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Ignorance not racism - The ethical implications of Cultural Schema Theory within policing

Communication between cultures that do not share similar values, beliefs and experiences has long proven to be a difficult exercise (Balsmeier & Heck, 1994). These difficulties can have serious consequences when the miscommunication happens in the justice system; the innocent can be convicted and witnesses undermined. Much work has been carried out on the need for better communication in the courtroom (Eades, 1993; Lauchs, 2010; Supreme Court of Queensland, 2010; Supreme Court of Western Australia, 2008), including the development of educational packages to promote cultural awareness within the courts (Lauchs, 2010). Far less work has been conducted on language and interaction between police and Indigenous Australians (Powell, 2000). It is necessary that officers of the law be made aware of linguistic issues to ensure they conduct their investigations in a fair, effective and therefore ethical manner. Despite years of awareness raising, clashes between police and Indigenous peoples are still prevalent (Heath, 2012; Remeikis, 2012). This paper will attempt to explain a possible reason for this volatile relationship and, in doing so, suggest possible solutions.

This paper attempts to determine if cultural difference in language could be negatively affecting communication between Aboriginal people and the police of South East Queensland. Findings from this research are significant in determining if miscommunication is adding to the already unequal standing of Aboriginal people within the criminal justice system, and encouraging the volatile relationship between Aboriginal people and police.

Background

Within each culture there are established values and behavioural patterns. Learning to understand these, and, in the process, accepting that one's own culture may differ from another, is a vital ingredient in effective cross-cultural communication. An important aspect of cross-cultural communication is the understanding that there may be barriers to effective communication due to cultural difference (Balsmeier & Heck, 1994). Keeping an open mind in regards to these differences is an important step in preventing the development of stereotypical attitudes and prejudiced opinions. Basic awareness of difference may not make the cross-cultural communication process easy, but it has the potential to reduce conflict.

The multi-cultural nature of Australian society brings to the fore issues surrounding effective cross-cultural communication (Balsmeier & Heck, 1994). Miscommunication between the speakers of Australian Aboriginal English (AAE) and Australian Standard English (ASE) (Sharifian, 2009) has been given less attention. It has been suggested that the majority of Australia's Aboriginal population, numbering some 450,000 people, speak some form of AAE, and it is probable that it is the first and only language of a large number of Aboriginal children (Butcher, 2008).

Indigenous languages developed in isolation for 50,000 years. At least 200 separate Indigenous languages were spoken on the Australian continent at the time of settlement in 1788 (Butcher, 2008), including more than 100 Indigenous languages in the area covered by the current state of Queensland (McConvell & Thieberger, 2001). For the 50,000 years prior to colonisation, Aboriginal people developed highly sophisticated conceptual systems; and although there has been a widespread language shift from traditional language to English, the distinctive dialect of AAE has been maintained (Malcolm & Sharifian, 2002; Sharifian, 2009). In 2006, Queensland had 146,429 Indigenous residents – 28% of the Australian Indigenous population but only 3.6% of the Queensland population. Of these, 77% were of Aboriginal origin only, 14% were Torres Strait Islander origin only and the remainder were both Aboriginal and Torres Strait Islander origin (ABS, 2006, p. 16). Almost one quarter (22%) of Indigenous Queenslanders were living in remote or very remote locations in 2006 (ABS, 2006, p. 19). These are the target group for traditional language interpreters and Aboriginal English services.

AAE is the term given to the dialects of English spoken by Aboriginal people; this dialect differs from ASE in ways such as: phonology, lexicon, and pragmatics (D Eades, 2004; Malcolm & Kaldor, 1991). Although there are variations in the varieties of AAE, with 'heavier' varieties, drawing strongly on native language and meaning spoken in remote areas and 'lighter' varieties, more similar to ASE, in suburban areas; AAE should not be mistaken as a form of Pidgin English (Eades, 2004). Pidgin languages combine words from two different languages, with the speakers of pidgin retaining the ability to speak their native tongue (McConvell & Thieberger, 2001). On the other hand, AAE is considered by linguists to be a distinctive dialect in its own right which "reflects, maintains and continually creates Aboriginal culture and identity" (Eades, 1991, p. 57). In fact, Harkins (2000) refers to AAE as the most truly Australian form of English.

