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LANGUAGE AND MIND: A WHORFIAN FOLK THEORY IN UNITED STATE LANGUAGE LAW

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Abstract

A folk theory of the effect of language on thought underlies decisions made in U.S. courts regarding language law. Previous work on folk theory has shown an internal structuring by which a premise entails subsequent terms, consistent within the framework of the folk theory's logic. An analysis of metapragmatic statements in U.S. case law materials reveals a crudely "Whorfian" premise from which a common folk theory of language builds. This theory, evident in judges' decisions and dissents, predicates the ability to understand U.S. political concepts on fluency in English. Because becoming a "citizen" requires comprehension of these political concepts, the folk theory links identity as a U.S. citizen with the ability to speak the English language. The appearance of a "Whorfian" premise in this folk theory also lends support to the suggestion by cognitive anthropologists that scientific theories are typically systematized adaptations of folk theories. (language law, folk theory, U.S. political identity, metapragmatics)

Introduction

This study uses case law materials to examine the metapragmatic assumptions underlying decisions in U.S. language law.[1] Recent work in cognitive anthropology has pointed to the importance of tacit folk theories in explaining informants' understandings. An examination of U.S. language law for such folk theories reveals the prevalence of a folk theory the first term of which resem-

bles what is popularly known as the "Whorf-Sapir hypothesis" in linguistics. Through analysis of the chain of reasoning behind this folk theory we can understand its covert assumptions and the policy implications which follow from it. My results also support suggestions by Kay, Lakoff, and others that scientific theories and debates are often systematized adaptations of folk theories commonly found within a culture.

The Folk Theory Concept

The emergence of the "folk theory" as a level of analysis is an interesting recent development in cognitive anthropology. Quinn (1981a,b) examines the folk theory as one of several cognitive structures used by informants to conceptualize their marriages.

In her initial analysis, Quinn uses extensive interview materials to isolate three distinct syntactic treatments of the word "commitment" (Quinn 1980). When speaking of marriage, informants frequently used this "key word," but in differing ways. Quinn found that the three treatments of the word "commitment" corresponded to the divisions of "intention," "thought," and "feeling" which D'Andrade has posited as key components of American classifications of behavior (Quinn n.d., D'Andrade n.d.). Quinn's subsequent work has linked the syntactic evidence for this tripartite treatment with corresponding metaphors (i.e., "marriage is being a pair") and underlying folk theories (i.e., "marriage is an ascribed status") (cf., Quinn 1981). Quinn notes that folk theories differ from metaphors in that they point to a "literal, even if implicit, process which underlies the propositional claim being made; as well they contain rules of applicability which specify the range of phenomena governed by this underlying process and hence explained by the theory" (Quinn n.d.:11).

Kay (n.d.) demonstrates the importance of folk theories of speech to the analysis of metapragmatic hedges such as "strictly speaking" and "technically." He claims that certain hedges such as "strictly speaking" point to a part of our folk theory of language which makes a clearcut distinction between pragmatic and semantic factors. Others, such as "technically," point to portions of the folk theory which are not concerned with the pragmatic/semantic distinction--in this case a portion indexing the fixing of meaning by certain social actors with appropriate authority. Interestingly, it is precisely these latter hedges which are difficult to define with respect to the semantic/pragmatic divide. Kay uses the concept of folk theory to understand certain problematic hedges; he contends that they are problematic only because we are trying to regiment them according to inappropriate folk theories. Clear classification of hedges according to the pragmatic/semantic distinction is possible only for those hedges which rely on an underlying folk theory positing separable semantic and pragmatic functions. Kay's analysis also points to the possibility that folk theories may be internally inconsistent, one portion relying on a distinction not made in other portions (Kay n.d.:47-48).

In another study of our folk theory of language and speech, Sweetser (1981) uses the concept "folk theory" to elucidate similarly difficult data. The folk theory of discourse which Sweetser outlines provides the background necessary to understanding the results of Coleman and Kay's (1981) analysis of the word "lie." Coleman and Kay made the seemingly counter-intuitive discovery that "falsity of statement" was not the key defining feature for the word "lie" for their informants. When given a choice among possible criteria, informants gave most weight to "speaker's intent to deceive" in deciding whether to categorize statements as "lies." Sweetser's (1981) contribution placed "lie" within the wider context of an underarching U.S. folk theory of discourse. Here

discourse is viewed as above all informational; the prime motivation for discourse is to convey true information. The speaker's belief in a statement is taken to constitute evidence of the statement's truth. Within the simplified world of this folk theory, it follows that a statement which is actually false must be known to be false by the speaker (cf., Sweetser 1981 for a full drawing-out of the logical links of the folk theory). If the primary goal of discourse is to induce belief, then making a false statement implies intent to deceive listeners. The prototypical speech situation of this folk theory relies on the speaker not to say something unless he or she believes it to be true (basing belief on evidence). Thus responsibility for the critical deviation involved in a "lie" (deviation, that is, from the prototypical situation) is laid at the speaker's doorstep. Coleman and Kay's results, then, can be understood within the framework of this broad folk theory of discourse.

