



Examining Discoursal Patterns Among Judges and Defendants in Criminal Courts

Farangis Abbaszadeh¹, Bahman Gorjian²

Received: 03/04/2021

Accepted: 11/07/2021

1. INTRODUCTION

The use of language and its elements is one of the appropriate tools in describing and detecting crime in the courts (Aghagolzadeh, 2012, 2013). The present study aimed at discovering the discoursal patterns (i.e., descriptive, prescriptive and statistical) and their sub-categories (i.e., standard norm of speech, changing in the standard norm, and deviation from the standard norms of language proposed by McMenamin (2002). The purpose of this study is to identify the types of these deviations in the criminal courts. In legal communication, the judges use fewer deviations because they not only felt that they belonged to a higher social class (Coulthard, Johnson & Wright, 2017) but they also displayed their administrative power coming from their legal status (Fairclough, 1992). McMenamin notes if the accused persons belonged to the lower class of society, they could not use the standard norms of language and was drawn to deviations in the descriptive, prescriptive and statistical norms of language. In this type of discourse, the personality and identity of the judges' speech may be affected by social and political power of the courts. Thus, court language as a specific register may affect the judges' conversations that can be alien to the criminal persons and accused ones. Therefore, the research question addresses the significant difference between the judges and defendants following the McMenamin's framework in using standard speech or changing and deviations from the norms of discourse in the criminal courts.

2. MATERIALS AND METHODS

The criminal files were 27 cases out of 54 ones that were randomly selected in the archive of Iranian TV broadcast 20:30 that reviews the criminal court cases of theft, homicide, robbery, etc. McMenamin's (2002) framework has been evaluated in three categories of prescriptive, descriptive and statistical norms. The data were selected by random sampling method from short video files and then transcribed into written formats. All sentences of the judge and accused were counted and classified in terms of the frequency of standard speeches, changes and deviations from prescriptive, descriptive, and statistical norms. At the end, it was figured out that deviations from these norms play a decisive role in evaluating the performance of the judge and accused. Data were analyzed through descriptive linguistics including

¹ PhD in General Linguistics, Department of Linguistics, Abadan Branch, Islamic Azad University, Iran, Abadan; farangisabbaszadeh@gmail.com

² Associate Professor of ELT, Department of linguistics, Abadan Branch, Islamic Azad University, Iran, Abadan (corresponding author); b.gorjian@iauabadan.ac.ir

frequency, mean, and percentage. Finally, the categories of data were classified in the table following McMenamin's (2002) framework of prescriptive, descriptive and statistical patterns. Each pattern had three sub-categories of standard (acceptable utterance), changing in the norm (to some extent it is acceptable), and deviations in the norm (unacceptable utterance).

3. RESULTS AND DISCUSSION

Findings indicated that the discourses of the two participants are significantly different in terms of change in the standard language. The defendants tried to determine his position and social status and warn the court agents and have refused to deviate from the standard language. People with high social status use language that is more standard. Individuals, such as judges, are better aware of law than defendants, and have shown less verbal variations or deviations from the norms in the courts, or at least tried to show no verbal variation or deviation. They have used their experience in legal discourse and their words are more influential than those of the accused are. The results also showed that the judges and defendants used power relations in their discourses to show their identity.

Because their discourse took place in the context of the courts, the judges had more control over the courts than the accused persons did; the judges tended to use standard language and maintained their social class by using or using official language. It was found that judges use more official language because it gave them special control and position placing them in a higher class and position than the other members of the courts including prosecutors, investigators, lawyers, agents, etc. Therefore, the judges' speech mostly included specific and legal terms as specific legal sentences and clichés. This can be an example of the standard and formal style of speech avoiding local or social dialects by the judge. Their words were very clear, the accusation was fully understood, and the accused persons had no choice but to give straight answers. That is why in three norms of discourse the accused persons had changed and deviated from the norms more than the judges' speech.

4. CONCLUSION

Results of the study showed that the use of McMenamin's discourse patterns could be effective in analyzing the judges and defendants' conversations from the perspective of legal linguistics. There was a significant difference between the judges' and defendants' changes in the standard speech while there was not any significant difference between their use of standard norms and deviations from these norms. This could be due to the judges' power and social status they need not to damage their social role. Theoretical and practical implications of the study suggest that the law practitioners may use forensic linguistics discursal patterns in their training courses. They also need to learn how the differences in the standard norms and the changes or deviations from the standard speech may affect the processes of cases. However, the number of changes and deviations from the standard speech may be studied in the other contexts like revolutionary or civil courts in the future. It is also recommended further research on the relationships between speech ambiguity and the judges' and defendants' prescriptive, descriptive, and statistical patterns of speech. The other theme for further study may be the role of linguistic knowledge and its relation to social class as an important component in the legal conversations that regulates the use of standard norms of speech, changes and deviations from these norms.

Keywords: Criminal Courts; Discourse, Forensic Linguistics; Law