Issues with miscommunication arise due to the similarities between AAE and ASE (Eades, 1988). Even when grammatical differences are not great between AAE and ASE, pragmatic differences have

implications for miscommunication (Eades, 1984, 1988, 1991, 1993). Due to these perceived similarities, it is not uncommon for speakers of AAE to be unaware that they are in fact not speaking ASE (JAG, 2000). Miscommunication between a uniformed listener and a speaker of AAE can occur due to unfamiliarity with the cultural conceptualisations AAE strongly draws upon (Sharifian, 2009). Linguistic research on the topic of AAE has used the term 'cultural conceptualisations' as a collective term to describe 'schemas' and 'categories' which embody one's cultural experiences (Sharifian, 2008). These cultural conceptualisations are not static, but are 'negotiated' and 'renegotiated' by members of a culture through their interpersonal experiences. In the case of Aboriginal culture, these cultural conceptualisations are not only found in language, but also through cultural practices such as dance, painting and rituals (Sharifian, 2010). AAE is influenced by all of these cultural conceptualisations that are derived from the beliefs and experiences specific to Aboriginal people (Malcolm & Rochecouste, 2000; Malcolm & Sharifian, 2002; Sharifian, 2010). For example, the complexity of Aboriginal kinship could influence the meanings of words such as *family*, *home* and *brother* to include meanings which reach far beyond the simplistic meanings which ASE would credit them with (Sharifian, 2006). For example, to an AAE speaker 'family' could encompass a wide variety of people, who may or may not be biologically related to each other, whereas to an ASE speaker 'family' would generally refer to a nuclear-like family. It is the lack of awareness of these potential differences in meaning and application that can lead to breakdowns in the communication process.

Communication issues are likely to play a part in indigenous over-representation. Despite only being 2.5% of the Australian population in 2008, Indigenous people represented 24% of the prison population; meaning Indigenous people are currently 13 times more likely than non-Indigenous people to be imprisoned (HREOC, 2008). The majority of explanations for the vast over-representation of Indigenous people within the criminal justice system, and the volatile relationship which exists between Indigenous people and police draw on explanations rooted in the historical context of colonisation (Behrendt, Cuneen, & Libesman, 2008; Cuneen, 2001; Eades, 2009; Jennett, 1999; Kamira, 1999). Conversely, language difficulties can also have significant consequences for Indigenous victims of crime. Most of Eades' work shows that Indigenous witnesses can be discredited in court through manipulation of the ASE speaking jury's perception of an AAE speaking witness (Eades, 2009).

AAE has been recognised by the courts and positive steps have been taken to address and prevent communication issues (DJAG, 2000; Supreme Court of Queensland, 2005, 2010; Supreme Court of Western Australia, 2008, 2009). There have also been attempts to improve the recognition of Aboriginal English in non-criminal matters such as native title hearings (Byrne, 2003). Awareness has increased but communication issues still remain. No studies have been undertaken of the prevalence of Indigenous language use – Aboriginal English or traditional languages – in Queensland courts, or in other Australian jurisdictions, thus there are no indicators of whether the raising of awareness has produced more just outcomes. Also, courts have discovered procedural difficulties when trying to acknowledge AAE (Lauchs, 2010). For example, judges not being able to advise a jury on possible language differences due to the possibility of unfairly influencing the jury, and lack of interest in programs developed to train AAE speakers to assist in court proceedings.

Cultural Schema Theory

Cultural Schema Theory draws on cultural conceptualisations and schemas to explain the factors which may either facilitate or debilitate cross-cultural communication (Sharifian, 2001). Schemas are described as cognitive blocks used for the organisation of information (Rumelhart, 1980). Schema theory suggests that humans make sense of their personal experience based on these cognitive blocks (Sharifian, Rochecouste, & Malcolm, 2004). Therefore, schemas are used to interpret, predict and organise experience (Rumelhart, 1980). Many disciplines have used schema theory to explain human cognition. These include psychology, artificial intelligence, linguistics and anthropology (Sharifian, 2001). Palmer (1996, p. 63) applies this theory in a cultural context by suggesting “it is likely that all native knowledge of language and culture belongs to cultural schemas and the living of culture and the speaking of language consist of schemas in action.” Cultural Schema Theory regards schemas as largely dwelling in cultural experience, influenced by such factors as innately programmed behaviour or people’s own distinct worldview (Sharifian, et al., 2004). Put simply, personal experience and knowledge of culture form cultural schemas which are consequently organised and employed to interpret future interactions. In regards to Aboriginal English, this involves Aboriginal people taking traditionally English words and applying their own culturally influenced schemas to them. This process was exemplified with the word family earlier. Therefore, cultural schema theory provides an explanation for the link between culture, cognition and language in AAE (Sharifian, 2001).

