

INTERPRETING THE WORD: A FUNCTIONAL LINGUISTIC APPROACH TO LIBEL

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"A word is not a crystal, transparent and unchanged, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used."

—Justice Oliver Wendell Holmes¹

I. INTRODUCTION

The question of language is inseparable from the question of libel. The nature of the language employed determines whether a particular statement is libelous or not. Language is more than a system of rules for phonetic transcription, word formation, and sentence construction. It is a valuable communicative tool to convey messages and meaning. Language is the ability to convey "meaning" in any situation or social context.² Consequently, meaning, which is derived from language, varies. Such variance in meaning makes libel subjective. In this light, linguistics provides a scientific approach to understanding libel.

Libel, this article argues, must be understood according to the dynamics of language.

This article aims to apply a language theory, specifically, *Speech Act Theory*, in studying and assessing Philippine libel law. This article also proposes a holistic framework to adjudicate libel suits. As an attempt to demonstrate the interplay of certain language components, such as the word and its context, this article seeks to aid law students, lawyers and judges tackle libel cases. However, this article is limited to the interpretation of the written word on pamphlets, statements, news reports, advertisements, books, and even on the Internet.³ Libelous drawings, pictures, images, signs, and the like are necessarily excluded.

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¹ *Towne v. Eisner*, 245 U.S. 418, 425 (1918).

² HELEN LECKIE-TARRY, LANGUAGE AND CONTEXT: A FUNCTIONAL LINGUISTIC THEORY OF REGISTER 18 (David Birch, ed. 1995).

³ Lyrisa Barnett Lidsky, *Silencing John Doe: Defamation & Discourse in Cyberspace*, 49 DUKE L.J. 855, 862 (2000). Lidsky differentiates Internet communications and traditional written documents in this wise:

II. LAW, LINGUISTICS, AND SOCIETY

A. LANGUAGE IS A MIRROR OF SOCIETY

Similar to the all-encompassing scope of law is the science of language. Complementary to the law's goal to prescribe and maintain peaceful human interaction⁴ is the aim of linguistics to describe and analyze human behavior as expressed through language and its components, i.e. sounds, words, phrases, sentences, and discourse. Linguists seek "to explain universal principles of language, the systematic structure of individual languages, and the social functions and variant forms of language in use."⁵ Two aspects of language studies substantiate the inherent inter-relation between language and society:

First, the study of linguistic competence focuses on those aspects of the human cognitive process manifested by the language faculty. A person's knowledge of language can be represented by a system of rules and principles that accounts for the ability to create sentences and relate linguistic form and meaning. This cognitive knowledge of grammar transcends language differences and speaker idiosyncrasies and thus models aspects of language universal to all humans.

Although Internet communications are almost invariably "written" communications, they lack the formal characteristics of written communications in the "real world". In the real world, the author is separated from her audience by both space and time, and separation interposes a formal distance between author and audience, a distance reinforced by the convention of written communication. Internet communications lack this formal distance, because communication can occur almost instantaneously, participants in online discussions place a premium on speed.

For instance, our popular newspaper dailies also have a Web edition of their news reports, columns, and feature articles. Thus, it is possible that the proliferation of libel suits against these broad sheets would also have equivalent cyber-libel suits on their respective Web editions. As to whether the publication of the conventional newspaper and the posting of a Web edition on its website should be treated as only one act of publication is an interesting legal aspect of this development in libel cases.

It has been viewed that libel law "has failed to keep pace with technological revolution, leaving a void in the definition of the duty of care owed by a commercial computer network ... to an individual defamed on one of these ... services." Matthew Goldstein, *Computer Communications Systems Raise Knotty Defamation Problems*, N.Y. L.J., 3 March 1994, at 1, as cited in Fia F. Porter, *Defamatory Speech on the Internet: "Dish" Best Served Chilled*, 41 N.Y.L. SCH. L. REV. 731, 731 n. 1 (1997).

