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## **Male and Female Witnesses' Speech in Swedish Criminal Trials**

### **Abstract**

The present quantitative study focuses on witnesses' speech in Swedish criminal trials, more specifically on potential differences between men's and women's language styles. Since the 1970s, research on language and gender has been divided into three main approaches towards the relationship between men's and women's language use: the *deficit approach*, the *dominance approach* and the *cultural approach*. The present study uses the more recent *dynamic approach* to show how gender is acted out in each situation taking into account a number of factors, e.g. context. The aim of our work is first and foremost to study the possible correlation between the witnesses' gender and language in the courtroom context and then to investigate if income and/or level of education provide better explanations for possible variation by looking at a broad range of linguistic variables. The results show no statistically significant gender or social status differences in the witnesses' speech. However, when comparing the results of the testifying police officers accidentally included in the study with the rest of the witnesses, the differences turned out to be significant. This shows that, in this case, factors such as previous courtroom experience and familiarity with the context were probably more influential on the speech of the informants than gender, income and education, in conformity with the assumptions of the dynamic approach.

### **1. Introduction<sup>1</sup>**

#### **1.1. Background**

For the last three decades, a major topic in sociolinguistics has been the connection, if any, between the structures, vocabularies and ways

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<sup>1</sup> This paper is based on Waara's Stockholm University thesis for a Master's degree in Language and Law, which was supervised by Shaw. The research reported was carried out by Waara; the paper was written jointly.

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of using language of men and women and their social roles. Do men and women who use the same language, e.g. English, speak and write it in different ways? If so, why? From the early and mid-1970's, which is generally seen as the starting point for modern research on language and gender, and onwards, these questions have been discussed in a considerable number of research projects.<sup>2</sup>

Many studies have found differences between the genders in terms of the frequency of certain features. Thus, in the foundational work in the field, Lakoff (1975) proposed that there is a "women's language" (WL), characterised by more frequent use of specific language forms, and subsequent work has often found that women's speech differs (statistically) from men's in a variety of situations.

Four general approaches to explanation have arisen (Coates 2004:6). The earliest has been called a *deficit approach*, in which investigation tended to favour men's language as the norm, seeing women's language as different, unconventional and even incomplete. Lakoff's analysis has been seen as continuing this interpretation, which derives from traditional patriarchal attitudes. The *dominance theory* holds that linguistic differences mirror the male rule or dominance in society at large. In other words, male power is enacted through language interaction in which both men and women take part resulting in different language styles (Zimmerman and West 1975, Fishman 1983, O'Barr and Atkins 1980). Today, however, the dominance approach has lost some of its credibility after several studies have been presented showing for instance women using more competitive linguistic strategies and interrupting more than men in certain settings. The *cultural approach* argues that men and women belong to different sociolinguistic subcultures and therefore have been taught different styles for communication. They have to accept these styles to become fully adequate members of their cultures (Nordenstam 1987; 1990, Coates 1996, Coates & Cameron 1988). Studies on women's subcultural life often place the emphasis on the private sphere where their speech is found to be more supportive, co-operative and emotionally involved.

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<sup>2</sup> The purposes of this research has been discussed for instance in Strand, Hans 1998: Att forska om språk och kön: två strategiska val. In *Kraftfält: forskning om kön och journalistik*, 161-169.

The most current outlook on gender differences in language use is the *dynamic approach*. According to this theory, gender is a cultural construction, not a predetermined social category (Coates 2004:6-7, Thompson 2002:156) so that acting and talking like a man or a woman varies over time and between social, ethnic and cultural groups. Gender is accomplished in talk every time we speak. Speakers claim their roles anew in each conversation and the roles, and consequently also the degree of femininity and masculinity, vary depending on context. However, choices are constrained by normative pressures acting on both men and women (Coates 2004:139-143). It is much harder to perform versions of masculinity or femininity that challenge the dominant gender norms.

## **1.2. Institutional discourse**

A constant theme in the discussions referred to above has been that women's language may be adapted to a private sphere of, for example, friendship, family life, and other personal relations, while men's language is adapted to a public sphere including business meetings, politics, and the law. Many of the contexts in the public sphere require what has been classified as institutional discourse. This has been defined (Linell 1990:18-22, Thornborrow 2002:4) as language: (a) produced in contexts where there are predetermined roles or positions for the participants; (b) having a structurally asymmetrical allocation of turn types between the participants; (c) produced in the interaction between asymmetrical parties: *professionals* (such as prosecutors and lawyers) and *lay people* (such as defendants and witnesses); and (d) with an orientation towards dealing with a certain matter or solving a specific problem, which is more or less always the reason for the interaction.

## **1.3. Gender in courtroom language**

Courtroom discourse meets these criteria for institutional discourse. Most court proceedings are highly asymmetrical in that some participants have more power over dialogues than others. There are clearly specified roles for the participants that decide their speech performances and their discursive space. The *professionals* (judges, prosecutors and lawyers) ask questions that the *lay people* (defendants, plaintiffs and witnesses) are required to answer. The lay people are not allowed to

contribute information randomly during the proceedings. They are also to a varying degree personally affected by what dialogues revolve around. This makes them vulnerable compared to the professionals, who are present only as a result of their professional responsibilities. Of course, for someone who is ignorant of the ways court proceedings are conducted, it is usually beneficial to hand over responsibilities and initiatives to professionals.

Court proceedings depend to a great extent on appropriate use of language. It is natural therefore to suspect that the different gender language practices found in other areas of communication will also be manifested in the courtroom and that this might affect the outcome of the trial. This is clearly an important issue and it has been investigated both in the US and in Scandinavia. O'Barr and Atkins (1980) analysed a total of 150 hours of trials recorded in 1974 in a North Carolina superior criminal court registering all instances of the features described by Lakoff as women's language. The researchers found that although more women than men used women's language features, some male witnesses also used them. O'Barr and Atkins claimed that the factor uniting people using women's language in the courtroom setting was the fact that they were generally more socially powerless. Their findings can be summarised as follows: Lakoff's term women's language was misleading and they therefore suggested re-naming it "powerless language" (PL). They argued that the tendency for women to use powerless language more than men was due to the greater predisposition for them to be in powerless social positions rather than it being an effect of their gender, thus supporting the dominance position.

