

THE LANGUAGE OF INSULT: THE CONFLICT OF INTERPRETATIONS (LINGUO-JURIDICAL APPROACH TO THE PROBLEM)

Marina N. Cherkasova¹, Regina V. Patyukova², Taisia A. Kudinova³ and Natalia N. Olomskaya²

The purpose of the paper is to characterize the concept of “insult” in linguo-juridical terms: to identify the specific characteristics of the insult and its conceptual areas, to analyze the judicial practice related to cases on insults. Methods for analyzing the disputed text for the presence and implementation of words with derogatory potential (conflictogens) were considered and proposed.

The need to investigate this problem is also determined by the new areas of social communicative activity of citizens – increased communication on the Internet. If earlier it was a question of verbal or written insults (domestic insult, in the media, on a news site), cases on insult of honor and dignity, uncensored and indecent vocabulary against a certain person, defamation in social networks, and trolling became more frequent now. The difficulties related to the cases of this kind are that under the Russian legislation, social networks are not mass media, i.e. a social network is not a public place to express own thoughts. But the problems related to the dissemination of the information discrediting and degrading a person remain. And the task of a linguist is to provide an objective characteristic of the language phenomenon.

Keywords: insult, language of insult, legal linguistics, conflictogen, linguistic examination

I. INTRODUCTION

1.1. Justification of the problem

Speech act of insult in Russian linguistics is considered in the frame of a rather new direction – juridical linguistics, which emphasizes the social nature of the problem. The papers of the end of XX-beginning of the XXI century (Golev 1999, Gorbanevskiy 2002) were the first to deal with the problems related to the practical interaction of law and linguistics, and problem of verbal abuse in legal discourse became central in this paper.

Let us define the main range of problems in this area of knowledge: identification of the author (Michell 2013; Chaski 2012) analysis of the texts of business documents and the language of law (Tiersma 2000, Golev 1999); crimes and acti reus aimed at humiliating human dignity (Croom 2013, Waldron 2009, Seglow, 2016); plagiarism; characterization of the speech of participants in trials

¹ Federal State Budget Educational Establishment of Higher Education Rostov State Transport University, *E-mail: cherkasovamn-rostov@rambler.ru*

² Federal State Budgetary Educational Institution of Higher Education Kuban State University, *E-mail: patukovaregina@mail.ru; olomnat@mail.ru*

³ Rostov Branch of the Public State Educational Institution of Higher Education Russian Customs Academy, *E-mail: ktaisija@yandex.ru*

(Solan 1993; Leonard 2005); problems of various social groups Malkova 2002, Dutton 2007);, expert evaluation to discover truth or lie in objective evidences, admissions (Shuy 2005, Coulthard 2007, Baranov 2007, Brinev 2014, 2017).

Thus, the domain of juridical linguistics (Russia) and “forensic linguistics” includes: 1) admission of the language of law as a special semiotic system (interpretation of the language of legal documents); 2) participation of a linguist expert in pre-trial and trial proceedings as a result of an analysis of written or oral speech (preparation of a report on the case; objective evidences).

The peak of judicial examinations related to honor and dignity cases falls to the end of XX-the beginning of the XXI century (time of great social changes in Russia). The paradigm of “absence of conflict” is replaced by the conflictogenological paradigm, leading to inevitable confrontations in social interactivity. In Russia, insult as a crime against the person used to be treated as a criminal offence, but since the beginning of 2012, the insult was decriminalized, and such an act is regarded as *actus reus*, which, in our opinion, is illegitimate. Herewith, the responsibility for insults, embodied in various forms, can be administrative, criminal and civil. Cases on insult are dealt with in the context of crimes against personality, their honor and dignity. Concerning the relevance of the language phenomenon study, insult in the context of crimes against personality (the Criminal Code of the Russian Federation) and *acti reus* (Administrative Offenses Code of the Russian Federation), it is important to note the importance of treating the notion of insult. This very linguist involvement is necessary in diagnosis and qualifying insults as a criminal act and as *acti reus*. Herewith, it is a matter of slander, wounding religious feelings, insulting an official, a serviceman, extremism, threats, intimidation and sexual harassment. All the identified aspects need to be labeled and characterized.

