



Speech Comments and Intertextuality: Evidence from Courtroom Discourse*

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Received: September 09, 2022
Revised: November 11, 2022
Accepted: November 30, 2022

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* This study was supported by the research fund of Hanyang University (HY-2021). I also thank the anonymous reviewers and the editor for insightful comments.

ABSTRACT

Chaemsaitong, Krisda. 2022. Speech comments and intertextuality: Evidence from courtroom discourse. *Korean Journal of English Language and Linguistics* 22, 1253-1268.

Underpinned by the assumption that all texts are heteroglossic and polyphonous (Bakhtin 1981), this study proposes to examine an area that has been neglected in the scholarship of intertextuality. Attending to the opening speech event of American criminal trials, this study identifies the forms and functions of common speech comments and explicates the ways in which these comments provide different contextualization cues about how a statement (and other relevant intertextual aspects) should be processed and understood. The findings reveal five common categories of speech comments, and these comments become instrumental for speech presenters to achieve the communicative goals of persuasion in this setting. These speech comments function to mediate both the propositional content of the opening statement as well as negotiate the interpersonal relationship between the presenter and the audience.

KEYWORDS

courtroom discourse, intertextuality, speech comments, speech representation, metacommunication

1. Introduction

Quite a few studies have revealed that language use in the courtroom exhibits polyphony and heteroglossia (Bakhtin 1981), explicating how participants engage with and respond to what has been said or written before, be it by themselves or by others (Chaemsaitong 2017, Chaemsaitong and Kim 2018, Cotterill 2002, Galatolo 2007, Galatolo and Mizzau 2005, Garzone 2016). Most clearly, the orchestration of diverse voices and speaking perspectives emerges when segments of speech of other authors are incorporated and encapsulated into the current presenter's discourse, which then becomes "a multidimensional space through which utterances of others speak" (Hartman 1992: 300). Known simply as speech reporting, this intertextual practice has been argued to influence the trial outcome and serves important pragmatic functions, including epistemic (Philips 1986) and emotional functions (Matoesian 2000). Recent studies also explore in-depth pragmatic functions of speech reporting in the courtroom, including narrativizing, authorizing and deauthorizing, and narrativizing functions (Chaemsaitong 2017, Chaemsaitong and Kim 2018). Other researchers go so far as to examine the roles of different forms of speech representation (e.g., direct speech, indirect speech, prosody and gestures) in evoking nuanced meanings (Galatolo and Mizzau 2005, Matoesian and Gilbert 2018).

Despite such contributions, there is another important aspect of intertextuality that has been neglected hitherto. Often, in re-presenting speech, speakers do not simply invoke their own or other people's utterances, but they also comment on the incorporated material in some way, including expressing their attitudes toward such material. Very little is known about this dimension of intertextuality in terms of their characteristics and functions, when in fact these "extra" comments can provide meaningful cues about how a statement should be processed and understood. For the purposes of this study, I will use the term "speech comments" to refer to such expressions (see further discussion in Literature Review).

The current project undertakes a preliminary discussion on this aspect of intertextuality. More specifically, focusing on the opening speech event in American criminal trials, this study is guided by two research questions: 1) What are the forms and functions of different types of speech comment? and 2) To what extent do they reflect the speaker's ideological position and communicative purposes and the speaking event?

This paper proceeds with a literature review of previous treatment of speech comments before discussing the source of data and methodological approach taken in this study. The findings are then explicated in terms of the forms and functions of speech comments.

2. Literature Review

In the existing literature, there is no systematic treatment of the aspect of intertextuality that is referred to in this study as "speech comments", that is, those expressions that provide contextual cues to the original speech event in some way, although these comments have been observed in passing. For instance, Thompson (1996: 521-523) notes that there exist "many ways" for language users to indicate their attitude to the speech they represent but only discusses the reporting expression itself. Clark and Gerrig (1990) contend that aspects of the original speech event, such as emotional state and dialect of the speaker, can be commented on through voice quality and pitch. Oostdijk (1990), exploring the language of fiction, finds that adverbials often co-occur with reported expressions and talks about their functions such as indicating the manner of speaking (e.g., *angrily*), contextualization (e.g., *cupping her face in her hands*), time (e.g., *then*), and the recipient (e.g., *to Mr. White*). It appears, then, that speech

comments are common in different types of discourse. Co-occurring with a matrix statement, they are also diverse in terms of forms and functions.

It is insightful to situate the study of speech comments in the scholarship of metapragmatics. Metapragmatics, as used here, is concerned with the reflexive dimension of human communication and exhibits the speaker's competence to observe and conceptualize certain aspects of the ongoing interaction and openly reflect on such issues, that is, "the 'know how' regarding the control and planning of as well as feedback on, the ongoing interaction" (Caffi 2006: 83). That is to say, in delivering metacommunicative messages, speakers detach themselves from the object use of language and come to attend to their (or someone else's) linguistic productions and behaviors, thereby treating an act of language use as the object of reference (or discussion) within another act of language use. Hübler and Bublitz (2007: 6) regard metapragmatics as "the pragmatics of actually performed meta-utterances that serve as a means of commenting on and interfering with ongoing discourse of texts". This reflective aspect of communication testifies to a speaker's concern for the appropriateness or effectiveness of his or her ongoing communicative behavior and those explicit or implicit cues he chooses to signal how utterances are to be appropriately interpreted.

