

LANGUAGE IN COURTROOM DISCOURSE

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Abstract

Courtroom discourse, which is in the field of Forensic Linguistics, presents the analysis on legal language used in the courtroom settings (Coulthard & Johnson, 2007; Olsson, 2004; Wang, 2012). It mainly focuses on the legal language as object, process and instrument (Stygall, 1994); and the legal language in enabling and reporting contexts (Matthiessen, 2009). In the paper, I present an overview of some critical issues concerning with the studies of courtroom language. By taking a case study of a Chinese criminal trial, I exemplify some language aspects used in the courtroom to shed light on the nature of the courtroom discourse - the primary speaking roles of a judge in directing, ruling and instructing. Further, I explore the distribution of information in the judge's speech realized by the tone groups.

Keywords: Language, courtroom discourse, legal language, forensic linguistics.

1. INTRODUCTION

One of the main concerns in Forensic Linguistics is courtroom discourse. It presents the analysis on legal language used in the courtroom settings (Coulthard & Johnson, 2007; Olsson, 2004; Wang, 2012). It mainly focuses on the legal language as object, process and instrument (Stygall, 1994). As an object, legal language foregrounds its tenacity with structure and linguistics features. As a process, it takes up the analysis by examining the interaction in which legal language is used and explaining how legal language functions to create and maintain institutional power. As an instrument, it observes legal language as the means through which a social goal is accomplished.

Moreover, it highlights the legal language in enabling and reporting contexts (Matthiessen, 2009). In enabling contexts, legal language is concerned with texts instantiating registers as in laws and acts of parliament, constitutions, legally binding agreements and the like. In reporting contexts, legal language is concerned with texts instantiating registers as in police interrogations, statements in evidence, cross-examinations in trials, and so on.

In addition, the study of legal language used in a courtroom interaction deals with the ways how legal meanings are produced and interpreted during the trial (Stygall, 1994; Mooney, 2014). It is also about the ways in which the power relations in the court are realized and negotiated through the language use (Olsson, 2004). As an example, courtroom exchanges are observed to look at the the primary speaking roles of parties in the court such as judges, prosecutors, lawyers, etc.

In the paper, I present an overview of some critical issues concerning with the studies of courtroom language. In the discussion, I exemplify some language aspects used in the courtroom to shed light on the nature of the courtroom discourse. I focus on the primary speaking roles of a judge in directing, ruling and instructing. I also discuss the distribution of information in the judge's speech realized by the tone groups. I take a case study of a Chinese criminal trial for the analysis.

2. METHODS

The data is a recorded Chinese criminal trial at Chaoyang District People's Court, Beijing. The case is about dangerous driving crime. In the court, defendants D1 and D2 admitted to the crime. D1 got the sentence of five months' detention and a fine of 10,000 Yuan. And D2 was sentenced to four months' detention and a fine of 8,000 Yuan. For the analysis of melodic contours, I use a systemic phonological approach (Halliday & Greaves, 2008) to look at the tone groups in the judge's speech. The sound is analyzed acoustically in Praat (Boersma & Weenink, 2014). In the discussion, the excerpts are presented in English translation.

3. RESULTS OF THE STUDY

The study shows the primary speaking roles of a judge, i.e. directing, ruling and instructing. The main goals of the roles are imposing obligation, conferring power and being fair during the trial. In the data, these can be found in five main stages, i.e. court hearings, court investigation, court debate, defendant statement and court verdict. See the following interaction between Judge (J) and Defendant (D1) in Excerpt 1.