Erickson et al. (1978) proceeded to test the effects of using powerless language in a simulation. They recorded on tape one of the typical powerless testimonies from O'Barr and Atkins' study, acted out first by a woman and then by a man. The powerless testimony was then edited so that the powerless features were omitted producing an example of a powerful testimony, which was also recorded on tape. The four tapes were then played to or read by university students taking the role of jurors. Regardless of the gender of the witness and of the students, the students who heard the recordings of the actors using powerful language thought the witnesses to be more credible, competent, intelligent and trustworthy than those students who listened to the powerless recordings. There were no significant differences in the evaluations between

the female and the male actors performing the testimonies. This seems to be convincing evidence for the dominance explanation, but later writers such as Thompson (2002) have questioned whether such laboratory evidence reflects actual court processes.

Schlyter (1986) performed a case study of the speech of two women and one man before the Swedish Labour Court. The dispute concerned whether the man, on the one hand, and the women, on the other, had similar occupational tasks and therefore should have equal pay. Schlyter analysed transcripts of the tape-recorded trial and concluded that the outcome of the trial, which was negative for the women, could have depended on differences in expression between the man and the women. The man spoke much more and performed monologues with few questions to keep him going. He used more complex language and was not afraid of promoting himself and his work tasks. The two women spoke less, one of them hardly speaking at all, and there was more of a dialogue between them and the professionals asking the questions. Their language was simpler and they repeatedly down-toned themselves and their work efforts. Schlyter provided a cultural explanation: women learn from the start not to show off, which results in more hesitant and deferential language.

Further support for the cultural explanation is evidence that gender is so influential as a factor, even in institutional settings, that it outweighs status. West (1998) looked at interruptions using 21 video-recorded encounters between doctors and patients at a local clinic. She found that not only did male physicians interrupt their patients, of either gender, far more often than the reverse, but male patients interrupted women physicians more than the physicians interrupted them. The interruptions were used to gain or assert control and/or dominance. West's findings support those of Woods (1989) who recorded three-party conversations between colleagues of different work status. Occupational role and status influenced the speakers' ability to hold the floor to a certain extent but it was still the men who dominated regardless of whether they were bosses or subordinates. These rather surprising findings suggest that even when a woman has the role of professional or superordinate in an institutional context, it is her gender and not her institutional role that decides who interrupts whom. Gender amounts to a "master" status and its effects are visible in all situations.

#### 1.4. Aim

The studies discussed above give the impression that gender differences in institutional discourse are generally quite easy to spot. In the courtroom context especially, the differences seem very salient and clear-cut. Schlyter's material is extremely small, one single case, and still she could detect large differences. O'Barr and Atkins' material is extensive and hence quite convincing for the US situation. Schlyter's case study suggests that similar conditions apply in Sweden.<sup>3</sup> If this is true, it is a serious issue that requires attention by court professionals to ensure equal treatment of the genders.

The aim of this study was to investigate whether men and women do indeed speak differently in Swedish criminal trial processes. We worked from recordings of examinations of witnesses by court professional (prosecutors and lawyers). For those acting as witnesses, the dependent variables were linguistic or discoursal parameters selected from those examined in the studies discussed above. These were examined for possible relationships to the independent variables gender, professional status (restricted to the poles police officer/civilian), income and level of education. Court professionals' speech to witnesses was examined in terms of three dependent variables: interruptions, simultaneous speech and supporting utterances. The independent variables here were gender of speaker and gender of addressee.

The study aimed to be exploratory and complementary to Schlyter's case study. We therefore chose to look at a broad range of linguistic variables across a wide variety of speakers, in contrast to Schlyter's detailed examination of a single case. The investigation is strictly quantitative and we do not go into qualitative considerations regarding the individual testimonies.

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<sup>3</sup> For more research on language use in Swedish trials, see Aronsson, Karin, Jönsson, Linda & Linell, Per 1987: The Courtroom Hearing as a Middle Ground: Speech Accommodation by Lawyers and Defendants. In *Journal of Language and Social Psychology* 6, 99-115 and Jönsson, Linda 1988: *On Being Heard in Court Trials and Police Interrogations. A study of discourse in two institutional contexts*. Linköping Studies of Arts and Science 25. Linköpings universitet.

## **2. Hypotheses and definitions**

### **2.1. Hypotheses**

The overall hypothesis in this study was that O'Barr and Atkins and Schlyter are right to suggest that there are differences between how men and women speak in the courtroom context, but that, as the dynamic approach suggests, men may speak using language features traditionally regarded as female and vice versa. Therefore, gender alone is insufficient to explain the variations. Other factors, such as income and level of education (broadly, social power), we hypothesised, better explain the differences: people with high education and large income tend to be low in language features traditionally regarded as female and people with little education and low income use more of the female features.

It was hypothesised that the differences would be manifested in the following areas: amount of speech, frequency of interruptions, use of simultaneous speech, use of supporting utterances, use of questions, use of hedges, occurrence of pauses, and use of pause fillers.

Based on previous research on public and semi-public language, e.g. Almlöv (1995), Gunnarsson (1995) and Einarsson and Hultman (1984), we hypothesised that the male witnesses would be more talkative than the female witnesses. They would speak for a longer time using more words and their utterances would be longer. The women would talk using more but shorter utterances.

Interruptions in informal conversations have been found to be most often used by men as a way of controlling conversations (Zimmerman and West 1975). Almlöv (1995) showed that men also interrupted more than women in an academic seminar setting, which is a formal institutional context similar to the trial setting. We hypothesised that the male witnesses would interrupt more than the female witnesses. Further, we hypothesised that the male professionals would interrupt more than the female professionals, following the general findings of researchers, despite the possibility that the women have adapted to the male conversation norm and over-compensate so that they become more aggressive in their speech style than the men, as seen in the Thelander study of women politicians (1986).

Simultaneous speech is common in everyday private conversations, especially between women (Nordenstam 1987). The literature led us to hypothesise that most simultaneous speech would occur when women court professionals were speaking to women witnesses, although in fact because this is institutional discourse, it seemed likely that there would be relatively few instances of simultaneous speech overall, so that gender differences would not be apparent.