In the context of courtroom discourse, there are some previous inquiries into the workings of metapragmatics that inform the present research. Examining an American civil trial, Stygall (1994) speaks of "metacommunicative brackets" in the opening statement and finds that this speech event consists of a mix between meta-talk about the trial narrative (i.e., what happened), ordinary conversation issues (e.g., "I got off track here"), and legal subjects (e.g., legal definitions or legal procedures). The combination means that lawyers shift between commenting on their own stories, their own presentation, and the content therein. While the study shows the use of some speech comments, it examines only one trial: this data size may not reveal systematic patterns of speech comments. More importantly, the pragmatic functions of these talk brackets are neglected.

Based on the civil trial of the O.J. Simpson case, Janney (2007) shows how the prosecutor topicalizes the issues of inadequacy, clarity and untruthfulness of the defendant's answers. Operating as assessment of the defendant's performance, such comments function as a framing strategy that influences the jury's perception of the defendant as being evasive in the interrogation process. Thus, this study shows that in an adversarial system, evaluative comments are an invaluable strategy to challenge witnesses in terms of their credibility and cooperativeness. A notable shortcoming is that it does not consider other types of speech comments that do not function evaluatively.

Carranza (2008), based on a corpus of twenty-two Spanish criminal trials, identifies five types of metapragmatic expressions in closing arguments: performatives, evaluation of speech, descriptions of the speaking context (e.g., references to the speaker, addressee and other participants), descriptions of the governing principles of the practice (e.g., references to legal and courtroom procedures), and style (e.g., use of the formal style, including nominalization and subjunctive). Like Janney (2007) above, this study also finds evaluation to be a common element of metapragmatic activities. However, the other devices are not necessarily speech comments (such as performatives, description of the speaking context, or the use of style). In addition, this study draws from an inquisitorial system, which may operate under discursive characteristics and restrictions that are different from an adversarial one.

What previous studies appear to suggest is that speech reporting and, by extension, speech comments—the focus of this study—constitute important and ubiquitous metacommunicative activities because they purportedly represent another speech event in the on-going communicative act and refer explicitly to such an event. More critically, according to Goffman (1981), through these resources, a speaker can signal specific personal alignment to the content of his or her utterance in different capacities or footings: as "animator" (the person who only produces an utterance), as "author" (the person who chooses the words and thus the sentiments expressed), or as

the “principal” (the person whose is responsible for the ideas behind the words). For instance, Moghaddam and Ostovar-Namaghi (2022) explicate how expert guests on TV employ different contextualization cues (for example by changing the verb of saying or using syntactic markers) to control the meaning of the original utterance and indicate such features as politeness, uncertainty and summarization in their indirect reporting. Relationships between reported speech and reflexivity in a number of different languages have been extensively discussed in Lucy (1993) and Holt (2009). However, it remains unclear how speech comments function reflexively and what their formal aspects are. The current study sets out to offer an exploratory survey of this type of reflexive practice.

3. Data and Methodology

As a preliminary project, this study draws from a specialized corpus that consists of the official transcripts of the opening speech event by prosecution and defense attorneys from 20 American criminal trials. The trials occurred in different locales (i.e., different states of the US), and the opening speeches were delivered by different attorneys. All of the cases are criminal trials that involve the use of jurors, as opposed to bench trials. The charges range from single or mass murder, terrorism, to sexual harassment and medical malpractice and negligence. Some of the trials are high-profile (i.e., with high publicity that draws public attention), involving celebrities, such as the late pop-singer Michael Jackson or Boston bombing trials. Others are local cases, drawing attention from local people. One of the advantages of this balance between high-profile cases and local ones is that any patterns found are not likely to be idiosyncratic to particular trials or presenters for that matter. All the indefinable information of the participants has been removed for anonymization, although necessary background is provided to contextualize each example under discussion.

Some contextualization of the data is in order. Setting aside *voir dire* (the process of juror selection), the opening speech event constitutes not only counsel’s first interaction with the jury but also the first time (and the last time until the closing summation) that they will hear of the crime story and hear it narrated as a piece of narrative discourse (Heffer 2010). The narrative construction in this initial phase will later influence the type of facts that counsel will try to construct in witness examination and that the defense will try to deconstruct during cross-examinations. This speech event is a potentially fruitful venue for examining speech comments for various reasons. First, the opening has power to influence the outcome of the trial. Cognitive studies have suggested that many jurors draw at least tentative conclusions at this initial stage (Lind and Ke 1985, Pennington and Hastie 1991, Spiecker and Worthington 2003). Second, while the opening speech needs to be persuasive, it is, in principle, prohibited from being argumentative or showing any engagement in anticipatory rebuttal. In practice, there is no objective definition of what counts as argument, and the line is often drawn by the presiding judge. Trial advocacy textbooks recommend that a lawyer not tell the jury how they should reach their decision or explain the importance of evidence (Lubet and Lore 2020, Mauet 2009, Rose 2015). Following from these points, lawyers are likely to resort to speech comments in their struggle for non-argumentative persuasion, and in effect, speech comments become instrumental in creating a cohesive presentation and mutual frame of reference and in responding to not only the audience’s potential doubts and uncertainties but also to counter-claims from the opposing side.

