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语篇信息处理视角

葛云锋 著

Solicitation of Desired Information in Courtroom Questioning: A Discourse Information Processing Perspective

山东大学出版社

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前　言

2001年，笔者有幸拜在我国著名法律语言学家杜金榜教授门下，学习法律语言学的相关理论和研究方法，并于2004年完成硕士毕业论文《如何在法庭问话中通过话题控制获取所需信息——语篇分析研究》，主要探讨庭审中话题控制这一会话策略在问话人获取信息过程中的重要作用。

自2007年起，笔者开始系统学习杜金榜教授提出的语篇信息理论，包括“法律语篇树状信息结构模式”、“语篇信息成分”、“法律信息处理系统语料库”(Corpus for the Legal Information Processing System，简称CLIPS)的建设方法及标注技术等。在学习过程中，笔者深感对庭审问话中信息获取过程进行更为系统研究的必要性。本书《法庭问话中的信息获取研究——语篇信息处理视角》即为该研究的阶段性成果。

在对相关研究进行回顾的基础上，本研究首先构建了一个描写、分析和解释庭审过程中当事人语言使用的理论框架(简称“谷仓模型”)。该框架包括四个组成部分：信息处理、应答、话题控制和信息获取。在这四个组成部分中，信息获取既是本研究的起点，也是本研究的最终目标。另外三个部分是本研究的主要分析工具，用来揭示信息获取过程中的信息处理特征和影响因素。本研究以语料库为基础，主要采用定性研究的方法。

语料分析表明，法庭问话中所需信息可以分为三类：状态类、过程类和态度类。状态类信息主要用于为庭审做准备，或者为法律事实的发现提供背景。过程类信息主要对侵权过程中的因果关系进行描述，或者对当事人的主观过错做出说明。态度类信息主要用来陈述当事人的诉讼请求、得出结论、做出推断或阐明立场。

分析还表明，当事人对法庭问话的反应是影响问话人获取所需信息的重要因素之一。针对问话人的问话，当事人可以做出充要或非充要反应。前者具体分为肯定和否定反应；后者分为模糊反应、不明反应、替代反应、过量反应和不足

反应。

本研究进一步表明，在法庭问话中话题控制是信息获取过程中的有效策略。话题控制包括问话人对话题的提出、话题的保持、话题的转换和话题的结束所进行的控制。虽然问话人和答话人都可以提出新话题，但问话人往往对所问话题具有决定权。话题的保持往往通过话题的简单或者复杂重复实现。话题的转换可以在同一个话题源下进行，也可以在不同的话题源下产生关联性或非关联性话题转换。不管是否获得充要反应，话题都会以自愿或被迫方式结束。

本研究的主要贡献在于，从语篇信息处理的视角对法庭问话中的信息获取过程进行了研究，揭示了问话人如何通过话题控制获取需要的信息，即问话人如何对答话人的反应进行信息处理并通过控制问话话题获取所需信息。通过对真实语料的分析，本研究验证了所构建的“谷仓模型”分析框架的有效性与实用性。该模型整合了“法律语篇树状信息结构模式”有关语篇信息的最新研究成果，将语篇信息处理作为法庭问话的主要特征，深化了有关庭审中信息获取的理论研究，扩展了语篇信息理论的应用范围。本研究将有助于提高司法实践的效率，并为我国当前进行的司法改革提供语言学层面的参考。

本书得以付梓，得益于笔者的老师、学院领导、出版社以及家人的支持和帮助。首先感谢我的导师杜金榜教授。本书是和我的博士毕业论文同时写作和完成的，因此在本书的写作过程中，杜教授从理论框架、研究方法到具体分析都给予了悉心的指导。没有杜教授的点拨和鼓励，本书不可能顺利完成。还要感谢山东师范大学外国语学院领导的关心和鞭策；感谢山东大学外国语学院杜新宇博士提出的中肯修改意见；感谢山东大学出版社的老师们为本书出版所做的大量工作；感谢我的妻子王红和女儿葛翰宸对我的大力支持，本书的出版与她们的关爱和付出是分不开的。

由于时间仓促，书中难免疏漏和不足之处，敬请读者批评指正。

葛云锋

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ABSTRACT

Courtroom questioning has always been the focus of study in forensic linguistics. However, although many of the researches have been contributed to the study of the questioning strategies employed by questioners to get desired answers, most of them are directed to the sociological or psychological analysis, without considering the features of information processing in the acquisition of desired information. Moreover, among the various kinds of questioning strategies discussed in the previous studies, the strategy of topic control has never been touched upon. Thus, this study aims to elaborate the solicitation of desired information through topic control in courtroom questioning from the perspective of discourse information processing.