Sweetser further notes that a "lie" is produced by negating one portion of the folk theory but holding others constant. That is, speaker's saying something still entails hearer's belief. The speaker is still expected to know whereof he or she speaks; otherwise the statement would be a "mistake" rather than a "lie." The internal structure of logic still operates in a principled way (cf., Sweetser 1981).

All of these analyses share common characterizations of folk theories. Folk theories are tacit; the implicational chain (cf., Dominguez 1977) which unites them is not explicitly formulated. Folk theories also contain a kind of internal logic by which one portion entails another. However, this does not mean that folk theories are necessarily logically consistent. Kay's study (1979) reveals a folk theory which is quite inconsistent--one portion stressing a pragmatic/semantic distinction, another blurring the dichotomy. Sweetser's work similarly points out that the final implication of a folk theory may seem somewhat nonsensical--in

her case the implication being that speaker's saying something implies the truth of what is said. Thus the work in this area to date gives us a broad theoretical outline of how folk theory operates as a particular species of cultural reasoning. This variety of cultural reasoning, as we have seen, has its own sort of logic, and interacts with other parts of the cultural scheme in specific ways. It is for this reason that systematization of the concept of folk theory, as a level of and for analysis, provides such a fertile basis for the understanding of cultural constructs.

A U.S. Folk Theory of Language

The above characterizations of folk theories apply to the metapragmatic folk theory analyzed below. From the late nineteenth century on, this folk theory can be found in judges' published decisions and dissents in cases dealing with language. There have been several competing folk theories of language evident in U.S. case law; different folk theories have received differential weight during various periods of history. In important reviews of the social history of U.S. language law, Shirley Heath (1977a,b; 1978) and Arnold Leibowitz (1969, 1976) have traced the shift away from tolerance of linguistic pluralism in the U.S. The late nineteenth century began a period during which attempts to enforce English as the national language of the U.S. went hand-in-hand with discrimination against various immigrant groups. Heath (1977a) has demonstrated that such views were in fact a marked change from attitudes during the late eighteenth and early nineteenth centuries, when knowledge of a variety of languages was deemed essential to the development of intellect. The founding fathers consciously chose an open-ended language policy:

> . . . they recognized that decisions on language choice and change would be made at the local and regional levels by citizens

responding to communicative needs and goals they themselves identified. Moreover, early political leaders recognized the close connection between language and religious/cultural freedoms, and they preferred to refrain from proposing legislation which might be construed as a restriction of these freedoms (Heath 1977b:270).

This policy was not formulated unthinkingly; there were other possible directions proposed. Most notably, John Adams proposed linguistic regimentation in the form of a language academy, which would formalize English as the language of the new American nation (Heath 1977b). Adams' proposal was ignored, and the weight of opinion fell behind the view that linguistic tolerance best served the interests of the country. Heath notes that Jefferson, among others, pushed enthusiastically for Americans to learn many languages, in order to sharpen their intellectual skills (Heath 1977a).

The folk theory to be analyzed here strongly contradicts such earlier views favoring linguistic diversity. Reasoning relying on this folk theory begins to gain weight during the late nineteenth century, as noted by Leibowitz and Heath, although competing theories do not disappear altogether.

The fundamental (and crudely "Whorfian") tenet of this folk theory is that languages shape the range of conceptualization of their speakers. U.S. political concepts were thought to be inextricably entwined with the English language; the concepts could not be understood unless one spoke English. The fundamental impossibility of translation of these concepts into other languages appears as an underlying assumption in an 1897 case:

> Many English words have no precise equivalent in other languages, for the reason that the ideas expressed by them are not familiar to the people who speak those languages. It is plain that a people having no knowledge of the steam engine would have no word to express or describe it. And it is

> equally clear, I think, that civil liberty as it exists in the States of America being unknown to the subjects of a despotic government, they could in the very nature of things, have no word or phrase in their language to describe or define it; and the very word "constitution" when translated into their language, would of necessity convey the idea of a grant or concession from the ruler, rather than the idea of an instrument declaring the organic law, made by the people themselves, and binding upon the people and their rulers alike.
>
> It needs no argument to establish that a translation is not <u>identical</u> with the original. No matter how <u>similar</u> it may be in meaning, it is plain it can not be identical . . . . A copy of a Finnish, Russian, or German translation would not be a copy of the constitution (Supreme Court of Wyoming 1897:153).

