

Status Positions of Courtroom Discourse Participants

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Abstract—The article describes some characteristics of courtroom discourse participants, namely institutional status of a person and its correlations with other statuses in the courtroom communicative space, modality of communicative acts and speech formula, which belong to the courtroom discourse. The social status of a person, as the basic concept in sociology and sociolinguistics, was described by Weber, Parsons, Abrahamson, Bernstein, Harms. In this article, it has been analyzed from the point of view of pragmalinguistics as it is understood by Solan, Karasik, Eades, Wagner, Cheng. The pragmalinguistic approach to the study of the status of a person participating in court proceedings aims to reveal the situational characteristics of equality or inequality relations in courtroom. Status positions of courtroom discourse participants find reflections in certain participant types and communicative trajectories in communicative space, speech act types and their combinations, norms of verbal and non-verbal behavior and rules of communication, speech etiquette conventions, speech acts modality, communicative roles, reaction to role performance, interactional discrimination.

Keywords—courtroom discourse, status-marked communication, speech etiquette conventions, communicative role, preventive acts, coordination (harmonization) acts.

I. INTRODUCTION

Discourse, language use, verbal interaction and communication belong to the micro-level of the social order. Power, dominance, equality and inequality belong to the macro-level of the social order. In the everyday life, both levels form one unified whole [1]. The courtroom discourse seems to constitute a unified whole.

From the position of the theory of social action [2, 3], courtroom discourse is the organized interaction of certain persons in certain circumstances of co-presence. The condition of participating in courtroom discourse is the legally codified status. Status descriptions normalize the process of interactions in certain institutional environment. These characteristics allow the discourse participants to foresee the

behavior of other participants and plan their own actions. The study of the status characteristics manifestation in courtroom speech activity shows up how interlocution is being constructed and what are the principles of the construction of communicative events and the internal organization of the institution.

The article pays a certain attention to the nationally-specific socio-pragmatic phenomenon of linguistic (im)politeness [4]. National specificity of linguistic politeness and impoliteness is manifested in both verbal and non-verbal behavior. Being appropriate and polite in one culture, they seem to be inappropriate, impolite for representatives of another culture.

II. STATUS CHARACTERISTICS AND CEREMONIAL ACTS IN COURTROOM DISCOURSE

A. Status Characteristics

Status characteristics of the courtroom discourse participants are determined by the following attributes: a) the institutional position and its correlations with the positions of other participants in the situation of communication (the judge, the accused, the public prosecutor, the counsel, the witness, the victim, the expert, etc.); b) the genre modality of speech acts (the parties apply for smth., the witness testifies, the judge passes a judgment and proclaims the sentence, etc.); c) formula organization of the discourse (the stereotype speech constructions reflecting the norms of communicative behavior which are popular in this lingua-culture in a certain epoch) [5].

B. Status Positions

The mental models of the proper participating in the discourse are explicated already at the level of spatial organization of the action. The localization of the discourse participants in the space of the courtroom stipulates the trajectories and modality of communicative contacts between them. Determination of the communicative space is expressed both in the dividing the judicial zone by subzones and at the

floor level of these subzones. The functions of the judge as an independent arbiter are symbolically expressed in the fact that his place is on the dais. The parties' will is addressed to each other through the judge according to the triangle communicative trajectory. Such positioning of the participants is the way of demonstration of the status and it implies ceremonial gestures, rules of addressing the person of a certain institutional status. The courtroom ceremony is also expressed in stereotype speech formulas, which are specifically organized, formal, steady.

C. *Ceremonial Acts*

The ceremonial constituent of courtroom discourse reflects the external form of the behavior of all participants of the discourse. So, when the judges enter the courtroom, all presented shall give evidence and make applications while standing. They use only the institutionally codified formulas to address the court as "Esteemed Court", and the judge as "Your Honour" [6]. The ceremony dictates the scenario of a dialogue development usually set by norms or traditions.

A ceremonial act plays the role of the message of confessing other person's status. The breach of these rules causes the negative reaction, as it can be related to the intentional lowering of the social status of a certain participant of a communicative event. From these positions, the following part of the courtroom dialogue can be of certain interest:

Judge: Have you got any more questions, Mr. M-vich.

Counsel for the Defence: Yes, I have got.

Judge: Everybody stands up here, but you do not, Mr. M-vich.

Counsel for the Defence: Public Prosecutor shall not stand up.

Judge: She did.

Counsel for the Defence: She shall not. If she believes that she...

Judge: Why do you protect the rights of the Public Prosecutor?