In private settings, women use more supporting utterances than men regardless of whom they speak to (Nordenstam 1987 and Fishman 1983). Because of the institutional setting, we did not expect to see such a difference in our material. It seems, however, intuitively likely that powerful speakers in such a context (at least in Scandinavia) may wish to be supportive of (some) less powerful speakers, perhaps particularly female ones. We therefore hypothesised that the professionals would use more supporting utterances than the witnesses because of the power difference, and that the female witnesses would receive more supporting utterances than the male witnesses.

Questions are regarded by Schlyter (1986), following Lakoff, as among the linguistic characteristics signalling insecurity displayed by women attending meetings and seminars. We hypothesised that this is true in a court context as well.

Hedges are defined as a group of linguistic devices that supposedly soften utterances by signalling imprecision and non-commitment such as the particles *about* and *sort of* and the modal terms *possibly* and *perhaps* (Dixon and Foster 1997:90). As noted above, hedges have traditionally been regarded as characteristically female or powerless language features. The importance of giving accurate and exact information in court proceedings is well known and therefore, many witnesses will feel insecure and use vagueness markers to cover themselves against possibly giving false information. We hypothesised that we would find quite a few hedges in the witnesses' speech as a result of the formal and unusual context, and that women and less educated witnesses would use more hedges.

Silent pauses were found by Olevard (1997) to be more frequent and longer in men's speech in post-graduate seminars than in women's speech. We hypothesised that we would find more pauses in the male witnesses' speech than in the female witnesses' speech.

There is research showing that men use more pause fillers than women (Olevarud 1997, Adelswärd 1999). We hypothesised that this would be the case in our study as well. The men are eager to keep talking and therefore fill possible gaps in their speech with sounds to make it harder for other speakers to cut in.

## 2.2. Definitions

Full definitions of all the variables examined are given in Waara (2004). In this paper we focus on amount of speech, hedges, silent pauses, and filled pauses, since these were the variables on which our discussion concentrates.

### 2.2.1. Amount of speech

The variable amount of speech includes five sub-variables: total length of speech in seconds, number of words and utterances, words per utterance and length of utterance. We count as words all lexical and grammatical items.

An utterance is what is said before or after another person begins to speak, which may be one word or one/several sentences (Richards et al. 1985). This definition has been extended here to include simultaneous speech, which is also counted as an utterance belonging to the person who produces it. Supporting utterances are also counted as utterances. We make no distinction between cases where a person is interrupted and therefore stops talking leaving the utterance unfinished and those where the speaker stops because he or she has finished the utterance.

### 2.2.2. Hedges

We have chosen to study the hedges *I don't know*, *I think*, *maybe* and *I guess/suppose* as described by Lindroth (1996).<sup>4</sup> Most of the time the phrase *I don't know* is added as a comment in a discussion on a certain topic of which the speaker has some knowledge but is insecure of the details. In such cases, the addition of *I don't know* signals insecurity and indirectness (Lindroth 1996:10-11) as for instance in the following example.

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<sup>4</sup> The phrases are translations of the Swedish *jag vet inte*, *jag tror*, *kanske* and *väl*.

## Example 1:

W: *Then Kim went inside I don't know what he did then I talked to John about it for a while /// he also said that it wasn't true*<sup>5</sup>

W knows that Kim went inside and when he did so in relation to what W was doing but not what Kim was doing in there.

*I think* and *maybe* also show insecurity on the part of the speaker but less so compared to *I don't know*, as is displayed in the extracts below.

## Example 2:

W: ... *Danielle fell to the ground and then Kim ran into the house and Monika ran after him / and Danielle she I think she was unconscious because eh she- she had her eyes closed when she was lying on the ground but she opened her eyes after a few seconds so I helped her up and then she was really upset and scared and stuff*<sup>6</sup>

## Example 3:

W: *He stood a couple- we stood there by the opp- eh opposite the fitting rooms and / would we were sitting looking at clothes standing there looking at clothes / and he stood next to us maybe two two three meters away / and he was staring at us ...*<sup>7</sup>

*I guess/suppose* is used frequently in various situations and has generally been regarded as a confirmation marker, i.e. a sign that a speaker wants confirmation from a listener that what he or she is saying is true or correct (Aijmer 1977). This kind of confirmation-seeking is illustrated by the following example.

<sup>5</sup> W: *Sen gick Kim in ja vet inte va han gjorde sen så prata ja me John om de här ett tag /// han sa också att de inte va sant*

<sup>6</sup> W: ... *Danielle föll ner på marken å då sprang Kim in i huset å Monika sprang efter honom / å Danielle hon ja tror hon va medvetlös för att eh hon- hon hade ögonen stängda när hon låg på marken fast hon öppnade dom efter nära sekunder så hjälpte ja henne upp å så va hon jätteledsen å rädd å så*

<sup>7</sup> W: *Han stod ett par- vi stod där vid mitt- eh mittemot hytterna å / skulle vi satt å kolla på kläder stod å kolla på kläder / å han stod bredvid oss kanske två två tre meter ifrån / å han stirrade på oss ...*

Example 4:

W: *Well when I was questioned by the police I guess I said about / well I'm thinking thumb- it was really difficult / but I guess it was // like this on the chin yeah somewhere here*<sup>8</sup>

*I guess/suppose* is often used without much thought on the part of a speaker, for example to gain extra time to plan a following utterance or when the speaker simply does not know what to say. Even in such cases, it could be said that *I guess/suppose* signals insecurity or hesitation, which makes it possible to define it as a hedge (Lindroth 1996:11).

### 2.2.3. Pauses

Pauses are silent gaps in speech. Pauses are very common and have different functions as described by Olevard (1997) but a very large part of them are “thought pauses”, i.e. when a speaker does not know what to say and needs time to think, and “hesitation pauses”, i.e. when a speaker knows what to say but not how to say it (Olevard 1997a:23).

