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A PRAGMATIC ANALYSIS OF SILENCE IN AN AMERICAN CONSTITUTIONAL ISSUE

Abstract

This paper provides further evidence for a typology of silence, viz. conversational, textual and situational silence. Some of the problems in the typology are dealt with, for example, a clearer distinction is made between conversational silence, on the one hand, and textual and situational silence on the other. The distinction between textual and situational silence is further illustrated against the background of controversial court cases in the United States concerning “moment of silence” legislation in a number of states.

Keywords

silence, conversational, textual, situational, constitutionality, religion clause

1. Introduction

This paper has two aims. Firstly, to further illustrate a model of silence in social interaction I have presented in different forums (Kurzon 2007a, 2009), and secondly, to show how a specific legal issue may be analyzed in terms of the model. Hence, the examples of silence I will analyze in more detail come from legal discourse, namely controversial cases concerning the interpretation of the so-

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called establishment of religion clause of the First Amendment of the American Constitution.

The next section presents the model of silence in social interaction, introducing, too, issues that have not been addressed in previous articles I have written on the topic. This is followed, in section 3, by a discussion of the “Moment (or Minute) of Silence” passed by the legislature of several states of the United States, and subsequent court cases concerning the constitutionality of such legislation. Finally, the model of silence will be applied to the “Moment of Silence.”

2. A model of silence

2.1. In a typology I presented previously, I set up four types of silence in social interaction (Kurzon 2007a). However, in the course of the discussion I distinguished between “s/he is silent” and “s/he is silent about something,” arguing that silence in my model should be interpreted basically as “s/he does not say anything” in its literal meaning, which would not include glosses such as “s/he does not mention something,” i.e. silence in the sense of not mentioning a particular topic while speaking – a type of metaphorical silence (Kurzon 2009). Silence is, therefore, said to relate to a period of time – from a few seconds (to distinguish silence from a pause) to the entire period of the specific interaction – in which at least one participant in a social interaction does not say anything. From this, we may set up three types of silence in social interaction, distinguished on the basis of a number of features such as (1) the number of people involved in the interaction; (2) whether the silence is intentional or unintentional, which is related to whether the silence derives from a source internal to the silent person, that is whether the silence is initiated by the silent person, or external to him/her, i.e. imposed on him or her; and (3) the nature of the text that is unsaid. We may also add, as a feature that may accompany the type of silence, but not necessarily distinguish it, the distinction between formal and informal events.

The three types of silence in this model are termed conversational, textual and situational. Conversational silence is the type of silence normally discussed in the literature (see, for example, Jaworski 2000, Kurzon 1997, Sacks et al. 1974, articles in Tannen and Saville-Troike 1985). This silence occurs in a dyadic interaction when, for example, the addressee does not respond to what the speaker is saying – by not answering a question. It may also occur in a multi-party interaction in which one participant, although physically present, does not say anything. We may illustrate these cases by invoking the distinction mentioned above between formal and informal settings. In informal interactions, two friends may be sitting in the living room, and one of the participants is asking the other a question, and the second participant – the addressee in this case – does not answer.

The reasons for the silence may vary: the question may be embarrassing, or the addressee does not want to divulge the information requested, so s/he hopes that the addresser will move on to other matters. Silence in a multi-party interaction may likewise occur in one's living-room where there are three or more participants having a friendly conversation about trivial issues, and one of the participants does not participate.

As for formal settings we may mention, for instance, a job interview, a police inquiry, or witness testimony in court. In the first one, we may have a dyadic interaction in which only the manager or the personnel officer is interviewing the prospective employee. Silence on the part of the interviewee does not prosper much success in job seeking, but it is still a possible scenario. A job interview can also be a multi-party interaction in that there is more than one person interviewing – a panel of interviewers. In such a situation the interviewee could be silent, as in the case above, but so, too, can an interviewer. One of the interviewers on the panel could ask all the questions, and the others on the panel may be silent, and only say something after the interview is over, when the interviewee has left the room. In any case, this would not be the same interaction as the interview itself; rather, it constitutes the deliberation of the interviewing panel.