In this case the court ruled that ability to read a Finnish translation of the Wyoming state constitution did not fulfill the state requirement that all voters be able to read the state constitution.

A 1922 case makes explicit the next implicational link of the folk theory: if languages mold the minds of their speakers in certain ways, then the languages encountered by young children can be expected to have powerful effects. That is, young children's minds are in the process of being shaped, and one of the most important shaping forces is viewed as being the language (or languages) to which they are exposed. Older children, whose minds have jelled, are not vulnerable to the formative powers of various languages in the same way. This is the argument made in support of Nebraska regulation prohibiting teachers from exposing young children to foreign languages, cited in the well-known case of <u>Meyer v. Nebraska</u>:

> The object of this legislation . . . was to create an enlightened American

citizenship in sympathy with the principles and ideals of this country, and to prevent children reared and educated in America from being trained and educated in foreign languages and foreign ideals before they have had an opportunity to learn the English language and observe American ideals. It is a well known fact that the language first learned by a child remains his mother tongue and the language of his heart.

To allow the children of foreigners, who had emigrated here, to be taught from early childhood the language of the country of their parents was to rear them with that language as their mother tongue. It was to educate them so that they must always think in that language, and, as a consequence, naturally inculcate in them the ideas and sentiments foreign to the best interests of this country (United States Supreme Court 1922:390).

Interestingly, this prohibition did not extend to the "Ancient or dead languages" —Latin, Greek and Hebrew—but only to "modern" languages. The Supreme Court eventually ruled that the Nebraska law violated fourteenth amendment rights, but they disputed only one portion of the folk theory—that which held that exposure to multiple foreign languages at a young age might harm children's minds. The Court accepted as given the importance of instruction in English for young children, and upheld the notion that states could require English instruction in all public schools. Thus the notion that the bulk of instruction should be in English was maintained, and foreign languages were only to be included as ancillary parts of the curriculum. The important and formative role of English as the primary language for children's education was upheld by the Court.

However, the currency at the time of this idea that foreign language instruction for young children might be harmful can be seen in numerous state-level decisions in which this portion of the folk theory won out. Here is a typical statement from an Iowa court which upheld the conviction of a schoolteacher for

teaching German to young pupils:

> The legislature might well have felt that it was of vast importance that those of tender years should have, at that early period, instilled in their minds the lessons to be taught only through the use of the English language; that, if foreign languages are to be taught for "cultural effect," it shall be only after the child has been "rooted and grounded" in the recognized language of our country. The harmful effects of non-American ideas, inculcated through the teaching of foreign languages, might . . . be avoided by limiting teaching below the eighth grade to the medium of English (Supreme Court of Iowa 1921:1060).

There are other similar examples of state-level decisions affirming the principle that early exposure to foreign languages could damage young children's minds.

An interesting parallel can be noted here with metapragmatic beliefs popular in portions of Canada at the same time. My sociolinguistic research in Cape Breton, Nova Scotia, revealed a similar metapragmatic belief, which first gained importance in rural communities there during the 1920s and 30s. Informants believed that the first language which a child learned had a decisive effect on his or her mind, rendering subsequent instruction in other languages virtually useless. The mind of a child socialized in Gaelic was seen as permanently marked. In this case the implication of the marking was on speech rather than affect, so that a person socialized in Gaelic could never speak other languages "correctly" (see Hertz 1980, 1982). But it is interesting to observe the existence of a folk theory whose premise similarly posits an effect of language on mind, appearing in rural Canadian communities at the same time as these language law cases in the United States.