In this work we do not distinguish between different kinds of pauses but consider them all as one variable. Silence between two utterances that lasts more than three seconds are not counted as belonging to any speaker (McLaughlin’s method in Almlöv 1995:9). Pauses shorter than three seconds are attributed to the last speaker.

### 2.2.4. Pause fillers

Pause fillers are utterances such as *eh* interjected between words or parts of words in an utterance. Like silent pauses, they are very frequent in speech (Olevard 1997:25). Silent pauses and pause fillers are both illustrated by the following example.

Example 5:

W: *Yeah there was a wisp of hair on the kitchen shelf / eh that she said came from her I guess she tried to show on her head where exactly it came from but it was still hard to see / eh see*

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<sup>8</sup> W: *Ja när ja hördes av polisen så sa ja väl runt nån / ja ja tänker tum- ja asså de va väldigt svårt / men de va väl en // så satt på hakan på nåt sätt ja nånstans här*

*exactly where it had been but / it looked like it came from her  
and / then // she had a / swelling on her le- her cheek<sup>9</sup>*

From the content of W's speech it is clear that there is some hesitation as to the exact details of the incident. This leads to W pausing quite a bit and using many types of filler. However, fillers also have other possible functions. Norrby (2004:217) mentions for instance that the use of fillers can sometimes be interpreted as an attempt to keep and prolong a speaker's turn, especially in public speech.

### 3. Material

#### 3.1. Primary material and selection

Witness statements in proceedings in Swedish courts are routinely tape-recorded and the resulting tapes are generally official documents available to the public. We selected from this bank of data in such a way as to provide a sample as representative of the population of Stockholm as possible, with equal gender representation and maximum geographical and social coverage, as was appropriate for the aim of complementing Schlyter's case study.

We obtained tapes of 19 criminal trials conducted in either 2003 or 2004, selected by court officials on an arbitrary basis, and examined 2.5-minute extracts from 31 tape-recorded testimonies, 16 given by women and 15 given by men. Some trials provided two or three testimonies, but none more than three. Equal numbers of female and male testimonies were initially collected from each court: eight men and eight women. At a quite late stage, it turned out that one of the male witnesses had testified twice, in two different cases. His second testimony was excluded from the study, resulting in our only having seven male testimonies from Nacka district court.

The tape recordings were obtained from two different district courts, Nacka and Handen, in the province of Stockholm. The province of Stockholm is segregated socially and ethnically, so to avoid the risk of

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<sup>9</sup> W: *Ja de låg ju en hårtuss på köksbänken / eh som hon sa att den kom från henne då hon försökte väl visa den också då på på huvet var exakt den hade suttit men de va ändå svårt å se / eh se exakt var den hade suttit men / det såg ut som den kom från henne och / sen så // hade hon ju en / svullnad på ena be- ena kinden*

ending up with witness statements from an unrepresentative group of informants, we collected the testimonies from two courts responsible for socially different areas. Nacka district court covers two municipalities with an average income per year of 257,134 kr, which is the second highest of the eight judicial districts of the province of Stockholm<sup>10</sup>, whereas Handen district court covers three municipalities with an average income of 225,739 kr, the third lowest in the province.

We used the first 2.5 minutes of the testimonies starting from the first question posed by either the prosecutor or the defence lawyer depending on who called the witness to testify. In total, 1 hour and 17.5 minutes of talk were analysed. The extracts from the testimonies were transcribed according to a transcription key based on Almlöv (1995:77). After listening to and transcribing the 2.5-minutes-long segments of all the testimonies, we noted the number of occurrences of the language features chosen and described above.

Thanks to the openness of the Swedish legal and administrative system, we were able to obtain the addresses of the witnesses (or, if they were police officers, the districts in which they worked) and to use this information to obtain their income from employment (mostly for the year 2002, which was the most current available information in the public registers at the time). We could estimate the level of education of the non-police witnesses from public records of student grants and/or loans received. The 12 police officers in the study were all assumed to have attended and completed the Police Academy, which is a university level education.

One of the police officers could not be found in the records of the personnel office and so he was excluded from the analysis based on income. One of the male witnesses could not be found in the Tax Authority's records. He was therefore excluded from the data relating to income and education.

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<sup>10</sup> The average income in the whole province of Stockholm is 240,633 kr per year. The national average is 203,257 kr. Statistics from Statistiska centralbyrån ([www.scb.se](http://www.scb.se)).

## **4. Method**

### **4.1. Selection of method**

We chose a quantitative method to get an overview of linguistic interaction in the given context (Gunnarsson 1995:7), to contrast with Schlyter's close-up case study. The method, comprising counting and analysing language variables, has revealed interesting differences in language use in earlier studies, for instance in Einarsson and Hultman (1984) and Gunnarsson (1995).

### **4.2. Handling of the material**

The witnesses were categorised in four different ways. First, they were grouped based on gender. Second, the information on income was used to rank the witnesses starting with the witness with the highest income and ending with the witness earning least money. The upper half of the group was regarded as belonging to the high income group, the other half as belonging to the low income group. Third, all informants who had studied at university level were regarded as university educated regardless of the length and quality of the studies. The ones without any university-level education were put in the other group. Fourth, all police officers formed one group and the rest of the witnesses made up the other group.

For eight of the variables (length, words, utterances, length/utterance, words/utterance, hedges, pauses and fillers), mean values and standard deviations were compared between the two groups for each parameter. Student's *t* tests were performed comparing scores for each of the eight variables using GraphPad Prism 4 for the two groups across all parameters. Selected data in combination were then tested in each parameter using multivariate tests performed in STATA™ Statistics/Data Analysis to see if there was any correlation between the variables within the groups defined by each parameter.

There were relatively few instances of the remaining four variables interruptions, simultaneous speech, supporting utterances and questions, so they were only analysed descriptively and are not discussed here. This was also the case for the three variables interruptions, simultaneous speech and supporting utterances relating to the professionals' speech, but in this case a brief description is given.

## 5. Results

### 5.1. Witnesses' speech

We start out by presenting the mean values and standard deviations for the witnesses' speech for eight of the 12 variables: length, words, utterances, length/utterance, words/utterance, hedges, pauses and fillers.

