Extended Abstract

Representation of power, dominance and resistance in court discourse: An inquiry in judicial discourse analysis

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Introduction

The judicial system is universally recognized as a paramount institution for the exercise of power. Within this system, language assumes a paramount role as nowhere is its use more pronounced and impactful than in the legal and judicial context. In these contexts, language serves as a tool for wielding power, establishing dominance, and exerting control. The objective of this research was to comprehensively analyze the various dimensions of trial discourse with a particular focus on the representations of power exhibited in the interactions among participants in diverse court sessions. To accomplish this, we examined a multitude of civil, criminal, and family court sessions associated with the court and prosecutor's office of Dorud City. The present study employed a combination of quantitative and qualitative approaches for data analysis. Our analysis drew upon the ethnographic framework proposed by Hymes (1974), supplemented by statistical calculations. Additionally, pilot studies and direct observations conducted by the authors revealed that three primary strategies—"questioning", "interruption", and "intervention/butting in"—predominantly featured in court discourse. Therefore, a key objective of this research was to investigate the types and frequency of each strategy utilized by the participants. In light of the foregoing, this research endeavored to address the following questions:
1. How are power, dominance, and resistance represented in court discourse?
2. What is the prevalence of questioning, interruption, and intervention in the speech of both lay and professional participants and for what pragmatic purposes are these strategies employed?

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2. Materials & Methods

The present research employed a combination of quantitative and qualitative approaches to analyze and discuss the data. In the quantitative dimension, statistical analysis was conducted after tagging the corpus data. In the qualitative dimension, the ethnographic framework proposed by Hymes (1974) served as the foundation for data analysis. This research endeavored to explore court discourse at the three structural, semantic, and pragmatic levels. To provide a comprehensive analysis of the verbal and non-verbal aspects of court discourse, we presented our analysis within an ethnographic framework. The data corpus comprised a total of 96,373 words collected from various criminal (investigation and judicial), civil, and family courts, as well as the prosecutor's office of Dorud City in Lorestan Province. The data collection period spanned from January 2nd, 2023 to June 10th, 2023. Subsequently, the data were tagged using Python software (version 3.10.11) based on predetermined criteria. An excerpt of the tagging process is illustrated in Example 1:

(1) <utterance uid="33" cid="3">

<sent sid="1" qc="2">مبلغ چقدر بوده؟</sent>

</utterance>

<utterance uid="34" cid="2">

<sent sid="1">دویست تومن بوده.</sent>

In Example 1, each speaking turn of the participants is treated as an utterance, which may consist of varying numbers of sentences. Additional indicators included file numbers, question types, participant types, and their genders.

3. Results & Discussion

The exercise of power and dominance by influential participants, as well as the expression of resistance by lay participants, could be observed through a range of linguistic and non-linguistic tools. Regarding non-linguistic factors, the physical setting of the court played a significant role. Elements, such as positioning of the legal questioner, the tools employed, presence of a hierarchical structure during meetings and hearings, and the stance and seating arrangement of participants, could all serve as indicators of power imbalances among them. On the linguistic front, strategies, such as questioning, interrupting, and intervention, were particularly potent for expressing dominance. Conversely, when employed by lay participants, these strategies could be viewed as acts of resistance. For instance, lay participants might employ counter questions or intervene to challenge and overcome others in the discourse.

The data analysis revealed that lay participants had an average frequency of 0.21 in their use of question structures, while professional participants had an average frequency of 5.87. In terms of percentage, this translated to professional participants accounting for 96% of the total question structures used in the corpus, while lay participants accounted for 4%. As previously discussed, the use of questions was a pivotal tool for exercising power and dominance in court discourse. Therefore, based on the frequency of questioning, it could be inferred that professional participants held the highest level of power and dominance in court proceedings. However, it is important to note that the purpose behind the use of interrogative forms differed between lay and professional participants, resulting in distinct pragmatic impacts. Professional participants asked questions to gather information or verify/refute statements, while lay individuals posed questions

to seek clarification on propositions raised by legal participants. This discrepancy primarily arises from ordinary people's limited familiarity with specialized legal structures and vocabulary.

The analysis of the data confirmed that legal participants accounted for 84% (in terms of average percentage) of interruptions, while lay participants represented 16%. Notably, among legal participants, the judge exhibited the highest frequency of speech interruptions with 7 instances out of 157 in the corpus. This high rate of interruption by the judge could be attributed to their position as the most powerful legal participant, leveraging this strategy to assert dominance in interactions and steer conversations towards their objectives. It is worth mentioning that the use of speech interruptions by legal participants served as a means of control, whereas for lay participants, it functioned as a form of resistance strategy or, as Amuzadeh et al. (2012) suggest, a "defensive" strategy. In other words, lay participants interrupted the speech of the opposing party to undermine their narrative and replace it with their own.