Methodologically, a text-driven, manual approach was employed. Due to the nature of the linguistic phenomenon, it is not possible to pre-establish a list of particular lexico-grammatical items to search for. Instead, the identification of speech comments is guided by the following criteria: 1) these expressions must be reflexive in the sense that they provide contextualization cues about the on-going discourse, 2) they are not propositional content *per se* but are projected in relation to preceding or following text, 3) they reflect on the speaker’s own

utterances or someone else's, and 4) their linguistic manifestations may range from a word to a phrase or syntactically independent clause. The initial identification involved the researcher and a graduate student specialized in Discourse Analysis independently identifying speech comments in sample opening texts. These sample texts were randomly chosen from the entire corpus. As speech comments are anchored to a matrix clause that contains reported discourse, each researcher first identified reporting verbs in the texts and scanned for possible speech comments in the surrounding text. A list was then made that collected these speech comments. The final step in this initial analysis involved the grouping them into function-based categories, and in doing so, linguistic cues that commonly co-occur with these comments were observed. Any discrepancies between the coders were resolved case by case through discussion. The findings of the initial analysis were expanded to the whole corpus. Any additional speech comments as well as their linguistic cues were added to the list, and the categories were revised accordingly. The patterns of use as well as the pragmatic functions of these comments in the corpus were observed in their sentential contexts.

4. Findings

Five categories of speech comments were identified. Table 1 displays these resources, along with their descriptive characteristics and common linguistic cues. Each category is subsequently discussed in terms of the forms and functions in context of use.

Table 1. Categories of Speech Comments in the Corpus

Category	Description	Linguistic cues
Evaluative comments	utterances that express personal judgment and attitudes about prior or subsequent discourse	evaluative lexis, e.g. <i>That was a lie.</i>
Epistemic and evidential adjusters	markers that indicate the source of information and speaker's commitment to a statement	evidentials, e.g. <i>according to</i> epistemic modality, e.g. <i>probably, obviously, I guess</i>
Frequency markers	expressions that quantify the frequency of a statement	adverbs of frequency, e.g. <i>often, repeatedly</i>
Glosses	stretch of text that clarifies or exemplifies a previous or subsequent statement	connectors, e.g. <i>for example, by that I mean</i>
Comments about language forms and use	talk that concerns the speaker's beliefs about a linguistic form or its use	folk-linguistic expressions, e.g. <i>I use the term loosely because...</i>

4.1 Evaluative Comments

This is perhaps the broadest group of speech comments. They are also most varied in terms of linguistic realizations, occurring as noun phrases, adjective phrases, adverb phrases, preposition phrases, and sentential comments. Generally, these comments stamp the lawyer's appraisal of the manner in which a statement is made, which displays personal feelings, attitudes, value judgment, or viewpoint on a proposition (and its relevant aspect) (Thompson and Hunston 2000: 13-26).

Evaluative speech comments are primarily directed at the defendant's or witness's communicative behavior. In (1), which is a case of mass shooting, to invalidate the defense's claim of the absence of *mens rea* (the evil mindset),

the prosecution marshals a series of evaluative comments. He first makes judgement about the defendant's communicative ability as a whole: "he is glib, articulate". Next, he also suggests that the defendant is fully aware of the planning of the crime ("knowledgeable"). In addition, the defendant's testimony is also negatively evaluated with respect to his attitudes toward the victims ("not an ounce of remorse", "he never expresses any regret...", "talks about killing other human being almost casually"). As a result, the defendant is portrayed as having awareness, even to the extent of satisfaction, of the harm he inflicts on the victims. Just as evaluative is the rhetorical question, which implicates the opposite, that is, what the defendant said actually testifies to his knowledge of his wrongful actions.

(1) As a matter of fact, the evidence is and would be and you will see it on the tapes, he is glib, articulate. He is knowledgeable and talks about the hitting power of the weapon he is using, the damage it controls....On those tapes, I submit to you, there is not an ounce of remorse. He never expresses any regret about one of them....He talks about killing other human beings almost casually...He said, and I quote, "We are a team, a team, team, team." That is what he said. Does that sound like the utterings of an insane man? (Prosecution)

More frequent are evaluative comments on veracity and falseness. Included in this group are such expressions as "correct", "true", "false", or "lie". In (2), the prosecution labels the defendant's verbal act as lying and, therefore, invalidates the claim. Sometimes, however, (an absence of) truthfulness is remarked on much more subtly. In (3), a syntactically-independent clause is advanced that topicalizes "the differences" and, hence, points out conflicting information between what the defendant says to the public and what he actually does. Note that the adverb "again", an example of a frequency comment, presupposes that this is not the first time the defendant exhibits this communicative behavior.

(2) [Investigating agents] asked him [defendant] about the source of his funding. He lied. He said he got his funding from associates in England and from a business. This, of course, was false...He lied to allow the plot to go forward. His lies provided the operational to allow his brothers to go forward and kill on that horrific September morning. (Prosecution)

(3) You heard him say that sleeping with young boys is innocent, that it's a beautiful thing, and there's nothing sexual about it. Ladies and gentlemen, again, the differences between his public statement and his private life could not be more different. (Prosecution)

Apart from the witnesses, the communicative behaviors of the opposing attorney can be evaluated as well. Most of the comments target contradiction or inconsistency in their presentation. In (4), the defense employs the general noun "the problem" in reference to what the prosecution has presented earlier, while in (5), the noun "irony" is used. These evaluative labels reify the original speech event, thereby allowing the current speaker to raise an issue with the content of the original speech event and shape the perception of the original speaker accordingly.

