

LIBEL IN THE MASS MEDIA AS A LINGUISTIC AND LEGAL QUESTION

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ABSTRACT

This research into libel in the media as a linguistic and legal question has been limited to the specific role of language with insulting connotations. When such items appear in the press, they can be considered, due to their stylistic effect, as insult-markers. The aim of this article is to analyze and comment on, from a linguistic-stylistic point of view, a given number of litigation judgments. The defense utilized by the accused journalist and / or the interpretation of the connotations, (by the lawyers or the court), were examined. The intention was to confirm the hypothesis that stylistics has at its disposal instruments that can be of help when attempting to make objective judgments regarding the possible motivation of libel.

Key words: journalistic styles, libel in media, insulting parts

ABSTRACTO

Esta investigación acerca del libelo en los medios como un asunto lingüístico y legal ha sido limitado al rol específico del lenguaje con connotaciones insultantes. Cuando dichos datos aparecen en la prensa pueden ser considerados, gracias a su efecto estilístico, como piezas de insulto. El propósito de este artículo es analizar y comentar, desde un punto de vista de la lingüística y del estilo, un número dado de veredictos tras el litigio. La defensa usada por el reportero imputado y/o la interpretación de las connotaciones, (por los abogados o la corte) fueron examinadas. La intención fue la de confirmar la hipótesis que se tiene del estilo como instrumento que puede ser de ayuda cuando se intenta llegar a veredictos objetivos en casos motivados por libelo.

Palabras clave: estilos en el periodismo, libelo en los medios, piezas de insulto

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INTRODUCTION

Socio-political changes and the establishment of the Slovene state in the 1990s brought about a burgeoning of critical public discussion on a wide range of social matters that emerged with the transition to democracy, especially in the press, and most specifically in the new tabloid or 'yellow press' that, while emulating Western models, continued to function in the residual environment of generic and undeveloped investigative journalism. Journalists in different fields, including politics, culture, business, and even sports, began to uncover the negative developments that had multiplied as a result of the rapid social change, legal disorder, and the widespread dissolution of institutions of public monitoring and control. They expressed their concerns, and even often exposed wrongdoing and actual criminal activity, through language resources whose stylistic value remained unchanged from the previous social order. That which was often written was, in short, libelous. Apart from the victims themselves, the libelous nature of that which was written was often only noticed by the sharpest eyes. However, when the offended person sought satisfaction through the courts, public interest was created by newspaper reports and libel cases, in addition to raising legal and complex linguistic questions, also took on a sociological and wider cultural significance. The number of lawsuits involving accusations of libel, insulting accusations or defamation of character mushroomed, and with them the number of newspaper and magazine reports, with the result that today there is probably no accurate data as to the

number of cases resulting in conviction or acquittal, or the number of cases turned down, except in internal court records that are not accessible to the public.

The most attention and interest in the press resulted from acquittals of journalists (and in some cases, other writers) who had used words or expressions that, from a semantic-stylistic point of view, were undoubtedly insulting. Circumstances were not favorably inclined towards the fairness of these procedures as they were accompanied by public debate regarding 'freedom of speech', the inalienable right of the public to criticize political figures, etc. Commentaries principally came from journalists defending their colleagues, but there was also flirtation with existing Western European legislation and judicial practice. It is possible to see in this, an unedifying pressure on the courts, and considering the fact that local criminal law, particularly with regard to libel or defense of 'freedom of information', offers extremely restricted rights, the great prevalence of acquittals is not difficult to understand.

The need for linguistic research has been prompted by legal judgments on the role of pejorative words in texts, although this was not the only reason, as the cases under discussion involved undoubtedly offensive expressions that are the proper subject of stylistics and other linguistic disciplines. Specific contentious cases were discussed in lectures to students of journalism, so even before the start of this research some of the hitherto unrecognized pragmatic and textual phenomena had been identified.

