



RESEARCH PAPER

A Critical Discourse Analysis of Language used in Judicial Family Courts

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ABSTRACT

This study examines discourse analysis and illustrates the method by examining various aspects of language used in Family Courts, particularly in the high court. It is hypothesized that the spouses are the most powerful and influential person in the courtroom. The judge, it is reasonable to assume, wields the most power in a courtroom. Aims to see if the use of agency roles during cross-examination gives lay witnesses substantively just treatment in terms of narrative and stance freedom. The research focuses on the Judicial Family Court case and includes interviews with judges, counsel, and the Director of Public Prosecutions. There is a conclusive study that supports the detection of dishonest indicators in the reported person's statements during the courtroom discourse and investigation process.

Keywords: Language, Family-Court, Divorce

Introduction

The study focuses on written judicial transcripts of judges and witnesses. There is a distinguishing quality to the statements. They can set themselves apart by using specific linguistic techniques in legal discourse. Pakistan's judicial system is under a lot of strain, Porter & Yuille, (1994). This research makes recommendations for verifying the truthfulness of suspects' or witnesses' narratives. The study examines these linguistic characteristics and provides investigators and lawyers with a useful tool for determining the validity of their clients' statements.

Literature Review

Robson (1996) also proposed a method for distinguishing between deceptive and truthful discourse. Investigating Discourse Analysis was the title of his approach. He carefully examined the suspects' various narratives and discovered that the liars prefer to deliver messages and information directly, as well as exaggerate in their statements. Suspects employ these tactics to persuade their investigating officers. Robson also mentioned that certain aspects of the suspects' stories need to be clarified and identified in order to achieve credible results. For clarification, the most powerful form of face-to-face interaction is an interview, Robson (1996).

Coulthard & Johnson (2010), Written narratives are more complicated than oral narratives. It is a more deliberate and conscious form of discourse, lacking the question-and-answer process and face-to-face interaction found in oral discourse. Written discourse is static, whereas oral discourse is dynamic and changes with interaction and context.

Written discourse, according to Vygotsky (2012), has distinct linguistic features and functions. Both in structure and functionality, it differs from the oral narrative. According to

the interaction model, the oral narrative is dynamic and constantly changes. The written narrative, on the other hand, is static and requires a clear structure and specific sequences in order for the reader to understand it.

Written narratives, according to Stubbs (1986), are more planned and less spontaneous than oral narratives. The grammatical and lexical structure and function of written and oral languages are also distinct.

Discourse analysis is concerned with people's use of language and its relationship to society and culture. Tistcher (2000), defines discourse analysis as "a broad term with various definitions that encompasses the entire pallet of meanings". Many methodological concerns are addressed in discourse analysis. It is concerned not only with the language in use, but also with its position in society and its relation to culture. Discourse Analysis encodes the personal and social meanings of a text or conversation and uses bottom-up or top-down approaches to deal with its constituents at the micro and macro levels. It is critical to understand the context of spoken or written language, as described in the book *Discourse Analysis* by John Halliday (1978).

Material and Methods

Research Design

Researcher used a qualitative approach to evaluate and analyse legal discourse formats used in courtroom proceedings to reveal how language is used to produce and defy power, authority, inequality, imbalance, injustice, and control.

Critical Discourse Analysis as a Linguistic Research Tool

Critical discourse analysis examines how text and language in social and political contexts enact, reproduce, and oppose social power abuse, domination, and inequality. With such contradictory research, critical discourse analysts take exact positions and seek to understand, expose, and ultimately resist social inequality.

Power can be exercised through discourse, particularly in the media-politics relationship. Powerful politicians have more access to discourse control, which is a matter of access. While many powerful politicians are mentioned as sources and are interviewed, others are not. Journalists have the option and freedom to choose a topic event.

Norman Fairclough's CDA Framework

In his book "Language and Power," Norman Fairclough presents an essential critical linguistics theory of discourse analysis. This study employed a three-dimensional model of Critical Discourse Analysis. Fairclough's CDA model consists of three interconnected analysis processes linked to three interconnected discourse dimensions.

These three dimensions are as follows:

1. The subject of investigation (including verbal, visual or verbal and visual texts).
2. The human subjects' processes for producing and receiving the object (writing/speaking/designing and reading/listening/viewing).
3. The socio-historical contexts in which these processes take

Each of these dimensions, according to Fairclough, necessitates a different type of analysis.

1. Textual examination (description).
2. Analysis processing (interpretation).

3. Social evaluation (explanation).

Discourse, according to Fairclough (1995), is "the language used in representing a given social practice from a specific point of view". It has three types of formative effects: the formation of social self or identity, interpersonal relationships, and wisdom and faith systems.