In a police inquiry, there are normally at least two police officers who are questioning the suspect (the “good” policeman and the “bad policeman,” as it were). In such a context, it is the suspect who may refuse to answer questions (the so-called right of silence, see, e.g. Cotterill 2000, Gibbons 1998, Kurzon 1995, 1996, 2000, Shuy 1997). In the context of a lawyer in court asking a witness questions, the interaction is ostensibly dyadic – between the lawyer and the witness; there are other persons present who usually remain silent during the proceedings – the public. This is an instance of silence from an external source, since silence is imposed on the public not only by convention but through an immediate cause, by the presence of the judge. Even if the opposing lawyer objects to a question asked of the witness, s/he cannot ask the witness not to answer but asks the judge(s) to prevent the witness from answering the question. In this case, if the objection is sustained, the witness is forced to be silent (or is silenced) by the judge. The witness, of course, may decide not to answer a particular question put to him/her by the lawyer, a situation similar to refusing to answer a question put to a suspect by the police during a police investigation (on the silent witness, see for example Kurzon 2008a).

Using the example of a witness being questioned in court, we may to a certain degree distinguish between intentional and unintentional silence. When the witness refuses to answer a question (or when a suspect refuses to answer a question), this may be interpreted as intentional silence (but see Kurzon 1997: 40-41, for reservations on this issue, as for example in cases of *omertà* – “code of honour,” often manifested as silence among mafiosi). When the witness is silenced, as it

were, by the judge – when the judge forbids him/her to answer the question, this silence is unintentional and is external. However, apart from cases where people are thus forbidden to respond, unintentional silence is normally a psychological factor in which a participant does not say anything because of stress, extreme emotions, or nervousness (Berger 2004).

2.2. The other types of silence in social interaction – textual and situational – are interconnected. As presented in Kurzon (2007a), both types relate to a situation in which there are two or more people who are silent, since they are involved in another activity, e.g. reading a book, saying a prayer. In textual silence, we are dealing with silence in which people may be reading – or reciting – a text in silence, and the silence lasts at least as long as it takes them (or each individual) to read the text. In situational silence, we are dealing with a group of silent people who are not relating to any specific text. To illustrate these two types, I will give two or three examples of each type of silence.

Textual silence occurs in a library where people are sitting down reading books, newspapers, journals, computer screens. Obviously not all library activity is carried out in silence. Asking librarians for instructions and directions takes place verbally, albeit in a whisper, but the activity of reading in the library is usually a silent activity. The text that is being read silently is known – presumably by the reader him/herself, but also by the observer if s/he can see the material. We may then ask which of the features listed above apply to this type of silence. Is it intentional or unintentional? Is it internal or external? For someone to enter a library, take a book or journal to read, we may say that the silence is intentional and internal, in that s/he wants to concentrate on the material s/he is reading. But the fact that libraries are supposed to be silent places derives not only from the wishes of library users, but also from regulations, e.g. notices displayed in various prominent places requesting silence. To illustrate the silence of the library, we may cite a number of scenes in well-known films in which one of the characters is not obeying the rule of silence, which in such cases creates a comic scene. For example, Benjamin Braddock (played by Dustin Hoffman), in Mike Nichols' *The Graduate* (1967), when chasing Elaine Robinson (Katharine Ross) to Berkeley where she is studying, does not pay attention to the attempts to silence him in the library, or Holly Golightly (played by Audrey Hepburn) in Blake Edwards' *Breakfast at Tiffany's* (1961) being taken by Paul Varjak (George Peppard) into a public library and is at first ignorant of the code of silence.

