

Language and Gender in Legal Contexts

Akwagiobe Richard Akpanke and Aminu Bakori Mohammed

Faculty of Law Kampala International University Uganda

ABSTRACT

This paper examines the intersection of language and gender within legal contexts, highlighting how legal discourse perpetuates gendered power dynamics and biases. Drawing on Anglo-American legal traditions and feminist legal theory, it examines how language structures gender identities and influences perceptions of justice. The analysis delves into the institutionalization of gender in legal language, revealing its role in reinforcing binary constructs and inequities. The discussion extends to intersectionality, acknowledging the interplay of gender with race, class, sexuality, and other social factors in shaping legal experiences. By scrutinizing case law, statutory language, and courtroom practices, the study emphasizes the need for inclusive and equitable legal reforms to address the biases embedded in legal discourse. Ultimately, the paper argues for a critical reevaluation of legal language as a step toward achieving justice and equality in diverse and evolving societies.

Keywords: Gendered language, legal discourse, intersectionality, feminist legal theory.

INTRODUCTION

Language and gender studies have a wide evidence base in the broader, general setting, but in the legal context, specifically through the combined lens of both Anglo-American legal systems and more recent developments within law and language generally, this burgeoning field remains relatively underdeveloped. One reason posited here is the growing evidence that language is the structuring element of gender, shaping social context and producing identities in varying discourses. Law is no exception, and relevant to the aims of this article, language produces law in numerous ways. Indeed, language also shapes and reflects power in law, including gendered power relations. The analysis of legal discourse can make gender power relations more visible. Usually, the critiques offered here are implicit rather than explicit: gender is subtext rather than subject [1, 2]. Indeed, gendered language in both case

law and statutory law is a feature of Anglo-American legal systems reaching back several hundred years. Legal systems themselves largely developed under ideological imperatives that were socio-politically patriarchal, especially the English common law, and law was in many ways explicitly gendered. It is significant that much of the development of law and language studies has taken place in conjunction with and indeed as part of feminist legal theory, for feminist jurisprudence is heavily concerned with the power of traditionally gendered male legal discourse. Within the courtroom, masculinity can play out in myriad ways. In delivering their closing statements, is it acceptable for women advocates to cry in front of a jury and demonstrate care and compassion, or must they learn to embody the 'impartial' and 'detached' voice of the non-emotional male advocate [3, 4].

Theoretical Frameworks for Analyzing Language and Gender in Legal Discourse

There are various theoretical perspectives that can be used in analyzing the language in legal contexts as well as language and gendered institutions in these discourses, including speech act theory, discourse analysis, corrective justice, distributive justice, and critical legal theory.

Corrective justice and distributive justice facilitate the connection between gender difference, moral philosophy, and discourse. It is stated that gender is institutionalized in legal language, which reflects and reproduces a two-sex model based upon individual and societal

medical regulatory norms that serve to maintain gendered power differentials. Though gender is institutionalized in legal language, it is not seen as solely determining the outcome of legal disputes [5, 6]. There are thus two implications of the intersection of speech act theory and gender for understanding text and practice. Firstly, we require a variety of perspectives—corrective justice, distributive justice, and critical theory—in interpreting the mechanisms of gender institutions in legal language, and how the law and judges come to regulate the conduct of sexed individuals in society. Secondly, understanding gender means questioning language as a "neutral instrument"

Gendered Language in Legal Texts

In a completely different perspective, academia has been studying gender, sexual orientation, age, race, and social status as factors related to choices, personalities, and forms of communication between people. In legal terms, the idea is to understand the grammatical adaptations that should be carried out to avoid interpretation errors, including everyone in a document. Even if the social reality is changing, adapting a language to a legal or formal text can be a reason to avoid stereotypes in messages. The legal language contains subtle or direct gender biases. The language used in statutes, court decisions, and other administrative regulations is no different. One way in which language is gendered is the use of 'he,' 'him,' 'his,' etc. as the neutral pronoun, employed to refer to a person of unspecified gender or to refer to all persons, including women. Although, for some time now, the argument has been advanced that the use of male-gendered

Gender Bias in Legal Language and Its Implications

Gender biases are subtle and widespread in legal language. This gratuitous assumption that law and legal language is neutral has implications within and outside of the courts. Legal language is explicit, but it is also implicit language that contains attitudes, values, and ideologies of the speaker or author. Biased language is likely to influence the court's rationale and to have a negative effect on the perception of justice. Where law, legal hierarchy, decisions, and judgments are male-biased, women's reality is not taken into consideration. Similarly, gendered language, as the normative use of masculine nouns and pronouns in legal writing, corresponds to a distortion of political reality reflecting not only that women are indeed excluded from the equal before the law principle, but it also strengthens the policy of excluding women. This same policy can be seen in the perspective of the LGBT community as it

of legal practice. Language is not a neutral medium that necessarily develops in society independently from legal discourse, which is, in turn, separate from legal practice. Texts and talk are gendered practices themselves, neither reflecting nor reproducing social institutions. In particular, there is a relationship between the practice of the law and the wider implications of our societal constructions of sex and gender. Therefore, the issues of equality about which feminists have for so long spoken, are inextricably entwined with language. Language is crucial in symbolic material legal processes [7, 8].