As mentioned above, Sharifian (2003) proposes a model of cultural conceptualisation in which cultural schemas are the result of interactions between members of a cultural group. In this model, cultural schemas are not equally shared between cultural groups but are distributed across the group depending on each individual's personal experience (Sharifian, 2003). This model supports findings from a study of Aboriginal words and concepts in Australian English, conducted by Leitner and Sieloff (1998) which found that younger Aboriginal people were less aware of meanings of such terms as *land rights*, *woman's business* and *dreaming* than their older counterparts. Therefore, cultural schemas are said to exist on somewhat of a continuum, rather than on an 'all or none' basis with factors such as age, gender and education responsible for such knowledge distribution (Sharifian, 2003). Although originally an anthropological theory, the relevance of Cultural Schema Theory to the understanding of AAE has been a dominant theory in recent research. Studies conducted by Malcolm and Rochecouste (2000), Malcolm and Sharifian (2002) and Sharifian (2001, 2002) all emphasise that understanding the cultural conceptions which make up AAE is a vital ingredient in facilitating effective cross-cultural communication.

Research Approaches

Trends in sociolinguistics, discourse analysis, applied linguistics and pragmatics dominated research on Australian Aboriginal English prior to the 1990's (Harkins, 1994; Malcolm, 2000; Sharifian, 2006). Early research into AAE conducted by Eagleson, Kaldor and Malcolm (1982) and Malcolm (1977) explored AAE in a descriptive sense as well as drawing on trends in sociolinguistics. More recently, Aboriginal English studies have looked at discourse strategies employed by its speakers (Malcolm, 1994) as well as the pragmatic norms which govern communication in AAE (Eades, 1982, 1992, 1993, 1994, 1995, 1996). Two dominant applications have emerged from previous research into AAE, one being the practical implications in the classroom, which predominately draws on schema-based theory (Lowell & Devlin, 1998; Malcolm, 1994; Oliver, Rochecouste, Vanderford, & Grote, 2011; Sharifian, 2001, 2008) and the second being implications of miscommunication in a legal setting, which draws more on criminological theories of power and post-colonialism (Cooke, 1995, 1996, 2002; Eades, 1993, 1994, 1996). Research exploring the implications of linguistic difference between AAE and ASE predominately involves the collection and analysis of oral narratives from Aboriginal people to determine the linguistic features and underlying cultural conceptualisations; all finding that understanding cultural conceptions is key to effective communication (Lowell & Devlin, 1998; Malcolm, 1994; Malcolm & Sharifian, 2002; Sharifian, 2001, 2006, 2010).

All research which explores the implications of Aboriginal English in the classroom acknowledges that Aboriginal students are at a disadvantage (Lowell & Devlin, 1998; Malcolm, 1994; Oliver, et al., 2011; Sharifian, 2001). Communicative difficulties exist between Aboriginal students and their non-Indigenous teachers arising from a lack of shared communicative assumptions, cultural discontinuity between the home environment and school, differences in perspectives, expectations, understandings and interpretations, differences in pragmatics, differences in length of pause time and listening and attention patterns (Christie & Harris, 1985; Harris, 1977; McConvell, 1991). Lowell and Devlin (1998), Oliver et al (2011), Sharifian et al (2004) and Sharifian (2008) all highlight that effective, culturally competent educational programs should rely on the understanding Aboriginal cultural schemas.