It is undeniable that libel in cyberspace in itself is a broad subject matter, which gives rise to a vast range of legal issues on authorship, publication, and jurisdiction. See Robert M. O'Neil, *The Drudge Case: A Look at Issues in Cyberspace Defamation*, 73 WASH. L. REV. 623 (1998). See also Joshua R. Furman, Comment, *Cybersmear or Cyber-SI APP: Analyzing Defamation Suits Against Online John Does as Strategic Lawsuits Against Public Participation*, 25 SEATTLE UNIV. L. REV. 213 (2001).

⁴ Jose P. Bengzon, *Law as a Function of the Social Order*, 43 PHIL. L.J. 699, 702 (1968). Bengzon asserts that "law is a specialized form of social control."

⁵ William D. Wallace, Note, *The Admissibility of Expert Testimony on the Discourse Analysis of Recorded Conversations*, 38 U. OF FLA. L. REV. 69, 72 (1986), emphasis supplied.

The study of language use, on the other hand, focuses on linguistic diversity. Knowledge of language includes both grammatical competence and pragmatic competence, or understanding how to use language to communicate.⁶

Linguistic pursuits are inherently intertwined with communicative processes in society, including the customs, norms, and laws, which govern it. Laws are signified and learned through language.

Crystal identifies the underlying principle behind this close inter-relation. He states:

A cardinal principle underlying the whole linguistic approach is that language is not an isolated phenomenon; it is a part of society, and a part of ourselves. It is a distinctive feature of human nature ...; and it is a prerequisite – or so it would appear – for the development of any society or social group.⁷

For this reason, understanding language is relevant to a deeper appreciation of society.

B. LANGUAGE EXPERTS IN COURT

Law is embodied in language and most of the time, law is immortalized in the written form and expressed in a language intelligible to those subjected to it. Language is the medium of the legal system and its participants.⁸ Thus, “[l]inguistic analysis is particularly appropriate in the legal process, because legal rights are granted or denied through the medium of language”.⁹ As Wallace expounds, “[l]anguage is crucial for participants in legal proceedings, and courts evaluate language data in many contexts. Although courts act as their own language experts, they do recognize the need for expert knowledge of linguistic principles”.¹⁰

Language experts testify in trials and shed light on the language used and its implications.¹¹ A language expert’s testimony is usually sought when the meaning of a phrase is disputed and his testimony is necessary to explain the structural and

⁶ Wallace, *supra* note 5, at 79, citing NOAM CHOMSKY, RULES AND REPRESENTATIONS 3-12, 58-65 (1980); JOHN J. GUMPERZ, DISCOURSE STRATEGIES (1982); W. LABOV, SOCIOLINGUISTICS PATTERNS (1972); D. Hymes, *Models of the Interaction of Language and Social Life*, in DIRECTIONS IN SOCIOLINGUISTICS 35, 38-52 (J. Gumperz & D. Hymes eds. 1972); John Searle, *Chomsky’s Revolution in Linguistics*, in CRITICAL ESSAYS 28-30 (G. Harmon 2d ED. 1982); and P. TRUDGILL, SOCIOLINGUISTICS (1974).

⁷ DAVID CRYSTAL, LINGUISTICS 259 (1985).

⁸ Wallace, *supra* note 3, at 88.

⁹ *Id.*

¹⁰ *Id.*, at 88-89.

¹¹ *Id.*, at 89.

semantic principles in the language used.¹² Though the expert's testimony¹³ is not always the *lis mota* of the dispute, these are generally given substantial weight by the court. As Wallace observed, discourse analysis¹⁴ is influential in the disposition of criminal cases.