Following this data are the statistical results obtained from applying two kinds of parametric tests, Student's t tests and multivariate tests, on the data.

Parameter	Gender		Income		Education		Professional status	
	Women	Men	High	Low	University	Not university	Police	Other
Length	110±22	105±25	107±24	110±22	105±21	114±24	105±23	110±24
Words	275±47	253±56	259±49	272±55	265±50	269±54	256±55	270±51
Utterances	8±4	10±7	7±4	9±6	9±5	8±5	7±4	<b>10±7<sup>1</sup></b>
Words/u	68±82	44±33	66±84	48±42	44±31	73±87	50±33	60±78
Length/u	28±38	18±13	28±38	20±18	18±12	31±37	20±12	25±33
Hedges	3±2	3±2	2±1	2±2	2±1	3±2	2±1	3±2
Pauses	18±8	14±6	15±5	18±9	15±5	17±9	14±5	<b>17±8<sup>2</sup></b>
Fillers	7±4	8±5	8±4	7±6	9±5	6±4 <sup>1</sup>	10±5	<b>6±4<sup>**</sup></b>

<sup>1</sup> p = 0.14 (in both cases)

<sup>2</sup> p = 0.08

<sup>\*\*</sup> p = 0.02

Table 1. Mean values and standard deviations for the witnesses, categorised by four different criteria.

The p-values given in Table 1 derive from a t-test, which determines whether there is a statistically significant difference between two groups of informants. There were no significant differences for any of the three parameters gender, income or education for any of the variables.

For the parameter professional status (police-other), the p value for the variable fillers displays a statistically significant difference. Also, the p values for utterances and silent pauses are fairly close to showing a significant difference (p = 0.14 and p = 0.08).

There is a risk when performing repeated t tests on many variables such as in this case that some results turn out significant by chance

(Woods, Fletcher and Hughes 1986:128). To minimise this risk, multivariate tests were also performed in each category. A multivariate test combines several variables in one multidimensional test to see whether there are any significant differences in each category when the variables are tested for together. Here, six variables were tested for in each category: length, words, utterances, hedges, pauses and fillers. The two proportional variables length/utterance and words/utterance were excluded because they are not independent of the others.

Table 2 shows the p values of the multivariate tests for each category of witnesses. As can be seen, the results in the three categories women-men, high income-low income and university educated-not university educated are nonsignificant. In the category police-others however, there is a statistically significant difference ( $p = 0.04$ ) when all parameters are tested for at the same time.

Criteria	Numbers in each group	p values for all variables combined
Gender	16-15	0.7
Income	14-15	0.7
Education	16-14	0.3
Professional status	12-19	0.04

Table 2. p values from multivariate tests for the four categories of witnesses.

## 5.2. The court professionals' speech

The court professionals also produced relatively few instances of the variables interruptions, simultaneous speech and supporting utterances. The data were therefore not suitable for statistical analysis, but some of the results are suggestive and are discussed below.

Gender of court professional	All			Female			Male		
	Total	F	M	Total	F	M	Total	F	M
Number of examinations	31	16	15	13	9	4	18	7	11
Number of instances of variable									
Interruptions	12	2	10	1	0	1	11	2	9
Simultaneous speech	14	6	8	7	4	3	7	2	5
Supporting utterances	93	49	44	45	36	9	48	13	35

Table 3. Instances of various features in the speech of court professionals.

Table 3 shows that simultaneous speech and supporting utterances were distributed fairly equally among speakers, but interruptions were mainly produced by male professionals and most of these were interruptions of male witnesses. Simultaneous speech was directed fairly evenly to witnesses of both genders, but supporting utterances were on average twice as frequently directed to witnesses of the professionals' own gender as to those of the opposite gender, as illustrated in Table 4.

Court professional gender	Witness gender	
	F	M
F	4	2.25
M	1.9	3.2

Table 4. Frequency of supporting language (instances per examination) by gender of interacting pairs.

## 6. Discussion

### 6.1. Support for the main hypotheses?

The overall hypothesis made for this study was that there are differences between how men and women speak in the courtroom context but that gender alone is insufficient to explain the variations. Other factors, such as income and level of education, we hypothesised, would better

explain the differences. The results we have arrived at do not support these hypotheses. None of the p values show any statistically significant differences in the categories women-men, high income-low income and university educated-not university educated. This is not however merely an effect of sample size or method, since significant differences were found between civilian and police witnesses. It is clear that any differences that do exist on the parameters expected are smaller than those due to the police/civilian parameter.

The fact that gender differences were not picked up could mean that there were in fact no differences in this specific context. Regardless of gender and social background, the witnesses in this study used the same speech style in the courtroom context. There are current studies both supporting (Nohara 1992) and rejecting (Gunnarsson 1995) this idea and the situation is far from clear.

A power-estimate test performed on the data for the women-men category shows that the sample size would have had to be up to 115 times larger to obtain statistically significant results. This points to gender variations being subtle, which results in a need for a large sample size to be able to detect them.<sup>11</sup> The relatively small size of the material in the present study (1 hour and 17.5 minutes) compared to studies showing gender-based language differences, e.g. the O'Barr and Atkins study (1980), could be another reason for the lack of gender differences.

Our results tend to suggest that the large gender differences found in the Schlyter study (1986) are not representative. This could be due to the topic of the trial in the Schlyter study, which was gender discrimination. Gender was therefore very much in focus, which could have encouraged the participants to *do gender* (Coates 2004) rather explicitly. Also, Schlyter performed the study after receiving indications from others that the case was exceptional with regard to the language of the lay people. In other words, she did not choose the case randomly and the results can therefore not be said to be representative of all cases.

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<sup>11</sup> The obvious limitation of a power-estimate test is that it assumes that the results of the present study are generalisable to all witnesses' speech, which is far from certain. It could be that the witnesses in this study are exceptional in many ways and that perhaps even more witnesses would have been required in reality than the test shows.

Another explanation for the absence of gender-based differences in the current study could be that the differences were materialised in ways not covered by the method. Culpepper and Kytö (2000:82) stressed that even though men and women speak differently in some ways, they speak similarly in many more ways. The research in this field is far from unanimous regarding how differences are represented in speech. Also, variables that have shown frequency differences in one context might not turn out to vary in another context (Nohara 1992, Dixon and Foster 1990).

