

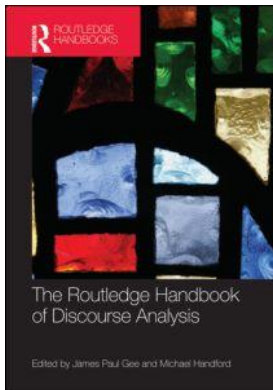
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Discourse analysis and linguistic anthropology

Justin B. Richland

Introduction

Pick up the latest volumes of any of the leading linguistic anthropology and discourse analysis journals—*The Journal of Linguistic Anthropology*, *Language in Society*, *The Journal of Pragmatics*, and *Discourse and Society*, to name a few—and you might be struck by the broad diversity of analytic practices and objects of inquiry comfortably gathered in each. All will undoubtedly be essays that revolve around an exploration of the norms, structures, and practices of communication and of the ways in which these inform and/or are informed by the sociocultural and political–economic events and forces of which they are a part. And they will do so in ways that span the full analytic and methodological spectrum. Some of the studies will be centrally concerned with describing the most micro–interactional syntactic and grammatical details of contextually situated language practices. But they will be published side by side with others which endeavor to account for the most macro–sociological forces that inform communication and for the degree to which those forces naturalize the differential political–economic power and authority of some gendered, racialized, nationalized practices and of the social actors who use them.

In many ways the offerings of these journals seem interchangeable. And yet it might be surprising to know that the rapprochement between linguistic anthropology and discourse analysis is a relatively recent phenomenon, and one that is not as nearly complete as might first appear. Of course there is considerable overlap, particularly given the influence that interactional sociolinguistics, conversation analysis, the ethnography of communication, and semiotics have played in both fields, at least since the last quarter of the twentieth century. Nonetheless, in speaking directly to the relationship between discourse analysis and linguistic anthropology, Blommaert *et al.* (2001) note that, in “the absence of any dialogue between [the two fields], the differences are more striking than the similarities” (p. 5). While acknowledging the commitment that both have in teasing out the manifold and complex relationships between language, culture, and society, Blommaert and his co–authors note a tendency in the former to be concerned more with deconstructing the political forces informing texts and discourses, usually of the mass–mediated variety, while the latter takes as its mission the ethnographic investigation of face–to–face interaction and, when it is oriented to the political, the exploration of the ways in which broader cultural norms shape beliefs about language and about its uses.

Of course this is a vast oversimplification, as the authors acknowledge. But, despite this and despite the fact that today the two fields may be mutually influencing each other more than ever before, it is still the case, I would argue, that a discernable divide separates them.

This chapter is offered in the same spirit in which Blommaert and his co-authors put forward their exploration of the analytic space between linguistic anthropology and discourse analysis, namely to improve “the transatlantic contact between the traditions” (Blommaert *et al.*, 2001: 5). To accomplish this, I will argue that some of the enduring incompatibilities between discourse analysis and linguistic anthropology stem, at least partly, from the historical foundations of the two fields and their rather different sociopolitical and cultural milieux. I will suggest that these foundations shape the research produced in each, an influence that, while increasingly muted, nonetheless compels a central analytic trajectory, which pulls at least some new scholarship from each field in different directions.

It is undoubtedly true that both fields are concerned with the nexus between language, culture, and society, and scholars in both would generally subscribe to the image that Silverstein (2004) offers of that nexus as one “forever in dialectical process” (p. 645). Still, I will argue that the particular sociohistoric contingencies informing the development of linguistic anthropology in North America and of discourse analysis in Europe continue to assert an influence on how scholars raised in each tradition orient to the exploration of that dialectic—a process that results, inadvertently or not, in a relatively different emphasis on one part of that dialectic over the other. More specifically, linguistic anthropology has been shaped by a set of interests—including a Boasian concern with “salvaging” dying languages and cultures (a broader disciplinary division of labor that keeps sociocultural phenomena within the scope of other, larger, anthropological subdisciplines) and with challenging the supremacy of Bloomfieldian and Chomskian formal linguistics—that have long oriented the discipline more toward revealing and exploring the sociocultural dimensions of language than toward exploring the role that language plays in the constitution of culture or society. Discourse analysis, on the other hand, and not just in its most critical modalities, locates its foundations less in linguistics than in the social sciences, particularly sociology—whether that be interactionist, ethnomethodological, processual, or critical-theoretical—and in the challenges they offered to various forms of macro-sociological structural functionalism and/or historical materialism (see e.g. Heritage, 1984; Slembrouck, 2001). As such, the analytic trajectories that shape the discourse analytic project have more often queried what language in use can tell us about society and culture, and only more rarely (and more recently) considered what culture and society can tell us about language.

