Guest editorial

Legal discourse: An introduction

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The term *legal discourse* brings two terms to mind: *language* and *discourse*. Scholars have insightful ideas of language and discourse, but few discuss their differences.

To me, *language*, human language to be exact, is an actual product in existence created and recorded by our forefathers. Whatever the meaning it carries is the meaning from the society in which the language is recorded. Therefore, the meaning that language carries is the meaning of the language ‘in vacuum’, and is the ‘common-core meaning’ (Wang Zhenhua, 2008). In this sense, we may say that language is an actual product in existence waiting for us to use. When language is used, both orally or in writing, a lot of things affect the ‘common-core meaning’, such as who uses it for whom, how it is used and, for what purposes it is used. Therefore, the context of culture and the context of situation are involved in the use of language. In this case, the language in use starts to bear meanings beyond the ‘common-core meaning’. This is *discourse*, in which the experience is presented, the message is organized, and the relations are built. These activities in discourse in turn add to the ‘common-core meaning’ of language. As such, the linguistic meanings of language are updated and iterated.

Language is used in any field human beings create. The result is that we have classroom discourse, military discourse, medical discourse, religious discourse, and of course, legal discourse.

Legal discourse, simply speaking, refers to the language used in the legal field, i.e., the law. The ‘common-core meaning’ of language is enriched from

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the legal sense, such as from the legislative aspect, the judiciary aspect, and the aspect of law enforcement. The meaning in legal discourse is characterized with justice and fairness. This is because the chief function of the law is to regulate the behavior of human beings and the order of the society. In addition, the ideational meaning of the law is added to the ‘common-core meaning’ of language. The meaning of legal discourse is also related to the law makers, the people who enforce the law, the people who decipher the law, and the people who amend the law. Since these activities are undertaken by people, their language proficiency, professional level, values, beliefs, stance, viewpoint, intention, and so forth are reflected in the legal discourse. These dimensions bring interpersonal meaning to the ‘common-core meaning’ of language used in the legal field.

Legal discourse, in Gavins’ (2007) term, can be taken as a ‘text world’. In such a world, ‘not just how a particular text is constructed but how the context surrounding that text influences its production and reception’ (Gavins, 2007: 8). Language has various levels of abstraction: graphology/phonology, lexis, grammar, discourse semantics, register, genre. In this way, language functions to convey information, to express feelings, and to organize information and feelings in a logical way. It can be oral, written, or any other modes such as image, sound, and setting.

Many aspects of legal discourse have been studied. According to Routledge Handbook of Forensic Linguistics (Coulthard and Johnson 2010), the major headings, summed by Michael Walsh (2011) in his talk at Shanghai Jiao Tong University, are as follows:

§1 The language of law and the legal process

- Legal language including legal talk (police interviews and trial discourse), legal writing (specificity, complexity, attitude and emphasis), legal translation
- Participants in police investigations, interviews and interrogation including citizens’ emergency calls, Miranda rights, sexual offences, police and lawyer interviews
- Courtroom genres including the historical courtroom. Trial narratives, prosecution and defence closing speeches, leniency pleas
- Lay participants in the judicial process including instructions to jurors, rape victims, vulnerable witnesses, false confessors

§2 The linguist as expert in legal processes

- Expert and process including trademark linguistics, consumer product warnings, forensic phoneticians and forensic linguists
• Multilingualism in legal contexts including nationality claims, non-native speakers in detention; interpreting inside and outside the courtroom
• Authorship and opinion including forensic stylistics, text messaging forensics, plagiarism
§3 New debates and directions including
• Multimodality and forensic linguistics
• Terrorism and forensic linguistics
• Cross-cultural communication

The articles for this special issue are selected from an international conference on appliable linguistics and legal discourse, which was held at Martin Centre for Appliable Linguistics, Shanghai Jiao Tong University, 14–18 December, 2016. There are 12 topics for conference. They are linguistic theory and its appliability, appliable studies of the systemic functional linguistics, systemic functional linguistics and corpus, courtroom discourse, judge’s discourse, prosecutor’s discourse, lawyer’s discourse, discourse of police interrogation, forensic phonetics, judicial documents, legislative texts, and legal translation.