Excerpt 1:

- J: The criminal court of the People's Court of Chaoyang District, Beijing City, now opens.
Defendant – are asked to come to the court.
Stand properly.
The court first of all verifies the defendant's identity.
Defendant – what's your date of birth?
- D1: 16 August 1994 [NOT CLEAR]
- J: Make your voice a little louder.
- D1: 16 August 1994
- J: Is it consistent with the information recorded in the indictment?
- D1: It's consistent.
- J: Have you ever received legal sanction?
- D1: No
- J: What is the alleged offense?
- D1: Dangerous driving
- J: When were you detained?
- D1: April 12
- J: 2015
- D1: April 12, 2015
- J: When were you detained?
- D1: [NOT CLEAR]
- J: When were you detained?
- D1: e... is about three in the afternoon.
- J: April 12, 2015 [OVERLAP]
- D1: April 12, 2015, at about 3 pm

In the stage of court hearings, the judge directed the court. At the beginning, the judge asked the identities of the defendants. It is significant to clarify the consistency regarding the information about the defendants in the indictment. Then, the judge asked about the alleged offense. The judge also has the speaking role of ruling the court process as in Excerpt 2. In the example, the judge explained the rights of defendant and lawyer. Explaining the rights is an attempt to be fair during the trial.

Excerpt 2:

J: In the court process, the defendant, the lawyer, also has the rights to request new witnesses to court, collect new evidence, expert evaluation or inquest, notice to appear in the court with expertise in providing advice, apply for exclusion of illegal evidence.

The defendant, in addition to your lawyer for defending you, you still have the rights to self-defense, as well as the rights to do a final statement after the court debate.

Defendant, Lawyer, do you hear clearly?

In the stage of court investigation, the judge instructed the prosecutor to read the indictment. In the stage of defendant statement, the judge instructed the defendant to give the final statement in the court. It is a way to

impose the obligation and confer the power. It is also depicted when the judge directs the court. Excerpt 3 (from the stage of court investigation) and 4 (from the stage of defendant statement) exemplify the speaking role of the judge to instruct in the court.

Excerpt 3:

J : The following is for court investigation.
 First of all. Prosecutor, read the indictment.
 P1 : ...
 J : Defendant -, do you hear it?
 D1 : I listen carefully.

Excerpt 4:

J : Defendant - stand up and give your final statement. It is your last opportunity to be heard in the court.

Furthermore, through analyzing the melodic contours, it is found that the judge used marked tonality at one point and used unmarked tonality at another point. Tonality deals with the chunking of speech into tone groups (Halliday & Greaves, 2008). It is in relation to the information distributions.

In the judge’s speech, the tone group corresponds to a clause in unmarked tonality. In marked tonality, it corresponds to less than one clause. One tone group, as Halliday and Greaves (2008) point out, “functions as the realization of one information unit” (p. 41). See Figure 1 as an example of marked tonality in Judge’s speech.

Běijīng shì zhāoyáng qū rénmin fǎyuàn xíngshì shěnpàn tíng xiànzài kāitíng. (P-J-1)

Beijing City Chaoyang District People's court criminal trial court now open

“The criminal court of the People's Court of Chaoyang District, Beijing City, now opens”

//běijīng shì//zhāoyáng qū rénmin fǎyuàn//xíngshì shěnpàn tíng//xiànzài kāitíng//

