

## Lawyer evaluation in the Chinese courtroom: a social-semiotic perspective

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Awarding Institution: Guangdong University of Foreign Studies  
Date of Award: December 28, 2006

KEYWORDS: APPRAISAL THEORY, LAWYER EVALUATION, SOCIO-SEMIOTIC PERSPECTIVE,  
COURTROOM DISCOURSE.

Recently there has been much discussion about how lawyers behave linguistically in court in order to fulfill their expected roles within the current trial system in China (e.g. Zhang, Jiang & Tian 2001). To address this issue, this thesis makes a linguistic endeavor into lawyer evaluation – that is, lawyers' expression of their evaluative attitudes towards a case. The study takes as its research objective the construction of presentational speech patterns of lawyer evaluation in the Chinese courtroom.

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This thesis approaches lawyer evaluation from the socio-semiotic perspective of Systemic Functional Linguistics (Halliday 1978; Halliday & Matthiessen 2004), particularly its viewpoints on interpersonal meanings. Methodologically, it applies a qualitative, discourse analytical approach to investigate authentic data from corpora composed of trial transcripts and lawyers' written statements for defense in court debate. Theoretically, this study constructs a framework of lawyer evaluation in rational debating in four steps. Firstly, in accordance with Appraisal Theory on speaker attitude (Martin & White 2005) and the characteristics of the trial talk, three constituents of lawyer evaluation are classified: Affect, Judgement and Appreciation (Martin & White 2005; Zhang 2007). Then, in line with the Hallidayan view of the relationship between context and language use in text (Halliday & Matthiessen 2004), the contextual features of the courtroom interaction are semiotically described, and their constraints on lawyer evaluation are explored. Like lawyer talk in courts elsewhere, lawyer evaluation in China is situated in, and shaped by, the competitive and confrontational situational context (see also Maley 1994). However, the analysis of the contextual constraints from the context of legal culture in the Chinese courtroom, mainly the Habermasian view of law (Habermas 1996), indicates that the patterning of lawyer evaluation in competition and confrontation tends to be a discourse of solidarity (see also Duszak 2002), and displays the characteristics of 'rationality' (Zhang, Jiang & Tian 2001:23). Next, the features of the patterning of lawyer evaluation in rational debating are elucidated and the discursive means involved are scrutinized. Lastly, the function of this patterning is interpreted as a linguistic process of negotiating justice in the court.

In the theoretical construction above, Habermasian intersubjectivity in legal communication (Habermas 1986; Habermas 1996) plays a key role because it has provided 'a link between legal language and the ordinary medium of communicative action' (Phillips 2003:140). To instantiate his view of rationality in legal fields, Habermas proposes, among various things, 'idealizing presuppositions' (Habermas 1996:230), which, applicable both to the practice of argumentation and to its outcome, guide this exploration.

The presentation of lawyer evaluation in rational debating encompasses three features, namely the construction of the equal role relationship, the construction of the multi-voiced environment and the establishment of US vs. THEM. These features are discursively constructed and realized through lawyers' evaluation of various topics in the trial talk. The first feature is fulfilled by evaluating the common ground and emphasizing the lifeworld. Lifeworld refers to the background (such as life experience) against which legal professionals discuss with each other (Habermas 1996), and is taken here simply to refer to the judicial knowledge which the legal professionals share (Phillips, 2003:141). The second feature is achieved by dialogical engagement via projection or

conjunctive links and dialogical uses of 'we think'. The third is accomplished by either positive or negative evaluations of the opponent's viewpoints, and/or graded evaluations of various issues in the trial.

The study continues with a detailed analysis of the data, a sample of which appears below.

案例：刑一代-024

No. of trial case: X-D-024

被代：在目前党内外视反腐倡廉为‘生死抉择’之机，关注及呼吁加大反腐倡廉力度，运用法律手段有效扼（遏）制国家机关工作人员有法不依、执法不严、滥用职权、玩忽职守问题，是辩护人与公诉人的

DL: It is the consensus of the defense and the prosecution that at a time when anti-corruption is regarded as vital to both the Party and the public, close attention should be given and increased efforts called for, legal means must be used so as to effectively curb the government officials' disregard of the law, lax enforcement of the law, abuse of power and dereliction of duties.

As the legal agent of the individual in court, the defense is not in a position to express his stance on anti-corruption. In this episode, however, he unequivocally displays his affirmative Appreciation ('close attention should...of duties'), which is presumably the prosecutor's stance, and tries to highlight his consent by encoding it lexically in 'the consensus' and grammatically in the relational process 'it is...' In so doing, he discursively establishes the common ground with his opponent. Subsequently, he makes himself an interactant equal with the prosecutor in discourse roles in trial communication, which paves way for their negotiation on legal cases.

Detailed data analysis lends support to the efficiency and validity of the theoretical framework, and provides a footnote to lawyers' linguistic behavior under the current trial system in China. The significance of this research lies in its linguistic model of lawyer evaluation in rational debating. It demonstrates that this model, together with the identification of a variety of discursive features, may provide an effective means by which to measure the extent to which the speech of lawyers is consistent with their role as required by the current Chinese trial system. This study sheds light on institutional discourse analysis and evaluation studies more generally, as well as courtroom discourse analysis in particular. It also proposes some suggestions on law-student education and lawyer training.

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