To accomplish the research objective in this study, an analytical framework (the Barn Model) is constructed for the description, analysis and interpretation of the language used by participants of lawsuits in court hearing. The Barn Model consists of four components: information processing, responses, topic control and solicitation of desired information. Among the four components, solicitation of desired information is both the start point and the final goal of the study, with the other three being the analytical tools that help to reveal the features and factors in the solicitation of desired information. Methodologically, the study mainly adopts a corpus-based qualitative analysis.

On the basis of data analysis, it is found that desired information in courtroom questioning can be classified into three groups: state-oriented information, process-oriented information and attitude-oriented information. State-oriented information is mainly used to make preparations for trials or provide background for the finding of facts of cases. Process-oriented information is responsible for the description of the cause-effect relationship or

the subjective faults of litigants in infringement. Attitude-oriented information is employed by litigants to expose compensation claims, draw conclusions, make inferences or express positions.

Data analysis also reveals that litigants' responses to courtroom questionings are one of the major factors that influence questioners' solicitation of desired information. Litigants may choose to provide either adequate or inadequate responses, with the former being classified into positive and negative responses and the latter into vague responses, unclear responses, substitute responses, over-informative responses and insufficient responses.

It is also found that topic control is an effective strategy employed by questioners to elicit desired information in courtroom questioning. Topic control is usually realized by questioners' control of initiation of topics, maintenance of topics, shift of topics and termination of topics. Although topics can be initiated by questioners or answers, questioners usually have the final say as to which topic appears in the questioning. Maintenance of topics can be realized by simple or complex re-occurrence of topics. Topics shifts can either take place under the same feeder, or take the form of associated topic shift or non-associated topic shift. Finally, topics can be dropped either voluntarily or coercively whether adequate response is provided or not.

The major contribution of the study lies in addressing questioners' solicitation of desired information in courtroom questioning from the perspective of discourse information processing. It reveals how questioners elicit desired information through topic control, namely, how information in the answerers' responses is processed and finally desired information elicited by questioners' controlling of the topics of questioning. Moreover, the analysis based on authentic data has proven the validity and applicability of the analytical framework, the Barn Model. This model, by taking discourse information processing as the major activity involved in courtroom questioning, has incorporated the systematical findings of the Tree Information Structure Model. As such, this study may deepen the theoretical investigation of information acquisition in court hearing and broaden the application scope of discourse information. It is hoped that this study may improve the efficiency of the judicial practice and provide linguistic references for the ongoing judicial reform in China.

Transcription Conventions

?	Inquiring intonation
!	Exclamation intonation
,	Continuation
.	Falling, stopping intonation
...	Omission of the content
(0.5)	Timed pause
(word)	Comments made by the researcher
‖	Overlappings
⊥	Self-repair of wording
▲▼	The start and end of interruption
J	The judge(s)
P	The plaintiff
D	The defendant
W	Witness
PA	The plaintiff's attorney
DA	The defendant's attorney
AT	Appellant
AE	Appellee

List of Tables

Table 2-1 Question Forms according to Power of Manipulation ····· (8)
Table 2-2 Types of Information Knots ····· (15)
Table 2-3 Information Sharing Categories ····· (16)
Table 4-1 Summary of Functions of Information Categories ····· (67)

List of Figures

Figure 2-1 Tree Information Structure Model(Du,2007) ····· (14)
Figure 2-2 Question-answer Structure of Example (4) ····· (24)
Figure 2-3 Question-answer Structure of Example (5) ····· (25)
Figure 3-1 Analytical Framework of the Study ····· (30)
Figure 5-1 Types of Answerers' Response ····· (68)
Figure 6-1 Judge Initiation ····· (98)
Figure 6-2 Litigant Initiation ····· (101)
Figure 6-3 Answer Initiation ····· (103)
Figure 6-4 Simple Re-occurrence of Topics ····· (107)
Figure 6-5 Simple Re-occurrence of Topics ····· (110)
Figure 6-6 Shift under the Same Feeder ····· (115)