Another example of textual silence would be the silent prayer recited within an institutional setting such as a church or synagogue. In these cases, we may talk of a particular prayer which the prayer-leader (priest, vicar, rabbi, or even layperson) requests the congregants to read silently, or of a contemplative prayer, which, according to the Catechism of the Catholic Church, is a silent prayer (par. 2717),

for example the period of silent reflection before the opening of the mass.¹ Specific silent prayers may be set down in the liturgy such as the Eighteen Benedictions recited silently in synagogue services.

Situational silence – silence in which two or more people are participating and in which no specific text is being read or recited – may occur in slightly more formal situations. Here we may relate to the minute (or two minutes) of silence at war remembrance ceremonies, at which people stand in silence for the required time. They may recite some prayer in silence or, as newspapers depicted the Armistice Day ceremony in London between the two world wars, they at least

were not expected to be empty of all thought and emotion. It was expected that the time would be filled with private contemplation of the meaning of the war, with prayer, with a renewed commitment to certain goals. (Gregory 1994: 12)

So, Armistice Day was no longer “a restaurant orgy,” as Hay (1931: 2) describes it, since with the setting up of a war memorial (Hay was describing the Scottish memorial in Edinburgh), the “Two-Minutes Silence took its place. The Unknown Warrior was escorted to his grave in Westminster Abbey by the King himself” (ibid.).

We may relate even to the silence of performers who sit on stage but do not perform, e.g. the well-known, if not notorious, 4’33” of the American composer John Cage, in which the musician (or musicians) sits on stage at the piano or whatever instruments are placed there and does not do anything for four minutes and thirty-three seconds. Cage’s work inspired Mike Batt to insert a silent track to the compact disc *Classical Graffiti* of his musical group, the Planets, calling it “A One Minute’s Silence.” This developed into a legal battle over copyright with Cage’s copyright holders, Peters Edition, which ended in a “six-figure” settlement out of court (see Kurzon 2007b).

A further example of situational silence is the silence in a museum where “one is supposed to contemplate the value of art or history... and to show respect to the surroundings” (Vainiomäki 2004: 355).

¹<http://www.vatican.va/archive/catechism/p4s1c3a1.htm>; <http://www.catholic-resources.org/ChurchDocs/Mass.htm> (both accessed Jan. 19, 2010). The full text of par. 2717 is: Contemplative prayer is *silence*, the “symbol of the world to come” or “silent love.” Words in this kind of prayer are not speeches; they are like kindling that feeds the fire of love. In this silence, unbearable to the “outer” man, the Father speaks to us his incarnate Word, who suffered, died, and rose; in this silence the Spirit of adoption enables us to share in the prayer of Jesus.

2.3. There are instances in which the distinction between textual and situational silence is not clear. This will be treated in more detail below in section 3, when we look at the issue of the constitutionality of the “Moment of Silence” in American public schools. But there may also be cases of silence where its classification as conversational silence, on the one hand, and as textual or situational silence, on the other, needs clarification. Let us look at the following conversations:

(1a)

A: And what do you think of his performance?

B: What were you saying about the weather?

(1b)

A: And what do you think of his performance?

B: I have to get to the office very early tomorrow.

(1c)

A: And what do you think of his performance?

B: (5.0)

In (1a) and (1b), there is a verbal response, but in both cases the irrelevance of B’s response to A’s question creates an implicature (Grice 1975) that may be interpreted as “B does not think highly of the performance” or “there’s nothing positive to say about the performance” – to say the least. The same interpretation may be attributed to B’s silence in (1c).² The issue here is whether the silence is a substitute for a text – one of the possible responses that indicate that the less said about the performance the better. However, while in textual silence, the text that is being read or recited in silence is potentially known (one could walk over to the student in the library and look at the text s/he is reading), in the conversations in (1), we do not have a specific text. After all, it may be possible that B may say something else but with the same implicature, or does not understand A, or cannot hear him/her.

