

Research on Co-existing Relationship of Power and Language in Police Caution from the Perspective of Critical Discourse Analysis

-- A Case Study of U.S. Miranda Warning

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Abstract

It is acknowledged that there is a tight and strong connection between language and power. Language is not only a transparent media or method for human to communicate and exchange ideas, but produces the persuasive function, the intimidation function even the controlling function based on the power asymmetry. Police Caution is a specific but commonly seen sort of Power Discourse exerted by police officers to suspects, where exists an obvious co-existing relationship of power and language. Hence, this paper intends to briefly analyze the discursive strategies of U.S Miranda Warning from the perspective of Critical Discourse Analysis and reveal the principle of the English Police Caution, which may explain how the persuasive function, the intimidation function and the controlling function are exploited.

Keywords

Critical Discourse Analysis; Police Caution; Power Discourse; Discursive Strategy.

1. Foreword

Police Caution is a relatively broad concept and can be divided between a broad and a narrow definition. In a broad sense, Police Caution refers to the legal procedure in which law enforcement and judicial personnel inform criminal suspects, defendants or other persons questioned of relevant rights and obligations in the process of investigation, search, arrest, punishment and court session. [1] Police Caution in the narrow sense refers to the judicial procedure in which investigators inform criminal suspects of their rights during arrest or interrogation. One of the most famous, widely read and recognized Police Caution is the Miranda Warning in the United States.

At present, the research on Police Caution from the perspective of law has been mature, but the research on the symbiosis between language and power behind Police Caution from the perspective of linguistics is still lacking. In fact, the linguistic analysis of Police Caution is not only an important research topic in law, but also a hot spot in legal linguistics. Scholars in Europe and the United States focus on the study of court language from the perspective of language itself, pragmatic characteristics, language environment, social and psychological factors of language users, and the interaction between law and language according to the identity of the speaker and the role of the court. [2]

Through Police Caution, investigators exert certain psychological pressure on criminal suspects through language, forcing them to make confession, which profoundly reveals the relationship between "language displays right and right uses of language" hidden behind.

2. Police Caution

The academic circle has a broad definition of police notification. It believes that Police Caution refers to the legal procedure in which law enforcement and judicial personnel inform criminal suspects, defendants or other persons questioned about their rights and obligations in the process of investigation, search, arrest, punishment and court session. However, generally speaking, Police Caution generally refers to a judicial procedure in which the police inform the suspect of his or her legal rights and obligations at the stage of arresting an in flagrante delicto (sometimes simply in flagrante, a legal term used to indicate that a criminal has been caught in the act of committing an offense) or before interrogating the suspect. Police Caution can be either verbal or written. In the UK, Police Caution can be divided into Oral Caution and the written version, namely the Notice to Detained Persons (NDP). In China, Police Cautions take the form of the Notification of Legal Rights and Obligations of Suspects. In the United States, Police Caution mainly refers to Miranda Warning.

Miranda Warning, also known as Miranda Rights or Miranda Rule, is the right of a criminal suspect to remain silent, legally known as Privilege of Silence, during criminal proceedings in the United States. It originated from the 1966 Supreme Court decision *Miranda v. Arizona* written by Earl Warren, the 14th Chief Justice of the United States.

Miranda Warning reads as follows:

MIRANDA RIGHTS [Miranda v. Arizona, 384 U.S.436(1966)]

Before a law enforcement officer may question you regarding the possible commission of a crime, he or she must read you your Miranda Rights. He or She must also make sure that you understand them.

MIRANDA WARNING STATEMENTS

You do not have to make a statement and have the right to remain silent.

Anything you say can and will be held against you in a court of law.

You are entitled to consult with an attorney before interrogation and to have an attorney present at the time of interrogation.

If you cannot afford an attorney, one will be appointed for you.

Miranda Warning fully guarantees the questioned to exercise their litigation rights according to Constitutions or other relevant laws, restrains the law enforcement and judicial personnel's own behavior, and plays a certain role in ensuring social sanction, fairness and justice of law enforcement and justice.

3. U.S. Miranda Warning from CDA perspective

There has been a mature amount of researches on Miranda Warning from the perspective of law. However, the discursive strategy and its functional analysis from the perspective of CDA in Miranda Warning are also worth studying.