The findings revealed that lay participants attempted to interrupt legal participants in only five cases, but they were unsuccessful in all of those attempts. In the remaining instances, lay participants interrupted other lay participants. Additionally, among lay participants, women had an average interruption frequency of 0.5, while men had an average of 0.7. It is possible to speculate that the lower frequency of interruptions by female participants stemmed from their relatively limited presence in judicial environments and their resulting unfamiliarity with such discourses. Consequently, they might perceive themselves to be in a weaker position compared to men, leading to a decreased likelihood of interrupting others. However, further investigations are required to substantiate this claim.

The findings also indicated that, on average, participants in the civil court utilized interventions 0.6 times, while those in the family court employed them 0.7 times. Through interventions, participants aimed to challenge and undermine the narrative presented by the opposing party by substituting it with their own. Regarding family court, studies demonstrated that both men and women had similar participation rates (average number of produced words) in interventions with women at 4.4 and men at 4.5, indicating no significant difference. In other words, both parties in the family court made comparable efforts to assert dominance over each other. In the civil court, however, the average participation rate of women in interventions was 1.2, while men had a higher rate at 2.8. Consequently, in the civil court, men emerged as the dominant participants in employing the intervention strategy.

4. Conclusion

In this study, we aimed to explore the key components of court discourse after providing an overview of the interactive rules within this domain. The data analysis results demonstrated that professional participants, including judges, investigators, and prosecutors, employed various verbal and non-verbal strategies to establish their power and dominance during trial discourse. Notably, the strategies of "questioning" and "interruption" played a prominent role in this regard. In contrast, lay participants, such as the accused, complainants, and suspects, demonstrated resistance to the exercise of dominance and power by utilizing tactics, such as "intervention", "interruption", "counter-questioning", and "silence." It is important to note that the strategies employed in judicial discourse extended beyond the scope of those examined in this study, indicating the need for further research to comprehensively explore the diverse interactions

among participants in this context. Enhancing people's understanding of legal mechanisms and the workings of judicial discourse can significantly contribute to improving judicial processes. By equipping lay participants with greater knowledge, they will be better equipped to navigate and resolve their legal issues effectively.

Keywords: Ethnography, Forensic Linguistics, Power, Question, Resistance

References

Adelswärd, V., K. Aronsson, L. Jönsson & P. Linell (1987). The unequal distribution of interactional space: Dominance and control in courtroom interaction. *Text & Talk, 7*, 313-346.

Amouzadeh M, Zareifard R, Alinezhad B. Gender and Interruption in the Defense Sessions of Dissertations. LRR 2014; 5 (4) :149-170 [In Persian].

Amouzadeh M, Zareifard R, Alinezhad B. Gender and Interruption in the Defense Sessions of Dissertations. LRR 2014; 5 (4) :149-170 [In Persian].

Archer, D. (2005). *Questions and answers in the English courtroom (1640–1760): A sociopragmatic analysis*. Amsterdam: John Benjamins Publishing Company.

Beattie, G. (1981). Interruption in conversational interaction and its relation to the sex and status of the interactants. *Linguistics*. No. 19. 15-35.

Beattie, J.M. (1986) Crime and the Courts in England 1660–1800, Oxford: Clarendon Press.

Conley, J. M. and O'Barr, W. M. (1990) *Rules versus relationships: The ethnography of legal discourse*. Chicago: University of Chicago Press.

Cotterill, J. (2003) Language and Power in Court: A Linguistic Analysis of the OJ Simpson Trial, Basingstoke and New York: Palgrave Macmillan.

Coulthard, M. and Johnson, A. (2007) *An introduction to forensic linguistics: Language in evidence*, London/New York: Routledge

Coulthard, M., A. Johnson, and D. Wright. (2016). *An introduction to forensic linguistics: Language in evidence*. London and New York: Routledge.

Danet, B., K. B. Hoffman, N. C. Kermish, H. J. Rafn and D. Stayman (1980) An ethnography of questioning in the courtroom. in R. W. Shuy and A. Shnukal (eds), *Language use and the uses of language*. (pp. 222– 234). Washington, DC: Georgetown University Press.

Fairclough, N. (1989). *Language and power*. London and New York: Longman.

