Pragmatics Final Project Report
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The truth, the whole truth, and nothing but the truth: A pragmatic case study of perjury in the United States and The Netherlands.

Abstract

The main goal of the criminal procedure is the pursuit of the truth but witnesses or suspects can benefit from implicating untruths whilst being under oath. This paper set out characterize cases of perjury in terms of violations of Gricean maxims and subsequently discover if the current pragmatic definitions of lying account for how courts deal with perjury. The data used to investigate this comes from critical court cases concerning perjury in both the United States and The Netherlands. This paper found that recent definitions of lying in the pragmatic literature have dismissed an intention to deceive as an element, in congruence with US judicial decisions. However, Dutch courts find intention to deceive highly relevant for perjury convictions. Some current issues in the Dutch and US criminal procedure are discussed as well.

1. Introduction

The goal of the criminal procedure is the discovery of the truth. To get to this truth, sometimes witnesses are needed to provide crucial information about a case, such as whether someone was in or outside a car at the time of the shooting, if someone was carrying a weapon at the time of an arrest or whether or not someone has ever had bank accounts in a certain country. This discovery of truth can be hindered by false testimonies: where witnesses lie under oath about what has happened. The fact that witness testimonials are not fully reliable has been considered in legal systems throughout history. The *unus testis, nullis* testis principle from Roman and Jewish law, where only one witness is not enough to lead to a conviction account due to the unreliability of witness testimonies. In order to make witness testimonies more reliable as evidence perjury, the act of lying under oath, has been criminalised (Dubelaar 2014).

There are however ways to deliver a false testimony without telling a lie. A witness can falsely implicate things by vague phrasing or mislead by omission of information. In his pragmatic taxonomy of deception, Horn (2017, p. 32) poses that "allowing a false conclusion to be drawn is rarely considered unethical" in many different human language contexts. The most famous US perjury case, Bronston vs. US, seems to back this claim up. In such a legal context however, allowing the drawing of false conclusions hinders the discovery of truth and that harms the public interest (Tekst & Commentaar, art. 207). This leads to the question, as it has similarly been posed by Horn, whether or not it is important to distinguish between lying and intentionally misleading or deceiving. This paper will investigate whether current definitions of lying in the pragmatic literature are congruent with legal definitions of perjury as they have been crystallized in US and Dutch case law, specifically in regard to the intention to deceive as an element of the definition. Instances of perjury are defined in terms of violations of Gricean maxims, in order to characterize what type of lie it is.

2. Literature review: a pragmatic approach to perjury

Lying in the pragmatic literature is often defined by use of Grice's (1989) model of the Cooperative Principle, which proposes a set of four maxims necessary for effective conversation. The four maxims relevant to define lying are the maxim of quantity, maxim of quality, the maxim of relation, and the maxim of manner. The maxim of quality is to be truthful, which means do not spread false information or make a claim you cannot back up with sufficient evidence. A violation of the maxim of quality by a speaker means that they have violated a condition of sincerity on said speech act (Horn, 2017, p.49).

The maxim of quantity means that one must give as much information as necessary, so not more or less. The maxim of relation dictates that one must give enough relevant information for the conversation at hand. The maxim of manner is to be clear, which includes not using language that is open to multiple interpretations. Violations of these maxims can constitute a lie. According to Shuy (2011), Grice's maxims for successful human communication are useful for the analysis of language use in the context of the courtroom. Both sides of the courtroom are bound by these maxims: the witness and the prosecutor. The context in which perjury takes place is a warranting context, which Saul (2012, p.10) defines as a context in which it is expected that everyone is honest. If this honesty and thus the maxim of quality is violated by a witness under oath, then that could be the basis of a perjury charge. Violations of the other maxims are not as clear-cut a basis but can be used for accusations of perjury as well. When a witness provides less information than necessary and violates the quantity maxim of Grice's cooperative principle, this is not enough to constitute a perjury charge in the US legal system according to Shuy (2011). The use of unclear legal language and the courtroom context can lead to violations of maxims. Language used in the courtroom is always conversational and part of a broader context, which should be considered when analyzing an instance of perjury (Shuy 2011). Furthermore, questioning strategies can be employed by prosecutors in order to get a specific answer. Prosecutors can also employ legal language, which can confuse the witness and lead them to answer with a lie due to a misunderstanding of what is asked (Shuy 2011).