Dealing with this issue meant going outside the boundaries of linguistics. It was necessary to repeat the warning that public use of insult, irrespective of the target, poisons the social sphere that journalism itself, especially through daily reporting, plays a significant role in helping to build. Each and every use of insult increases the coarseness of interpersonal relations and is contagiously transformed into tolerance of public attacks, which under the cover of an already exaggerated emphasis on the conflict of social

interests, increases that conflict rather than calming it. Allowing public insult in the name of acute social criticism is misguided, as it scorns intellectual elegance as well as, of course, the expressive potential of the language. A society that carelessly allows the practice of linguistic ‘thuggery’ in public life is in reality a coarse, uncultivated community.

CURRENT FRAMEWORK FOR ANALYSIS

The problem is common in Slovenia because of the increasing number of trials in which individuals seek satisfaction as victims of attack against honor or reputation. The defendants are mostly journalists. While Slovenia was still part of the former Yugoslavia, such lawsuits were relatively rare compared to the current situation, even though the old and the newly passed law differ only in detail. The most striking difference relates to the former unpopular Article 133 of the Yugoslav law, which dealt explicitly with political insults. It should be noted that the increased number of lawsuits is mainly due to the journalists’ misunderstanding of the term *freedom of speech*.

Between 1990 and 2001, in the Ljubljana Court alone, there were 180 lawsuits against 208 journalists, 17% of these dealing with insulting language. In all of these cases, the plaintiffs were well-known politicians and the trials attracted the attention of the mass media. The public understood the lawsuits from two different frameworks: ‘freedom of speech on trial’ or ‘the tyranny exerted by freedom of speech’. In Slovene criminal law, libel in the mass media is punishable by a fine or by imprisonment, but Article 196 is limited in this respect since it specifies that: “... it [i.e., public libel] is not punishable when a person formulates a libelous statement in a scientific or literary work, or in serious criticism; when a libelous statement was used while a person was carrying out an official obligation or exercising a journalistic profession or political activities or

protecting someone's rights; or if the nature of expression and other circumstances do not reveal an intent to insult." Thus, the judicial and stylistic problem lies between 'freedom of speech' and 'intent to insult'. In other words, an expression can be recognized and perceived as libel, but it is not punishable if it has not been used with intent to insult. For this reason, the court rulings and acquittals are arbitrary (as shown in the cases cited) because courts, fearing a public accusation regarding the repression of freedom of speech, arbitrarily evaluate uncontested stylistic facts. It is not possible to use linguistic resources that are considered to be offensive in Slovene and at the same time to deny in court the intent to insult. Using and understanding the stylistic values of words indisputably indicates intent to insult. The Slovene judicial theorist, Požar (1997), defines the notion of intent as an "internal psychological state" (p. 36) for which there are external indicators. These are functionally linked with the facts, which can be established by evidence. In other words, if an indicator is detected, then the intent to insult is proven. Of course, the defendant will deny his intent. Granted, the indications are certainly not always clearly evident. Nevertheless, this research identifies and describes, through linguistic analysis, those language resources that are used in such a way that their appearance in a written or spoken text may be understood as an indication of, and consequently, as a proof in a court of law, of intent.

The following Table can serve as a linguistic reference, and can be utilized by courts as a guide when deciding whether the indication of the intent to insult is proven to be clear, or not. The left column in the Table comprises levels of evidence serving as an indication of intent. The levels of evidence have been graded and arranged in a scale ranging from 1 to 11. With the increased veiling of indication, the level of evidence declines. Levels 1 - 3 represent a high level of indication of intent. These levels are characterized by the indisputable stylistic markedness of the linguistic expression. The

transparency of the indication is based on the linguistic facts given in the second column. The increase in the veiling of the indication correlates with the decrease in the force of the stylistic markedness. At level 11 the indication is difficult to identify (which is due in part to the denial of intent), since it is veiled by a stylistically weak linguistic markedness, or even hidden in the context. The third column describes the specific contextual, generic, extra-linguistic circumstances, the latter being beyond the scope of linguistic stylistics. These circumstances can either highlight or negate the indication. The following situation can serve as an example of such specific