This can be further illustrated in (2):

² The 5.0 sec. pause is an arbitrarily chosen period of time that would indicate not a pause but silence – in this context no response. Of course, in many cultures, such a time period may not function as silence. The “silent Finn” (Lehtonen and Sajavaara 1985), for example, may not interpret it in the same way as a western European or someone living in the Mediterranean region.

(2)

A: Shall we go to the show tonight?

B: (5.0)

The first question that may be asked regarding this conversation is whether B gives his/her consent to A's proposal or not. But, just as in (1), whether the silence means consent or it does not, we cannot say that the silence in (2) replaces a declarative such as "I agree" or "I don't agree" or even a simple "Yes" or "No," and hence, we cannot say that these are texts that are replaced by the silence – that is, instances of textual silence. Moreover, textual silence (like situational silence) relates to a situation in which there is some social interaction: a group of people (to simplify matters – at least two people) are silent because they are reading or reciting a text. The situation in which the addressee does not answer the addresser is not an instance of textual silence, even though a text, often unknown, may be "recited"; such interaction is part of a conversation.

Moreover, we may say that in conversational silence there is at least one addresser and one addressee, but in textual and in situational silence, there are only participants. It is true that in many cases of both textual and situational silence someone does give the order to be silent, e.g. the teacher in a classroom, and s/he may be considered to be the addresser who performs a directive, and the pupils are the addressees. At the official British war remembrance ceremony in Whitehall, Big Ben chimes the time (at 11 a.m.),

then the bickering of sparrows, the crisp rustle of falling leaves, the creasing of pigeons wings as they take flight, uneasy at the strange hush, contrast with the traffic din of London some minutes before. (H.H. Thompson writing in the November 8, 1935, issue of the *Radio Times*, quoted by Gregory 1994: 135)

But at the moment the silence begins, there are only participants. Both the previous addresser – the teacher or even non-human agents such as the chiming of a clock or siren³ – and the addressees are now silent.

A further case that illustrates the types of silence set up in this model is that proverbial scene of an English railway carriage or of English people standing in a queue for a bus in which no one opens his or her mouth (not even to grumble about the time wasted in waiting or about the bus company). This is an instance of

³ During the one- or two-minute silence observed in Israel on War Memorial Day and on Holocaust Day, the siren is paradoxically heard nationwide throughout the time of the silence.

conversational silence, for there is potential interaction between two (or more) people present, but neither potential addresser nor potential addressee speaks. Textual silence and situational silence, as seen from the examples presented above, tend to be more institutionalized.

In the above discussion, I have distinguished conversational silence from textual and situational silence. In what follows, I will discuss whether it is always possible to distinguish textual from situational silence. In 3. I will examine the controversial “Moment of Silence,” as passed by the legislature in several states of the United States, and court opinions concerning their constitutionality. After discussing the general trend in court decisions concerning the moment of silence, focusing on one of the cases concerning a Texas law (*Croft v. Perry*), I will discuss the Moment of Silence from the point of view of textual and situational silences.

3. “Moment of silence”

The First Amendment to the United States Constitution, adopted in December 1791 as part of the Bill of Rights, states that

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Some of the clauses⁴ relate to basic elements of a democratic state such as freedom of speech and freedom to assemble, another relates to a right which may also have been in existence in autocracies, e.g. citizens of the Ottoman Empire had the right to petition the Sultan, while the first clause – the so-called establishment of religion clause – does not allow for a state or official religion, that is there is to be no close connection between the state apparatus and religious institutions, even if the majority of the population are believers of one particular religion.

This clause has been the source of a considerable amount of litigation in American courts. Recently, three areas have emerged from court cases both at the state level and at the federal level. Firstly, the Pledge to the American flag and to the United States recited in schools came under attack. The wording of the pledge:

⁴ The term “clause” is used to relate to each of the topics in the amendment, although it may not necessarily be a syntactic clause.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all

contains the phrase “one nation under God.” This was recently debated in the *Newdown* case (discussed in Kurzon 2006), which reached the Supreme Court. Newdown’s contention that the pledge is unconstitutional because the word “God” is mentioned was rejected by the court.