An element of perjury that must be proven in order to convict someone of perjury is *opzet* or intention in Dutch criminal law, which corresponds to *mens rea* under US criminal law (Tekst en Commentaar). This is the mental element of most criminal acts, as opposed to the *actus reus* which is the actual act of the criminal act. To confirm *mens rea*, the prosecution has to prove that the suspect had the intention to commit the crime that they are on trial for. The Netherlands knows several gradations of *opzet*, the lowest one being *voorwaardelijk opzet* or conditional intention, which means the suspect consciously accepted the probable chance that their actions would lead to a criminal act. The *voorwaardelijk opzet* is the gradation of intention that needs to be proven for perjury. The US *mens rea* can be defined as knowing that one's action or lack thereof would lead to a criminal act. The gradation that is needed to prove perjury is "specific intent", meaning that the witness should have known that they lied and not have lied due to false understandings of the situation or lack of remembrance. The criminal act of perjury is to tell a lie under oath. Similar to the legal definition of perjury, under older pragmatic definitions of lying, an intention to deceive is identified as an element of lying (Meibauer 2014, p. 104). The importance of including an intention to deceive as part of the pragmatic definition of lying has been debated. Recent pragmatic definitions of lying have gotten rid of this element as a core notion.

For example, Carson's definition of lying (2010) does not include an intention to deceive others. Carson (2010) proposes three situations where a person can lie without the condition of the liar intending to deceive and thus concludes an intention to deceive could not be part of the definition of lying. Firstly, in a court case, where a witness can lie to protect themselves. The witness does not intend to deceive the jury but does tell a lie. Secondly, one can tell a lie not because they want to deceive someone but to keep a promise to someone else. Thirdly, when telling a bald-faced lie the liar is knows the hearer is aware of the lie. Thus, there is no hope or intention to deceive them. Lying includes making a statement that the hearer thinks to be correct but the person making the statement cannot believe it to be true, therefore assuming lying to be the breaking of trust. His rough definition is that "a lie is a deliberate false statement that the speaker intends to warrant to be true" (Carson, 2010). This notion of a warranting is echoed in Saul's (2012, p. 18) definition of lying, which is roughly that if the speaker is not making a linguistic mistake or using a figure of speech and they say something they believe to be false whilst in a warranting context, then they are lying. She does not include an intention to deceive in her definition using the same reasoning as Carson (2010), citing that there are many examples of lies that are told without an intention to deceive. Carson (2010) poses that lying or deceiving is a "side effect" and not the main intention of the speaker. Meibauer (2014) disagrees and thinks these "side effects" are false conversational implicatures and thus considers intention to deceive to still be a condition for an assertion to be a lie. Meibauer's (2014, p.125) definition of a lie is that if someone asserted or conversationally implicated something while actively believing that it was untrue. He believes false assertion and false implicature to be on the same level of deception, therefore making the lying/misleading distinction blurry.

An intention to deceive could be the relevant factor to decide whether something is lying or misleading, however this distinction can also be made in terms of its type of speech act. Horn (2017, p. 30) considers lying an illocutionary act. Lies are illocutionary assertives that commit the speaker to the truth of what they have said, even though they themselves know the proposition to be false. According to Horn (2017, p.31), being misleading or deceiving does not have the condition that it is intentional, as it can happen unintentionally. It is a perlocutionary act and thus defined in terms of the effect that it has on the hearer, which is that the hearer is being misled. Saul (2012, p. 71) backs this up, saying that misleading is a success term.

3. Methodology

This paper will focus on US and Dutch perjury jurisprudence in order to give an overview as to how perjury is dealt with in their respective criminal procedures. The Dutch perjury cases have been selected due to them being representative of how perjury convictions are handled within the Dutch legal system. These have been found to be prominent examples of perjury after a consultation of Tekst & Commentaar: Wetboek van Strafrecht, which is the main legal reference book used for interpretations of the law in the Netherlands. The US perjury cases have been chosen due to their prominence within the US legal system. The US legal system is one of common law, meaning things are decided by precedent and law is created in courts. The US court cases selected here have set an important precedent in the perjury doctrine. The cases will firstly be analysed using a Gricean pragmatic framework, where the instance perjury will be qualified in terms of its maxims (Grice 1989). Secondly, it is investigated whether the several pragmatic definitions of lying are congruent with the interpretations of perjury by the judges in these court cases. A pragmatic analytical framework of deception, developed by Al-Hindawi & Al-Juwaid (2017), is used as a guideline to find out how the suspects might have deceived in terms of Gricean maxims and other pragmatic strategies.

