino in court proceedings, including stenographic notetaking. This project initially involved six Regional Trial Courts (RTCs) in Malolos, the capital city of the province of Bulacan, and one Municipal Trial Court (MTC) in the town of Guiguinto, also in Bulacan. Along the way, the RTCs and MTCs backed out, leaving only one regional trial court in Malolos to pursue the project under the supervision of Judge Ma.