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Analyzing Counsel/Witness Discourse in Nnewi, Anambra State, Nigeria   *(Pp. 26-35)*

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Abstract

This paper analyzed counsel/witness discourse using the High Court in Nnewi Municipal Council. Specifically, it described the structure and organization of counsel/witness discourse in the courtroom context highlighting some discourse features inherent in them, and observed the communication strategies and motivation of participants towards each other and towards the subject matter. The methodology used in collecting data for this research was non-participant observation. The data were used to illustrate certain discourse/pragmatic features in the exchange; including the structures- -transaction, exchange, moves and act – and the strategies used by participants in negotiating meaning. The findings of this study reveal that (1) Initiation – Response (IR) structure was the predominant exchange structure (2) that the counsel initiates exchanges and controls discourse while the witness does not; (3) that the witness replies cooperatively when questions help to further his cause .The conclusion of the paper summarized the discourse structure and organization observed in the study.

Introduction

Generally speaking, language is essentially a tool for communication. Interestingly, the courtroom is one of the many sociolinguistic contexts where language is used and where meaning depends not only on the linguistic items used, but also on the combination of, and the relationships

between these items. Moreover, understanding how people communicate is actually a process of interpreting not just what speakers say, but what they intend to mean regardless of how they say it. Brown and Yule (1983); Widdowson (1982) are of the opinion that Discourse Analysis and Pragmatics are the two branches of language study that x-ray meaning thus. To them, one cannot approach meaning from the discourse analysis perspective without recourse to pragmatics; these two are inter-related. A cursory look at these two disciplines would suffice to establish their inter-relatedness and how they form the bases for this study.

Discourse analysis is concerned with understanding the relationship between language and the context in which it is used. According to McCarthy (1991) it is the study of language in use, written texts of all kinds and spoke data, from conversation to highly institutionalized forms of talks. Discourse analysis establishes the link between a text (written or spoken) and its social situation. It is interested in how a listener (or reader) might come to comprehended the speaker's (or writer's) intended message on a particular occasion and how the requirements of the particular listener (or reader) in definable circumstances influence the organization of the produced discourse. [Sinclair and Courthad (1975), Brown and Yule (1983)(McCarthy(1991)]. Therefore, words, phrases and sentences which appear in the textual record of discourse should be seen as evidence of an attempt by a speaker (or writer) to communicate his message to a listener (or reader). As can be implied from the above, discourse can be spoken or written. Spoken discourse is the natural unplanned discourse that involves people speaking in different settings; marked with such conversation features as false-starts, pauses, gestures, pitch, intonation, stress, incomplete sentences, change of topic etc. Spoken discourse should simply be seen as "utterances which are most often laced with extra-linguistic realities to achieve communicative effect' (Widdowson (1979). Consequently, informal writing (notes to friends, casual letters, and lecture notes) should be seen as utterances as they contain incomplete but meaningful sentences. On the other hand, written discourse according to McCarthy(1991) is planned and is marked with the prevalence of cohesive devices and the absence of false starts, hesitations etc. According to him, in written text, we do not have to contend with people speaking all at once. The writer usually had time to think about what to say and how to say it, and the sentences are usually well formed in a way that the utterances of natural, spontaneous talk are not.

Pragmatics on its part was defined by various scholars to reflect its central concerns. It as the study of speakers' intended meaning the relationship of language and it users the relation of signs and interpreters; the study of how signs and symbols are used by humans for communication. The knowledge of pragmatics is the ability to use language that is appropriate to the context. Pragmatics is the study of the general conditions necessary for the communicative use of language [Yule (1988), Schiffrin (1987), Brown and Yule (1983), Leech (1983)]. All the above definitions point to the role participants (speakers and hearers) play in negotiating meaning. For meaningful interaction to take place, speakers and hearers are expected to have a shared knowledge concerning what they know.