Of course there are plenty of exceptions to these overgeneralizations, including very some long-standing and productive collaborations between individuals trained in each tradition, or trained in one but now read in both (e.g. Rampton, 2007; Collins *et al.*, 2008; van Dijk, 2009; Scollon, 2001). And yet I would argue that the influence of the histories of these two fields continue to shape them and help explain why it is that scholars of discourse analysis and linguistic anthropology are indeed converging around a common set of analytic interests commitments while at the same time, like sailors on passing ships, they find, on closer view, that gaps still separate them (Blommaert and Bulcaen, 2000; Blommaert *et al.*, 2001).

To explore the continued influence of the different teleological demands of linguistic anthropology and discourse analysis in the limited space that remains, I look first to some recapitulations of the scope and history of the two fields offered by leading scholars in each (Kroskrity, 2000; Slembrouck, 2001; Duranti, 2003; Gee, 2005). I offer these less for the truth value of the claims they make about the past, and more for what they might performatively reveal about the current analytic commitments and goals of both fields today. Because I am trained in linguistic anthropology, and others in this volume are far more qualified than I am to relate the history of discourse analysis, I will give greater attention to the side of this story offered by Duranti and Kroskrity, and particularly to the ways in which Duranti’s vision of certain analytic incompatibilities within the linguistic anthropology can be extended to the on-going differences between discourse analysis

and linguistic anthropology as well. As such, and depending on where you look, discourse analysis and linguistic anthropology can look increasingly similar or stubbornly different in their epistemological, teleological, and sociopolitical aims and trajectories.

Despite this, I am convinced that there is considerable opportunity for further rapprochement between linguistic anthropology and discourse analysis, a coming together that need not compromise the best aspects of each scholarly traditions or fail to meet what may likely endure as their differing analytic trajectories. In short, I believe there are solid examples of scholarship that gives equal weight to both sides of the language–culture/society dialectical process, inquiries that move analytically from language to culture/society and back again. Building on lessons from one such example (Silverstein, 1985, 2003), I will close with an analysis from my own research on the legal language of the contemporary Hopi tribal nation, to suggest the inroads that can be gained in our understanding of linguistic and sociocultural and political phenomena when we endeavor to move beyond the analytic boundaries that remain between discourse analysis and linguistic anthropology.

Origin stories, programmatic paradigms and analytic trajectories

Society in and through language: an origin story of discourse analysis

I would hazard that most linguistic anthropologists and discourse analysts would agree that origin stories—those interactional, textual and performative events in which the story of “how we got to here” is told—are analytically valuable as much for what they say about the present conditions of their expression as for what they do about the pasts they represent. They are useful for shedding light not only on what a narrator *intends* to say in telling the story at a given moment in social place and time, but also in discerning the various sociocultural norms, structures and practices that both shape and are shaped by the story performance.

Consider, then, the story that Stef Slembrouck (2001) offers for the origins of critical discourse analysis (CDA). As he tells it, critical discourse analysis, particularly as formulated by Norman Fairclough in the 1980s and 1990s, emerged in response to sociocultural and political economic events and trends occurring at the time in the global North. More specifically, Slembrouck points to events in Western Europe and the US, such as the rise to power of Thatcher and Regan styles of conservatism, the dismantling of the welfare state, and major increases of in-migrating populations, largely from Eastern Europe and the global South, which resulted in a period characterized by the author as Western Europe’s “most radical post-war transformation” (2001: 34). Slembrouck couples these events with the rise, in European academia, of (post)structuralism and semiotics, the so-called “linguistic turn” of social science and its particular resonance within cultural studies and post-colonial scholarship, to argue that the context was ripe for a reinvigorated critical agenda that took discourse analysis as one of its key modalities (Slembrouck, 2001). Though he acknowledges that other “attempts at staging a critical agenda in language enquiry” also occurred at this time, it is nonetheless his contention that cultural studies, with “its interest in mass culture and consumer society ... became a major source of inspiration for early work in the critical analysis of discourse” (Slembrouck, 2001: 35).

To that end Slembrouck points specifically to an April 1990 symposium organized by Teun van Dijk in Amsterdam as the watershed event where “perceptions ... reflected an urgency about moving away from a predominantly descriptive ... (socio)linguistics” (p. 35), and toward a mode of enquiry that “advocated a focus on the analysis and explanation of the constitutive role of language use within institutional practices and within the larger social ordering of institutional

domains” (Slembrouck, 2001: 36). And thus, says Slembrouck, critical discourse analysis was born (see also van Dijk, 1993, Caldas-Coulthard and Coulthard, 1996; Fairclough and Wodak, 1997).