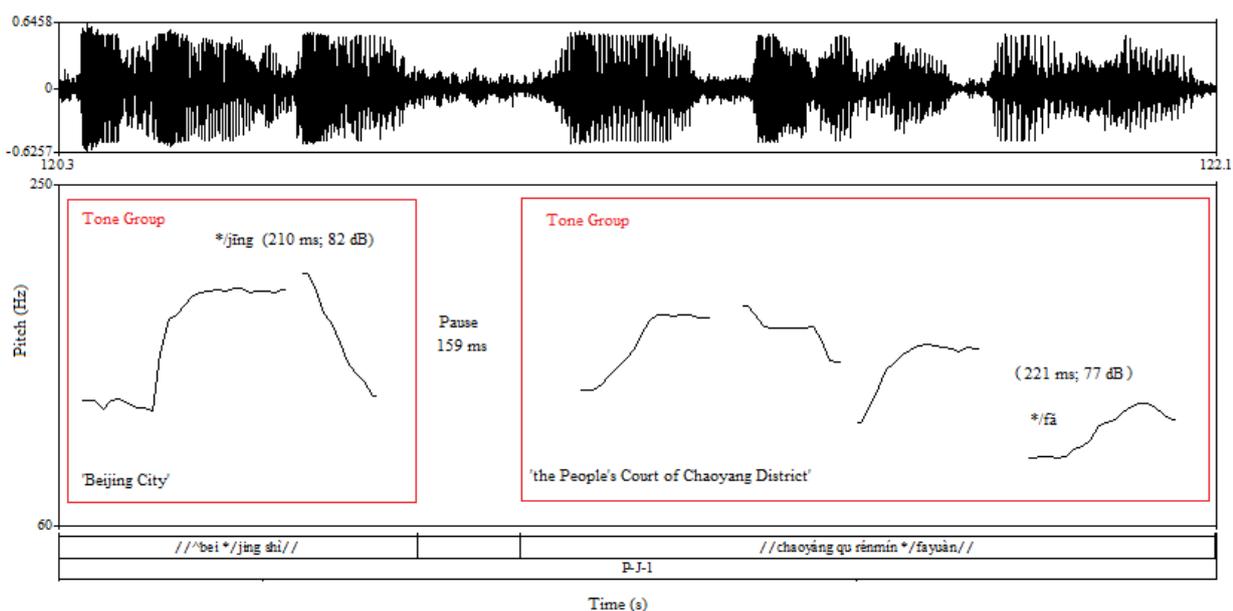


Fig 1: Tonality (marked) in Judge’s speech.

The choice of marked and unmarked tonality can be seen as the judge’s way in distributing information units. As in a clause *běijīng shì zhāoyáng qū rénmin fǎyuàn xíngshì shēnpàn tíng xiànzài kāitíng* ‘The criminal court of the People’s Court of Chaoyang District, Beijing City, now opens’, the judge has chosen to distribute his information with marked choice. The judge splits the clause into some information units, i.e. //běijīng shì//zhāoyáng qū rénmin fǎyuàn//xíngshì shēnpàn tíng//xiànzài kāitíng//. As the result, small chunk becomes Information Unit (IU). It is illustrated in Figure 2.