The relationship between Discourse Analysis and Pragmatics could be established from the foregoing as they are part of the on-going efforts by linguistic to resolve the controversies surrounding meaning. Previous efforts, especially by Chomsky, confined meaning to mere abstraction without reference of any kind to context. Discourse Analysis and Pragmatics both have a contextual consideration of linguistic items. In fact, doing discourse analysis involves doing syntax and semantics (Brown and Yule 1983). These disciplines study language in the situation of use. One of such situations is the courtroom where counsel and witness negotiate meaning as they interact.

Theoretical concepts
The theory of discourse analysis is an attempt to describe the communicative use of language, though the discipline could not be said to have the exclusive preserve of such description as other fields such as Psychology, Sociolinguistics, Philosophy, Linguistics, etc; have contributed towards this direction. The effect of these contributions from various fields is the predominance of different terminologies and techniques. Widdowson (1979:112) aptly captures the situation:

> The proposals, though all concerned with the description of discourse in one way or another have come from a number of different disciplines. Linguistics is one, but others including Sociology and philosophy have laid legitimate claim to professional interest of what people do with their language. The proposals of different disciplines naturally embody different theoretical and methodological principles and find expressions in different terminology; and in

> consequence, the field of discourse study is rather a confused one. It is easy to lose one's way.

Other scholars like Brown and Yule (1983); Stubs (1983) and Schiffrin (1987) have echoed the same concern but they have however, come to agree on what discourse analysis is all about. Brown and Yule assert that the analysis of discourse is, necessarily, the analysis of language in use. As such it cannot be restricted to the description of linguistic forms independent of the purposes or functions they are designed to serve in human affairs.

Stubbs on his own part opines that the analysis of discourse comprises:

> attempts to study the organization of language above the sentence or above the clause; and therefore, to study larger linguistic units such as conversational exchange or written texts. It follows that discourse analysis is also concerned with language in use in social contexts, and in particular, with interaction or dialogue between speakers.

It can be deduced from these definitions that discourse analysis is concerned with written texts and dialogue between speakers and hearers in a social context. This has led Schiffrin to claim that discourse has three properties: formation of structures, conveying of meanings and accomplishing of actions. According to him, the first two of these properties are concerned with extended sequence of smaller units, for example, sentences, propositions and utterance; while the third property is more concerned with language used in social interaction.

Accordingly, the two basic approaches to the analysis of discourse will now be considered with a view to determining the approach that is most appropriate for the description of data in this study.

Text based approach to discourse analysis
This approach according to Propp (1968:29) is exemplified in Literary Stylistics, literary criticism and in the studies of the structure of myth and folktales. Widdowson (1979:118) lends support to this claim by stating that literary stylistic is distinguished from literary criticism in that literary stylistic extends the study of literature to a consideration of specific features of linguistic expression and moves from discourse towards the sentence: while literary criticism uses linguistic expression as evidence of theme, character

and plot; thereby focusing attention on the message which language is used to convey.

A number of linguists have maintained that a form of linguistic analysis quite independent though is text analysis. In text analysis linguistic signals are used to create cohesive texts and emphasis is placed on the surface and semantic functions of items on the text. According to Mc carthy(1991:26) discourse analysis involves text analysis but more than this, it involves making sense of a text in an act of interpretation. This act of interpretation depends as much on what we as readers bring to the text as what the author puts into it.

The interactive approach to discourse analysis
The interactive approach to discourse analysis is derived from the knowledge that discourse is used in accomplishing actions within social contexts and includes speakers' use of both extended sequences and single units. According to Widdowson, if the text based approach to discourse analysis moves from instances of discourse, with actual data, towards linguistic units, it is because it is necessary for the purpose of such description. He goes on to suggest that the interactive approach moves outwards, as it were, from the sentence and deals not with linguistic expressions as realized in the discourse but with abstract potential linguistic forms.