The probative value of discourse analysis is generally high with respect to a defendant's criminal conduct and criminal intent. If the alleged criminal conduct is a speech act recorded on tape, the conversational elements that influence meaning are relevant in determining whether the defendant committed the crime. If the literal utterance signifies a criminal act, discourse elements are relevant to determine whether the speaker intended to commit a criminal act with his utterance.¹⁵

In one foreign case, the testimony of a language expert helped clear a Filipino doctor who appeared as an expert witness in court of perjury charges that arose only because as a non-native speaker of English, his use of the language was yet framed in non-native thought processes and therefore susceptible to misinterpretation.¹⁶ In this case, the linguist explained in court the existence of varieties of English and the ways in which non-native speakers use the language. Evidence on how negative questions are answered in different speech communities was crucial in exonerating the accused.¹⁷ Hence, it was crucial for the linguist to explain that the accused did not intend to perjure himself, but the accused merely

¹² Wallace, *supra* note 3, at 89-90.

¹³ Cf. RULES OF COURT, Rule 130, sec. 49.

SEC. 49. *Opinion of expert witness.*—The opinion of a witness on a matter requiring special knowledge, skill, experience or training which he is shown to possess, may be received in evidence.

¹⁴ Discourse is defined as "[a] continuous stretch of (especially spoken) language larger than a sentence, often constituting a coherent unit, such as a sermon, argument, joke, or narrative". Discourse analysis, on the other hand, is defined as "[t]he attempt to discover linguistic regularities in discourse". DAVID CRYSTAL, *INTRODUCING LINGUISTICS* 25 (1992).

¹⁵ Wallace, *supra* note 3, at 110.

¹⁶ Yamuna Kachru, *Cultural Meaning in World Englishes: Speech Acts and Rhetorical Styles*, in *LANGUAGE AND CULTURE IN MULTILINGUAL SOCIETIES* 182 (Makhan Tickoo, ed., 1995). The perjury charges arose from the following exchange during the cross-examination of the accused who testified as an expert witness:

Q1: Did you check to determine if dehydration was present?

A1: Yes.

Q2: What steps did you take to determine that? If it was there or absent?

A2: When the child came, I initially examined the patient and I noted the moistness of the tongue, sunken eyes, the skin color, and everything was okay.

Q3: Are you suggesting that there were no sunken eyes?

A3: No.

Q4: I think we better slow down a little bit more and make sure the record ... did you observe sunken eyes?

A4: No.

Kachru noted that according to American and British English norms, the answers in A3 and A4 are contradictory because in A3, the accused appears to disagree with the statement that there were no sunken eyes, but in A4, he categorically answered that he did not observe sunken eyes.

¹⁷ *Id.*, at 183.

answered the negative questions differently from the point of view of a native speaker of English. Understanding language in cross-cultural communication was essential to disproving the charge.

III. SPEECH ACT THEORY

A. THE WRITTEN WORD SPEAKS

Speech Act Theory "focuses on the ways language is used".¹⁸ The philosopher John Austin began formulating this theory, which was later developed by another philosopher, John Searle.¹⁹ This theory presupposes that meaning is beyond the surface; that meaning can be unearthed from function of what was written.²⁰

A fundamental component of each and every speech act is the physical act of uttering words.²¹ Such utterance may either be written or spoken. The philosophy of speech acts destroys the traditional notion that communication is conveyed through the use of lexical signifiers and in conformity with syntactical rules. It is not the word *per se* which conveys meaning but the **production** of the word which determines how the author's message is received by the audience.²² Searle explains:

[I]t is essential to any specimen of linguistic communication that it involve a linguistic act. It is not, as has generally been supposed, the symbol or word or sentence, or even the token of the symbol or word or sentence, which is the unit of linguistic communication, but rather it is the *production* of the token in the performance of the speech act that constitutes the basic unit of linguistic communication.²³

¹⁸ Peter Meijes Tiersma, *The Language of Defamation*, 66 TEX. L. REV. 303, 305 (1987). Legal scholars pursued the application of speech act theory in the analysis of legal doctrines such as the right to free speech, international legal order, and defamation law. See Paul Chevigny, *Philosophy of Language and Free Expression*, 55 N.Y.U. L. REV. 157 (1980); Nicholas Onuf, *Do Rules Say What They Do?: From Ordinary Language to International Law*, 26 HARV. INT'L. L.J. 385 (1985); Peter Meijes Tiersma, *The Language of Defamation*, 66 TEX. L. REV. 303 (1987); Jeffrey E. Thomas, *A Pragmatic Approach to Meaning in Defamation Law*, 34 WAKE FOREST L. REV. 333, 334, 339 n. 32. (1999).