The chain of reasoning of the folk theory thus far goes as follows: languages shape the range of conceptualization of their speakers; thus early exposure to

particular languages is a critical and lasting force in forming a person's mind. Now if certain concepts are language-specific—that is, if U.S. political concepts are only understood through the English language—then early exposure to a particular language has consequences for political identity. Socialization in English doesn't only shape children's cognitive ranges, it specifically shapes their ability to understand political concepts—and thus to feel political loyalty. The creation of this equivalence between conceptual and affectual abilities on the political level was evident in the Meyer v. Nebraska case cited above. In that case, permitting children to acquire foreign languages as "mother tongues" was to "inculcate in them the ideas and sentiments foreign to the best interests of this country" (United States Supreme Court 1922:390).

A similar argument was made in an earlier Nebraska case, Nebraska District of Evangelical Lutheran Synod v. McKelvie:

> It is a matter of general public information, . . . that it was disclosed that thousands of men born in this country of foreign language speaking parents and educated in schools taught in a foreign language were unable to read, write or speak the language of their country, or to understand words of command given in English. It was also demonstrated that there were local foci of alien enemy sentiment, and that, where such instances occurred, the education given by private or parochial schools in that community was usually found to be that which had been given mainly in a foreign language (Supreme Court of Nebraska 1919:93).

Knowledge of English becomes equated with the ability to understand U.S. political concepts, and thus with the ability to feel loyalty to a state founded on those political principles. This link in the argument of the folk theory provides a connection between language and citizenship: if English is necessary to understand political concepts, comprehension of those concepts (and of the feelings of

political loyalty which inhere in that comprehension) becomes a prerequisite to identity as a U.S. citizen.

This implication of the folk theory can be seen in the 1897 case In re Rodriguez. Here arguments made against the naturalization of Ricardo Rodriguez, an immigrant from Mexico, included his inadequate comprehension of English—and, implicitly, of the U.S. constitution (United States District Court, District of Texas 1897:345). The varying degree of weight which this argument has carried at different points in American history can be seen in the fact that it was dismissed in the Rodriguez decision, but in 1906 gained such public approval that proficiency in English became a requirement for naturalized citizens. The Nationality Act of 1906 required aliens seeking naturalization to speak English; this stipulation was codified in the Nationality Act of 1940. The additional requirement of literacy in English was added by the Internal Security Act of 1950 (see Leibowitz 1976).

A corollary of the folk theory, the question of how to define adequate linguistic proficiency, became an issue in some cases. In the 1945 In re Swenson case a Swedish man who applied for citizenship in Oregon was denied on the grounds that he hadn't achieved adequate proficiency:

> The ability to mumble a few common English words and banal expressions in a foreign accent, and to understand a few simple questions, or directions, does not demonstrate the capacity to speak English in connection with a requirement of attachment to the principles of the Federal Constitution (United States District Court, District of Oregon 1945:376).

An earlier case had prescribed even stricter measures of proficiency. In the case of In re Vasicek a Missouri man was denied citizenship because he didn't know the meaning of the words "anarchy" and "polygamy."

A petitioner for naturalization cannot be held "attached to the principles

of the Constitution of the United States and well disposed to the good order and happiness of same" where, though alleging in his petition that he is "not a disbeliever in or opposed to organized government," . . . and "not a polygamist nor a believer in polygamy," he testifies that he does not know the meaning of the words "anarchist" or "polygamy."

> Vasicek resided within the United States for the jurisdictional period . . . . But has he, in this period of time divorced himself from the foreign attachments and ideas of government brought with him? . . . His inability to define "anarchy" and "polygamy," and his lack of knowledge of the meaning of these words, must be held to be such a failure to meet the requirements prescribed in naturalization cases, . . . as it cannot be said in such a case as this that the candidate is in truth and in fact "attached to the principles of the Constitution of the United States . . . " (United States District Court, District of Missouri 1921:326).

Here we have an extreme version of the folk theory which holds that comprehension of particular words is a necessary prerequisite to U.S. citizenship.

With this last chain in the folk theory argument a contradiction becomes apparent; the languages which children learn are seen as shaping their political allegiances, yet immigrants with "foreign" mother tongues may learn English later in life in order to inculcate in themselves the necessary basic sentiments. The resolution of this seeming contradiction can be found in the differential treatment which immigrants and native-born citizens receive.

The In re Swenson case makes explicit the role of such differential treatment in resolving the paradox:

> It is of no avail to urge that the native-born need not possess these qualifications. The alien is only entitled to citizenship when he proves he possesses the statutory requisites (United States District Court, District

> of Oregon 1945:376).

