

Defendant examination in Chinese criminal trials:

Stance conveyance by legal professionals and defendants

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Submitted in accordance with the requirements for the degree of
Doctor of Philosophy

The University of Leeds

School of English

August 2024

Declaration

I confirm that the work submitted is my own, except where work which has formed part of jointly authored publications has been included. My contribution and that of the other authors to this work has been explicitly indicated below. I confirm that appropriate credit has been given within the thesis where reference has been made to the work of others.

Chapter 4 of this thesis is based on a jointly authored article ‘Other-Repetition to Convey and Conceal the Stance of Institutional Participants in Chinese Criminal Trials’ published in the *International Journal for the Semiotics of Law* in January 2024. I drafted the article, and Dr Alison May provided feedback on its revision as well as editorial revisions. After receiving the reviewers’ comments, Dr Alison May and I discussed the further revisions. I made significant changes to the article, and Dr Alison May proofread it and provided additional editorial revisions.

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Acknowledgement

I still remember the day I moved to Leeds to start my PhD journey. Time flies. The research experience over the years is invaluable to me. I feel lucky to have navigated the journey with love and support around me. First, I want to thank my wonderful supervisors—Dr Alison May and Professor Binhua Wang—who have always been supportive. Dr Alison May has guided my research with wisdom and patience. Under her supervision, doing research is not terrifying; instead, it is an adventurous exploration. Beyond research, she has been caring and loving. During the pandemic, when life was tough, she made me feel like I had a family here, far away from my homeland. I also want to express my sincere gratitude to Professor Binhua Wang. He has been very supportive of my research and my career development. He has given me helpful guidance whenever I asked him for help. I will continue my research with everything I have learned from these two amazing supervisors.

I want to thank my colleagues: Mashael, Matthew, Maram, Natalie, Andrea, Amy, Solly, Qin, Min, Xiaoman, and Chen. PhD research is solitary most of the time. We tackle our own research problems alone, but we are going through the same journey together. And I find support and warmth from you. I also want to thank the seven legal professionals, whose names I cannot mention here, for agreeing to do an interview with me and providing their valuable views to support my research.

I am grateful to my friends who keep me company when I need help and support. Thank you, Soso, for sharing your professional views with me during my whole PhD research life. Thank you, Lili, Ju, Huaping, for always being there for me since we were 13. You know every major step in my life. Thank you, Apricot and Echo. I feel less stressed every time I talk with you. I am also grateful for being a member of the meditation group, which is a warm and loving community. Thank you, Melanie, Barbara, Frank, Celia, Julie, and Sam, for sharing your wisdom with me. After every meditation session with you, I feel more peaceful and stronger. I am also grateful to the friends who went through overseas life with me: Shuang, Tian, Ankita, Ankita (the other one), Miki, Xi, An, and Chen. You have made my life much more colourful.

Lastly, I want to thank my beloved family. Thank you, Dad, for being supportive when I decided to pursue further studies abroad, though you want me to be near you. Thank you, my dear brother Qiang, and my dear sister Li. I know you are always with me, no matter what I do and where I am. Mom, I believe you are always watching over me. I miss you every day. I hope you feel proud of me.

Abstract

China is conducting a ‘trial-centred’ judicial reform, which highlights the critical role of trials to verify evidence and deliver justice. This research aims to contribute a linguistic perspective to that reform based on a study of defendant examination in 49 transcribed Chinese criminal trials. Specifically, this research looks at how legal professionals and defendants negotiate with each other in defendant examination while holding different stances, which makes stance conveyance tricky, in particular, stance alignment: ‘the act of calibrating the relationship between two stances, and by implication between two stancetakers’ (Du Bois, 2007, p.144). This research explores stance alignment by drawing on two main concepts: alignment and affiliation, which refer to cooperation at the structural and affective level respectively (Stivers et al., 2011).

A combined conversation analysis and corpus-based approach is triangulated by interviews with legal professionals. This research examines legal professionals’ stance conveyance in their repetition of defendants’ responses, defendants’ methods of conveying disaffiliating stance, and the impact of stance (non-)display on narrative construction in the courtroom. The analysis reveals that legal professionals might choose to conceal their stances strategically in questioning defendants. Defendants are also found to conceal their defensiveness in their responses by maintaining structural alignment. Similarly, in narrative construction during the questioning stage, prosecutors often convey their stances subtly through structural (dis)alignment. Their

implicit stance conveyance during the questioning stage results in narrative transformation in their closing arguments. This research enhances the understanding of stance alignment by distinguishing between structural alignment and affective affiliation and enriches stance analysis by highlighting its interactive nature.

Based on a relatively large dataset, this research provides a panoramic view of Chinese criminal trial discourse and reveals problems in the institutional design of the trial and the imbalance between the prosecution and defence, both of which have implications for further judicial reform.

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Chapter 1 Introduction

1.1 Motivation and rationale for the research

There are two major trial systems in the world, namely inquisitorial, which is ‘imagined as a neutral inquiry conducted and controlled by a state official aimed at investigating and establishing the facts of a contested occurrence’ (Ainsworth, 2017, p.81), and adversarial, which is often described as ‘a kind of contest between two equally-situated contestants, each of which is striving to prevail’ (Ainsworth, 2017, p.80). But ‘[t]his is not a static picture, as systems mingle with and borrow and retreat from one another, sometimes in profound ways, over time’ (Hodgson, 2020, p.3). Many modern legal systems are ‘mixed’ as demonstrated by Hodgson (2020, p.5). The Chinese trial system was mostly inquisitorial before the 1996 judicial reform, when it started to introduce adversarial elements. Over the past few decades, the Chinese trial system has continued to evolve. Now China is conducting a ‘trial-centred’ judicial reform. This targets the ‘casefile-centred’ phenomenon, where judges made final decisions by reading casefiles before or after trials (Xiong, 2016, p.37), rendering trials a formality. This judicial reform highlights the critical role of trials in finding out truth, verifying evidence and delivering justice (Anon, 2014).

Against this backdrop, legal experts are discussing the institutional design of defendant examination in Chinese criminal trials, which starts with the prosecutor’s questioning. Article 191 of Chinese Criminal Procedural Law states that ‘after a

prosecutor reads out the indictment.... the prosecutor *may* (可以) interrogate the defendants (*my emphasis*)'. Sun and Wang (2017, p.141) point out that the law forces the defendant to be a witness in a trial and, worse still, the first witness of the prosecution, while they contend it is more justified for defendants to be the first witness for the defence, as is the case in the Anglo-American system. Some other experts believe it is necessary for prosecutors to question defendants only when defendants plead guilty, as, in cases where they plead not guilty, the prosecutor's questioning usually ends up similar to the defence lawyer's questioning (e.g. Wang, 2017; Liu, 2017). Wang's (2017) empirical study finds that in all trials in his dataset, no prosecutors skip the questioning stage. Wang (2017) argues that the fundamental reason is that, in China, criminal trials are expected to educate the public by displaying the consequence of committing a crime with the defendants being an educational tool. This, however, goes against the requirement and goal of the judicial reform, which expects criminal trials to focus on evidence presentation and contestation (Wang, 2017, p.110). This research aims to contribute a linguistic perspective to the discussion of judicial reform by investigating language in defendant examination. Defendant examination is an important part of the 'court investigation' stage of the four-stage structure in Chinese criminal trials: court opening, court investigation, court debate, and defendant's final statement. During this stage, the defendant is sequentially questioned by three different legal professionals: prosecutors, defence lawyers, and judges.

Courtroom discourse study is a well-established research area in forensic

linguistics, but it is still in its early development stage in China. The first systematic work on courtroom interaction in China is Liao's (2003) book *A Study of Courtroom Questions, Responses and Their Interaction*. Liao analyses the transcripts of 13 trials using speech act theory and conversation analysis. He provides a quantitative analysis of turns and adjacency pairs, categorises questions and responses, discusses the roles of participants in trials, and summarises the major interactional patterns. Over the past two decades, Chinese courtroom discourse studies have introduced various approaches including adaptation theory (e.g. Xu, 2009; Hu, 2010), the systemic functional linguistic framework (e.g. Zhang, 2005; Jiang, 2012; Yuan and Hu, 2012; Jiang, 2016; Ma et al., 2017), critical discourse analysis (Shi, 2008), critical genre analysis (Ge and Wang, 2019), multimodal discourse analysis (Yuan, 2019), and narrative analysis (e.g. Yu, 2011; Xiang and Li, 2017). However, so far, no substantial corpus linguistic study has been done in Chinese courtroom discourse analysis, unlike the large number of such studies done outside of China (e.g. Cotterill, 2003; Heffer, 2005; Rosulek, 2015; Tkačuková, 2015; Szczymbak, 2016; Alison Johnson, 2018; Claridge, 2018; Claridge et al., 2020). Meanwhile, conversation analysis was established as an important approach in courtroom discourse studies since the 1970s (e.g. Atkinson and Drew, 1979; O'Barr, 1982; Matoesian, 1993; Ehrlich, 2001), but it has not been widely adopted in Chinese studies with only a few exceptions (e.g. Luo and Liao, 2012; Liao and Gong, 2015; Sun and Liao, 2017). This research combines the approaches of corpus linguistics and conversation analysis. The combined approach is made possible with videos from the 'Chinese Court Trial Online' website

(<http://tingshen.court.gov.cn/>). Since its launch in 2016, the website has been livestreaming trials from courts across China and displaying recorded trials uploaded by Chinese courts. This resource enabled the collection of a corpus of 49 Chinese criminal trials, which were then transcribed manually.

There are major differences in the research focus between Chinese studies and those in the English-speaking world. Most English-medium research focuses on examination and cross-examination (Coulthard et al., 2017). Closing arguments draw much attention from linguists as well (e.g. Rosulek, 2015; Gilbert and Matoesian, 2015; Chaemsaitong, 2018). Scholars are also interested in lay participants in the courtroom who are socially disadvantaged or linguistically vulnerable, including children, women, and Australian aboriginals (e.g. Matoesian, 1993; Brennan, 1994; Eades, 2000; Eades, 2002; Conley and O'Barr, 2005; Matoesian, 2010; Alison Johnson, 2018). An overview of the existing research finds that Chinese studies on courtroom discourse focus on the language of judges, the most powerful participant, who makes the final judgement and controls the trial process in China. Defence lawyers and prosecutors, who are expected to balance the power relationships in court, draw very limited attention from linguists. As for the non-professional roles in the trial, including the defendants and the witnesses, there have been few studies on their language exclusively. However, since the launch of the trial-centred reform, participants other than the judges play an increasingly important role in criminal trials. Therefore, this research aims to fill the gap by focusing on the language of defendants and institutional participants in defendant examination.

Chinese courtroom discourse studies have investigated different aspects of courtroom interaction such as terms of address (Xia and Liao, 2012), interruption (Liao and Gong, 2015), discourse markers (Sun, 2015), presuppositions (Xiang and Li, 2016), formulation (Sun and Liao, 2017), and cooperation (Liao and Sun, 2017). However, stance has been underexplored with few prior studies (e.g. Luo and Liao, 2013; Luo, 2013; Luo, 2019; Luo, 2020). This research intends to contribute to stance analysis in the courtroom context by looking at how different trial participants convey their stances in Chinese criminal trials.

1.2 Stance and courtroom interaction

Stance is about how ‘we evaluate an entity, express our attitude or viewpoint toward it, coordinate our subjectivity in relation to other parties, and so on’ (Takanashi, 2018, p.173). Courtroom discourse is an important site for the study of stance, because we expect the different participants to have competing attitudes, goals, and subjective viewpoints. At the same time, courtroom interaction is aimed at finding out the facts and serving the delivery of justice. The conveyance of subjective viewpoints in such a setting requires numerous skills. Courtroom talk is deemed talk designed for an overhearing audience (Komter, 2013). In adversarial jurisdictions, the main overhearing audience is the jury, while in inquisitorial jurisdictions, it is the judges (Komter, 2013). In the public trials being livestreamed online, like those collected for this research, the overhearing audience also includes public viewers not present in court, which requires impression management by all participants. In such a setting, for

the prosecutors and defence lawyers:

The task of both prosecution and defense is to present the jury with the more convincing story. The problem is that too conspicuous orientation to ‘winning the case’ might undermine the persuasiveness of their story. Thus ‘establishment of the facts’ is managed by implicit persuasion and persuasion is disguised as ‘establishing the facts’ (Komter, 2000, p.420).

An important way to achieve implicit persuasion is implicit stance conveyance. For example, Chaemsaithong (2017, p.114) demonstrates that in the opening statement of an American trial, which should not include arguments according to the law, ‘lawyers rely more on personal pronouns to project their stance than on explicit affective stance markers’. Even in cross-examination, which is arguably the most confrontational stage of a witness examination, aiming to undermine the witness/defendant, Heffer (2007, p.165) argues that ‘opinions are not meant to be explicitly expressed’ as it is ‘during a “fact-finding” stage of the trial process’. As a result, though it is certain that trial participants hold clearly different stances, it requires skills to convey their stances in the courtroom. Meanwhile, it requires diligent discovery work to identify stance conveyance in courtroom interaction. In addition, as institutional talk, courtroom interaction features interactional asymmetries (Drew and Heritage, 1992, p.47), which make the conveyance of stance even trickier for lay participants. For example, defendants need to ‘be cooperative without compromising their defence’ (Drew and de Almeida, 2020, p.186).

Very few studies focus on stance analysis in courtroom interaction. Among the existing studies in the field, most focus on the monologues in the courtroom such as

opening statements (Chaemsaithong, 2015a; Chaemsaithong, 2015b; Chaemsaithong, 2017) and closing arguments (Gilbert and Matoesian, 2015). Those investigating dialogues in the courtroom, such as defendant/witness examination, mainly focus on legal professionals' language and adopt a discourse analytical approach (Heffer, 2007; Szczyrbak, 2016; Szczyrbak, 2021). In addition, most existing stance analysis is based on Anglo-American trials. But the trial system itself has an impact on stance conveyance. Dutch trials (Komter, 1994), Danish trials (Mortensen and Mortensen, 2017), and Swedish trials (Adelswärd et al., 1988), which use the inquisitorial trial system, are found to be not as confrontational as adversarial trials whether the interaction is between the prosecutors and the defence lawyers or between the institutional questioners and the witnesses/defendants. In Chinese criminal trials, as the main adjudicator of a case, judges also question witnesses and defendants. Prosecutors and defence lawyers sit opposed to each other in the courtroom as shown in Figures 1.1 and 1.2 (a screenshot of a trial video from the website 'China Court Trial Online'), but they are not often found to argue with each other very intensely due to the dominant inquisitorial trial mode. Stance conveyance in Chinese trials is expected to be different from that in adversarial trials and is worth an in-depth exploration. Therefore, this research investigates stance conveyance by both the legal professionals and the defendants in Chinese criminal trials.

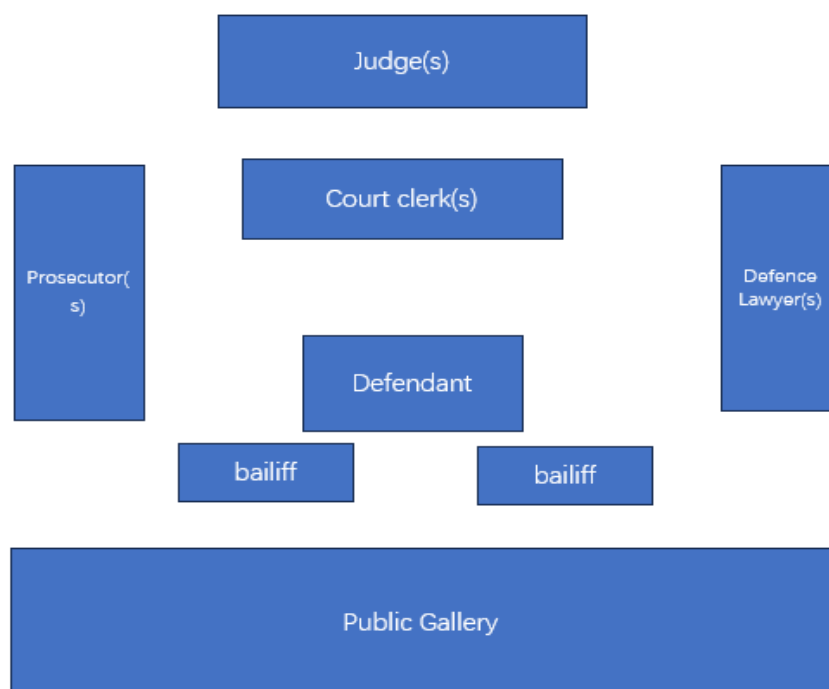


Figure 1.1 Chinese criminal court setting design



Figure 1.2 Chinese criminal court setting

As one procedure in a criminal trial, defendant/witness examination is often viewed as a process of constructing ‘narrative “facts”’ (Heffer, 2005, p.71). Many courtroom discourse studies adopt a narrative analysis approach to look at defendant

examination (e.g. Harris, 2001; Harris, 2005; Heffer, 2012; Archer, 2013; Heffer et al., 2013) and stance display is found to be important in shaping a narrative in conversation (Stivers, 2008; Tolins and Fox Tree, 2014; Lee and Tanaka, 2016). In particular, Stivers (2008) distinguishes between the impact of structural alignment and affective affiliation on storytelling in conversation. However, no major study has been identified which investigates narrative construction in the courtroom from the perspective of stance. This study intends to fill the gap and examines the impact of (non-)display of legal professionals' stance on the development of narrative construction in the courtroom.

1.3 Research questions

In the stance analysis of courtroom interaction, this research starts with two general questions: how do trial participants convey their stances in defendant examination? And how does stance conveyance by the different trial participants shape narrative construction in a trial? As the research unfolds, these two questions are further subdivided into the following four questions:

1. How do legal professionals convey their stance in Chinese criminal trials?
2. How do defendants defend themselves through the conveyance of their stance?
3. How does stance conveyance by the prosecutors and the defence lawyers shape the narrative construction of defendant testimonies?
4. How does stance (non-)display influence the evolution of testimonies from

the questioning stage to the closing arguments?

To answer the first research question, Chapter 4 looks at stance conveyance in the legal professionals' repetition of defendants' responses, which is found to be very common in the questioning by all legal professionals, including prosecutors, defence lawyers, and judges. In order to answer the second research question, Chapter 5 examines defensive responses, where defendants risk showing uncooperativeness while defending themselves. To answer the other two research questions, Chapter 6 compares stance conveyance by the prosecutors and the defence lawyers in their narrative construction of different types of testimonies. Based on the concept of 'textual travel' (Heffer et al., 2013), Chapter 6 also looks at how stance (non-)display influences the evolution of testimonies from the questioning stage to the closing arguments.

1.4 Aims of the research

This study aims to contribute a linguistic perspective to the discussions about the ongoing judicial reform in China. Specifically, this research aims to sketch the landscape of current courtroom interaction in Chinese criminal trials, which can provide reflections on the progress of judicial reform and enrich courtroom discourse studies in general. Methodologically speaking, this research attempts to demonstrate the feasibility and benefits of combining corpus linguistics and conversation analysis, which are usually deemed as incompatible (Section 3.4.3). Due to the limited access to audio- or audio-visual recordings of trials, many studies on Anglo-American trials

are confined to written transcripts (usually official court transcripts) (Heffer, 2005; Heffer, 2007; Szczyrbak, 2016; Szczyrbak, 2021). Such transcripts cannot provide paralinguistic and nonverbal information. As a result, conversation analysis is not broadly applied. The transcripts based on trial videos afford fine-grained conversation analysis in this research and the volume of Chinese trial data allows the use of corpus linguistics. Though the combined approach is rarely adopted, this research aims to demonstrate the feasibility of its application.

Theoretically speaking, this research aims to explore the interactive feature of stance conveyance in analysing courtroom interaction, where the interaction might involve opposing stances. The stance triangle model (Du Bois, 2007, p.163) suggests that: ‘In taking a stance, the stancetaker (1) evaluates an object, (2) positions a subject (usually the self), and (3) aligns with other subjects.’ With an added dimension of stance alignment to two well-established areas in stance analysis (evaluation and positioning), the stance triangle emphasises the interactive aspect of stance. Specifically, this research aims to contribute to the theoretical exploration of stance alignment by drawing on affiliation and alignment (Stivers, 2008; Stivers et al., 2011), a pair of concepts from conversation analysis. Structural alignment and affective affiliation can be deemed as two ways to manage stance alignment. Chapter 2 explains the theoretical framework of the stance triangle and the connection between stance alignment and this pair of concepts.

1.5 Structure of the thesis

The thesis consists of seven chapters: this introduction and six other chapters whose main content is outlined below.

Chapter 2 reviews relevant previous studies including those about the courtroom as institutional talk, narrative construction in the courtroom, question design and response design in courtroom interaction. The review covers the main works that lay the theoretical foundations for this research, including the stance triangle, and the key concepts for stance analysis in conversation: alignment and affiliation. It also reviews courtroom discourse studies focusing on stance analysis. This chapter points out the ways in which this research builds on prior studies.

Chapter 3 explicates the data collection, including the trial videos, and interviews with legal practitioners. It introduces ways of processing the data, including data transcription and translation, data segmentation and coding. It also introduces the combined approach of corpus linguistics and conversation analysis, and the steps taken for data analysis.

Chapter 4 investigates the effects of the repetition of defendants' responses by legal professionals when they question defendants. The analysis explores the way legal professionals convey and conceal their stances in their repetition with a focus on prosodic analysis.

Chapter 5 examines the language of the defendants when they try to defend themselves. By looking at their defences embodied in three major response patterns, this chapter investigates defendants' conveyance of their disaffiliative stances and

theoretically investigates the relations between different preference principles related to the features of alignment and affiliation.

Chapter 6 compares narrative construction by prosecutors and defence lawyers in defendant examination regarding the testimonies deemed as truthful and false in the closing arguments. This chapter discusses the control of storytelling in the courtroom. In their closing arguments, prosecutors state explicitly whether, in their view, defendants have given a truthful or false testimony. The analysis focuses on how legal professionals' stance conveyance shapes the narrative construction of different testimonies and compares the strategies used by the prosecutors and defence lawyers. By comparing narratives constructed during defendant examination and those in the closing arguments, this chapter contributes to the understanding of 'textual travel' (Heffer et al., 2013) and the impact of stance (non-)display on 'textual travel'.

Chapter 7 summarises the major findings of this research and points out its implications and limitations as well as the suggestions for future study.

Chapter 2 Literature review

2.1 Introduction

This literature review provides essential background information and theoretical frameworks to contextualise this research and facilitate its understanding. Given the focus of this research on examining stance conveyance in Chinese courtroom interaction, the chapter begins by reviewing existing studies on courtroom discourse. Emphasis is placed on the analysis of narrative, questioning, and responses within the courtroom setting.

In the second section, relevant studies on stance, which is the key concept for data analysis, are reviewed. The definition, typology of stance and resources for stance conveyance are first introduced. Then the stance triangle, the primary framework for this research, is elaborated on. Furthermore, by looking at stance analysis within the framework of conversation analysis, the pair of key concepts, alignment and affiliation, are introduced in detail. Following that, courtroom discourse studies on stance are reviewed. The last section summarises the review and contextualises the value of this research in the field.

2.2 Courtroom discourse studies

Courtroom discourse has been studied as institutional talk since the 1970s (Atkinson and Drew, 1979). Participants in institutional talk orient to specific institutional goals, special constraints on their contributions, and specific inferential frameworks that are

associated with the institutional contexts (Drew and Heritage, 1992, p.22). Courtroom discourse is distinctive from everyday conversation because of its special features in these three aspects. The goal of a trial is ‘finding out what happened, how wrong it is, and who is to blame’(Komter, 2013, p.612). The special constraints in courtroom talk feature the pre-allocation of turns with legal professionals asking questions and lay participants answering questions. Further constraints concern ‘who can ask what kind of questions and who must give what kind of answers’ (Komter, 2013, p.613). The inferential framework present in the courtroom is associated with three dimensions of its context: ‘the turn-by-turn organization of talk, institutional tasks and interests, and underlying beliefs and ideas’ (Komter, 2013, p.627). According to Komter (2013), in terms of turn-by-turn organisation, the question is the context for an answer, which constitutes the context for the next question. Its institutional goal of blame allocation could result in questions hearable as accusation and answers as defences. And the underlying belief in the courtroom is common-sense reasoning based on ‘a body of shared knowledge about how people typically behave’ (Komter, 2013, p.628).

Due to its institutionalism, courtroom talk exhibits interactional asymmetries, which are mainly shown in three dimensions: one ‘arises from the predominantly question-answer pattern of interaction’ (Drew and Heritage, 1992, p.49); another dimension ‘concerns the participants’ differential states of knowledge’ (Drew and Heritage, 1992, p.50); and the third dimension arises from the difference ‘between the organisational perspective that treats the individual as a “routine case”, and the client, from whom his or her case is unique and personal’ (Drew and Heritage, 1992,

pp.50–51). The asymmetry arising from the question-answer pattern has been broadly discussed in courtroom discourse studies. And the question-answer pattern in courtroom interaction is distinguished from that in ordinary conversation. In daily life, the questioner usually does not have the answer to the question and the respondent is not obliged to answer, but usually provides the requested information. But in the courtroom, ‘lawyers usually have a particular version of events in mind that they are attempting to confirm with the witness. Usually witnesses are compelled to answer, and do not have the right to ask questions’ (Gibbons, 2008, p.115). This difference influences the narrative in the courtroom as well as the question-answer pattern in the interaction. Therefore, this section first reviews studies on narrative in the courtroom and then the research on questioning and responses in the courtroom.

2.2.1 Narrative in the courtroom

Narrative construction in the trial is deemed important by both legal scholars and linguists. For the American legal scholar Brooks (2005, p.416),

[T]he law is in a very important sense all about competing stories, from those presented at the trial court—elicited from witnesses, rewoven into different plausibilities by prosecution and defense, submitted to the critical judgement of the jury—to their retelling at the appellate level—which must pay particular attention to the rules of storytelling, the conformity of narratives to norms of telling and listening.

On the other hand, he discusses the ‘anti-narrative’ (Heffer, 2012, p.270) design of courtroom interaction.

[I]n modern judicial procedure, stories rarely are told directly, uninterruptedly. At trial, for instance, they are elicited piecemeal by attorneys intent to shape them into the rules of evidence and procedure, then reformulated in persuasive rhetoric to the listening jurors. (Brooks, 2005, p.417)

Linguists generally believe that storytelling in institutional settings is not the same as in everyday conversation, where stories are co-constructed by the teller and the recipient (Schegloff, 1997a, p.97). In the courtroom, ‘the lawyer is constructing a version of events element by element—neither he nor the witness normally provides a full narrative during the interaction’(Gibbons, 2008, p.115). Heffer (2005) contends that in the courtroom, institutional participants ‘narrate through the witnesses’ or ‘narrate despite the witness’, depending on the nature of the examination. For example, in examination-in-chief, witnesses may be asked open questions that allow them to narrate, but in cross-examination, the narration is not a ‘co-construction’ because ‘neither party is willing to cooperate with the other.’ (Heffer, 2012, p.268). However, even in friendly examination, a free narrative, which is common in daily conversation, is rarely observed in the courtroom as ‘[t]he legally-trained mind [...] will be inclined to break down the continuous stream of an event into a series of discrete and definable components’ (Heffer, 2005, p.106). Harris (2005) shows that trial discourse features the hybridisation of narrative and non-narrative modes of discourse. On the other hand, narrative in the courtroom is not totally different from people’s general understanding of narrative. For example, both Harris (2001) on Anglo-American trials and Xiang and Li (2018) on Chinese criminal trials find it

helpful to draw upon the classic narrative structure based on personal narrative developed by Labov (1972, p.363).

For a finer analysis of narrative in the courtroom, Heffer (2012) introduces the concept of narrative practices, which is based on the view that narrativity is ‘redefined not as a property of texts, but as something that is attributed to texts by readers’ (De Fina and Georgakopoulou, 2012, p.8). The key practices identified by Heffer (2012) in a lawyer’s narrative in a trial include emplotment, story negotiation, character navigation, and narration itself. Emplotment is ‘the process by which a meaningful story is drawn from a heterogeneous collection of events and incidents’ (Heffer, 2012, p.275); story negotiation is for lawyers from both sides to negotiate the narrative scope (‘what can be included and what should be omitted’) and narrative salience (‘what is or is not at issue or disputed between the parties’) (Heffer, 2012, p.275); character navigation is ‘the ongoing ascription and maintenance of a story agent’s identity’ (Heffer, 2012, p.273); and narration includes ‘direct narration’ in opening and closing speeches and ‘witness-mediated narration’ in witness examination (Heffer, 2012, p.272). Though the model is built based on adversarial trials in Anglo-American jurisdictions, this research finds these concepts useful in analysing narrative in Chinese criminal trials as illustrated in Chapter 6 on the narrative construction of testimonies.

Many studies based on Anglo-American trials focus on the contrasting stories told by the prosecution and the defence as ‘[in] the Common Law system, a well established understanding of what happens is that the two sides are attempting to

construct competing versions of the same event or state' (Gibbons, 2008, p.116). For example, Cotterill (2003) examines the language skills used by the prosecution and defence in constructing different narratives in support of different arguments in the O. J. Simpson trial. Rosulek (2015) elaborates on how opposing parties in the closing arguments tell different stories about the same people and events with a corpus-based analysis of 17 cases. Bartley (2020) compares how the defendant and the victim are portrayed by the prosecutor and the defence lawyer by looking at how their feelings and/or character traits are presented differently in one rape trial. In Chinese criminal trials, prosecutors and defence lawyers usually do not disagree on the essential facts. However, they still manage to construct different, even competing stories, as demonstrated in Chapter 6, where prosecutors and defence lawyers adopt different strategies in the narrative construction of testimonies.

Another key concept that informs the exploration of narrative in the courtroom is 'textual travel' (Heffer et al., 2013). It is well known that the legal process is one where texts travel through the various stages from pre-trial contexts, where suspects are questioned, to trials, where their words are reinvoked and repurposed in a new context. Therefore, they are recontextualized as they travel. Heffer et al (2013, p.4) have described this journey as 'textual travel', which is defined as 'the way that texts move through and around institutional processes and are shaped, altered, and appropriated during their journeys'. Texts are also recontextualised within the trial, as material produced during the questioning stage is referred to in closing speeches of the trial. 'Intertextuality' (Kristeva, 1980) is, therefore, part of this process as there are

important connections between utterances in earlier and later parts of the trial and later reference to earlier material also has the potential for transformation.

There are mainly two strains of research on textual travel in legal settings. One discusses textual transformation due to the change of communication mode including writing and speaking. For example, Komter (2012), writing about the Dutch context, illustrates how a suspect's statement to the police goes through radical formal transformations in the criminal prosecution process and Maryns (2013) shows how written case notes are reproduced as verbatim oral dialogue in assize trials in Belgium. Haworth (2018) addresses the problem of evidential consistency in terms of police interview data, which are found to be significantly transformed as they are converted between written and spoken modes passing through the British criminal justice system.