It might also be that gender and social status are not very salient in the courtroom context. The specific circumstances of giving a witness statement in court might take over so that gender and social status as possible factors influencing language use are overshadowed by the requirements and expectations of the specific situation. Instead of witnesses speaking in a typically female or male, rich or poor, or educated or uneducated style, they might use a common courtroom style. This was observed by Reid et al. (2003) who found that women used more tentative language in discussions where gender had been made salient compared to low gender salience discussions where instead student identity was salient. In the latter situations, men and women used about the same amount of tentative language. In this sense our findings are supportive of a dynamic interpretation of language-and-gender effects.

12 of the 31 witnesses happened to be police officers. Police officers are generally used to testifying in court and therefore familiar with the context. This could have evened out potential gender differences thereby affecting the results. In retrospect, one solution would have been to exclude the police officers from the study and focused strictly on the other witnesses. However, the number of informants would then have been only 19 (seven men and 12 women), which would not have been enough to perform this kind of study.

Finally, the categories used for analysis might have obscured effects. Thus, for example, our undifferentiated simultaneous speech could cover both supportive and aggressive acts which might be differently distributed.

We will now go on to discuss the results for the various parameters in relation to individual experimental variables.

## 7. Individual hypotheses

### 7.1. Gender

*Amount of speech.* We hypothesised that the male witnesses would be more talkative than the female witnesses. The results show no such difference either in the basic data (length, words and utterances) or in the proportional data (length/utterance and words/utterance). There could be many reasons for this.

Questioning witnesses belongs to the examination phase of a trial. During this part of the trial, the professionals pose questions to the lay people who answer them according to the different discursive functions of their institutional roles. In other words, the participants get different kinds of turns with which they are expected to do different things (Thornborrow 2002).

Our material includes the initial 2.5 minutes of each testimony. All 31 witness examinations were initiated roughly in the same way. First, the professionals made sure the witnesses knew what incident was at issue in the trial, for instance as in the extract below.

P: *You experienced an incident on the third of January this year  
on / eh Garden Street*  
W: *Yeah that's right*<sup>12</sup>

Thereafter the professionals usually continued by asking the witnesses to describe the incident in their own words such as in the example below, which is the continuation of the above extract.<sup>13</sup>

P: *Yeah could you tell us what happened*  
W: *Yeah I came out of the pizza place I was going to get some  
tools I was eh / well fixing some water there ...*<sup>14</sup>

After this initial exchange, the witnesses were usually allowed to give their accounts quite freely without much intervention from the pro-

<sup>12</sup> W: *Du har varit me om en händelse som inträffade den 3:e januari i år på / eh Trädgårdsvägen*

W: *Ja de stämmer*

<sup>13</sup> One exception was an expert witness who was instead asked to describe carefully some technical details.

<sup>14</sup> P: *Ja kan du berätta va de va som hände*

W: *Ja ja kom ut från pizzerian ja skulle hämta lite verktyg ja skulle eh / ja fixa nån vatten där ...*

professionals. In many cases, the witnesses' first utterance lasted more than a minute. This means that the speech we captured was mainly of monological character on the part of the witnesses with a few questions inserted by the professionals here and there to encourage the witnesses to go on or to clarify some facts.

The men and the women responded in a similar way to the professionals' encouragement to give their own accounts of what they had experienced. They talked for almost the same amount of time using practically the same number of words and utterances. In most cases we looked at, the witnesses were impartial bystanders, friends or family of the victims or police officers. For the bystanders, friends and family members, the memories of the incidents at trial seemed very much alive and in most cases, they had no problems retelling at length and in detail what they had experienced. Generally speaking, all witnesses filled the 2.5 minutes with mainly monological speech without difficulty.

This means that the language we studied was quite different from the language used in many other studies. Looking back at the studies summarised above that report gender differences, many of them focused on dialogical or semi-dialogical language, i.e. when two or more people speak as part of an interaction, e.g. Einarsson and Hultman (1984) and Gunnarsson (1995), and not on monological speech. In the legal area, turn-taking rules are strict and do not allow confident speakers to seize turns.

*Interruptions.* We hypothesised that the male witnesses would interrupt more than the female witnesses. Further, we hypothesised that the male professionals would interrupt more than the female professionals, following the general findings of researchers, with the rider that female court professionals might have (over-) adapted to a male norm. Our data show that witnesses very rarely interrupt court professionals, but that it is possible that male professionals do indeed interrupt more than females ones. If true, this is one of the few cases in which gender appears to be a relevant category in court interactions.

*Simultaneous speech.* The literature led us to hypothesise that most simultaneous speech would occur when women court professionals were speaking to women witnesses but simultaneous speech was in-

frequent and there was no trend. Again, the court situation seems to over-rule possible gender norms.

*Hedges.* We hypothesised that there would be no differences in the use of hedges between the genders but possibly between people with different levels of education and income as in the O'Barr and Atkins study (1980). The results show no gender differences that were statistically significant, which verifies our hypothesis. The results could be explained by the fact that the witnesses were not under any particular pressure during the parts of the examinations that were included in this study. The witnesses were left alone telling their stories with few intervening or challenging questions by the professionals. Therefore, the witnesses felt quite secure and had little reason to use tentative language, which ought to be the main function of the hedges we studied.

*Supporting utterances.* We hypothesised that the professionals would use more supporting utterances than the witnesses and that the female witnesses would receive more supporting utterances than male witnesses. Unsurprisingly, our data confirmed that the court power structure meant that support came mainly from the professionals, but interestingly they also suggested that speakers show some kind of gender solidarity, providing more supporting utterances for their own gender. Since this finding has no support in the literature, it may be an artefact or something that needs further investigation.

*Questions:* Schlyter regarded questions from witnesses as manifesting insecurity and typical of female speakers. In our data they were too infrequent for comment.

