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INFLECTIVE PERSONALITY AND INFLECTIVE NARRATIVE IN COURT DISCOURSE

Abstract. The article examines the communicative modes of English court discourse. The author analyses the inflective subtype of the narrative communicative mode. The organization of the inflective narrative and the linguistic means that create it are singled out.

Keywords: court discourse, communicative mode, inflective narrative, inflective personality, linguistic means.

Introduction

Until recently, it was common to treat law as something that exists, but the language was considered to be as a form of expression of law, as something that is subject to law. However, the discursive turn has shifted the focus on the study of phenomena of the language through the discourse analysis, which is study of Language in its socio-cultural and interactive aspects [1, 55]. As a result, a new relationship has developed within the dichotomy language law: law is inextricably linked to words. Moreover, law cannot exist at all without linguistic expression. The set of presumptions that form the basis of a litigant's thinking, both legal and linguistic, determines the appearance of meaning in the text produced by courtroom speech. The involvement of participants in the process of creating law is one of the specific characteristics of judicial discourse. There may also be objections, since participants of all discourses are involved in the creation of one kind of discourse or another – political discourse, mass media discourse, theatrical discourse, pedagogical discourse, etc. However, in judicial discourse there is a hope for truth, an expectation of “just retribution” from the law, which is an essential *modus operandi* of human existence in principle. As a semiotic model, justice manifests its significance when a drama is “played

out over expected justice, in which retribution for the violation of the prohibition is recounted, hence any criminal case is a story about the struggle of evil against good and affirmation of ethical choice in favour of good” [2, 25]. Therefore, it is important for senders of speeches in court to link their roles and their speaking activities to a position of good, a position of affirmation of truth in the eyes of the jury, the audience, and witnesses. In that regard, we hypothesise that the key trial players create a specific communicative mode in order to achieve their communicative goal pursued. To confirm our hypothesis, let us put forward the following aim: investigation communicative modes in court discourse. With this aim in mind, we are going to focus on such objectives as: 1) to establish communicative modes in court discourse; 2) to describe the organisation of the communication modes in court discourse.

Materials and methods

Being aware of the fact that the court discourse covers a number of communicative modes, which cannot be analyzed within the same article, we reduced our research by one communicative mode – inflective communicative mode and the way of its organization.

Thus, the first stage involves a random selection of factual material. The second one – analysis of the

selected material in terms of key characters. The third stage requires structuring the findings received. Accordingly, to carry out our research, we selected and described the language material which was used in the two speeches (17,030 symbols including blanks) delivered by the prosecutor Mr. Eric Warner (Amadou Diallo Trial, 2000) and by the prosecutor Thomas F. Norman (Dan White Trial, 1979). The speeches are opening statements that were presented during the trials.

In the process of investigation, the following research methods were used: linguistic observation and analysis as well as cognitive method, pragmatic analysis method, critical discourse analysis method. We'd like to emphasise the method of discourse analysis. It investigates the language not merely as a way to create and convey meanings of words but to achieve a certain effect.

Results and discussion

The way of speaking in court discourse is determined by a strictly established ritual and the role of each participant of the trial, which cannot be changed. Therefore, each participant is recommended a different "style of speech behavior", according to O'Barr's terminology, prescribed by the ritual of court proceedings. In his essay "Linguistic Evidence: Language, Power, and Strategy in the Courtroom" (1982), O'Barr identifies such styles of speech behaviour in the courtroom as powerful speech and powerless speech. These styles of speech behaviour manifest themselves in narrative mode, mentative mode and fragmented mode [3].

Let us focus on the analysis of the inflective (from the verb to inflict that means "to cause to suffer") narrative. The inflective narrative is created by the communicative personality of the prosecutor. The tasks of the inflicting personality are exposing and accusing through the strategy of verdict making in the process of argumentation, as well as convincing the judge and the jury of the guilt of the defendant using persuasive tactics. The representative of the prosecution, as a person in a position of power, dem-

onstrates an appropriate speech behaviour (powerful speech) in the courtroom and is implemented in the mode of an inflective narrative (term proposed by us). In identifying this form of narrative, we relied in particular on the research by D. Polkinghorne [4]. He argues that the narrative acts as a fundamental scheme linking certain events into a whole, and that these events can take on different meanings and lead to different forms of narrative, which happens in judicial discourse, when the same events are interpreted differently by discursive personalities. Different interpretations are based on different ideas, and only "A plot is able to weave together a complex of events to make a single story" [4, 9]. A story presented in an inflective narrative fulfils a number of tasks, chief among which are proving the guilt of the defendant and persuading the court.

