

Strategies Used to Avoid Discrimination through Language between Law and Common Practice

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Résumé : *A travers les débats visant les politiques linguistiques dont le but est d'éviter le préjudice envers certains intérêts et droits des parleurs, on se réfère fréquemment au fait que ces politiques, en tant qu'ensemble de droits culturels, doivent proposer des solutions optimales afin d'empêcher toute forme de discrimination par le truchement du langage ou de stigmatisation des certaines catégories sociales. Malgré les efforts des ONG, orientés dans cette direction, dont le résultat a été une série de lois adoptées aussi en Roumanie, l'analyse rigoureuse de l'usage linguistique prouve souvent l'échec de cette démarche. La cause de cet échec tient, d'une part, à l'implémentation défectueuse de ces lois, adoptées en hâte, seulement pour sauver les apparences de correction politique. D'autre part, la différence entre la norme et l'usage se maintient dans les conditions où la pratique linguistique ne peut s'imposer par la force coercitive de l'Etat, parce que la langue est un organisme vivant qui sélectionne lui-même les éléments nécessaires. Représentatives dans ce sens sont les associations de termes risibles, engendrées au niveau de la parole, qui font l'objet de notre démarche.*

Mots-clés : *politiques linguistiques, usage linguistique, langue, parole, discrimination*

Discrimination is, primarily, a *sociological term* referring to treatment taken toward or against a person of a certain group that is taken into consideration based on class or category (i.e. age, gender, sexual orientation, religion, disability, race, color, national origin, etc). Discriminatory behaviors take many forms, but they all involve some form of exclusion or rejection. In order to redress negative effects of discrimination, many countries have issued special laws. Such as: *Australia - Sex Discrimination Act, 1984; Canada - Ontario Human Rights Code, 1962, Canadian Human Rights Act, 1977; Hong Kong - Sex Discrimination Ordinance (1996); United Kingdom - Equal Pay Act, 1970, Sex Discrimination Act, 1975, Human Rights Act, 1998; United States - Equal Pay Act of 1963[2], Title VII of the Civil Rights Act of 1964[3], Pregnancy Discrimination Act, etc.* Currently the EU Laws are the ones to influence Romanian legislation as well towards avoiding discrimination.

Our interest here is to focus on some specific kind of discrimination – i.e. disability discrimination and, more specifically, we are interested on ways of discriminating this category of people through language use. The first law ever issued to protect people with disabilities is Disability Discrimination Act 1995 (*United Kingdom*), meant to protect people with specific needs against unfair treatment at workplace.

Colin Barnes had already discussed these aspects in his book *Disabled People in Britain and Discrimination: a case for anti-discrimination legislation*, (second impression: 1994), C. Hurst and Co Ltd. – where the author suggested measurements that needed to be taken in order to protect disabled people and prevent their discrimination. Thus, this book can be considered a precedent for the upcoming laws.

Because Romanian legislation needed to addapt to the modern needs of society, The Law against discrimination has been issued in 2006 (Lg. 448/2006). The problem with this law is that it does not stipulate linguistic policies in protecting people against discrimination, even though the EU tendencies are to particulrly analyze this aspect. With the EU organizations people that find themselves under the incidence of laws in case are invited to make their own suggestions and provide their own definitions meant to supply discriminating words and idioms. In Romanian, The National Authority for Handicap People (ANPH) is an organization subordinated to the Mynistry of Labor and Social Protection which coordinates and implements measures for protection and organizes programmes for implementing specific linguistic policies. Issues of language rights have become increasingly prominent in the last decade, and are often raised in the context of more general human rights. A major problem comes with the name given to people who fall into this category.

The discriminating process takes different names with different languages and culture as a sign of its complexity as a current issue of modern society. For example, discrimination against people with disabilities in favor of people who are not is being identified with two labels in the literature (i.e. ableism or disablism). *Ableism* is a *neologism* of *United States* coinage used to describe effective *discrimination* against people with disabilities in favor of people who are not *disabled*. An *ableist* society is said to be one that treats non-disabled individuals as the standard of ‘normal living’, which results in public and private places and services, education, and social work that are built to serve ‘standard’ people, thereby inherently excluding those with various disabilities. By contrast with the US, *United Kingdom* usage favors *disablism* to describe the same processes. This usage flows out of a perspective driven by the *Social model of disability* which regards ‘disability’ as the discrimination experienced by a person as a response to their impairment, making *disablism* the logical term to describe discrimination on the grounds of disability.