I offer this origin story as an example of the extent to which sociocultural phenomena and their explication rest not only (or even) at the foundation of CDA’s development, but also at the center of its ongoing project today. It is telling, I would argue, that what Slembrouck sees as the signal contribution that CDA makes toward understanding the dialectic relationship between socio-cultural phenomena and language phenomena is its pointing up what language can tell us about society and its forces. Linguistics, as the descriptive analysis of language forms and practices, appears primarily as the alternative against which CDA defines itself and, later, as the modality by which the analysis shall be undertaken, rather than as something that contributes to the ultimate agenda of CDA itself.

Some may argue that this centering of sociocultural phenomena and considerations points more to the extent to which the deep analysis of language forms and practices constitutes the taken for granted (or otherwise presumed) baseline that necessarily informs CDA. Others might suggest that, by using a social history of critical discourse analysis, the most overtly political branch of discourse analysis, I am unduly weighting the evidence in support of my claims.

To both, however, I would suggest that the foregrounding of sociocultural and political economic problems as the ends of this scholarship, and the treatment of language primarily as a means to that end, is also observable in other, more general surveys of discourse analysis. Consider the second edition of James Paul Gee’s widely read volume *An Introduction to Discourse Analysis* (2005). In the opening paragraphs, Gee first establishes that, for him, “a primary function of human language [is] to support the performance of social activities and social identities and to support human affiliation within cultures, social groups, and institutions” (p. 1). The book, and thus (by extension) the field of discourse analysis it introduces, “is concerned with a theory and a method for studying how language gets recruited ... to enact specific social activities and social identities” (Gee, 2005). This, he then explains, requires arguing for and establishing that “language-in-use is everywhere and always ‘political,’ ” a statement he immediately follows with a paragraph that explains what it is, precisely, that he means by the term “political” (Gee, 2005: 2). Of course, Gee’s book spends ample time exploring various dimensions of linguistic structure and practice, from the micro-level details of syntax and grammar to the meso-level considerations of intertextuality, genre, interactional sequence, sociolinguistic variation and to the largest macro-level concerns with (“big D”) “Discourse,” habitus, and sign systems. And in numerous other works Gee has established how discourse analysis can help us better understand a variety of sociocultural practices that, we would undoubtedly acknowledge, are language-based, including (most notably) literacy and schooling (e.g. Gee, 1996, 2004, 2005, 2007). But, for all this attention to the language of discourse, the overriding telos of the kind of analysis called for by Gee is to demonstrate the ways in which broader sociological and cultural phenomena are presupposed and entailed by that “language-in-use.” Like Slembrouck’s history of CDA, so too with Gee’s more generalized review of discourse analysis: both suggest that, in exploring, interpreting, and explaining the dialectic relationship between language and culture/society, the enduring analytic trajectory of discourse analysis, with some recent and noteworthy exceptions (e.g. van Dijk, 2009), resides in showing what language can tell us about society rather than the other way around.

Indeed some have argued that this analytic emphasis is implied in the very name of the field itself. Van Dijk points this out for critical discourse analysis, suggesting that, because the “critical study [of discourse] is not a ready made ‘method’ of analysis, but also has theoretical and applied dimensions” (Van Dijk, 2010), the field would be more aptly named “critical discourse studies.”

Language in and through culture: a programmatic review of linguistic anthropology

Compare the way these discourse analysts explain the analytic trajectories of their field to similar efforts recently undertaken by some US based linguistic anthropologists, and the difference is striking. Take for example Alessandro Duranti's (2003) programmatic review of the field, where he identifies the diversity of linguistic anthropological scholarship today as constituting three paradigms, each of which holds out a different measure of the purposes and perspectives to be gained by viewing language in, through and as culture. Duranti's distinctions are productive given the purposes of this chapter, particularly insofar as he suggests that the field can be seen as constituting "a set of distinct and often not fully compatible practices," (Duranti, 2003: 323), an incompatibility grounded in different orientations to the language–culture relationship, which echoes the enduring differences observable between linguistic anthropology and discourse analysis more generally.

