

Institution: University of Essex
Unit of Assessment: 28 – Modern Languages and Linguistics
Title of case study: Linguistic analysis of asylum seekers' claims to origin
<p>1. Summary of the impact</p> <p>Essex research on language variation has been central to the development of the best-practice <i>Guidelines</i> for Language Analysis for Determination of Origin (LADO) – an instrument used to determine whether an asylum seeker's claim of origin is genuine. Professor Peter Patrick has provided expert guidance to a legal team in a Scottish asylum appeal – the verdict of which was favourable and created a new precedent in Scottish law. He has submitted over 60 expert reports to UK tribunals and appeals courts since 2008. He has also disseminated expertise to professionals and has been instrumental in establishing dialogue between academics and a range of practitioners.</p> <p>2. Underpinning research</p> <p>Language Analysis for Determination of Origin (LADO) refers to use of linguistic methods to determine the geographical origin of the speaker. LADO is most commonly used in order to establish the credibility of claims to native language and geographical origin by asylum seekers. Patrick's work has been vital in establishing the core concepts of speech community and language socialisation in the sociolinguistic analysis of every LADO case. Models of speaker membership patterns in multi-variety speech communities, discussed in Patrick (2002), provide grounds for reports arguing that courts must recognise complex language socialisation patterns, and see beyond folk notions of bilingualism and simplistic expectations (e.g. that language and national boundaries will cohere). His work on LADO is underpinned by a large body of research on language variation, which he makes central to establishing the credibility of asylum claims.</p> <p>Patrick's research utilises sociolinguistic methodology and quantitative variationist analysis to investigate structural variability. It examines how such variation patterns with social influences to delimit and characterise speech communities in linguistic terms. He has undertaken variationist research on Creoles and dialect speech communities, and has then applied methodologies from this variationist research to inform his work in LADO.</p> <p>Patrick and Straw (2007) used acoustic phonetic methods to study the forms, variation and social distribution of /t/ in two matched samples of Barbadian- and Anglo-ancestry communities of British English speakers in Ipswich. They problematized one of the UK's best-studied phonological variables, found that Ipswich does not follow a widely-hypothesised diffusion pattern of phonological constraints, and demonstrated that dialect acquisition occurs only in the third generation of Barbadian migrants. Such methods are widely applicable to features allegedly distinctive between speakers of varieties A and B, where native speakers born in A qualify for asylum and those in B do not.</p> <p>Patrick's variationist research in Creoles has explored the nature of inherent variation in Jamaican Creole grammar, linking it to age, class, education and gender (Patrick, 1999). The edited volume, <i>Comparative Creole Syntax</i> (Holm and Patrick, 2007), to which Patrick contributed the analysis of Jamaican Creole, provides comparative analysis of the grammar of 18 Creoles and is frequently cited in reports where asylum cases involve speakers of relevant Creoles. Patrick's survey of variation in Pidgin and Creole languages (2008) examined how much variability contact languages can exhibit, and related such claims to creolisation and nativisation – crucial factors to take</p>

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account of in LADO cases, where someone is argued to be (or to not be) a speaker of language X because variation has not been adequately attended to. Finally, Patrick (2010), in the first edited volume specifically on LADO, showed how linguistic uniformity and sociolinguistic norms define the speech community, and examined the range of competence of native speakers in this light. He argued for general application of variationist methods to develop the research basis for determining LADO cases.

3. References to the research

Patrick, P. L. (1999) *Urban Jamaican Creole: Variation in the Mesolect*. (Varieties of English Around the World, No. G17.) Amsterdam: John Benjamins. ISBN 9789027248756

Patrick, P. L. (2002) The speech community. In J. Chambers, P. Trudgill and N. Schilling-Estes (eds.) *Handbook of language variation and change*, pp. 573-597. Oxford: Blackwell. ISBN 1405116927

Straw, M. and P. L. Patrick (2007) Dialect acquisition of glottal variation in /t/: Barbadians in Ipswich. *Language Sciences* 29(2-3): 385-407. DOI: 10.1016/j.langsci.2006.12.025