A second line of research into textual travel focuses on the battle between legal professionals' and lay participants' voices in their interactions. For example, with Australian data, Heydon (2005) illustrates the negotiation of competing versions of stories in police interviews. Johnson (2008) demonstrates how the British police negotiate narrative transformation in their interview with a suspect, making the lay voice institutionalised. Eades (2008) examines how Aboriginal boys' stories are reshaped by lawyers through questioning in the Australian courtroom. Archer (2013, p.184) traces the crime narratives in one historical English trial to compare how 'pretrial material is (re-)interpreted, (re-)visited, and (re-)created' by the prosecution and the defence.

Chinese prosecutors and defence lawyers deliver closing arguments after defendant examination and evidence verification, aiming to present their arguments regarding the facts, the charges, and sentencing. In the closing arguments, they tell different stories based on the testimonies and other evidence presented in court. Though there are studies on narrative discourse in Chinese criminal trials (Yu, 2011; Cui, 2015; Xiang, 2016; Xiang and Li, 2018), no study examines the connection between narrative construction during the questioning stage and that in the closing arguments. Chapter 6 fills the gap by comparing the narratives constructed in defendant examination and those in the closing arguments and demonstrates how texts travel and are transformed in Chinese criminal trials.

2.2.2 Questioning in the courtroom

‘Questioning is one of, if not *the*, central communicative practice of institutional encounters’ (Tracy and Robles, 2009, p.131). Institutional participants are usually the questioners in talk in legal settings including both police interviews and courtroom interactions. Based on Goffman’s (1981, p.226) analysis of the speakers’ different participation roles: animator, ‘the sounding box from which utterances come’; author, ‘the agent who puts together, composes, or scripts the lines that are uttered’; principal, ‘the party to whose position, stand, and belief the words attest’, Gibbons (2008, p.117) argues that ‘[t]he objective of much legal questioning is to make the lawyer, rather than the witness, the principal, the person whose “position, stand, and belief” are expressed, leaving the witness in the role of author, and sometimes even animator

only’. To achieve their objective, lawyers adopt various questioning strategies, which most vividly manifest ‘the power to shape reality’ (Chaemsaitong, 2020, p.214).

Questioners choose certain question forms in order to control the response (May et al., 2020, p.17). Archer (2005, p.79) depicts the continuum of control corresponding to each question form in English based on Woodbury (1984) and Harris (1984). Linguists explore the association between the force and the forms of questions such as negatively constructed questions (Heritage, 2002; Alison Johnson, 2018), *and*-prefaced questions (Heritage and Sorjonen, 1994), and *wh*-questions (Archer, 2005). Archer (2005, p.78) argues that the amount of control embodied in a question type ‘correlate[s] with the strength of the questioner’s expectation of an answer’. In the control cline, declarative questions and tag questions are deemed as the question forms that have the most control force (Figure 2.1) as both questions ‘exhibit a greater expectation of an answer’ (Archer, 2005, p.78).


Type of question		Amount of control
1.	Broad <u>wh</u> -	Least
2.	Narrow <u>wh</u> -	
3.	Alternative	
4.	Grammatical yes/no	
5.	Negative gram yes/no	
6.	Declarative	
7.	Tagged declarative	Most

Figure 2.1 The continuum of control depicted by Archer (2005, p.79)

On the other hand, Archer (2005, p.80) points out that the coerciveness or controlling force of a question is not totally decided by the linguistic form of a question. Eades (2000, p.162) also ‘questions the assumption that the syntactic form of question types in court is inherently related to the way in which power is exercised’ and shows that ‘supposedly controlling question types can be taken as an invitation to explain’. Aside from the syntactic forms of questions, other aspects of question design such as propositional content, context, intonation, and sequential placements of the question can also influence its force (Eades, 2000, p.169).

Another important strand of study on questioning in the courtroom is to compare examination-in-chief and cross-examination. For example, May et al. (2020, p.17) find that counsels in examination-in-chief and cross-examination tend to ask different types of questions due to different purposes. In general, ‘the most controlling question types occur more in cross-examination than in examination-in-chief, while the least controlling ones (WH questions) occur more in examination-in-chief’ (Eades, 2000, p.169). In China, the situation is more complicated, because defendants are questioned by three kinds of questioners: prosecutors, defence lawyers, and judges. Because of their different purposes and stances in a trial, their question design could be different. Liao (2003) conducted the first substantial empirical study on questions in Chinese courtroom interaction. The research studies the questions by judges, prosecutors, and defence counsels in 13 trials. Liao focuses on judges’ questions and categorises them into procedural questions, which aim to control the trial process, and substantive questions, which are related to the case in question. The research finds

that judges play the predominant role in trials, though over 75% of their questions are procedural questions (Liao, 2003, p.100). However, in criminal trials, prosecutors ask slightly more questions than the judges (Liao, 2003, p.101). Different from Liao's study, which looks at the entire process of both criminal and civil trials, this research focuses on the questioning stage of criminal trials. Liao's (2003) research mainly produces quantitative results about the questions, while this research also provides detailed qualitative analysis, which examines the question-answer pattern in interaction. More importantly, judicial and legislative changes have taken place over the past twenty years. The ongoing judicial reform aims to build a trial-centred judicial system, which might change the trial interaction substantially. It is, therefore, worth an in-depth look at current courtroom questioning in Chinese courtrooms.

In recent decades, studies of Chinese courtroom interaction tend to focus on features in the questioning turns such as presupposition (e.g. Xiang and Li, 2016; Xing, 2019), interruption (e.g. Liao and Gong, 2015; Li and Chen, 2020), formulation (e.g. Sun and Liao, 2017; Ke and Sun, 2018). Chapter 4 of this research positions itself within this group of studies and looks at questioners' repetition of defendants' responses, which is found to figure prominently in Chinese criminal trials. Though the phenomenon has been discussed under the category of echo questions (Luo and Liao, 2012), Chapter 4 broadens the scope to include both interrogative repetition (echo question) and declarative repetition (non-question intoned repetition). With a focus on prosody, the chapter aims to explore the questioners' stance conveyance.

Another research strand of questioning focuses on the demonstration of power in

institutional participants' language (e.g. Zhao, 2009; Hu, 2010; Lv, 2011; Yang, 2012; Li and Chen, 2020). And the language of judges, the most powerful role in Chinese trials, draws the most attention (e.g. Du, 2008; Zhang, 2009; Xia, 2012; Jiang, 2012; Zhang, 2013). However, with the ongoing judicial reform, prosecutors and defence lawyers are playing increasingly important roles. By looking at the repetition by different legal professionals, Chapter 4 provides a broader perspective on the interactional dynamics in Chinese courtrooms. With a more focused comparison between the prosecutors' and the defence lawyers' language, Chapter 6 demonstrates their different roles in a trial.

2.2.3 Responses in the courtroom

Due to interactional asymmetries, it is believed that 'there may be little perceived opportunity for the lay person to take the initiative and professionals may gain a measure of control over the introduction of topics and hence of the "agenda" for the occasion' (Drew and Heritage, 1992, p.49). As a result, in courtroom discourse studies, legal professionals' language has drawn much more attention than lay people's language including defendants' responses. However, it also requires strategy for lay people to manage the interaction in an institutional context effectively. For example, lay people do not necessarily give answers but may give an evasive response 'as an essentially valid way of dealing with a difficult and perhaps flawed question' (Clayman, 2001, p.406). Between an answer and an evasion, Harris (1991) uses 'the scale of evasiveness' to look at different types of answers including direct and indirect answers

as well as those challenging a question. Similarly, Clayman (2001) contends that there are varying modes and degrees of ‘resistance’ between an answer, which ‘addresses the agenda of topics and tasks posed by a previous question’ (Clayman, 2001, p.407) and an evasion, which is an ‘inadequately responsive’ response (Clayman, 2001, p.406). Clayman (2001) dissects resistance in two dimensions: the negative dimension and positive dimension. The negative dimension shows the degree that a response ‘falls short of an adequate answer to the question’ (Clayman, 2001, p.412) while the positive dimension is about the degree that a response ‘moves beyond the parameters of the question, saying and doing things that were not specifically called for’ (Clayman, 2001, pp.413–414). According to Clayman’s (2001) illustrations, the most dramatic form in the positive dimension is a substantial change of topic and the strongest variation in the negative dimension is to decline to provide any information. In between, there are various practices to show evasiveness such as altering the terms of the question slightly (positive) and giving a partial or incomplete answer (negative).

These resistance practices either target a question’s design or a question’s agenda (Stivers and Hayashi, 2010). This research contributes to the field by looking at defensive responses in general, which could go beyond resistance in the immediate sequential environment of a question-answer adjacency pair and target general defence as shown in Chapter 5.

Another relevant concept to look at in defendants’ language is blame management. A trial can be understood as an event where one party places blame on the other, who in turn faces the task of blame management. Komter (1994, p.175) also points out that

defensive strategies ‘orient to the blame-implicative nature of questions.’ According to Malle *et al.* (2014), denial, excuses, and justifications are the major blame management strategies (Figure 2.2). This is corroborated by findings in linguistics. Atkinson and Drew (1979) identify two kinds of defensive modes in the courtroom: description of scenes, and providing reasons for action, or accounts, which mainly include excuses and justifications. However, as to how defendants provide excuses, justifications, and denial in terms of linguistic manifestation, very few studies have conducted an in-depth investigation. Chapter 5 provides a detailed description of defensive responses.

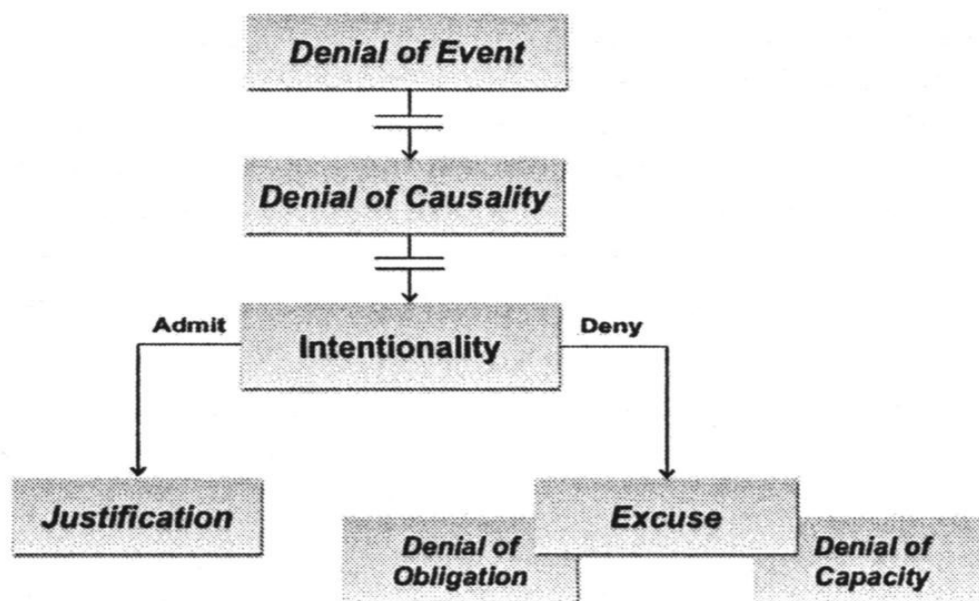


Figure 2.2 Blame management strategies based on the Path Model of Blame (Malle et al., 2014, p.175)

The existing studies on responses in Anglo-American courtrooms focus on defence strategies. For example, Harris (1989) examines counter-questions and interruptions by defendants. Drew (1990; 1992) discusses two descriptive defence strategies: avoiding self-correction and providing descriptions alternative to the version provided by the

legal professionals. Komter (1994) presents three defence strategies: selective admissions or selective memory, alternative descriptions, and the disappearance of agency. Cotterill (2004; 2010) identifies defendants' and witnesses' four types of 'rebellious' behaviours from the perspective of Gricean maxims: questioning relevance, diverting discourse sequencing, challenging the authority of the law and/or the lawyers, challenging lexical formulations proposed by lawyers.

Very few Chinese courtroom discourse studies focus on defendants' language exclusively, other than Liao (2004) and Carter (2019). Liao (2004) provides an overview of the various types of defendants' responses in Chinese criminal courtrooms. According to his research, there are two categories of responses: the first type responds to questions that seek information while the second type responds to questions designed for other functions such as request, reprimand, and advice. The second type includes a very broad range of linguistic devices including rhetorical questions, but they are unusual in most trials. The first type can be subcategorised into preferred response and dispreferred response with the first subcategory addressing the question's concern while the second one failing to do so. The dispreferred response might be adversarial, avoidant, powerless, or questioning while the preferred responses can take more forms such as direct answer, direct answer + additional information, reported speech, conditional. Carter (2019) looks at defendants' language in terms of preference and finds that defendants resist, but they back down or display affiliation with the judge when pressed and therefore show enforced conformity. This thesis also contributes to this line of research with Chapter 5 dedicated to the examination of defendants'

responses. This research is distinctive as it is based on a larger dataset and examines the responses more generally regardless of who the questioner is with a more focused theme on their linguistic practices to ‘be cooperative and defensive at the same time’(Komter, 1994, p.173).

Another point that I want to highlight is that questioners’ responses to the responses by the witnesses/defendants are underexplored. As a matter of fact, except for the first question, all questions follow a response in the preceding turn. And ‘...each subsequent question...in effect responds to the witness’s prior answer and can indicate a stance towards that answer’ (Drew and de Almeida, 2020, p.182). This is the context for my study of the repetition of defendants’ responses by legal professionals, in Chapter 4, where repetition can serve both as an initiating action by the legal professionals to seek confirmation and a responding action that conveys the speakers’ stance to a preceding utterance.

This section has reviewed the literature on courtroom discourse studies with a focus on narrative, questioning, and responses in the courtroom. Many of the existing studies above are based on courtroom interactions in Anglo-American jurisdictions, which feature adversarial trials. Inquisitorial trials might involve different language features due to their different institutional designs both in and out of the courtroom. For example, Komter (1994) demonstrates that the judges in Dutch trials play a much more significant role during the questioning process and they might choose to mitigate the description of a crime in order to seek agreement from the defendant. Chinese criminal trials have both inquisitorial and adversarial elements. Unlike judges

in Anglo-American trials, Chinese judges question the defendants separately after the examination by the prosecutors and the defence lawyers. This could impact how prosecutors and defence lawyers approach questioning. In the data analysis, the Chinese legal system and institutional design are explained, where relevant, as the background to understand the linguistic behaviours exhibited by the participants.

2.3 Stance

Stance is ‘a speaker’s indication of how he or she knows about, is commenting on, or is taking an affective or other position toward the person or matter being addressed.’ (Wu, 2004, p.3). It is believed that ‘every utterance in interaction contributes to the enactment of stance, even if this stance is only evoked and not explicitly spelled out’ (Du Bois and Kärkkäinen, 2012, p.438). Research on stance draws broad attention from different disciplines, which results in different labels for similar phenomena including evaluation (Hunston and Thompson, 2000), appraisal (Martin and White, 2005), subjectivity (Finegan, 1995), assessment (Pomerantz, 1984), stance (Biber and Finegan, 1989; Hyland, 2005; Englebretson, 2007). These different terms derive from different theoretical frameworks and discuss different aspects of stance. For a detailed explanation regarding the difference between these terms, please refer to Takanashi (2018). This research uses the term ‘stance’, following the framework of the stance triangle (Du Bois, 2007) as explained in the next section.

Based on different understandings of stance, scholars also classify stance differently. For example, Conrad and Biber (2000) distinguish between epistemic

stance, attitudinal stance and style stance. The appraisal scheme developed in systemic functional linguistics (Martin and White, 2005) includes affect, judgement, and appreciation as the core features of stance analysis. Hyland (2005) identifies four categories: hedges, boosters, attitude markers, self-mention. Prior studies show that stance includes evaluation, affective, epistemic, and deontic stance. However, only epistemic and affective stance are commonly covered in most typologies. Epistemic stance is about ‘what I know and how I know it’ (Couper-Kuhlen and Selting, 2017, p.1); affective stance deals with ‘what my mood, attitude, feeling, or emotion is, including how intense it is’ (Couper-Kuhlen and Selting, 2017, p.1).

In the remainder of this section, the linguistic and non-linguistic resources to convey and interpret stance identified by prior studies are reviewed first. Then it elaborates the key theoretical frameworks for data analysis including the stance triangle developed by Du Bois (2007) and a pair of concepts key to analysing stance in conversation: alignment and affiliation (Stivers, 2008; Stivers et al., 2011).

2.3.1 Stance conveyance

Scholars have identified resources to convey and interpret stance. At the macro level, the sociocultural dimension of stancetaking has drawn wide attention. Stance ‘presupposes and indexes social values such as morality, ideology, and identity, simultaneously bringing about consequences to social life’ (Takanashi, 2018, p.173). Therefore stance should ‘be studied...in the matrix of social context’ (Takanashi, 2018, p.173). Kiesling (2012, p.172) provides a good review of sociolinguistic studies

on stance, where he argues that ‘stance is the main interactional meaning being created, and it is a precursor, or primitive, in sociolinguistic variation: that is, sociolinguistic variants are initially associated with interactional stances and these stances become in turn associated with a social group meaning in a community over time and repeated use’. The relationship between stance and identity has been widely explored. For example, Kiesling (2022, p.412) contends that ‘how stances are taken, and which stances are taken, are often habitually repeated by people with similar identities’. Bucholtz and Hall (2005, p.596) also point out that ‘the interactional identities produced via stance-taking accrue into more enduring identities’. In this research, the analysis of the stance taken by different participants in a trial, as well as the way they convey stance, informs the understanding of the roles played by different institutional participants in Chinese criminal trials.

At the micro level, the seminal work by Biber and Finegan (1989, p.93), which conceptualises stance as ‘the lexical and grammatical expression of attitudes, feelings, judgments, or commitment concerning the propositional content of a message’, has shaped one line of research to identify the lexical and grammatical constructions for stance conveyance. Takanashi (2018) has reviewed the relevant English studies and findings regarding this. Chinese studies have also identified lexical and grammatical patterns that convey stance explicitly or implicitly, such as ‘*hai*’ (Wu, 2009), modal adverbs (Luo and Liu, 2008; Zhang, 2012), ‘*zhe*’ and ‘*na*’ (Zheng and Luo, 2013), ‘*ganjue*’ and ‘*juede*’ (Yang, 2021), negative rhetorical interrogatives in Mandarin conversation (Liu and Tao, 2011), ‘*wo juede*’ (Xu, 2012), ‘*X+shenme+X*’ (Zhu, 2014),

concessive tautology in Mandarin conversation (Yue, 2016), ‘yige+NP’ (Yao and Yu, 2018).

However, studies focusing on the lexical and grammatical patterns are criticized as flawed because ‘stance is a meaning, a type of meaning, or several types of meaning, rather than a form’(Hunston, 2007, p.27). Hunston (2007, p.45) in her exploration of corpus-based approaches to stance points out that ‘what distinguishes subjective (or stance-heavy) from objective (or stance-light) texts is not the quantity of explicitly evaluative lexical items in each, but the embedding or otherwise of those items in phraseologies, which frequently co-occur with stance’. Therefore, ‘interpreting the role of stance in discourse entails a deeper understanding of the discourse as a whole than can be obtained from looking at the immediate co-text of an individual lexical item’ (Hunston, 2007, p.28). In conversation, stancetaking is not only shown in the lexicons or grammatical constructions in utterances, as argued by Kärkkäinen (2006); even utterances that do not include tokens that overtly or inherently display stance might form part of the stance negotiations.

To address this concern, a second line of research on resources for stance conveyance emerges, which examines prosodic, paralinguistic, and multimodal devices to display stance. As pointed out by Andries et al. (2023, p.2), which nicely reviewed the multimodal studies on stance, stance is “a multimodal and polysemiotic phenomenon”, which ‘involves various semiotic resources in different (perceptual) modalities’ (2023, p.2) and ‘is a collaboratively achieved phenomenon’ (2023, p.10). The studies in this strand mainly approach stance from conversation analysis and

multimodal analysis perspectives. As many of the trial videos do not provide clear vision of the participants' facial expression or gesture, I decided to focus my discussion on linguistic and paralinguistic resources within the framework of conversation analysis. Conversation analysis of stance is closely related to the stance triangle developed by Du Bois, which is elaborated below.

2.3.2 The stance triangle

'Stance' in this research follows Du Bois' (2007) definition based on the understanding in Englebretson (2007), which provides a relatively comprehensive and clear delineation of stance. Five conceptual principles have been identified by Englebretson (2007, p.6) as key to understanding stance:

- 1) stancetaking occurs on three (often) overlapping levels—stance is physical action, stance is personal attitude/belief/evaluation, and stance is social morality;
- 2) stance is public, and is perceivable, interpretable, and available for inspection by others;
- 3) stance is interactional in nature—it is collaboratively constructed among participants, and with respect to other stances;
- 4) stance is indexical, evoking aspects of the broader sociocultural framework or physical contexts in which it occurs;
- 5) stance is consequential—i.e., taking a stance leads to real consequences for the persons or institutions involved.

Compared to the earlier studies, the interactional character of stancetaking is emphasized in this conception. Based on this conception, stance 'is not primarily situated within the minds of individual speakers, but rather emerges from dialogic interaction between interlocutors in particular dialogic and sequential contexts.'

(Kärkkäinen, 2006, p.700). In line with the above understanding of stance, Du Bois (2007) develops an influential framework called the ‘stance triangle’ (Figure 2.3), which stresses the interactional dimension and has an alignment dimension added to the stancetaking act. He describes the triangle with a definition of stance: ‘stance is a public act by a social actor, achieved dialogically through overt communicative means, of simultaneously evaluating objects, positioning subjects (self and others), and aligning with other subjects, with respect to any salient dimension of the sociocultural field’ (Du Bois, 2007, p.163). According to this framework, three different aspects of stance occur in a single stance act as shown in the triangle: evaluation, positioning, and alignment. Evaluation is defined as ‘the process whereby a stancetaker orients to an object of stance and characterizes it as having some specific quality or value’ (Du Bois, 2007, p.143). Positioning refers to ‘the act of situating a social actor with respect to responsibility for stance and for invoking sociocultural value’ (Du Bois, 2007, p.143). In this framework, positioning includes both the epistemic and affective stance discussed earlier (Du Bois, 2007, p.143). Alignment is ‘the act of calibrating the relationship between two stances, and by implication between two stancetakers’ (Du Bois, 2007, p.144). Stance alignment can be ‘convergent or divergent to some degree’ (Du Bois, 2007, p.162). This means that stance alignment constitutes ‘a scalar continuum from convergent to divergent at the oppositional poles, with many points in between, including the (ostensibly) neutral point’ (Takanashi, 2018, p.184).

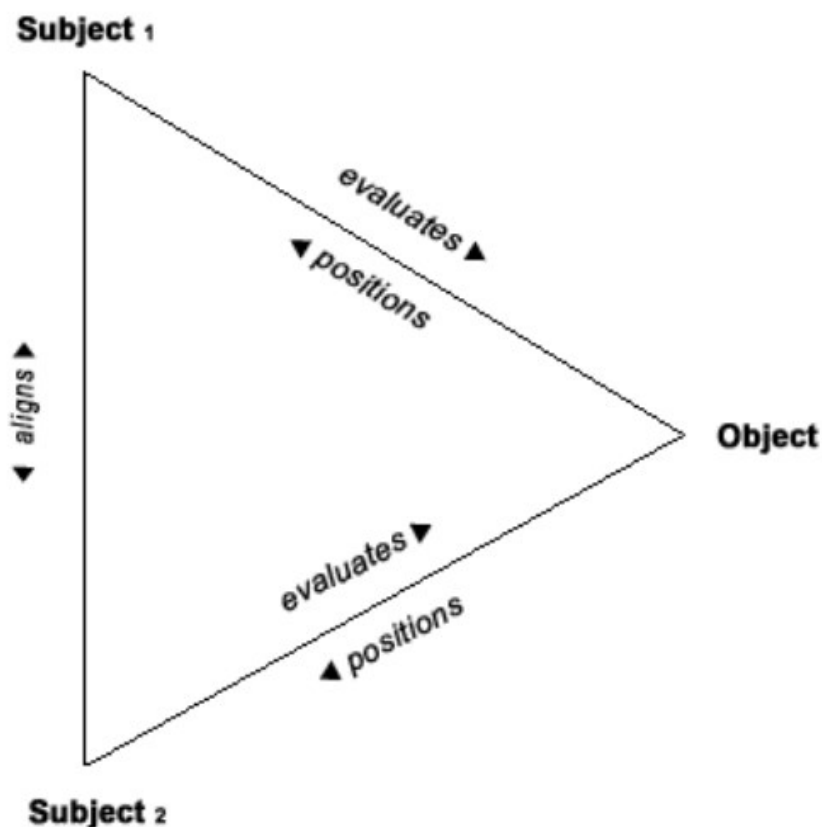


Figure 2.3 The stance triangle (Du Bois, 2007, p.163)

According to Takanashi (2018, p.179), '[e]ach co-act can be characterized as objective (evaluation), subjective (positioning), and intersubjective (alignment)'. With the alignment dimension, 'stance incorporates an inherently dialogic and intersubjective focus, being something that in practice is negotiated in interaction' (Kiesling, 2022, p.410) as 'intersubjectivity is dynamically constructed in real-time interaction out of the actualized realizations of the subjectivities that participants put on display, via the taking of stances' (Du Bois and Kärkkäinen, 2012, p.440).

As evaluation, positioning and alignment occur simultaneously, '[i]ntersubjective alignment becomes an integral part of every act of evaluation and positioning' (Du

Bois and Kärkkäinen, 2012, p.441). Hunston and Thompson (2000, p.143) also argue that ‘the expression of attitude is not, as is often claimed, simply a personal matter—the speaker “commenting” on the world—but a truly **interpersonal** matter in that the basic reason for advancing an opinion is to elicit a response of solidarity from the addressee (my emphasis)’. Similarly, Kärkkäinen (2006, p.704) argues that ‘[w]e do not express our evaluations, attitudes or affective states in a vacuum; participants in discourse do not merely act, but **interact** (my emphasis)’. Essentially, this conceptualizes stancetaking as ‘a joint interactive activity between conversational coparticipants’ (Kärkkäinen, 2006, p.712). Kiesling (2022) also argues that epistemic stance is essentially ‘a resource for interaction rather than a faithful representation of “knowledge status”’ (2022, p.416) and affective stance is an interpersonal stance (2022, p.416).

This foregrounds the analysis of intersubjectivity, or alignment, in stance analysis and places alignment analysis comfortably within the framework of conversation analysis. It is not only because the interactional nature of stance is most evident in conversation and intersubjectivity is a pervasive feature of interaction, but also because ‘[i]t is a central claim in conversation analysis that participants update their intersubjective understandings on a turn-by-turn basis, or, in other words, intersubjectivity is sequentially constructed’ (Kärkkäinen, 2006, p.704). For conversation analysts, meanings are co-constructed and social in nature (Kärkkäinen, 2006, p.699). Similarly, stance is not treated as ‘the product of an individual’s performance accomplished through one-way linguistic mappings, i.e., mappings of

certain linguistic forms onto the stance he or she wishes to put forward' (Wu, 2004, p.3). Instead, it is treated as 'an emergent product which is shaped by, and itself shapes, the unfolding development of interaction' (Wu, 2004, p.3). On the other hand, it is pointed out that stancetaking in institutional talk is different from ordinary conversation. For example, Haddington (2007, p.286) states that 'stancetaking in news interviews is not as emergent or performed as it is in everyday talk, but rather that the interviewers come to the interview situation with certain predetermined questions and agendas in mind and the interviewees[...] design their answers based on their own objectives and attitudes'. Meanwhile, '[s]ince the interviewees are forced to answer the questions, they have to align with the problematic stance in that question immediately' (Haddington, 2007, p.309). This identifies responses in institutional interaction as primary data to look at alignment in difficult situations, which is the issue addressed in Chapter 5 on defendants' language.

Conversation analysis of stance provides 'contextual grounding in the dialogic and sequential context to arrive at a sufficiently enriched interpretation of stance' (Kärkkäinen, 2006, p.704). For example, Goodwin and Goodwin (1992) show that assessment in conversation analysis, or evaluation in the framework of the stance triangle, is a structured interactive activity where conversational participants monitor each other's talk in sequential organisation and modify their behaviours (including talk, intonation, body movement) before, during and after the assessment. The detailed analysis displays that

...the emerging structure of the speaker's utterance, and the details of the way in which it is spoken, constitute one aspect of the context that recipients are actively attending to within the turn as consequential for the organization of their own actions. Moreover, that context, and the utterance itself, are intrinsically dynamic, and are attended to as such by participants (Goodwin and Goodwin, 1992, p.159).

In this sense, stancetaking is a joint activity co-constructed by the participants, who seek to display congruent understanding. Similarly, Heritage and Raymond (2005) explore the mutual influence of epistemic rights and assessments. Their study shows that co-participants negotiate and try to reach a consensus about both the assessments and their epistemic rights to assessment. Their study distinguishes between 'first position assessments', which initiate an assessment sequence, and 'second position assessments', which respond to the first position assessments (Heritage and Raymond, 2005, p.16). By identifying different ways for speakers in the first position and those in the second position to downgrade and upgrade their assessment, the study demonstrates that in choosing to upgrade or downgrade their assessments, speakers take into consideration their relative epistemic rights to the object being assessed and aim to negotiate a consensus regarding both the epistemic authority and the assessments, which shows their orientation to stance alignment in the interaction and respect for 'the parties' information territories and their associated epistemic rights' (Heritage and Raymond, 2005, p.36). Kärkkäinen (2006) also demonstrates that the use of the epistemic stance marker 'I think' in English daily conversation is contingent on the interaction between the coparticipants of the talk. The study illustrates that 'displays of subjectivity are engendered by the local contingencies of

what happens between the coparticipants in prior or present talk, and stance displays conform to and manifest aspects of that interaction (of which recipient design is one)' (Kärkkäinen, 2006, p.711). That is, the speaker monitors the conversation and adjusts his stance conveyance accordingly. A similar finding is also demonstrated by Haddington (2007, p.290), who argues that 'answers that seem to just shift the topical agenda or evade the question altogether often in fact intersubjectively engage and carefully align with the difficult position the question sets up'.

The view of stance as 'something jointly oriented to by the coparticipants' (Kärkkäinen, 2006, p.724) allows us to 'observe linguistic patterns of stance-taking that go beyond specific, discrete grammatical or lexical devices analyzable in single-speakers' contributions' (Kärkkäinen, 2006, p.724). Du Bois (2007) claims that one key element for alignment is for a speaker to reproduce the linguistic elements used by the coparticipants. And Du Bois (2014, p.360) uses dialogic syntax to look at 'how grammar organizes mappings between utterances, offering an analytical framework for representing the linguistic structure of engagement'. Based on dialogic syntax, 'the degree of syntactic, semantic, and/or prosodic parallelism or 'resonance' across speakers is also a resource for stance taking' (Kärkkäinen, 2006, p.700). But dialogic syntax does not work well on two completely different utterances or exactly same utterances, which occur often in my dataset. Under such circumstances, sequence analysis brings in better insights. There are conversation analysis studies showing how stance is sequentially negotiated (Goodwin and Goodwin, 1992; Schegloff, 1996; Haddington, 2007; Keisanen, 2007). For example, Haddington (2007)

demonstrates that the design of a question by the interviewer and the stance incorporated in the question are oriented to by the interviewee, who in turn formulates his response accordingly.