pronouns in legislation and legal texts is not discriminatory since their use is intended to refer neutrally to any person, increasing attention is being paid to the implications of such gender-specific language in law. While in some instances the techniques to avoid sexist language are successful, these solutions can also be impractical, confusing, or give a peculiar sound to the statute, as if some political ends were being pursued. Moreover, with the increase in the visibility of transgender and non-binary people, legal language should also find a way to avoid inequities towards such individuals. Overall, recognizing the persistence of such gender bias is the first step toward reform. In a contemporary context characterized by aspirations of equality, language is more than willing to change. What is needed, however, to allow such change is a willingness to criticize our own assumptions [9, 10].

continues, unconsciously, to exclude and invisibilize gender minorities [10, 11]. In legal language, gender-biased words can influence interpretation and decisions negatively. A legal opinion must effectively and efficiently persuade its reader, and for that, it is essential that the expression in it does not evoke negative repercussions. For example, telling a judge in the Common Law Court, in a rape case, that 'when a man is known to have lost control over his volition because of his sexual excitement, he is too insane to have the mental capacity to commit a crime; law will punish him less though she will punish him' would hardly have delivered justice to the victim's family. For it would have rather inflamed the jury and shredded the legal process. Thus, 'A wife cannot be raped' as a form of legal non-recognition could not deliver justice. These sex-biased words will affect both men and women who are

ignored in different ways. There will be negative results in terms of the distribution of social, economic, and political powers. The underlying implications of the above study move beyond the mere representations of legal

discourse or propositions of law to expose the discrimination that is embedded in the very procedures of social and legal institutions in the enforcement of law and invite reconsideration of the terminology used [12, 13].

Intersectionality of Gender, Language, and Law

Despite discussing language and gender in legal contexts and language-based discrimination between male and female jurors, the preceding sections do not capture the complex and multiple ways that gender, language, and the law intersect. Gender cannot be understood except in relation to other social identities such as race, class, age, sexuality, disability, and religion. The variety of legal experiences and representations of women in the law in a given culture is explained by the fact that within it, gender intersects with a host of other social identities to form complex subject positions. For example, a Black woman translates her social position differently from a white woman [14, 15]. In addition, the use of language is shown to be affected by other social, as well as institutional and individual factors. Race, class, and sexuality shape language use in legal contexts, often as a means of countering power. Critical race theory has demonstrated how Black English is used by advocates as a language variety with a valid grammar in regional courts as a way of challenging the position of Black Americans in the law. Following a suggestion, law might be seen as a way of rejecting or transforming a carnal

experience; it is very easy to think of laws that change social reality ... rather, law can reinterpret or shift the equilibrium in a system that has been remodeled by technological, social, and economic forces. Discriminatory practices, as well as affirmative action measures, are all embedded in legal language. Laws can be tools for sustaining a discriminatory status quo or for initiating reforms [16, 17]. While the Victorian practice of referring only to the male sex, with women included under this rubric, finds more exemplars, the guidelines do illustrate the pervasiveness of sexual violence and discrimination against low-status and immigrant women and tender protection from those abuses whose labor is needed. Furthermore, such guidelines reveal the importance of a legislative framework that is inclusive of people from a multiplicity of sexualities and gender identities. Relationships are not limited to those between men and women, and equal introductions should recognize this. Therefore, it is important to analyze legal language, including legal reform, from an intersectional theoretical perspective [18, 19].

CONCLUSION

Language in legal contexts is neither neutral nor passive; it actively constructs and reinforces gendered power structures. This analysis reveals how legal discourse perpetuates biases, from the use of masculine pronouns in statutes to the gendered expectations of courtroom behavior. These patterns reflect and reproduce societal inequities, particularly disadvantaging women, non-binary, and transgender individuals. Moreover, intersectional analysis underscores the compounded discrimination

faced by individuals situated at the nexus of multiple marginalized identities. To foster justice and equity, legal systems must critically assess and reform their language. Adopting gender-neutral language and challenging traditional assumptions in legal discourse are crucial steps toward a more inclusive legal framework. By addressing these embedded biases, the law can better reflect the evolving realities of society and uphold its commitment to fairness and equality for all individuals.