Nine articles are selected for this special issue. Four are concerned with the speech involved in legal settings, with the aim to better serve the legal practice. J. R. Martin’s article ‘Rites of passion: Remorse, apology and forgiveness in Youth Justice Conferencing’, targeting at the Youth Justice Conferencing in New South Wales, Australia, investigates how the feelings of the young offenders are presented through attitudinal lexis in different stages of the conferencing, how the remorseful feelings are exchanged with the officers and what identities of the young offenders are constructed through their language under the integrated framework of systemic functional linguistics and Maton’s specialization codes. Zhang Ranran’s article ‘From speech role to social role: Judge’s negotiating and controlling in criminal trial in China’ explores the judges’ social roles in Chinese criminal trials based on their assigned speech roles in their interaction with the other parties in the courtroom. It is found out that the Chinese judge plays three kinds of social roles (courtroom texturing, discourse controlling and knowledge building) in the courtroom.

The other two papers studying the speech in legal settings pay special attention to credibility and trustfulness. Chris Heffer’s article ‘The TRUST Untruthfulness Framework in forensic contexts’ introduces the TRUST (Trust-Related Untruthfulness in Strategic Text) framework to evaluate unethical communication in forensic contexts. In this article, discursive trustfulness, consisting in sincerity and responsibility, is analyzed with TESSErT method by reference to practical legal cases, in which ethical gravity
is a major element for assessment. Ray Bull’s article ‘Credible accounts: What they are and how to obtain them’ explores the importance of content cues to credibility and introduces the PEACE (Planning and Preparation, Engage and Explain, Account, Closure, Evaluation) model, which has been widely applied in the worldwide legal settings for effective assessment of credible accounts.

Three articles involve language analysis in written legal texts. Michele Mannoni and Deborah Cao’s article ‘On the meaning of feifa quanyi in Chinese legal language: A semiotic and corpus analysis’ studies the term in Chinese legal language feifa quanyi (illegal rights and interests) with the assistance of the corpus-based textual analysis of Chinese legal texts, which ascertains the meaning and usage (e.g. frequency, collocations) of feifa quanyi in Chinese legal context. Timothy J. Webster’s article ‘The evolving language of environmental protection in bilateral investment treaties, free trade agreements, and trade promotion agreement’ explores the language used in treaties and agreements, and finds an increased sensitivity to environmental concerns. It is further pointed out that this positive trend can survive from business and economic limitations through enforcing environmental standards in WTO rules. Sammy Gakero Gachigu’a’s article ‘Conceptual metaphor of the nation-state in newly-independent Africa: Kenyatta’s regime state-as-a-family metaphor in Kenyan parliamentary discourse’ investigates the inter-textual use of the state-as-a-family conceptual metaphor in the official debate of the Preservation of Public Security bill in Kenya and foregrounds the function of language in addressing the state’s role in preserving public security in Kenya.

Two articles are about law and translation. Shi Junjun’s article ‘An exploration of the legal translator’s subjectivity: Analysis of explicitation and implicitation of connectives in the English-Chinese translation of a WTO Agreement’ investigates the legal translator’s subjectivity through analyzing the English-Chinese translation of a WTO agreement within a cognitive paradigm. The translation of connectives with both explicitation and implicitation techniques is discussed to demonstrate the WTO translators’ subjectivity, and the result addresses the importance to combine the translator’s legal knowledge and language faithfulness principle in legal texts translation. Wu Qijng’s article ‘Local recontextualization in Chinese-English court decisions translation: A corpus-based study of the recontextualization of nominal groups with de’ explores the recontextualization of nominal groups with de from Chinese court decisions in the translation process based on the analysis of their multivariate structures and the meaning of functional elements providing their (re)contextualization. The author reveals that nominal groups tend to be contextualized by the Qualifier and the Deictic in Chinese court decisions, and re-contextualized by the Deictic and the Thing in their
English translations. In most of the nominal groups, the functional elements with contextualizing roles focus on both experiential meaning and interpersonal meaning while those with recontextualizing roles contribute more to the experiential meaning. The reasons that account for these differences between contextualization and recontextualization of nominal groups caused by translation are provided from linguistic and legal cultural perspectives.

About the author
Professor Wang Zhenhua has published more than 80 high-level academic articles, 19 monographs, and one translated work; compiled nine collections of academic papers; presided over 20 research projects at different levels (including two national social science fund projects); and gained four awards on teaching, textbooks research. With the collaboration of Professor Martin eight volumes of Martin's collected works were published, which stands out as a landmark.

References