*Pauses and pause fillers.* Our hypotheses were that the male witnesses would use more silent pauses as well as pause fillers in their speech based on Olevard's findings (1997a). None of these hypotheses were verified statistically for the category women-men. As with hedges, pauses and fillers have been interpreted as signs of insecurity. Since the witnesses were not put under very much pressure during the examination phase studied here, there were no significant results regarding the use of either pauses or fillers.

## **7.2. Income and education**

No statistically relevant differences were seen in these two categories. The parameters examined here do not differentiate witnesses by social status. This might have been due to one or more of the general explanations mentioned above or conceivably to inaccuracies in the publicly-available data. The difference from O'Barr and Atkins' results could also reflect cultural differences between North Carolina in 1978 and Stockholm in 2002-3. The relatively narrower class differences in Scandinavia may be reflected in less differentiated speech patterns.

## **7.3. Professional status**

The only parameter along which there were any statistically significant differences is professional status (police-others). Three variables tested separately showed significant or near-significant differences and a multivariate test using all six variables showed a significant difference between the speech styles of the police officers and the other witnesses.

In our study, the police officers (nine men and four women) used fewer silent pauses than the other witnesses. This could be explained by their familiarity with trial proceedings and the courtroom context in general. This factor might have brought a sense of security and facilitated fluent speech.

On the other hand, the police officers used more fillers than the rest of the witnesses, which has also been interpreted as a sign of insecurity. It could be the case that the police officers were in fact just as insecure as the other witnesses with the exception that they chose to use pause fillers instead of falling silent when hesitating. However, it could also be that fillers do not function in the same way as silent pauses. When someone falls silent, he or she is more or less inviting another person to take over the turn whether it is finished or not (Zimmerman and West 1975). Fillers, on the other hand, do not invite other speakers to cut in to the same degree since the first speaker continues making sounds even when he or she is hesitating or planning a new utterance. Therefore, we suggest that fillers are not in fact signs of insecurity. On the contrary, use of fillers shows that a speaker wishes to continue talking even though he or she is in need of a pause, which makes sense in the case of the police officers in this study. Despite the formality of the situation,

the officers felt at ease and were keen on holding the floor and testifying without being interrupted. Therefore they used fewer silent pauses and more fillers on average than the other witnesses.

This is confirmed by the fact that the police officers spoke using fewer and therefore also longer utterances than the other witnesses (seven versus ten utterances on average). Owing to the police officers' previous knowledge and experience, the professionals less often had to cut in to ask complementing questions, which made the police officers' utterances longer. The officers used fewer silent pauses, which also prevented the professionals from intervening, thereby further prolonging their utterances.

## **8. Conclusion**

The aim of this study was to investigate whether men and women speak differently when acting as witnesses in Swedish criminal trials. Can possible differences be adequately explained by gender alone or are other factors, such as income and level of education, also involved? We also investigated the courtroom professionals' speech. Do courtroom professionals speak differently depending on gender? Do they speak differently when addressing male and female witnesses?

The material in this study is small and the information on income and level of education is incomplete. The results are therefore inconclusive. They show no statistically significant language differences based on gender, income or education for the parameters investigated. One of the reasons for the lack of differences could be that gender is not very salient in the courtroom context and possibly also in other highly formalised institutional settings. In these contexts, the institutional roles, in this case the role of witness, are so powerful and standardised and include so many requirements and expectations that they overrule gender roles. Therefore, following Reid et al. (2003), these contexts do not produce any gender-based language differences or at least very subtle ones requiring a large material to detect them. An influential factor therefore instead becomes whether a witness has previous experience from testifying or otherwise is familiar with the courtroom context, i.e. has been in the witness role before. Thus the only significant differences found were between police officers, for whom witnessing is routine, and civilians, for whom it could be a stressful experience. This shows that the

method used in the study can in fact detect language differences. It further suggests that previous courtroom experience, familiarity with the courtroom context and possibly also legal knowledge influence the way witnesses speak to a greater extent than gender, income and level of education.

In our opinion, what previous studies show, e.g. Nohara (1992) and Cameron (1992), is that men and women are affected differently by different contexts. In some studies gender differences were easy to spot, for example in Gunnarsson (1995) and Olevard (1997a) who investigated the academic context. In other studies, for instance in the experimental investigations set up by Dixon and Foster (1997), it was not possible to tie differences to gender but rather to differing contextual factors. In other words, it is possible to accept the results of studies supporting gender-based language differences without having to agree to men and women speaking differently *in all situations*. This means that in the courtroom context, we should move away from the *difference approach* viewing men and women as two polar opposites using language in different ways and instead focus on how gender is constructed within the context according to the *dynamic approach*. People do not always speak in a certain way because of their gender, but gender is one of the factors that can be salient in determining how people speak.

The trial courtroom, being one of many enormously important institutional contexts to ensure the legal rights of individuals and to sustain our democracy, has not been investigated satisfactorily in Sweden. There need to be more and larger studies focusing on the speech of all trial participants taking into account a variety of contextual factors. The Culpepper and Kytö study (2000) nicely shows how quantitative data and contextual information must be combined to get a fuller picture of language interaction. Regarding witnesses, this could mean taking into account for example whether a witness is testifying for the prosecution or the defence, the witness' dialect or accent, age, ethnic background or sexual orientation. Following the results of this study, one could also ask whether there are any gender differences in the effects on witnesses with previous courtroom experience and familiarity with the context. Another challenge for the future is to investigate how professionals use language in interactions with defendants, how defendants speak and what the consequences are for the evaluation of their blameworthiness and ultimately for the outcomes of cases. Research on language use

has an important role to play in pointing to and ultimately eliminating prejudices and discrimination in the future.