¹⁹ GUY COOK, DISCOURSE 35 (1990).

²⁰ *Id.*, at 38.

²¹ Lee Tien, Symposium, *Publishing Software as a Speech Act*, 15 BERKELY TECH. L.J. 629 (2000).

²² Equating speech acts as products is expanding the traditional notion of the text, which is merely composed of signifiers. Further, a written text "may be studied as a process or as product; in either case, interpreting a text means showing how it derives form the system and why it means what it does." M.A.K. Halliday, *Dimensions of Discourse Analysis*, in II HANDBOOK OF DISCOURSE ANALYSIS 30 (Teun Van Dijk, ed. 1985).

²³ John Searle, *What is a Speech Act?*, in THE COMMUNICATION THEORY READER 264 (Paul Copley, ed. 1996).

The basic premise of the *Speech Act Theory* is that every utterance "is used to accomplish some purpose for the speaker".²⁴ Speech is produced to achieve the speaker's objective of offering, promising, threatening, commanding, and the like; speech is purposive. It is this purpose of the speaker or the functional aspect of language, which may be indicative of a person's malicious intent.

To illustrate:

[T]he statement that "Smith is a drunk" must have been made with some purpose. It might be that the statement was an accusation of Smith, or that it was a warning to the recipient not to trust Smith. On the other hand, if Smith is a friend or relative, it might be a more positive warning to keep an eye on Smith for his own good. It seems clear, however, that if the speaker when to the trouble of uttering the statement, it must be for some reason.²⁵

So, for every utterance made, there is a corresponding speech act which unveils the utterer's intention. The utterer's intention may be inferred from the surrounding circumstances and will largely depend on the conditions in which the utterance was made. *Speech Act Theory* is underlined by a fundamental conviction that it is indeed possible to recover the author's intended meaning.

B. LEVELS OF MEANING

"The question is," said Alice, "whether you can make words mean so many different things."
"The question is," said Humpty Dumpty, "which is to be master—that's all."

—Lewis Carroll, *Through the Looking-Glass*

Words acquire particular meanings in particular contexts. Even the simplest of words is capable of being understood in different ways. Loosely, there are varying levels of meaning, which should be taken into account in the study of the written text. But the study of meaning is deeper than browsing over the dictionary. Meaning is not confined to the written text.

Speech Act Theory affirms and confirms these truths. The different levels of meaning are explained as follows:

Speech act theory uses technical terms for layers of intention and interpretation. The formal literal meaning of the words is the *locution* the act

²⁴ Thomas, *supra* note 18, at 339.

²⁵ *Id.*, at 343.

which is performed by saying it the *illocution*; a third layer is the *perlocution* or overall aim of the discourse.²⁶

One scholar, David McCraw, citing the work of Frederick F. Schauer, shows how the concepts of locution, illocution, and perlocution come into play in understanding the reader's reception of the text. For Schauer, there are three primary approaches to the assessment of words.²⁷ McCraw contends that for Schauer:

The first approach involves determination of [the]... "core" meaning. The core meaning of a word is its "plain and natural meaning". Because words have no intrinsic meaning, only the meaning given to them by readers, core meaning necessarily must refer to that meaning ascribed to the word by the linguistic majority—for example, the meaning as reflected a dictionary. The second approach assesses contextual meaning. Schauer advocates that courts look at the circumstances in which the word is being used to understand the intent of the speaker. Meaning, then, is defined as the meaning the message-maker intended. The third approach, the empirical or positivist approach, assesses how readers actually interpret the words. Instead of applying the plain and natural meaning or looking at the intent of the communicator, the third approach finds meaning based on how the word was actually construed by its audience.²⁸

Thus, the assertion that the written text conveys different levels of meaning is socio-linguistically correct.