The need to investigate this problem is also determined by the new areas of social communicative activity of citizens - increasing communication on the Internet. If earlier it was a question of verbal or written insults (domestic insult, in the media, on a news site), cases on insult of honor and dignity, uncensored and indecent vocabulary against a certain person, defamation in social networks, and trolling now became more frequent. The difficulties related to the cases of this kind are that under the Russian legislation, social networks are not mass media, i.e. a social network is not a public place to express own thoughts. But the problems related to the dissemination of the information discrediting and degrading a person remain.

The most complete representation of the concept of insult is given in the papers of Russian scientists G.V. Kusov (2004) and K.I. Brinev (2014), as well as foreign linguists A.M. Croom (2013), E. Dutton (2007), A. Henderson (2003), T. Jay (2000; 2009), J. Waldron (2009; 2014), T. Björn (2016); R. Finkbeiner (2016), J. Meibauer (2016), J. Seglow (2016). The linguo-judicial aspects related to offences against

dignity of a person are dealt with in the framework of the “Hate Speech” (Fraleigh and Tuman, 2010; Waldron, 2014). Research is carried out in particular by certain formatives (bitch, faggot, dyke, gay, idiot, fuck, fucker) (Jay-Z, 2002, Borkowska and Kleparski, 2007; Jelsomeno, 2010; Kennedy, 2002).

The analysis of foreign sources demonstrated the high level of activity of scientists in this field of science, showing different viewpoints (Waldron 2014, Seglow 2016). For example, “spontaneous speech” as a characteristic of a free human being against speech bounded by moral, ethnic, cultural and political values.

The nomination of “slur” in “forensic linguistics” (Björn, 2016; Croom, 2013; Henderson, 2003) is used to mark discrediting, very often in this context, the national minorities (ethnic slurs), some social groups subject to defamation (faggot, gay, nigger).

Unlike foreign linguistic school, the problems of racism and sexism in Russia are not so prominently defined in the Russian linguists’ papers. Gao (2013) writes about accumulation of racism and sexism exactly in the English language when speaking about using pronoun “he” instead of “she”, when speaking about an unknown person or at child nomination. Ethical insults in Russian linguistics are rather new, but actively developing subject. We have already noted the transformation of the nonconfrontational paradigm into conflictogenic one. The consequences of that are xenophobia and speech crimes on this background.

One of the derogatory words in the Russian language for members of national minorities is “churka (transl. wog)” to refer to people of nationalities such as Armenians, Georgians, Uzbeks, Tajiks, and Tatars. A great resonance in 2010 was caused by the publication named “Alibasov Went Nuts” on capital-grupp web site, in which the producer Alibasov is called “wog”, “douche face from Wogistan”, the man who made millions on criminal transactions and fraud. The price for these expressions was high - 1.1 million rubles.

II. RESEARCH METHODOLOGY

The attention of scientists involved in verbal offence focuses on the following problems: a) insult as a speech act (Meibauer, 2014; Brinev, 2014; Kusov, 2004); b) speech act of insult as a subject of linguistic examination (Brinev, 2017; Kusov, 2004; Shuy, 2005).

In our view, these are the most convex points of contemporary research relating to problems of abusing human dignity (slander, hate speech, discrimination, racism, defamation, threat). Herewith, the analysis of insult as a speech act includes the following aspects: the delimitation between derogatory and offensive; psycholinguistic constituents, compulsory elements of the speech act (illocution, locution, perlocution) of verbal abuse, invectives, use of pejorative vocabulary, scaling and gradation of invective formatives, the delimitation of related strategies and tactics (defamation, irony, threat, blackmail, anger, sarcasm, mockery, slander),

identification of genus-species characteristics (speech aggression, language violence, verbal abuse), ethnocultural characteristics of the insult.