Prior conversation analysis studies of stance focus on lexical choice, syntactic design, prosodic manifestation and/or sequential positioning (Gardner, 2001; Svennevig, 2004; Curl, 2006; Matoesian, 2008; Hakulinen and Sorjonen, 2011; Heritage and Raymond, 2012; Chaemsaitong, 2012; Kimps, 2018; Carter, 2019). The data analysis in this research is based on the close examination of all these elements, though in different chapters the analysis of certain aspects might stand out as more conspicuous. For example, Chapter 4 on repetition by legal professionals pays special attention to prosody. Lexical choice and syntactic design are relatively more important in Chapter 5 on defendants' language, while sequence analysis is particularly prominent in Chapter 6 on narrative construction.

2.3.3 Alignment and affiliation

As shown in the last section, stance is co-constructed in interaction. A key aspect 'with respect to the collaborative nature of stance-taking is the distinction between (dis)alignment and (dis)affiliation' (Andries et al., 2023, p.11). This section explains this pair of key concepts to study stance in conversation analysis—alignment and affiliation.

Stivers (2008) distinguishes (dis)alignment and (dis)affiliation in stance analysis in conversation. Alignment is for the recipient to 'acknowledge the information'

provided by the speaker and to ‘support the structural asymmetry of the storytelling activity: that a storytelling is in progress and the teller has the floor until story completion’ (Stivers, 2008, p.34), while affiliation is for the addressee to show endorsement of the teller’s stance (Stivers, 2008, p.32). Later, Stivers et al. (2011) discuss the two concepts beyond the storytelling context. Affiliative responses are ‘maximally pro-social when they match the prior speaker’s evaluative stance, display empathy and/or cooperate with the preference of the prior action (Stivers et al., 2011, p.21)’. Aligning responses ‘cooperate by facilitating the proposed activity or sequence; accepting the presuppositions and terms of the proposed action or activity; and matching the formal design preference of the turn’ (Stivers et al., 2011, p.21). It should be noted that alignment in this framework is different from alignment in the stance triangle, as the former refers to structural cooperation while the latter refers to different degrees of convergent or divergent stances between interlocutors, which is similar to the meaning of different degrees of affiliation/disaffiliation in this framework. This does not mean structural cooperation (alignment) is irrelevant to stance alignment. Instead, alignment and affiliation are two different ways to manage stance alignment as argued by Stivers and Hayashi (2010, p.20), ‘[D]epending on the balance of alignment and affiliation present in the answer, a question recipient can be analyzed as being more or less cooperative’.

Takanashi (2018, p.189) points out, ‘stance is not always displayed explicitly. In fact, it is often the case that stance is left implicit where dialogic participants arrive at the comprehension of the implicit stance by conversational inferences’. This is

particularly true for the alignment dimension of stancetaking as '[p]articipants deploy subtle and often elusive signals to articulate the complex and highly variable mapping of the stance-alignment relation' (Du Bois and Kärkkäinen, 2012, p.440). One key indicator for inference in stance alignment is the degree of structural cooperation (alignment). For example, Raymond (2003) shows that type-conforming and non-conforming responses to yes/no interrogatives usually indicate different stances toward the first pair part of the adjacency pair. Stivers and Hayashi (2010) further explore different practices in nonconforming responses, which resist the presupposition embodied or a term in a question, to indicate something is problematic in the question and implicitly convey the speaker's divergent stance. Keisanen (2007) also demonstrates that a speaker displays his or her challenge toward the stance of the co-participant by producing a tag question or negative yes/no question that disaligns with the projected course of action or targets the embedded claim in the preceding turn, both of which are being uncooperative structurally. Through the analysis, she concluded that 'stancetaking can be conceptualized as alignment or disalignment between discourse participants with respect to the projected course of action or of the sequence' (Keisanen, 2007, p.277).

This research investigates stance conveyance through alignment and affiliation, which is the core theme in the data analysis. Meanwhile, Chapter 5 pays special attention to the relationship between alignment and affiliation.

2.4 Stance in courtroom discourse studies

According to Szczyrbak (2016), stance has been explored by many studies on language in legal settings, though the authors do not explicitly refer to stance, such as Cotterill (2003), Conley and O'Barr (2005), Heffer (2005), and Carter (2011). However, stance is not their primary focus. This section exclusively reviews courtroom discourse studies focusing on stance. It is found that prior studies mainly investigate epistemicity and evaluation while stance alignment is rarely discussed, though such discussion might also involve stance alignment:

...when taking an epistemic stance, speakers operate on an epistemic scale of support and/or justification, concomitantly evaluating the 'object' which is in the scope of the epistemic expression and positioning themselves vis-à-vis this object and possibly other interactants in the discourse. In doing so, they also define – whether implicitly or explicitly–their alignment (convergent or divergent) with other relevant speakers in the context. (Mortensen and Mortensen, 2017, p.406)

This is not only because a single stance act can combine evaluation, positioning and stance alignment according to the stance triangle (Du Bois, 2007, p.163), but also because of the characteristics of the courtroom talk. For courtroom talk, whether it is monologue or conversation, 'there is an invisible channel of communication' (Chaemsaitong, 2012, p.471) with the jury and/or judge, alignment with whom is oriented to by the speakers. For example, Chaemsaitong (2015a) demonstrates that the use of person markers in the opening statement serves to negotiate both speakers' identity and the interpersonal relationships between the speaker and the jury, which is about stance alignment under the framework of the stance triangle. But this is

alignment between lawyers and a silent jury, who is not an interlocutor. This is not exactly what alignment is about in the stance triangle. And epistemic and evaluative stance does not always convey stance alignment, nor is (dis)alignment conveyed through epistemic or evaluative stance. Stance alignment could be realised through means and resources other than epistemic or evaluative stance and therefore requires focused attention on its own.

The relatively insufficient attention to analysing stance alignment between interlocutors might be because many studies are based on written legal discourse such as opinions by the court (Finegan and Lee, 2020) and judgements by the court (Mazzi, 2010), or monologues in the courtroom such as opening statements (Chaemsaithong, 2015a; Chaemsaithong, 2015b; Chaemsaithong, 2017) and closing arguments (Gilbert and Matoesian, 2015), or one party's language in courtroom interaction (Heffer, 2007; Szczyrbak, 2021). Most of these studies focus on lexical or grammatical patterns. For example, based on Hyland (2005), Chaemsaithong (2015b) looks at self-mention, hedges, boosters, and attitude markers in the opening statements of high-profile Anglo-American trials. Lord et al. (2008) investigate the epistemicity, evidentiality, and agency in sex offenders' statements with a focus on agency by looking at 21 categories of words. Drawing on the framework of appraisal theory, Heffer's (2007, p.153) research focuses on 'linguistic construal of judgement through lexis' in the language by the counsels and judges. Similarly, Szczyrbak (2016; 2021) adopts a corpus-assisted discourse analysis approach to explore stance conveyance through constructions with the word 'say' and progressives with mental verbs in courtroom

interaction. Both Heffer (2007) and Szczyrbak (2016; 2021) focus on lexical and grammatical pattern analysis without paying attention to the interactional character of the language, though the data are extracted from courtroom interactions. This is because their transcribed courtroom data do not contain extra prosodic, paralinguistic, or non-verbal features. However, as pointed out by Heffer (2007, p.153),

evaluation of someone's behaviour...can be conveyed in many other ways: prosodically (e.g. surprise intonation), paralinguistically (e.g. loudness, silence), pragmatically (e.g. presupposition), interactionally (e.g. turntaking), and non-verbally (e.g. gaze gesture, facial expression).

Moreover, divergent stance could be realised through modifying or ignoring the other speaker's utterances or topic shift, which amounts to absence of certain dialogic features and cannot be detected through an approach focusing on lexical or grammatical patterns such as corpus linguistics or multidimensional analysis. Therefore, other frameworks are warranted for more in-depth analysis. But such studies are very rare. Mortensen and Mortensen (2017) bring more insightful findings about the epistemic/evidential expressions in witness examination by combining the quantitative analysis of four groups of lexical expressions for epistemic/evidential uses and a fine-grained conversation analysis. Matoesian (2005b, p.167) has contributed substantially to the multimodal analysis of stance in courtroom interaction following his conception of stance 'not only as linguistic expression but as interactive, bodily engagement, synchronized in multimodal layers of participation'. For example, Gilbert and Matoesian (2015) investigate speech and accompanying multimodal

conduct in the delivery of closing arguments to dissect the speakers' epistemic stance, as well as their stance alignment with the jury. Matoesian (2018) demonstrates how the witness and the judge take multimodal cues to show their affective stance to objectionable questions.

The study of stance in Chinese courtroom interaction is scant and starts to emerge only in recent years. Guihua Luo is the major Chinese scholar in the field. She completed a PhD thesis 'A Study of Stance-taking in Courtroom Interaction' in 2013 and published a book based on this (Luo, 2019). Luo (2013; 2019) conducted a comprehensive study of stance in courtroom interaction by looking at evaluative stance, affective stance, epistemic stance and stance alignment based on ten transcribed Chinese trials. The study looks at linguistic devices for conveying each type of stance and compares the way to convey stance by different trial participants. It mainly identifies lexical, syntactic, and pragmatic features for stance conveyance. In discussing stance alignment, she divides aligning stance into 'agree', 'reinforce', and 'derive' while disaligning stance is divided into 'deny', 'postpone', and 'challenge'. She identifies various language resources for stance alignment such as pragmatic markers, verbs, adverbs, overlapping, interruption, repetition, repair, echo questions and rhetorical questions. Her research adopts interactional linguistics as the major research methodology and provides micro-analysis of courtroom interaction. This is different from many earlier studies based on Anglo-American trials, which mainly provide quantitative analysis with insufficient attention to the interactional character. Luo's (2020) latest study investigates the use of two epistemic stance markers '*wo jue*

de (I feel)' and '*wo ren wei* (I think)' in Chinese courtrooms and contends that the former marker indicates low certainty and commitment while the latter one shows a speaker's high commitment and is usually used to express divergent positions.

My thesis combines both corpus linguistics and conversation analysis in order to provide both quantitative and qualitative results. Distinct from Luo's research, this thesis focuses on stance alignment in stance analysis and, specifically, how institutional participants convey different stances with the same linguistic resource (Chapter 4 on repetition), how defendants convey divergent stances (Chapter 5), and how trial participants show their stance under certain circumstances (Chapter 6 on the construction of testimonies believed to be truthful and false). In comparison, this research does not cover as many types of stances but seeks to provide more focused analysis of fewer linguistic features.

2.5 Summary

This chapter has reviewed the previous studies on courtroom discourse, stance, and stance in courtroom discourse. The review shows that narrative construction in the courtroom is important and draws attention in both legal and linguistic studies, but narrative construction in the courtroom is different from that in the daily conversation as it takes the form of question and response. This research addresses this feature of courtroom interaction by specifically looking at the narrative construction of testimonies in Chapter 6. The review of the studies on questioning in courtroom interaction highlights the importance of question forms while the review of the studies

on responses reveals insufficient attention in the field. This thesis explores the questioner's responses by looking at their repetition of the defendants' preceding utterances in the third part after a question-answer adjacency pair in Chapter 4. And Chapter 5 provides a detailed examination of defendants' language.

The review of the studies on stance shows the importance of recognising the interactional nature of stance and the collaborative nature of stancetaking, which not only leads to a better understanding of stance, but also reveals the fitness of conversation analysis as the methodology for stance analysis. The stance triangle framework also highlights the collaborative nature of stancetaking with the stance alignment dimension, which emphasises the calibration of stance between interlocutors and therefore the management of interpersonal relations. To further explore the alignment dimension, I introduced the pair of concepts from conversation analysis: alignment and affiliation, two ways to manage stance alignment. Conversation analysis identifies more diverse resources to convey and interpret stance.

The review of courtroom discourse studies focusing on stance analysis reveals that stance alignment has not drawn much attention. Existing studies mainly investigate epistemic stance and evaluation due to the constraints of their data or the nature of their methodology. This research aims to contribute to the field by focusing on stance alignment. The key theoretical frameworks include the stance triangle and alignment and affiliation. The literature review has demonstrated that conversation analysis is well-suited to analysing stance in conversation. This research combines

corpus linguistics and conversation analysis, both of which are explained in detail in the next chapter.

Chapter 3 Data and methodology

3.1 Introduction

This chapter introduces the data and methodology for this research. Specifically, it explains the methods used to collect two types of data: trial transcripts and online interviews with legal practitioners. It also clarifies data processing. Following that, it introduces the combined approach of corpus linguistics and conversation analysis. The application of each methodology in this research is explained and the challenges and strengths of combining the two methodologies have been explained. The fifth section summarises the main points in this chapter.

3.2 Data collection

This research is based on two types of data: transcripts of 49 criminal trials and online interviews with seven legal practitioners. This section explains how these data were collected.

3.2.1 Transcripts

I collected data from ‘China Court Trial Online’ (<http://tingshen.court.gov.cn/>). This is a website launched by the Supreme People’s Court of China in 2016 to increase judicial transparency, fairness, and efficiency. The website livestreams trials, whose playbacks are also reserved on the website and publicly accessible, and displays recorded trials uploaded by courts across China. For this study, I collected 26 murder trials and 23 assault trials, which took place between September 2019 and January 2020

in the intermediate people's courts in four cities coded as A, B, C, and D, which are in different parts of China. The courts in China are in general structured in four tiers. The first tier is at the county level, and these courts might conduct trials using local dialects, which vary tremendously between different places and will make transcription very difficult. The intermediate courts are at the second tier. The courts at the third and fourth tiers are the high courts and the Supreme People's Court of China. Both focus on appeals, which do not involve as much narrative discourse as trials of first instance. The intermediate courts are chosen because their trials are mostly conducted in Mandarin Chinese and include both trials of first instance and appeals.

To control the variables, I focus on two common crimes: murder trials and assault trials, which means a large quantity of data are available. Due to limited time and energy, I collected five months' data. I chose trials between September 2019 and January 2020 rather than more recent data because, due to Covid-19, there were few trials between February and April 2020, and after the lockdown was lifted, courts started to conduct trials either remotely with the participants not present in court or with all people wearing face masks, which may influence further research when detailed analysis is needed.

When I collected the data, the following principles were followed: 1) videos one hour or longer are selected in order to find substantial trials with sufficient data; 2) videos with good audio and visual quality are selected for the sake of transcription and analysis; 3) videos with judges present in court; 4) videos in which defendants speak clearly, as their language is one focus of the research; 5) videos with only one defendant

in the trial; otherwise, one hour's trial may not be a substantial trial. These selection criteria resulted in 49 trials in total. The detailed information is shown in Table 3.1.

Table 3.1 The breakdown of the 49 trials

Location	Murder trials	Assault trials	Total
City A	7	7	14
City B	6	4	10
City C	8	9	17
City D	5	3	8
Total	26	23	49

The trials were collected from courts located in different parts of China with one from the north, the south, the northwest and the southwest respectively. Though all selected trials were conducted in Mandarin Chinese, the spoken language of the trial participants, most of whom are local, shows the influence of the local dialects. For example, I find that one question type— ‘A not A’ question (e.g. 你有没有拿她的手机 you have neg-have taken her cell phone?) is more frequent in the trials from the court that is located in southern China. Therefore, trials from different places can to some extent avoid the skewedness of data due to the influence of local language. I tried to collect a similar number of trials from each place. However, I prioritised the principles of data collection, which resulted in a different number of trials in different courts.

A Chinese criminal trial is usually composed of four stages: court opening, court investigation, court debate, and final statement by the defendants (Figure 3.1). As indicated by the red stars, this research focuses on court investigation, where defendants are questioned by legal professionals, and court debate, where prosecutors

and defence lawyers deliver closing arguments. In addition, the final procedure in court opening—the pleading stage, is also included in the data. Thus, four substages of the trial proceedings were integrated as the questioning stage or defendant examination:

1. The defendant is asked by the judge to make a plea of guilty or not guilty;
2. The defendant is questioned by the prosecutor;
3. The defendant is questioned by the defence lawyer;
4. The defendant is questioned by the judge.

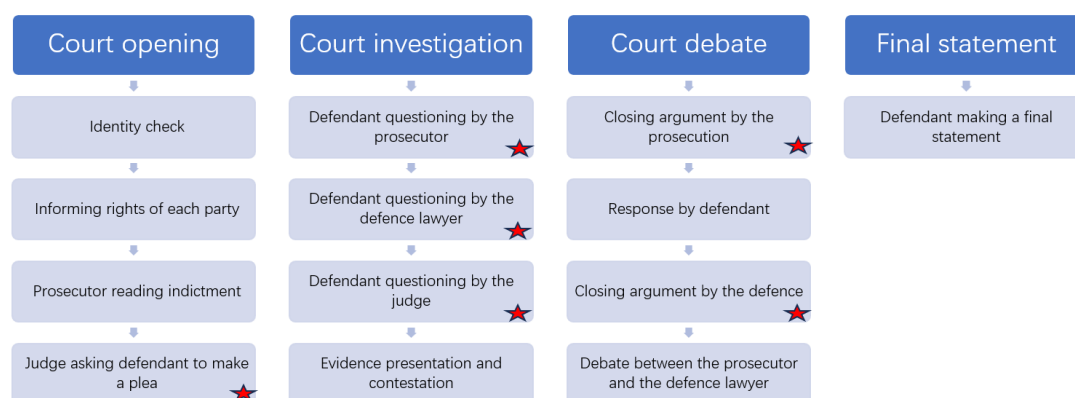


Figure 3.1 Chinese criminal trial proceedings (stars indicating transcribed parts of collected trials)

Figure 3.2 shows that the number of turns at different substages vary considerably. Substage 1 involves the smallest number of turns. It is the pleading stage and different from the other three substages, where details about the crime are elicited. Substage 2, where the defendant is questioned by the prosecutor, is the most substantial stage. In this sense, prosecutors are the major questioners in a Chinese criminal trial with over

twice the number of turns by judges at substage 4 and over five times the number of turns by defence lawyers at substage 3. In comparison, defence lawyers, are the least active questioner among the three questioners.

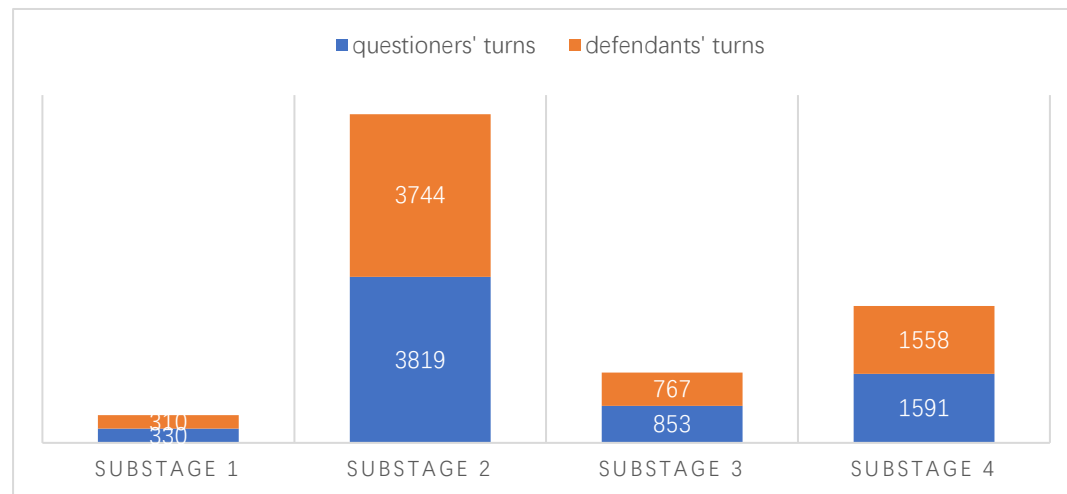


Figure 3.2 The number of turns by the questioners and defendants at each substage

The transcripts include the pleading stage in 49 trials, the defendant examination by prosecutors in 49 trials, by defence lawyers in 47 trials (the defence lawyers in two trials did not question the defendants), by judges in 44 trials (the judges in five trials did not question the defendants), 47 closing arguments by the prosecutors and 48 by the defence lawyers (one trial video does not include the court debate stage and one closing argument cannot be transcribed due to the poor sound quality of the corresponding footage).

The duration for the questioning stage in each trial and the word count for each transcript are listed in Tables 3.2 and 3.3. Each case is indicated with M (for murder trials) or A (for assault trials) in the beginning followed by the city code (A, B, C, D) and a number for differentiation. In total, the segments transcribed amount to 284,404

Chinese characters.

Table 3.2 The duration for the transcribed segment in each murder trial and word count of each transcript

case	duration	words	case	duration	words
MA1	30'05"	9204	MC1	18'40"	3930
MA2	22'50"	5573	MC2	38'	9576
MA3	20'25"	5983	MC3	13'	4165
MA4	20'15"	5291	MC4	17'30"	4203
MA5	37'30"	10366	MC5	9'30"	2001
MA6	27'	8043	MC6	22'15"	4785
MA7	32'45"	8697	MC7	31'45"	8746
MB1	19'20"	4207	MC8	12'50"	2617
MB2	24'30"	5937	MD1	17'10"	5576
MB3	9'50"	2568	MD2	27'15"	7385
MB4	23'	7023	MD3	24'35"	6533
MB5	9'40"	3092	MD4	21'45"	6316
MB6	15'27"	3832	MD5	26'05"	7724

Table 3.3 The duration for the transcribed segment in each assault trial and word count of each transcript

case	duration	words	case	duration	words
AA1	31'06"	11187	AC1	19'	3900
AA2	9'52"	2451	AC2	19'10"	5651
AA3	27'23"	7307	AC3	40'45"	7500
AA4	36'	9928	AC4	50'06"	10316
AA5	47'43"	11529	AC5	17'06"	3582
AA6	21'07"	7177	AC6	18'24"	2877
AA7	19'59"	5386	AC7	32'22"	7410
AB1	5'11"	1521	AC8	10'45"	2473
AB2	14'18"	3414	AC9	24'13"	4286
AB3	7'	1583	AD1	37'24"	9463
AB4	16'46"	5153	AD2	12'35"	3740
			AD3	12'19"	3197

The detailed information for the transcribed closing arguments is listed in Table

3.4. In total, prosecutors' closing arguments amount to 56,008 Chinese characters

while the defence lawyers' closing arguments contain 71,242 Chinese characters.

Table 3.4 The word count of the closing argument by the prosecutors and defence lawyers in each trial

Murder cases	Prosecutors' closing arguments	Defence lawyers' closing arguments	Assault cases	Prosecutors' closing arguments	Defence lawyers' closing arguments
MA1	745	1752	AA1	893	908
MA2	1486	3824	AA2	506	1279
MA3	1673	2299	AA3	1933	2457
MA4	1304	632	AA4	1216	3216
MA5	1244	471	AA5	1290	1833
MA6	2760	1749	AA6	1537	451
MA7	No data	No data	AA7	No data	1252
MB1	861	2497	AB1	502	912
MB2	634	149	AB2	1120	2628
MB3	301	363	AB3	1216	808
MB4	1043	3545	AB4	1040	911
MB5	1412	2061	AC1	1094	1000
MB6	987	816	AC2	1168	1030
MC1	754	2698	AC3	2950	2023
MC2	2431	1079	AC4	458	836
MC3	1753	2579	AC5	1093	1092
MC4	1863	621	AC6	1370	368
MC5	2991	1565	AC7	1445	2085
MC6	919	1384	AC8	999	308
MC7	1294	835	AC9	895	1092
MC8	207	1173	AD1	1078	2187
MD1	1245	1901	AD2	629	1685
MD2	1172	1585	AD3	1248	1342
MD3	472	1432			
MD4	372	1573			
MD5	405	956			

3.2.2 Interviews

To elicit views from legal practitioners, I conducted online interviews with seven

legal professionals including one judge, four defence lawyers (two of them were prosecutors before), one prosecutor, and one court clerk between 19th June and 4th July 2023. The specific information about the interviewees is shown in Table 3.5.

Table 3.5 Information about the interviewees

Name (Pseudonym)	Role	Sex	Experience	Interview time
Luo	Prosecutor	Female	8 months	54'03"
Fan	Defence lawyer	Male	7 years	47'38"
Yuan	Defence lawyer	Female	6 years as prosecutor, 2.5 years as lawyer	49'29"
Xu	Defence lawyer	Male	9 years as prosecutor, 2.5 years as lawyer	56'54"
Wang	Judge	Female	8 years	42'05"
Guo	Defence lawyer	Female	7 years	45'35"
Chen	Court clerk	Female	4 months	20'58"

The participants include five females and two males. The least experienced one has four months' practicing experience while the most experienced one has over 10 years' experience in legal practice. The judge and the court clerk work in a county court, which is at the first tier. Murder cases usually go directly to the intermediate court, so they have no experience dealing with murder trials, but they do deal with assault cases. The prosecutor also works at a first-tier procuratorate. Most lawyers in China usually take both criminal and civil cases. Among the four defence lawyers

interviewed, only Yuan declared that she only takes criminal cases. However, as the only practicing prosecutor interviewed, Luo only has 8 months practicing experience, which means she cannot question the defendant in court according to the rules, but she has started to question defendants before trials and attended trials with senior prosecutors since she began to work.

I prepared 14 questions for defence lawyers and prosecutors, 14 questions for judges, and 4 questions for court clerks (Appendix C). The interview questions for defence lawyers and prosecutors focus on their preparation for defendant examination and closing arguments as well as their strategies to deal with different situations in a trial. The interview questions for judges focus on their views on the importance of defendant examination and closing arguments in a trial, the roles played by the prosecutors and defence lawyers in a trial, and a defendant's performance in a trial. The interview questions for court clerks focus on their principles in making court transcripts and their ways to deal with different situations such as legal professionals' repetition, and defendants' change of testimony.

The interviews are semi-structured with the questions in Appendix C being the conversation-opening questions. Depending on the responses by different interviewees, more specific questions were asked for further exploration. Audio recordings of these interviews were made. The recordings were not transcribed, but the main points were noted down during the interviews and the interviewees' responses are referred to in relevant discussions. The source of the responses is indicated with the role and the pseudonyms shown in Table 3.5. Though the

interviewees are not representative enough due to their limited number, they provide legal professionals' views on key issues relating to the linguistic features and thus complement the linguistic analysis in this research. As a methodology, it provides triangulation for the qualitative and quantitative analysis produced by the combined approach of conversation analysis and corpus linguistics (Section 3.4). For example, Chapter 4 discusses the repetition of defendants' responses by legal professionals. When I asked the legal practitioners about this, they provided me with a different dimension with which to view the language feature as shown in Section 4.2.

3.2.3 Ethical review

The research data involves personal data. Therefore, the research went through ethical review and was granted approval. The trial videos for this research were collected from the website 'China Court Trial Online' (<http://tingshen.court.gov.cn/>), which is publicly accessible. Therefore, although I am using personal data, because the data is in the public domain, it is available for research use and no consent form is needed. Nevertheless, as the research data involves personal information, including information about the defendants and victims in the trials as well as the legal professionals involved, ethical review was sought from the Faculty of Arts and Humanities ethics committee and was approved in January 2021 (Reference number: LTENG-036) as shown in Appendix A. The application included: 1) a brief summary of the research, outlining the research aims and research questions; 2) a summary of the research methodology, including where to collect the data, how the data would be transcribed, and where and

in what formats to store the research data; 3) an explanation of ways to prevent the people involved in the trials—defendants, judges, prosecutors, defence lawyers, witnesses from being identifiable. Out of ethical concern, pseudonyms were used for people’s names mentioned in the talk and place names were marked with random English capital letters.

In the third year of my research after I finished the analysis of the linguistic data, I wanted to conduct online interviews with legal professionals, but the ethical approval granted at the beginning of my research did not include this. Therefore, I submitted a research ethics amendment form for ethical review on the online interviews. Approval was granted in March 2023 (Appendix B). The application explained the purpose and significance of including interviews with legal practitioners in my research. The following supporting documents were submitted for approval: 1) participant information sheet, providing information about the research project, research participation, risks of taking part, benefits of taking part, use of research data, protection of personal information, results of the research project; 2) research participant privacy notice; 3) participant consent form. The application was made with reference to the University of Leeds protocol on protection, anonymization and sharing of research data and the informed consent protocol. Each participant signed and submitted the consent form before their interviews. I used pseudonyms to prevent the interviewees from being identified.

3.3 Data processing

Following good practice guidelines for reflective discourse analysis (Bucholtz, 2000), I explain in this section my principles and decisions in transcription and English translation as well as the methods used for data segmentation and coding.

3.3.1 Data transcription and translation

The 49 trials were transcribed manually. Many participants, particularly the defendants, who are mostly poorly educated, do not speak standard Mandarin Chinese. Consequently, automatic transcription software cannot produce accurate transcripts. The manual checking of the automatic transcripts was found to take more time than manual transcription. The transcription of the trial data went through two stages. In the first stage, for corpus linguistic analysis, the transcription followed general conversational transcription conventions to produce an orthographic transcript, but it also involved some adaptations for the paralinguistic details, which were marked with words rather than symbols (see Table 3.6 for the transcription symbols) in order that they are searchable with corpus tools. For example, I used words ‘打断(interrupted)’ to signal interruption, which refers to the act of starting up ‘in the course of a turn-construction unit before that unit has reached a projectable completion point’ (Hutchby, 2008, p.226), and ‘短停 (short pause)’ to signal pauses shorter than three seconds (see Example 1). An English translation is provided for each turn in the example to facilitate understanding.

Example 1:

审： = 想 啥 ？

J: =What (were you) thinking?

被：（短 停）我 就 ， 把 我 骗 的 啥 都 没 有 了 嘛 =

D: (short pause) I, she deceived me and left me with nothing=

审： = 嗯 （短 停）什 么 都 没 有 了 就 （打 断）

J: =Mm (short pause) nothing was left so (interrupted)

Table 3.6 Transcription symbols used in the first stage of research

Symbols in Chinese transcript	Symbols in English transcript	Meaning
被	D	Defendant
公	P	Prosecutor
辩	DL	Defence lawyer
审	J	Judge
=	=	Latched speech
[[Overlapping
打断	Interrupted	Interruption
短停	Short pause	Pause shorter than 3 seconds
长停	Long pause	Pause at or longer than 3 seconds
...	...	Hesitation
（延音）	(elongated speech)	Elongated speech
（哭）	(cry)	Paralinguistic information
（听不清）	(inaudible)	Inaudible information
。	.	Falling tone
？	?	Rising tone

In the first stage, many details were not transcribed as the transcripts were produced for corpus linguistic analysis. In the second stage, as research scope was narrowed down and specific linguistic features were identified for further exploration,

related excerpts were enhanced with more details to facilitate conversation analysis.