Counsel for the Defence: Excuse me, but one must somehow educate.

Public Prosecutor: I needn't to be educated.

Counsel for the Defence: Well, shall you stand or not? You shall not. I shall not stand up. I am a professional defense counsel, I am a lawyer, unlike, I beg your pardon, of other participants of the trial. Well, Your Honor, in my opinion, I am speaking of evident facts.

Judge: Well. Sit down, please!

Counsel for the Defence: Do you agree with me?

Judge: Sit down!

Counsel for the Defence: Thank you!

Public Prosecutor: Your Honor, I must just mention one thing. Mr. Lawyer, Mr. M-vich, next time, when you object

the judgment, you mustn't start with the Prosecutor. Start with the Court if you are addressed any remark.

Counsel for the Defence: I must answer Public Prosecutor's remark. The matter is that I have mentioned you because you may have accustomed to the fact that Public Prosecutors always rise. Your Honor, you can believe that Public Prosecutors ... excuse me, I have been a lawyer for 30 years, thank God, I can tell you ...

Judge: We are attentively listening to you.

Counsel for the Defence: ... Lawyers shall not stand up. You have. It's up to you. Never mind.

Judge: Well, we have already explained. Mr. M-vich, you can ask the witness questions. (from the transcript of the court hearing on the case of O. Orlov).

The refusal of the lawyer to follow ceremonial conventions provokes finding out if this refusal is connected with the conscious lowering of the court status ("Everybody stand up here but you do not").

The possible deviations of the substantial formalities of the kind take place in full accordance with certain rules, the Postulates of Politeness, the observance of which allows one not to go across the line after which the actions of a person are qualified as contempt of a court. These rules imply the explanation which gives a certain rational good reason to the refusal: "I don't stand up not because I don't respect you but because I am a lawyer, and a lawyer shall not address the court while standing". The explanation in such cases seems to be one of the additional components of the status-marked situation, and it serves the purpose to restore the rapport and maintain the status correlations.

The analyzed part of the courtroom dialogue explicitly proves the idea of D. Archer that "lawyers are not doing impoliteness" [7].

III. STATUS CHARACTERISTICS AND CORRELATIONS OF STATUS POSITIONS IN COURTROOM DISCOURSE

A. *The Status Characteristics of the Participants*

The contact form of interaction is regulated by speech etiquette agreements forming the special culture of the mutual address forms. Let us analyze the following example from the past:

Accused: Comrades Judges!

Presiding Judge: We aren't comrades to you.

Accused: And what way should I address you?

Presiding Judge: You must say "Citizen Judges".

Accused: I am not a criminal and I don't want to address the Court the same way as the criminals must address the authorities ...

At the end of the dialogue, the accused began to address the Court and the Public Prosecutor: "the Honorable Court" and "the Honorable Public Prosecutor" [8]. The fragment illustrates the intentional breach of speech etiquette

conventions in the genre format of the court session. At that time, when arrestees, prisoners and defendants to address the representatives of the law enforcement authorities had to say only the word "citizen": "citizen judge", "citizen public prosecutor", but not "comrade judge" (public prosecutor). The court insists on the dialogue unequal in status. The accused, after attempts to create the parity context of cooperation, deliberately increases the distance by means of the address formulas which were considered to be the intentional grate on ears. The dialogue presented above demonstrates the significance of an address form in the social public situation. Being the symbolic denotation of the status position of a certain subject in communicative situation, the address form symbolizes both the attitude to him/her and the willingness of addressing him/her in the format set by the institutional culture. The address form "citizen" in this historical context explicates the presumptive attitude determined only by the procedural status of a person accused of a crime, and thereafter, the lexeme seems to be the inducement to the prosecutorial bias of the proceeding.

The significance of a presentation aspect of status positioning allows speaking about the performance discourse characteristics [9]. In courtroom discourse, there are some important points: how the interaction event occurs, how the discourse participants taking up positions, perform their roles. This possibility to view self-performance from the observer's position arises through the distance between the subject and his action. The participant of a discourse, performing certain acts, emphasizes this performance in a communicative situation (I am a lawyer, and the lawyer should not stand up, I am a lawyer, I have to hold the opinion of a defendant; as he does not admit guilt, my opinion is the same: he is not guilty, etc.). These are acts expressing the attitude of a discourse participant to his role: acts of refusal from a role, statements of rejection, the public prosecutor's renunciation of the charge, the same as his changing the charge, acts of a demonstrative distancing from a role. As an example, let us give a fragment from the speech of a lawyer, the Counsel for the Defence:

My situation as a lawyer of the defendant N. K. is very difficult and inconsistent. Let me tell you, that it wasn't easy for me as a person to get acquainted with the materials of this criminal case in detail and re-experience the full horror of what had happened, to be with you in the courtroom for 10 months already, to see you heart-broken. It is a severe psychological stress. But you'll have to understand me - I am a lawyer and I had no choice. I am related to the position of the defendant. The defendant has a right to choose, the lawyer doesn't have it. I protect not a crime; I assert the rights of my defendant. My task is to find all facts justifying (acquitting him) or mitigating the position of my defendant in this case... And I hope that you will understand me [10].

The subject does not identify himself completely with the action; he performs it consciously for the others and highlights this distanced performance.

The condition of courtroom interaction is a clear division of functions among the subjects, prevention of interference in the competence of the other person. The subject who is obliged to behave in a certain way is opposed to the subject

appropriating someone else's status (in this case, the status of the accuser). The dialogue is interesting because it combines the acts of critical supervision (You begin to explain, you take the charge function upon yourself), and the acts of introspection (I can explain only the article ...), the participants of the discourse create the effect of demonstration of the role performance together [11].

B. The Speech Acts Exposing Status Position

Status positions of courtroom discourse participants find reflections not only in certain communicative trajectories in communicative space, but also in speech act types and their combinations, norms of verbal and non-verbal behavior, speech acts modality, communicative roles. For example, explanations, exposing communication possibilities and recipient restrictions appropriate to his or her institutional position, belong to an act type directed to the role of other.

Judge: The Court is clarifying your rights provided by the Criminal Code of the Russian Federation. You have the right ... You may not give deliberately false evidence or refuse to give evidence; At the same time I clarify that with the permission of the presiding justice you have the right to testify at any moment of the trial. In addition, the court explains to you, that in terms of Article 51 of the Constitution of the Russian Federation, you have the right not to testify against yourself, your spouse and other close relatives.

Preventive acts are means of warning about the consequences of actions committed or not committed by a person and thus affecting the development of the discourse.

- If you agree to testify you are warned that your testimony may be used as the proof in the criminal case, even if you subsequently renounce them;

- You are the victim in this criminal case. Giving testimony is your right. However, you may not give false testimony or refuse to testify, so the court warns you about your criminal liability under Articles 307 and 308 of the Criminal Code of the Russian Federation.

Interactive acts are aimed at recognition of the proper role performance:

- Do you know your rights?

- Yes, Your Honor;

- Defendant, as the fact that you have been warned about your criminal liability, please, acknowledge it in writing.

- I have signed, Your Honor!

A special group of statements constitute coordination (harmonization) acts:

Prosecutor: I suggest the following procedure for examination of evidences in the case: to question the victim, to examine the witnesses, to examine the written materials of the case, to interrogate the defendant.

The victim: I have no objections to the proposed order.

Counsel for the Defence: I am content with it.

Defendant: I do not mind.

These acts are aimed at collective reproduction of the order, specified by the procedural norms so as to build interaction here and now again, using communication resources and capabilities that are ascribed to each of the institutional position.

The above-mentioned units are the types of statements that inform about the action, describe its past, present or future performance, but are also actions of performative manifestation of activity, the fact of participation in the discourse and impact on it.

C. The Status Correlations of the Positions of the Participants

The degree of influence in courtroom discourse is expressed in predetermination or openness of the response to different forms of motivations of the subject which are oriented to other subjects in specific situations of communication. In one case, the subject is associated with the need of performance of actions required from him or her and with rigidly predetermined response to the motivation of the other. Otherwise, he or she is not bound by obligations to act and react in a certain manner.

Such possibilities are actualized only in conjunction of positions in a situation of institutional interaction. The links between institutional positions define the modality of discourse and determine the degree of freedom of actions and the response to them in institutional structures. The degree of freedom of the recipient varies from zero mark, matching the use of coercion in different situations, i.e., external influence on the behavior of a person for the purpose of unquestioned obedience to the will of the acting person, up to granting freedom of reactions to his or her acts.