Table: Determining Intent

Indication of Intent	Style: Degree of Linguistic Markedness	Circumstances
The indication of intent is unquestionable	<ol style="list-style-type: none"> 1. Lexemes which are by definition offensive (vulgarisms, the language of the gutter): <i>gutless bastard, etc.</i> 2. Words that have at least one pejorative meaning: <i>louse, runt, ass, etc.</i> 3. Pejorative words: <i>to bluster, cripple</i> 	Ø
The indication of intent is unquestionable and is present in the contextual elements	<ol style="list-style-type: none"> 4. Emotional words that express the author's negative attitude to what is described in a specific context: <i>He forced his way into the party leadership.</i> 	Ø
The indication of intent can be hidden in a <i>hapax legomenon</i>	<ol style="list-style-type: none"> 5. Scornful nicknames: <i>Jack Pissaire, Randy Peter, etc.</i> 6. <i>Hapax legomena</i> (lexemes whose referent is undefined): <i>šprunga</i> 	Ø
The indication of intent is veiled by misunderstanding of the discipline	<ol style="list-style-type: none"> 7. Figuratively used medical terms from diagnostics of mental and physical complaints: <i>imbecile, schizophrenic, psychopath, paranoid, etc.</i> 	X
		X

The indication of intent is veiled by the different value of diminutives	8. Diminutives that in a given context refer to elements of reality: <i>'little pilot'</i>	
As in 5 and 6	9. Emotional words based on comparability of meanings (metaphors): <i>mental smallholder</i>	?
The indication is consider-ably veiled, correlating with the denial of its existence	10. Puns and modified personal first or second names: <i>Goodman</i> → <i>Goofman</i> 11. Sharp irony, sarcasm, personification, parallelism, comparison, hidden accusations based on syllogism	X

circumstances. The accused claims that he had no intention of causing offence, upon which the court accepts the claim as authentic on the grounds that the credibility of the accused has been proved in other circumstances. This is the point at which the linguistic and stylistic analysis of the cases reaches its limits. In stages 1 - 4, no attested circumstances have been anticipated, e.g., cases where a vulgar expression, which was at the root of the insult, could not be understood in a different way other than that accepted by stylistics or by the target. The indication of intent is thus incontestable and applicable to all known circumstances. In the following stages (from 5 - 11) such circumstances could or should be taken into consideration, since the indication of intent can be more successfully identified or denied.

The Table assists in the forming of judgments on the offensiveness of an expression. Three aspects are considered, but the appearance of a word or an expression remains decisive. The Table serves as a methodological instrument, since it does not reflect actual events in their entirety. However, the empirical data show that the Table will probably have to be expanded, especially as far as levels 9, 10, and 11 are concerned.

LIBEL IN THE MASS MEDIA AS A LINGUISTIC QUESTION

Linguistic stylistics deals with style as the individual's deliberate choice and ordering of the language resources available when creating a text (Čechová, 1997). The fact that choice exists assumes that there are language resources which are basically the same, but which differ with regard to certain characteristics. Akhmanova (1977) proffers that style is a concept that can be applied to any two or more entities that are basically the same, but which differ in terms of characteristics that are not fundamental, i.e., that do not alter the basic character of these entities. This applies to style in general (architecture, fashion, art, etc.). In linguistic style, it is necessary to add that language differs from the aforementioned in terms of its particular communicative function. The basic role of language is the transfer of information. If linguistic signs acquire any other value, if they are used for anything else, it is in addition to this basic role. It is precisely this added or increased role that is the subject of linguistic stylistics (Akhmanova, 1977).