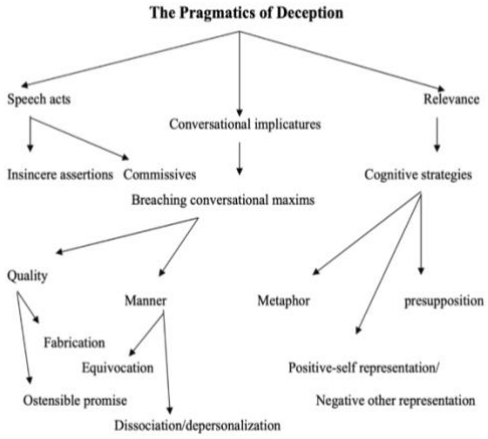

Figure 1 The Pragmatic Analytical Framework of Deception by Al-Hindawi & Al-Juwaid (2017, p. 118)

4. A pragmatic analysis of perjury in US jurisprudence

US perjury is defined as a speaker making an oral statement under oath that is false and the speaker knows it to be false before a judicial proceeding that is related to a material matter and thus could influence the ruling of a court. Shuy (2011) states perjury is not question evasion or a half-truth, because for something to qualify as perjury, the witness must believe the matter to be false themselves.

Napue vs. Illinois

In Napue vs. Illinois (1959), a witness, who was an accomplice of the suspect, gave a false testimony, saying he did not receive consideration for his statement while he did. The prosecutor did not correct this testimony. The court identifies two cases of perjury in this: the failure to correct the testimony by the prosecutor and the lie told by the witness.

> *The witness questioning of Mr. Hamer, taken from the court transcript:*
> Q1.” Mr. Hamer, has Judge Prystalski [the trial judge] promised you any reduction of sentence?" A. “No, sir. "

Q2. “Have I promised you that I would recommend any reduction of sentence to anybody? "
A. “You did not. [That answer was false and known to be so by the prosecutor.] "
Q3. “Has any Judge of the criminal court promised that they [sic] would reduce your sentence?"
A. “No, sir. "
Q4. “Has any representative of the Parole Board been to see you and promised you a reduction of sentence? "
A. “No, sir. "
Q5. “Has any representative of the Governor of the State of Illinois promised you a reduction of sentence? "
A. “No, sir."

The lie told here is an insincere assertion, which violated the maxim of quality, as it was untruthful. It also violated the maxim of quantity, since for the jury to have a full understanding of the weight of the testimony within the scope of the trial, they needed to know that Hamer was getting a reduction of sentence in exchange for his testimony. However, from Meibauer’s (2014) point of view, if both parties are aware that what is said is a lie, then the cooperative principle does not apply at all. Both the prosecutor, the questioner, and the witness, the respondent, knew that his answer was a lie. Hamer could be using the cognitive strategy of positive self-representation towards the jury (Al-Hindawi & Al-Juwaid, 2017, p. 115). He presented himself as more reliable by not admitting he was getting a sentence reduction and concealing the fact that he might not be as trustworthy of a witness as assumed.

This case is similar to a situation described by Carson (2010) and an example such as this is why he, like other recent pragmatic definitions of lying, leaves out ‘intention to deceive’ as an element of lying. In his example, a witness who lies to the judge and jury in court in order to protect themselves does not intend to deceive. In Napue vs. Illinois, the witness did not want to admit that he had received consideration, as he was afraid that the jury would not believe his testimony if he did. He thought that the jury would think he was lying about his testimony, if he told the truth. Therefore, he was protecting his own consideration. Carson (2010) considers that in a case like this, perjury is necessary for personal gain, but a witness does not intend to deceive: that is a ‘side effect’ of the situation. Carson’s (2010) definition of lying thus seems to fit the US perjury doctrine quite well. Though Hamer’s testimony was a lie, which has been defined by Horn (2012, p. 31) as an illocutionary act, the main purpose of the lie was its effect on the jury. This makes that under Carson’s (2010) definition, because intentionality is taken away, lies could be defined as perlocutionary acts instead of illocutionary.