If analyzing it from the organizational point of view, first, we should stop at the definition of a key sign (V. Lukin's term) [5]. The term key sign is synonymous to the terms "fundamental pillar" (V. Odintsov), "key elements" (O. Puzyrev), "semantic milestones" (O. Sokolov), and "key elements" (O. Sokolov), to name but a few [5, 83]. Key signs are the main elements of discursive space organisation, because any discursive space is organised. R. G. Mshvidobadze pointed out this peculiarity, pointing out that even at the invisible level everything is arranged so to influence the addressee's mind [6]. We will illustrate this hypothesis on the example of the opening statements on the part of the accuser. In the first part of his speech, the accuser creates a semantic layer with the meaning "an ordinary person who does not pose a threat to society": "***not an imposing man, simple life, worked 10 to 12-hour days, sold videotapes and things like that, spoke with his roommate about their utility bill, unarmed, minding his own business and doing nothing wrong***" [7]. Then there is a sudden change in the accuser's speech behaviour, expressed by the words *dead and die*. A police officer killed an ordinary young man of 22 years old. In the opinion of the prosecutor, they

deliberately did it. The prosecutor does not speak about it indirectly. For example, instead of saying that they had the intention to kill him, he says that they had no such intention: “*had no intent to kill him*”. Then the author clarifies that we do not believe in this intention: “*we do not believe that these four defendants woke up that morning or came on duty that night with the intent to kill Amadou Diallo or anybody else. We do not say it. We do not believe it*” [7]. By moving the negative particle to the main part of the sentence, the idea of the impossibility of the police officers’ actions is emphasized.

Culmination in the sentence takes place when the accuser explicitly states that the police officers made a conscious decision to shoot a person: “*But when they got out of the car, we will prove when they got out of the car in front of Amadou Diallo’s home in the early morning of February 4 they made the conscious decision to shoot him. They made the conscious decision to shoot a man standing in a confined space of a vestibule that was not much bigger than an elevator. They made the conscious decision to shoot into the vestibule of an occupied apartment building where people lived in the early morning hours, when most of them would be home*” [7]. Repetition, firstly, enhances the impact on the recipient, and secondly, it lingers in his memory (anchor principle). All this occurs against the background of everyday speech: “*vestibule of an occupied apartment building where people lived, in the early morning hours, most of them, be home*” [7].

The third block of the discursive space is organised through the use of language tools that share the theme evidence: “*Richard Murphy pulled the trigger of his nine millimeter pistol four times. Kenneth Boss pulled the trigger of his nine millimeter pistol five times. Sean Carroll and Edward McMellon pulled the triggers of their nine millimeter pistols 16 times each. The shots were fired at very close range from in front of the vestibule. And let us be absolutely clear. Each shot required a separate pull of the trigger*” [7]. Further in the text are the results of such a conscious decision, which resulted in forty-four bullets that put holes in

him. Moreover, many of the shots were fired while he was lying on the ground: “*Forty-one bullets were fired by these four defendants. Nineteen bullets struck Amadou Diallo. A number struck him while he was falling down or actually on the ground*” [7].

The prosecutor is already absolutely clear about his position by saying: “*And let us be absolutely clear*” [7]. He qualifies their conduct as intentional, reckless, and unreasonable based on the evidences that have the great impact on the recipients, thus making an acquittal impossible: “*We ask you to find these defendants guilty of their intentional, depraved, reckless, unreasonable and unnecessary conduct that jeopardized the lives of Amadou Diallo’s neighbors and destroyed Amadou Diallo’s life*” [7].

We will present this in the form of a scheme in which the first block is organised to present the victim as an ordinary person; the second block contains a statement that the officers are aware of their actions; the third block contains evidence that would prevent the imposition of a verdict.

The opening statement of the prosecution in the Dan White Trial (1979) follows the same pattern of three blocks. First, the prosecutor describes the antecedent events, united by the “ordinary affairs” theme and the “lawfulness” theme, as each person applied for employment and dismissal, which is a commonplace matter and the decision to do so, was made voluntarily by the defendant based on personal motives: “*The defendant in this case, Mr. Daniel James White, had been the duly-elected Supervisor of District 8 of San Francisco, until for personal reasons of his own, he tendered his resignation in writing to the Mayor on or about November the 10th, 1978, which was approximately 17 days before this tragedy occurred*” [8].

As in the first case, the subsequent statement contrasts with the information provided: “*Mr. White called his legislative assistant, Miss Apcar, asked her if she would pick him up, which she did. Mr. White, before leaving his home, armed himself with a .38 Smith and Wesson revolver, which is commonly called a Chiefs Special. It’s a five-shot revolver with a two-inch*

barrel. *The gun was loaded when he took it, put it in a holster, strapped it in his belt*" [8]. In essence, this statement could be called a trigger statement, a shock statement. In the first case, the trigger statement was a claim of deliberate police action, in this case the claim that a perfectly law-abiding citizen, the emphasis was on that earlier, goes to an official meeting but takes a loaded revolver with him, which also becomes evidence of the defendant's deliberate action, although no argument has yet been made.