Malcolm (1994, p. 150) found that speech is “always associated with the presence of Aboriginal communicators in a setting or speech event which is defined by non-Aboriginals. The key, if there is a key, to how Aboriginal people communicate, seems to me to lie in who defines the setting and determines the discourse pattern”. Lowell and Devlin (1998) recommend that Aboriginal perspectives be privileged, in the hope of creating a dominant framework which will inform the educational needs of Aboriginal children in the future. Most studies involving AAE in the classroom concluding that awareness of cultural and linguistic difference is the most important ingredient in “developing and implementing more inclusive and accommodating educational programmes” (Sharifian, 2001, p. 132). Teachers in urban areas are less likely to be aware of the dialect of AAE as opposed to teachers in rural areas, which demonstrates the need for ongoing professional development about AAE (Oliver, et al., 2011). This could be applicable to not only the classroom, but law courts, government offices, or in fact anywhere which communication takes place in which the non-Aboriginal participant defines the terms of communication (Malcolm, 1994).

Eades studies of Indigenous experiences in the courtroom have shown that “even where the grammatical differences between ASE and AAE are not great, there are significant pragmatic differences which have implications for intercultural communication” (D Eades, 2004, p. 492). Specific implications for the legal setting include the different ways in which Aboriginal people seek information, usually avoiding direct questioning, as well as the positive value which Aboriginal people place on silence; silence being found as an important contribution to conversation, rather than failure to communicate (Diana Eades, 2004). Although communication difficulties involving Aboriginal people in the legal setting

has been noted for many decades (Elkin, 1947; Strehlow, 1936), Eades has addressed the widespread ignorance to the language variety used by Aboriginal people and shown how this linguistic diversity has an overflow affect on to Indigenous over-representation (D Eades, 2004). Similarly, Cooke explores the use of traditional Aboriginal languages to demonstrate how linguistic power can affect Aboriginal people in situations like the police interview, the courtroom examination and cross examination (Cooke, 1995, 1996, 2002). Although Cooke's work presents a convincing analysis of the ways in which language can influence power in the legal context; Eades (2002, 2003) highlights that an analyses of the social and political processes, such as police interaction, the judiciary and the history of police intervention into the lives of Aboriginal people needs to occur to gain a broader understanding of the power discourse.

Aboriginal English and policing

So far the literature has demonstrated that the dialect of Australian Aboriginal English not only exists, but it is spoken by the majority of Aboriginal people (Butcher, 2008), and shows that the lack of awareness and acknowledgement of this dialect has far reaching detrimental consequences for its speakers. As Eades (2002, 2003) points out, how linguistic differences affect the broader social and political discourses needs to be analysed in order to fully understand its consequences on AAE speakers. These issues are just as relevant for Indigenous-police interactions. If the majority of Aboriginal people speak some form of AAE, and that the communicative patterns of Aboriginal people are influenced by cultural schemas and who defines the setting of the interaction; it would not be unreasonable to draw the conclusion that AAE could in fact have an effect on the relationship between Aboriginal people and the police (Butcher, 2008; Malcolm, 1994).

Police are at the frontline of the justice system. They have the discretion to charge and the responsibility to investigate criminal offences. The courts and correctional stages of the justice system play no part until the police have concluded their engagement with an accused. Thus the system is reliant upon the skills and knowledge of the police in its interactions with the Indigenous community. Given the predominantly minor nature of Indigenous offending, mainly encompassing public order-related offences, an AAE speaker is most likely to have contact with a uniformed beat officer – the least experienced, skilled and knowledgeable of the service. It is extremely unlikely that they are aware of AAE let alone skilled in the techniques of recognising and addressing communication breakdowns.

Literature which draws on post-colonial theory argues that the role which police played throughout colonisation, from violence towards Aboriginal clans, to enforcing the state policies of protectionism and assimilation, is the driver behind the continuing volatile relationship between Aboriginal people and the police today (Kamira, 1999). This role, which often involved control over the social and familial relationships, has enforced the superiority of the colonising power and the inferiority of the colonised culture (Cuneen, 2001). Neo-colonial theorists would argue that these beliefs have been used to justify the creation of current policy which extends the power of the Western culture over Indigenous culture (Eades, 2009).