It focuses on how "text and talk" uses social and political dominance in discourse, and how this 3D model emphasizes the function of the production and reception of a "discourse fragment" in a specific setting.

Critical discourse analysis has three dimensions, according to Fairclough (1989). The first dimension defines the discourse portion, which is defined as a "Text" that can be any type of analysis entity, such as verbal, visual, or textual.

The first dimension of discourse is the creation and reception of a "text" in a specific "context". The third dimension is "power after discourse" or "social practices" that operate after the entire process and administer the discourse links.

Fairclough (1992), Textual analysis uses a multifunctional approach to language. It looks at what's inside the texts and what's missing or left out, as well as how certain features, rather than others, convey meaning. Both form "texture" and meaning should be considered in textual analysis. Different meanings require different organizational forms, and vice versa, as well as a variety of genres within the same article.

Textual analysis can be done in two ways, according to Fairclough. The first is linguistic analysis, followed by intertextual analysis. Intertextually, the choice of genres and discourse is influenced by and dependent on the social context. This analysis will improve the relationship between text and context for better understanding.

Data Presentation

Transcripts of divorce proceedings from the Judicial Family Court under different judges of civil courts are examined in this study. The cases include different families but the pleading is for divorce, and they are asking for a divorce for different reasons. Similarities within the category of the case are regarding their medium. DOWRY, VIOLENCE, ABUSE, CASTE, EDUCATION, LANGUAGE and COLOUR.

Case 1

'I was performing my duties as a faithful wife and I was living happily and peacefully'. The attitude of my husband, in the beginning, was good and he remained cordial and remained good in maintenance allowance towards me. But afterwards changed gradually and the cause of the problem was them – my In-laws.

Textual analysis= vocabulary analysis, grammar analysis, structural analysis

The speaker uses the phrase "I started performing my matrimonial obligations and out of wedlock no issue was born, I was performing my duties as a faithful wife" to emphasise her husband's point of view. To get an advantage in the court she has created a soft image of her personality and shows that everything was going perfectly in the starting.

In this passage, the speaker uses the names of other people to demonstrate his point of view. The phrase "cause of the problem was them" is used as an epiphoric allusion to emphasize the major point of the discussion, which in this case was marriage troubles.

In this excerpt, the speaker alludes to her husband's bad behaviour in an attempt to persuade the audience that his perspective is valid. She uses a lot of conjunctions to keep the

flow of his speech going and to support his primary argument. She presents her husband in a poor light by claiming that he spent more money on his second marriage and was misbehaving with his first wife while having fun with his second.

Pronoun

The speaker employed pronouns like "I" "My" "Me" for referring to himself and others.

The pronoun "I" in the sentence "I was living happily and peacefully" demonstrates the speaker's powerful character, indicating that she is aware of his standing and is explicitly utilizing power play to convey his point of view. In another example, the speaker used the pronoun "them" to refer to her in-laws in order to draw the audience's attention to the fact that they had devastated her life.

the speaker utilised the pronoun "my" again in the following sentence.

"The attitude of my husband, in the beginning, was good"

The speaker describes herself as a victim in the first statement. She draws the audience's attention to herself and portrays herself as having a wonderful connection with her husband. "but afterwards

Example "My" pronoun is used by her to gain the approval of the audience. "My husband did not pay any maintenance allowance from the date of desertion; he has been asked time and again to pay maintenance allowance and return dowry articles, but he refused." She leads the audience to focus on her husband's negative image that he did not pay her allowances and nor did her dowry items.

Modality

" Concentrate on the speaker's level of identification or affinity with her or his comment. " is the definition of modality. Jørgensen, (2002). the speaker's level of commitment to a statement Truth is one sort of modality, in which the speaker entirely commits to the assertion. Hedges, on the other hand, are when the speaker displays a low affinity for the assertion, for example, by using terms like "a little." When speakers and writers stake claims to knowledge, modality is a tool that allows them to create various types of claims (e.g., assertions, opinions, hypotheses, speculations) and express how committed they are to those claims."

For Example= "the attitude of the husband, in the beginning, good but afterwards changed gradually and never paid any attention".

In all the examples above the speaker used modal verb "good and gradually to stress that they were going smoothly move forward toward a long-lasting relationship.

Vocabulary

She used words like matrimonial and wedlock for the wedding to give an image of the state of being married to the audience in the following sentence:

"I started performing my matrimonial obligations and out of wedlock no issue was born".

She used a word like faithful to showcase her positive image and she also used words like happily and peacefully to describe the state of joy in their life in the following sentence:

"I was performing my duties as a faithful wife and I was living happily and peacefully".