Haghbin, F., Najafi, P., and Jamali, T. (2016). Narrative and Anti-Narrative Use in Legal Discourse. *Research in Western Iranian Languages and Dialects*, *3*(14), 37-59 [In Persian].

Haghbin, F., Najafi, P., and Jamali, T. (2016). Narrative and Anti-Narrative Use in Legal Discourse. *Research in Western Iranian Languages and Dialects*, *3*(14), 37-59. doi: 10.22126/jlw.2016.1273

Harris, S. (1984) Questions as a mode of control in magistrates' courts. *International Journal of the Sociology of Language*, 49: 5– 28.

Harris, S. (2005) Telling stories and giving evidence: the hybridisation of narrative and non-narrative modes of discourse in a sexual assault trial. (pp. 215–37). in J. Thornborrow and J. Coates (eds) *The sociolinguistics of narrative*. Amsterdam: Benjamins.

Haworth, K. (2006). The dynamics of power and resistance in police interview discourse. *Discourse & society* 17 (6): 739–759.

Hymes, D. (1972). On communicative competence. In J. Pride, & J. Holmes (Eds.), *Sociolinguistics* (pp. 269-285). Harmondsworth: Penguin Books.

Hymes, D. (1974). *Foundations in sociolinguistics: An ethnographic approach*. Philadelphia: University of Pennsylvania Press.

Johnson, A. (2002). So …? Pragmatic implications of so-prefaced questions in formal police interviews. (pp. 91–110) in J.Cotterill (ed.) *Language in the legal process*. Basingstoke: Palgrave Macmillan.

Keane, A. and P. McKeown (2020). *The modern law of evidence*.13ᵗʰ ed. Oxford: Oxford University Press.

Mishler, E. (1975). Studies in dialogue and discourse. II**:** types of discourse initiated by and sustained through questioning. *Journal of Psycholinguistic Research* 4 (2): 98-121.

Mortensen, S. (2020). A question of control? Forms and functions of courtroom questioning in two different adversarial trial systems. *Scandinavian Studies in Language 11(1),* https://tidsskrift .dk/sss.

Najafi, P., Haghbin, F., Zafari, A., & Khakbaz, M. (2024). The Structure and Function of Questioning in Interrogation Discourse (The Case Study of Doroud City). *Research in Western Iranian Languages and Dialects*, *12*(1), 95-115 [In Persian].

Najafi, P., Haghbin, F., Zafari, A., & Khakbaz, M. (2024). The Structure and Function of Questioning in Interrogation Discourse (The Case Study of Doroud City). *Research in Western Iranian Languages and Dialects*, *12*(1), 95-115. doi: 10.22126/jlw.2023.9457.1720

O'Barr, W. M. (1982). Linguistic Evidence: Language, Power and Strategy in the Courtroom, New York: Academic Press.

R. Madrunio, M & B. Lintao, R. (2023). Power, control, and resistance in Philippine and American police interview discourse. *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique* p. 1-36 https://doi.org/10.1007/s11196-023-10045-8

Rahbar B, Mahmoodi-Bakhtiari B, Karimi Khanlooi G. The Relationship between Gender and Speech Interruption: A Sociolinguistic Study. LRR 2012; 3 (4) :135-147 [In Persian].

Rahbar B, Mahmoodi-Bakhtiari B, Karimi Khanlooi G. The Relationship between Gender and Speech Interruption: A Sociolinguistic Study. LRR 2012; 3 (4) :135-147 URL: http://lrr.modares.ac.ir/article-14-5431-fa.html

Rañosa-Madrunio, M. (2014). Power and control in Philippine courtroom discourse. *International Journal of Legal English* 2 (1): 4–30.

Shepard, E. W. (1993). Resistance in interviews: The contribution of police perceptions and behaviour. *Issues in Criminological & Legal Psychology, 18,* 5–12.

Wagner, A., and L. Cheng. (2016). Language, power and control in courtroom discourse. In *Exploring courtroom discourse: The language of power and control*. (Wagner, A., and L. Cheng Eds) (1–10). London and New York: Routledge.

Wardhaugh, R. (2006 [1998]). *An introduction to sociolinguistics (5ᵗʰ ed.).* Oxford: Blackwell.

Woodbury, H. (1984). The strategic use of questions in court. *Semiotica*, 48: 197– 228.

Zimmerman, D. H. & C. West (1975). Sex roles, interruptions and silences in conversation. In B. Thorne & N. Henley (Eds.). *Language and Sex: Difference and Dominance.* pp. 105–129. Rowley, Mass: Newbury House.