Holm, J. and P. L. Patrick (eds.) (2007) *Comparative Creole syntax: Parallel outlines of 18 Creole grammars*. London: Battlebridge Press. ISBN 1903292018

Patrick, P. L. (2008) Pidgins, Creoles and linguistic variation. In S. Kouwenberg and J. V. Singler, (eds.) *The handbook of Pidgins and Creoles*, pp. 461-487. Oxford: Blackwell. ISBN 0631229027

Patrick, P. L. (2010) Language variation and LADO (Language Analysis for Determination of Origin). In K. Zwaan, P. Muysken and M. Verrips (eds.) *Language and origin. The role of language in European asylum procedures: A linguistic and legal survey*, pp. 73-87. Nijmegen: Wolf Legal Publishers. ISBN 9789058505866

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Patrick, P. L. *Language analysis of asylum applicants: Foundations, guidelines and best practice* ESRC Research Seminars Network grant (RES-451-26-0911), 01.01.11 to 31.12.12, £17,860. Website: <http://www.essex.ac.uk/larg/about/esrc.aspx>

4. Details of the impact

Patrick was one of the authors involved in producing the 2004 *Guidelines* for use of LADO, which are aimed at a lay audience and outline best practice. The guidelines have been the focus of court cases in which Patrick has drawn on his empirical sociolinguistic research background and forensic linguistic experience to provide advice to legal teams. He has also disseminated expertise to professionals and been instrumental in establishing dialogue between academics and a range of practitioners.

The development of guidelines for the use of LADO

Patrick is among 19 authors of the 2004 *Guidelines for the Use of Language Analysis in relation to Questions of National Origin in Refugee Cases*, which are aimed at lawyers, administrative judges, asylum activists, and government agencies making asylum decisions. The *Guidelines* address the complexity of issues of language variation and socialisation, speech community, and nationality, arguing expertise should come from qualified experts. The head of Dutch LADO firm De Taalstudio

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notes that “His [Patrick’s] influence is very visible in the *Guidelines*, as they stress the central relevance of sociolinguistic research to LADO cases, laid out in terms understandable to lay people and acceptable to professional linguists” [corroborating source 1]. Patrick assisted in securing endorsement of the *Guidelines* by twelve national and international linguistic associations [corroborating source 2]. Further to this, the *Guidelines* have been made available through the UN High Commissioner for Refugees’ *RefWorld* service to legal and NGO practitioners worldwide, largely through Patrick’s efforts in August 2010 [3]. The need for LADO evidence in asylum cases to comply with the *Guidelines* has been a contentious legal issue, especially in Scotland, where Patrick has advised on a notable case.

Advising legal teams and writing expert reports for asylum tribunals

Since 2008, Patrick has submitted over 60 linguistic expert reports (15-25 pages) to UK asylum tribunals in appeals cases. His sociolinguistic, variationist and creolist research background qualifies him legally as an expert and is crucial in writing reports. As confirmed by the head of De Taalstudio, Patrick’s research expertise in variation in Creole languages is particularly vital, as many LADO cases involve Creole speakers [1]. His involvement as an expert in many UK asylum cases is cited repeatedly by judges in case determinations. In 2011, he was one of two linguists (the only one based in the UK) commissioned to provide expert testimony in a High Court appeal. The Upper Tribunal returned the cases for re-hearing by lower courts, partly due to Patrick’s report [4]. The appealing QC has distributed Patrick’s report amongst a network of UK asylum lawyers as a model of expert arguments relating to language elements in asylum cases [5].