2.1. Insult. Derogatory Words

Insult as a social phenomenon is a conceptual system built by national language consciousness, developing in accordance with the laws of any ethnic group. Insult is not just a negative statement, a hurtful word or a phrase that is expressed in an indecent manner. Insult is an evaluation category. The subjective nature of the matter cannot be denied. The research of the insult concept is related to the individual world of the addressee, the sender, the interpreter. When insulting, “the influence on an individual goes through a relationship to their values, an integral part of which is the social status of the individual, expressed in linguistic culture in the form of authority and stereotypical notions of the social ideal to which the person aspires” (Kusov 2004: 41). The analysis of contemporary literature on the problem of insult showed different approaches and views on the phenomenon of insult. G.V. Kusov considers the insult as illocutionary linguocultural concept and uses the conceptological approach to consider the modern interpretation of the “insult” concept, highlights discursive implementation of the “insult” concept and typical scenarios of the verbalization of the speech act of “insult”. To understand the concept of insult, Kusov analyzes its illocutionary links, i.e. “illocutionary speech act is precisely initiated to convey the basic meaning that” disguised “in the verbal part of the statement” (Kusov 2004: 36). Herewith, Kusov highlights the distinction of illocutionary concept insult from the other linguocultural concepts which is what of presence “subjective assessment initiated by the speech act” (Kusov 2004: 42).

I.A. Sternin, based on the semantic-stylistic method, puts the following as criteria for insult: 1) using rude words (vulgar, pejorative, uncensored), 2) directed to someone, 3) publicly, and 4) in the actualized derogatory context. Herewith, the rude vocabulary refers to only four words: the name of the male sex body (starting with letter D), female sex body (starting with letter C), the act of coitus (starting with F), women prostitutes (starting with W) (Sternin, 2015).

Note that linguists (Jay, 2008; Björn, 2016) highlight in a derogatory word (curses, blasphemy, foul expression, using of taboo vocabulary, etc.) in the first place, the emotional component, precisely because of its initial meaning and connotations: “The main purpose of swearing is to express emotions, especially anger and frustration. Swear words are well suited to express emotion as their primary meaning and connotative. The emotional impact of swearing depends on one’s experience with a culture and its language conventions” (Jay, 2008).

American linguist Adam M. Croom demonstrated various functions of words with pejorative color (derogatory words), in particular slurs affecting race and gender: “a) paradigmatic derogatory use, (b) non-paradigmatic derogatory use, and (c) non-derogatory in-group use” (Croom, 2013: 177).

Analyzing the insult as a speech act, the researchers face such formatives as taboo vocabulary (Jay, 1977, 1992; Gao, 2013) pejoratives (Björn, 2016; Jay, 1992; 2000), invectives, abusive vocabulary (Jay, 1992; 2000), four-letter words, and reduced vocabulary. Attempts are made to classify, delimit and label such words. In our view, any language has a core of such derogatory words, which always appear to be “derogatory”; they are a little in quantity, and the vast majority is susceptible to transformation. Also, there are related to difficulties in the parameterization of insult.

2.2. Parameterization of Insult and its Conceptual Areas

The difficulty of interpreting the concept is, at first glance, precisely the three-dimensional dimension of the phenomenon and the various parameterizations: 1) the fixed legal notion of “insult”; 2) lexicographic fixation of “insult” in the definition dictionaries of Russian language (the domestic notion of “insult”); 3) various interpretations of insults in the theoretical linguistic literature which is differed by the background context of illustrative material (domestic dialogues, texts of art literature, media content) and the vector of research expressed in various approaches to insult. Herewith, the delimitation between “derogatory” and “offensive” must be made.

Kusov (2004) highlights such signs of an insult: 1) social orientation; 2) tabooing; 3) voluntariness; 4) addressness; 5) the orientation of reducing the social status of the addressee; 6) preferred use of hidden exposure techniques; 7) publicity; 8) psychological willingness to cross the threshold of insultingness (taboo); 9) an attempt to conceal the true intent of a speech act; 10) suppression of the social activity of the addressee; 11) expansion of the addressee character distortion.