The earliest and first paradigm emerged in the late nineteenth and early twentieth century, and is characterized by the anthropological linguistics initiated by Boas (1911) and elaborated by the likes of Alfred Kroeber, Edward Sapir, and their first students. It was originally oriented to the project of descriptive linguistics for the purpose of salvaging non-Indo-European languages (particularly Native American languages) that were believed to be on their way to extinction. Work inspired by this original impulse can still be seen today in linguistic anthropology, particularly that which is dedicated to the documentation and revitalization of endangered languages. Significantly, while Boas was explicit in understanding that the value of these salvage efforts lay not just in preserving languages, but in the ways of life that they revealed, it was not long before this idea of language as a window onto cultural structures fell by the wayside. Indeed, most of the third generation of anthropological linguists entered a field largely understood through a kind of "service mentality," tolerated in anthropology departments only insofar as they could offer sociocultural anthropologists with field language training. Sapir is reported to have even started recommending potential graduate students to seek degrees in linguistics programs rather than in anthropology (Darnell, 1990). Nonetheless, this is also the paradigm that introduces the notion of linguistic relativity to the world, largely through the so-called "Sapir–Whorf Hypothesis" and through it the idea that the structures of different languages both presupposed and contributed to the structures of culture they lived in and from which they understood their world (see e.g. Whorf, 1956). Thus, while an enduring aspect of the first paradigm of anthropological linguistics was grounded in a view of language as shedding light on perduring structures of culture, this theoretical commitment, in the few instances where it was foregrounded, was marshaled to justify greater attention to the description of language rather than being marshaled for a deeper understanding of culture (Duranti, 2003).

The second paradigm, inaugurated in the 1960s by John Gumperz and Dell Hymes together with their students, argued for a mode of inquiry, sometimes captured with the moniker "interactional sociolinguistics," sometimes with the "ethnography of speaking" or just "linguistic anthropology". The latter reverses the name "anthropological linguistics," used by prior generations, and in so doing attempts to recoup the distinctively anthropological character of this brand of language study as distinct from the formalist/generative linguistics à la Chomsky, which had come to dominate linguistics departments around the country. This second paradigm of linguistic anthropology emphasized the socioculturally informed quality of language as used and inaugurated a period of research dominated by inquiries into questions of verbal artistry and performance (e.g. Bauman, 1984), into the sociocultural dynamics of talk and interaction (Gumperz and Hymes, 1972; Goodwin and Duranti, 1992; Irvine and Hill, 1993), and even into theories of personhood

and sociality as presupposed and entailed in language use (Rosaldo, 1982; Schieffelin and Ochs, 1986), to name just a few. This work brought linguists out from under the “service” position to which they had been relegated in anthropology and compelled recognition of the centrality of their inquiries to understanding culture, particularly in light of the rising tide of interpretivist and hermeneutic approaches championed by Clifford Geertz, among others. It also brought linguistic anthropology closer to, and in conversation with, similar efforts afoot in conversational analysis, variationist sociolinguistics, and pragmatics (e.g. Labov, 1972; Levinson, 1983; Atkinson and Heritage, 1984).

But, for all this, it is still the case that linguistic anthropology in this paradigm remains largely interested in what culture and society can tell us about language. Indeed, as Duranti explains, this is, at least partly, a product of its disciplinary positionality, caught between the “rock” of formal linguistics and the “hard place” of sociocultural anthropology. The need to be seen as different from both is what has continued to influence linguistic anthropologists operating in the second paradigm to focus on what is cultural about language. As Duranti writes: “Whereas sociocultural anthropologists tended to see language as a tool for describing and enacting culture, adherents of the second paradigm were trained to see the very organization of language use as ‘cultural’ and thus in need of linguistic and ethnographic description” (Duranti, 2003: 328).

It is in what Duranti describes as the third and most recent paradigm, beginning in the mid-1990s, that linguistic anthropological scholarship comes closest to aligning its analytic trajectory to those described for discourse analysis above. It is work in this vein, often by the students of Hymes and Gumperz and by their students’ students, that has begun to explore what language practices can tell us about the everyday constitution and consequences of broader sociocultural forces such as identity formation, morality and normativity, political economy, and the like. As Duranti sees it, it is those working within this paradigm that have begun to “adopt theoretical perspectives developed outside anthropology or linguistics,” (Duranti, 2003: 332)—including Bahktin’s dialogism, Foucault’s discourse, and Giddens’s structuration, to name a few. Among the work Duranti sees as fitting most squarely within this third paradigm is that which has been grouped under the themes of “language ideology” (e.g. Schieffelin *et al.*, 1998, Kroskrity, 2000), intertextuality (Silverstein and Urban, 1996; Bauman and Briggs, 2003), and metadiscourse and metapragmatics (Silverstein, 1998, 2003). It is in this work that the sociocultural political economic forces that are presupposed and entailed by language practices are brought most fully to the forefront of linguistic anthropological analysis. Given these interests, it is perhaps little surprise that Duranti sees the scholars operating in this paradigm as sharing “a strong desire to use language studies to reach out to other disciplines” as well as “reconnecting with the rest of anthropology.” It is also in them, Duranti contends, that “language [is] no longer the primary object of inquiry but ... an instrument for gaining access to complex social processes” (Duranti, 2003: 332).