The participants of a status marked communication are modeled by means of the categories of case grammar [12] and include a universal set of roles, which are provided by the repeating fragments of an institutional practice designated by the verbs "accuse", "convict", "justify", "appeal", "interrogate", "decide", etc. As applied to the situations of courtroom discourse, based on the model of adverse parties, it is possible to identify: 1) an agent - the initiator of an action towards the other participants of the communication; 2) a counteragent - the person with whom an agent makes multidirectional actions; 3) a patient - the person undergoing, an animated object of a purposeful agents' activity; 4) a recipient - the person acquiring; 5) a respondent - a higher official whom the agent addresses; 6) a superagent - the participant of a situation, on behalf of and in accordance with whose will, an agent performs this or that action in relation to a patient (recipient), a counteragent or respondent. The main participants of the status marked situation are arranged in a decreasing sequence: superagent - respondent - agent (counteragent) - patient (recipient) [13,14].

A patient is the only one of the highlighted positions which is deprived of will importance in the institutional discourse situation actualized by an agent. His or her role is passive and his or her will is not essential to influence a situation. This role is provided by coercion situations. In coercion situations, a patient acts as a person undergoing irrespective of his consent,

an object of other actors purposeful efforts. Coercion is negative by nature; it is directed to the limitation of rights and personal freedoms, restraint of personal liberty, unlike recovery and compensation actions. So, a justification speech act assumes the cancellation of accusatory formulas against a person and the relevant procedural acts adopted at the stage of a preliminary inquiry, and, thus, recovery of person's status preceding his criminal prosecution liability. As a rule, in communicative situations of authoritatively administrative influence (a resolution on taking the given person to the bar in the capacity of the defendant, pronouncement of the Judgement of Conviction), assuming a negative change of a person's status (accused - convicted), the patients' role is combined with the role of the recipient. This role in courtroom discourse assumes an acquisition of some opportunities in case of which usage the person acts as an agent.

Patients' role can be observed also in the situations of veiled or direct interactional discrimination, asymmetry of a real possibility to participate in courtroom discourse, influencing on its development [15].

The feature of an adversary discourse consists in impossibility of the parties to influence each other directly and forcibly. Throughout the judicial process, the parties address the Court (a respondent) with the petition for performance of the procedural actions or for passing the procedural decisions, which the court can satisfy or refuse to satisfy.

Speech acts of the judge as a holder of power are authoritative towards the parties, unlike the acts of the parties addressed to the judge. At the same time, all participants of a communicative situation act under the law, showing the legislator's will in their intentions (invisible superagent in the situations of courtroom discourse). The discourse participants obey not one another, but the law. From these positions requiring from the court a lawful decision, the party influences the court almost as imperatively, as the court influences the party. Hence, the protest against judge's actions which includes a categorical requirement (in dyad agent - counteragent) is the same natural form of legal judgment in which the party can inform court of its opinion, as a petition, i.e. a motivated agent's request to the respondent. However, requirements in courtroom discourse act as imperative speech acts in which the only possible action of the addressee is approved not owing to the speaker's status characteristics, his right to insist, but owing to arguments given to justify the requirement. The court makes this or that decision based on the legality and validity of the requirement of the party. Hence, the genre forms, differentiated by way of influence on an addressee, should not assume some advantages for the public prosecutor who having made the decision to appeal against sentence, is entitled to file a presentation while the same defender's appeal is called a complaint.

Alternatively, to patient, counteragent is a person, who interacts with the agent. In this dyad, the parties may perform competing actions, i.e. act as irreconcilably conflicting parties, but also actions aimed at finding solutions to converge, taking into account the mutual interests. The role of a counteragent can be transformed into the role of coagent in reconciliation or agreement situations. A counteragent can act as an auxiliary

agent or assistant and play an instrumental role. Here is an example of the formation of such role transformation in a pair of a lawyer - a defendant through a "question-hint" in the following fragment of courtroom examination:

Presiding Judge: The evidences were recorded from your words, weren't they?

Defendant: The investigator was the initiator of my testimony.

Presiding Judge: Explain, please, how did your examination and record of testimony take place?

Defendant: This examination was constructed by putting affirmative questions by the investigator, and my answers to the investigator.

Presiding Judge: Are you tired of giving evidence?

Defendant: No, I feel not tired to testify.

Presiding Judge: How can you explain that the transcript of the interview shows that you stated events of the crime freely, and not by questions and answers?

Defendant: I can explain nothing on this.

Counsel for the Defence: Who recorded testimonies, given by you on the preliminary investigation?

Defendant: The investigator did.

IV. CONCLUSION

This method of describing the semantics of communicative situations allows the participants to be considered in courtroom discourse as special types of modal relations, to reveal the selectivity of institutional interaction and the ability of role combinations (role-frames), the dominant roles and their transformation throughout the court proceeding, to

determine the script types of communicative behavior in each specific case.

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