Another area of contention was the public display of the Ten Commandments. A favourite place for displaying this text is the court house, including the Supreme Court itself. The courts accepted the constitutionality of such a display in a number of states, seeing the Ten Commandments as an example of legislation, while in other states, the public display of the Ten Commandments was considered unconstitutional. In the two cases which were discussed by the Supreme Court at the same time, one concerning a public display in Texas, while the other in Kentucky, the court opinions were issued together: the Texas display was declared constitutional and the Kentucky display unconstitutional (discussed in Kurzon 2008b).

The third area, the one related to in this article, is what is termed “Moment of Silence” or “Minute of Silence.” Just as with the Pledge and the display of the Ten Commandments, which are said or seen in official institutions such as public schools and courthouses, the “Moment of Silence” legislation passed by the legislature in a large number of states is to be observed at the beginning of the school day in the public (state) school system.⁵

3.1. So, the legal issue to be discussed in this paper concerns a suggestion apparently⁶ made by former American Secretary of State Colin Powell, which proposes a moment of silence at the beginning of each school day. Support for such a move was also provided by Patty Jo Cornish in her *An Outrageous Idea: Natural Prayer*, published in 1996, in which she wrote:

We have forgotten that we are all in this together. And we keep separating ourselves from ourselves, by color, by football teams, by clothes, by money, by creed, by greed, by boundaries, by age, and so on and on. We need something to pull us all

⁵ The “Moment of Silence” is compulsory in twelve states and optional in about twenty states.

⁶ I have found only references to what Powell had said or written but not direct references to his speeches and writings.

together. Natural Prayer could be that miracle. It includes everyone, even the non-believers.⁷

In the context of the public school class, natural prayer has been interpreted as a minute of silence in which students have to sit quietly and preferably think about the coming day.

A number of cases have been discussed by American courts concerning legislation passed by state legislatures requiring school children to start their day with a minute of silence. Some of the states have passed a law explicitly suggesting that this minute of silence is an opportunity for private prayer, while other states allow freedom to schoolchildren to think or perform any speech act they wish as long as they sit silently for the required time. Any state law making the point that the minute of silence would best be taken up by silent prayer would inevitably be declared unconstitutional, as it conflicts with the First Amendment, while a law that takes a neutral stand on what the children may do during that minute, though prayer may sometimes be given as an option, is usually declared constitutional.

The best known case in which the law was declared unconstitutional comes from the state of Alabama when George Wallace was its governor. In *Wallace v. Jaffree*⁸, the Supreme Court rejected a statute which laid down a minute of silence at the beginning of each school day “for meditation or voluntary prayer,” a clear indication that the state legislature wanted children to start the school day with some sort of prayer. However, after that case, states – in order to satisfy the Court’s requirements – passed or amended existing laws that lay down a moment of silence in which children may pray or may do any other mental activity while sitting silently in the classroom. In other words, legislatures that have passed “Moment of Silence” statutes have in most cases succeeded in ensuring that the laws have a stated secular purpose, although allowing at the same time for silent prayer. In order to examine the purposes of the legislation, courts have also looked at legislative history; that is to say, debates on the floor of the state legislature are also offered as evidence whether the intentions of the legislators are to introduce prayer into schools through the back door or whether secular purposes were discussed and considered sufficient to support the legislation.

The frequently used legal test for deciding on statutes that may violate the First Amendment is the so-called three-pronged test introduced by the Supreme Court

⁷ Cited in a number of places, including http://www.religioustolerance.org/ps_pra6.htm (accessed March 9, 2010).

⁸ 472 US 38 (1985).

under Chief Justice Burger in the 1971 *Lemon v. Kurtzman* case⁹, which states that a law does not violate the First Amendment under the following conditions:

First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion, [...] finally, the statute must not foster “an excessive government entanglement with religion.”
(pp. 612-3)¹⁰

So, in a number of cases that were decided in the federal Supreme Court in Washington D.C. and in state supreme courts, the local state statute was considered constitutional, since it was successfully argued that the relevant statute passed the three-pronged test.