The court considers the prosecutor’s knowing use of perjury a crime as well, saying “a lie is a lie”. The omission of information, a violation of the maxim of quantity by a government official is criminally penalized in the US perjury legal doctrine, especially due to the important position of the prosecutor in the discovery of truth. This case formulated a responsibility for prosecutors to correct false testimonies and not omit any information, or otherwise they are in violation of due process.

Bronston vs. United states

Bronston vs. United States has led to the Bronston defense, in the perjury doctrine which has been used by many defense lawyers since, most famously and successfully in the Clinton impeachment trial (Shuy, 2011). It established a “literal truth defense” and answered whether perjury can constitute an answer that is literally true but does not answer the question posed and misleads by negative implication (Lawrence & Tiersma, 2012, p. 213).

Transcript of the witness questioning
“Q1: Do you have any bank accounts in Swiss banks, Mr. Brontson?”
“A. No, sir”

“Q2. Have you ever?”
"A. The company had an account there for about six months, in Zurich.”
“Q3. Have you any nominees who have bank accounts in Swiss banks?”
“A. No, sir.”
"Q4. Have you ever?”
"A. No, sir."

From Q2 and onwards, the witness starts to answer the questions on behalf of his company, instead of on behalf of himself. Then for Q4, where the prosecutor asks Bronston whether he has had an account there, a false implicature arose that violated Grice’s maxim of manner by way of dissociation/depersonalization (Al-Hindawi & Al-Juwaid, p.114, 2017). The perjurer provides the specific information of a third party, in this case the company, instead of their own in order to dodge taking responsibility for the assertion. Under Grice’s cooperative principle, Bronston should have avoided ambiguity by answering Q4 whether *he* had any bank accounts in Swiss banks for himself, instead of depersonalizing and answering for the bank. According to Lawrence and Tiersma (2012, p. 214), Bronston violated Grice’s maxim of relation: someone needs to say things that are appropriate for the discussion at hand. Bronston did not clearly change the topic, so it was assumed by the attendees and the questioner that the response to Q4 would be pertinent to Q4, as conversations operate under the cooperative principle and therefore the maxim of relation. The Supreme Court found Bronston not guilty of perjury, even though he had intended to mislead. Lawrence and Tiersma (2005) point out that this could have the consequence that Grice’s maxim of relation does not apply in a courtroom setting in the US since it takes away the duty for a witness to produce relevant answers for questions.

The Supreme Court found that it was the prosecutor’s responsibility in this case to question Bronston’s answers more, since the relation between the witness and the court is not one of casual conversation and the responsibility to be clear lies more heavily on the prosecutor than the witness answering questions. Meibauer (2011, p.285) would have considered this instance to be a lie, since Bronston asserted that his company had a bank account in Switzerland, thereby implying by way of conversational implicature that he himself did not, while he actively knew that he had one. Since Bronston was telling the truth, just not the correct answer to the question, it could be considered a case of intentional misleading. The court however disregards that an intention of being misleading is important for the question if perjury has taken place. They considered instead whether he himself, in the moment, believed his answer was a lie. Horn (2017, p. 35) predicted that in legal contexts such as this, the distinction between lying and misleading is important, since the facts of the case, what is said, is a deciding factor for courts rather than what is implicated. According to Horn (2017, p.35), this is different from an ethical viewpoint, where the difference is not as vital. The court found that since he had not told a lie, whether he had had an intention to mislead is unimportant. Misleading has no legal consequences in this case, whereas a lie would have led to a conviction. The US Supreme Court thus seems to not find an intention to deceive a deciding factor in convicting someone of perjury. This case seems to line up with recent pragmatic definitions of lying, where the intention to deceive is found to be not as important.

The legal consequences of this case are widespread, since it has become a landmark case that construes the perjury statute. This case has allowed for witnesses to in a way lie or at the very least evade questions under oath without suffering the consequences. Witnesses are allowed to mislead; they just have to use the truth.