IV. THE BASICS OF LIBEL

Libel cannot be fully understood, even with the use of linguistic expertise, without knowing its *raison d'être*. Historically, "libel action principally was associated with protecting the reputation or inviolability of government and the ruling classes, including feudal lords, monarchs, and the church".²⁹ Thus, regardless of who the victim is, libel safeguards the person's or institution's reputation.

Although a person's reputation is only what a person seems to be and not necessarily what he actually is,³⁰ reputation and public perception are immeasurable assets of any individual. Libel is both criminal and tortious. The offender may be punished, criminally or civilly, or both, with the common objective of reducing, if

²⁶ COOK, *supra* note 19, at 39.

²⁷ David McCraw, *How Do Readers Read? Social Science and the Law of Libel*, 41 CATH. UNIV. L. REV. 81, 94 (1991), citing F. Schauer, *Language, Truth and the First Amendment: An Essay in Memory of Harvey Carter*, 64 VA. L. REV. 263 (1978).

²⁸ *Id.*, at 94.

²⁹ Randall P. Bezanson, *The Libel Tort Today*, 45 WASH. & LEE L. REV. 535, 536 (1988).

³⁰ Van Vechten Veeder, *The History and Theory of the Law of Defamation*, 3 COL. L. REV. 546, 549 (1903).

not deterring, the attacks on a person's reputation, and when proper, to compensate the victim for the damages suffered.³¹

Libel law is one of the crimes against honor penalized by our Revised Penal Code. The applicable provisions read:

ART. 353. *Definition of libel.*— A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.³²

ART. 354. *Requirement of publicity.*— Every defamatory imputation is presumed to be malicious, even if it be true. If no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

ART. 355. *Libel by means of writings or similar means.*— A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by *prison correccional* in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.

In interpreting Articles 353 and 354 of the Revised Penal Code, the elements of libel law are carefully identified in a plethora of Supreme Court

³¹ Stanley Ingber, *Defamation: A Conflict Between Reason and Decency*, 65 VA. L. REV. 785, 791 (1979).

³² Interestingly, the statutory definition of libel in the former American commonwealths namely Arkansas, Arizona, California, Colorado, Georgia, Idaho, Illinois, Montana, Nevada, Utah, and Wyoming, is as follows:

A libel is a malicious defamation, expressed either by writing, printing, or by signs, or pictures, or the like, tending to blacken the memory of the one who is dead, or to impeach the honesty, integrity, virtue or reputation, or to publish the natural defects of one who is living and thereby expose him to the public hatred, contempt or ridicule.

Veeder, *supra* note 30, at 41 n. 4. (1903). Veeder's expository article provides an extensive discussion of the history of libel in the United States. See also Colin Rhys Lovell, *The "Reception" of Defamation By the Common Law*, 15 VAND. L. REV. 1051 (1962). Lovell's work is equally informative, similarly tracing the origins of libel to England of the by-gone years.

decisions. As laid out in *Daez v. Court of Appeals*,³³ the elements of libel are the following:

- a. Imputation of a discreditable act or condition to another;
- b. Publication of the imputation;
- c. Identity of the person defamed; and
- d. Existence of malice.³⁴

The foregoing enumeration integrates the publication requirement of Article 354 in the Revised Penal Code.

Libel is also a quasi-delict or tort. Article 33 of the Civil Code gives a victim of any libelous article the right to pursue a civil action based on tort. This provision of law reads:

ART. 33. In cases of defamation, fraud and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.