The concern in interactive approach to discourse analysis is on how elements of discourse structure are linguistically realized as speakers and hearers negotiate meaning in social interactions. In other words, this approach is concerned with dialogue in which turns to speak are distributed between speakers. In the process, certain pragmatic principles are obeyed or flouted; and speakers have intentions for saying what they say. All these are central to interpreting what speakers and hearers do with their language in social context. Widdowson (1979) further notes:

> the interpretation of discussion, then, is not simply a matter of recovering the presuppositions attaching to the individual sentences as they appear in sequence. The linguistic context in which they occur and the extra-linguistic context of utterances creates presuppositions of a pragmatic kind or implicature which can override those which are associated with linguistic forms

This study therefore, categorically falls under interactive discourse. The relevance of this pragmatic procedure of interpretation to discourse study is that utterances have to be interpreted not within the linguistic context alone, but in consideration of some extra linguistic contexts which impose certain order on such interpretation. Because of the strategic relevance of context to this study, the procedure of interpretation as proposed by Brown and Yule (1983) Sinclair and Coulthard (1975) would be adopted. Insights from other scholars whose works also explicate the interactive approach to discourse analysis would be used and acknowledged. Particularly relevant to this study is the model proposed by Sinclair and Coulthard (1979). They state as follows:

> our interest again were in the functions of utterances and the structure of discourse. We were looking for answers to such questions as: how successive utterances are related, who controls the discourse, how does he do it, how if at all do other participants take control? What linguistic evidence is there for discourse units larger than the utterance?

Research Questions

1. What are the discourse/pragmatic concepts that underline the production of discourse between counsel and witness?

2. What are the structures of counsels-witness exchange are what is the organizational pattern

3. Who controls discourse between the counsel and the witness and what is/are there determining factor/s?

4. What linguistic forms are employed by counsel in courtroom interaction?

Method

The descriptive survey design was used for the study. It was carried out in Nnewi Municipal in Nnewi North L.G.A, Anambra State, Nigeria. The two high courts, Court I and II were used for data collection. The instrument for data collection in this study was non-participant observation. The researcher was present twice in each of these courts to observe different counsels interact with differed witnesses and took down the utterances. Fortunately, the judges and the opposing counsels in each suit took down utterances of

both the interrogating counsel and the witness. This punctuated the flow of the utterances of both the interrogating counsel and the witness and gave the researcher ample opportunity to write down these questions and answers, the main source of data. Data for this study was analyzed using the frequency distribution table which was later converted to simple percentage.

Results and discussion

 Research Question One: *What are the discourse/pragmatic concepts that underline counsel-witness discourse?*

Some discourse/pragmatic concepts such as presupposition, interruption, implicature, turn-taking, co-operative principle, tactics underlie the production of discourse in counsel-witness exchange. During examination- in chief, the counsel and the witness have a common interest. Therefore, each is willing to contribute to the success of the interview hence; there is a pervasive sense of understanding and co-operation between them. Questions are asked and answers are given so that communication is enhanced and Grice's (1975) co-operative principle and its maxims kept. However, during cross examination, when the strategies adopted in asking questions are such that would contradict and discredit the witness, we see these maxims being flouted, especially the maxim of quantity; i.e., giving less information than is required. Moreover, counsels asks questions on the presuppositions or assumptions that the witness understands the concept and can give answers to the questions.

Research question two: *What are the structures of counsel witness exchange and what is the organizational pattern?*

Sinclair and Coulthard's (1975) analysis of the internal organization of discourse and certain terms used by these scholars in such analysis would be adopted. The observed for instance, that the classroom discourse consists of hierarchically ordered elements, namely; transaction, exchange, move, act. According to them, each element except act has a structure which consists of a class of the elements below it. Consequently the structure of a transaction consists of a class of exchange; that of exchange consists of moves while the structure of the move consists of a class of acts. Acts in discourse are defined by their functions. They are realized by words, phrase and sentences. Olateju identifies classes of acts to include frame, focus elicit, inform, direct, prompt, accept, comment, evaluate restate, etc. Moves are the smallest free unit which has a structure in terms of acts. Sinclair and Coulthard (1975) identified five classes of move;

Initiation (I) fram (Fr) focus (FO) Response (R) and follow – up (F).