The transcription in this stage follows Jefferson's Transcription System (Jefferson, 2004) with the symbols shown in Table 3.7.

Table 3.7 Transcription symbols used at the second stage of research

Symbols in transcription	Meaning
=	Latched speech
[Overlapping
-	Cut off of prior word or sound
/	Interruption
(.)	Micropause
(2s)	Lapsed time in second
<u>Underlined</u>	Stressed part
(cry)	Paralinguistic information
(inaudible)	Inaudible information
wor::d	Prolonged vowel or consonant
<word	A hurried start of a word
° word°	Syllables or words quieter than surrounding speech by the same speaker
.	Falling tone
?	Rising tone
,	Slightly rising intonation
>word<	Increased speaking rate
<u>word</u>	Increased speaking volume
PST	Past tense marker
CRS	Current status
Q	A question particle
EXP	An experiential aspect marker indicating that the action has been experienced before.
PRG	A continuous aspect marker indicating an ongoing action or state.
PRT	A particle

DE	A grammatical particle used to indicate the degree or result of an action
BA	Ba-sentence
BEI	Bei-sentence
M	Measure word

In order to help English readers to understand the data, a word-for-word gloss is provided following the Leipzig glossing rules (<https://www.eva.mpg.de/lingua/resources/glossing-rules.php>) before a free translation as shown in Example 2. It should be noted that Mandarin Chinese characters do not distinguish tense and aspect. Therefore, all verbs in the gloss line are in the infinitive form.

Example 2:

1.审:被告人 我 问 你 一下 啊,

J: defendant I ask you a little PRT

你 当天 为什么 跟 被害人 一方 就会 发生 争议 ?

you on that day why with victim the party would occur dispute

是 (9.0s looking at the screen in front of her)

be

是 你 在 向(.) 被害人 一方 在(.) 推销 你的 发票 是吗 ?

be you at to victim the party at try to sell your invoice right

'Defendant, let me ask you, why did you have a dispute with the victim on that day?

It's (9.0s looking at the screen in front of her) It's you were(.) trying to sell your

invoices to(.) the victim, ° right° ?

2.被: →不是 <我 是(.) 没(.)>特意地 推销 给 他< ,

D: no I be not deliberately try to sell to him

我 是 在 马 路 边 喊 的 , 他 下 车(.) 直 接 骂 的 .

I be at roadside shout PRT he get off directly curse PRT

'No, <I was(.) not(.) >deliberately trying to sell it to him<, I was by the roadside shouting, and he got off the motorcycle(.) and cursed at me directly.

Transcribing Chinese data following Jefferson's Transcription System, which was first developed based on English, requires some explanation due to the difference between Chinese and English. For example, English is a non-tonal language while Chinese is a tonal language. As a result, prosody in Chinese is decided by both tone and intonation. However, this phonetic dimension cannot be reflected in the transcription. Instead, a pitch trace is required if it is to be demonstrated, which is impossible in a transcript. Nevertheless, whether an utterance is question-intoned or not is distinguished with the use of symbols '?' and '.' respectively. In my transcription, the symbol for elongated speech ':' is added after a character and the symbol for stress '___' is placed under a character. This practice is different from its use in a phonetic language such as English, but it is not problematic because, different from English words, all Chinese characters are monosyllabic. However, when the symbol is transferred to English translation, sometimes it is not very accurate. For example, in the Chinese sentence '你是怎么追::的?' (How did you chase?), the

Chinese pronunciation of the character ‘追(chase)’ is ‘zhug::’, which shows that the vowel is lengthened at the end. If it is to transfer the elongation symbol to the same place in the English translation of ‘追(chase)’, it should be ‘chase::’. But it misleads the English reader that the elongation occurs at the end of the word, which delivers a different meaning from when the symbol is in the middle of the word (‘cha::se’). In comparison, ‘cha::se’ more accurately shows how the Chinese word was uttered and therefore it was transcribed as such. However, readers need to bear in mind that it is still not exactly the same as the original speech due to language difference.

Another factor complicating the transfer of symbols is word order. As English and Chinese have different syntactic rules, the original words and their translation are usually not put in the same place in a sentence. Consequently, the understanding of some symbols after being transferred to the English might be difficult. For example, a prosecutor asks ‘你 要 想 干 嘛 ?’, which means ‘what did you want to do?’. The stressed two characters ‘干嘛’ literally mean ‘do what’. In the English translation, the stressed words are placed at the beginning and end of the sentence, which might seem awkward in terms of speaking in English. Under such circumstances, please refer to the word-for-word gloss provided beneath each Chinese utterance.

3.3.2 Data segmentation and coding

Before any corpus linguistic analysis, the transcripts were processed with *ROST Content Mining System 6.0* (Shen, 2018), which can be used for segmentation or tokenisation. The transcripts were segmented because Chinese written language is

different from English in that Chinese characters are written in a string with no space between characters to indicate words. The minimum meaning unit in Chinese usually contains two or more Chinese characters. *ROST Content Mining System 6.0* is able to put a space after one meaning unit, which is then recognised as a token in the corpus software *AntConc 3.5.9* (Anthony, 2020). The necessity for segmentation can be illustrated with the following two figures.

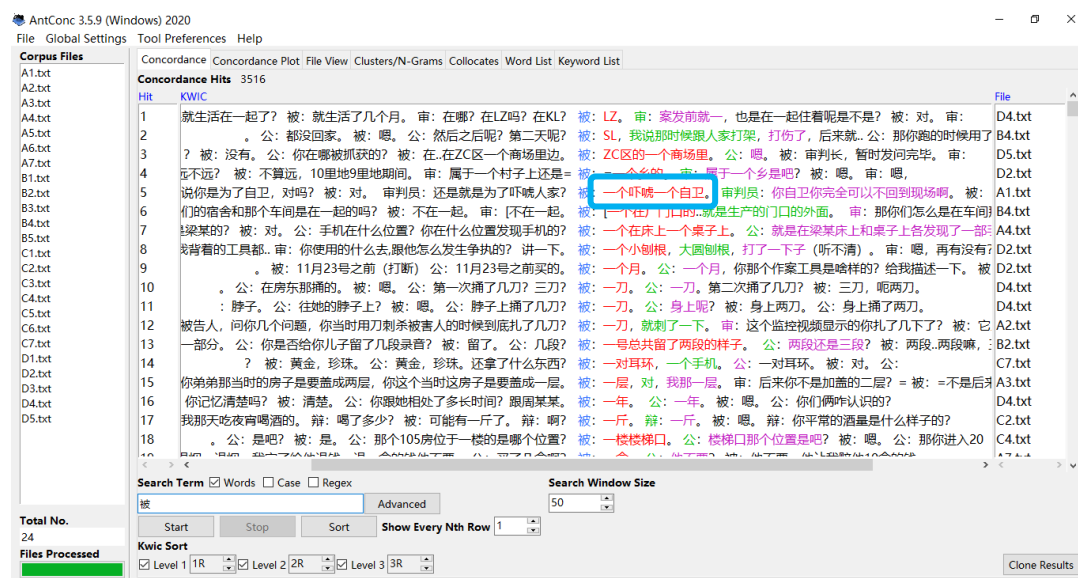


Figure 3.3 The concordances of un-segmented texts in *AntConc*

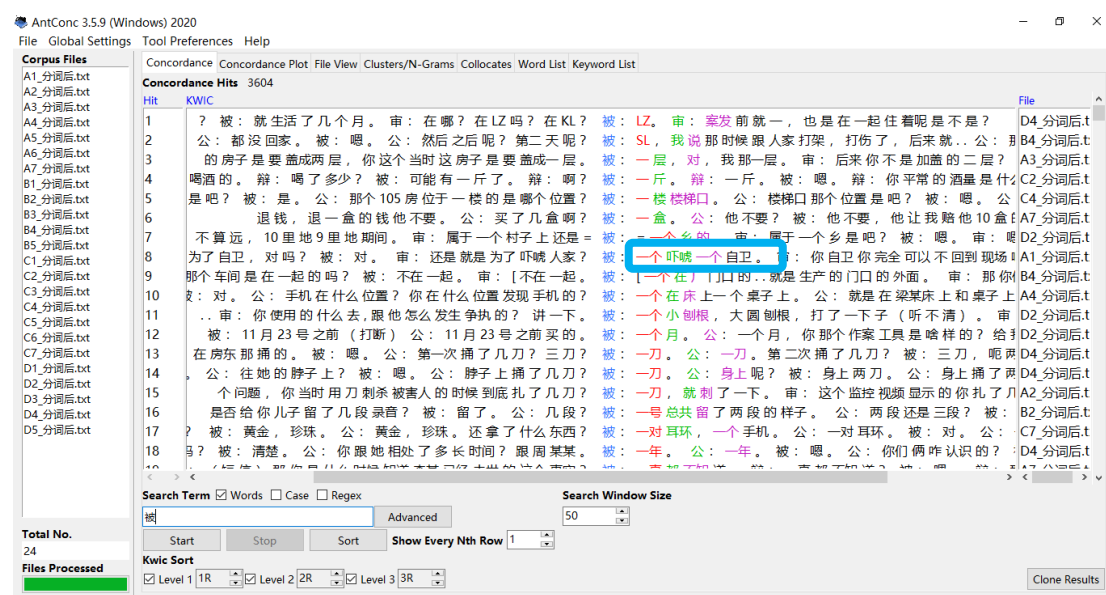


Figure 3.4 The concordances of segmented texts in *AntConc*

Figure 3.3 shows that when the un-segmented text files are imported, *AntConc* recognizes all characters between two punctuation marks as one token. With segmented txt, *AntConc* can recognise the characters between two spaces as one token. For example, the red parts in line 5 in Figure 3.3 and line 8 in Figure 3.4 show the same sentence ‘一个吓唬一个自卫’, which consists of four tokens ‘一个’ ‘吓唬’ ‘一个’ ‘自卫’ and literally means ‘one’ ‘scare’ ‘one’ ‘self-defence’, or in free translation ‘one is to scare the others, and the other is to protect myself’. When the sentence was not segmented, the eight characters were recognised as one token, as Figure 3.3 shows. With the segmentation, *AntConc* correctly recognises it as consisting of four tokens based on the spaces between characters, as Figure 3.4 shows. Though *ROST Content Mining System 6.0* cannot guarantee 100% accuracy in segmentation, close examination of the segmented txt files finds very few errors. When errors are spotted, they are manually corrected.

After segmentation, each transcript was first divided into four parts as the questioning stage is composed of four substages, as explained in Section 3.2.1. At substage 1, the judge asks the defendant to make a plea of guilty or not guilty. At substage 2, 3 and 4, the defendant is questioned by the prosecutor, defence lawyer and the judge respectively. Therefore, case MA1 (M for murder, A for city A) contains MA1-1, MA1-2, MA1-3, and MA1-4. Then each part is further divided into turns by the questioner and those by the defendant. The questioners including judges (substage 1 and 4), prosecutors (substage 2) and defence lawyers (substage 3) are coded as J, P and

DL respectively. For case MA1, for example, we have files coded as MA1-1-J and MA1-1-D for substage 1, MA1-2-P and MA1-2-D for substage 2, MA1-3-DL and MA1-3-D for substage 3, MA1-4-J and MA1-4-D for substage 4. Then these files were compiled in different ways to establish sub-corpora for different research purposes.

The transcripts of the defence lawyers' and the prosecutors' closing arguments are also distinguished with a code. For example, for closing arguments in case MA1, the defence lawyer's closing argument is coded as MA1-C-L with 'C' for closing argument and L for defence lawyer while MA1-C-P is the code for the prosecutor's closing argument in this case.

3.4 A combined approach of corpus linguistics and conversation analysis

Corpus linguistics (CL) and conversation analysis (CA) are the major research methodologies for this research. CA, as a qualitative method, focuses on the microanalysis of data, whereas corpus linguistics, being 'inherently quantitative' (Partington et al., 2013, p.6), usually processes a large amount of data quickly with corpus software and is deemed to bring 'a high degree of reliability and validity to linguistic research' (Baker, 2010, p.111). This section shows the application of each methodology in this research, as well as the challenges and strengths of combining the two methodologies. Though the transcripts were made based on videos, I did not choose to focus on multimodal analysis due to the constraints of the videos, which do not always display clear vision of the facial expressions of the participants. Some show a panoramic view of the whole courtroom with each participant appearing small.

Some videos only show the back of the defendants. Nevertheless, when the video permits, multimodal analysis is provided, as demonstrated in the analysis of gaze shift in Chapter 4. Additionally, I used computational tools including Python coding and speech analysis software *Praat* for data analysis in Chapter 4.

Courtroom discourse studies have been relatively slow in adopting corpus linguistics (CL) as a major methodology due to the scarcity of data, a common problem in forensic linguistics (Wright, 2020, p.611). In recent years, more corpus-based research has been done in the field (Wright, 2020, p.612), but CL is mainly used to analyse the monologues such as closing arguments (Rosulek, 2015), and judges' summaries (Johnson, 2014). When CL is used to analyse courtroom interactions, it is usually combined with approaches other than CA, such as narrative analysis (Heffer, 2005), sociolinguistics (Claridge et al., 2020), systemic functional linguistics (Innes, 2010), and discourse-analytical approaches (Szczyrbak, 2016; Alison Johnson, 2018). CL is rarely combined with CA to analyse courtroom interactions. Even outside courtroom discourse studies, only three studies have been identified with a combined CL/CA approach, and all of them are about small group teaching in higher education (Walsh et al., 2011; O'Keeffe and Walsh, 2012; Walsh, 2013). This research combines both approaches, and this section explains how these two approaches were applied in this research, what challenges were overcome in applying the combined approach, and what benefits the combined approach yields.

3.4.1 Application of corpus linguistics

Corpus linguistics involves ‘the analysis of (usually) very large collections of electronically stored texts, aided by computer software’ (Baker, 2010, p.93). It allows both qualitative and quantitative analysis with tools such as concordances and frequency (McEnery and Hardie, 2012, p.2) as explained below. The corpus approach deals with ‘real-world instances’ and enables researchers to ‘quantify linguistic patterns’ and thus reach ‘more solid conclusions’ (Baker, 2010, p.94). This offers the corpus approach ‘a reasonably high degree of objectivity’ (Baker et al., 2008, p.277) and makes it a good tool to balance the more qualitative approaches to discourse analysis, including conversation analysis and critical discourse analysis (e.g. Partington, 2003; Baker et al., 2008), which have been criticised for the tendency of cherry-picking (Widdowson, 2000).

Corpus linguistics has brought new methodologies and perspectives to many fields including language pedagogy, literature, translation, sociolinguistics, and discourse analysis (O’Keeffe and McCarthy, 2012), but its application is relatively slow in forensic linguistics due the nature of data in the field (Wright, 2020). The use of corpus tools in courtroom discourse studies started in the early 21st century with Cotterill (2003) and Heffer (2005), and it has witnessed rapid development in recent years. A group of scholars have made important findings with corpus tools either with historical data (e.g. Archer, 2014; Alison Johnson, 2018) or contemporary data (e.g. Johnson, 2014; Rosulek, 2015; Tkačuková, 2015; Szczyrbak, 2016). However, no such substantial study has been found about Chinese courtroom discourse. This research

intends to fill the gap and contribute new findings and perspectives with corpus-based analysis of Chinese courtroom interactions.

This research first uses corpus tools to identify the salient language patterns, and then concepts from conversation analysis are used to interpret those patterns. The corpus software used in this research is *AntConc* 3.5.9 (Anthony, 2020). Its major functions include concordance, concordance plot, n-grams, collocates, word list, keyword list. A keyword is ‘a word which occurs statistically more frequently in one file or corpus, when compared against another comparable or reference corpus’ (Baker, 2010, p.104). As no suitable corpus was found to serve as the reference corpus for this research, this is the only corpus tool that is not used in this research. But I compared the word lists and n-grams between different sub-corpora to identify language features worth further exploration. Word list and n-grams serve to find out the frequently used words and clusters in a corpus, but in comparison with n-grams, most frequent words include too many single Chinese characters, which cannot provide much information about the language feature of the corpus. Therefore, my analysis usually starts with a look at the n-grams, particularly bigrams. For example, in Chapter 5 on defendants’ language, by looking at the top bigrams, I identified three major response patterns by the defendants: narrative-based, negation-based, and ‘not know’ responses. Word list comparison is used in Chapter 6, where two distinct words in the defence lawyers’ questioning turns were identified, based on a comparison of the top 100 words in the sub-corpora built with the defence lawyers’ and prosecutors’ questioning turns. This points to two features in the defence lawyers’ questioning after the examination of the

concordance of those two words. A concordance is ‘a list of word or phrase, with a few words of context either side of it, so we can see at a glance how the word tends to be used’ (Baker, 2010, p.106). This provides further opportunities for qualitative analysis. And the concordance plot shows the spread of certain features in the data and provides additional information about the words in question. Collocation, which ‘refers to the statistically significant cooccurrence of words’(Baker, 2010, p.107), is another tool for close qualitative analysis. For example, in Chapter 6, the examination of the collocates of ‘供述(to give) a defendant’s testimony’ reveals different evaluations of defendants’ testimonies.

In Chinese criminal trials, prosecutors have many more questioning turns than the defence lawyers and the judges, as shown in Figure 3.2. To avoid skewedness in the analysis, this research includes comparisons among different questioners, which can also prevent the overlooking of non-existent features in any corpus, a disadvantage of corpus-based analysis. In Chapter 4, the comparison of repetition by prosecutors, defence lawyers, and judges, reveals the significance of this language feature to all institutional participants. Chapter 5 looks at defendants’ responses to different institutional participants to ensure that the response features are salient in their responses despite who the questioner is. In Chapter 6, the comparison of prosecutors’ and defence lawyers’ turns as well as their closing arguments, highlights the similarities and differences between prosecutors’ and defence lawyers’ questioning.

Scholars disagree about whether corpus linguistics is a method or a theory and this is related to the discussion of corpus-based study and corpus-driven study

(McEnery and Hardie, 2012, p.6). Corpus-based studies ‘typically use corpus data in order to explore a theory or hypothesis, typically one established in the current literature, in order to validate it, refute it or refine it’(McEnery and Hardie, 2012, p.6). Therefore, corpus-based studies conceptualise corpus linguistics as a method. On the other hand, ‘corpus-driven linguists tend to use a corpus in an inductive way in order to form hypotheses about language, not making reference to existing linguistic frameworks’(Baker, 2010, p.95). Therefore, corpus-driven linguists view the corpus as ‘the sole source of our hypotheses about language’ (McEnery and Hardie, 2012, p.6) and hold that ‘the corpus itself embodies its own theory of language’ (McEnery and Hardie, 2012, p.6). This research has combined both corpus-driven and corpus-based approaches. To answer my first research question regarding how legal professionals convey their stance, I looked for a language feature to start with. The concordance screenshot below (Figure 3.5) shows that the same words can be seen before and after the symbol for the legal professionals.

1	胡某某（听不清）时间去了哪些地方？	被：GD。	公：GD，然后又去哪里XA。	公：XA，最后到了XJ，你	AD3.txt
2	公：案发后你躲藏在什么地方你们？	被：在LZ市	公：LZ市，具体什么地方？	被：XX市场	公：XX市场
3	地方？	被：GD。	公：GD，然后又去哪里XA。	公：XA，最后到了XJ，你在公安机关的供述是否属实？	AD3.txt
4	在LZ市	公：LZ市。具体什么地方？	被：XX市场	公：XX市场。你主要生活来源是什么？	被：XX市场打零
5	在哪里被抓的？	被：嗯，就是今年的4月30号在XZ机场。	公：XZ，你当时被抓的时候用的是谁的名字？	被：李某	MB4.txt
6	公：你在哪被抓获的？	被：在ZC区一个商场里边。	公：ZC区的一个商场里	被：嗯。	公：审判长，暂时发问
7	，公訴人要问你以下几个问题，你要如实回答。	被：是。	公：一就是你在公安机关的供述是否属实？	被：有部分内容	MB2.txt
8	当时你们几个人是坐在几辆车上？	被：一辆车。	公：一辆车，这车是谁的？	被：我的。	公：你的
9	活动的有几间房？	被：就在那一间屋子活动。	公：一间屋子是吧？就这个地方是谁租的？	被：这地方	AA1.txt
10	多长时间？你跟我说。	被：有一个多小时左右。	2公：一个多小时。	被：大概几点我不知道。	2公：
11	多长时间，躲了多长时间？	被：待了一个月。	公：一个月，为啥躲了一个月就回来了？	被：后面就听	AD1.txt
12	号之前（打断）公：11月23号之前买的。	被：一个月。	公：一个月，你那个作案工具是啥样的？给我描述一下。	被：就	MD2.txt
13	请几天？	被：嗯，要是没啥，就请个一两天吧也就是。	公：一个月请一两天？	被：对。	公：就案发之前这三个月
14	个月都能上满勤吗？	被：嗯，没有。	公：没有？	被：对。	公：一个月请假几天？
15	是他们的，他们就是切水果的，	一个一个小水果刀就是。	公：一个水果刀？当时是在宿舍的桌子上放着。	被：对	AA5.txt
16	来，我确实想不起来，可是对罪我认，我觉得是认的。	公：一会会出示你在公安机关对你行为的供述情况，好	AA7.txt		
17	：到底扎了几刀？	被：就一刀，就一刀还是斜着（打断）	公：一会给你宣读证据，你好好听，听见没有？	被：行。	AA6.txt
18	被：没记着。	公：不记得了是吧？	被：对。	公：一会跟你宣读你在公安机关的供述，你要你仔细	AA7.txt

Figure 3.5 The same texts before and after ‘公(Prosecutor)’

Figure 3.5 displays that 13 out of the 18 concordance lines show the same pattern (as indicated by the text within the black frames). As the text before the symbol ‘公 (Prosecutor)’ indicates a defendant’s turn while the text after the symbol indicates a prosecutor’s turn, the pattern means that prosecutors frequently repeat defendants’ responses in the preceding turn. This becomes the research focus in Chapter 4 (‘other-repetition’).

Similarly, to narrow down the research scope about intertextuality, I looked at the word list of the corpus built with the closing arguments, which frequently refer to ‘供述(to give) a defendant’s testimony’. Its collocation reveals the testimonies evaluated as truthful and false, the narrative construction of which becomes the focus in Chapter 6. In comparison with these two corpus-driven explorations, Chapter 5 on defendants’ language is more of a corpus-based study, which starts with the corpus linguistic analysis about the most common response patterns in defendants’ language based on the analysis of the bigram list.

This section shows that corpus tools provide valuable quantitative results and help form hypotheses. Meanwhile, conversation analysis can provide interpretation for the patterns identified in corpus analysis and allows for further exploration of hypotheses.

3.4.2 Application of conversation analysis

CA is ‘the detailed microanalysis of talk-in-interaction examined in order to provide insight into the structures of action that are usually (or normally) oriented to by

conversational participants' (White, 2019, p.472). CA has its roots in ethnomethodology (Heritage, 1984), and it was first developed by Harvey Sacks and his colleagues in the late 1960s and early 1970s (Schegloff and Sacks, 1973; Sacks, 1974; Sacks et al., 1978) . Over the years, important concepts for CA have been developed including turn-taking (Sacks et al., 1978; Jefferson, 1986), repair (Schegloff et al., 1977), adjacency pairs (Schegloff and Sacks, 1973) and more. Fundamental concepts in conversation analysis include turn design, turn-constructive units, transition-relevance place, turn allocation, sequence organisation, overall structural organisation, action ascription, repair, and preference (Sidnell and Stivers, 2013). Turn design 'refers to how a speaker constructs a turn-at-talk —what is selected or what goes into “building” a turn to do the action it is designed to do, in such a way as to be understood as doing that action'(Drew, 2013, p.132). This is the key concept for fine-grained conversation analysis. Speakers employ various linguistic and non-linguistic resources for turn design including lexis, phonetic and prosodic resources, syntactic, morphological and other grammatical forms, timing, laughter and aspiration, gesture and other bodily movements and positions (Drew, 2013, p.132). These are also the channels through which analysts approach turn design analysis.

A key concept closely linked to turn design is turn-constructive units (TCU), which is a component of a turn. Turns are 'incrementally built out of a succession of turn-constructive units, such as sentences, clauses, phrases, and individual words' (Clayman, 2013, p.151). And '[e]ach TCU's completion establishes a transition-relevance place (TRP) where a change of speakership becomes a salient

possibility that may or may not be realized at any particular TRP' (Clayman, 2013, p.151). Change of speakership is related to turn allocation, which concerns 'orderly ways in which participants effect transition from the current speaker to a next' (Hayashi, 2013, p.168). In daily conversation, there are mainly two methods for turn allocation: current speaker selection of next speaker and self-selection (Hayashi, 2013).

These four concepts (turn design, TCU, TRP, turn allocation) are key to the examination of every conversation. However, in institutional talk, special rules govern the turn-taking as turns are pre-allocated. In defendant examination, the legal professionals are assigned the role to ask questions while lay participants including witnesses and defendants respond to the questions.

In terms of sequence organisation, the adjacency pair is the basic organization rule. Adjacency pairs have the following characteristics:

- 1) Composed of two turns;
- 2) Produced by different speakers;
- 3) Adjacently placed (i.e. one after the other);
- 4) Relatively ordered such that first-pair parts precede second-pair parts;
- 5) Pair-type related such that particular first-pair parts are paired with particular second-pair parts (Schegloff, 2007, p.13).

Courtroom interaction is essentially composed of question-answer adjacency pairs due to its special turn allocation rules. Therefore, a turn by a questioner is deemed as a question whether it is an interrogative sentence or not. This feature informs the analysis of repetition (question-intoned and non-question-intoned) in Chapter 4.

Overall structural organisation addresses the bigger issue of ‘sequential (vs. sequence) organization’ (Robinson, 2013, p.278), or the coherence of sequences. Such coherence can be characterised as ‘agenda’, ‘goal’, ‘game’, or ‘activity’ (Robinson, 2013, p.260). It receives relatively less attention in conversation analysis, but it is particularly important in understanding courtroom interaction. As pointed out by (Robinson, 2013, p.278),

Overall structural organization embodies a source of context, and provides a source interactional coherence, that shapes and constrains participants’ production and understanding of behavior in interaction, and that is relatively external to the more local sources provided by, for example, turn and sequence organization.

The agenda, stages and activities of a trial affect its overall structural organization as well as its turn-by-turn interaction, as interlocutors orient to the trial agenda. This informs the analysis of both legal professionals’ (Chapter 4) and defendants’ (Chapter 5) language as well as the intertextuality between defendant examination and closing arguments (Chapter 6). In the analysis, the bigger context than the immediate sequential environment provides additional insights to the local interaction. For example, it makes action ascription, which refers to ‘the assignment of an action to a turn as revealed by the response of a next speaker’ (Levinson, 2013, p.104), easier in courtroom interaction, as ‘[i]nstitutional settings ha[ve] the virtue of making plain the action-like component of language’ (Levinson, 2013, p.104). Action is ‘a “main job” that the turn is performing’ (Levinson, 2013, p.106). For example, questions by legal professionals in the courtroom might be vehicles for accusation and understood as so by both the

recipients of the questions and the analysts.

Repair refers to ‘the set of practices whereby a co-interactant interrupts the ongoing course of action to attend to possible trouble in speaking, hearing or understanding the talk’ (Kitzinger, 2013, p.229). Chapter 4 on other-repetition discusses repair as one function of other-repetition. Preference characterises ‘conversational events in which alternative, but non-equivalent, courses of action are available to the participants’ (Sacks, 1973 cited in Atkinson and Heritage, 1984, p.53). Preference principles are followed by participants in a conversation and therefore influence every response. This concept is closely examined in Chapter 5 on the discussion of defendants’ language.

In general, CA includes two branches: one is ordinary conversation, and the other is institutional interaction such as medicine (e.g. Heritage and Maynard, 2006), news interviews (e.g. Clayman, 2001), classrooms (e.g. Seedhouse, 2004) and courts (e.g. Atkinson and Drew, 1979). Drew and Heritage (1992, p.22) discuss three major features shared by talk in institutional context: first, institutional talk is goal-oriented with the participants orienting to the core tasks conventionally associated with the institution. Second, institutional talk often involves constraints on the contributions that each of the participants can make in a particular setting. Third, institutional talk develops special inferential frameworks. These features shape courtroom interaction and are borne in mind in data analysis. In addition, interactional asymmetries are unique to institutional talk. In the context of the courtroom, asymmetries are mainly demonstrated in three dimensions: one ‘arises from the predominantly question-answer

pattern of interaction’(Drew and Heritage, 1992, p.49); another dimension ‘concerns the participants’ differential states of knowledge’(Drew and Heritage, 1992, p.50); and the third dimension arises from the difference ‘between the organisational perspective that treats the individual as a “routine case”, and the client, from whom his or her case is unique and personal’ (Drew and Heritage, 1992, pp.50–51). These underlie many interactional features in the courtroom and are referred to in data analysis where relevant.

3.4.3 Combining corpus linguistics and conversation analysis

In combining CL and CA, I met some challenges in accommodating the differences between the two approaches, but once the challenges are tackled, the strengths of the combined approach emerge.

Though both CL (in analysing spoken language) and CA start by recording and transcribing naturally occurring data, they have different transcription conventions. CA requires the transcript to be as detailed as possible, while, due to the large amount of data involved, CL mainly sticks to orthographic transcription (Love et al., 2017), though the rule may vary depending on the nature of the corpus. Nevertheless, this challenge can be tackled by making transcripts according to the specific research need in different stages as demonstrated in Section 3.3.1. In addition, when I was producing the orthographic transcription to build the corpus, I used words in place of symbols for some paralinguistic information such as long pauses, short pauses, and interruption, as shown in Table 3.6. As these words are searchable with corpus tools,

they helped me find relevant excerpts when I moved to conversation analysis. For example, in looking for defensive responses (Chapter 5), I started with interrupted responses, which can be found by searching the word ‘打断(interrupted)’, as many of these responses are defensive responses.

CL and CA have different positions regarding quantification. CL is regarded as a methodology that can be aligned to any theoretical approach to language as long as the approach ‘holds ...that there is a value in “counting”’ (Partington et al., 2013, p.8). However, conversation analysts are ‘not interested in accounting for coarse distributional regularities of human conduct nor in identifying patterns that may or may not relate to participants’ own constructs in interaction’ (Stivers, 2015, p.2). In other words, CA does not place emphasis on the quantification or generalisation of spoken phenomena. In CA, every case matters because ‘...no number of other episodes that developed differently will undo the fact that in these cases it went the way it did’ (Schegloff, 1993, pp.101–102). An argument for the significance of a claim in CA can be provided by evidence other than quantitative results or statistical significance, such as the next speaker’s interpretation of the preceding action, and deviant cases (Peräkylä, 2011). Nevertheless, this does not mean that CA rejects quantification. CA researchers acknowledge that quantitative analysis can help solve comparative questions (Schegloff, 1993, p.117) and assess ‘associations between interaction behaviours and variables exogenous to the interaction’ (Stivers, 2015, p.2). In Chapter 5, the quantitative results provided by corpus linguistic analysis regarding the defendants’ response patterns render the qualitative conversation analysis

representative rather than random.