Indeed, in his introduction to *Regimes of Language*—one of two key linguistic anthropological volumes on language ideology—Paul Kroskrity starts by explaining how the collection was undertaken at a moment in sociopolitical history which he characterizes thus: “never before have the relations of language, politics, and identity seemed so relevant to so many” (Kroskrity, 2000: 1). In so doing, Kroskrity notes the extent to which the participants came together “to produce a more integrative, sociopolitically engaged linguistic anthropology” (p. 5).

But Kroskrity is also clear to point out that the research in the volume is squarely oriented toward further elucidation of language and linguistic phenomena as well. For example, he quotes an early formulation of the argument for studying language ideology in which Silverstein foregrounds the extent to which it is through norms about language that culture becomes inextricably part of a “total linguistic fact [that]... is irreducibly dialectic in nature” (p. 21). In such a formulation, through the study of language ideology, sociocultural forces are explored for what

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they can tell us about the forms and uses of language, rather than for how language is a window into culture and society.

It is perhaps not surprising that Duranti's programmatic review of linguistic anthropology misses these and other nuances of the extant research in the field. Indeed he himself recognizes this, acknowledging that his "three paradigms" vastly oversimplify a body of language research in which all three co-exist not only in the present scope of linguistic anthropological inquiry, but even within the oeuvres of individual scholars (e.g. Hill, 1985, 1993, 1998; Irvine, 1989, 1979, 2001; Kroskrity, 1993, 1997, 2000).

Nonetheless, what I believe is to good effect, he problematizes what he sees as linguistic anthropologists' failure to engage each other critically, across these paradigms, about their incompatibilities. He wonders whether he and others in his discipline are giving up, perhaps in the name of less troubled collegial waters, the possibility for "developing general models of language as culture that might be adopted, rejected, challenged, criticized, modified, or built upon" (Duranti, 2003: 335).

The point is, I believe, quite valid for a linguistic anthropological tradition that in some ways is following other anthropological sub fields in growing increasingly atomistic. Even more importantly, at least for this paper, Duranti's concern echoes the frustrations expressed by Blommaert and his co-authors, who were both linguistic anthropologists and discourse analysts, when they acknowledge the enduring differences between their respective analytic traditions.

What would these scholars, on both sides of the analytic divide, have us do? Duranti calls for greater reflection upon our most fundamental premises about language of/in/as society and culture, to see if we can't revisit and revise them in light of our different analytic trajectories, orientations and foci. Knowing what we all now know about the ways in which language is not just situated in contexts of culture, but actively contributes to the shape and force of those contexts and to the broader sociocultural and political-economic phenomena they presuppose and entail, how might we reframe our understanding of the structures and practices of the communicative media that are the objects and modes of our inquiry?

And, though Duranti is speaking mainly to linguistic anthropologists like myself, I believe his request is one in which our colleagues in discourse analysis should join us. I would argue that we both ought to be working to move our research agendas in even further alignment by considering the different analytic trajectories that our respective traditions impose on us, even though we claim to be studying the same language-culture dialectic. This would mean producing scholarship that poses, more radically, the question of what such scholarship might mean to scholars of language, culture, and society on both sides of the Atlantic, and to think of their objects of inquiry not merely as mutually informative, but as fundamentally and irreducibly all of a piece. What, then, could we learn from each other, if we were able to see all three as equally and at once the objects of our discourse analytic and linguistic anthropological inquiries?

Certainly there already exists scholarship in both traditions that has proven the worth of such an endeavor (e.g. Schieffelin and Ochs, 1986; Silverstein and Urban, 1995; Rampton, 2007; van Dijk, 2009). And yet, as I have attempted to show here, a large segment of each field still views its goals in terms of analytic trajectories that, while similar, ultimately take them in opposite directions. In the space that remains, and by way of example, I shall briefly review a couple of insights I have gained into society, culture, and language by rethinking their irreducibility within the legal discourses and practices of the Tribal Court of the Hopi Indian Nation in northeastern Arizona. To do so in a way that attends to the different trajectories of our respective disciplines requires that my analysis move from language to law and back again, to show how we might give equal weight to the descriptive and explanatory power of both sides of the language-culture dialectical process.