Language exists in speech, in language use or, as Korošec (1998) states, "style is present in the linguistic message, so in terms of Saussure's dichotomy, it is part of *parole* or language use, not part of language as system or *langue*" (p. 8). Stylistic analysis therefore always addresses text, for style, as the result of choice is apparent only in text. The starting point for research that wishes to show that the choice of language resources demonstrates the author's intent – in this case, intent to insult – must be a stylistic one. Every communication is the result of an intentional, goal-oriented selection from among the available language resources. This selection is linked to the author's intention and the circumstances of the communication, i.e., to what stylistics refers to as subjective and objective style-forming factors. Stylistic effect, however, is dependent above all on the other end of the communicative chain, on the recipient of the message. Linguistic

stylistics has two ways of describing stylistic effect, either a generalized evaluation, e.g., the theme and the linguistic choice are not matched or are well-matched; or the intention that the addressee ascribes to the creator of the text is foregrounded (Sandig, 1986). The range of potential evaluations is vast. At one extreme there is the non-expressive (academic), and at the other, the expressive / emotional, so that evaluations can range from empty, cold, and / or fatuous, to sad, cheerful, and / or aggressive (Sandig, 1986). In the cases dealt with in this research, the stylistic effect that the recipient of the message identifies as, provocative or aggressive, and the offended person, i.e., the person to whom the text refers (who is actually not the addressee) regards it as insulting.

Stylistic analysis identifies basically two kinds of interpretations. The first relates to identification of characteristics in the *language practice* of public communication, i.e., when language resources in journalistic and other such texts are perceived by the offended person as insulting (an attack on their honor or good name), thereby leading to litigation. The other relates to the circumstances which, in view of this, appear in the disciplines that deal with the consequences of such practices, e.g., law, linguistics, theory of journalism, communications studies, ethics, sociology, cultural studies, etc.

In the use of language in the mass media that is identified as libelous (i.e., from a legal-theoretical point of view, there are indicators of intent to insult, as well as typological homogeneity, almost uniformity of language resources. With regard to this, existing research confirms the contents of the Table above. In the context of private communication, intent to insult is apparent through the use of the language resources listed under 1 - 3 in the Table (i.e., a high level of linguistic markedness). In the media these resources are rarely used. When they are used, it is in the context of quotation, and consequently, to date, they have not been the subject of litigation. One could say that

cultivated expression in contemporary Slovene public communication is spared such expressions as *louse*, *runt*, *bastard*, *ass*, *loudmouth*, etc.

Frequently the resources listed under 4 - 9 in the Table are pejorative expressions, i.e., contextual pejorative references and idioms, e.g., *lout*, *village drunk*, '*little pilot*', '*X would sell his own grandmother*', etc. As with the first three categories, 4 - 9 are clear indicators of intent to insult, but those accused in court usually deny such intent and this denial is usually accepted by judges, resulting in acquittal.

In everyday private communication, the second most common of language resources, which do not conceal their intent to insult, are similes, while in public communication these are much less frequent and seldom appear as the subject of lawsuits. This is surprising, as the structure of the simile, involving as it does an unnamed *tertium comparationis*, offers (of course, when the comparison is with something negative) a much more effective comparison and thus insult, while at the same time, it is the only resource, or almost the only one, that enables the user to deny intent to insult, e.g., I didn't say that she WAS a cow, only that she was LIKE a cow.

As metaphor is distinguished from simile by the lack of a direct comparative expression, so metaphorical references, i.e., if they are not in themselves markedly pejorative, are harder to recognize as insults, even if they are precisely that. Why such metaphorical comparative references make so few appearances in the media is still hard to explain satisfactorily from the theoretical point of view, but the following suggestion has been offered. In practice, indisputably pejorative references achieve the text producers' aim of causing offence and that is why they are used. Stylistics can identify such language resources without difficulty for what they are (and thus in court the denial of intent to insult should not be accepted). Similes and rhetorical figures such as personification do not achieve this in every textual context, so it is possible to use them as hypotheses, i.e.,

the *supposition* is the producer's and the addressee's. If the *hypothesis* is left to the addressee, and if the addressee makes an accusation of libel, the producer can always point to the literal meaning of the language resources used.