The third block already contains further evidence of the intentionality of D. White's actions, although the word "intention" itself is not explicitly mentioned: *"Instead of going around to the front door on Polk Street, or another main door on Van Ness Avenue, Mr. White remained outside the door at the basement level on the McAllister Street side for a few minutes, and then he entered the building through the window of an engineer's office. Now, this is not a regular way to enter the building"* [8]. Firstly, the defendant enters the building through a window, which, as the prosecutor rightly observes, is not the usual way of entering the premises. Obviously, the question of intent would be proved at the hearing of the case. However, the defendant's actions were not in dispute because he had been seen by the staff and when he entered the measure's office gunshots could be heard and no other visitors or staff were in the office at the time: *"Mr. White drew out his .38 special revolver and he fired two shots into the Mayor's body. After the Mayor fell to the floor, disabled, then he discharged two more. 38 special rounds into the Mayor's head, on the right side, about the area of the right ear, at very close range, which were not unlike coup de grace shots"*. [8]. Draw your attention to the last words of the prosecution about the control shot, which again shows the criminal intent of the defendant and not the spontaneity of his actions. In the same way, the defendant committed the second murder: "The two of them went into the office. The door was shut and Harvey Milk was heard to cry out or exclaim, "Oh, no," or words similar to that, which then was followed by a series

of shots. *Harvey Milk was shot three times in the body with that same .38 Smith and Wesson Chief Special revolver, five shot. He took three shots to the body and when he fell to the floor, he was shot twice in the back of the head"* [8]. In this block, the linguistic means are represented by two thematic groups – "hypocrisy" and "cold-bloodedness": *"The Mayor had some other appointments at 11:00 o'clock, which were otherwise scheduled. The mayor, close to 11:00 o'clock, notified Cyr Copertini that he would now see Mr. White"* (the mayor received the defendant at his request at an unscheduled time); *"Mr. Harvey Milk, and the defendant, were acquainted with each other; both had been on the Board of Supervisors. The defendant put his head into Harvey Milk's office, where Mr. Milk was at that time sitting with his volunteer legislative aide, and he inquired of Harvey Milk, "Say, Harvey, can I see you a moment: and the reply from Harvey Milk was, "Well, sure.""* [8] (the defendant and the second victim knew each other well, as they worked together and held the same positions, so the murdered person readily responded to his colleague's request). It is worth noting that in cases such as these, when serious charges are made, each statement takes on a certain pragmatic meaning: to emphasise the defendant's intentional actions and his reprehensible behaviour, which also serves as an aggravating circumstance. Let us present this in the form of a scheme: normal things, legality – loaded revolver – evidence.

Conclusions

Each participant in court realises a particular style of speech behaviour, prescribed by the ritual of court proceedings. These styles of speech behaviour manifest themselves in narrative mode, mentative mode and fragmented mode.

The narrative mode, created by the communicative personality of the prosecutor, is called inflective in our terminology. The inflective narrative is usually organised with the help of blocks. The first block represents the background to this case; the second one is culmination of the speech; the third one represents case evidence.

References:

1. Busygina N. P. “Diskursivnyj povorot” v psihologicheskikh issledovaniyah soznaniya. [The “discursive turn” in psychological research on consciousness]. In *Konsul'tativnaya psihologiya i psihoterapiya*. [Counselling psychology and psychotherapy]. – Vol. 18(1). 2010. – P. 55–82.
2. Alexandrov A. S. *Yazyk ugovnogo sudoproizvodstva*. [The language of criminal proceedings]. 2003. – 60 p.
3. O'Barr W. *Linguistic Evidence. Language, Power and Strategy in the Courtroom*. New York, London, Paris, San Diego, San Francisco, Sao Paulo, Sydney, Tokyo, Toronto: Academic Press, 1982. – 192 p.
4. Polkinghorne D. *Narrative Knowing and the Human Sciences* / D. Polkinghorne.– New York: State University New York Press, 1988. – 232 p.
5. Lukin V. A. *Lingvo-semioticheskie svojstva hudozhestvennogo teksta, ego komponenty i parametry tipologicheskogo opredeleniya*. [Linguistic and semiotic properties of a fiction text, its components and typological definition parameters]. 2003. – 413 p.
6. Mshvidobadze R. G. *Raspoznavanie social'nyh ustanovok cherez grammaticheskie parametry rechi*. [Recognition of social attitudes through grammatical parameters of speech]. 1984. – 167 p.
7. Amadou Diallo Trial. [Internet]. Available from: URL: <https://www.nytimes.com/2000/02/26/nyregion/diallo-verdict-overview-4-officers-diallo-shooting-are-acquitted-all-charges.html>
8. Dan White Trial. [Internet] Available from: URL: <https://www.famous-trials.com/danwhite>