REFERENCES

1. Zivot C, Dewey C, Heasley C, Srinivasan S, Little M. Exploring the state of gender-centered Health Research in the context of refugee resettlement in Canada: a scoping review. *International journal of environmental research and public health*. 2020 Oct;17(20):7511. mdpi.com
2. Coleman E, Radix AE, Bouman WP, Brown GR, De Vries AL, Deutsch MB, Ettner R, Fraser L, Goodman M, Green J, Hancock AB. Standards of care for the health of transgender and gender diverse people, version 8. *International journal of transgender health*. 2022 Aug 19;23(sup1):S1-259. tandfonline.com
3. Ishak N, Ranaivo R, Manitra M. Constitutional religious tolerance in realizing the protection of human rights in Indonesia. *Journal of Human Rights, Culture and Legal System*.

- 2022 Apr 2;2(1):31-44.
semanticscholar.org
4. Atkinson K, Bench-Capon T, Bollegala D. Explanation in AI and law: Past, present and future. *Artificial Intelligence*. 2020 Dec 1;289:103387.
 5. Driessen EP, Walker KE, Hallman T, Casper A, Eddy SL, Schneider JR, Lane AK. "It's been a Process": A Multiple Case Study of Biology Instructor Efforts to Reform their Sex and Gender Curriculum to be More Inclusive of Students with Queer Genders and Intersex Students. *CBE—Life Sciences Education*. 2024;23(4):ar51. lifescied.org
 6. Martínková I, Knox T, Anderson L, Parry J. Sex and gender in sport categorization: aiming for terminological clarity. *Journal of the Philosophy of Sport*. 2022 Jan 2;49(1):134-50. tandfonline.com
 7. Wachter S, Mittelstadt B, Russell C. Do large language models have a legal duty to tell the truth?. *Royal Society Open Science*. 2024 Aug 7;11(8):240197. royalsocietypublishing.org
 8. Roozenbeek J, Van Der Linden S, Goldberg B, Rathje S, Lewandowsky S. Psychological inoculation improves resilience against misinformation on social media. *Science advances*. 2022 Aug 24;8(34):eabo6254. science.org
 9. Case KA, Rios D, Lucas A, Braun K, Enriquez C. Intersectional patterns of prejudice confrontation by White, heterosexual, and cisgender allies. *Journal of Social Issues*. 2020 Dec;76(4):899-920. [\[HTML\]](#)
 10. Charlesworth TE, Yang V, Mann TC, Kurdi B, Banaji MR. Gender stereotypes in natural language: Word embeddings show robust consistency across child and adult language corpora of more than 65 million words. *Psychological Science*. 2021 Feb;32(2):218-40. tessaescharlesworth.com
 11. Bowman SR, Dahl GE. What will it take to fix benchmarking in natural language understanding?. *arXiv preprint arXiv:2104.02145*. 2021. [\[PDF\]](#)
 12. Horniczak K, Porębski A, Skoczeń I. Is Epistemic Status Gender-Biased? Gender As a Predictor of Testimonial Reliability Assessments in Violent Crimes. *International Journal for the Semiotics of Law-Revue internationale de Sémiotique juridique*. 2024 Jan 17:1-28. springer.com
 13. Formanowicz M, Hansen K. Subtle linguistic cues affecting gender in (equality). *Journal of Language and Social Psychology*. 2022 Mar;41(2):127-47. [\[HTML\]](#)
 14. Giametta C. New asylum protection categories and elusive filtering devices: the case of 'Queer asylum' in France and the UK. *Journal of Ethnic and Migration Studies*. 2020 Jan 2;46(1):142-57.
 15. Jain D, DasGupta D. Law, gender identity, and the uses of human rights: The paradox of recognition in South Asia. *Journal of Human Rights*. 2021 Jan 1;20(1):110-26.
 16. Darwin R, Norton B. Investment and motivation in language learning: What's the difference?. *Language teaching*. 2023 Jan;56(1):29-40.
 17. Aborisade RA. Image-based sexual abuse in a culturally conservative Nigerian society: Female victims' narratives of psychosocial costs. *Sexuality research and social policy*. 2022 Mar 1:1-3.
 18. Hawkey AJ, Ussher JM, Liamputtong P, Marjadi B, Sekar JA, Perz J, Ryan S, Schmied V, Brook E, Dune T. Trans women's responses to sexual violence: Vigilance, resilience, and need for support. *Archives of sexual behavior*. 2021 Oct;50:3201-22. researchgate.net
 19. Powell A, Scott AJ, Flynn A, McCook S. A multi-country study of image-based sexual abuse: Extent, relational nature and correlates of victimisation experiences. *Journal of Sexual Aggression*. 2024 Jan 2;30(1):25-40.

CITE AS: Akwagiobe Richard Akpanke and Aminu Bakori Mohammed (2025). Language and Gender in Legal Contexts. IDOSR JOURNAL OF ARTS AND MANAGEMENT 10(1):20-24. <https://doi.org/10.59298/IDOSRJAM/2025/101.202400>