Racism and racial prejudice are often put forward, particularly in regards to policing, as explanations for the continuing Indigenous disadvantage. In other words, the events of colonisation have created a power structure which disadvantages Aboriginal people; and further, this disadvantage is continuing, in particular within the police service, due to ingrained racist, prejudiced beliefs (Cuneen, 2001). Racism clearly existed in the Queensland Police Service. The Royal Commission into Aboriginal Deaths in Custody produced some damning findings in regards to the policing of Aboriginal people (RCADIC, 1990), including that the abuse of police discretionary powers was a major contributor to the overrepresentation of Aboriginal people in custody. Problems continued, despite the work that was done to address these issues in the 1990s. Recognising an increase in tension between the Queensland Police Service (QPS) and Aboriginal peoples following the death of Cameron Doomadgee and riots in Aurukun, the Queensland Government requested the Crime and Misconduct Commission (CMC) to conduct an independent inquiry into policing and Aboriginal peoples (CMC, 2009). The CMC's report recognises the importance of effective cross-cultural communication between Aboriginal people and the police, highlighting that "we are all culturally programmed throughout our lives – we learn way of seeing the world through our own culture, therefore cross-cultural encounters can be difficult" (CMC, 2009, p. 181). The report goes on to state that cultural training can lead to more effective relationships, and most importantly acknowledges that

"...in the area of policing, law, crime and justice, there is much at stake in cross cultural encounters – breakdowns in communication can lead to injustice...in Queensland's indigenous communities it is impossible to police effectively without some knowledge of the complex cultures and social relationships within a community." (CMC, 2009, p. 182)

Interestingly, the report goes on to mention AAE, but does not mention the different linguistic issues between ASE and AAE. Although the QPS are taking steps to address issues of cultural competency by encouraging cultural training, Indigenous recruitment and establishing the Cultural Advisory Unit, the report concluded that the “QPS must step up its efforts” (CMC, 2009, p. 189) to address cultural competency.

Application of Cultural Schema Theory to prevent Racism

Ridley et al have shown that CST can be used to prevent racism (Ridley, Chih, & Olivera, 2000). They use a specific definition of racism that covers both antagonistic and “unintentional racism”:

“any behavior or pattern of behavior that tends to systematically deny access to opportunities or privileges to members of one racial group while perpetuating access to opportunities and privileges to members of another racial group.” (Ridley, et al., 2000, p. 66)

They define unintentional racism as that which allows “racism when the perpetrator has good intentions” (Ridley, et al., 2000, p. 66). Thus, a police officer who acts in the indigenous offender’s ‘own good’, but proceeds from a position of ignorance can produce an unjust outcome which harms the Indigenous person. Assumptions can also be made through miscommunication that misidentifies offenders, thus multiplying harm by charging the innocent and not protecting the victim. The authors point out that someone can unintentionally sabotage their own well-intended actions (which could relate back to the ethical issue at hand).

“To put this problem into perspective, any clinician, regardless of race, background, or motives, can engage in unintentional racism. Clinicians may inadvertently sabotage their own well-intended actions and perpetuate the very problems they endeavour to overcome. To eliminate their unintentional racism, clinicians need to gain insight into their operational practices and change behaviour that interferes with a helpful intervention.” (Ridley, et al., 2000, p. 66)

In other words, a person needs to be aware of his or her own cultural schemas and remain receptive to any stimuli. The only way to do this is through awareness of the cultural schemas at play.

Conclusion

We have shown that the communication difficulties between AAE and ASE speakers not only lead to misunderstanding but have contributed to unjust outcomes for Indigenous Queenslanders. Cultural Schema Theory has been used to show how the different cultural histories of both Indigenous and migrant populations have guided how each group sees the world. These differences both produce the problem and have played a part in how each group has responded to the outcomes of that difference. That is, the language spoken by each group is a product of their cultural schema. But the social response to this linguistic difference has also been produced by the same schema. Historically, and to a lesser extent presently, racism has been a common reaction. This has been recognised in both RCADIC and CMC reviews. But laying the blame at the feet of racism does not produce a solution. Similarly, Ridley et al show that simply acknowledging difference will not bring an answer, as ignorance of the nature and means of difference will still lead to unjust outcomes. We need to discover the specifics of difference so that they can be recognised and worked around. Eades and Cooke have already commenced this work in the courts but no one has undergone similar research in the policing context. Future research has to discover the linguistic and non-verbal differences in communication to contribute greater understanding and development of techniques, such as those developed for courtroom communication.

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