The dominant and sufficient conditions for the qualification of a speech act as derogatory are as follows: 1) address orientation; 2) addressee intension, consisting in the formation of negative anti-social image addressee character or impairing its positive features, which entails drastic lowering of social status (professional, family, national, religious, gender, ethnic-cultural area), on the one hand, and strengthening the dominant position of the addressee, on the other, in consequence of the correction of speech situation using verbal and linguistic formulas; 3) publicity; 4) simulated situation of public reprimand or legal punishment from the perspective of the existing ethnic group. The authors purposefully did not include as a derogatory such components as: indecent form, non-literary words, pejorative and invective, as such language formulas assume, on the one hand, the creation of a negative public image of the addressee, with a sharp decline in social status, and on the other, “prescribed” in the Administrative Code, i.e. the speech is on an issue of foulness, uncodified identity, indecency as a phenomenon from the point of view of morality. Herewith, let us note, that the presence of a non-literary form, taboo word, indecent form, negative speech wording is not the only label of an insult.

Derogatory speeches can include metaphors and phraseological locution, and many chunks of language and lexical formatives that do not have a derogatory meaning outside of a certain speech situation. The function of such language formulas should be taken into account in a speech act of insult. For example, the derogatory potential of a neutral word can be the result of a judicial examination:

- (1) The court sentenced district chief in the Altai Territory to a fine of 42 thousand rubles for having called the head of the local village, as stated in the court's decision, "one of the agricultural animals whose name has a clearly derogatory trace". The man paid for jackass darn well.
- (2) The phrase "slaughter Russian pigs!" in Kondopoga (Karelia) served simply as a call, a signal for a mass fight on the ethnic grounds. In this case, the zoosemantical metaphor of "pigs" is regarded as derogatory. At that, the "aggressive" effect is amplified by the phrase noun + adjective (Russian pigs), with specifier "Russians", to refer to a particular ethnic group. There we have double insult: 1) a person, in this case is a group of people called "pigs"; 2) a certain ethnic group - "Russians" - is affected. Aggression has an addressee. However, the socializing sentence with the verb "slaughter" is regarded as a call for illegal activities. It is about criminal xenophobia.

The analysis of the different cognitive contexts in which formatives are being updated with "derogatory potential" revealed the following conceptual areas as: mythology, religion, domestic communication, institutional culture, science.

Mythology. The use of sacred words in a secular environment, outside the ritual context, was considered as an insult. Herewith, the updated magical function of the language (the children in Russia did not call "good names" because they feared, maleficent, spoiling).

Religion. The insult was humiliation of the Divine in the life of a believer and other sinful acts seen as such based on the religious morality.

Domestic communication. This sphere is a peculiarly triptych: family, gender, and interpersonal communication: insult means to offend, abase somebody, pique, and ruffle somebody's certain feelings to a high extent (Dictionary 1999: 647). In a Dictionary of Synonyms (2001: 7), the lexical items of offense and insult; offend, insult, offend greatly are represented as synonymic row with dominating idea offense / offend. However, it is noted that the word offend has amplifying meaning. Lexicographic sources converge on the understanding of the lexical item "offense" as insult, humiliation, slap, knap, abomination. The cultural interpretation of the word insult is the same as the notion of offense.

Institutional culture. The diagnosis of an insult in institutional type of communication (deterrent of law, politics, pedagogics, culture, national relations) depends on status role characteristics which impose the imprint on the speech behavior of its participants. The dominant conceptual segment in this area is deterrent of law,

since it is only in its cognitive contexts that definition of insult is given (Russian Federation Administrative Offence Code, Article 5.60): “insult is the humiliation of another person’s honor and dignity, expressed in an indecent manner”. This definition is the starting point for the rest of the institutional segments. An insult, unlike an offense, is the phenomenon of a legal field, but offense has no juridical reading.

Science. Analysis and formation of methodology of the perception of insult by words with pejorative evaluation occurs in this concept area, it also analyzes the speech behavior which is related to insult, highlights derogatory frames, scenarios, scripts, strategies, and tactics (Finkbeiner 2016, Kusov 2004, Brinev 2014, Baranov, 2007).