3.2. Let us look at one such case in which the state law laying down a minute of silence at the start of the school day was considered constitutional. The analysis of this one case would by its very nature include references – explicit and implicit – to other cases. The “nature” I am referring to here is, of course, the obligatory use of precedents in courts in the common law or Anglo-American jurisprudences. These courts inevitably have to take into account decisions of other courts on the same issue or principle, and even courts higher in the hierarchy, e.g. a state supreme court, would have to defer to decisions made by the federal Supreme Court.

The case I will relate to is *Croft v. Perry*, a recent Texan case involving a motion by the parents of young schoolchildren (the Crofts) against the Governor of the State of Texas, Rick Perry, and the school district in which the children attended school. In the initial hearing at the District Court in Dallas, the Crofts argued that the following provision of the Texas Education Code was unconstitutional:

The board of trustees of each school district shall provide for the observance of one minute of silence at each school in the district following the recitation of the pledges of allegiance to the United States and Texas flags under Subsection (b). *During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student.* Each teacher or other school employee in charge of students during

⁹ 403 U.S. 602 (1971).

¹⁰ The quotation in the third prong is from *Walz v. Tax Commission of City of New York* (397 U.S. 664 (1970)), another case from the same Burger-led Supreme Court.

that period shall ensure that each of those students remains silent and does not act in a manner that is likely to interfere with or distract another student. (My italics)

The sentence in italics is at the centre of the argument. If we apply the three-pronged test mentioned above, we find the following arguments brought up by the plaintiffs (the Crofts), the defendant (Governor Perry), and by the courts involved (the Northern District of Texas court and the Fifth Circuit Court of Appeal) in their decision:

While the Crofts maintain that all “Moment of Silence” laws are unconstitutional because their principal purpose is to foster state-sponsored prayer in school through “the back-door,” attention has to be paid to the argument put forward in the *Wallace* case (see 3.1. above) by Supreme Court Justice Sandra Day O’Connor. She maintained that while a statute providing that “a student may choose to pray silently during a quiet moment” is not unconstitutional *per se*, “the face of the statute or its legislative history may clearly establish that it seeks to encourage or promote voluntary prayer over other alternatives, rather than merely provide a quiet moment that may be dedicated to prayer by those so inclined” (p. 73). She had “little doubt that our courts are capable of distinguishing a sham secular purpose from a sincere one,” concluding that

[a] moment of silence law that is clearly drafted and implemented so as to permit prayer, meditation, and reflection within the prescribed period, without endorsing one alternative over the others, should pass this test. (p. 76)

So, as part of the defence, in order to show that the Texas statute had a secular purpose, Governor Perry presented as evidence some of the legislative history of the Texas statute, especially speeches and comments made by Senator Jeff Wentworth, who introduced the bill into the Texas legislature. The Senator explained that Texan school pupils can “meditate, they can reflect, they can pray, they can worry about the algebra test the next period. We really won’t know what they’re doing” (p. 20). He supported his stand by referring to a well-known precedent *Brown v. Gilmore*¹¹, in which the presiding judge Paul Niemeyer declared

The minute of silence established [...] for each public school classroom is designed to provide each student at the beginning of each day an opportunity to think, to meditate, to quiet emotions, to clear the mind, to focus on the day, to relax, to doze,

¹¹ 258 F.3d 265 (4th Cir. 2001).

or to pray – in short, to provide the student with a minute of silence to do with what the student chooses. (sec. VI)