3.1. Brief Introduction of CDA

Critical Discourse Analysis is a discourse analysis method developed abroad at the beginning of this century, which is also known as CDA. This method originated from critical linguistics in the late 1970s and early 1980s, and was first proposed by R.Fowler et al in *Language and Control* in 1979. [3] CDA mainly discusses three basic issues: discourse and ideology; speech, control and power; discourse and society. [4]

Scholars who study CDA theory point out that power involves control, which in turn is related to cognition, i.e. a powerful group can not only restrict the freedom of action of other groups, but also influence their thinking. Language is not only a simple and transparent media for objective representation of people's thoughts, but more importantly, it interferes with social

process and personal life, and constructs and controls social relations. In the study of Institutional Discourse, people tend to emphasize the power asymmetry of the two sides of discourse and the control of the strong side, so Critical Discourse Analysis is a more appropriate theory or means for the study of Institutional Discourse.[5]

3.2. Discursive Strategies of Role Construction in Miranda Warning

Bourdieu, a sociologist, studies language and power from the perspective of symbolic power and believes that acquiring capital is a necessary way to have rights. In his opinion, capital not only refers to the accumulation of material wealth, but also includes the accumulation of professional knowledge, such as medical theory and practice knowledge of doctors, legal expertise of lawyers, law enforcement and interrogation expertise of police, etc. These professionals have accumulated more capital in knowledge, wealth and experience, which determines that they have more status, intelligence and experience in these fields than those of ordinary people. In other words, they have more powers in their fields. "Symbolic power can maintain or disrupt social order, and give power to appeals or slogans, precisely because people are convinced of the legitimacy of the word and the speaker, and to gain this trust, the speaker must have capital. Therefore, the acquisition of capital is the only way to power."

Miranda Warning is usually given verbally by police officers to suspects when arresting an in flagrante delicto. In the process of arrest, on the one hand, the police officer represents the public power and has a strong psychological pressure on the suspect, thus playing a role of persuasion, intimidation and manipulation. On the other hand, in the process of arresting and interrogating criminal suspects, the police with more criminal judicial knowledge are the ones who control the capital and have a firm grip on the right to speak. They can control the criminal suspects through language, resulting in the symbiosis between power and language.

Through certain discursive strategies, the criminal suspect in understanding his or her rights and obligations at the same time, it creates a psychologically shock by Miranda Warning. On the one hand, it breaks criminal suspects psychological line of defense. On the other hand, it drives the suspect to make the voluntary guilty confessions (confession), or not-guilty plea.

3.3. Logic and Functional Analysis of Power Discourse Operation in Miranda Warning

Miranda Warning contains four short, pithily declarative or imperative sentences. From the point of view of grammatical structure, there are almost no complex clauses in the whole article. On the contrary, simple single sentences are mostly used. Unlike ordinary dialogue, Miranda Warning does not involve the interaction between both sides of speech. Instead, solemn, serious and precise legal terms are used to take the initiative of one-way output to the speech recipient, lacking corresponding emotional background, resulting in a surprising command tone of Miranda Warning.

The following will try to list the logic methods of power discourse operation in Miranda Warning:

(1) Lack of Emotional System: Mechanical and Stylized Output of Cold and Serious Words

Emotion refers to the evaluation of people's emotional state, which can be simply understood as human emotions, such as happiness, sadness, love, hatred and other manifestations. In human language system, emotion is usually expressed by adjectives and adverbs. Of course, a certain tone can also be used, but the emotion output by tone is difficult to distinguish due to the different understanding of it between the speaker and the recipient.

Throughout the whole four sentences of Miranda Warning, there's not a single adjective or adverb, but plenty negative sentence forms are adopted (for example, do not, cannot, don't have to). On the one hand, it reflects the formality and solemnity of legal language, with sanctity, authority and rigor. On the other hand, it plays the role of exerting power and intimidating

function in Police Caution. Miranda Warning has the same characteristics, even though it is issued orally or verbally. The mechanical output of such cold and serious words by human beings, typically emotional animals, in accordance with established procedures, will make the recipient unable to feel any emotion, resulting in fear and willingness to make confessions or pleas. At the same time, it is also vital to be aware that the lack of emotional system in the Miranda Warning or other Power Discourse, may easily lead to the deprivation of suspects' or defendants' legal rights from the police, judges because of the power asymmetry, so that the law's pursuit of fairness and justice might be trampled underfoot.

The absence of emotional system is an important basis for power discourse in Miranda Warning.

(2) Presupposition: Force Recipient to Agree with the Corresponding Information for Granted
Presupposition, also known as premise, is a commonly used method to analyze linguistic forms in CDA theory. Some scholars point out that presupposition is interpreted as the information which the recipient has to accept for granted under the persuasion of the speaker.[6]

In Miranda Warning, the speaker uses a single line of communication in advance, anticipating that the recipient may be under intense police pressure to make a plea of innocence or a confession of guilt. Therefore, the first sentence of Miranda Warning warns that the recipient actually has the right to remain silent, quoted as you do not have to make a statement and have the right to remain silent. Thus, it affirms and safeguards the criminal suspect's right to remain silent.