From language to law ...

Were my work to have been taken into account in Duranti's review (I was still an un-published graduate student in 2003), I believe he would have put me squarely in his third paradigm of linguistic anthropology. For my interest in the contemporary law and governance practices of American Indian tribes emerged while I was still a law student, before studying linguistic anthropology. But what particularly captured my attention was a group of pragmatic and theoretical impasses that I observed in the practice and study of tribal law—impasses that, I would later discover, were best accounted for via linguistic anthropological approaches.

Native American legal actors in the 1980s and 1990s strenuously argued for the centrality that tribal legal processes played in articulating and promoting their self-governance. Yet many also critiqued tribal courts for blindly adopting Anglo-adversarial legal norms in their rules and processes, and called for a “return” to the customs, traditions and unique cultural practices that, they argued, justified their status as nations (Pommershiem, 1995; Tsosie, 2002).

At the same time, social scientific concepts of the nation, sovereignty, culture, and tradition were being fundamentally reconsidered and deconstructed by anthropologists. The rise of post-structuralist and post-colonial theories led to ethnographic inquiries that cast doubt on once hoary representations of the independent, culturally coherent, self-governing nation-state. Indigenous claims to nationhood flew in the face of these critiques, and scholars who recognized this fact began taking aim at what they called the “invented,” “inauthentic” character of indigenous claims to a sovereignty based on cultural identity and tradition (Miller, 2000; Dombrowski, 2004). Specifically, they argued that these claims, rather than resisting US hegemony, ironically worked more to constitute tribes in the essentializing images of otherness that reinscribe it (Biolsi, 2005).

At first glance the two sides to this debate made arguments that I found equally persuasive, but impossible to reconcile. It was only by focusing on the details of the actual communicative practices by and through which tribal law was being actively constituted by tribal legal actors—practices that had been entirely overlooked in the extant research—that I was able to account more fully for the political and juridical antinomies of native culture. What I discovered was that, when tribal actors presented notions of cultural identity, tradition, or custom in the language games of tribal courtroom interactions, they did so via meta-pragmatic and linguistic ideological practices, which *sometimes* worked to legitimate the Anglo influenced practices and powers of the court, but other times posed considerable challenges to that authority.

Thus, consider the following statement that a Hopi judge made to Hopi elders called as witnesses to testify about the traditions of property inheritance in their village. The case involved a dispute between a woman and her nieces over a piece a property that, the nieces claimed, she gave up when she married a non-Hopi and moved away from the Hopi reservation. The judge is asking the village elders to comment on whether a woman who marries a non-Hopi and relocates away from her village is still entitled to land. He poses his question in Hopi, this way:

(1) Questioning “In a Hopi way”: Indefinite + HABITUAL

- 002 Judge: Pam hapi pay **yephaqam** **hak** ayo'
 In that way truly now somewhere here someone to there
 In that manner someone may go over
- 003 Yangqw ayo' sen naala hoyok-hoyokni
 From here to there perhaps alone move- will move
 S/he might move away from here alone

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004 Niikyangw pi pay naat pi piptungwu
 But truly now still truly return+ **HAB**
But s/he continues to come back regularly

[NOTE: SOME LINES OMMITTED HERE]

007 **Hiisakis** sen pam pas pew pipte'
Sometime perhaps she much to here return
How often must s/he return

008 Put pay naat
 It now still
And still -

010 Tutuyqawngwu put tuutskwat
 maintain control over +**HAB** it land
Ah...have the right over others in that land

011 Himu'ytangwu
 Have as a possession+**HAB**
To have ownership of it

Notice the judge's use of the Hopi indefinite terms *yephaqam* (somewhere here) and *hak* (someone) at line 2. Here the judge was framing the issues for elders to consider as hypothetical events of the same *type*, but not *identical to*, the factual events of the dispute. Then, in lines 7–11, he posed his question, employing at lines 10 and 11 verbs inflected with the habitual aspect marker *-ngwu*. This Indefinite + HABITUAL grammatical construction is in fact used repeatedly by this judge throughout his questioning of the elders.

As one native speaker explained to me, the form is typical of a genre of talk that Hopi call *ökwhanta*, “admonishing,” a form of authoritative speech used in traditional contexts of Hopi interaction by which respected persons, even ritual performers, advise others to change some problematic behavior. A speaker invoking this genre reprimands recipients without directly naming them, explaining what *one should* do because of what has *always been* done. Such utterances thus project the generalized, “timeless” truths of the propositions they make about the world. Significantly, they project a kind of generalizing category of truth, very similarly to the way in which legal principles of Anglo–American–style jurisprudence are expressed and then discursively “applied” to the facts of particular disputes (Mertz, 1998, 2003).