The highest-profile case that Patrick has been involved with has been that of a Somali asylum-seeking woman (known as K.A.S.Y.), which had been referred to the Inner House of the Court of Sessions (the Scottish equivalent to England’s Court of Appeal). Patrick was recruited by an advocate working on the case in order to provide expert guidance for an appeal because of his record of producing reports for asylum cases in England [6]. The case involved a specific challenge to the use of SPRAKAB language reports in asylum cases – such reports are commissioned by the Home Office, but do not comply with the *Guidelines*. Patrick attended a case consultation with the legal team, led by Michael Howlin QC, in order to provide advice and analysis. The advocate, who worked as part of this team, writes:

“I have no hesitation in saying that Professor Patrick’s input at that consultation was to prove absolutely invaluable. He provided us with the scientific analysis of LADO that essentially formed the basis of Mr. Howlin’s submission, which is reproduced at paras. [37] – [42] of the case report in *M.Ab.N. & K.A.S.Y.* The analysis there set out, subsequently adopted and approved by the Inner House, was based almost entirely on the guidance and advice imparted by Professor Patrick at the 1st November consultation” [6].

The appeal was heard in December 2012 and January 2013, with the decision being issued on 12th July 2013 [7]. The judgement found that the *Guidelines* are the yardstick by which LADO evidence should be assessed and that the use of SPRAKAB reports can be challenged. Therefore, as a result of this case there are, as of July 2013, conflicting precedents in Scotland and England. The advocate acknowledges that the Home Office may appeal the decision in the UK Supreme Court but he states that the judgement “is of immense significance” and adds:

“If this decision stands, thousands of adverse asylum decisions will be invalidated, and where persons affected remain in the UK, then their cases will need to be re-opened... And if my client does end up getting permission to stay in the UK, she will owe that almost entirely to the work of Professor Patrick” [6].

Dissemination of expertise to professionals

Patrick has convened or participated in colloquia on LADO in the Netherlands, Switzerland, Ireland, Sweden, the US and UK. He has ensured that the practitioner/researcher dialogue becomes firmly established in this field by giving LADO seminars to a diverse range of professionals. The four ESRC Research Seminars he convened in 2011-12 hosted participants from Africa, Australia, North America and Europe, and included sociolinguists, language specialists, immigration lawyers and judges, doctors, geneticists, anthropologists, human rights practitioners, police, psychoanalysts, forensic scientists, four commercial LADO firms, and six government bureaux (Austrian, Belgian, Dutch, Norwegian, Swiss, UK) [8]. The seminars provided a platform to exchange expertise and focus on developing and achieving acceptance of professional linguistic standards and best practice in the asylum sphere. Writing about the seminars, a former head of LINGUA, a LADO unit that is part of the Swiss Federal Office for Migration, has praised Patrick's ability to bring practitioners and academics together and writes that his efforts "have proven very valuable to LINGUA" [9]. The head of De Taalstudio comments that "thanks to Patrick's role in the preparation and conduct of the ESRC meetings, a highly polarised debate, characterised by processes of exclusion, has turned into a constructive dialogue involving all stakeholders" [1].

5. Sources to corroborate the impact

All documents are available from HEI on request.

[1] Head of De Taalstudio.

[2] Details of endorsements by twelve linguistic associations:

<http://www.essex.ac.uk/larg/resources/guidelines.aspx>

[3] UNHCR's Refworld webpages: [http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=4cbebc852&skip=0&query=Guidelines for the Use of Language Analysis in relation to Questions of National Origin in Refugee Cases](http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=4cbebc852&skip=0&query=Guidelines%20for%20the%20Use%20of%20Language%20Analysis%20in%20relation%20to%20Questions%20of%20National%20Origin%20in%20Refugee%20Cases)

[4] Expert Report: Patrick, P. L. (2011) The validity and reliability of Sprakab analysis generally, and in the cases of AM1, AM2, and FA.

[5] Two emails from the QC working on this case. These include the request to distribute the report to asylum lawyers and demonstrate the high regard in which the QC held Patrick's report.

[6] Advocate working on the K.A.S.Y. case.

[7] Case Report for *M.Ab.N.* & *K.A.S.Y.* <http://www.scotcourts.gov.uk/opinions/2013CSIH68.html>
 See especially paras. 37-42.

[8] Details of LADO Network Seminar Series 2011-12: <http://www.essex.ac.uk/larg/about/esrc.aspx>

[9] Former head of LINGUA.