2.3. Methods of diagnosing of a derogatory statement

In diagnosing an insult from the point of view of a linguist expert, the following approaches can be distinguished:

- 1) the statement is analyzed in terms of the presence or absence of derogatory formatives. The set of derogatory words is set as an argument (Gorbanevskiy 2002): ramper, thief, hook, hooker; topsman, butcher in figurative meaning; zoosemantic metaphors (heifer, willy-goat, jackass); uncensored addressed use of words. Malkova (2012) focuses on a set of ethnic insults, the so-called blame lexical item: Azeri, Caucasian, didicoi, wogs (churka, chuchmek, khachik); lexical item-labels: skinheads, douche faces, douche.

The lexicographic analysis plays an important role in this approach: The existence of different connotative labels will be evidence of the derogatory meaning of the word.

- 2) Jörg Meibauer (2016), continuing the discussion on the development of different approaches to the speech act of insult, speaks of an insult (slurring) as a subtype of category derogatory and subtype of one of the expressive speech acts, the illocutionary act (Illocutionary Act), resulting in a communication intent and intention of the speaker (Searle and Vanderveken 1985). Meibauer bases his statement on the fact that: “We believe that, by uttering e.g. “nigger” in a declarative sentence, a speaker performs two different speech acts: a representative corresponding to that performed by means of the sentence containing the neutral counterpart of “nigger” and an expressive by which the speaker expresses her contempt toward black people” (Meibauer, 2014).
- 3) Brinev (2009), based on the theory of speech acts, proposes, on the contrary, to analyze not the intentions of offender, and “to justify” the grievance of complainant (for example, a participant in the judicial process)” (Brinev, 2009: 87), because the purpose of the linguistic examination is to substantiate that a statement may be offensive to the alleged complainant”. This method

involves substitutions of the elements of the statement in the specified conditions.

III. EXAMINATION

A comprehensive approach is needed in the process of producing the examination. Herewith, it should be emphasized, that this question is not the case with regard to the universality of one methodology. There may be conflicts of interpretation, as the speech itself is dynamic issue.

In the preparation of the linguistic examination, the question is made to 1) the conflict in the text itself, 2) the conflict between the parties to the process, 3) the conflict between the two experts in the same case. Words with derogatory potential in a speech conflict are a conflictogens that realize their potential in a situation of address and public contexts.

IV. DISCUSSION

In the study of the conflictogen potential of the text, in our case, we suggest using the three-level text analysis method for insult / insult, but in the context of legal discourse (Medvedev 2003: 108-235): (1) at the semantic level; (2) metasemiotic; (3) metametasemiotic.

- (1) The semantic level allows providing a general characteristic of the formative based on the lexicographic analysis. This is necessary but not sufficient because of the contradictions between the dictionary and the community: "For example, under what circumstances is bitch offensive or vulgar? Certainly a statement like getting fired is a bitch may not be construed as vulgar in the same sense that he fired that bitch might be. It is the unenviable job of lexicographers in the United States to record the nuances of meaning and social usages in dictionaries used by a diverse population which communicates in a world of perpetual social change" (Henderson, 2003: 51).
- (2) The ambitendency of the language sign, in our case conflictogen, its asymmetry, allows the language formative to extend the field of its impact on the recipient of the information by transforming the value or values and creating a new metaconsciousness: all semantics implemented at the metasemiotic level are interconnected.
- (3) The author's intention of the statement can be understood at the metametasemiotic level where the author's design is implemented.

1st Level: Semantic Level

On that day, on the Russian language lesson at the school of the Leninsk city in Volgograd region the phraseological locution were studied. The teacher Vera Gudkova explained the 8-B class the meaning of "neither fish nor fowl" expression:

Speaking in YOUR language, this is “douche”, Vera Alexandrovna explained. And to her cost, I strengthened the comparison with a clear example. - Well... Maksim Abrosimov? (Media).