Combining CA and CL provides multiple ways to identify salient language features. CA relies on researchers' unmotivated observation while CL relies on corpus tools for frequency calculation. This means the combined approach affords discoveries of more language patterns. In this research, the identification of 'other-repetition' as a research focus (Chapter 4) is attributed to the corpus tool as illustrated earlier. Though it might be discovered through unmotivated observation following the CA tradition, it would take longer. On the other hand, the discovery of repetition of different types is due to the conversation analysis of turn design including the prosody and syntactic structure.

CL and CA are complementary in terms of analysis focuses. CL tools 'give us easy access to the study of lexis, multi-word units and grammatical patterns' (O'Keeffe and Walsh, 2012, p.164), but it 'cannot go very far "up" into the discourse without a framework within which to analyse the discourse' (O'Keeffe and Walsh, 2012, p.164). On the other hand, CA looks at longer stretches of talk at the level of turns and sequences, but it cannot go further 'down' into the transcript to examine patterns of use regarding words, multi-word units, or grammatical patterns (O'Keeffe and Walsh, 2012, p.164). The combination of the two approaches could deliver a more comprehensive analysis. For example, in Chapter 6 on narrative construction of testimonies, the corpus linguistic analysis identifies the connection between testimonies constructed during the questioning stage and the narrative in the closing arguments through concordances of the word '供述(to give) a defendant's testimony'.

And the CA framework affords in-depth examination of the questioning process and its connection with the closing arguments. Additionally, CA deals with details that cannot be found in the corpus such as prosody and gaze as shown in Chapter 4 on other-repetition.

Another strength of the combined approach is the triangulation of findings as they can find out something in common through different ways. CA carries out a close analysis using concepts such as turn design, turn taking, sequence, repair, or preference while CL conducts further analysis by looking at the instances of the identified phenomenon with corpus tools such as concordance and collocation. Through these different ways, nevertheless, they may yield the same findings, thereby corroborating each other. For example, in Chapter 6, analysis based on CA concepts finds that defence lawyers ask more questions about defendants' thoughts and feelings. Corpus linguistic analysis reveals '想(think)'-related questions occur much more frequently in defence lawyers' turns and thus corroborates the CA finding.

Following the steps required by each approach separately, I found different salient patterns, but regardless of the entry point, further analysis was enabled or enriched by the perspectives provided by the other approach, which demonstrates the benefits of combining CA and CL.

3.5 Summary

This chapter introduced the data in detail including how they were collected and processed. Then the combined approach of corpus linguistics and conversation

analysis for this research is discussed, specifically, the application of each methodology and the challenges and benefits of combining the two methodologies. It explained that the transcription has gone through two stages to accommodate the analysis within the framework of corpus linguistics and conversation analysis respectively. This chapter also introduced the key concepts in corpus linguistics and conversation analysis. All corpus tools have been used in the analysis with the exception of keyword list due to the lack of a reference corpus. Based on the analysis of the fundamental concepts in CA, this research addresses the key topics in CA including question design, response design, prosody, gaze, storytelling, affiliation. The quantitative results yielded by corpus linguistic analysis and the fine-grained qualitative conversation analysis in combination with legal practitioners' insights can triangulate the arguments. The following three chapters demonstrate the findings based on the combined approach.

Chapter 4 Other-repetition to convey and conceal the stance of institutional participants

4.1 Introduction

It is believed that institutional interactions ‘embody a constraint on the “professional” to withhold expressions of surprise, sympathy, agreement, or affiliation in response to lay participants’ describings, claims, etc’ (Drew and Heritage, 1992, p.24). However, Gibbons (2008, p.115) contends that due to the interactional asymmetry between the lawyer and the witnesses, ‘evaluative lawyer third parts are common’. This is ‘a follow up by the questioner on the respondent’s reply’ (Gibbons, 2008, p.119) and thus contributes to a structure similar to the Initiation-Response-Feedback exchange structure in the classroom (Sinclair and Coulthard, 1975). And the third part usually embodies the questioner’s response and stance to the preceding reply by the witness. Legal professionals’ repetition of defendants’ responses is such a third part and is discussed in this chapter to investigate the stance conveyance by legal professionals. In the next chapter, it moves to discuss the defendants’ dilemma in conveying their stances and their ways to deal with it. Though both legal professionals’ and defendants’ stance is conveyed in consideration of their interlocutors’ stances and responses, Chapter 4 and Chapter 5 focus on one side’s strategies. Following that, in Chapter 6, the analysis focuses on the negotiation between legal professionals and defendants in stance alignment and the impact of stance (non-)display on the evolution of testimonies from defendant examination to closing arguments.

Repetition of a defendant's response to a prior question includes both full and partial repeats in this third-position turn (i.e., question-response-repeat) and allows for minor modifications such as deictic adjustments as well as minor deletions and additions. As the repetition is done by 'someone OTHER than the speaker of the first saying' (Rossi, 2020, p.496), hence other-repetition rather than self-repetition. Generally, after the repetition of the defendant's talk, there is a response to the repeat. The schematic representation of the other-repetition sequences in question is demonstrated in Excerpt 1 (a word-for-word glossing is provided before an idiomatic translation.).

Excerpt 1: D-defendant, DL-defence lawyer

(→ indicates the first saying and ⇨ the repetition)

1. 辯: 刚才 你 说 呃 你 跟 张某某 是 男女朋友 关系

DL: just now you say er you and Zhang be boy/girlfriend relationship

你们 两个 恋爱 多久 ?

you two romance how long

'Just now you said er you and Zhang were in a romantic relationship. How long was your relationship?'

2. 被: →恋爱 有 三年 左右 吧

D: romance have three years about PRT

'(We were) in a relationship for around three years.'

3. 辯: ⇨三年 左右

DL: three years about

'Around three years'

4. 被: 嗯

D: *Mm.*

Other-repetition is believed to be a common practice for other-initiated repair, which 'is perhaps one of the most studied conversational phenomena that have been examined across languages' (Wu, 2006, p.104), and the main reason is that these repetitions 'can accomplish very different interactional work' (Rossi, 2020, p.497). As a repair initiation, the practice can carry out actions such as seeking completion of missing elements in the original line, seeking clarification, or seeking confirmation (Couper-Kuhlen, 2020; Stevanovic et al., 2020; Huhtamäki et al., 2020). Other-repetition is also found to function beyond a repair such as displaying surprise (Wilkinson and Kitzinger, 2006; Stevanovic et al., 2020; Huhtamäki et al., 2020), accomplishing interpersonal involvement (Tannen, 2007), and enacting disalignment such as doubt, disagreement, or challenge (Kim, 2002; Svennevig, 2004; Wu, 2006; Benjamin and Walker, 2013; Walker and Benjamin, 2017). Additionally, other-repetition can serve to register a prior turn (Schegloff, 1997b; Persson, 2015; Couper-Kuhlen, 2020; Stevanovic et al., 2020; Huhtamäki et al., 2020). Along this line of research, scholars are interested in how a speaker distinguishes between the use of other-repetition for different functions, and they generally agree that communicative resources other than the lexical words are important for both the speakers and the

recipients. These resources include prosodic features, sequential context, and multimodal cues. Existing studies mainly focus on prosodic analysis. For example, Kim (2002, p.76) shows that when a repeat in English is accompanied with rising intonation, it usually ‘perform[s] the social actions of initiating repair, seeking confirmation, or displaying speakers’ emotional attitudes’. On the other hand, when a repeat is spoken with falling intonation, it indicates registering receipt, or showing agreement with the previous speaker (Kim, 2002, p.76). Benjamin and Walker (2013) find that high rise-fall repetitions indicate problems of acceptability. Stevanovic *et al.* (2020) argue that prosody helps differentiate registering from repair in Finnish and shows that when extra-affective stance is expressed, different prosody features can be identified even for the same function. Similarly, Persson (2015) shows that prosody can differentiate between repair-initiating and receipt-registering repeats in French. Huhtamäki *et al.* (2020) show that repair- and expectation-oriented repetitions are usually produced with upgraded prosodic features, whereas registering cooccurs with downgraded prosody. Meanwhile, scholars are cautious about the differences between languages in the use and function of other-repetition. For example, Wu (2006) points out that it is not as easy to recognise question intonation in Mandarin Chinese, which is a tonal language, and that other-initiated repair through the use of repeat in Chinese has different choices such as question-intoned repeats and repeats suffixed with the final particle *a*, which has no counterpart in English. Similarly, Finland’s Swedish is found to be different from French and Italian, as ‘melodic alternations are not prominently decisive for the ascription of pragmatic meanings’ (Huhtamäki et al., 2020, p.31).

Sequential context and multimodal cues are found to be important in differentiating the functions of a repeat. Wu (2006) shows that question-intoned repeats frequently occur in sequentially disjunctive contexts. Schegloff (1996, p.177) examines three types of sequential position of other-repetition and their functions: repeats that initiate a sequence to clarify a reference; repeats at responding position to show agreement; repeats at third position after an adjacency pair to acknowledge receipt of a response. Most studies investigate second-position repeat while this chapter looks at third-position repeat. Furthermore, Couper-Kuhlen (2020) points out that visible behaviour (gaze direction, head movement, facial expression, and body position) is important in distinguishing other-repetition actions in English, but the study mentions multimodal cues in passing, with no further exploration. This chapter presents findings regarding prosodic features and multimodal cues (gaze) in distinguishing the functions of other-repetition in third position in courtroom interaction.

Most existing research focuses on the analysis of repetition in daily conversation. Very few studies examine other-repetition in institutional settings including the courtroom. Drew (1992, p.476) briefly discusses other-repetition after a question-answer adjacency pair and argues that different from repeats in daily conversation, in witness examination, repetition is ‘a means of emphasizing a point for the benefit of the jury’. In Chinese criminal trials, there is no jury, but prosecutors and defence lawyers question the defendants in front of the judges, who are the deciders of fact. However, judges do not just listen (as juries do). They also question defendants, not by interrupting the prosecution or defence activity, as in Anglo-American trials, but

as a distinct activity. Therefore, it is safe to assume that other-repetition is not always about emphasis for the judge's benefit, as is demonstrated by Luo and Liao (2012), who look at legal professionals' repetition of defendants' responses with a question intonation. They contend that echo questions in Chinese courtroom interaction can serve the following five functions: 1) displaying doubt; 2) seeking confirmation; 3) seeking further comments on the topic; 4) establishing a prerequisite for the next question; 5) registering receipt. Their findings are essentially consistent with existing findings about the functions of other-repetition, but they do not discuss other-repetition in declarative intonation, nor do they consider other contributing factors to the meaning construction of a repeat. Based on a fine-grained conversation analysis with a focus on prosody, this chapter investigates whether prosody helps distinguish different functions of other-repetition in Chinese courtroom interaction and how institutional participants express their stance in repetition.

In Mandarin Chinese, intonation conveys modality and tone, through which a speaker's emotion and attitude can be detected (Sun, 2000, p.72). Intonation mainly concerns the melodic and rhythmic aspects of spoken language (Lin, 2004). As Mandarin Chinese is a tonal language, its intonation is complex and different from English as it is subject to the combined influence of tone and prosody (Liu, 2007, p.5). Chinese scholars have wide discussions about the prosody of a question in terms of its difference from a statement. They find that the pitch of a question is in general higher than a statement (Shen, 1985; Wu et al., 2006), and that a question usually features a pitch curve that ends at a higher pitch than a statement (Lin, 2004; Lin, 2006; Wu et al.,

2006). A more recent study (Xu et al., 2018) points out that the pitch contour of a statement features a flat beginning, a falling central part and a steep fall at the end, while the pitch contour of an interrogative sentence rises faster at the beginning, falls more mildly in the middle, and falls more slowly at the end. All studies of the prosody of interrogative sentences are conducted with reference to the prosody of a statement containing the same words. But it is impractical to do so in the examination of my data, which only provides a question-intoned repetition (interrogative repetition) or a non-question-intoned repetition (declarative repetition). Though the original saying by the defendant is usually a statement, the age and gender, two factors influencing pitch range (Sun, 2000), of the questioner usually differ from the defendant. So, I mainly rely on auditory perception to decide whether a repetition is question-intoned or not, while providing the pitch contours of the original saying and the repetition for reference when relevant. Other aspects of prosody such as pause, rhythm, and accent (Liu, 2007), are analysed with conversation analysis concepts when relevant. In addition, this research also examines pitch range, which is found to be an important parameter in intonation analysis (Lin, 2004). *Praat* software version 6.3.15 (Boersma and Weenink, 2023) is used to assist with the prosodic analysis.

4.2 The prominent presence of other-repetition

This section demonstrates the prominent presence of other-repetition in the data. Section 3.4.1 shows that other-repetition is identified as a salient pattern based on a corpus-driven approach. To gain a more accurate understanding of the pattern's

prominence, Python coding is used to extract repeat-based sequences from the transcripts of defendant examination in 49 criminal trials. As repetition of some commonly used function words is also automatically extracted based on the coding, manual checking was carried out to remove the extracted sequences that are not the other-repetition I want to study in this chapter. Every extracted sequence includes four turns: question, answer, repetition, response to the repetition. When a longer stretch of talk is required for further analysis, corpus tools are used to identify the trial from which the sequence is extracted.

Other-repetition in the dataset mainly takes three forms (Table 4.1): stand-alone repeats (Excerpt 1), a repeat-based tag question, which is constituted with a repetition and a question tag ‘是吧 (*shi ba*)’ or ‘是吗 (*shi ma*)’, meaning ‘right?’, and turn-initial repeats, where a repetition is followed immediately by a question. All three forms might be an interrogative repetition or a declarative repetition.

Table 4.1 Repeat-based turns as a proportion of the total turns by prosecutors (P), defence lawyers (DL), and judges (J)

Types of repetition	P	DL	J
Stand-alone repeats [interrogative/declarative]	8%	5%	5%
Repeat-based tag questions [interrogative/declarative]	3%	2%	3%
Turn-initial repeats [interrogative/declarative] + question	7%	2%	6%
total	18%	9%	14%

Table 4.1 shows that repeat-based turns represent a considerable proportion of the questioners’ turns: 18% in the case of prosecutors, 9% for defence lawyers, and 14% for

judges. As the proportion of repeat-based tag questions in the turns by the three institutional questioners is small, it is not discussed in this chapter. Table 4.1 shows that prosecutors and judges are more similar to each other in terms of the quantitative results, and the detailed analysis in the remainder of this chapter shows that their stance conveyance is also similar.

Though this research finds that repetition occurs frequently in institutional questioners' turns, when I asked legal practitioners 'do you repeat defendants' responses', most of them dismissed this as a practice that is rarely used. The discrepancy between the frequent repetition shown in my data and the underreporting of its usage by the legal practitioners reflects that 'people's linguistic intuitions are sometimes a very poor indication of how they actually speak' (Boberg, 2013, p.134). A reasonable explanation is that respondents 'underreport their usage of socially disfavored forms' (Boberg, 2013, p.134). A few interviewees mentioned that repetition is generally disfavoured in the courtroom. For example, defence lawyer Xu said that some judges even forbid repetition, so he tries to avoid it. Prosecutor Luo said that efficiency is important for a court trial, so repetition is not encouraged.

Regarding the function of repetition, most legal practitioners believe it is used for emphasising certain points or making an accurate court record. For example, defence lawyer Guo said that repetition is used to draw the judges' attention to certain issues. Prosecutor Luo claimed that repetition serves to highlight certain points, but out of the consideration of efficiency, they rarely do that. Defence lawyer Yuan said that during a trial, the court clerk's screen is shared with judges, prosecutors, and defence lawyers.

When they notice that a response is recorded in the court transcript, they do not repeat it, which implies that repetition is used to ensure an accurate court record. Court clerk Chen said that she does not note down repeated responses because she believes that repetition is mostly a speaking habit or used for confirmation, neither of which is worth noting down. Additionally, most legal practitioners claimed that they do not distinguish between the use of question-intoned and non-question-intoned repetition except for defence lawyer Fan. He said that he would repeat in question intonation as a way to signal that the response is not accurate and to remind the defendant to change his response, while non-question-intoned repetition is used for emphasis. However, stance analysis below demonstrates that repetition in courtroom interaction has diverse functions and the distinction between question-intoned and non-question-intoned repetition is more complicated than expected.

4.3 Other-repetition to convey and conceal stance

The analysis starts with turn-initial repeats and then moves to stand-alone repeats. Turn-initial repeats display a speaker's stance more explicitly than stand-alone repeats, based on the prosodic cues of the repetition and the question after the repetition. However, the situation is more complex in the case of stand-alone repeats. Though question-intoned repetition can convey negative stance, not all negative stance is conveyed through a question intonation. Declarative repetition can imply challenge. In line with prior findings about repetition in institutional contexts (Schegloff, 1996; Rossi, 2020), registering is found to be an important function of stand-alone

other-repetition in courtroom interaction. It usually conveys a speaker's neutral stance. However, sometimes the speaker's evaluation embodied in the 'registering repeat' is found to be negative a few turns later. Nevertheless, as it is repeated, neither the interlocutor nor the analyst could immediately identify the speaker's stance as there is no obvious prosodic indicator of different stances. As a result, a stand-alone declarative repeat is usually regarded as simply registering. The following two sections provide a detailed analysis of other-repetition in turn-initial position and stand-alone other-repetition in terms of their functions and prosodic features.

4.3.1 Turn-initial repeats to convey a speaker's stance

Turn-initial repeats occur in a repeat-prefaced turn where questioners ask a question immediately after a repeat. Turn-initial repeats are examined separately from stand-alone repeats because they are different in terms of rhythm, with the former being followed immediately by other talk. In comparison with stand-alone repeats, the stance conveyed through turn-initial repeats can be more easily identified with the clues provided by the prosody and the talk immediately afterwards.

Schegloff (1997b, p.531) looks at turn-initial repeats in English and contends that it is 'the target or point of reference for a further action to be taken in a subsequent turn constructional unit in the turn.' He also finds that 'one common sequential environment for these turn-initial repeats is before rejections, corrections, disalignments, and other negatively-valenced (or "dispreferred") actions.' Research about turn-initial repeats in Russian (Bolden, 2009) and French (Persson, 2015) also find such repetitions indicate

that something in the prior turn is problematic. More detailed analysis reveals the prosodic features of the repetition. Walker and Benjamin (2017) find that the turn-initial repetition is quieter than the subsequent talk. Bolden (2009) demonstrates that the prosodic contour differentiates the nature of the problem in the prior turn with continuing or final intonation indicating a problem with the sequence-initiating action while nonfinal intonation displays a problem in information retrieval. However, none of the above studies looks at the practice in institutional talk. And none of them focuses on turn-initial repeats in third position while sequential placement critically influences the action accomplished in practice (Schegloff and Sacks, 1973; Schegloff, 1996).

Turn-initial repeats in my dataset are mostly declarative repeats with very few exceptions. Different from prior findings, I find that turn-initial repeats can serve to both simply register a receipt without indicating any problem in the prior turn and to display a negative stance toward the prior turn. And the prosodic features can be helpful in distinguishing the different functions, but not in a categorical manner. The first two excerpts below (Excerpts 2 and 3) show two registering repeats. Both repeats are declarative repeats and feature a mildly falling pitch trace. The pitch trace is similar when the turn-initial repeats convey doubt (Excerpts 4 and 5). However, the pitch range becomes wider when the repeats imply challenge (Excerpts 6 and 7).

Excerpt 2:

1. 公:在 哪 放 的 这个 刀 ?

P: at where put PRT this knife?

'Where (did you) put the knife?'

2. 被:在 墙上 插 着

D: at wall-on insert CONT

'(It) was placed on the wall.'

3. 公:是 干 嘛 用 的 ?

P: be do what use PRT

'What was it used to do?'

4. 被: →修 肉 用 的

D: trim meat use PRT

'(It was) used to trim meat.'

5. 公: ⇨修 肉 <修 猪肉 用 的

P: trim meat trim pork use PRT

'Trim meat, < (it was) used to trim pork.'

6. 被: 对

D: Right.

7. 公:拿 这个 刀 你 怎么 扎 的 江某某 啊 ?

P: hold this knife you how stab PRT Jiang PRT

'How did you stab Jiang with this knife?'

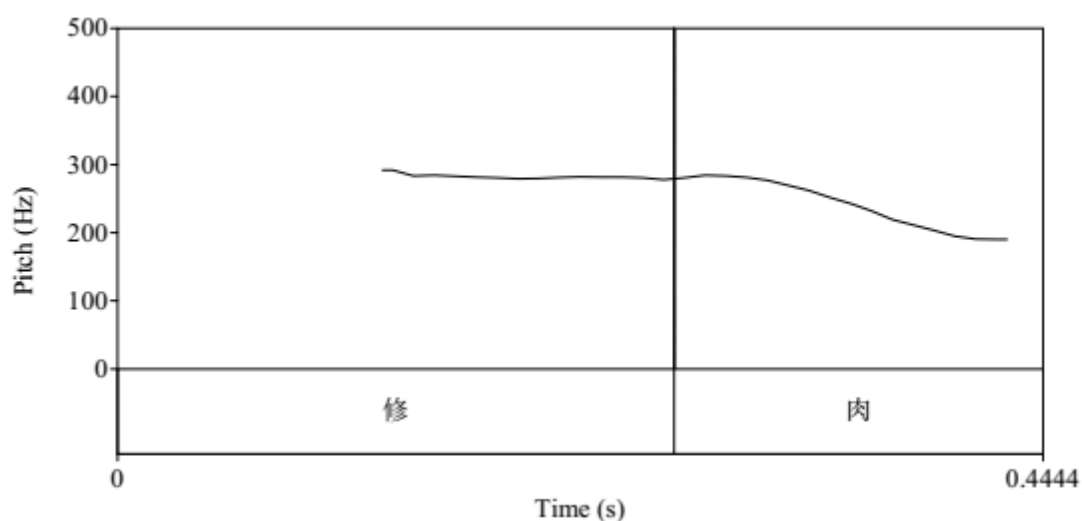


Figure 4.1 The pitch trace of the repetition in line 5 of Excerpt 2

In Excerpt 2, prosecutor and defendant are discussing the murder weapon, a knife that was used to trim meat. Before this sequence, they were talking about the defendant's job as a worker in a meat processing plant. At this point, both sides are clear that the plant deals with pork. The quick start of the second '修(trim)' and the subsequent talk, which specifies the meat as pork in a declarative sentence, demonstrates that the turn-initial repeat in line 5 is simply registering receipt. The confirmation in turn 6 is in response to the second part of turn 5. Additionally, line 7, where the prosecutor shifts to talk about the use of the knife, also shows that the prosecutor has no doubt or uncertainty about the knife itself.

Excerpt 3 captures the beginning of a prosecutor's questioning, which seeks confirmation about the plea made by the defendant in the preceding pleading stage. There is no connection between the turn-initial repeat in line 5 (also no problem) and the follow-up question (what's the relation between you and (.) the victim He?), which

supports the argument that it is a registering repeat. As the questioning process is an information collection process which is recorded for future reference, the display of the receipt of information is especially important in such contexts, as is found by Svennevig (2004): ‘Repetition may thus be a way of marking the official status of an answer as it is recorded for the institutional purposes at hand’. Registering repetition does not explicitly reveal the attitude or stance of the questioner and the pitch traces of both turn-initial repeats are similar with a mildly falling pitch trace (Figures 4.1 and 4.2). The abrupt high pitch of ‘问 (question)’ is due to the coughing of the defendant at that moment.

Excerpt 3:

1. 公: 刚才 审判长 问 你 说 对 起诉书 指控 的 事实

P: just now chief judge ask you say to indictment accuse PRT fact

没有 异议 是吧 ?

no objection right

‘Just now (when) the chief judge asked you, you said (you had) no objection to the fact charged in the indictment, right?’

2. 被 : 没有

D: No

‘No (objection).’

3. 公: 这个 时间 和 地点(.) 有 问题 吗 ?

P: this time and location have problem Q

‘Is there a problem with the time and location(.) (stated in the indictment)?’

4. 被: →没 问题=

D: *No problem*=

5. 公: ⇔=也 都 没有 问题

P: also all no problem

(defendant coughing)

你 跟(.) 这个 被害人 何某某 是 什么 关系 ?

you and this victim He be what relationship

‘=Also no problem, what’s the relation between you and (.) the victim He?’

6. 被: 嗯 男女朋友 ° 关系°

D: mm boy/girlfriend relationship

‘Mm (we were) in a romantic ° relationship° .’

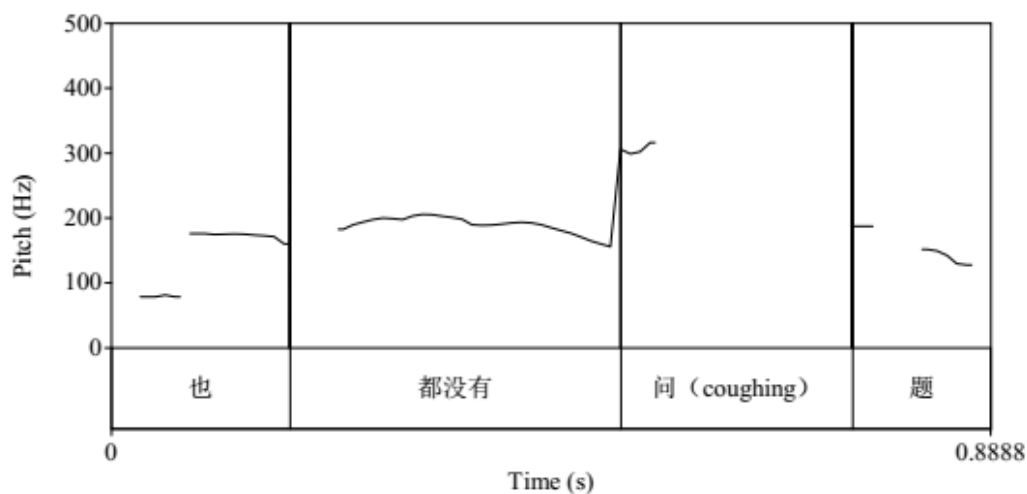


Figure 4.2 The pitch trace of the repetition in line 5 of Excerpt 3

A similar pitch trace is observed for the turn-initial repeats in Excerpts 4 and 5,

where the turn-initial repeat is used to signal doubt about a response. Both repeats are declarative repeats.

Excerpt 4:

1. 审: 2008 年 毕业- 2008 年 到 2011 年 在 江西

J: 2008 year graduate 2008 year to 2011 year in Jiangxi

念 念 念 什么 书?

read read read what book

'In 2008 (you) graduated- from 2008 to 2011 in Jiangxi (you) studied, studied, studied what?'

2. 被: → 呃 就是 中专

D: er just secondary-level vocational school

'Er, just a vocational school at the secondary level.'

3. 审: ⇨ 中专 是 大专 还是 中专 呢 ?

J: secondary level be tertiary level or secondary level Q

'A vocational school at the secondary level, is it a vocational school at the tertiary or secondary level?'

4. 被: 嗯(2s) 应该 是(.) 大专 吧

D: mm should be tertiary level PRT

'Mm(2s) it should be (.) at tertiary level.'

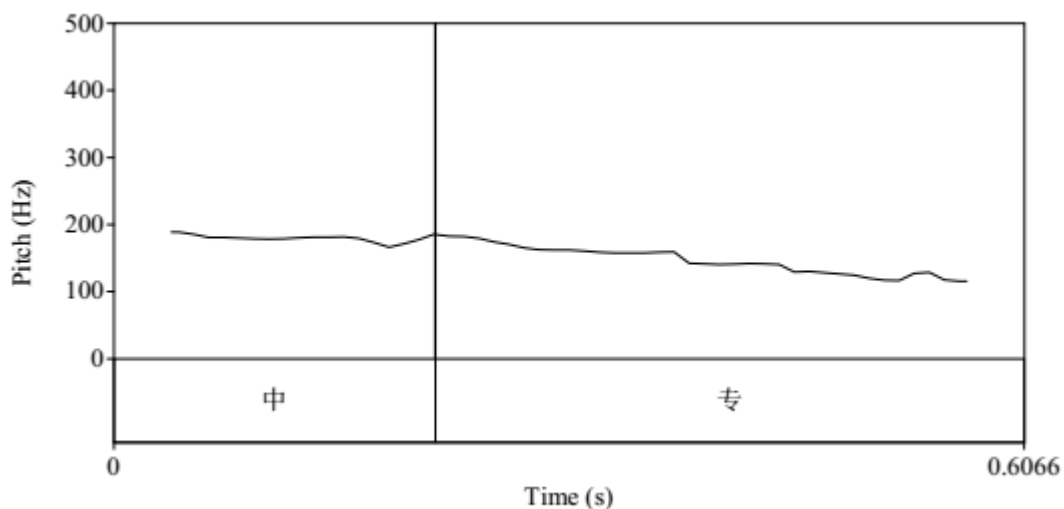


Figure 4.3 The pitch trace of the repetition in line 3 of Excerpt 4

Before Excerpt 4, the defendant talked about his experience in high school. In China, the vocational school that one goes to after high school is at the tertiary rather than secondary level. In line 3, the judge's alternative question that follows the repetition pinpoints the problem in the repeated item, so the repetition implies doubt. But Figure 4.3 shows a slightly falling pitch contour, clearly indicating a declarative intonation.

Excerpt 5:

1. 辩: 你 去 找 张某某 干 什么 ?

DL: you go look for Zhang do what?

'Why did you look for Zhang?'

2. 被:→我 说 我 走:: 她 好多 衣服 我 那里

D: I say I leave she so many clothes my there

'Because I was about to lea::ve, she still got so many clothes at my place.'

3. 辩:↗好多 衣服 在 你们 是(.) 同 同居 是吗 ?

DL: so many clothes at you be co cohabit right

'So many clothes at (your place), you were (.) co, cohabiting, right?'

4. 被:对

D: Right.

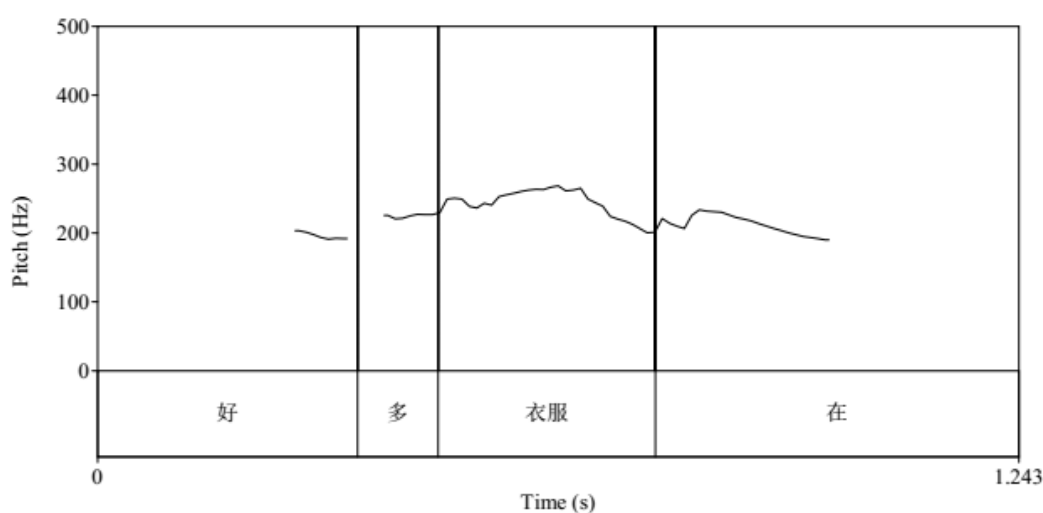


Figure 4.4 The pitch trace of the repetition in line 3 of Excerpt 5

In Excerpt 5, the doubt about the repeated item ‘好多衣服在(so many clothes at (your place))’ is evidenced in the pause and hesitation of saying ‘cohabitation’ in the follow-up question (line 3). But the repetition is produced in declarative intonation. And Figure 4.4 shows a mildly falling pitch contour. These four excerpts (Excerpts 2-5) demonstrate that pitch contour cannot distinguish between turn-initial repeats for registering and repeats for doubt. And both types of repetition feature declarative

intonation, contrary to the impression that repeats for doubt should be question-intoned.