The Court, relating to the evidence presented, asked whether the Texas law in order to allow “silent and nondisruptive prayer” may discriminate against those students who are required according to their religion to kneel, to stand, or to recite audible prayer. Senator Wentworth was concerned about the constitutionality of the statute but suggested guidance should be given. Problems obviously do exist as to what kind of physical activity is allowed during the minute of silence. Dan Branch, a member of the Texas House of Representatives, is quoted as explaining that “All this bill does is tries [sic] to have a neutral space, a period of silence. It doesn’t direct any activity” (p. 25). Since the three-pronged test requires a secular legislative purpose, Governor Perry suggested three possible purposes: patriotism, accommodation and “a period of thoughtful contemplation” (pp. 31-3). The Court accepted this third purpose, citing comments by legislators who listed those activities that may very well be undertaken by school pupils during the minute of silence: they “could stare at their shoes, think about upcoming exams, think about their pets, engage in other nonverbal activities during the moment of silence, as well as pray, if they wished” (p. 33). Furthermore, the new law was said to give students an opportunity to “do whatever they want,” to introduce “a ritual of reverence and respect,” to provide “a neutral space,” to prepare children for “seriousness,” to create “a common moment of preparation, deliberation, and meditation,” to allow students to think about the “seriousness of the day,” to “underscore the seriousness of the education endeavor,” to make schools institutions that are “more reflective and more reverent,” and to “set the tone for the day.”

The court rejected the Crofts’ case, and the plaintiffs then turned to the court of appeal, which in March 2009 upheld the original decision that the Texas law¹² is constitutional, since it does not violate the establishment of religion clause of the First Amendment.

4. Textual or situational silence?

As it may be seen, courts have allowed “Moment of Silence” legislation, as long as it is not stipulated what the content of the thoughts of the silent children should be. Those statutes that were declared unconstitutional limited the set of

¹² Texas Education Code par. 25.082(d).

mental speech acts to prayer or meditation. The content of the reflection or thoughts of the pupils brings us to the question as to what type of silence the “Moment of Silence” may be classified. The first of the three types – conversational silence – does not come into the picture here. We are not looking at a situation in which one party is talking and the other (or “another” in the case of multiparty interaction) is silent, but at a situation in which all the people involved – teacher¹³ and pupils – are silent. Hence, in terms of the proposed typology, the question narrows down to whether the group’s silence is taken up by the children, in this case, reciting to themselves some specific text such as a prayer, or not thinking of anything in particular. These two possibilities may then be related to textual and situational silence, as delineated above.

The individual child knows what s/he is doing – whether s/he is praying, thinking about a specific matter, letting his or her mind wander, or even meditating (see below). The observer, of course, does not know what each child is doing, unless other gestures are observed that indicate a specific mental activity, e.g. closing one’s eyes, putting one’s palms together, and mouthing some text, which may look as if the child is praying.

Let us look more closely at the two possibilities – textual and situational silence. If the child during the minute (or moment) of silence in the classroom at the beginning of the school-day is reciting a prayer to him-/herself, is reciting some other text, perhaps a poem s/he has to learn by heart (an exercise which seems today to be on its way-out), is reciting the twelve-times table (also a rarity), is going over the football or baseball or basketball league results, or is even rehearsing what utterances to say when s/he plans to invite someone to go out with him/her, then we have clear instances of textual silence in that the silent person is silently going over a given text in his or her mind. But if the pupil is not thinking of anything in particular, then we may say we have an instance of situational silence, which may also include the mental process of meditating, which has been defined as:

the process of conscious, controlled focus of the mind which may take place when the thinking processes, both in pictures and in words, have been stopped.
(<http://www.patienceaichi.com/public/93.cfm>)¹⁴

¹³ I am ignoring the possibility that in the middle of the Moment of Silence, the teacher has to rebuke a child for making a noise or something of like nature. Let us assume an ideal classroom situation.

¹⁴ Cited by <http://www.mikefinch.com/md/art/dm.htm> (accessed 22/12/2009).