List of Extracts

Extract 3-1 …… (32)
Extract 4-1 …… (35)
Extract 4-2 …… (36)
Extract 4-3 …… (37)
Extract 4-4 …… (39)
Extract 4-5 …… (40)
Extract 4-6 …… (40)
Extract 4-7 …… (41)
Extract 4-8 …… (43)
Extract 4-9 …… (44)
Extract 4-10 …… (45)
Extract 4-11 …… (47)
Extract 4-12 …… (48)
Extract 4-13 …… (50)
Extract 4-14 …… (51)
Extract 4-15 …… (53)
Extract 4-16 …… (55)
Extract 4-17 …… (57)
Extract 4-18 …… (59)
Extract 4-19 …… (60)
Extract 4-20 …… (62)
Extract 4-21 …… (63)
Extract 4-22 …… (65)
Extract 4-23 …… (66)

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Extract 5-1 …… (69)
Extract 5-2 …… (70)
Extract 5-3 …… (72)
Extract 5-4 …… (73)
Extract 5-5 …… (75)
Extract 5-6 …… (77)
Extract 5-7 …… (79)
Extract 5-8 …… (80)
Extract 5-9 …… (82)
Extract 5-10 …… (83)
Extract 5-11 …… (85)
Extract 5-12 …… (86)
Extract 5-13 …… (88)
Extract 5-14 …… (89)
Extract 5-15 …… (91)
Extract 5-16 …… (92)
Extract 5-17 …… (93)
Extract 6-1 …… (97)
Extract 6-2 …… (98)
Extract 6-3 …… (99)
Extract 6-4 …… (102)
Extract 6-5 …… (104)
Extract 6-6 …… (106)
Extract 6-7 …… (108)
Extract 6-8 …… (111)
Extract 6-9 …… (113)
Extract 6-10 …… (114)
Extract 6-11 …… (116)
Extract 6-12 …… (118)
Extract 6-13 …… (119)
Extract 6-14 …… (121)
Extract 6-15 …… (122)
Extract 6-16 …… (124)
Extract 6-17 …… (126)

CONTENTS

Chapter 1 Introduction ····· (1)

1.1 Research Orientation ····· (1)
1.2 The Rationale of the Study ····· (2)
1.3 Research Objective and Research Questions ····· (4)
1.4 Organization of the Study ····· (5)

Chapter 2 Literature Review ····· (6)

2.1 Introduction ····· (6)
2.2 Studies on Courtroom Interaction ····· (6)
2.3 Studies on Information ····· (10)
2.4 Studies on Topic ····· (16)
2.5 Summary ····· (28)

Chapter 3 Theoretical Framework ····· (29)

3.1 Introduction ····· (29)
3.2 Analytical Framework ····· (30)
3.3 Research Methodology ····· (31)
3.4 Summary ····· (33)

Chapter 4 Features of Desired Information ····· (34)

4.1 Introduction ····· (34)
4.2 State-oriented Information ····· (34)
4.3 Process-oriented Information ····· (46)
4.4 Attitude-oriented Information ····· (58)

4.5 Summary ..... (67)

Chapter 5 Factors Affecting solicitation of Information ..... (68)

5.1 Introduction ..... (68)
5.2 Adequate Response ..... (69)
5.3 Inadequate Response ..... (74)
5.4 Summary ..... (94)

Chapter 6 Solicitation of Desired Information through Topic Control ..... (96)

6.1 Introduction ..... (96)
6.2 Initiation of Topics ..... (96)
6.3 Maintenance of Topics ..... (105)
6.4 Shift of Topics ..... (113)
6.5 Termination of Topics ..... (120)
6.6 Summary ..... (127)

Chapter 7 Conclusion ..... (128)

7.1 Introduction ..... (128)
7.2 Summary of the Major Findings ..... (128)
7.3 Conclusions ..... (131)
7.4 Implications ..... (132)
7.5 Limitations and Suggestions for Further Research ..... (133)

References ..... (134)

Chapter 1
Introduction

1.1 Research Orientation

Anyone who reflects on everyday conversations may notice the fact that on many occasions conversation participants incline to sustain each other's talk. They tend to hold on to the things that they are talking about, and are not willing to give them up. Linguists who engage in the formal study of conversation describe those things as "topic", and use this notion to analyze various kinds of social interaction. The phenomenon that topics are always sustained by speakers is called "topic maintenance" or, in another way, "topic control". A speaker who wants to make his or her speech convincing or easy to influence others usually tries to be the focus of attention. One way to do that is to hold his or her topic without being interrupted, or, to be the one who is in the position of raising new topics. So the method most often used to control conversation is to control topics.