She also used words like good and cordial for her husband and warm and friendly relation between them, which was once existed to the audience in the following sentence:

"The attitude of my husband, in the beginning, was good and he remained cordial and remained good"

She used word attention to point out the feelings which were missings in their life after some time and then she used words beat to describe the behaviour of his spouse towards her. After that, she used severely and every now then to describe the intensity and occurrence of the beating routine.

"Never paid any attention towards me and beat me severely now and then".

Over-lexicalization

For a single entity or concept, the development and use of several words or lexical elements.

"Defendant ousted the plaintiff from his house in wearing apparel after giving severe beatings and contracted second marriage"

She has used the word severe as a lexicalization tool here. In the following sentence, she used articles to emphasize her dowry.

"Dowry articles are is in the custody of my husband and he has refused to return the dowry articles"

Transitivity

Transitivity analysis: The first paragraph is introductory and formal. It consists of a compound, complex and compound sentences which are declarative.

"I was performing my duties as a faithful wife and I was living happily and peacefully"

Clausal analysis as well reflects the speaker's efforts to strategically highlight the actions of her husband.

"my husband has refused to return the dowry articles "

"Never paid any attention towards me and beat me severely every now and then"

In the above-mentioned clause actor's "husband" through his actions provide proof of his crimes.

In Pakistan, it's a common practice for a husband to mistreat their wife.

Discursive Analysis

The data at this level is analyzed using interdiscursivity and intertextuality. Both types of intertextualities are employed here.

Constitutive intertextuality

The speaker also refers to the good relations between both of them.

Societal Level

The order of discourse specifies the relationship between instances of social and discursive practice and the orders of discourse it draws on. The speaker (plaintiff) defines

his early days of life, when she married the defendant and moved to the groom's house along with her dowry.

Dowry is a tradition in Pakistani culture. In which the parents of the bride give her many expensive things like jewellery, furniture, crockery, electronics, dresses and many more for the newly married couple. But this custom has a painful impact on the parents as they come at a huge cost.

Defence

The defendant contested the suit by filing a written statement.

"I controvert the assertions of the wife and prayed for the dismissal of the suit. I resisted the claim of my wife and negated the allegations of maltreatment. The speaker (Defendant) denies all allegations regarding maltreatment and other issues. He claimed that all allegations are fabricated.

Textual analysis= vocabulary analysis, grammar analysis, structural analysis

The speaker has tried to create soft image of his personality and shows that he want reconciliation with his wife's estranged husband in the House of Councillors' debate on the issue of dowry, according to BBC Urdu Service's Adebayo Sarker.

Conjunctions are used to keep the flow of speech going.

The speaker uses the phrase "I resisted the claim of my wife" as an anaphoric reference to emphasise the primary point of the issue. This also demonstrates the speaker's implied display of power, as he denies the wife's charges in order to demonstrate his righteousness.

Power is at work behind the discourse of the speaker as he employs mechanism of universal acceptance. He uses conjunction in this extract to maintain the flow of his speech and add more points to his main point. The speaker describes himself and his wife as having a wonderful relationship with each other..

The speaker denies her allegations i.e. "I was courteous to her and expressed my love for her, but she seemed unconcerned about our holy bond." He persuades the audience that his perspective is valid by bringing up her terrible behavior; he is tacitly exhibiting power play and turning the tables on her. As a result, the audience is influenced through communication mechanisms.

Pronoun

The personal pronoun "I" is again used again and again by the speaker here to highlight his own innocence. The speaker used pronouns like "I" "My" "Me" "They" and "her" for referring to himself and others. For example,

"I controvert the assertions of the wife and prayed for dismissal of the suit. I resisted the claim of my wife and negated the allegations of maltreatment. I never mistreated her neither I was cruel and harsh towards her.

I run a successful business and have given her all of her basic needs.

On numerous occasions, members of my family have given her presents and money. They never interfere in our relationship.

"I was courteous to her and expressed my love for her, but she seemed unconcerned about our holy bond."

In one example, the speaker uses the pronouns "they" and "my" to refer to his family in order to draw the audience's attention to the fact that his family was kind to her and behaved properly. The speaker is aware of his standing and is employing explicit power play to express his point of view.

"They never interfere in our relationship".

In the following phrase, the speaker used the pronoun "my" once again.

He draws the audience's attention to himself and portrays him and his family in a good light.

"On numerous occasions, members of my family have given her presents and money.". Here, my family" is used to show the togetherness of the family

In the following sentence, the speaker presents herself as innocent. Claiming all his actions according to shariah law and accepted that he married Nazia Bibi.