The theory of journalistic genres does not offer any criterion regarding the appearance of pejorative and potentially insulting expressions in particular genres, so the view has appeared that in certain contexts, such as lampoons and satirical columns, such resources may be used, as the very nature of the genre prevents them from being insulting. This issue has been left to ethics (Poler-Kovačič, 1996), good taste, and politeness. Pejorative language resources (and, of course, others falling into categories 3 - 11 in the Table) are well-recognized as indicators of intent to insult. But the courts consistently do not take account of this, making allowances for insults by making allowances for 'sharp criticism'.

In their professional code, Slovenian journalists have not included a section on journalistic ethics. The principle should apply that public insults that journalists make use of in their texts, irrespective of genre, should be dealt with and discussed first within the profession, making use of available instruments, e.g., journalistic ombudsman, court of honor, linguistic expertise, etc., rather than leaving the issue to be dealt with by individual prosecutors and the criminal or civil courts.

Current research includes criteria for the identification of libel (in a judgment by the Supreme Court of the Republic of Slovenia), which is put forward as a model for deciding whether or not a person committing libel did so with intent to insult. This is a kind of text-stylistic approach that allows for an objective judgment as to whether insulting language makes up a substantial part of the published text, while the subjective element is judged in terms of whether the article was published solely to insult the offended party. The conclusion follows that if a large part of the text is not insulting, but

only the part where an insulting expression appears, then the accused journalist can rightly claim that s/he had no intention of causing offence to the (allegedly) injured party. In principle, we should be cautious about taking such an approach as a model, as a more skilful text producer may be able to camouflage libel by including it in a deliberately neutral text, and alleging objective provision of information to the public. At the same time, text analysis shows that indicators of intent to cause offence are not contextually restricted to one particular part of a text, but also appear where language resources that are actually non-insulting (from the title onwards) signal the text producer's purpose that is realized in the part of the text where insulting expressions do appear.

THREE CASES

Three cases are presented below that illustrate some of the issues already highlighted. Additionally, the value of linguistic analysis is discussed.

Case 1

A journalist, J.K.S. wrote in the tabloid, *Slovenske Novice*, on October 13, 1993, that a deputy in the National Assembly had become Chancellor of Maribor University and that another person, “namely Janko Halb, [...] known in parliament as Janko Pisoar”, had replaced him. It should be noted that upon the initiative of Mr. Halb, special urinals were installed in the gentlemen's toilets in parliament, and for this reason, he was nicknamed Janko *Pisoar*, i.e., Janko Urinal in English) by his colleagues. Mr. Halb was offended and sued the journalist. The journalist's defense attorney argued that the word ‘*pisoar*’, used with a person's name is not an offensive sobriquet, but a playful nickname. The court did not agree and decided that the journalist had caused offence to Mr. Halb. The journalist had to pay 80,000 Slovene ‘*tolars*’ (i.e., 340 Euros) in damages.

How could linguistic analysis help in such cases?

- a) There was no need to use a nickname. The person is identified by his first name and surname. In Slovene, no nicknames are necessary or usual when reporting about individuals. The intention is obvious. If there was no need to include a nickname, why did the journalist do so?
- b) The transfer of the word reference from an object to a person is offensive in the case of '*pisoar*', because of the meaning of the word ('a vessel in which men urinate').

In this case, the court decision was equivalent to the results of the linguistic (stylistic) analysis. In such cases, the first rule should be as follows: if a language can produce non-defamatory meaning, the appropriate means should be used to achieve this meaning.

Case 2

A man, V.S., stabbed two men, one of them died, but some of the evidence indicated that Mr. V.S. may have acted in self-defense. A journalist, I.K., wrote about the tragic event in two articles. He used the terms 'murderer', "wild little village drunkard" (*podivjani vaški pijanček*), "lout" (*razgrajac*), etc. to describe the accused. Mr. V.S. was offended by the articles and sued the journalist. The defense attorney argued that the article was the sort of comment column in which a journalist could express his opinion and that the journalist's moral judgment was appropriate. Meanwhile, Mr. V.S.'s attorney argued that the journalist had used an extremely disdainful tone of writing in which his client was also described as one of the 'dregs of humanity'. The court decided that it was impossible to prove that the journalist had written the articles with intent to insult,

although the expressions he had used were ‘strong / harsh’. The court agreed that the journalist had not caused offence to Mr. V.S.