(4) The problem with Mr. [attorney's name]'s argument, we believe, you will find will be this...(Defense)

(5) But here's the irony. In most cases that you'll hear about, what you're going to hear from the witness stand, is that initially many of these young men said nothing happened. (Defense)

This is not to say, however, that evaluative comments are all about disagreement and attacking. We do find comments in the positive:

(6) Ladies and gentlemen, [Mr. name of the prosecution attorney] is exactly right. This is very disturbing. But you need to keep this in mind as you hear the case... We're a nation that's governed by laws and the constitution. We try to provide equal justice to everyone. (Defense)

Here the defense shows explicit agreement with the way in which the prosecuting lawyer classifies the case: a very disturbing case. However, while showing agreeing on that point, he also uses this as the opportunity to remind the juror of the principle of legal retribution (i.e., the practice of giving the offenders what they deserve impersonally and rationally), as opposed to revenge (which is personal, passionate and often excessive).

As shown above, these evaluative commentaries function argumentatively, that is, they are aimed at demonstrating truth or falsehood. Accordingly, in principle, these commentaries should not have been admissible in this phase of the trial, not least because they reflect personal stances of the lawyer regarding the speech event or the original speaker. Although in many cases, evaluative comments attack the witness's motive or integrity, it turns out that there was no objection from the opposing side or veto from the judge. Perhaps the most reasonable conclusion at this point is that the way in which a courtroom participant communicates is regarded in the same way as are facts and evidence: they are subject to be challenged and proven in the court of law. This, all the more, points to the critical roles of speech comments in this institutional discourse.

4.2 Epistemic and Evidential Status Adjusters

Also termed “epistemological positioning” (Mushin 2001: 51), epistemic status adjusters signal the speaker's varying commitment to a statement's validity (e.g., *certainly*, *probably*, etc), while evidential status adjusters specify the mode of access to information: a statement can be explicitly marked as a hearsay (e.g., *according to*), inference (e.g., *it seems*), assumption (e.g., *I think*), or sensory experience (e.g., *I heard*). These devices stamp onto a statement the speaker's subjective position and qualify previous or subsequent text with regard to the degree of authoritativeness and certainty. Table 2 shows common epistemic and evidential markers in the corpus.

Table 2: Sub-types of Adjusters and Examples from the Corpus

Adjuster	Example
evidential status	<i>seem, think, suppose, I quote, according to, the evidence is..., [witness] will tell you that...</i>
epistemic status	<i>guess, actually, possible/y, obvious(ly), certain(ly), it is clear that, kind of, approximately, modals (would, may, might, etc), words to that effect</i>

Two pragmatic functions have been observed in the data. First, these adjusters finetune accuracy and address the lawyers' concern about the relationship between a statement and the presenter's state of knowledge. This in turn projects an aura of objectivity in truth-determining talk. The adjustment can be for boosting or for hedging purposes. For instance, in (7), as the prosecution introduces his most important witness, we see successive use of epistemic markers in a short stretch of text. Instead of weakening the statements, these markers suggest that the speaker is cognizant of his state of knowledge and that these are details that do not matter. What matters is glossed with “in other words”. In a much similar way, in (8), the evidential marker “according to his own medical records and his own admission” names the physical evidence in support of the reporting frame “the evidence will show...”.

(7) I think the story is going to be that he grew up around Sylacauga. I don't think his parents were married, I think he took his daddy's name the first 15, 16, maybe 20 years of his life. Later on maybe took his mother names. I don't think his parents were married. In other words, had it kind of rough growing up. Now, folks, I believe, if I'm not mistaken, that was in about 1967 or 1968. (Prosecution)

(8) The evidence will show, according to his very medical records and his own admission, that he wrote a letter to his stepfather's wife asking her to have sex with him. (Defense)

The other function, observed in the majority of the adjusters, works more toward negotiating the acceptance of a claim by appealing to the jury's reasoning process. Rather than make a statement more precise, they are intended to lower the risk of claim refutation and, simultaneously, suggest an alternative interpretation. Most notable are evidential adjusters that feature authoritative sources information and epistemic adjustments, such as "with unanimity" in (9). In (10), a medical malpractice case, in which the defendant is charged with abandoning a patient unmonitored leading to death. Here "according to" is not simply to indicate the source of information, but to point out the contrast between what the defendant said (2 minutes of absence from the bedside) and what the physical record ("the evidence") shows ("45 minutes"), thereby countering the defendant's claim.

(9) You will hear from medical experts with unanimity that the improper setting represents an extreme violation of the standard of care and it amounts to gross negligence on the part of [the defendant]. (Prosecution)

(10) According to [defendant], he was gone but for 2 minutes: "I was gone, I would say about 2 minutes". The evidence again shows phone records around this time, reflecting approximately 45 minutes worth of phone calls. (Prosecution)

Another consistent strategy is the use of inclusive "we", along with epistemic verbs such as *know* or *see*. Consequently, the presenter can construe the following statement as mutually shared and representing the jurors (if not also the prosecutor) as being in agreement. In (11), note that "we₁" and "we₂" clearly include the jurors, while we₃ is equivocal in this regard, perhaps intentionally so. The first-person plural pronoun "we₃" may or may not include the jurors (referencing only the defense team, especially with respect to "we believe"). The point of the matter is that because this resource gives an impression of inclusiveness, it is not likely that the jurors (or even the judge) could afford to critically consider whether the statement counts as personal opinion or simply introduction of evidence. It is through this kind of device that lawyers guide the audience to make certain inferences, which in turn stands in stark contrast with the informative purpose of the opening statement.