5. A pragmatic analysis of perjury in Dutch jurisprudence

Perjury is a criminal act in the Dutch legal system, codified in article 207 of the criminal code. Unlike the US definition, Dutch perjury can come in a written form (Tekst & Commentaar, art. 207). The Dutch criminal procedure is characterised by a written nature, thus witness testimonies do not usually take place in front of a judge in a court room but come in the form of an affidavit (*proces-verbaal*), meaning a written report of a deposition. This calls the quality of the witness testimony into question, since its realisation has not been overseen by a judge (Dubelaar 2014). The judge does not have enough tools at

their disposal to check the truthfulness of the testimony. Another problem arises with the way Dutch court records are kept, as they exist in the form of summaries instead of word-for-word transcripts. So even if the testimony did take place within the courtroom, a perjury conviction is made more difficult due to the nature of transcripts, as a judge often does not have the full testimony at its disposal (Dubelaar, 2014). As Shuy (2011) has pointed out, this broader context would be useful or even necessary for linguistic perjury analysis. The law leaves little to no room to rectify the testimonies and the notes of the court clerk are not always correct or informative enough, nor is the session recorded, leaving rehearing the witness as the only option (Dubelaar 2014). So, unlike the US perjury cases, the context of the instance of perjury is unclear for the data used in this section.

Similar to the US Supreme court's ruling in Napue vs. Illinois, the Dutch High Council considers omission of information by government officials to be perjurious. In the HR 07-02-2006, *NJ 2007, 396* case, which follows the HR *NJ 2004, 364* case, one of the few high council rulings on perjury, a police officer neglected to include in his arrest report that he had pointed his service weapon at the defendant. In special cases like these, not including certain facts can lead to a perjury conviction. The question arises whether or not Grice's cooperative principle applies to this particular case, which is representative for the Dutch criminal procedure as a whole, where the police officers are the ones that write up the affidavit. The consequence of this is that the judge has no opportunity to asks question and thus has no say over the information appearing in front of them. Grice's cooperative principle governs communication in the form of conversation: people will be conversationally cooperative to communicate efficiently (Grice, 1989). Neglecting to include information in an arrest report could constitute a violation of Grice's maxim of quantity, which requires the conversation partner to give as much information as is needed (Grice, 1989). Grice's maxim of relation is also violated, since including the fact that the officer had drawn his weapon was pertinent to the case. There is a legal obligation for officers to truthfully write up the police report (HR 07-02-2006, *NJ 2004, 364*). This legal obligation pertaining to written communication between officers and the courts seems need to abide by the same rules as the maxims of relation, quantity, and quality of Grice's cooperative principle. Some linguists have argued that Grice's maxims do not apply to any legal settings at all, especially when questioner and respondent are in an adversarial relationship, which means being cooperative is not their goal (Lawrence & Tiersma, 2012). However, the relationship between police officers and the court is based on all parties being cooperative.

The court admits that excluding this information could have led to a different image of the circumstances than what is the reality, which would give the report the character of untruthfulness. The report misled the judge and thus the qualification of the criminal act of perjury is met, as the report should include all the facts privy to the case. However, the *opzet* or intention could not be proven, since the police officer had declared he had not known his report would be used for several criminal cases. No perjury conviction followed. This case formulated the need for *boos opzet* or the highest gradation of *opzet* as necessary for a perjury case when it comes to affidavits. An intention to mislead, be untruthful and present the facts differently as they were, even by omission of information, was found to be a vital element of perjury. The notion of intention/ *mens rea* is again shown to be highly important in the Dutch perjury doctrine in HR 06-07-2010, *NJ 2010/424*. In this case, the witness had declared that at the time of a shooting, someone was in the car, while he was outside of the car. She had lied in her affidavit, stating:

> "Op het moment dat er een schot werd gelost, stond A. naast de auto aan de passagierskant, dat wil zeggen op de stoep. Hij zat beslist niet in de auto toen er geschoten werd."
> Translation: At the moment a shot was fired, A. stood next to the car, that is to say on the pavement. He was decidedly not in the car when the shot was fired.