A linguistic (stylistic) analysis of the case is simple. The words *podivjani* (wild), *pijanček* (little drunkard) and *razgrajač* (lout) used by the journalist are stylistically marked. In the *Dictionary of the Standard Slovene Language*, these words are described as emotionally colored expressions. It is a well-known fact that, under common law, labeling someone as a ‘murderer’ is a libel, *per se* (or a direct libel), therefore the court’s decision that the expressions were ‘strong’ was correct. The journalist could have chosen neutral, unmarked words, but he did not, which is why his intention is obvious. The emotionally marked words express his negative evaluation and they are therefore indicators of intent. If the court had taken into account the stylistic value of the words, i.e., had considered language analysis, its decision would have been different and its justification would have been more accurate if the proper linguistic terms to describe the vocabulary in question had been utilized.

Case 3

The last example to illustrate this on-going research is probably the best-known case. Mr. B.N. published an article titled *Lunatics Set Free* in the ‘Lampoon’ column of the political weekly *Mladina*. In this article, he wrote of the then Mayor of Ljubljana, Mr. D.R., stating that he had been ‘apparently’ gripped by real *insanity*, that he was prone to *schizophrenia*, and that the rumors about his *dementia* were not empty allegations. Overall, the journalist described Mr. D.R. and his actions with three key words: *insanity*, *schizophrenia* and *dementia*.

In his defense, the sued journalist claimed that although he had used harsh words, that were apparently offensive, he had not used offensive words. He argued that he had

only expressed his value judgment, which was legitimate within the scope of the column in which the article appeared, since the column had already published the journalist's value judgments on other well-known facts and situations. The journalist's defense lawyers were convinced that the expressions used in the article were value neutral, since they only rendered an assessment and value judgments without offensive meaning. The First Degree Court ruled that the journalist was guilty, since the controversial words in question went beyond the limits of acceptable criticism and of journalistic writing. The writer, Mr. B.N., then filed a complaint and the Supreme Court ordered a new trial. According to the Supreme Court "there is a doubt about whether the actions committed by the accused, Mr. B.N., reveal intent to insult the private plaintiff, since the First Degree Court failed to sufficiently consider the genre, and to assess the text within the context of the entire article". According to the Supreme Court, the First Degree Court should have established whether the journalist's writing was motivated by personal interests or by a general desire to inform the public. In the new trial, with a renewed jury, the First Degree Court acquitted Mr. B.N. on the grounds that no offensive intent could be proved in his text. Mr. D.R. filed a complaint, but the action was barred by limitation since four years had passed since the beginning of the procedure.

The following stylistic analysis could be provided for this case. As illustrated above, some of the words are disdainful *per se* and therefore the indication of purpose is unquestionable (cf. the Table above, categories 1 - 4). Some words become disdainful when the specific context is taken into consideration (cf. the Table above, categories 5 - 6). The three marked words, mentioned in the D.R. vs. B.N. case, pertain to the terminology of mental illness. A professional diagnostician can make a statement referring to dementia while s/he is assessing the actual state of a patient, and only in these circumstances can the expression be absolutely neutral. Any other uses would have

pejorative connotations, because the negatively connoted semantic components are the closest to the layman's perception of the meaning. These components will thus prevail in everyday usage, and they clearly indicate the journalist's purpose. In the above case the three expressions in question were used to refer to a state of mind that is similar to the one denoted by the corresponding scientific terms. However, the journalist's aim was to cite only one of the semantic components of the term, thereby attributing to it a negative connotation. The journalist could have chosen among the neutral linguistic resources available for social criticism. It is true that the form of the satirical column implies a critical approach but in the described case it could have been done in an inoffensive way.