The word *douche* in the Dictionary (Kveselevich, 2005) is given with label of slang: simpleton, redneck; ninny, gaper. The non-normativity of using is confirmed by the Ozhegov dictionary (2003): “redneck - simple, About brutal, rustic villager; ninny - simple, Not very smart, slow wit man, gaper”. Level 1 of the linguistic analysis revealed the connotation that jargon, that is, non-normative, and the non-normative correlates with indecent (herewith, let’s note that indecent is a label of a derogatory under the law) the norm is a decent on the basis of characteristic, indecent is not the norm. On this basis, we can build the following reasoning:

1) jargon is not the norm, thus indecent; 2) Douche is slang, slang is non-normative, thus indecent. 3) Indecent is a criterion of inappropriate. 4) Douche is a slang word with negative derogatory connotation. 5) The word “douche” is used in institutional discourse (pedagogical), which clearly specified the status-role characteristics and identified social groups (teachers and students). Conclusion: The use of a non-normative word (indecent word) in the institutional discourse (not within its social group) publicly (in the presence of a class) and addressed (to the pupil) is qualified as an insult.

2nd Level: Metasemiotic level

The teacher was accused of having brought the child to suicide, as the teacher, instead of making a poor assessment of the diary, used the phrase: “Well, you are a piggy, darling!” Let us note that the consideration of adherent connotations and stylistic techniques makes it possible to speak of a stylistic game, and morphemic composition of the words with diminutive-hypocoristic suffixes together with the context environment does not allow for the conflicting behavior of the teacher in the children’s environment within the framework of the said discourse.

3rd Level: Metametaseiotic Level

The Russian singer F. Kirkorov’s speech, which was the subject of a trial with journalist I. Aroyan, who asked a provocative question, was subjected to the linguo-judicial analysis. Expert No. 1 built their arguments based only on the taboo vocabulary on the air, made a conclusion about the derogatory nature of the statement. The general cultural interpretation of the insult on the basis of the separation of the nuclear concept of OFFENSE was given. The examination No. 2 (Baranov, 2007) initiated the polemic, as the expert studied the problem from the perspective of the evaluation of the entire speech act, not of its parts. It is impossible not to agree with A.N. Baranov that the indecent form was present, the obscene (indecent) vocabulary (which was the subject of outrage in society) is obvious, but the paradox is that the negative characteristic (by A.N. Baranov) is not expressed at all by the bad words, but by the word “amateur”, which was addressed to journalist. Also taboo expressions “not give a fuck” sounded in the dialogue, but it

was not addressed to the journalist, and served to express the emotional state of the speaker, and the allegation was “I’m not interested, I don’t care” (Baranov, 2007: 543). The polemic in this particular case reveals another problem - the problem of the correctness of the questions of linguistic examination itself.

V. CONCLUSION

Speaking of insult and treating it as an intentional author action aimed at humiliating addressee, we can speak of a speech conflict, a prerequisite of which is conflictogens, speech formulas with derogatory potential, leading to a disharmony of the speech situation. The presence of such conflictogens (taboo words, pejoratives, invective structures, etc.) is not sufficient for a speech conflict, in our case of insult, the dominants of derogatory meaning are: address orientation and publicity of the speech act; the intentional formation of a negative antisocial image of complainant from the perspective of social status and social group in the formation of the dominant position of offender; modeled situation of legal punishment and social condemnation from the perspective of the existing ethnic group.

Herewith, we purposefully did not include as derogatory such components of speech act of insult as: indecent form, non-literary words, pejorative and invective, as such language formulas assume, on the one hand, the creation of a negative public image of the addressee, with a sharp decline in social status, and on the other, “prescribed” in the Administrative Code, i.e. the speech is on an issue of foulness, uncodified entity, indecency as a phenomenon from the point of view of morality. Herewith, let us note, that the presence of a non-literary form, taboo word, indecent form, negative speech wording is not the only label of an insult. Derogatory speeches can include metaphors and phraseological locution, and many chunks of language and lexical formatives that do not have a derogatory meaning outside of a certain speech situation. The function of such language formulas should be taken into account in a speech act. Three-level text analysis on semantic, metasemiotic and metametaseiotic levels can be used for exposure derogatory / non-derogatory.

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