The foregoing provisions, albeit complete in the identification of the ingredients constituting libel, there are no statutory guidelines in the determination and evaluation of written texts. *Daez* merely prescribes that malice should exist in order to convict an offender for libel, but as to what are the indicia of malice, excluding the statutory presumptions in Article 354, the statute is silent.

V. RATIONALIZING LIBEL

A. LIBEL IS A LANGUAGE CRIME

A **language crime** is a "crime accomplished through language".³⁵ Robert Shuy coined the term to refer to types of crimes which are accomplished through language and not through physical acts. He enumerates "threatening, offering a bribe, extorting, or soliciting things like murder or illicit sex."³⁶ Though Shuy does not mention libel as one of these crimes, it is obvious that libel is similar to those he mentioned. Libel is about the act of maligning and discrediting another person's reputation. It is perpetrated through the use of language, whether signs or words

³³ G.R. No. 47971, 31 October 1990, 191 SCRA 61.

³⁴ *Daez v. Court of Appeals*, G.R. No. 47971, 31 October 1990, 191 SCRA 61, 67.

³⁵ ROGER W. SHUY, LANGUAGE CRIMES 1 (1993). The book author has served as an expert witness or a consultant in U.S. cases wherein he analyzed recorded conversations and oral utterances.

³⁶ *Id.*

and not limited to the physical acts of printing on newspapers, distributing leaflets, or circulating letters.³⁷

In Philippine jurisdiction, libel is an actionable wrong for which the injured person may file an action criminally and civilly. In this manner, language abuse is statutorily punished. Whether a particular statement is defamatory can only be determined after closely examining the language involved.

B. ILLOCUTIONARY FORCE IN LIBEL

Of the three elements of speech acts, namely, locution, illocution, and perlocution, the term "speech act", through the years, has been "used as a shorthand reference to the illocutionary act".³⁸

Libel punishes the act of maligning another person through the use of published texts. Thus, in every libelous misdeed, the text has an illocutionary force of its own, which is "maligning". The libelous text may perform different acts and trigger different illocutionary forces aside from "maligning", such as alerting the public, warning, criticizing, threatening, and informing. But what is of primordial importance is the existence of the illocutionary force to ruin another person's reputation.

C. TEXT AND CONTEXT

The application of *Speech Act Theory* in probing defamatory language is dynamic. Unlike mathematical operations, speech acts should be understood in its proper context. Context refers to the text surrounding the statement or **verbal context (or literary context)** and the social circumstances of the statement or **social context**.³⁹ While literary context signals the average reasonable reader whether the subject text is a fact or opinion, the social context influences the reader's understanding of the text.⁴⁰

As Ott aptly phrased it, "Linguists and philosophers of language have frequently stressed the formative power of context in determining the meaning of individual words and sentences."⁴¹

³⁷ Meaning is also of central importance in libel law because such "concerns the use of language to convey derogatory information." Thomas, *supra* note 18, at 334.

³⁸ *Id.*, at 339.

³⁹ *Id.*, at 347-48.

⁴⁰ Rodney W. Ott, *Fact and Opinion in Defamation: Recognizing the Formative Power of Context*, 58 FORDHAM L. REV. 761, 782 (1990).

⁴¹ Ott, *supra* note 41, at 785.

V. A NEW PERSPECTIVE

Speech Act Theory stresses the relevance of the publication requirement. Since libel law aims to protect the reputation of every individual, the aspect of reputational harm can only be determined from the recipient's point of view. Thus, the third party becomes the site of the reputational harm and in his absence, the act of libel is incomplete.⁴²

The analysis of allegedly libelous texts should be assessed from the utterer's point of view as well as from the recipient's end. On one hand, the illocutionary acts of the speech act or the utterance at issue indicates the utterer's objective. On the other, the perlocutionary element of the questioned speech act reveals the effect of the utterance on the public.