In comparison, the pitch range becomes wider when the repeat indicates negative evaluation and is followed by a challenging question as shown in Excerpts 6 and 7.

Excerpt 6:

1. 公:你 见 过 这个 石块 吗(.) 这个 [石头

P: you see ASP this stone Q this stone

'Did you see this stone ? (.) this [stone'

2. 被:→[没有 见 过

D: not see ASP

'[(I) didn't see it.'

3. 公:你 也 没有 见 过 是吧?

P: you also not see ASP right

'You also didn't see (it), right?'

4. 被: 是

D: Yes.

5. 公: 那就是 你 没有 见 过 , 你 动 过 它 吗?

P: that is you not see ASP you touch ASP it Q

'So you didn't see it, did you touch it?'

6. 被:→没有

D: No.

7. 公:⇒没有 见 过, 没有 动 过

P: not see ASP not touch ASP

<这 石块 上(.) 除了 有 被害人的 血迹 和 毛发

this stone on aside from have victim's blood stain and hair

怎么 还 有 你的 血迹? ° 这 怎么 解释°

how come also have your blood stain this how explain

'(You) didn't see it, didn't touch it. <On this stone(.) aside from the victim's blood stain and hair, how come there was also your blood? ° How (do you) explain it?° '

8. 被:我 不 知道

D: I not know

'I don't know.'

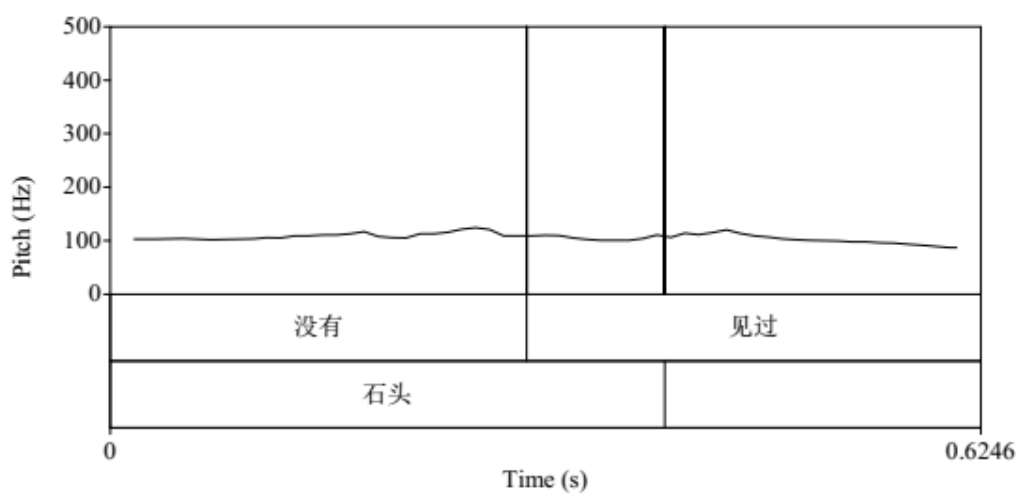


Figure 4.5 The pitch trace of the first saying in line 2 of Excerpt 6

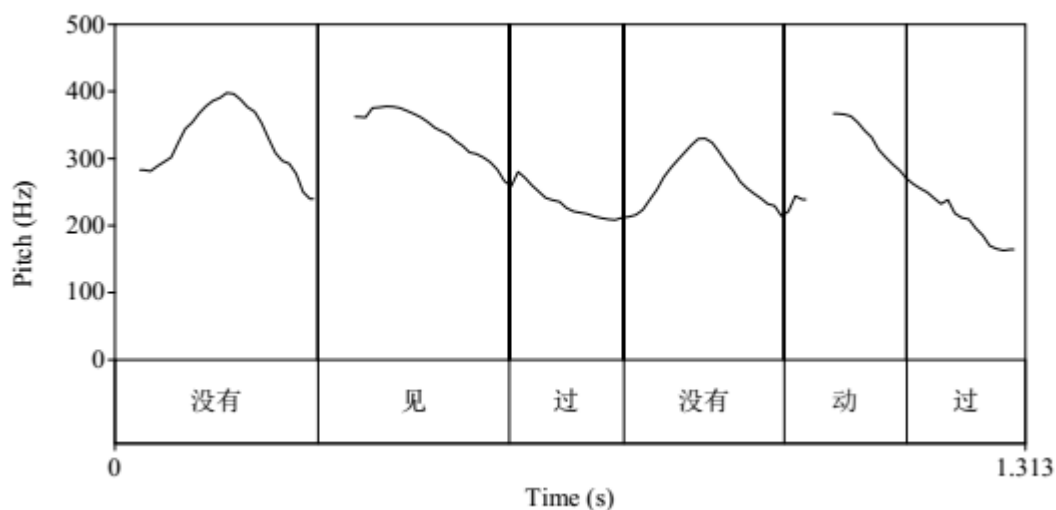


Figure 4.6 The pitch trace of the repetition in line 7 of Excerpt 6

In Excerpt 6, the prosecutor starts questioning about the stone, the key weapon involved in the case, with a yes-no question (Did you see this stone?). In response, the defendant denies it. In line 3, the prosecutor seeks confirmation about this with a tag question and gets a confirmation from the defendant, building on which, the prosecutor proceeds to ask another question about the stone (did you touch it?). The answer to the question is already known based on the denial to the first question: if he didn't see the stone, he would not have touched it. Nevertheless, the prosecutor still asks this question. This can be explained retroactively by the question in the ensuing repeat-prefaced turn: how come there was the defendant's blood stain on the stone. That is only possible if the defendant touched it. By asking these questions, the prosecutor gets the repeated item ((You) didn't see it, didn't touch it.) confirmed, which directly contradicts with what the evidence suggests and thus renders the question more powerful, as it coerces the defendant to give an explanation to such a seemingly unreasonable phenomenon.

And the prosodic design contributes to the strong force of the repeat-prefaced turn. The repeat features a steep falling pitch trace at the end, which displays the assertiveness of the speaker. And in comparison with the original saying (Figure 4.5), the repetition (Figure 4.6) has a much wider pitch range of around 250 Hz, indicating the strong emotion of the speaker. After the repetition, the follow-up question has a quick start on the first character ‘这(this)’. The closeness between the repeat and the question leaves no gap for the defendant to confirm or explain and shows the confidence of the prosecutor in the repeated item and the force of the question. The defendant is left with no leeway and in the end produces a ‘not know’ response.

Similarly, in Excerpt 7, the repeat-prefaced turn also conveys the questioner’s disbelief in the repeated item from the defendant’s response. The defendant claims that he was holding a knife in front of the victim only to scare him. The duplication of ‘吓唬(scare)’ downgrades (Shen, 2015) the scariness in line 2. The prosecutor repeats it in line 3 before a but-prefaced turn. And the stressed ‘实际上呢(in fact)’ highlights the incongruence between the response and his actual behaviour, indicating the prosecutor’s disbelief and suggesting the defendant’s dishonesty. Figure 4.7 shows that the repeat in this excerpt also features a wider pitch range (over 200 Hz), though the slightly rising boundary tone (他 ‘him’) suggests a less assertive ending. Excerpts 6 and 7 demonstrate a high correlation between a wide pitch range and a challenge-implicated repetition.

Excerpt 7:

1. 公:你 直接 回答 我,你 要 想 干 嘛 ?

P: you directly answer me you want think do what

'Answer me directly, what did you want to do?'

2. 被:→我 就 想 吓唬 吓唬 他

D: I just want scare scare him

'I just wanted to scare him a bit.'

3. 公:⇒ 吓唬 吓唬 他

P: scare scare him

但 实际上 呢 你 拿 刀 怎么 扎 的 对方 啊 ?

but in fact PRT you take knife how stab PRT the other party PRT

'Scare him a bit, but in fact how did you stab the victim?'

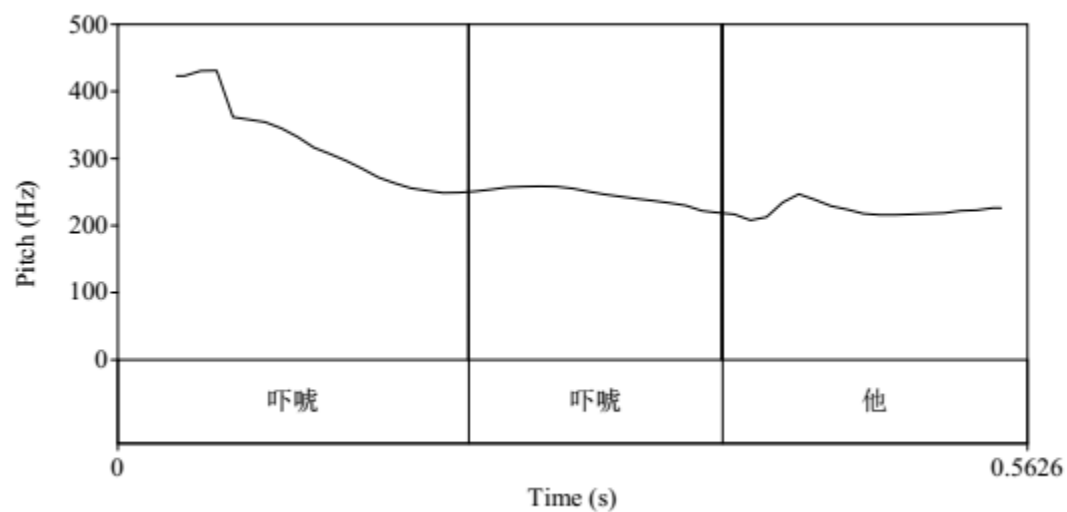


Figure 4.7 The pitch trace of the repetition in line 3 of Excerpt 7

This section shows that turn-initial repeat usually adopts a declarative intonation

and that a wider pitch range is seen in repetition that implies challenge. It also points out that the stance conveyed is not simply accomplished through the prosodic features. Turn design and the sequential design with several preceding turns building up to the strong force in the repeat-prefaced turn are equally important. In addition, it should be noted that no challenge-implicated turn-initial repeats are found in the turns by the defence lawyers while both prosecutors and judges use them.

4.3.2 Stand-alone repeats to conceal a speaker's stance

Prior studies find that stand-alone other-repetition can register a receipt of a response or initiate a repair to seek confirmation or clarification (Schegloff, 1997b; Couper-Kuhlen, 2020; Huhtamäki et al., 2020; Stevanovic et al., 2020). Beyond repair, it could also display a speaker's negative evaluation toward the repeated item. In the dataset, I find that though question-intoned repeats might convey negative stance, prosody is not always a reliable factor to determine the function of a declarative repetition. In particular, prosodic cues cannot distinguish between a simple registering repeat and a repeat aiming to challenge a response.

Excerpt 8 presents a question-intoned repeat to show disbelief, but this is rarely seen in the questioners' speech. It shows an interaction between a male prosecutor and a male defendant. The repetition (line 3) removes the 'ㄅ (PRT)', which was used by the defendant to mark a hedge at the end of an utterance, and thus the prosecutor upgrades the certainty of the repeated item. In addition, the pitch range of the prosecutor (Figure 4.9) is much wider than the defendant (Figure 4.8), though both are males. These

features contribute to the prosecutor indicating scepticism about the defendant's response, which can be further supported by the question in line 5 ((So you) just went to the knife directly?).

Excerpt 8:

1. 公: 那 你 怎么 知道 往 屋 奔 冰箱 上面 去 啊?

P: in that case you how know toward house toward fridge on-side go Q

'Why did you search on the fridge inside the house?'

2. 被:→那 是 打 懵 了, 反正 是(.) 条件 反射 吧

D: that be beat daze PST anyway be conditioned reflex PRT

'That's because I was beaten to dizziness, that was (.) kind of a conditioned reflex.'

3. 公:⇒ 条件 反射?

P: Conditioned reflex?

4. 被:° 嗯°

D: ° Mm°

5. 公: 就 直接 奔 刀 去 了 ? =

P: just directly toward knife go PST

'(So you) just went to the knife directly? = '

6. 被:= 不是 不是, 不是 奔 刀 去

D: no no not toward knife go

因为 平时 那个 用 完了 哪 都 放,

because usually that use finish-PST where all put

不 是 放 在 那, 正 好 抓 着

not be put at there right grab

'=No, no, (I was) not aiming for the knife. Because the knife was usually put randomly. And it was right there, and (I) happened to grab it.'

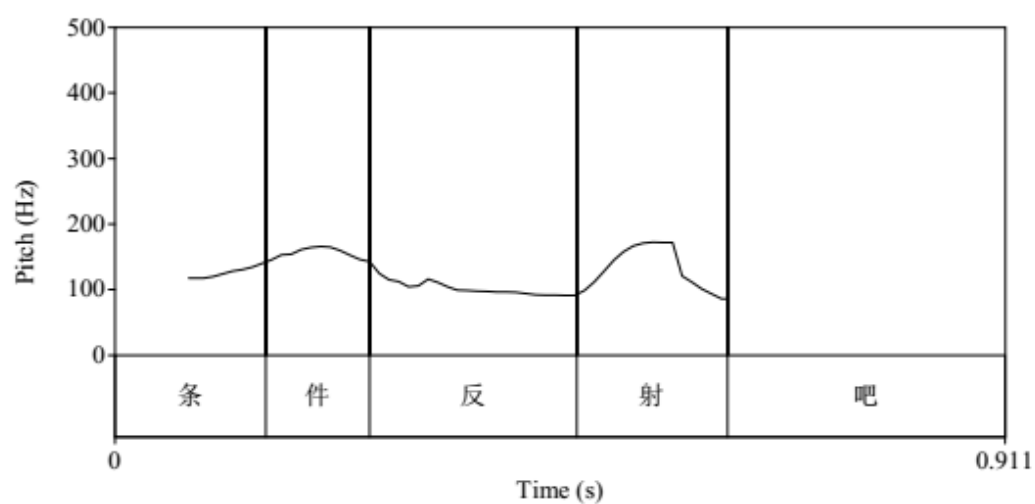


Figure 4.8 The pitch trace of the first saying in line 2 of Excerpt 8

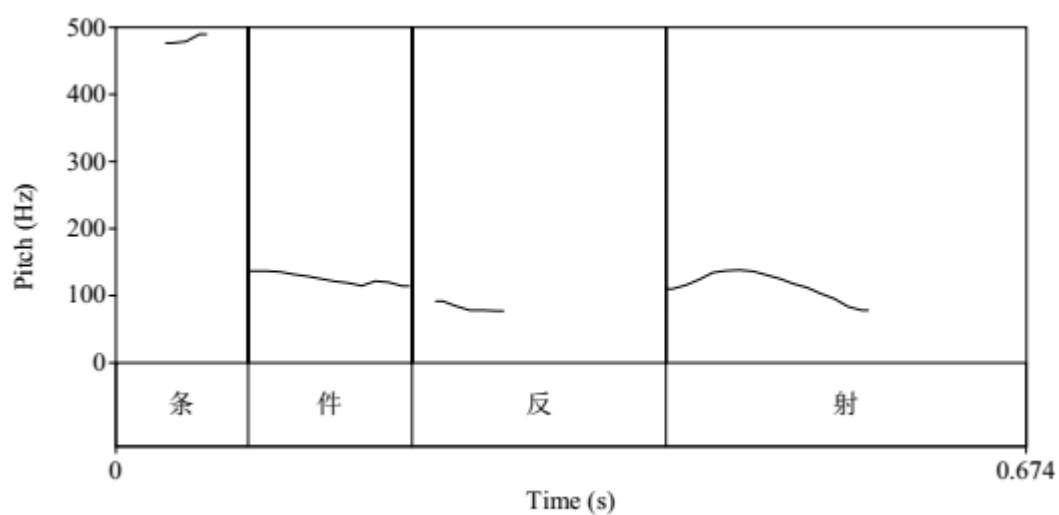


Figure 4.9 The pitch trace of the repetition in line 3 of Excerpt 8

Excerpt 9 shows an instance where the questioner has scepticism about a response and wants to seek clarification about the repeated item, but the repeat (line 3) is not question-intoned, and the defendant orients to it as confirmation-seeking or registering and provides a minimal response. But the why-question in line 5 shows the judge's scepticism (In that case why (did you) put (it) in your pocket? Was this a tool for work?). This example shows that scepticism-implicated repeat is not necessarily accompanied by a question intonation. But the wide pitch range of the repetition (Figure 4.10) unveils the strong emotion of the judge, in an unusual case. Most of the time prosecutors and judges are found to maintain a calm attitude, even when they find a response problematic, so in such circumstances, prosodic features do not reveal institutional participant's stance.

Excerpt 9:

1. 审: 购买 之后 你 放到 哪里 了 ?

J: purchase after you put where PST

'Where did you put (the knife) after you bought (it)?'

2. 被: → 买了 之后 就 搁 兜里 了

D: buy-PST after then put pocket PST

'After purchase, I put (it) in the pocket'

3. 审: ⇨ 一直 放 在 兜里

J: all the time put in pocket

'(You) put (it) in the pocket all the time'

4. 被: 嗯

D: Mm.

5. 审: 那 为啥 要 放 在 你的 兜里 呢 ?

J: in that case why want put in your pocket Q

这 是 你 干活 的 工具 吗 ?

this be you work PRT tool Q

'In that case why (did you) put (it) in your pocket? Was this a tool for work?'

6. 被: 也 使 过 也 嗯:: 不 经常 使

D: also use ASP also mm not often use

'(I) used (it), but mm:: not very often'

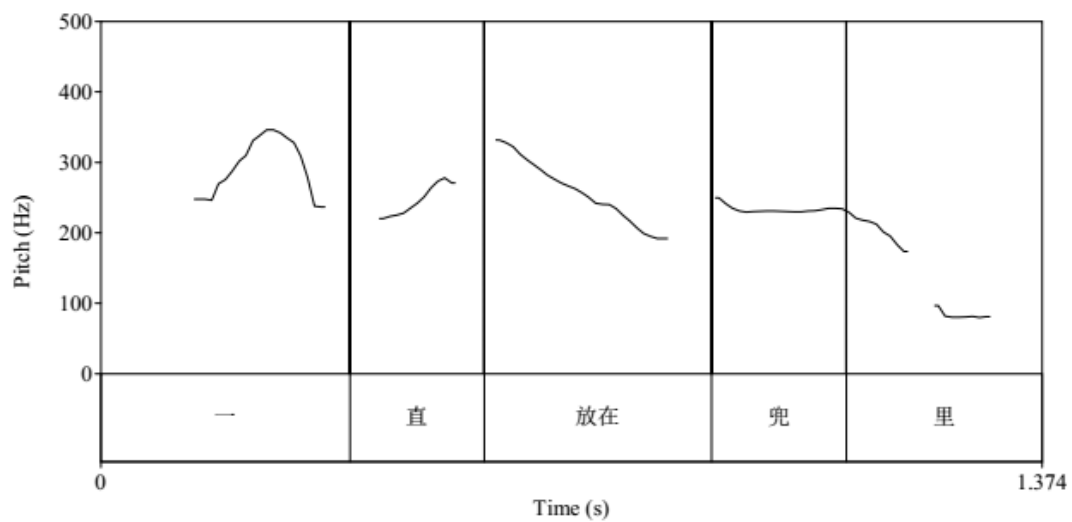


Figure 4.10 The pitch trace of the repetition in line 3 of Excerpt 9

Before presenting instances of scepticism- and challenge-implicated repetitions that are produced calmly, Excerpt 10 is a typical instance of repeat by the questioner

where the repeat registers a response and conveys a neutral stance, whose prosody is provided as a reference for comparison with that of scepticism- and challenge-implicated repetition. In line 3, the defence lawyer repeats that the relationship lasted for ‘around three years’. In comparison with the pitch trace of the original saying (Figure 4.11), which has a slight rising ending contour on ‘吧(*ba*)’, a particle that functions to indicate a hedge, the repetition (Figure 4.12) shows a more assertive attitude and thus removes the uncertainty in the original saying. Therefore, repetition in declarative intonation is not confirmation-seeking. Instead, it provides a confirmed version directly. The defendant provides a minimal response with a response token ‘mm’ (line 4) as a volunteered confirmation (Persson, 2015). The question in line 5 (Have you discussed getting married?), which is built on the repeated item, also shows that it is a registering repeat.

Excerpt 10:

1. 辯: 刚才 你 说 呃 你 跟 张某某 是 男女朋友 关系

DL: just now you say er you and Zhang be boy/girlfriend relationship

你们 两个 那个 恋爱 多久 ?

you two that romance how long

‘Just now you said er you and Zhang were in a romantic relationship. How long was your relationship?’

2. 被:→恋爱 有 三年 左右 吧

D: romance have three years about PRT

'(We were) in a relationship for around 3 years.'

3. 辩: ⇨三年 左右

DL: three years about

'Around three years'

4. 被: 嗯

D: *Mm.*

5. 辩: 说 过 要 结 婚 吗 ?

DL: say ASP want marry Q

'Have you discussed getting married?'

6. 被: 当时 在 在 这里 还 没有(.) 没有 说 结 婚 的 事

D: at the time at at here still not not say marry PRT thing

'At the time, at, at the place, not yet (.) (we) didn't yet talk about getting married.'

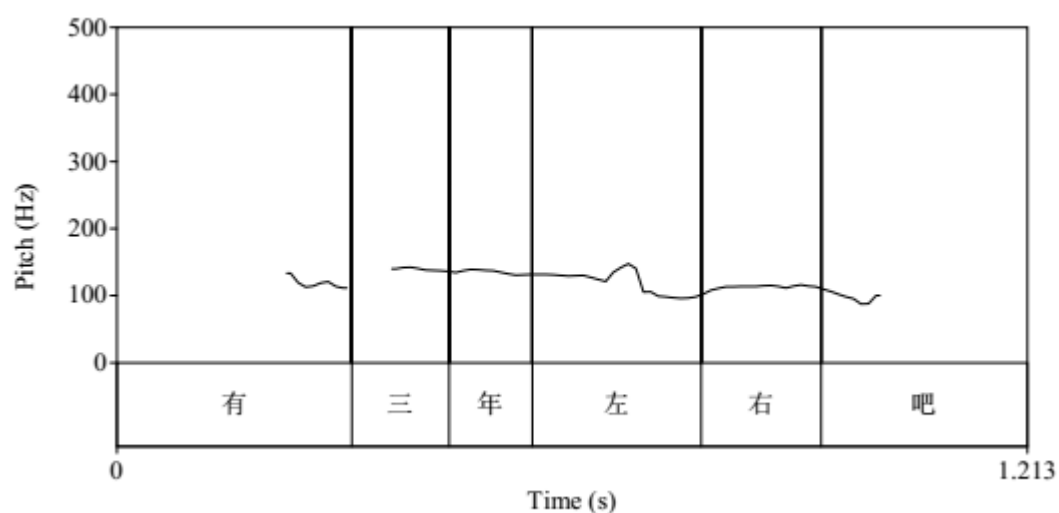


Figure 4.11 The pitch trace of the original saying in line 2 of Excerpt 10

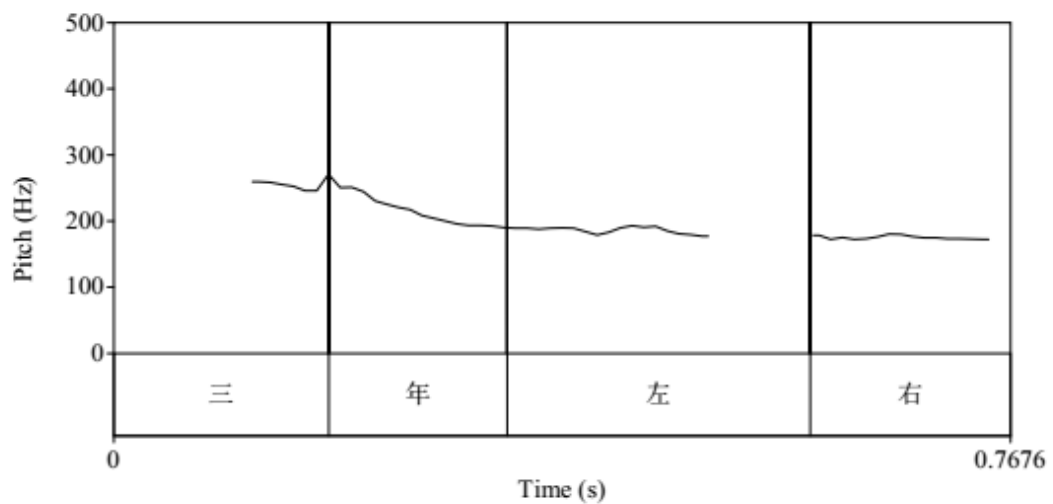


Figure 4.12 The pitch trace of the repetition in line 3 of Excerpt 10

The comparison of the more assertive intonation in the repetition than the original saying in Excerpt 10 shows the questioner's attempt to 'nail down' (Matoesian, 2005a) a response and 'fix' the testimony for the record (Kozin, 2008). Neutral stance is found in registering repeats. Interestingly, in the following two excerpts (Excerpts 11 and 12), the repeats aim to indicate scepticism about or challenge a prior turn, but the prosodic features disguise them as registering repeats.

Excerpt 11:

1. 公: 那 这 2 万 2 到底 是 她的 还是 你的 呀

P: in that case this 22 thousand after all be hers or yours PRT

'In that case, after all, the 22,000 yuan belonged to her or you?'

2. 被:→(.)是 我们 俩 一起 的

D: be us two together PRT

'(.) Us together.'

3. 公: ⇨一起 的

P: together PRT

'Together'

4. 被: 对 但 但是/

D: right but but

'Right, but but/'

5. 公: 那 既然 是 一起 的

P: in that case since be together PRT

为什么 她 还 要 你 写 欠条 啊 ?

why she still want you write IOU Q

'Since it belonged to you together, why did she ask you to write an IOU?'

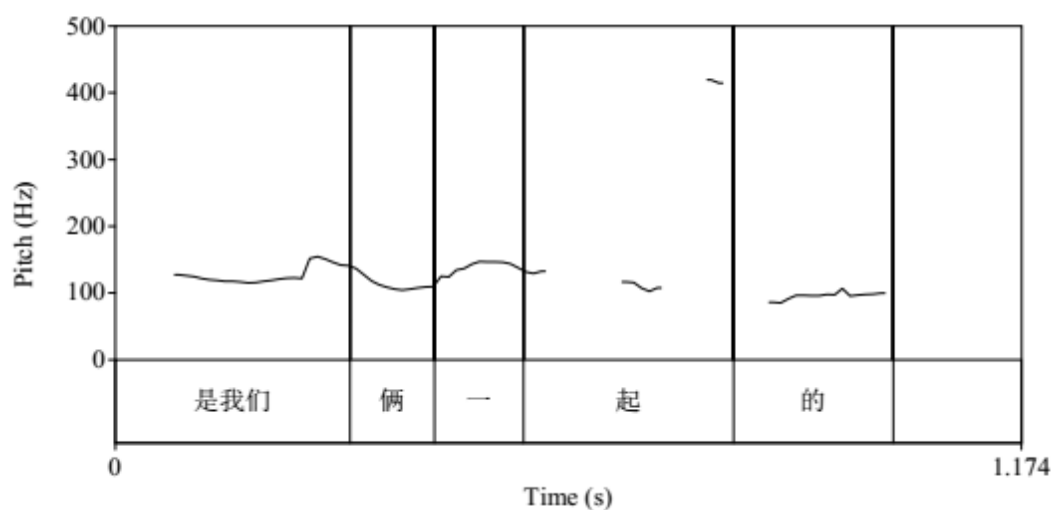


Figure 4.13 The pitch trace of the original saying in line 2 of Excerpt 11

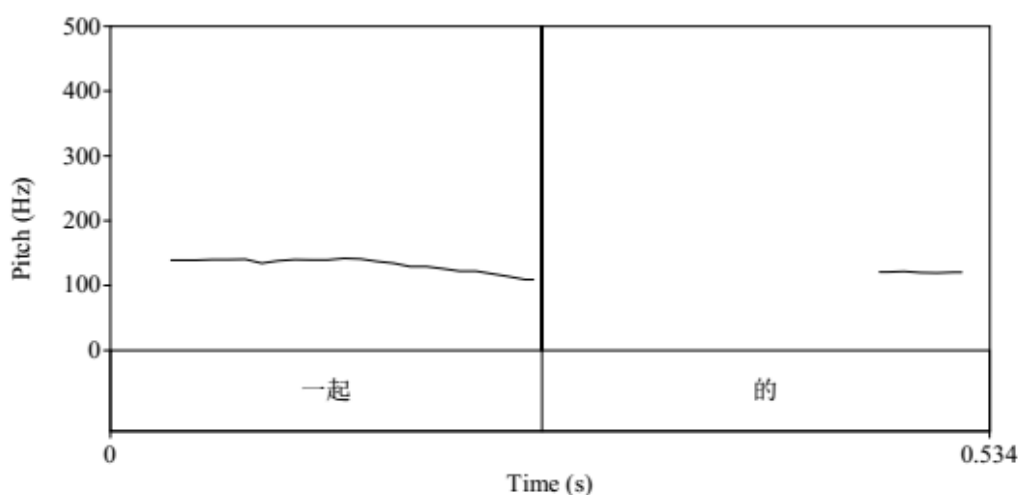


Figure 4.14 The pitch trace of the repetition in line 3 of Excerpt 11

Prior to this sequence, the defendant claimed that his partner, the victim in this case, oversaw their finance, and then there was a discussion of 22,000 withdrawn from the victim's bank account by the defendant. In line 1, the prosecutor's use of '到底(after all)' displays his confusion about the ownership of the money. The defendant resists the question's design by denying both possibilities suggested by the prosecutor: the money did not belong to either one of them alone; instead, it belonged to both of them. In providing a dispreferred response, the defendant delays with a minor pause and highlights his point by stressing '一起 (together)', whose pitch range is wide and pitch register high as shown in the Figure 4.13. Then the prosecutor repeats the last three characters '一起的 (together)', which features a flat pitch trace (Figure 4.14). In response, the defendant provides a confirmation and intends to elaborate but is interrupted. Then the prosecutor stresses '既然(since)' (line 5) and follows up with a why question ('Since it belonged to you together, why did she ask you to write an

IOU?’). This conveys a challenge to the truthfulness of the previous response and doubt about the defendant’s honesty, which also retroactively indicates that line 3 does not merely initiate a repair, but also projects a challenge to its truthfulness. The interrupted elaboration attempt by the defendant in response to the repeat indicates his orientation to the repeat as a clarification-seeking repair. However, that interpretation cannot be based on the prosodic features of the repetition, which indicate a neutral statement. Nevertheless, the prosecutor’s disaffiliation is revealed in the lexical feature (‘after all’) in line 1 and the interruption of line 4. This illuminates the defendant’s reliance on various linguistic resources, beyond prosody, for stance interpretation, which is further explored in Section 4.4. Excerpt 12 is a more obvious example to show how a judge conceals his stance in repetition.