However, no matter how it is called, the phenomenon in case is based on some sort of “hate speech”, i.e. speech perceived to disparage a person or group of people based on their *disability* that might be considered by some as a liability. Taken into consideration the fact that, in many countries, deliberate use of hate speech is a *criminal offence* prohibited under *incitement to hatred* legislation, we can mention a few words that bear offensive connotations and have been recommended to be avoided on these grounds. Historically, the disabled have always been shunned for their problems and Romanian language witnessed this process through numerous clichés that have already been lexicalized to stigmatize different kinds of handicaps. Words like: *chior* (*blind*), *olog* (*cripple*), *ghebos* (*hunchback*) are not only discriminating because they stress the person’s disability, but mostly due to their pejorative connotation. That is why there are efforts to issue more accurate linguistic policies in order to educate speakers into avoiding such words that can be harmful to some fellows. The real problem with this linguistic policies is that they are of subjective random use and more often than not we can see that there are discrepancies between theory and practice, between what people have to do in order not to make others feel rejected, and what they really do, or say as a consequence of an old speaking habit.

As a proof of the fact that language policies are constantly changing according to subjective criteria there are some words that refer to physical defects which prevent people from operating under normal conditions. For example, the English language used for a long period of time the term *impairment* in order to make reference to people in this category. After a while this term became obsolete and has been replaced with *handicap*. The problem with this very word was that it could be easily associated with “cap in hand” (*beggar*). The great number of complaints from disabled people led to replacing the word “handicap” with “disability”. This word-replacement has been made in Romanian as well even though the association of words mentioned above could not be made in Romanian language. The only reason for replacing *handicap* cu *dizabilitate* in Romanian language is the sense of community with the EU linguistic policies. That is why Romanian speakers alternate *handicap* with *disability* and use them as perfect synonyms. We can still mention a local exception that could be the reason for replacing the word *handicap* with a less offensive one: the word *handicap* has developed a word family but they are almost all of pejorative use. Such word as *handicapat* used in an imperative sentence: *Handicapatule!* is deeply offensive and harmful either for disabled as well as for the people without disabilities.

The need of changing vocabulary according to some social rules may have different reasons. Beside linguistic fashion or socio-political need, globalizing tendencies are reasons for terminological alignment. Globalization often conjures up the image of reduction of diversity, a trend towards homogenization that affects every aspect of a community's culture,

including its language, but one can also argue that they reflect advantageous adaptations to changing ecologies-as cynical as this observation may sound.

Another reason for linguistic change may be the need of avoiding exclusion. In this respect fatic interaction means creating others a sense of inclusion by not incomodating the with offensive words. Fatic talk is a common feature of our daily communication and interaction. The area of phaticity, however, has been underexamined although it is often appealed to as a discourse type (Coupland, Coupland, & Robinson 1992). Malinowsky (1922) first introduced the concept of “phatic communion”; it included formulas of greeting and parting, defined as “language used in free, aimless, social intercourse” (142). Laver (1981) focuses on the positive, relational value of Fatic communion, and discusses how social relationships are negotiated and controlled through such means. Laver argues that a speaker’s choice of small talk can signal his/her perception of the interactional context including formality, acquaintance, and social relationship with the addressee, and this is why we find it very important for people with disabilities to be in interactional contexts. Bronislaw Malinowski (2001: 390) tried to prove that language is used to perform social functions; in other words, social relationships and interaction are geared to the use of linguistic expressions. One of such functions consists of what he called *fatic communion*. Language was used to maintain fatic communion - a feeling of belonging to a community. He observed that women used different expressions from those used by men in order to maintain their social role. Fatic communion implies the maintenance of a sense of community, of solidarity with other members of the group, of a particular status within the hierarchies of the group, and at the same time a feeling of accepting others and being oneself accepted by others. That is why fatic communion is so important when talking about linguistic policies used in avoiding discrimination. The human nature implies belonging to a community, living and let live.

The real challenge in the study of linguistic policy is that there are so many variables that must be dealt with that simplistic notions or one-note theories cannot hope to capture the complexity of language and linguistic culture. Linguistic policies avoiding discrimination often suggest euphemistic formulas to replace the pejorative ones, but sometimes the excessive use of euphemisms may be as offensive as well. Sometimes the euphemistic structure is internalized by the speakers without a good representation of the terms in case and this fact leads to generating illogical or even absurd contexts. Our intention here was to prove that the mere recommendations of CNCD are not enough for people to properly understand and use non-offensive stereotypes and we can not speak of political correctness unless it is completely implemented.

Thus, the debates on language policies meat to avoid harming the interests and rights of speakers turned into debates on cultural rights. These policies are themselves considered a set of cultural rights that should ease the implementation of optimal solutions in order to avoid any form of discrimination through language or stigmatization of certain social categories. Although NGO’s are making remarkable efforts in this respect, having as a result a set of laws recently adopted in Romania, careful analysis of language use proved that many of these laws have been incompletely or incorrectly implemented as a signal of desperate attempts to save the appearances of political correctness.

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