(11) We₁ do know that---we₂ do know that he has given seven different statements that are recorded. We₃ also know and believe, and the evidence would show...seven known stories or versions. All different, all conflicting. (Defense)

All in all, evidentials and epistemic expressions testify to the lawyers' taking into account the non-linguistic context so as to decide whether to present information categorically or modulated. In doing so, they opt to strike a balance between making the strongest claims they can make and acknowledging appropriate accuracy with respect to the state of knowledge and evidence at hand. Just as important, reiterated, highly formulaic expressions, such

as “the evidence will show” or “according to X” coat potent statements and alternative interpretations as non-argumentative and non-evaluative.

4.3 Glosses

Providing glosses, lawyers stop the flow of their narrative to elaborate on prior text, at a point where small acts of embellishment and clarification may be needed, thereby ensuring the jurors can recover the intended meaning.

Glosses serve two main functions: exemplification and reformulation. The former involves the speaker’s providing specific instances to illustrate the kind of phenomena mentioned in the previous text, using such markers as “like” and “for instance”. In (12) the lawyer supplies examples of well-known celebrities who will later testify in support of the defendant. In (13), physical evidence (from the yellow pages) is introduced to support his claim that the defendant and his co-conspirator self-made explosives for their terrorizing act.

(12) The Laugh Factory is a magnet for comedians in Los Angeles. Many have started their careers there, and accomplished comedians like Jay Leno and George Lopez once in a while like to drop by. (Defense)

(13) There are various other companies—or chemicals, pardon me, including anhydrous hydrazine. They called various chemical companies. For example, we will show you a copy of the yellow pages taken from the area in Kansas where [defendant 1] and [co-conspirator] were during the fall of 1994. We can compare the yellow pages with those records from the calling card. (Prosecution)

Alternatively, exemplification can make clear the association between a concept and a particular instance. In this case, instead of illustration, an analogy can be asserted as a basis to relate the unfamiliar or abstract to the more recognizable. A case in point is (14), which involves the defendant’s hiring a gunman to murder her husband for financial motives. Through the marker “like”, the lawyer makes use of the concept of a triangle at the start of his narrative, so that the jurors can visualize the connection and relationships between the three main characters.

(14) Why did this all come about? This story it’s like a triangle, three sides. In the center there is a fellow by the name of X [a gunman]. And on one side of the triangle is this woman [defendant], and on the other is her sister. I guess at the bottom, actually, of the triangle, then, is Mr. X [gunman] because you’re going to see that these two women, working with Mr. X dealing secretly with Mr. X, made this tragedy happen. (Prosecution)

With respect to the function of reformulation, a prior statement is paraphrased to simplify the original meaning. A potentially difficult concept can be re-worded as in (15), or alternative meanings can be comprehensively covered as in (16).

(15) It’s not poison but there is a sincere risk of apnea event. In other words, the obstruction of the upper respiratory. (Defense)

(16) We expect the evidence to show that she did not enter into an agreement, a conspiracy, or a complicity or whatever you wish to call it to kill her husband. (Defense)

More importantly, reformulations allow lawyers speak from a different point of view to highlight the connotation of the original and suggest an implication the prior text carries, thereby moving the jurors toward the preferred interpretation. In (17), the prosecution working on a medical malpractice case foregrounds the significance of “a narrow margin...” to accuse the defendant of overdosing the patient, as opposed to light sedation as the defense claims. Interestingly in (18), the attorney stops the on-going narrative to launch an expository question that raises an issue with his claim that the defendant is a partner in crime with his brother. He subsequently wards off a possible misinterpretation of what it means to be a partner in crime, prior to correcting it. An example of what happened in this case is also subsequently given to illustrate the concept.

(17) There is a narrow margin between sedation and full anesthesia. And what that means is that there is a continuum between a light or conscious sedation and full general sedation or anesthesia. (Prosecution)

(18) Now, what do I mean when I say they were partners? I don't mean they did exactly the same thing. That's not required for the defendant to be guilty under the law. What I mean is that each one played a role in committing the crime. For example, the defendant planted one bomb at the marathon, and his brother planted the other one. (Prosecution)

As shown above, code glosses are an invaluable element for maneuvering text's meaning in the monologic opening, where feedback between interlocutors is not possible. Taking the audience's processing needs into account, glosses relate a text to its context. When what is abstract is grounded or illustrated to create common ground with the audience, the presenter's argumentative position can effectively be championed.

4.4 Frequency markers

Frequency comments occur sparingly throughout the data. Most directly, these utterances indicate how many times a particular statement was made. The frequency is mostly given in unspecified terms, such as “many times” or “often”, as in (19):

(19) [defendant] has said many times, “I'm very lonely because of it” ... [defendant] has often said, “I missed some of my childhood. I didn't have as much freedom as other kids”. (Defense)

Indicating that the defendant makes the same statement more than once, the lawyer can highlight the causal significance of the statement, rather than its exact form or meaning. In a case of child molestation like this one, foregrounding frequency of certain statements by the defendant helps to create the identity of a person who welcomes children in his residence, not because he was a pedophile, but because he wanted to spend time in such a way he could not do during childhood.

The emphatic effects afforded by the indication of frequency is particularly salient in (20), where the defense attorney first evaluates the speech of the prosecution's main witness as “lying” and intensifies this with “repeatedly and repeatedly and repeatedly”. Consequently, the witness's testimony is delegitimized as untrustworthy and his persona construed as a habitual liar.