I contend that the judge is employing the grammar and syntax of this authoritative genre of Hopi tradition discourse in an effort to get the witnesses to speak about generalized *principles of tradition*, in ways consistent with the Anglo–style discourses and practices of the Hopi court. The judge thus employs Hopi tradition in this interaction to authorize and legitimize tribal legal authority, in ways that subsume notions of Hopi cultural uniqueness to the legal discourses and knowledge practices that naturalize the hegemony of forms of law still recognized by many Hopi as the legacy of US colonization.

But, significantly, the elders do not easily capitulate to the judge's discursive demands. They make repeated efforts to speak not of general principles of tradition, but of their knowledge of the actual facts of the dispute between the woman and her nieces. The judge, however, interrupts them, insisting, “*Pay qa hakìy pas itam aw suuk aw taykyahkyàngw turta put yu'a'totani*” (“We are not to look at some one person as we talk about this”).

After several such interruptions, the elders become frustrated. One comments: *Sùupan as itam pumuy-pay pumuyasa engemyaqw, kur hapi pay pas itam sòsokmuy engemya* (“I thought we were doing this only for them, but it appears now we are doing this for everyone”).

Another elder more pointedly challenges the judge, asking, explicitly, “*Um it kitsokit- um navotiꞑat uma hintsatsnaniꞑe oovi?*” (“What are you.—What are you going to do with the village’s traditions?”).

In posing these challenges, the Hopi elders are calling upon a wholly different set of ideologies about Hopi tradition discourses. Their discursive ideologies ground the authority of such genres of tradition talk, and those who control them, in their exclusive use in secret esoteric ceremonies, held in underground kivas and clan homes, and shared only among initiates and clan members. For Hopi individuals possessing such powerful traditional knowledge, to speak it publicly, in ways that proclaim a generalized authority over all Hopi people, regardless of ceremonial and clan affiliation, is not only to open themselves up to social sanction, but to make public, in reckless ways, very potent information that can be then appropriated and put to morally questionable ends. Someone’s requesting that they do so, even a Hopi judge in Hopi court, raises serious questions about the legitimacy of the questioner’s intentions with that traditional knowledge.

Thus, in the language practices and ideologies of these elders, notions of Hopi tradition are constituted in ways quite contradictory to those being employed by the judge—that is, by resisting instead of legitimizing his authority and by challenging the Anglo-style legal practices and ideologies that naturalize it.

Consequently, when we look at the actual discourses by which tribal legal actors constitute their tribal jurisprudence, we see that talk of tradition and culture emerges in multiple, complex, and even competing ways. As such, when we return to the ongoing debate about whether political notions of cultural identity and tradition work to reinscribe US authority or are anti-colonial in their effects, we must say that they are both and neither. Rather, by employing linguistic anthropological theories and methodologies to explore these issues, we begin to see how such notions operate as metadiscursive resources in Hopi tribal law—forms of law talk about law talk—which, whether they are reifying or resistant, are a crucial part of the warp and woof by which tribal law is actively made in the everyday practices of tribal jurisprudence. Failure to attend to the ways in which such sociocultural notions and political-economic forces inform everyday interaction can lead to intractable debates, as it does here, among those who would foreground only one side of what is an irreducibly more complex dialectic.

... And back again

Though this tells us something about what a linguistic anthropological approach can add to a sociocultural and political economic analysis of law, an answer to Duranti’s call requires that I also explore what a sociocultural approach to legal discourse can add to our analyses of language. One answer comes from looking at the ways in which ideological and interpretive multiplicity have been addressed in both legal and linguistic anthropology.

Michael Silverstein’s (e.g. 1979, 1993, 2001) analyses of the ways in which language ideology interfaces with language use through what he calls the meta-pragmatic function have always accounted for the fact that the meaning that certain language practices come to have for speakers shift over social space and time and are susceptible to multiple and ironically oppositional interpretations. As Silverstein explains, any moment of language use is only meaningful when language practices functioning meta-pragmatically (again, as instances of language use about language use) bring the ideologies that those speakers have about their language to their actual language practices, and in so doing key the interlocutors as to the meaning of the language activities by which they are engaging each other (1993, 1998, 2003). This is why almost all syntactic, grammatical, and lexical terms carry what Silverstein calls “indexical” significances that shift depending on the context of their use and on the different meta-pragmatic functions being

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employed by interlocutors to key those meanings to each other in each of those contexts of interaction (1976).