That is to say, since the person is not thinking, and is not reciting a text to him- or herself, meditation may also be an instance of situational silence. As further support for this assertion, it is often a group activity – especially among westerners – in that there are a number of people in the room meditating under the guidance of an experienced practitioner (see, for example, Pagis 2010 on silence in Vipassana group meditation). However, I am not sure how many children in the American educational system in those states in which a moment of silence has been legislated upon would know how to meditate. But it is certainly, theoretically at least, one of the options open.

The difference between the two types of silence may also be distinguished in terms of speech acts. While textual silence may be considered to be the silent performance of a specific speech act or a series of speech acts which is found in the text that is read or recited, in situational silence no specific speech act is “uttered” mentally. Even in the case of silent prayer at Quaker meetings, the essence of what is thought about during the silence cannot be verified. Although the prayer leader will call for silent prayer, the nature of the thoughts of the individual congregants cannot be specified. So, this silent period may be considered to be a case of situational silence. On the other hand, when a silent prayer is to be recited in other religions, it is usually a specific prayer that is said in silence according to the regular liturgy; this would then be a case of textual silence. Of course, in such situations, congregants may still think of other things and of other texts during a silent prayer, but that is impossible to prevent. As Judge Claude Hilton, in an unnamed “Moment of Silence” case in Virginia in 2000, said in declaring the state law as constitutional:

Students may think as they wish – and this thinking can be purely religious in nature or purely secular in nature. All that is required is that they sit silently.¹⁵

We may multiply the number of possibilities of what can go on in the pupils’ heads during the moment of silence, but what seems central to the issue is that the pupils sit quietly and silently in their seats for the one minute.

¹⁵ For example, <http://archive.newsmax.com/articles/?a=2000/10/31/65847> (accessed March 3, 2010)

5. Conclusion

At first glance, then, we have a situation in which it is difficult – even impossible – to ascertain which kind of silence we have or which kind of silence each pupil in the classroom is “performing.” This may seem to suggest that the model presented in this article is not comprehensive, since it is not indicative of all the instances of silence in social interaction that do occur. However, we have to distinguish in such a case between what the silent person is doing during the silence, whether it is a case of mental speech acts or not, and what the observer may observe. In many cases of silence, we as observers may only guess at what the silent person is thinking – what the mental speech act is. In the case of textual silence, we may assume what the text is when a particular prayer has to be cited silently, or when in a classroom a specific passage has to be read in silence. On the other hand, what of the person who is observing an informal conversation in which one of the participants is silent or of the person who is observing a formal interview such as a police investigation? The observer may make intelligent guesses as to the content of the mental speech act, taking into account the situational context and background information, but we will never know for sure what the silent person’s thoughts are.

From a different perspective, while in conversational silence of the type where the addressee does not answer, the content of the mental speech act may be of interest if not of importance, the content of the moment of silence in the classroom, if it is textual silence or if it is not, is not important. What has to be maintained in the classroom is one minute of silence, no more and no less.

But the difficulties inherent in arriving at the meaning of silence should not lessen the value of the pragmatic approach adopted here, since it is, after all, contextualization – the essence of pragmatics – that enables the interpretation of utterances and silences. Let us look at that well-used utterance “Can you pass me the salt?” On the surface – its secondary meaning in Searle’s classical model of indirect speech acts (Searle 1975) – it is a question, but it is normally used as a request for salt – its primary meaning. If someone answers “Yes, I can,” and does nothing, s/he is either joking or not aware of the pragmatics of this utterance. But if the question is asked in a situation where the addressee’s arm is in a sling and finds it difficult to move, then the literal meaning – a question relating to the addressee’s physical ability – may be the appropriate interpretation. That is to say, it is the context that may determine which interpretation is appropriate. In the same way, our ability to interpret silence – whether it is an addressee’s silence to a question or whether it is the silence of a group of people – depends on the context. Because of the lack of words, it may be much more difficult to interpret silence, and interpret it correctly. Even if the silence is interpreted incorrectly – the addresser or the

observer, for example, may select the incorrect speech act – this misinterpretation is still part of the interaction.

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