(20) The evidence will show that in each of these statements that he has repeatedly and repeatedly and repeatedly lied and contradicted himself. (Defense)

Indication of frequency goes beyond intensifying the verbal act. In (21), for instance, the frequency of the praising verbal acts the plaintiff performs in the past serves an evidentiary function to support the claim that the plaintiffs and the defendant were on very good terms before and to suggest contradiction in their communicative behavior when they came to accuse him of sexual molestation.

(21) [Defendant] did everything he could to help this family [plaintiff] overcome cancer, and they repeatedly commended him for doing so. They repeatedly make public statements that [defendant] had helped save [plaintiff]'s life. (Defense)

The exact quantity was found twice in the data, as in (22) below. The number here is likely to show the jurors that the expert witness has done everything he can to ensure he gets the right answer from the eyewitness. Throughout this checking process, the eyewitness affirms he does not see any sexual activity, of which the defendant is allegedly engaged in.

(22) [Investigator] asked [an eyewitness] three times, did you see sex occurring? Did you see sex occurring? Did you see sex occurring? No. And [Investigator] will tell you each time he said that, [an eyewitness] assumed it was sex [that he saw]. (Defense)

4.5 Comments about Linguistic Forms or Language Use

When a lawyer comments on linguistic forms or language use, the subject of discourse becomes strictly language. In this case, a lexical item (or a clausal utterance) has no referential value; it is simply “mentioned”, rather than “used”. This “mention” status may be underscored by a range of qualifications, such as “so called” in (23). Here the term “greed” is marked as having a special sense and is context-dependent.

(23) Mr. [name of prosecution] said that because \$150,000 was so lucrative that [defendant] would provide any drug for [victim]. Let me tell you about Dr. [defendant]'s so called “greed”. (Defense)

Lexically, it is noted that that the adverbs “literally”, “figuratively” and “frankly” are most common. In a few cases, these adverbs allow for a shift between different senses a lexical item has. To illustrate, consider (24), taken from a medical malpractice case, where the term “abandon” is commented on.

(24) The evidence will also remain unchanged that [defendant] figuratively and literally abandoned [victim]. He left this vulnerable man, filled with valium and midazolam and lorazepam and propofol. (Pro)

Here the adverbs “figuratively” and “literally” distinguish two senses of the verb “abandon”. The former, “figuratively”, is intended to refer to the legal sense of the term “abandon”, where the physician-defendant does not provide care when the patient requires it. Co-incidentally, the “literal” abandonment occurs at the time when the defendant left the patient unmonitored just to take care of his personal issue.

To our surprise, however, in most cases, what we found is that the metalinguistic comment “literally” only serves to convey the seriousness of a statement, instead of cancelling (or distinguishing) a figurative meaning. In other words, it marks the language used as perfectly suited to express the speaker’s meaning. To illustrate, consider (25): there is no figurative sense of reaching under the bedsheets, and thus “literally” is for an emphatic reason.

(25) He [defendant] told investigators that he was so confused, he literally reached under the bedsheets to see if maybe the medicine that he was giving him[victim] was leaking onto the bed. (Defense)

Syntactically-independent utterances are also common for this type of speech comment. The lawyer in (26) finds an issue with the laypeople's use of the term "insane", which he aims to correct. The speech comment distinguishes that the person on trial from other "insane" individuals, as this he is claimed to be manipulated and influenced into committing a crime.

(26) As soon as the word "insane" comes up, we all think about "One Flew Over the Cuckoo's Nest", and we see them as "zombified" or bouncing around or so delusional that everybody immediately reacts that way...but this is a case of indoctrinization. (Defense)

At an extreme end, comments about language use are connected to and constitute part of "folk linguistics" (Niedzelski and Preston 2000). Here it is not linguistic forms that are talked about *per se*, but the attorney's (and other's) conceptions of language (use), including ideas about how language works or should work. In (27), in an attempt to alert or prepare the jurors about various witnesses to be presented, the lawyer reveals what he (and possibly others) believe about dialects. In doing so, he taps into the larger structure of power relations and struggle. That is, he is aware that language variation can be a potent political weapon, and users of non-standard varieties (or even other languages) may be perceived in negative light in this institutional setting.

(27) You're going to have to deal with some dialects. Some of these people out in Jamaica speak Jamaican. We are going to have interpreters that will help you, and I have met with them, and I listen as intently as I can, and it is sometimes extremely difficult to understand. It's a form of English or a composite of English and other languages, and you are going to have some Antiguans. You are going to have ones that speak Spanish. Some are from Baton Rouge and so they will have a Cajun dialect, and according to a number of people, I have an accent that might be difficult to deal with at times too, and if so, I guess, we would get an interpreter for me. (Defense)

Comments about linguistic forms and language use point to the lawyer's awareness of (and response to) commonsensical and taken-for-granted beliefs about language-related issues, which may form frames of interpretation for the jurors. Attending to these ideas, the lawyers therefore engage in meaning negotiation and power struggle over the communicative status of a linguistic item or an aspect of language use. Through explicit talk about language forms and use, attorneys may at times call into question these ideologies and provide a different way of looking at the working and functioning of linguistic forms and language use.