An initiating move is one that begins a discourse, the frame and focus moves occur at the beginning of the initiating move. The frame marks the beginning of another set of discourse while focus is a statement about discourse. The response move is the expected verbal or non-verbal reaction from a participant in a discourse. If the initiating move is to 'direct' or 'inform' the response would be non-verbal but if the initiating move is to 'elicit', the response becomes verbal. The follow-up move is the acknowledgement, evaluation or acceptance of the response which can be negative or positive. Exchange according to Olateju (1998)is the basic interactive unit in which an initiation by a speaker A, is followed by a response from speaker B, and obligatorily by a further contribution from speaker A. In the classroom for example as noted by Sinclair and Courlthard, the exchange reveals the structure: I (R) (F). This implies that in a classroom exchange, initiation (I) is the only obligatory element.

A transaction is made up of series of exchanges. It is the highest rank in the hierarchy of discourse. In the classroom transaction it is made up of recurring exchanges, moves and acts.

Acts in counsel-witness interaction have functions not different in the classroom. The acts "marker, 'elicit', 'reply' are predominantly noticeable. 'Marker' occurs mostly at the boundary of the initiating moves and are realized by a closed set of items like 'yes', 'now', Ok'. In this context, these are seen as just empty comments without any semantic weight. The act 'elicit' is realized by questions and used to demand oral response from the witness. However, the act 'inform' is sparsely noticed and this is realized by statements not demanding response from the witness. The 'reply' act is only noticed in response moves by the witness. The initiating move is exclusively that of the counsel and contains more elements of structure than the response move. "Elicit" is the most recurrent of the acts being present in allthe initiating move. In the response move, the 'acts' that realize the structure are mostly 'reply' and 'react'. The follow up move (F) did not occur in the analyzed texts. It is for the court represented in the presiding judge to 'accept', 'evaluated and if need be 'comment' on the response. The counsel on his part can only take up the witness on his response either to contradict him or exonerate him.

The Reponse-Initation (RI) move occurs when the respondent does not fully grasp the initiation. He could request a reframing of what was said by saying

"pardon", what is-----? etc. In the analyzed texts, the Response Initiation move did not occur. As one of the rules binding on courtroom interactions, the witness must respond to the questions of the counsel directly. It would be read as contempt of court to ask direct questions to counsel in response to one passed by the counsel.

Exchange structure realized in the analyzed texts is predominantly the IR (Initiation Response). However, when the judge sustains an objection to a question, the witness does not answer giving the exchange structure I (Initiation). Consequently, the researcher proposes an exchange structure for counsel witness interaction as I(R) where the initiating move is obligatory and the response move not obligatory.

Research question three: *Who controls discourse between the counsel and the witness and what is/are the determine factors?*

The balance of power is tipped towards the counsel's side and counsels are aware of this and use certain strategies to their advantage.

This power is exercised primarily through language. Only counsels can ask questions. The witness is restricted to answering these questions obligatorily. Furthermore, the counsel is more knowledgeable than the witness in matters of the constitution and tenets of the law, thus, the witness is cautious in answering his questions to avoid discrediting or contradicting himself. Moreover, in negotiating of topic, the counsel determines which questions to ask the witness and ensures that the witness does not derail from the subject matter. He introduces a new topic when he feels a particular issue has been exhausted.

Research question four: *What linguistic forms are employed by counsel in courtroom interaction?*

Counsel – witness courtroom interaction is in the form of question and answer sessions where the onus of questioning rests on the counsel and that of responding rests on the witness. Consequently, whatever the counsel says is perceived as a question demanding response regardless of the form. (a statement or otherwise).

Conclusion
This study investigated counsel/witness exchange, describing the structure and organization of counsel/witness discourse in the courtroom. It highlighted the discourse features inherent in such interactions and observed

the communication strategies and motivations of participants in negotiating the interactions. It also observed the orientation of participants to each other and the subject matter during such interactions.

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