## References

- Adelswärd, Viveka 1999: *Kvinnospråk och fruntimmersprat: forskning och fördomar under 100 år*. Stockholm: Bromberg.
- Aijmer, Karin 1977: Partiklarna ju och väl. In *Nysvenska studier* 57, 205-216.
- Almlöv, Cecilia 1995: *Kvinnor och män i forskningsseminarier. En studie av interaktionen på tre institutioner vid Uppsala universitet*. Nr 11 i Skriftserie från Centrum för kvinnoforskning vid Stockholms universitet.
- Aronsson, Karin, Jönsson, Linda & Linell, Per 1987: The Courtroom Hearing as a Middle Ground: Speech Accommodation by Lawyers and Defendants. In *Journal of Language and Social Psychology* 6, 99-115.
- Coates, Jennifer 1988: Chapter Six: Introduction. In Coates, Jennifer & Cameron, Deborah (eds.) 1988. *Women in their speech communities: new perspectives on language and sex*. London: Longman, 63-73.
- Coates, Jennifer 1996: *Women talk: conversation between women friends*. Cambridge, Mass.: Blackwell.
- Coates, Jennifer 2004: *Women, men and language: a sociolinguistic account of gender differences in language*. Harlow: Longman.
- Culpeper, Jonathan. & Kytö, Merja 2000: Gender voices in the spoken interaction of the past: a pilot study based on Early Modern English trial proceedings. In Kastovsky, Dieter & Mettinger, Arthur (eds.) 2000. *The History of English in a Social Context. A contribution to Historical Sociolinguistics*. Trends in Linguistics. Studies and Monographs 129. Berlin: Mouton de Gruyter, 53-89.
- Dixon, John. & Foster, Don 1997: Gender and Hedging: From Sex Differences to Situated Practice. In *Journal of Psycholinguistic Research* 26, 89-107.
- Einarsson, Jan. & Hultman, Tor 1984: *God morgon pojkar och flickor. Om språk och kön i skolan*. Malmö: Liber Förlag.
- Erickson, Bonnie, Lind, Allan, Johnson, Bruce & O'Barr, William 1978: Speech Style and Impression Formation in a Court Setting: The Effects of 'Powerful' and 'Powerless' Speech. In *Journal of Experimental Social Psychology* 14, 266-279.
- Fishman, Pamela 1983: Interaction: The Work Women Do. In Thorne, Barrie, Kramarae, Cheris & Henley, Nancy (eds.) 1983. *Language, Gender and Society*, Rowley, MA: Newbury House, 89-101.
- Gunnarsson, Britt-Louise 1995: *Interaction and Gender. A study of postgraduate seminars at a Swedish university*. TeFa nr. 12. Uppsala universitet. Uppsala.
- Jönsson, Linda 1988: *On Being Heard in Court Trials and Police Interrogations. A study of discourse in two institutional contexts*. Linköping Studies of Arts and Science 25. Linköpings universitet.

- Lakoff, Robin 1975: *Language and woman's place*. New York: Harper & Row.
- Lindroth, Kajsa 1996: *Kvinnors och mäns tveksamhetsmarkörer. En studie av tio forskarseminarier*. Institutionen för nordiska språk, Uppsala universitet.
- Linell, Per 1990: De institutionaliserade samtalens elementära former: om möten mellan professionella och lekmän. In *Forskning om utbildning* 17, 18-35.
- Nohara, Michiko 1992: Sex Differences in Interruption: An Experimental Reevaluation. In *Journal of Psycholinguistic Research* 21, 127-147.
- Nordenstam, Kerstin 1987: *Kvinnlig och manlig samtalsstil*. Färsk Forsk. Institutionen för nordiska språk. Göteborgs universitet.
- Nordenstam, Kerstin 1990: Hur talar kvinnor och män till vardags? In *Kvinnovetenskaplig tidskrift* 11, 32-42.
- Norrby, Catrin 2004: *Samtalsanalys. Så gör vi när vi pratar med varandra*. Lund: Studentlitteratur.
- O'Barr, William. & Atkins, Bowman 1980: 'Women's Language' or 'Powerless Language'. In McConnell-Ginet, Sally et al. (eds.) 1980. *Women and Language in Literature and Society*. New York: Praeger, 93-110.
- Olevar, Helena 1997: *Tystnad. En undersökning om förekomsten av tystnad och pauser under seminarier*. TeFa nr. 21. Uppsala: Uppsala universitet.
- Reid, Scott, Keerie, Natasha & Palomares, Nicholas 2003: Language, gender salience and social influence. In *Journal of Language and Social Psychology* 22, 210-233.
- Richards, Jack, Platt, John & Weber, Heidi. (eds.) 1985: *Longman dictionary of applied linguistics*. Harlow: Longman.
- Schlyter, Suzanne 1986: En man och en kvinna beskriver sitt arbete. Undersökning av språket i en jämställdhetsrättegång. In Brunnberg, Kerstin (ed.) 1986. *Tiga är silver men tala är guld: rapport från en konferens om kvinnors och mäns olika språk och olika värde*. Stockholm: Arbetslivscentrum.
- Strand, Hans 1998: Att forska om språk och kön: två strategiska val. In Birgitta Ney (ed.) *Kraftfält – Forskning om kön och journalistik*. Department of Journalism. Stockholms Universitet.
- Thelander, Kerstin 1986: *Politikerspråk i könsperspektiv*. Malmö: Liber Förlag.
- Thompson, Joanna Kerr 2002: 'Powerful/powerless' language in court: a critical re-evaluation of the Duke Language and Law Programme. In *Forensic Linguistics* 9, 153-167.
- Thornborrow, Joanna 2002: *Power Talk. Language and Interaction in Institutional Discourse*. London: Longman.
- Waara, E. *Male and Female Witnesses' Speech in Swedish Criminal Trials*, unpublished dissertation for Master's degree in Language and Law.
- West, Candance 1998: When the Doctor is a 'Lady': Power, Status and Gender in Physician-Patient Encounters. In Coates, Jennifer (ed.) 1998. *Language and Gender: A Reader*. Oxford: Blackwell, 396-412.

- Woods, Anthony, Fletcher, Paul & Hugues, Arthur 1986: *Statistics in Language Studies*. Cambridge: Cambridge University Press.
- Woods, Nicola 1989: Talking shop. In Coates, Jennifer and Cameron, Deborah (eds.) 1989. *Women in their speech communities: new perspectives on language and sex*. London: Longman, 141-157.
- Zimmerman, Don & West, Candance 1975: Sex Roles, Interruptions and Silences in Conversation. In Thorne, Barrie & Henley, Nancy (eds.) 1975. *Language and Sex: Difference and Dominance*. Rowley: Newbury House Publishers Inc, 105-129.