5. Discussion and Conclusion

This study has explored an uncharted area of intertextuality, namely, speech comments. Essentially, attention has been paid to the various ways in which previous or subsequent speech (as well as relevant aspects) may be further modified. It has been shown that speech comments occur in a variety of linguistic forms, ranging from a word to a phrase or to a syntactically-independent clause. Based on the opening speech event of American trials,

five categories of speech comments have been identified: evaluative comments, epistemic and evidential adjusters, frequency markers, glosses, and talk about language forms or use.

Syntactically or semantically, these speech comments are not obligatory features of intertextual practice: they do not have to co-occur with instances of speech representation. These speech comments testify to the reflexive nature of communication and function metapragmatically. In this institutional setting, however, they become instrumental for presenters to accomplish their communicative goals. As demonstrated above, while facts and evidence can be disputed in the court of law, it is in fact these speech comments that invoke and position the import of such facts and evidence. In addition, our attention to speech comments shows that oftentimes it is the communicative acts that are subject to dispute and constitute an important part of “facts” and “evidence”.

Broadly speaking, in terms of function, speech comments can be put into two major groups. Needless to say, distinguishing between these functions does not mean that there is a one-to-one correspondence between a type of speech comments (or a specific speech comment for that matter) and the function it serves. It is acknowledged that discrete categories inevitably conceal the fact that a particular expression often performs more than one function at once, because after all, a linguistic expression is multi-functional. However, it is generally possible to identify a predominant function served by a particular type of comments, and that is the purpose of this discussion.

5.1 Content-oriented Function

This functional dimension is most prominent when they mediate the relationship between a proposition and representation of reality. It is worth pointing out that an Anglo-American trial is adversarial in nature, and thus, two versions of reality are always presented and compete with each other. That is, either the defendant did the crime as charged, or he or she did not. Thus, to get their claims accepted by the jurors, lawyers face a rhetorical dilemma. First, they must make their claims as strong as possible, while at the same time, they also have to balance those strong claims with appropriate caution and acknowledge limitations. Evidential and epistemic adjusters can, thus, help resolve this conflict. With these resources, lawyers can bolster the credibility of a claim by attributing the statement to a quoted authoritative source and/or make the statement more precise. Similarly, message glosses also contribute to shaping the meaning of the lawyers' claims by clarifying the sense in they are meant to be understood.

Also critical is the use of evaluative commentaries. These comments frequently function as flexible stance resources. Many of them are overtly evaluative, displaying the presenter's assessment of the intention, character, or implication of the original speech event, and in effect his or her alignment with the statement or the original speaker. What is more, by prefacing a statement with certain speech comments, lawyers can disguise the illocutionary force of a statement and render it as simply informative (as in “According to X...”), which is what is permissible in the courtroom. This, in turn, reflects how speech comments are intertwined with the speaker's ideological position, communicative purposes, and the norms of the speaking event.

On its face value, frequency markers do not seem to adjust the content of a proposition. However, they can also invoke different impressions on the reported event and the original speaker. Saying a statement many times, for example, can become evidentiary in the court of law, or can portray the original speaker as a habitual liar. In this way, it can indirectly evaluate the original speaker and supports the argument of the presenting lawyer.

5.2 Relationship-oriented Function

This particular dimension has to do with the fact that certain speech comments are more oriented toward the interaction between the presenting lawyer and the intended audience (i.e. the jurors). They pragmatically recruit the audience as active participants (although, in reality, they sit and listen passively), rhetorically pulling the audience into the discourse at critical points, anticipating and responding to possible objections and establishing an “appropriate” relationship with them. Glosses, for instance, show well how the lawyers predict and respond to potential doubts the jurors may have and constitute an attempt to pre-emp misunderstandings or lack of understanding from taking place. They can also help clarify a statement and reformulate a statement in a way that highlights its significance and the intended meaning.

In a much similar way, comments about language forms and use directly engage the audience in the courtroom. Talk about a specific way (or sense) in which the speaker uses a particular expression or, more broadly, talk about how the general public understands a particular term all involves the presenter momentarily stopping the ongoing communication to attend to such issues, which are often peripheral to the main propositional argument. Unlike content-oriented comments, this kind of interpersonal engagement builds a relationship between participants, which is not dependent on an assessment of what needs to be made explicit to elaborate one’s position or to invalidate the opposing side’s argument. Like content-oriented comments, however, relationship-oriented comments also function to encourage the jury to accept what the presenters have to say.

Considering the above functions, speech comments become a crucial tool for courtroom presentation and should be considered a topic worth studying in its own right. This study has paved the way to a number of venues for future research. First of all, the categories and functions of the comments examined thus far are intertwined with the context in which they are uttered, in this case, the courtroom opening speech event. Thus, these comments may be said to be produced in response to demands of this speech genre (or to the nature of the narrative of each case). What this means is that, to advance our understanding on speech comments in general, future studies should explore other genres to explore whether there are other categories of speech comments that should be added to the list. Second, quantitative analysis would also be insightful in terms of the distributional patterns of these categories in a particular genre. With quantitative findings, not only are generalizations possible, but also an invaluable parameter can be obtained that can be used to characterize a speech genre.

