Language in the courtroom: a comparative study of American and Romanian criminal trials

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The goal of this thesis was to analyse the speech event known as witness examination, occurring in the courtroom, in two differing systems of justice, the adversarial (American) and the inquisitorial (Romanian) ones.

Research into this kind of institutional interaction, that is witness examinations, has been carried out extensively in different parts of the world, but is practically non-existent in Romania. This is due to the fact that transcripts of...
oral proceedings do not exist in Romanian courthouses, as the prospect of audio-recording trials is regarded with suspicion by the legal participants, and in addition to this, the whole development of the trial, and specifically that of witness examination, is very chaotic.

The study starts off by presenting an ethnography of the courtroom, emphasising the difference in legal procedures between Anglo-American and Continental European jurisdictions, it then focuses on the differences between the two criminal trials and finally presents the actual setting, the courtroom, with its rule- and power-governed behaviour.

In my attempt to do that, I have relied on Dell Hymes’s (1972) SPEAKING grid and on the notions of speech event and speech situation as well as on my own ethnographic observations. Another important step in this research is to establish the physical setting in which the witness examination takes place, i.e. the courtroom. I have provided visual representations of each of the courtrooms, discussing the symbolism of the entrances and of the seating arrangements of all the participants in terms of the power they exert, as well as the symbolism of the court attire.

The analysis was carried out on two corpora, the American one (100 pages of transcripts of three important American criminal trials: the O.J. Simpson trial, the Oklahoma City bombing trial and the Zacarias Moussaoui trial), which can be accessed online, and the Romanian one (100 pages of transcripts of miscellaneous criminal trials that took place at the Timișoara Courthouse), which was collected by myself by audio-recording the trials and then transcribing them, and by participant observation.

For the actual analysis of the question-answer adjacency pairs, I have analysed the questions and answers in my corpora (lawyer–witness exchanges for the American corpus and judge–witness exchanges for the Romanian corpus, as the judge is the only interrogator in the Romanian trial) from a syntactic and a functional perspective, trying to establish the types of structures that could be found and the functions associated with them.

I have also provided a closer look at the sequence patterns found by revealing some features characteristic of the participants in the trial, namely lawyers and witnesses (in the American trial) and judges and witnesses (in the Romanian trial), in terms of questions and answers. These features refer to the questioning techniques used by lawyers/judge (in American/Romanian courtrooms) and to the answering techniques used by witnesses in both courtrooms.

The research has shown that American lawyers use the ‘question cascade’ technique (a rapid-fire approach, leaving almost no time to answer, which has a ‘bombing’ and dizzying effect on the witness, repeating the same verb structures and changing only one word in the sentence), as well as the multi-unit
questioning, used as a strategy to first ask a general question and then specific questions ‘that circumscribe the range of possible answers to the prior query, often in fact suggesting a candidate answer to it’ (Linell, Hofvendahl and Lindholm 2003:564). American witnesses, in turn, fight back with their own resources in the form of counter-questioning strategies (i.e. questions challenging the lawyer), with dispreferred answers (requests for clarification) or with non-responsive answers (answers violating the Gricean maxims).

The analysis of the Romanian corpus has revealed that Romanian judges do not use the ‘question cascade’ technique, as the judge does not intend to undermine the witness’s credibility, using instead the multi-unit questioning technique, with the purpose of making the question more explicit to the witness. They also reformulate the witness’s oral story and transform it into a written statement that is typed by the court clerk and then signed by the witness. They, furthermore, tend to repeat the witness’s answer, probably trying to memorise it for the future reformulation of the account.

Just like their American counterparts, Romanian witnesses also make use of some counter-questioning strategies (i.e. questions) through which they reprimand the judge, the lawyers, or the system of justice, or resort to dispreferred and non-responsive answers (violating the Gricean maxims).

I have also discussed the triadic exchange, lawyer–judge–witness, specific to the Romanian system of justice. Unlike their American counterparts, Romanian lawyers are not allowed to ask questions to the witnesses directly but only through the intermediary of the judge. Therefore, they use embedded questions introduced by the conjunction ‘dacă’ (‘whether’) to ask the judge to request information/confirmation from the witness. At the same time, they attempt to discredit the witness, by making reference to the witness’s previous testimony and trying to find inconsistencies in it.

My thesis aims to demonstrate that comparative studies of this kind are very important, as they provide a lot of interesting insights into peoples’ cultures, especially in the field of institutional interaction and intercultural communication. Seeing that Romania is now part of the European Union and that criminality is increasing more and more, such comparative studies might prove to be an important aid for the forensic field as well.

Bibliography