Excerpt 12:

1. 审:打 得 严重 你们 想 干 什么?

J: beat DE severe you want do what

‘(After you) beat (him) to severe injury, what did you want to do?’

2. 被:→就 往 人多的 地方 送 嘛

D: just toward populous place send PRT

‘(We) just sent (him) to a place with many people.’

3. 审:⇒ 往 人多的 地方 送(1s)

J: toward populous place send

那 刚才 公诉人 也 问了,

in that case just now prosecutor also ask-PST

你们 敲- 到了 地方 以后

you knock arrive-PST place after

敲 那个(.) 附近的 居民的 房门 了 没有?

knock that nearby residential door PST neg-have

‘(You) sent him to a place with many people. (Is) Just now the prosecutor also asked, did you knock- after you got to the place, did you knock on the door of (.) nearby residences?’

4. 被:没有 敲

D: not knock

‘(We) didn’t knock.’

5. 审: 没有 敲, 那么 你 [既然]

J: not knock in that case you since

‘(You) didn’t knock, in that case you [since]’

6. 被: [inaudible]

7. 审: 既然 你 想 对 被害人 进行 施救

J: since you want to victim conduct save

为什么 不 敲(.) 这个 居民的 房子 ?

why not knock this residential house

‘Since you wanted to save the victim, why not knock(.) on the door?’

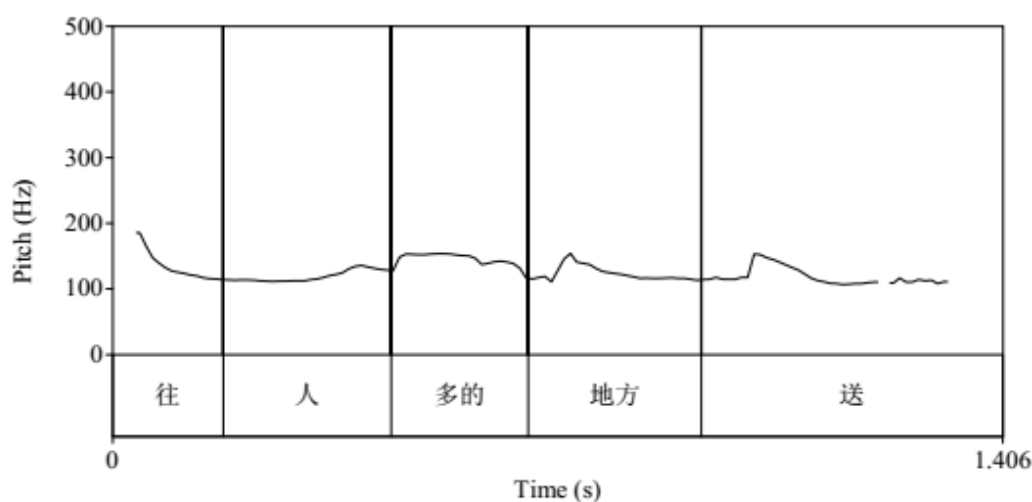


Figure 4.15 The pitch trace of the repetition in line 3 of Excerpt 12

The repeat in line 3 is, at a surface level, a neutral registering receipt and is articulated with a relatively flat pitch trace (Figure 4.15). Then there is a one-second pause, which might be the judge waiting for the defendant to give a confirmation, but the defendant does not provide one, as he might orient to it as registering and thus not worthy of a response, given the prosodic feature and the fact that the issue was discussed earlier when he was questioned by the prosecutor. The follow-up question continues to seem harmless and neutral (after you got to the place, did you knock on the door of (.) nearby residences?). And a minimal response is given without any attempt at elaboration. The challenge to the response is not shown until line 5 where there is another repeat and immediately afterwards a follow-up question ((You) didn't knock, in that case you [since])). Then there is overlapping talk between the judge and the defendant, which indicates that the defendant detects the disaffiliation at that moment. The judge's negative stance is not fully displayed until line 7 where '既然(since)' is

stressed before a follow-up why-question (Since you wanted to save the victim, why not knock(.) on the door?).

This section shows that it is easier to discover a negative stance conveyed through a question-intoned repetition, but in terms of declarative repetition, prosodic features are not always a reliable cue to distinguish between a neutral repeat and a negatively-valenced repeat. As a result, the defendant might orient to both kinds of repeat as simply registering or confirmation-seeking. However, as shown in both Excerpts 11 and 12, a few turns later the prosecutor's and the judge's disaffiliation is revealed in a challenging why-question. The emphasised '既然(since)'-prefaced sentence before the question shows that the pre-sequence of the turn serves to build up towards a powerful presentation of a disaffiliation. Therefore, I would argue that the non-distinguishing prosodic feature of different functions of repeats might be strategically used by the prosecutors and judges to establish a prerequisite for their ensuing challenge. In this sense, they intentionally conceal their stance in the repetition. If there is no need for such establishment beforehand, a more emotional repetition can be observed as illustrated with the challenge-implicated turn initial repeats in the last section (Excerpts 6 and 7) and the following excerpt, which displays a stand-alone declarative repeat featuring a wide pitch range.

Excerpt 13:

1. 公: 你 没有 敲 过 别人的 门

P: you not knock ASP others' door

怎么 知道 周围 一个 人 都 没有 呢 ?

how know around one person all not Q

'You didn't knock on any of the doors, how did you know there wasn't a person around?'

2. 被: →(3s)我们 又 不 熟悉

D: we again not familiar

'(3s) We were not familiar.'

3. 公: ⇒ 你 不 熟悉 (1s)

P: you not familiar

有 一个 人 现在(.) 被 你 用 刀 ,

have one person now BEI you use knife

脖子 上面 左 右 都 割了 刀

neck on left right both cut-PST knife

躺 在 屋子 里面 的 地上

lie at house inside PRT ground-on

你 觉得 她 还 有 心跳 , 还 没有 死

you think she still have heartbeat still not dead

这个 时候 因为 不 熟悉

this time because not familiar

所以 没有 找 人 救 助 她 吗 ?

so not find person save help her Q

'You were not familiar(1s) now (.) there's a person, both sides of her neck were cut

by you. She was lying on the ground in the room. You thought she still had a heartbeat, still not dead. At that moment, because you were not familiar, you didn't ask anyone to help save her?'

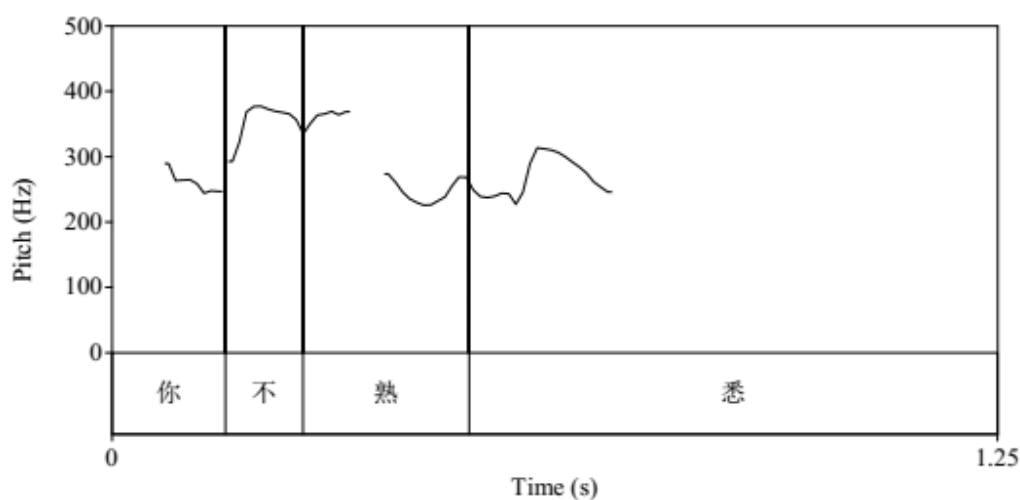


Figure 4.16 The pitch trace of the repetition in line 3 of Excerpt 13

In Excerpt 13, the challenge goes beyond the veracity or credibility of a response to touch upon moral unacceptability. The defendant claims that he did not ask the neighbours to help save the victim after stabbing her because he was unfamiliar with them. The prosecutor repeats the response, and before she further points out the unacceptability of the response, there is a one-second pause. But the defendant does not give a confirmation or an explanation. Then the prosecutor has a long turn to challenge this response. With a description of the victim's dying situation, and by formulating 'not familiar' as the reason for not asking for help, the prosecutor illustrates the unacceptability of his response. By presenting the logic in a question (because you were not familiar, you didn't ask anyone to help save her?), the prosecutor shows the

absurdity of the behaviour to the defendant and the court. The repetition is emotional, which can be seen in the wide pitch range of around 200 Hz (Figure 4.16) and the higher pitch of ‘不(not)’, which demonstrates the challenge to the negativity expressed by the defendant. As no prerequisite is required to launch the challenge, the repetition explicitly conveys the prosecutor’s stance.

4.4 Lexicogrammar and multimodal cues contributing to stance interpretation

As shown in the previous section, with stand-alone repeats, the questioner could take advantage of prosody to pass off a negatively-valenced repeat as a neutral registering repeat before revealing their disaffiliation. Therefore, prosody is not always a reliable cue to recognise the function of a repeat. However, defendants are sensitive to lexicogrammar and multimodal cues even when the turn cooccurs with misleading prosodic features as shown in Excerpts 14, 15 and 16, where the repeats feature the common registering pitch trace.

Excerpt 14:

1. 公:你的 棍子 哪 来 的 呀? (.)木棍

P: your stick where come PRT PRT stick

‘Where did you get your stick? (.)the stick.’

2. 被:→木棍 是 哪 来 的 , 说真的 我 真的 不 知道=

D: stick be where come PRT honestly I really not know

‘Where I got the stick, honestly, I really don’t know.=’

3. 公:⇒=也 不 知道 =

P: also not know

'=(You) also don't know. ='

4. 被:=就是 当时 混乱中 我 就 不 知道 怎么 就 拿了 一个

D: that is at the time in chaos I just not know how just get-PST one

'=That is, at the time, in chaos, I just didn't know how I just got one.'

5. 公:不 符合 常理 啊, 解释 不通 啊

P: no comply with common sense PRT explain nonsense PRT

'It goes against common sense. That doesn't make sense.'

6. 被: 但是 事实 就 是 这样 的 就 是 说

D: but fact just be this PRT just be say

'But that is the fact.'

In line 3, the prosecutor registers that the defendant did not know where he got the stick, but in the repetition, he makes a minor modification by adding ‘也(also)’ at the beginning, which emphasises the defendant’s claim not to know even though he is the person using the stick. The defendant seems to sense the dissatisfaction in the prosecutor’s repeat and latches onto the repetition to give an account (‘in chaos’). Then in line 5, the prosecutor reveals his true attitude towards the non-answer response by saying explicitly: ‘That doesn’t make sense.’ This shows that the defendant is right in orienting to the repetition as negatively valenced. In terms of prosody, the repeat features a flat pitch trace just like a registering repeat. Therefore, the expression of

scepticism and disbelief does not materialise in the prosody, but with the word ‘也 (also)’, which makes the repeat highly evaluative. And the defendant’s response shows that the negative stance is identified by the recipient despite the calm prosody.

Multimodal cues are also important resources for the defendant to figure out the questioner’s stance. As the Chinese legal system combines both civil law and common law elements, and institutional participants sit when they do the questioning, they do not generally use as many multimodal resources as their counterparts in Anglo-American courtrooms (Yuan, 2019). Though very few facial expressions or posture can be captured in the trial videos, gaze direction and its shift are observable and are found to be a major multimodal cue. Kendon (1967) proposes three main functions of gaze: a regulatory function to influence turn taking, a monitoring function to gather information about the recipient’s attentional state, facial displays, etc., and an expressive function to construct affiliative and disaffiliative actions. Haddington (2006, p.285) argues that interactants can use mutual gaze as a resource to display convergent positions and gaze aversion for divergent positions. Similarly, Kendrick and Holler (2017) discuss gaze direction as a signal of response preference in conversation. Therefore, gaze can contribute to conveying and detecting a speaker’s stance. In this chapter, I find that gaze shift is an important multimodal cue that influences the interaction when prosody does not give a clue regarding the questioner’s stance as shown in the following interaction.

Excerpt 15:

1. 审: 刀 呢? 后来 去 哪里 了 ?

J: knife Q later go where PST

'What about the knife? Where was it afterwards?'

2. 被:→刀(.) 不 记得 了

D: knife not remember CRS.

'The knife(.) (I) don't remember.'

3. 审: ⇨不 记得 了=

J: not remember CRS

'(You) don't remember. ='

(Lowering the head to look at the paper on the table, moving the right hand on the table with a pen in the hand, ready to write something)

4. 被: =好像 就 放 在 房子 哪里 了 吧

D: seem just put in house where PST PRT

'=Perhaps it was just left somewhere in the house.'

The defendant gives a non-answer response to the question in line 1. His response is repeated by the judge without any modification, and the repeat also sounds like a registering repeat. But when the judge repeats, she shifts her gaze to look at the paper on the table. I identify the look as a 'cut-off gaze', 'a particular gaze shift that occurs as a response to a coparticipant stance and precedes a verbal display of divergent stance' (Haddington, 2006, p.310). Though no explicit expression of divergent stance follows, the defendant interprets the gaze aversion as a 'sign of trouble' (Kendrick and Holler,

2017, p.10) and changes his non-answer response to an actual response. The response in line 4 retroactively suggests that the defendant resorts to ‘not remember’ (line 2) as a strategy to avoid providing key information. A similar phenomenon is observed in Excerpt 16 where both lexicogrammar and multimodal cues work together for the stance interpretation.

Excerpt 16:

1. 公:手机 呢 ?

P: phone Q

‘What about the phone?’

2. 被:→手机 跟 我 手机 放 在 一起 了 ,

D: phone with my phone put at together PST

我 >顺便 拿走 了<

I conveniently take away PST

‘The phone was in the same place as my phone, I >took (it) away conveniently<.’

3. 公:⇒你 就 (.) 一起 拿走 了

P: you so together take away PST

‘So you (.) took (them) away together.’

(lowering the head)

4. 被: 其实 我 没有 心思 去 拿 她 这些 ,

D: actually I no thought to take her these

因为 她 手上 那么 多 我 都 没 要 她的 , 没有 心思

because her hands so many I all not want hers no thought

还有她手上有那个(.)白金钻石戒指,我买那个6700多,

also her hand have that platinum diamond ring I buy that 6700 more

我没有想去拿她东西知道吗就是气愤

I neg-have want go take her thing know Q just be angry

(The prosecutor raises his head and looks at the defendant and then the defendant stops talking and looks down.)

'Actually, I didn't mean to take these. Because she had more things, which I didn't take. I didn't want to. She was wearing that (.) a platinum diamond ring. I bought that with over 6,700 yuan. I didn't want to take her things, you know? I was just angry.'

After the prosecutor repeats the prior turn 'So you (.) took (them) away together', the defendant does not orient to it as confirmation-seeking or registering repeat. Instead, he accounts for his behaviour, which suggests his uptake of the repeat as implying scepticism or disbelief. Such an interpretation cannot be attributable to the prosody of the declarative repetition, which indicates a statement. In the first saying by the defendant, he speeds up when he says 'took (it) away conveniently', which shows that he is aware of the behaviour being questionable. The repetition by the prosecutor adds an evaluative '就(so)' and replaces 'conveniently' with 'together' not only to highlight that he took two cell phones away, but also to deny the convenience of doing it. Furthermore, after the repeat, the prosecutor lowers his head and looks down at his

document on the desk. The defendant seems to interpret the gaze shift as a cue showing the prosecutor has a negative evaluation of his response and therefore, gives an elaborated account. Moreover, he does not stop defending himself until the prosecutor looks up at him.

This section argues that when prosody does not provide a clue about the institutional questioner's stance, the defendant interprets a repetition based on lexicogrammar and multimodal cues if there are any. In addition, it shows that in the courtroom context, institutional participants are implicit in conveying their stance with subtle ways such as minor modification in the repetition and gaze shift.

4.5 Discussion

Prior studies associate the actions carried out by repeats with their accompanying prosody. However, this chapter shows that prosody is not necessarily the most important resource for institutional participants to convey their stance, nor the most reliable cue for the recipients to interpret a repeat and its associated stance in Chinese criminal trials. Instead, the analysis finds that the institutional nature of the interaction makes the stance conveyance very subtle. In addition, this chapter shows that Chinese judges are not just neutral arbitrators in a criminal trial. Similar to prosecutors, they also convey disaffiliative stance during the questioning process (Excerpts 4, 9, 12, 15).

The analysis of turn-initial repeat shows that repeat in the third position can be used to register a receipt, display doubt, and convey challenge. Though prosodic features cannot distinguish the first two functions, the challenge-implicated repeat

cooccurs with a wider pitch range. By comparison, questioners convey their stance more implicitly when they use stand-alone repeats. The analysis shows that it is difficult to assess a questioner's stance towards a stand-alone repeat with a declarative intonation solely based on the prosodic features. By not distinguishing the function of a repetition prosodically, questioners can effectively conceal their stance. This can be a questioning strategy to elicit confirmation from the defendant and build up towards an impactful question. On the other hand, there are still lexicogrammar and multimodal cues that defendants can detect to assess the stance of their questioners. This chapter finds that minor modifications of the original saying in the repetition and gaze shift have an influence on the interaction between the questioners and the defendants. The next chapter shows how defendants convey their stances.

Chapter 5 Defendants' responses to balance defence and cooperation

5.1 Introduction

In legal discourse studies, legal professionals' language draws more attention than lay participants' responses, which is perhaps because responses are 'often interpreted as the effect of an external cause, shaped by constraints of prior questions and turn-allocation systems' (Carter, 2019, p.225). However, though 'witnesses are poorly placed in the interactional hierarchy of courtroom talk' (Cotterill, 2010, p.357), it is still possible for them to resist the power and control as 'the very notion of interaction presupposes some sort of linguistic reciprocation' (Harris, 1989, p.131). Eades' (2000, p.189) study also finds that 'witnesses are not necessarily constrained or controlled by question type'.

Nevertheless, defendants face the dilemma of how to 'be cooperative without compromising their defence' (Drew and de Almeida, 2020, p.186). This chapter looks at defendants' stance conveyance from the perspective of affiliation and alignment, which involves stance analysis both at the affective and structural level as explained in Chapter 2. Features of alignment and affiliation are summarised in Table 5.1. While alignment is relevant after every interactional contribution, affiliation is relevant 'only after utterances that take a stance or have specific action preferences' (Steensig, 2020, p.249). Not every utterance by the questioners necessarily shows stance or makes the display of stance relevant in the ensuing response. Nevertheless, this chapter finds that even under such circumstances defendants still attempt to convey their (disaffiliative)

stance and defend themselves.

Table 5.1 Overview of alignment and affiliation features (Steensig, 2020, p.249)

Alignment: structural level	Affiliation: affective level
1) Facilitate and support activity or sequence	1) Display empathy
2) Take proposed interactional roles	2) Match, support, and endorse stance
3) Accept presuppositions and terms	3) Cooperate with action preference
4) Match formal design preference	

Before alignment and affiliation were distinguished, preference had been the key concept in the discussion of responses in conversation analysis (Lee, 2013). Therefore, it is worth investigating the connection between preference and this pair of concepts. Preference characterises ‘conversational events in which alternative, but non-equivalent, courses of action are available to the participants’ (Atkinson and Heritage, 1984, p.53). In the analysis of response, preference addresses ‘non-equivalent, asymmetrical, alternative types of response to specific initiating actions’ (Lee and Tanaka, 2016, p.1). And there are culturally shared preference principles, which participants follow when they speak and respond in interaction (Pomerantz and Heritage, 2013, p.210). Scholars have explored the features of utterances produced in accordance with these principles and found that dispreferred responses such as disagreements, disconfirmations and rejections usually feature delays, mitigations, understated components, and accounts, while preferred responses feature structural simplicity and contiguity with no delays and with explicitly stated components (Pomerantz and Heritage, 2013, p.214).

Preference is closely connected to both affiliation and alignment. For example, Heritage (1984, p.268) contends that preferred responses are ‘affiliative actions which are supportive of social solidarity, while dispreferred format responses are largely destructive of social solidarity’. Similarly, Pomerantz (1984) argues that in response to assessments, the preferred response is agreement as ‘the participants orient to agreement as the invited (and hence affiliative) option by accomplishing sociability, support, and solidarity’ (Lee and Tanaka, 2016, p.2). Raymond (2003, p.943) defines the organisation of preference as ‘the institutionalized methods speakers use for managing and producing affiliative and disaffiliative actions and their aggregate consequences’. On the other hand, Clayman (2002) discusses different levels of preference in question-answer sequences including preference for answers over non-answers, preference for a particular type of answer (e.g. affirmation), preference for particular lexical items (e.g. yes and no), the last of which involves structural considerations. Schegloff (2007, p.62) also discusses ‘alternative groundings of preference’ with some preferences grounded in the character of the course of action while some in the design of the turn. Schegloff (2007) describes ‘responses embodying alignment with the project of the initiating action as preferred (though not necessarily affiliating with its speaker). And responses distancing from it as dispreferred’ (Lee and Tanaka, 2016, p.2). Thus, preference has been associated with both affiliation and alignment.

However, affiliation and alignment are distinctive concepts and they might not go hand in hand in one utterance as demonstrated by Steensig (2020), who lists responses

based on different combinations of the two features including: aligning and affiliating, disaligning and disaffiliating, affiliating without aligning, aligning without affiliating. In this sense, there might be co-existence of different preference principles in terms of affiliation and alignment. When the features in Table 5.1 are considered, there are more preference principles in play. It is worthwhile to find out whether alignment or affiliation is prioritised when they are in conflict, which occurs very frequently in defensive responses as demonstrated below.

This chapter starts with a corpus-based analysis, which identifies the major features in defendants' language, and then a conversation analysis of the defensive responses based on these features is carried out to look at how defendants defend themselves and which features of alignment and affiliation listed in Table 5.1 are prioritised in terms of preference.

5.2 A corpus linguistic analysis of defendants' language

This section provides a corpus linguistic analysis of defendants' language to find out its major features. To do the analysis, defendants' turns were extracted from the database. As prosecutors' questioning is substantially longer than the defendant questioning by defence lawyers and judges, to avoid the skewedness of the result, the responses were divided into three sub-corpora depending on the role of the institutional questioner. The analysis starts with looking at the top 100 bigrams in defendants' language. And I find that 30-40 of those bigrams occur frequently in each sub-corpus because they are turn-initial or turn-final words. For example, '被: 我 (D: I)' is among the top 3 bigrams

in the three sub-corpora. It is understandable that defendants start their responses with ‘I’ in a context where their behaviours are the focus. However, these bigrams do not give much information about the characteristics of the responses. Therefore, I removed these bigrams and looked at the rest of the top bigrams (Table 5.2).

Table 5.2 The top 20 bigrams used by the defendants (D) when they are questioned by the prosecutors (P), judges (J), and defence lawyers (DL).

	Sub-corpus P-D (48,061 tokens)		Sub-corpus J-D (22,457 tokens)		Sub-corpus DL-D (12,543 tokens)	
rank	freq	bigram	freq	bigram	freq	bigram
1	506	我 就 (I <i>jiu</i>)	169	我 就 (I <i>jiu</i>)	102	我 就 (I <i>jiu</i>)
2	220	不 知 道 (not know)	110	不 知 道 (not know)	56	了 我 (<i>le</i> I)
3	200	我 也 (I <i>ye</i>)	100	不 是 (no/not)	53	的 时 候 (when)
4	192	我 说 (I said)	88	的 时 候 (when)	51	我 也 (I <i>ye</i>)
5	190	了 我 (<i>le</i> I)	72	了 我 (<i>le</i> I)	50	不 知 道 (not know)
6	158	的 时 候 (when)	72	我 也 (I <i>ye</i>)	44	我 说 (I said)
7	133	不 是 (no/not)	67	是 我 (was I)	37	我 的 (my)
8	123	说 我 (said I)	65	我 的 (my)	36	说 我 (said I)
9	116	我 的 (my)	48	我 不 (I not)	29	她 说 (she said)
10	103	当 时 我 (at the time I)	47	我 我 (I I)	26	他 就 (he <i>jiu</i>)
11	101	他 就 (he <i>jiu</i>)	46	说 我 (said I)	26	打 了 (beat <i>le</i>)
12	96	然 后 我 (then I)	45	应 该 是 (should be)	26	时 候 我 (when...I)
13	91	是 我 (was I)	43	因 为 我 (because I)	24	不 是 (no/not)
14	90	我 是 (I was)	43	跟 我 (with me)	24	也 没 (<i>ye</i> not-have)
15	89	因 为 我 (because I)	42	她 就 (she <i>jiu</i>)	24	因 为 我 (because I)
16	88	也 不 (<i>ye</i> not)	41	把 我 (<i>ba</i> me)	24	她 就 (she <i>jiu</i>)
17	85	他 说 (he said)	40	也 不 (<i>ye</i> not)	24	当 时 我 (at the time I)
18	79	我 我 (I I)	40	对 对 (yes yes)	24	打 我 (beat me)
19	77	打 我 (beat me)	39	我 是 (I was)	24	说 你 (said you)
20	76	我 不 (I not)	38	我 说 (I said)	24	都 是 (all was)

Note: Chinese bigrams might not correspond to English bigrams one-to-one. For example, the bigram ‘当时 我’ has two Chinese words, but it means ‘at the time I’, more than two words in English. And sometimes there may be different translations for the same Chinese word in different contexts. For example, the Chinese word ‘我’ is used for both ‘I’ and ‘me’ in English. ‘我 说’ is translated into ‘I said’ while ‘打 我’ is translated into ‘beat me’. Transliteration is used for Chinese function words that do not have English counterparts such as ‘了 (*le*)’ and ‘把(*ba*)’, and words that have multiple meanings depending on the context such as ‘也(*ye*)’ and ‘就(*jiu*)’. For these words, English translation and explanation are provided when relevant.

Most of the bigrams that are shared among the three sub-corpora are top 20-25 bigrams in each sub-corpus. I decided to look at the top 20 frequent bigrams because the frequency of the 20th most frequent bigram in each sub-corpus is already low in consideration of their total word count as shown in Table 5.2. When the top 20 bigrams in these subcorpora are put together, it results in 31 bigrams in total. After a close examination, I find that these bigrams can be divided into three sets as Table 5.3 shows. Set One is narration set; Set Two is negation set; and Set Three is evasion set. Sets Two and Three share 我 不 (I not), ‘我 也 (I *ye*)’, and ‘也 不 (*ye* not)’, which are common structures for both negation and evasion. The bigrams in Set One show the defendants’ orientation to narration. There are bigrams related to time such as 然后 我 (then I), 当时 我 (at the time I), 时候 我 (when...I), speech reporting such as 我 说 (I said), 说我 (said I), behaviour description such as 打 我 (beat me), 打 了 (beat *le*) . The particle ‘了 (*le*)’ is usually used to mark an action as complete. Therefore, it is commonly seen in narration. In addition, there are three bigrams containing ‘就(*jiu*)’ including 我 就(I *jiu*), 他 就 (he *jiu*), 她 就 (she *jiu*). It might be because ‘就 (*jiu*)’ has many meanings (Liu, 2013, pp.164–167), but more importantly, its core meaning is to indicate temporal relations. It can be used to describe things happening quickly, early,

or immediately after another thing. For example, a narrative excerpt by a defendant is shown below:

他 就 睡 在 我 身 上 , 那 时 候 肯 定 就 伤 害 到 他 了 .

he then sleep at my body-on that time definitely then harm him *le*

‘Then he fell on me, that moment surely (I) harmed him.’

The frequent occurrence of narration-related bigrams is understandable to some extent as, in defendant examination, institutional participants try to elicit details about the incident from the defendants. However, this does not mean narration is encouraged in the courtroom. Instead, it may be a resource for defence, which is illustrated later in the analysis.

Table 5.3. Categorisation of the bigrams into three major features

Set	Bigram
Set One (narration)	然后 我 (then I), 的 时候 (when), 当时 我 (at the time I), 时候 我 (when...I)
	我 说 (I said), 说 我 (said I), 说 你 (said you), 他 说 (he said), 她 说 (she said)
	打 我 (beat me), 把 我 (<i>ba me</i>), 打 了 (beat <i>le</i>), 了 我 (<i>le I</i>),
	我 就 (<i>I jiu</i>), 他 就 (he <i>jiu</i>), 她 就 (she <i>jiu</i>)
Set Two (negation)	不 是 (no/not), 也 没 (<i>ye neg-have</i>), 我 不 (I not), 我 也 (I <i>ye</i>), 也 不 (<i>ye not</i>)
Set Three (evasion)	不 知 道 (not know), 我 不 (I not), 我 也 (I <i>ye</i>), 也 不 (<i>ye not</i>)

The bigrams in Sets Two and Three show the defendants’ attempts to defend themselves through negation ‘不 是 (no/not)’ and evasion ‘不 知 道 (not know)’. Both

sets share bigrams such as ‘我 不 (I not)’, ‘我 也 (I ye)’, ‘也 不 (ye not)’. ‘也(ye)’ literally means ‘also’ and serves as a conjunction adverb or a mood adverb. In the defendants’ turns, it is predominantly used as a mood adverb. When it is used as a mood adverb, it could signal a speaker’s intention to counter the recipient’s expectation. When a speaker thinks that the recipient has a certain expectation, the speaker may use ‘ye+ negative form’ to refute the recipient’s statement in a friendly tone (Chen, 2010, p.51). ‘I ye don’t know’ is a common expression used by the defendant for evasion. For example, in response to the question ‘为什么要骂你(Why would they curse at you)?’, the defendant says, ‘我也不知道(I ye don’t know)’ to show his willingness to provide information and his inability to do so with ‘ye’ in such a context. Its deletion would not make the sentence grammatically incorrect, but it would make the defendant sound uncooperative and unfriendly. More is shown later in Section 5.4.