I married Nazia bibi which shariah allows me

She uses my pronoun to seek approval from the audience. In another Example "My" pronoun is used by him to gain the approval of the audience" From a bad image, he gets the audience to focus on him as a devoted and caring spouse husband.

Modality

When speakers stake claims to knowledge, modality is a tool that allows them to create various types of claims. Truth is one sort of modality, while Hedges are when the speaker displays a low affinity for the assertion, for example, by using terms like "a little".

Example= "I never mistreated her neither I was cruel and harsh towards her. "

In all the examples above the speaker used the modal verb "never" to deny all allegations against him.

Example= "I run a successful business and have given her all of her basic needs.

In all the examples above the speaker used the modal verb "provided" that claimed he facilitate her by fulfilling her necessities.

Vocabulary

The speaker denies all allegations regarding maltreatment and other issues. He claimed that all allegations are fabricated. He used words like controverts and assertions and dismissal in the starting sentence to deny all the allegations:

"I controvert the assertions of the wife and prayed for dismissal of the suit."

He used words like a dismissal to nullify the controverts and assertions in the starting sentence. In the very next sentence, he denies her maltreatment statement. So by using the strong words in the first two sentences he denies all allegations against him.

"I resisted the claim of my wife and negated the allegations of maltreatment"

He used words quite intelligently and deny every allegation with his words in the following sentence:

"I never mistreated her neither I was cruel and harsh towards her"

he also used words like never which represent that these allegations never occurred. He by doing so develops a soft image of himself. Present himself as a good man who has a good income and provided his family with every necessity of life. I run a successful business and have given her all of her basic needs.

He used the word successful business to point out that he is a well-earned man. after that He used word mouthful necessities to further elaborate that he meets every need of her. These words represent that her wife has lots of requirements.

"On numerous occasions, members of my family have given her presents and money."

he used the words, my family, to describe the togetherness of family and also by using the gifts and money he means frequently giving gifts and money to her.

"he then accepted his second marriage with Nazia Bibi and claimed it as his right as Islam shariah allows it.

"I married to Nazia bibi which shariah allows me" Over-lexicalization:

Example= "I further negated the allegations of maltreatment".

Example= "I controvert the assertions of the plaintiff and prayed for dismissal of the suit the suit has been fried".

For a single entity or concept, the development and use of several words or lexical elements.

". I was courteous to her and expressed my love for her, but she seemed unconcerned about our holy bond."

He has used the word holy bond as a lexicalization tool here. In the following sentence, she used articles to emphasize his love.

"all allegations regarding maltreatment and other issues. He claimed that all allegations are fabricated"

"In view of the foregoing, it is humbly requested that the khula-based dissolution of marriage action be graciously dismissed"

Transitivity

There are no specific turn-taking strategies applied in the first paragraph. Sentences' length ranges from medium to long. First paragraph consists of a series of compound, complex and compound-complex sentences which are declarative.

Clausal analysis as well reflects the speaker's efforts to strategically highlight himself as innocent and the plaintiff's actions wrong.

Example= "I controvert the assertions of the plaintiff and prayed for dismissal of the suit. I resisted the claim of the plaintiff and negated the allegations of maltreatment".

In the above-mentioned clause actor "defendant" through his words deny the case cannot be filed, He denies all allegations against him by the plaintiff and declares himself innocent.

Structural analysis= sentences length and complexity

The paragraph mostly consists of a compound, complex and complex-compound sentences. Phrases are also used to add details and additional information to make everything clear.

Example= "I resisted the claim of the plaintiff by submission of the written statement on the grounds that suit is not maintainable in its present form, plaintiff has concealed facts from this court and she has no cause of action. I further negated the allegations of maltreatment and that the suit has been filed to harass and blackmail. I further contended that plaintiff is wilful deserted wife, who is not ready to live with the defendant".

" The definition of transitivity is "the way events and processes are linked (or not linked) to subjects and objects.", Jørgensen (2008).

Societal Level

The speaker of the House of Commons in England and Wales denies all allegations against him by his wife. The order of discourse describes the link between instances of social and discursive practice and the orders of discourse they draw on, such as discourse and society.

"The attitude of the husband, in the beginning, good and he remained cordial and remained good."

The speaker holds every single detail of all the events he describes which makes his argument very authentic.

Defence

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Conclusion

The results of research suggests that discourse and its contexts are linked. It is critical to learn more about the differences in Judicial Family Court transcripts' cultural, historical, and societal contexts, as well as how these differences influence the localization processes of various Judicial Family Court discourses. Apart from focusing on the relationship between judicial discourse and its external context, the internal organisational influences on its green discourse are also worth considering.

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