The Role of Explanation in Forensic Linguistic Expert Evidence

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Abstract

There has been considerable focus on the need for validation of the foundations and practices for forensic scientific evidence (Morrison, 2022), including forensic linguistic evidence (Grant, 2022; Ainsworth and Juola, 2018). In this talk I argue that validation is necessary but insufficient to provide good evidence to investigative and legal processes and that explanation has a crucial role. I briefly discuss the philosophy of science that positions scientific findings as "demonstrable truths" (Newton, 1997) and the overlap of this definition of science with the needs of the Court. I point to the fragility of statistical validation of non-verifiable predictions (as occurs with forensic science evidence) and I argue that a missing element to demonstration of the truth of the outcomes of forensic linguistic analyses is the provision of useful explanations to the finders of facts. I unpack this thought in terms of different sorts of explanation and argue there are varying requirements to produce useful explanations. These include acknowledgement of:

i)   different sorts of investigative and evidentiary contexts, such as the search for an offender from their written text on the one hand, and the demonstration that an identified individual is likely to have written a text;

ii)   different sorts of users of explanations, such as those required by a responding expert witness hired to critique evidence in an adversarial setting, in comparison with those required by finders of facts, whose job it is to incorporate often conflicting evidence to make rational decisions.

iii) different sorts of forensic linguistic task, such as the different varieties of authorship analysis tasks with different genres of text, or tasks requiring the determination of the meaning of unknown or confusing terms, or tasks to determine the method of production of a particular text.

I conclude that rich explanations are often required, and that more attention should be given to the necessity of explanation alongside the necessity of validated methods in forensic linguistic evidence.

References

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