The use of the word 'beslist'/decidedly is an example of a "pragmatic slack regulator", as it is an adverb that gives specificity as to the intended degree to the estimation of the truth communicated (Meibauer 2011, p. 287). In this case, 'beslist'/decidedly means the witness means to communicate that the situation has happened exactly as she has described. According to the witness, the situation had happened as she had testified, even though it could objectively be proven that it had not. This seems to constitute a

violation of the maxim of quality, as it was a lie. However, the witness herself believed what she had testified to be the truth. The lower court who had considered it unthinkable that the witness had testified in good faith since it was objectively untrue. The high council considered however that the suspect had not intended to perjure herself, arguing that her reality might be different from the objective reality and memory is faulty and could have reshaped her reality and her intention had never been to deceive.

The public prosecutor in his summary[1] in this case considers that intention is much more important than actual truth when it comes to a perjury conviction, as the first element is that a suspect must want to perjure and make materially false statement. This intention of falsehood then secondly must be blanketed with the fact that what has been said is untruthful, not the other way around. This legal view on perjury, and thus lying in court, taken by the Dutch High Council directly opposes Carson's (2010) and Saul's (2012) definition of a lie, in which an intention to deceive is not an element, as intention is held to be the deciding point of a perjury conviction. The suspect does not only need to intend to warrant the truth of what they have said while they know it is false, but also intend to make a false statement. This intention to perjury as the most important element is leading in Dutch perjury convictions, as the High Council later affirms in HR 22-05-2012, *LJNBU6926*, which states that even if the person themselves has admitted their testimony to be false, does not mean their intention at the moment of the testimony was to commit perjury. Thus, current pragmatic definitions of lying by taking out an intention to deceive as an alement do not account for the reasoning behind perjury convictions in the Netherlands. A lie in the sense of these definitions would not be enough to lead to a perjury conviction by the High Council.

6. Recommendations: an approach to assuring legal responsibility for misinformation

The current emphasis on "what is said" in the courtroom leaves much room for misleading in the US jurisprudence. This obstructs the goal of the criminal procedure: the discovery of the truth. The Bronston doctrine in the US is harmful for the criminal procedure and the integrity of witness testimonies, as it allows witnesses to intentionally mislead without suffering the consequences. It is also harmful to the notion of *mens rea* as leading for a conviction, as taking this out of account for convictions sets a dangerous precedent. A person's intentions when committing a crime should always be considered. In the perjury doctrine, intention has now become less relevant. The literal truth defense Bronston vs. US has inspired, taking the context of the language spoken out of consideration, sets a confusing precedent for the perjury doctrine, as answers should always be interpreted in relation to their question. However, the Dutch criminal procedure could learn a few things from the US criminal procedure. Memory is an unreliable tool, as proven by the fact that faulty memory on part of a witness cannot lead to a perjury conviction, thus courtroom sessions and affidavits should be transcribed in a word for word manner. Currently, the conversational nature of the criminal procedure and the broader linguistic context of statements under oath is not recognized. Especially since perjury is a crime of language, and language is always part of a broader context, this context should be clear when deciding on the legal consequence of lies. Without clearer transcriptions of hearings in court and affidavits, misleading by a witness is still possible as no one can ever trace back exactly what a witness said at a certain time. This means making successful perjury convictions, which harbor the integrity of the criminal procedure, is heavily obstructed. Furthermore, the information the judge has in front of them when deciding a case has been selected by government officials, who can paint another picture of reality, as was shown by HR 07-02-2006, *NJ 2004, 364*. This allows for perjury by government officials to go unnoticed, as they decide the facts of the case. This goes against the system of checks and balances put in place, where judges should be able to keep the government in check. When the government is the one providing the information, this becomes more difficult.

[1] Summaries by the Advocaat-Generaal/ Public Prosecutor are considered highly authoritative in the Dutch legal system.

7. Conclusion

This research question was whether pragmatic definitions of lying line up with the legal definition of perjury in the US and The Netherlands, specifically in regard to the intention to deceive. Firstly, the strategy of the perjury was analysed, and the instances of perjury were characterized in terms of violations of the maxims of Grice's (1989) cooperative principle. It was found that omission of relevant information, violations of the maxim of quantity, are viable bases for the *actus reus* or criminal act element of perjury charges in both the US and The Netherlands, as per Napue vs. Illinois and HR 07-02-2006, *NJ 2004, 364*. The courts in both the US and The Netherlands have formulated the responsibility of a government official for their communication to be as complete as possible and thus not mislead by way of omission. A violation of the maxim of quality, which requires truthfulness of a conversation partner, was not likely to lead to a perjury charge in the Dutch cases analyzed here, due to there not being an intention to deceive. A violation of the maxim of relation was found to be more problematic in the Netherlands than in the US, as the Bronston vs. US case has essentially eliminated the existence maxim of relation in the conversational context of courtroom, as posed by Lawrence and Tiersma (2012).