In addition, because of certain “limits of awareness” (2001[1981]) that we all have about our own language use, speaker’s ideologies about language practices are distorted in ways that never fully capture all the possible social significances of that use. These distortions come to shape, in multiple and even ironic ways, the kinds of meanings that speakers understand those practices as carrying, and even how they then subsequently use those language practices in the future.

Silverstein (1985) offers an example of this distortion and shift in the historic loss of the informal English second person pronoun (*thee/thou*) as the unintended by-product of the political reaction to Quaker plain speech in seventeenth-century England. At the time, English possessed a formal/informal second person pronoun system, in which *Ye/You* was the form used between interlocutors to mark their social distance, while *Thee/Thou* was used to mark social proximity. As Silverstein explains, Quaker ideology about the essential equality of humans before God took a metadiscursive turn as Quaker activists began militating against the *Ye/You* form as a mark of elitism and insisted on using the *Thee/Thou* form even in situations of social distance and formality. By this first metapragmatic distortion (by virtue of a limit on Quaker metalinguistic “awareness”) there emerges, in the Quaker conceptualization, a sense of the *Ye/You* form not as a marker of formality and social distance, but solely as one of social inequality. A second, ironic reversal of this metapragmatic distortion emerges, however, when, over time, it is the *Thee/Thou* form that is eventually lost in everyday English usage. This occurs, Silverstein explains, because non-Quaker English society orients now to this *Thee/Thou* form as a marker of Quaker social identity, and stops using it in order to avoid being labeled by that stigmatized and persecuted identity (Silverstein, 1985).

A critical element in Silverstein’s understanding of this shifting of meaning is its temporal component. The extent to which the multiple and ironic meanings result from these metapragmatic distortions requires a certain kind of longitudinal perspective, tracing these interpretive shifts as they unfold over rather large scales of time.

However, an approach to these phenomena that takes into account perspectives gained from legal anthropology would argue that these multiplicities and ironies of meaning have their origins within spans of social time that are much more truncated, and may in some instances persist simultaneously. This is true insofar as one of the fundamental insights of legal anthropology is the recognition that multiple and competing cultural frames of interpretation regularly persist within the same community and that the dispute context is an ideal crucible within which to view those competing frames. Karl Llewellyn and E. Adamson Hoebel note this in their classic legal anthropological ethnography of the Cheyenne law, *The Cheyenne Way* (1941), in which they introduce their influential trouble–case method (Llewellyn and Hoebel 1941: 29; as they write, “if there be a portion of a society’s life in which tensions of the culture come to an expression, in which the play of variant urges can be felt and seen ... that portion of the life will concentrate in the case of trouble or disturbance”).

Thus, just as we saw above how Hopi metadiscourses of tradition and cultural difference can be employed for multiple and competing sociolegal and cultural effects in tribal legal discourses, so too does this suggest the multiple and competing interpretations to which certain language practices can be susceptible, even between language users engaging each other, face to face, in the very same communicative event, over the relatively short span of social time in which it is accomplished.

Conclusion

Recently I submitted a manuscript to a leading cultural anthropology journal that explored some of the issues surrounding efforts to theorize the links between the micro–details of situated

language use and the macro-sociological forces that are more often the purview of cultural anthropology. One of the reviewers commented that such concerns were unfamiliar to him, and likely more of an issue for linguists than for those cultural anthropologists who read the journal in question. Whether this is true or not, it is interesting to note that the paper, which considered aspects of Hopi probate law more generally, was one that I had thought would not have been good for a linguistic anthropology journal precisely because it was too much concerned with describing the sociocultural dimensions of certain legal texts rather than linguistic forms and practices that constitute them.

Whatever the fate of that manuscript, it is my hope that, with this chapter, I have brought to light the similar kinds of theoretical and methodological divisions that continue to endure between linguistic anthropology and discourse analysis, at least in some parts of their respective fields. And, while I am quite sure that, in the characterizations above, I have overstated the separation between the two, I nonetheless believe we have not yet reached the point when the differences identified by Blommaert and his co-authors in 2001 have been fully surmounted. I also hope to have, in some small way, offered a sense of the analytic value to be gained when we actively work at once toward acknowledging and moving beyond the analytic trajectories that continue to keep linguistic anthropology and discourse analysis apart. In so doing, I hope that this chapter may compel us to rethink fundamentally our respective analytic commitments in ways that are respectful to the legacy of each of our intellectual histories, while also being productive for our futures.

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