References

- Bakhtin, M. 1981. *The Dialogic Imagination: Four Essays*. Austin: University of Texas Press.
- Caffi, C., 2006 [1993]. Metapragmatics. In K. Brown, ed., *Encyclopedia of Language and Linguistics*, 2nd ed., 81-88. Oxford: Pergamon.
- Carranza, I. 2008. Metapragmatics in a courtroom genre. *Pragmatics* 18, 169-188.
- Chaemsaitong, K. 2017. Speech reporting in courtroom opening statements. *Journal of pragmatics* 119, 1-14.
- Chaemsaitong, K. and Y. Kim. 2018. From narration to argumentation: Intertextuality in two courtroom genres. *Lingua* 203, 36-50.
- Clark, H. and R. Gerrig. 1990. Quotations as demonstrations. *Language* 66, 764-805.
- Cotterill, J. 2002. ‘Just one more time...’: Aspects of intertextuality in the trials of O.J. Simpson. In J. Cotterill, ed., *Language in the Legal Process*, 147-161. New York: Palgrave.

- Galatolo, R. 2007. Active voicing in court. In E. Holt and R. Cliff, eds., *Reporting Talk: Reported Speech in Interaction*, 195-220. Cambridge: Cambridge University Press.
- Galatolo, R. and M. Mizzau. 2005. Quoting dialogues and the construction of the narrative point of view in legal testimony: The role of prosody and gestures. *Journal of the Swiss Association of Communication and Media Research* June Issue, 217-232
- Garzone, G. 2016. Polyphony and dialogism in legal discourse: Focus on syntactic Negation. In G. Tessuto, V.J. Bhatia, G. Garzone, R. Salvi and C. Williams, eds., *Constructing Legal Discourses and Social Practices: Issues and Perspectives*, 2-27. Newcastle upon Tyne: Cambridge Scholars Publishing.
- Goffman, E. 1981. Footing. In E. Goffman, ed., *Forms of Talk*, 124-159. Philadelphia: University of Pennsylvania Press.
- Hartman, D. 1992. Intertextuality and reading: The text, the reader, the author, and the context. *Linguistics and Education* 4, 295-311.
- Heffer, C. 2010. Narrative in the trial: Constructing crime stories in court. In M. Coulthard and A. Johnson, eds., *The Routledge Handbook of Forensic Linguistics*, 199-217. London: Routledge.
- Holt, E. 2009. Reported speech. In J. Ostman and J. Verschueren, eds., *Handbook of Pragmatics*, 1-19. Amsterdam: John Benjamins.
- Hübler, A. and W. Bublitz. 2007. Introducing metapragmatics in use. In W. Bublitz and A. Hübler, eds., *Metapragmatics in Use*, 1-28. Amsterdam: John Benjamins.
- Janny, R. 2007. "So your story now is that...": Metapragmatic framing strategies in courtroom interrogation. In W. Bublitz and A. Hübler, eds., *Metapragmatics in Use*, 223-234. Amsterdam: John Benjamins.
- Lind, A. and G. Ke. 1985. Opening and closing statements. In S. Kassin and L. Wrightsman, eds., *The Psychology of Evidence and Trial Procedure*, 229-253. London: Sage.
- Lubet, S and J. C. Lore. 2020. *Modern Trial Advocacy: Analysis and Practice*, 6th ed. New York: Wolters Kluwer.
- Lucy, J. (ed.). 1993. *Reflexive Language: Reported Speech and Metapragmatics*. Cambridge: Cambridge University Press.
- Matoesian, G. 2000. Intertextual authority in reported speech: Production media in the Kennedy Smith rape trial. *Journal of Pragmatics* 32, 879-914.
- Matoesian, G. and K. Gilbert. 2018. *Multimodal Conduct in the Law: Language, Gesture and Materiality in Legal Interaction*. Cambridge: Cambridge University Press.
- Mauet, T. 2009. *Trials: Strategy, Skills, and the New Powers of Persuasion*, 2nd ed. New York: Wolters Kluwer.
- Moghaddam, M. and S. Ostovar-Namaghi. 2022. Metapragmatics in indirect reports: The degree of reflexivity. *Pragmatics* 32, 381-402.
- Mushin, I. 2001. *Evidentiality and Epistemological Stance: Narrative Retelling*. Amsterdam: John Benjamins.
- Niedzelski, N. and D. Preston. 2000. *Folk Linguistics*. Berlin: Mouton.
- Oostdijk, N. 1990. The language of dialogue in fiction. *Literary and Linguistic Computing* 5, 235-241.
- Pennington, N. and R. Hastie. 1991. A cognitive theory of juror decision making: The story mode. *Cordoba Law Review* 13, 519-557.
- Philips, S. U. 1986. Reported speech as evidence in an American trial. In D. Tannen and J. Alatis, eds., *Language and Linguistics: The Interdependence of Theory, Data, and Application*, 154-170. Washington DC: Georgetown University Press.
- Rose, C. 2015. *Fundamental Trial Advocacy*, 3rd ed. St. Paul: West Academic Publishing.
- Spiecker, S. and D. Worthington. 2003. The influence of opening statement/closing argument organization strategy on juror verdict and damage awards. *Law and Human Behavior* 27, 437-456.

- Stygall, G. 1994. *Trial Language: Differential Discourse Processing and Discursive Formation*. Amsterdam: John Benjamins.
- Thompson, G. 1996. Voices in the text: Discourse perspectives on language reports. *Applied Linguistics* 17, 501-530.
- Thompson, G. and S. Hunston. 2000. Evaluation: An Introduction. In S. Hunston and G. Thompson, eds., *Evaluation in Text: Authorial Stance and the Construction of Discourse*, 1-27. Oxford: Oxford University Press.

Examples in: English
Applicable Languages: English
Applicable level: Tertiary