Through an examination of the literature, it was found that to prove perjury in a trial, speaker intention must be considered as this can be linked to the notion of *mens rea* or *opzet*. The intention of the suspect must be aimed at committing perjury. The pragmatic definitions of lying do not fit the theoretical definitions of US perjury but seem to be more congruent with the Supreme Court cases analyzed here, where an intention to commit perjury has been found to be less relevant. Napue vs. Illinois seems to be fully congruent with Carson's (2010) example of why a lie should not include an intention to deceive. The focus in the US Supreme Court is on what is said rather than what is implicated. It was found that, as a consequence of Bronston vs. US, even though lying under oath is criminalized, misleading by a witness is allowed in the US criminal procedure. The courts considered an intention to mislead the jury, so a *mens rea* aimed on perjury, secondary to whether Bronston had believed himself if he was being truthful in this particular statement. This sentiment of the internal belief of the suspect whether they had lied is slightly echoed in the Netherlands, as an objectively false statement was not enough to prove that a woman's subjective reality was false.

Whilst recent definitions of lying in the pragmatic literature have argued against the inclusion of the intention to deceive as an element in their definition, it seems to be the deciding factor for the legal consequences of perjury in the Netherlands, i.e., whether a suspect is convicted or not. The pragmatic definitions of lying deviate from the Dutch legal definitions of perjury. If there is no intention to deceive, then there is no lie or perjury from a legal standpoint. Dutch perjury puts *opzet* ahead of the criminal act, which in the case of perjury is what is said or written. Perjury goes further than telling a lie in the current pragmatic sense of the word. Furthermore, the omission of information is not currently covered in any of the pragmatic definitions of lies but are penalized by the Dutch and US courts and found to be able to constitute the element of *actus reus* of lying under oath.

8. Bibliography

Al-Hindawi, F. H., & Al-Juwaid, W. R. (2017). Pragmatic Analysis of Political Data. Anchor Academic Publishing.

Bronston vs. US (1973)

Carson, Thomas L. (2010). Lying and Deception: Theory and Practice. Oxford: Oxford University Press.

Dubelaar, M.J. (2014). Betrouwbaar getuigenbewijs (Meijersreeks deel 228). Deventer: Kluwer.

Grice, H. P. (1989). Studies in the way of words. Cambridge, Mass. ; London: Harvard University Press.

Horn, L. R. (2017). 'Telling it Slant: Toward a Taxonomy of Deception', in Giltrow, J., & Stein, D., *The Pragmatic Turn in Law* (Vol. 18). Boston: De Gruyter, Inc.

HR 7 February 2006, ECLI:NL:HR:2006:AU5756, *NJ 2007, 396*, following HR *NJ 2004, 364*

HR 6 July 2010, ECLI:NL:HR:2010:BM5085, *NJ 2010/424*

HR 22 May 2012, ECLI:NL:HR:2012:BU6926, *LJN BU9626*

Meibauer, J. (2011). On lying: intentionality, implicature, and imprecision. *Intercultural Pragmatics*, 8(2), 277–292. https://doi.org/10.1515/iprg.2011.013

Meibauer, Jörg. 2014. Lying at the Semantics-Pragmatics Interface. Boston: De Gruyter, Inc.

Napue vs. Illinois (1959)

Saul, Jennifer. (2012). Lying, Misleading, and What is Said. Oxford: Oxford University Press.

Shuy, R. W. (2011). The Language of Perjury Cases. Cary: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199795383.001.0001

Solan, L. & Tiersma, P. M. (2005). Speaking of Crime: The Language of Criminal Justice. Chicago: University of Chicago Press.

Solan, L. & Tiersma, P.M. (2012). 'The Language of Crime', in Peter M. Tiersma and Lawrence M. Solan (eds), *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press, 340–53.

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