It is interesting to note that, in his defense after the first verdict, Mr. B.N. used linguistic arguments, i.e., a semantic and pragmatic justification, to prove that the words have no *a priori* meaning, and that the meaning is not a stable category since it varies according to time and context. In his defense, Mr. B.N. overlooked the fact that the words in question are not just any words, but medical terms with a well-defined meaning within a specific field, and that only one characteristic of the medical diagnosis will actually prevail in general language. Furthermore, the meaning of the term is extended and a new reference is made, which is why the transfer of the term to the layman usage results in offence.

The second linguistic argument used by Mr. B.N. was provided by the *Dictionary of the Standard Slovene Language*, in which the three words are unmarked, i.e., no labels such as *vulg.*, *pej.*, *low*, are used to describe the usage of these words. Mr. B.N.'s argument would therefore imply that only the words marked as such in the dictionary can be offensive. At this point, he contradicts his previous claim that the circumstances of use should be taken into account. However, the expressions *dementia* and *schizophrenia* are marked with *med./psych.* in the *Dictionary of the Standard Slovene Language*, while the

article pertaining to the entry *insanity* gives *mental illness* as a hypernym, explaining that due to its connotations the experts no longer use the term *insanity* (*blaznost*). Finally, Mr. B.N. invited the judge to publish a list of words that are an insult to the person referred to, “since following the *Dictionary of the Standard Slovene Language* provides no safeguard before the Court of Ljubljana.”

CONCLUSION

This research had as its objective to establish a list of suitable and unsuitable expressions which would enable a precise, neutral and specialist framing of legal texts, thereby avoiding everyday language descriptions such as: “...it was impossible to prove the intent to insult, even though the expressions were harsh.” As far as the list of the words is concerned, the aim of the research is to confirm and to complete the above Table with reliable examples. In this way, the use of linguistic resources resulting in legal offences within reported communication situations can be identified and described.

It is hoped that these three cases have illustrated how an unpretentious linguistic analysis could help to enlighten such criminal cases involving attacks against reputation and how research can assist in identifying objective criteria for judges and, ultimately, journalists.

Linguistic stylistics describes general stylistic features – from stylistic elements to patterns, and from individual types to textual patterns – in an effort to describe their stylistic rationale (Sandig, 1986). Therefore, stylistic effect is a central question. As already noted, that which is added to the language unit is at the forefront of stylistic research. Stylistic meaning cannot be identified explicitly through semantic resources as it is realized implicitly. Or as Franck (in Sandig, 1986) proffers with regard to stylistic meaning, the actual content is not essential and that it is not ‘what’ that matters but

‘how’, i.e., the way in which something is expressed. And this is the point of contact / pressure between stylistics and the law, which in the 169th article of the Criminal Code of Slovenia, in relation to identification of intent to insult states: “A person shall not be punished [...] if it is clear from the means of expression and other circumstances that he or she had no intent to insult.” The means of expression is the central question of stylistics, and therefore stylistic analysis of the selected language resources can enable judgments to be made objectively.

Appealing to literal, technical, obsolete, or even ‘witty’ meanings of the selected words is an unconvincing justification that serious theoretical stylistic analysis can soon overturn. Dissection is more straightforward when it comes to inherent stylistic marking, so that language resources that are marked in every text bring that markedness with them to the text, meaning that their use is a clear indication of libel (cf. 1 - 4 in the Table above). However, judgment in the case of normally unmarked stylistic resources, i.e., those that acquire their stylistic value only from co-text or from taking into account the context of communication, is more demanding. In either case, stylistic analysis offers the only chance of objective judgment.

Awareness of stylistic effect is above all a matter for the text producer. Knowing what stylistic options the language employed offers, taking into account stylistic norms and acknowledging the stylistic effect of deliberate selection from the resources of the language in question is, together with paying heed to legal provisions and professional ethical principles, self-evident and necessary for the professional text producer. Freedom of public expression is only possible if it is accompanied by public accountability by all, including those in the journalistic profession.

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