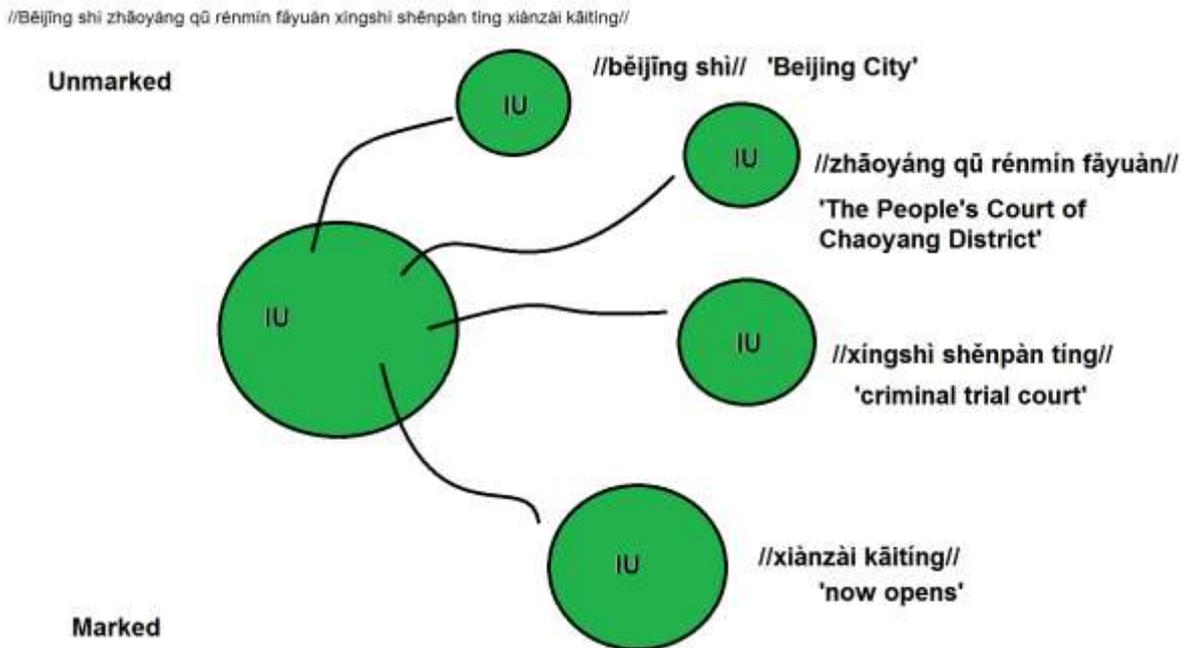


Fig 2: Unmarked – Marked Information Unit (IU).

As described in Figure 3, the judge has marked Information Distribution (ID) mostly in stages 2 and 5, i.e. court investigation and court verdict. Meanwhile, in stages 1, 3, and 4 (court hearings, court debate, and defendant statement respectively), the judge’s marked ID is not dominant.

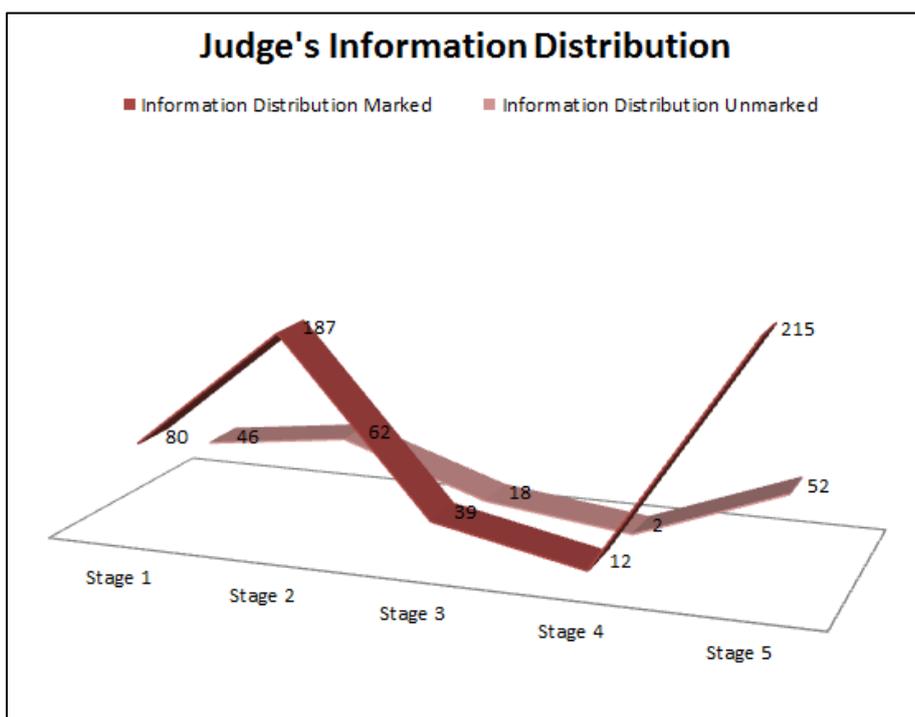


Fig 3: Judge’s Information Distribution (ID).

4. CONCLUSION

The study has provided the nature of the courtroom discourse especially the practical realities in courtroom exchanges, i.e. the speaking roles and information distribution in the judge's speech. From the analysis in the case study of a Chinese criminal trial, it is shown that the judge has the primary speaking roles of directing, ruling and instructing. These roles aim at imposing obligation, conferring power and being fair during the trial which has five main stages, i.e. court hearings, court investigation, court debate, defendant statement and court verdict. Further, for distributing information units in the speech, the judge used marked and unmarked choice. The judge used marked information distribution mostly in court investigation and court verdict. However, it is not dominant in court hearings, court debate and defendant statement..

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