As Hill and Varenne (1992) note, "The degree to which topic is either maintained or shifted is ... viewed as one of the more reliable indices of interactional behavior...". "Topic control" is pervading not only in natural conversation but also in institutional settings, for example, the courtroom. It is noted that "topic control" is widely adopted in court hearing by judges, prosecutors or lawyers as a means to elicit the desired information. Therefore, the present study aims to reveal the process how questioners attain their desired information through topic control in court hearing. It is desired that by looking at topic control in courtroom discourse, we may, when augmenting our understanding of

the important role topic control plays in the legal context, discover the specific means that are most often adopted to fulfill the aim of topic control and thus elicit the desired information.

1.2 The Rationale of the Study

There are several reasons for conducting the research into solicitation of desired information by means of topic control in courtroom questioning.

Firstly, "information structure" is one of the focuses of study of linguists. It is believed that one of the most important functions of language is to communicate information (Du, 2007). Many linguists such as Halliday (1967), Vallduví (1992) and Craige (1996) are interested in the question of how information is presented in everyday conversation or written language. As Craige (1996) notes, information structure is universal in human discourse. They introduced many notions in the study of information structure, for example, subject, topic, old and new information, etc. They probe into the question in various perspectives of linguistics, or other perspectives like psychology, sociology, etc. Courtroom interaction is by no means out of the scope of information communication, which of course is usually in the form of questions and answers. In courtroom discourse, prosecutors, lawyers, defendants or witnesses communicate with each other all the time, and try to elicit the desired information with the aim of persuading the prosecutors in Chinese courts or jury in the common law system into accepting their standpoint. In this sense, the study of how information is presented or elicited in courtroom discourse is of great significance to those legal workers. Besides, as is revealed by Li and Thompson (1976), the language of Chinese is, in fact, a topic-prominent language. This is of great help to our analysis, because topic is just the information structure notion we intend to use to explore information solicitation in courtroom questioning.

Secondly, topic control is a strategy often adopted by questioners in solicitation of desired information in the process of questioning. As is discussed in the above paragraph, in courtroom discourse, prosecutors or lawyers try to direct the conversation in the direction that will benefit the interest group they represent. This aim can be fulfilled in various ways, among which topic control is one often adopted. Gibbons (2003) refers to this kind of strategy as control of information, "an attack can also be mounted on those elements of a witness's

testimony that do not agree with the lawyer's prepared version of events, in an attempt to discredit them, change them, confuse them or cloak them in uncertainty". In legal settings, what is asked in the conversation and when conversation comes to an end is most of the time controlled by questioners.

Thirdly, courtroom questioning studied in perspective of topic has been rarely touched upon. It is true that some scholars and researchers have contributed to the study of courtroom interaction (e. g. Loftus, 1979; Danet & Kermish, 1978; Atkinson & Drew, 1979; O'Barr, 1982; Philips, 1985; Benoit, 1989) and a number of studies have contributed to questioning strategies which questioners use to get desired answers (e. g. Danet & Kermish, 1978; Drew, 1990; Philips, 1985), but most of the studies are directed to the analysis of sociological or psychological character focusing on the content of behaviors and strategies rather than on linguistic formal analysis. And few researches have focused upon topic control, not mentioning (to regard it) as a way of eliciting information. On the other hand, although the linguistic notion of topic has been studied both in China (e. g. Zhao, 1997; Liu & Zou, 1998; Xin, 1998; Lei, 1998, 2002; Wang, 1999; Bai, 2000; Wang, 2000) and abroad (Li & Thompson, 1976; Halliday, 1967; Keenan & Schieffelin, 1976; Kuppevelt, 1995), researches on the phenomenon that topic is used as a way to elicit information in legal settings can rarely be found. This thesis provides a study on topic control in legal settings with the aim of shedding light on how desired information is elicited through topic control in the process of questioning.

The fourth factor concerns the methodology we adopt in the analysis of topic control in courtroom discourse. As is emphasized in the title of this thesis, the present study is carried out in the perspective of discourse information analysis. As is well known, the analysis of discourse is the analysis of language in use. Lenore A. Grenoble (see Gunter, 1990) points out that the study of discourse rests on the premise that linguistic items will hardly be understood without reference to the context in which they are used. Therefore, it cannot be restricted to the description of linguistic forms independent of the purposes or functions of language. As for studies on topic, some researches have been done in syntactic or semantic perspectives (Hockett, 1958; Dahl, 1969; Grimes, 1975; Givon, 1979), however. The target language the present study focuses on is questioning in legal settings, which is dynamic, context-dependent, and

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