In other words, it doesn't matter that native-born citizens may not meet the proficiency levels required of naturalized citizens. In asserting this differential treatment, In re Swenson cites as authority an earlier case, United States v. Bergmann:

> A native-born citizen need not be literate to exercise his civil rights, unless the state law so requires. But an alien must know the English language. A native-born citizen may be a conscientious objector. An alien, even a woman, who refuses to bear arms, cannot be naturalized . . . . A native-born citizen may be immoral . . . . But an alien must be of good moral character before he can be admitted to citizenship. More, a native-born citizen may be opposed to the principles of our constitutional government . . . . But an alien must be "attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States" (United States District Court, District of California 1942:765).

As an additional safeguard, citizenship could be revoked at any time should naturalized citizens "backslide" in some way. In the United States v. Bergmann case, the citizenship of Friedrich Bergmann was cancelled because he had upheld the cause of Germany during World War II.

So immigrants may learn English, and thereby secondarily impose U.S. political concepts over those of their first language. But any straying from these learned principles could result in the loss of one's U.S. citizenship. Such "safety checks" are deemed necessary because immigrants are seen as somewhat of a suspect category.

The reasoning of our linguistic folk theory supports such a view; immigrants who have been raised using "foreign" languages cannot be expected to hold U.S.

political principles as deeply as native-born citizens socialized in English. In each case the language of socialization has left its permanent mark. The importance given to early schooling in English for native-born citizens also becomes understandable in this context; political loyalty must be ensured in this way. Older native-born citizens cannot be forced to learn English, nor can their citizenship be revoked if they espouse political ideas which authorities see as "un-American."

Conclusion

Thus a folk theory with a crudely "Whorfian" predicate provides the link which allowed judges to view competence in the English language as necessary to U.S. citizenship. The folk theory posits a strong, deterministic relationship between languages, thought, and emotions such as loyalty. Once the "implicational chain" (cf., Dominguez 1977) of the folk theory is outlined, certain consequences follow naturally. Thus the framework of the folk theory explains the emphasis on early schooling in English--and occasionally English only--for young children. Furthermore, it explains why it was seen as necessary that immigrants' learned competence in English (and U.S. political concepts) be backed by the possible sanction of revoked citizenship.

Changing political and economic circumstances have given more and less weight to this folk theory at various times in U.S. history. Leibowitz (1976) and Heath (1977b) have documented the shift toward the reasoning embodied in this folk theory during the late nineteenth and early twentieth centuries. This shift corresponded with increasing xenophobia, attempts to limit immigration, and efforts to discriminate against certain immigrant groups. It was not until the 1960s that this trend changed, and the folk theory described here ceased to play a major role in the reasoning of U.S. language law.

Finally, the appearance of this admittedly crude "Whorfian" theory at the folk level lends support to suggestions by cognitive anthropologists that many scientific theories are refinements of commonly held folk theories.[2] Kay (n.d.) and Lakoff (1981), among others, have suggested that scientific theories are often attempts to systematize or extend the reasoning of folk theories.[3] In a similar vein, Silverstein (1979) demonstrates that some linguists' theories (for example, Austin's) have often been founded in folk metapragmatic theories. Silverstein's analysis goes one step further; following the lead of Boas and Whorf, he looks to the structure of our language itself to explain these folk conceptualizations of language.

Notes

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1. See Silverstein (1976) for the formulation of "metapragmatic."

2. I should add here, with apologies to those who share my appreciation of the subtlety and sophistication of Whorf's work, that my use of "Whorfian" throughout the paper is a shorthand reference to the entire debate occasioned by Whorf's work within social science (cf., Fishman 1982:12). Thus the point that "scientific" debates are often attempts to systematize folk theories can be supported by this analysis even though what Fishman has dubbed W_2 (see Fishman 1982) is not actually Whorfian. Furthermore, the fact that the folk version is crudely determinist, lacking the insight and caution of "scientific" versions, or a true Whorfian advocacy of relativism and pluralism, is only to be expected. When a focus for public concern--here the relation between language and mind--

is systematically explored by a portion of the scientific community, one would hope that the resulting "scientific" theories could, at least in some cases, handle the question with additional depth, caution, and subtlety.

3. While elaboration of a theory or focus for debate within the scientific community might sometimes bring added clarification or systematicity to the problem, this is not necessarily the case. There is no definitional difference between folk and "scientific" or "expert" theories in terms of necessary degree of accuracy or truth. Folk theories may be accurate or inaccurate, as may "scientific;" the distinction is not between true and false theories, but between the tacit theories commonly held within a culture and the explicitly examined and elaborated theories of "experts."

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