The presupposition of the precondition is essentially the affirmation of criminal suspects' Privilege of Silence.

(3) Conventional One-way Discourse Transmission: the One-way Output of Speech Making Recipient Unable to Refute

In daily conversation, both sides of discourse have equal status, and their conversation is constructed on the basis of double-sided transmission. Both sides talk to each other, and the speech is exchanged between two sides, from which both sides get the necessary information. However, Miranda Warning does not involve any two-way communication, only the one-way output from police officers to suspects. After a series of warnings, the recipient, herein the suspect or defendant, becomes the passive receiver of Power Discourse, thus producing a certain confession psychology. The practice of one-way communication in Miranda Warning leaves the recipient powerless to refute and to make a voluntary confession.

(4) Use of Intimidation: Make the Recipient Dare Not to Challenge the Relevant Bottom Line

The second sentence of the Miranda warning, anything you say can and will be held against you in a court of law, uses a negative expression. The word against is very intimidating. Although Miranda Warning essentially guarantees the criminal suspect's Privilege of Silence, it also guarantees the criminal suspect's right to make a true and innocent plea, which is in fact equivalent. The use of the word against, however, essentially creates a threat in opposition. It emphasises that if the suspect does not use the right to remain silent, any single word he or she utters may be used against him or her as a negative evidence.

A lot of such discursive strategies are adopted in Miranda Warning to reach the bottom line that the criminal suspect dare not challenge to make false confession, but on the other hand, it also erodes the right of making innocent plea of the criminal suspects.

3.4. Functional Analysis of Power Discourse Operation in Miranda Warning

"Certain ideologies always use certain language and terminology to express themselves." [7] Ideology plays its specific function with the help of language and terminology, so does Miranda warning as Power Discourse. Miranda Warning plays the role of persuasion, intimidation and manipulation by using Discursive Strategies such as no-emotion system, presupposition, one-way transmission and intimidation.

(1) Persuasion Function

The function of persuasion is to persuade and convince people with sufficient reasons, to guide the attitude and behavior of the recipient and to make it develop in the direction of the persuader. [8] The persuasion function of language aims to promote public support and conviction, so as to confirm and strengthen legitimacy and authority.

A sentence in Miranda Warning, quoted you do not have to make a statement and have the right to remain silent, fully generates the function of persuasion, convincing the criminal suspect to freely use Privilege of Silence. Suspects don't have to make any statement admitting being guilty until a lawyer presents. "You are entitled to consult with an attorney before interrogation and to have an attorney present at the time of interrogation If you cannot afford an attorney, one will be appointed for you."

(2) Intimidation Function

The threat feature is actually more common in Miranda Warning. For example, anything you say can and will be held against you in a court of law. In fact, it's a legal "threat", implying that if a suspect doesn't use Privilege of Silence, anything he or she says is likely to be considered as an admissible evidence in a court of trial. Plus, he or she may be found guilty for what he or she once said.

(3) Manipulation Function

The so-called manipulation function is more an accessory of the intimidation function, which can also be understood as the psychological intervention of criminal suspects and the reconstruction of social order. Take sentences "You do not have to make a statement and have the right to remain silent" and "Anything You say can and will be held against you in a court of law" as instances, simply put, the speaking subject is demanding that the recipient follows certain procedures, or there will be consequences. For example, in Miranda Warning, the police, as the representative of public power, is the subject of speech, which requires the passive receiver, herein suspects or defendants, to clearly understand their legal rights and have the right to remain silent. If they do not remain silent, their words may be used as an admissible evidence against him or her in court of trial, thus realizing the manipulation function.

4. Conclusion

Police Caution is an important judicial procedure to protect the legal rights of criminal suspects. It is a research focus of both legal sciences and legal linguistics. Police Caution is a typical example of "power uses language, language shows power". "For CDA, language is not powerful on its own -- it gains power by the use powerful people make of it." As the world's most famous Police Caution, U.S. Miranda Warning contains a profound co-existent relationship of power and language. Therefore, from the perspective of Critical Discourse Analysis, analyzing the discursive strategies of U.S. Miranda Warning can reveal the inner principle of Power Discourse in Police Caution, and explain the operational logic of the functions in persuasion, intimidation and manipulation, highlighting the charm of language.

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