Considering the variance in meaning and interpretation, applying the *Speech Act Theory* guides the prosecutor, defense lawyer, and the judge in gathering data, assessing the information, and sifting all the parties' contentions. Simply, context, both verbal and social should be factored in while valuing the defamatory effects of the written text. The process of extracting meaning should not be bound by the physical text. Therefore, the function of the utterance should be inferred in libel cases.

Moreover, context should be considered in analyzing purported libelous texts. Social context "includes a consideration of the public controversy, if any, in which the statement was made and the plaintiff's status as a public or private person".⁴³

The Supreme Court in *Lacsa v. Intermediate Appellate Court*⁴⁴ took a conservative stand in taking a linguist's opinion in deciding a libel suit. The Supreme Court held:

The test of libelous meanings is not the analysis of a sentence into component phrases with the meticulous care of the grammarian or stylist, but the import covered by the entirety of the language to the ordinary reader.⁴⁵

⁴² Thomas, *supra* note 18, at 353.

⁴³ Ott, *supra* note 41, at 779. Ott discusses the legal implications of *Ollman v. Evans*, which laid out the influential four-factor test in distinguishing fact from opinion. The *Ollman* factors are the following: statement's precision, verifiability, literary context, and social context. The fact-opinion distinction is relevant in asserting the "fair comment" defense.

⁴⁴ G.R. No. L-74907, 23 May 1988, 161 SCRA 427.

⁴⁵ G.R. No. L-74907, 23 May 1988, 161 SCRA 427, 432 citing *Miller v. O'Connell*, City Ct., 57 L. J., 1768, 12 September 1917

To the contrary, the *Speech Act Theory* precisely identifies and dissects the function of the word, as written, to understand meaning. Such language theory is useful in determining what exactly is the function, i.e. the author's intent to malign, of the written word. Taking context in consideration, the ordinary reader's perspective is not excluded.

VI. CONCLUSION

The study of language is relevant to law. By offering a linguistic approach in interpreting allegedly libelous texts, the danger that "plaintiffs may be compensated when not injury has occurred"⁴⁶ or worse, "actual injury may go uncompensated because ... a court may hold the statements to be harmless"⁴⁷ is lessened.

"When a man's or woman's life or liberty hangs in a delicate balance on an issue so troublesome as the meaning of language, the objective of increasing the quantity or quality of evidence available to juror and court is frustrated if efforts to implement it are not accompanied by making available to juror and court the best linguistics expertise possible for assistance in interpreting the meaning of the tapes. The goal of finding the truth in the criminal trial here too demands no less."⁴⁸

It is undeniable that linguists' expertise is necessary. Sensitivity to language is a key to scrutinizing the allegedly libelous text. Apart from the existing jurisprudence and law on the matter, the *Speech Act Theory* rationalizes each and every ingredient of libel. These elements are not mere impositions of some archaic origin, but linguistically sound conditions in adjudging whether libel exists. The application of linguistics, specifically, *Speech Act Theory*, in libel suits should be welcomed rather than discouraged. Wisdom in language studies should not be perceived as a threat because:

Yet, finding linguistics relevant to the study and practice of law does not automatically mean that in every libel case, a linguist should be called to probe the language used. In fact, after the explanation of what a speech act is, its components and its illocutionary force, it is apparent that linguistics sorted out and explained a common sensical idea.

"Linguistics analyze language, not guilt or innocence. The same analysis should emerge whether it is done for the defendant or prosecution."⁴⁹

⁴⁶ McCraw, *supra* note 27, at 111.

⁴⁷ *Id.*

⁴⁸ SHUY, *supra* note 35, at xiii.

⁴⁹ *Id.*, at xxi.

Lexical connotations are restrictive. Message-sender's intentions are difficult to establish. Public perception is relative. These are challenges that face participants in libel suits. Yet, with the benefits of the *Speech Act Theory*, allegedly libelous texts are examined in its totality, scrutinizing the written text, speaker's intentions, and effects on the public.

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