To further examine these bigrams, I calculated the normalised frequency (per 1000 tokens) of the top 20 bigrams in each sub-corpus. Figure 5.1 ranks the bigrams based on their average frequency in the three subcorpora. It shows that ‘I *jiu*’ is the most frequent bigram in all three subcorpora, in particular in response to prosecutors’ questions (as indicated by the blue line). The bigram is mainly used in narrative-based responses as shown in Section 5.5. ‘Not know’ is the second most frequent response on average. It can be a type of evasive response and is closely examined in Section 5.4. The figure also shows that ‘no/not’ is particularly frequently used in response to judges’ questions (as indicated by the orange line). It is a key word to structure negation and is analysed in Section 5.3.

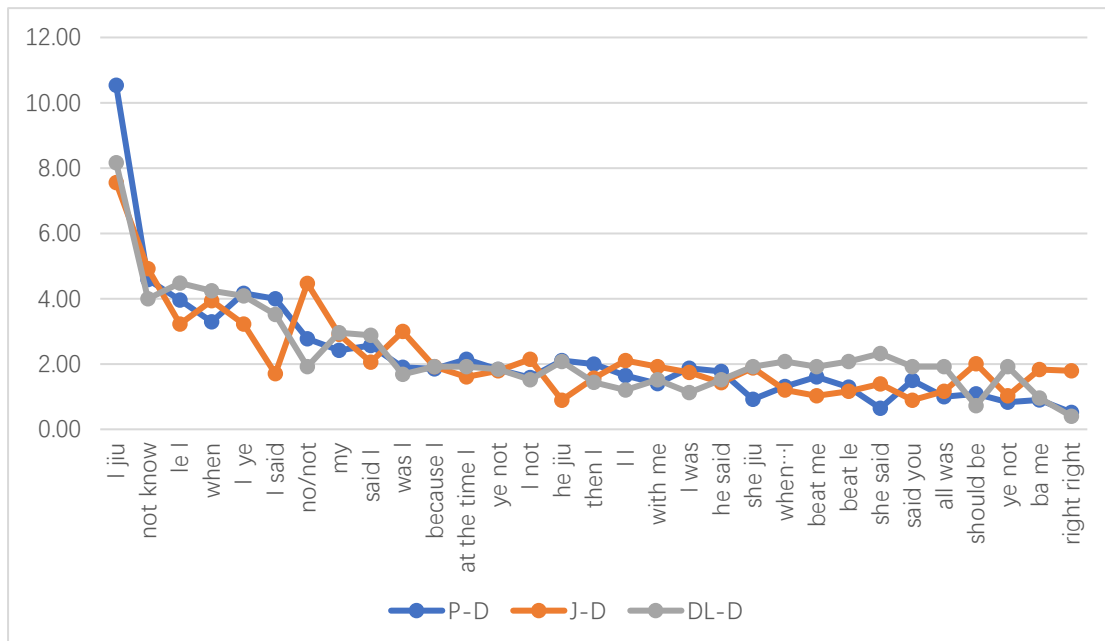


Figure 5.1 The bigrams in Table 5.2 arranged in the descending order of their average frequency in the three subcorpora

To compare the presence of the three major features in the three sub-corpora, I added up the normalised frequencies of the bigrams in each set for each sub-corpus as demonstrated in Figure 5.2. As Sets Two and Three share three bigrams, I combined the two sets. Figure 5.2 shows that in general, the bigrams in Set One occur more frequently in all three sub-corpora, which means that narration is an important element in the defendants' responses regardless of who does the questioning. The figure also indicates that responses to prosecutors and defence lawyers generally exhibit more similar patterns compared to responses to judges. By contrast, the negation/evasion-based responses are more frequently seen in sub-corpus J-D.

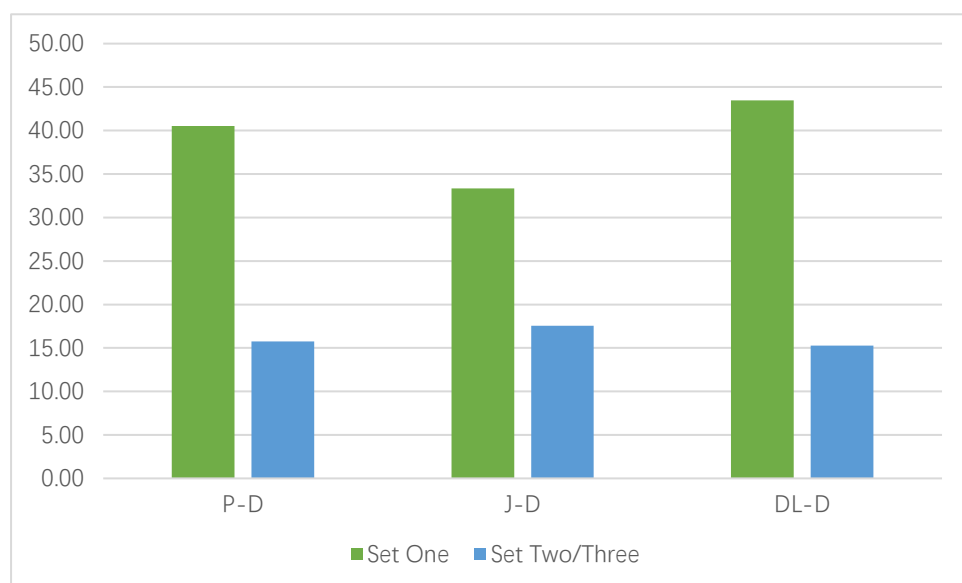


Figure 5.2 The comparison of the accumulated frequency of bigrams in the three sets among the three sub-corpora

The corpus linguistic analysis of defendants' language shows that regardless of the institutional role of the questioner, three major features can be found in defendants' responses: negation, evasion, and narration. This chapter examines the display of affiliation and alignment in the defensive responses based on these three features. The quantitative result also identifies the bigrams that stand out including '不 是(no/not)', '不 知道(not know)', and '我 就(I *jiu*)', which occur frequently in negation-based responses, evasive responses, and narrative-based responses respectively as demonstrated in the next three sections.

5.3 Aligning and disaligning negation-based responses

Negation structure is often used in defensive responses. Perhaps the most common negation-based response type is denial. In a criminal trial, defence is usually grounded in the denial of event, causality and/or intentionality (Moore, 2010; Malle et al., 2014).

Denial responses demonstrate the most typical combination of alignment and disaffiliation. Such a response in Chinese usually contains ‘不是 (no/not)’ and as a direct answer to the prior question, it is usually an aligning response but it often challenges a question, as a result of which, it might also challenge the authority of the questioner and thus be disaffiliative. This section analyses aligning and disaligning negation-based responses. The following excerpt includes a typical aligning negation-based response (denial). (Note: An ‘invoice’ refers to a receipt provided as proof of payment. Some people purchase fake invoices for fraudulent activities, such as making false expense claims.)

Excerpt 1:

1. 审:被告人 我 问 你 一下 啊,

J: defendant I ask you a little PRT

你 当天 为什么 跟 被害人 一方 就会 发生 争议 ?

you on that day why with victim the party would occur dispute

是 (9.0s looking at the screen in front of her)

be

是 你 在 向(.) 被害人 一方 在(.) 推销 你的 发票 ° 是吗° ?

be you at to victim the party at try to sell your invoice right

‘Defendant, let me ask you, why did you have a dispute with the victim on that day?

It’s (9.0s looking at the screen in front of her) It’s you were(.) trying to sell your

invoices to(.) the victim, ° right° ?

2. 被: →不是 <我 是(.) 没(.)>特意地 推销 给他< ,

D: no I be not deliberately try to sell to him

我 是 在 马路边 喊 的 , 他 下车(.) 直接 骂 的 .

I be at roadside shout PRT he get off directly curse PRT

'No, <I was(.) not(.) >deliberately trying to sell it to him<, I was by the roadside shouting, and he got off the motorcycle(.) and cursed at me directly.

3. 审: 嗯 你 是 在 马路边 喊 这个 发票=

J: mm you be at roadside shout this invoice

'Mm, you were shouting to sell invoices by the roadside=

4. 被:=对=

D: =Right=

5. 审:=然后 他 下车 直接 骂 的 你=

J: then he get off directly curse PRT you

'=Then he got off the motorcycle and directly cursed at you.='

6. 被:=对.

D: =Right.

In turn 1, the judge asks about the cause of the dispute between the defendant and the victim. Then there is a long pause as the judge was looking at the screen in front of her perhaps to search for some relevant information. In this case, the prosecutor asks the same question earlier in the trial (Excerpt 5). It is likely that the judge is waiting for the defendant to complete her sentence (It's...), but the defendant does not give one. Then

the judge provides a candidate answer in a tag question ('It's you were trying to sell your invoices to the victim, right?'), which was claimed by the prosecutor earlier to be the reason but denied by the defendant. The tag question implies that the judge places blame on the defendant. The defendant's denial is produced immediately after the end of the questioning turn and starts with 'no' and then uses a denial + correction structure (Winter, 1994) (I was not..., I was) to deny the accusation implied in the prior turn. With the unusual use of '我 是 没 (I was not)', which is more often expressed as '我没 (I not)' in Chinese and thus has minor pauses after '是(was)' and '没(not)', the repetition structure is highlighted when it is juxtaposed with the second part '我 是 (I was)'. In addition, though '特意地 (deliberately)' is not seen in the prior question turn, it is implied in the word '推销(trying to sell)'. In the denial, the word '特意地 (deliberately)' is placed right after '没(not)' and therefore, is foregrounded. And the correction part also highlights the non-deliberate nature of the defendant's action 'by the roadside shouting' without targeting the victim. The last part of the response shifts the blame to the victim ('he got off the motorcycle and cursed at me directly').

Such a response shows alignment as it is a type-conforming response to the yes/no question in the preceding turn, but it displays a stance disaffiliative with the questioner. In terms of preference, it seems that the denial response is a disconfirmation, which, as a dispreferred response, is expected to be performed with delays, prefaces, mitigation, and/or accounts (Pomerantz and Heritage, 2013). However, none of these is seen in the response. Instead, '我 是 没 (I was not)' features a hurried start. The preferred turn shape might be explained in terms of action preference. The action aimed for by the

question in turn 1 is making an accusation, to which a denial is the preferred response (Pomerantz and Heritage, 2013, p.226). Therefore, in this instance, the last two features of affiliation shown in Table 5.1: support the stance of the other speaker; cooperate with action preference, point to different affiliating status with stance support principle indicating disaffiliating and the action preference principles indicating affiliating. And the action preference principle prevails. Preference for a denial in response to accusation is more obviously seen in the following excerpt, where the defendant interrupts the prosecutor.

Excerpt 2:

1. 公:你 在(.) 跟 何某某 打架 的 过程 中 ,

P: you at with He fight PRT process middle

你 平时 打架 也 都是 从来 不 让 的 吗?

you in normal times fight also all the time never not back down PRT Q

就是说/

that's to say

'When you were (.) fighting with He, in normal times did you never back down from your fights? That's to say/

2. 被: →(听不清) 以前 从来 打 打架 都是 我 让着他 ,

D: (inaudible) before always fight fight all the time I let him win

那么多 年 我 都是 一直 让着他, 就 那天 我/

so many years I all the time always let him win only that day I

'Before, in our fights, I always let him win. For so many years, I all the time, always let him win, only that day I/'

3. 公:那 你 干嘛 这么 忍气吞声 ?

P: in that case you why so suffer in silence

你们 俩 之间 又 没有 婚姻 关系

You two between again no marital relations

你 走人 算了 呗

you leave let it be PRT

'In that case, why did you suffer in silence? You two didn't have any marital relationship, you can surely just leave.'

4. 被:他 老 威胁 我, 我 不 敢 走 .

D: he always threaten me I not dare leave

'He always threatened me, so I dare not leave.'

The prosecutor asks the defendant about the history of her fights with the victim, her partner for many years. After hearing the prosecutor's question (did you never back down from your fights), the defendant interrupts the prosecutor, which rarely occurs given the power asymmetry between them. This interruption is due to the defendant's eagerness to deny the proposition in the prosecutor's question. Meanwhile, 'quick timing or close placement of the response relative to the initiating action' (Lee and Tanaka, 2016, p.1) also indicates it as a preferred response. The turn design shows the defendant's attempt to repeat the structure of the prior question with the repetition of

‘打架 (fight)’ ‘都是(all the time)’ ‘从来 (always)’ from the preceding turn. The substitution of ‘不让(not back down)’ with ‘让他(let him win)’ displays her explicit denial. The replacement of ‘平时(in normal times)’ with ‘以前(before)’ is to counter the assumption of her behaviour during the day of the incident as a regular behaviour. And ‘以前(before)’ is contrasted with ‘就 那天 (only that day)’ in the last part of the turn and in between, she uses ‘那么多年(for so many years)’ to highlight her concession for all those years and portray the incident as an accident, which resists the presupposition embodied in ‘平时(in normal times)’ in the question. This explains the omission of ‘no’ in the beginning and the failure to produce a type-conforming response. On the other hand, the response is a direct answer to the question, thus showing structural alignment despite the failure to match formal design preference.

The response shows disaffiliation with the questioner but omitting ‘no’ avoids absolute denial of the prosecutor’s proposition. As argued by Komter (1994, p.173), ‘their partial admissions show defendants to be cooperative, their partial denials allow them to defend themselves against the more damaging and blame-worthy elements of the charges’. On the other hand, in terms of action preference, it is an affiliative response, and the turn design also indicates a preferred response. This excerpt again shows that action preference principle is prioritized over stance support principle in terms of affiliation.

Two out of four alignment principles are obeyed here as the defendant takes the interactional role as an answerer and provides a direct answer to the question and thus facilitates the progress of the sequence. However, the other two alignment principles

are violated. The defendant rejects the presuppositions embodied in the question (that she never backs down from the fights) and her answer fails to provide ‘yes/no’ in response to a yes-no question and thus does not match the formal design preference. Therefore, in this excerpt the sequence support principle and the interactional role principles outweighs the formal design preference principle and the presupposition acceptance principle, which shows that, similar to the affiliation features, there are different levels of preference among the alignment features. The relative importance of affiliation and alignment can be illustrated with the following negation-based response.

Excerpt 3:

1. 审:好, 行, 那 你(.) 认为 你 不 构成 这个::

J: alright ok in that case you think you not constitute this

那 你 就 认为 你 不 构成 故意杀人罪 是吧 ?

in that case you just think you not constitute murder right

‘Alright, ok, in that case you(.) don’t think you commit this::: in that case you don’t think you commit murder, right?’

2. 被:我 我 我 意思 我(.) 不 是 说 直接(.) 去 杀人 奔着 杀人 这个/

D: I I I mean I not be say directly to kill aim to kill this

‘I, I, I mean I(.) was not straight(.) to kill, aiming to kill/’

3. 审: 你 简单 回答 我 , 你 说 你 认为 你 不 构成-

J: you simply answer me you say you think you not constitute

你 对 罪名 有 意见, 是 认为 你 不 构成 故意杀人罪 吗 ?

you to charge have objection be think you not constitute murder Q

'You simply answer me, you said you don't think you committed-you object the charge, so do you think you didn't commit murder?'

4. 被:(.) 我 我 觉得 那(1s)

D: I I think that

'(.)I, I think that (1s)'

5. 审:你 是 不 是, 不 是 就 不 是,

J: you be not be not be just not be

你 到底 认为 你 构 不 构成 故意杀人罪 ?

you after all think you constitute not constitute murder

'You, yes or no, no is no, after all do you think you commit murder or not?'

6. 被:我 觉得 也 不 构成 故意杀人罪 吧

D: I think also not constitute murder PRT

'I think (I) didn't commit murder probably.'

In response to the tag question in turn 1, the defendant does not give a clear-cut 'yes' or 'no' in turn 2. The response shows that he denies having the intent to kill, which implies a not guilty plea. The judge is not satisfied with the answer. He first says, 'You simply answer me,' which emphasises the responding manner, i.e., simple. Then he tries to formulate the defendant's opinion in a simple manner 'you object the charge, so you think you didn't commit murder?' In turn 4, the defendant's response is interrupted by the judge very soon after he starts his response with 'I think' rather than a simple

‘yes’ or ‘no’. In turn 5, the judge even more explicitly seeks a simple and direct answer by saying ‘You, yes or no, no is no, after all you think you commit murder or not?’ By saying ‘no is no’, he implies that a negative answer is ok as long as it is clear. It shows the judge’s orientation to clarity and straightforwardness, which is high on the agenda of a trial in particular the pleading stage. The defendant shows cooperation by admitting part of the charge, but at the same time, he defends himself. So, he tries to deny only one constituent of a murder charge. However, this still means a not guilty plea, which might not be clear to the defendant due to knowledge asymmetry. At the third try, the defendant provides a much clearer answer (‘I think I didn’t commit murder probably.’) and mitigates his certainty about the response with ‘probably’, which shows his effort to balance defence and cooperation.

Interestingly, different from the partial denial in the last excerpt, both turns 2 and 6, which are partly disaligning and partly disaffiliating, are produced as dispreferred responses with hesitation and mitigation. Both questions in turns 1 and 5 are aiming to seek confirmation, but the presupposition in both questions implies a preference for disconfirmation, which is what these two responses are carrying out. The dispreferred turn shape can only be explained in terms of formal design preference principle. The judge seeks clear-cut yes or no as shown in turns 3 and 5. This principle serves the sequence/activity support principle. As the judge’s question aims to seek a plea from the defendant, which must be clear in the form of guilty or not guilty, a non-type-conforming response impedes the progression of the activity initiated in the question. In this sense, alignment trumps affiliation in terms of preference.

The excerpt above shows that alignment is oriented to by the participants, and the disalignment in the responses (turns 2 and 6) is not very significant as the responses still addresses the agenda of the questions. In the following excerpt, where significant disalignment occurs, the defendant shows affiliation to do damage control, which further demonstrates the priority of alignment over affiliation.

Excerpt 4:

1. 公:行, 龙某某, 你 是 男的, 你 在 上面 , 她 是 女的 她 在 下边,

P:ok Long you be man you at above she be woman she at under

谁的 力气 大 ? 你 回答 我, 谁的 力气 大 ?

whose strength big you answer me whose strength big

'Ok, Long, you are a man, you were above, she was a woman, she was under you, who was stronger? You answer me, who was stronger?'

2. 被:这 我 当时 我 不 是 故意 扎 的 ,

D: this I at the time I not be intentionally stab PRT

[是 我 造成, 肯定 是 我 造成 的

be I cause definitely be I cause PRT

'Well, at the time I didn't intentionally stab, [it was caused by me, definitely by me

3. 公:[行, 先 别 说 了 .

P: ok, first stop talking CRS

'[Ok, no more talking for now

The response in turn 2 borders on a substantial change of topic and does not support the ongoing activity. Therefore, this negation-based response is an explicit disalignment. The response does not provide a direct answer. Instead, it denies intentionality and shows cooperative attitude in admitting guilt. This reveals the defendant's interpretation of the question not simply as seeking information but as accusation. So, the admission responds to the implicit accusation. On the other hand, admission is dispreferred as a response to accusation in terms of action preference. The turn shape also features a dispreferred response with delay '这(well)' at the beginning of the turn. And the prosecutor interrupts immediately after his denial and displays her dissatisfaction with the disalignment. The damage control by the defendant for this disaligning response through admission again highlights the importance of alignment in the interaction. Though the first two excerpts in this section demonstrate the prevalence of action preference principle, the last two examples show the orientation to alignment by the participants despite the affective stance being affiliating or disaffiliating. In this sense, alignment preference is more fundamental in influencing the interaction.

This section shows that compliance with different features of alignment indicate different degrees of (dis)alignment and the support of activity/sequence initiated in the prior turn is the primary principle in terms of alignment. In terms of the features of affiliation, the action preference principle prevails in deciding whether a response is dispreferred or not. Nevertheless, by comparison, alignment overtakes affiliation as a more fundamental consideration in courtroom interaction and is oriented to by both the

defendants and the questioners. This is more obviously seen in ‘not know’ responses and narrative-based responses.

5.4 Disaligning to aligning evasive responses

The corpus analysis result (Figure 5.1) shows that ‘不知道 (not know)’ is the second most frequent bigram after ‘*I jiu*’. The institutionalism of courtroom talk means that the ‘not know’ responses might be different from those occurring in daily conversation where they serve a ‘prepositioned epistemic hedge’(Weatherall, 2011). Clayman (2001) analyses ‘not know’ as an account for a refusal to answer in interviews. In the courtroom context, Drew contends that ‘not knowing/remembering’ can be ‘an object conveniently used to avoid confirming potentially damaging or discrediting information’(1992, p.481). An evasive ‘not know’ response challenges one of the elementary claims invoked in questioning (Heritage and Raymond, 2012, p.180), that is ‘questioner believes the respondent is willing/obligated to answer’. Therefore, as pointed out by Keevallik (2011), whether it is due to unwillingness or inability, not answering is a disaligning action, because it fails to promote the action sequence initiated by the questioner. And ‘not know’ response is a kind of non-answer, ‘which displays dispreferred structure and rank lower on the preference scale than informative answers’ (Keevallik, 2011, p.185). Defendants try to control the damage by providing an account or some other additional information. The corpus linguistic analysis shows that among all ‘not know’ response (380 in total), only 11.58% (44 times) are stand-alone ‘not know’ responses with no additional information. In most cases, when a

defendant claims not knowing, he still tries to support the questioning activity and thus maintain alignment as the following excerpt shows.

Excerpt 5:

1. 公: 那 你 再 给 我 讲 一 下

P: in that case you again give me talk a little

这个 案发 时间 94 年 ×月 ×号

this occurrence of the incident time 94 year X month X date

你 是 因为 什么 和 这个 被害人 方面 发生 冲突 的

you be because what with this victim side happen conflict PRT

'In that case tell me again, on the day of the incident, X (date), X (month), 1994, you and the victim had a conflict because of what?

2. 被:→因为 我 在(.) 马路边 (.) 卖 发票,

D: because I at roadside sell invoice

他 也 是 属于 过路 的, 过路 呢

he also be belong to pass by PRT pass by PRT

他们 三个 人 骑 (.) 一个 车子, 后面 两个 人, 下车 .

they three people ride one motorcycle behind two people get off

我 也 不 知道, 反正 我 就 叫卖 发票 ,

I also not know anyway I *jiu* peddle invoice

他 下车 就(.) 骂 (1s) [就 这样 引起 了 .

he get off just curse just like this cause PST

'Because I was (.) on roadside (.) selling invoices, he was passing by, passing by, they three were riding (.) a motorcycle, two people on behind, got off the motorcycle. I ye don't know, anyway, I was peddling invoices, he got off and just (.)cursed, [just like this (it) caused

3. 公:[叫卖 发票

P: peddle invoice

'[(You were) peddling invoices'

4. 被:嗯

D: *Mm.*

5. 公:下车 就 骂

P: get off just curse

'(They) got off (the motorcycle) and just cursed.'

6. 被:嗯=

D: *Mm=*

7. 公:= 为什么 要 骂 你=

P: why would curse you

'=Why would (they) curse at you?='

8. 被:→= 我 也 不 知 道 , 因 为 这 么 长 时 间 <再 说 吧(.)

D: I also not know because this long time plus PRT

当时 我 也 没 得 罪 他 ,

at the time I also not offend him

因为 我 卖 东 西,

because I sell things

我 不可能 找 人 麻烦,

I impossible find people trouble

他们 是(.) 自己 找茬 的 .

they be themselves find trouble PRT

'=I ye don't know, because this long time (ago) < in addition(.) at the time I did not offend him, because I was selling things, I was unlikely to seek trouble with others, they themselves were (.) making trouble.

9. 公:你们 之间 有 过 交流 吗 ?

P: you between have ASP communication Q

为什么 直接 开始 骂 你 ?

Why directly start curse you

'Did you have any communication? Why (did they) start cursing at you directly?'

10. 被:就是 直接 骂 的, 根本 就 没有 语言 交流 .

D: just directly curse PRT utterly just no verbal communication.

'(They) just cursed at me directly, utterly no verbal communication.'

11. 公:没有 语言 交流 .

P: No verbal communication.

12. 被:嗯 .

D:Mm.

13. 公:你 之前 在 公安 机关 说 是(.)

P: you before at police organ say be

你 跟 他 跟 被害人 卖 发票 ,

you to him to victim sell invoice

问 他 要 不 要 发票

ask him want not want invoice

'Before you at the police station said that (.) you were selling invoices to the victim, asking him whether he wanted invoices.

14. 被:我 当时(.) 绝对 没有 问 他 ,

D: I at the time definitely not ask him

我 都 是 叫卖, 叫卖 谁 谁 下来 找 我 ,

I all be peddle peddle who who come down find me

那 我 没有 .

that I not

他 就 是 下车(.) 就 是 骂 我 , 你 ‘他妈’ 卖 什么 发票 ,

he just be get off just be curse me you damn sell what invoice

可能 就 是 这种 口气 来(.) 这样 .

perhaps just be this kind tone to like this

'I at the time(.) definitely did not ask him, I was peddling, peddling to any specific person to come and buy, that I didn't do. He just got off(.) the motorcycle, just cursed at me, you 'damn' are selling what invoice, perhaps spoke with this kind of tone (.) like this.'

In Excerpt 5, the prosecutor asks about the reason for the conflict, which leads to a

killing later, in a manner that invites a narrative with a question prefaced with 'tell me'. The defendant starts the response with 'because', a seemingly type-conforming answer to the question in the prior turn (you and the victim had a conflict because of what), but it just prefaced a story ungrammatically, which supports the finding in the next section about the importance of alignment in narrative-based responses. In essence, the defendant does not provide a reason for the conflict with 'I *ye* don't know' in the middle of the story. The prosecutor interrupts and repeats the gist of his story in turns 3 and 5 ((You were) peddling invoices, (they) got off (the motorcycle) and just cursed.) and highlights the incongruence in the story 'why would (they) curse at you?' (turn 7). The defendant again gives a 'not know' response 'I *ye* don't know' and provides an account for his not knowing: that happened a long time ago, which implies he does not remember now. In addition, instead of explaining why the victim cursed at him, he tries to argue that he had no reason to start the fight (because I was selling things, I was unlikely to seek trouble with others), which aims to blame the victims for the conflict. Though it is not a direct answer to the question, the account shows his orientation to alignment in that it supports the questioning activity and shows his compliance with his role as answerer in the interaction. Meanwhile, it provides defence for his behaviour. Then the prosecutor tries to approach the question differently (Did you have any communication?) before asking the question again (Why (did they) start cursing at you directly?), implying that it might be because of something he said that started the fight. The defendant denies this directly in turn 10, but again not answering the why-question. Then in turn 13, the prosecutor confronts the defendant with his testimony in the police

station, which tells a different story. In turn 14, the defendant denies saying that before.

This defendant sticks to his answer even at the cost of showing inconsistency, which undermines his credibility. Under such circumstances, he might ‘win the battle but lose the war’ (Matoesian, 2008). Nevertheless, the evasive ‘not know’ response shows the defendant’s defensiveness as well as his attempt to show cooperative attitude by giving an account for his not knowing. Similarly, in the following excerpt, even when the defendant is being evasive, he is making efforts to maintain alignment.

Excerpt 6:

1. 公:那 你 有 没有 看到 这个

P: in that case you have neg-have see this

对方 被 你 捅 的 人 有 倒下

the other side BEI you stab PRT person have fall down

或者 是 流血 的 这个 情况 ?

or be bleed PRT this situation

‘In that case did you see anyone from the other side that you stabbed fall down or bleed?’

2. 被:最后(.) 出来 的 时候,

D: at last come out PRT time

我 就 我 拉着 刘某 往 外 跑 的 时候,

I jiu I pull Liu to outside run PRT time

他们 后面 还 有 人(.) 向 他 殴打,

they behind still have people to him beat

出 到 外 面 的 过 程 当 中 就 有 一 个 就(.) 坐 在 那 里 ,

out to outside PRT process amid just have one just sit at there

我 们 就 跑 了 ,

we just run PST

就 看 到 已 经(.) 就 是 昏 迷 的 那 种 状 态 ,

just see already just be coma PRT that kind state

我 们 就 跑 了 .

we just run PST

'When we finally(.) came out, when I was dragging Liu to run to the outside, from behind some people(.) were beating him, when we were running to the outside, there was one person(.) sitting there, we just got running, and saw him already (.) in coma, that kind of state, and we just got running.'

3. 公: 嗯, 昏 迷 的 状 态 , 谁 昏 迷 啊 ?

P: mm coma PRT status who coma PRT

'In a coma, who was in a coma?'

4. 被: →我 也 不 知 道, 就 是 对 方 的 人,

D: I ye not know just be the other side PRT people

我 也 不 知 道 是 谁

I ye not know be who

'I ye don't know, just someone from the other side, I ye don't know who that was.'

5. 公: 对 方 的 人 昏 迷 了 ?

P: the other side PRT people coma PST

'Someone from the other side was in coma?'

6. 被: 对 .

D: *Right.*

7. 公: 是 不 是 被 你 捅 到 的 人 ?

P: be not be BEI you stab PRT person

'Was he the person you stabbed?'

8. 被: 嗯 应该 就 是 吧 ,

D: mm should just be PRT

就 是 那 个 拿 刀 的 那 个 捅 到 左 胸 部 那 个 ,

just be that hold knife PRT that one stab left chest that one

就 是 他 拿 刀 指 着 划 伤 我 的 那 个 人 .

just be he hold knife point injure me PRT that person

'It should just be, the one whose left chest I stabbed, he pointed me with a knife and injured me, that one.'

9. 公: 嗯 (.) 他 就 昏 迷 倒 下 了 是 吧 ?

P: mm he just coma fall down PST right

'Mm(.) he fell down and was in coma, right?'

10. 被: 嗯 但 是 我 没 看 到 他 昏 迷 ,

D: mm but I not see him coma

只 是 看 到 他 往 下 坐 (.) 的 那 种 (.) 状 态 .

just see him down sit PRT that kind status

'Mm, but I didn't see him in coma, just saw him sitting down, that status.'

11. 公:那 后来 你们 去 了 哪里 了 ?

P: then later you go PST where PST

'Then later where did you go?'

In turn 1, the prosecutor asks the defendant if he saw anyone fall on the ground or bleed due to his stabbing. In response, the defendant fails to give a type-conforming answer with a 'yes' directly or identifying any person. Instead, he provides a narrative, which is neither concise nor fluent (turn 2). The key information provided in terms of the question is 'one person sitting there' and 'in coma'. Additionally, the defendant's description of the scene is not brutal at all as the person is depicted as sitting and in coma, though the person sitting there in coma was very likely to have fallen on the ground and bled. This shows that the defendant is aware that this is something incriminating and tries to tone down the situation. The prosecutor pursues the questioning with the key information 'who was in coma'. The defendant says 'I ye don't know' twice, but again this is not a stand-alone 'not know' response. Though not providing an account, the defendant offers some additional information 'just someone from the other side', which is old information from the question in turn 1. The use of the mood particle 'ye' to show the speaker's willingness to provide information and his inability to do so, and the provision of additional information to avoid a blunt rejection, shows the defendant's effort to maintain alignment and display cooperation. Then in turn 7, the prosecutor approaches the question differently, changing from a question

word question (who was in coma) to a yes-no question (Was he the person you stabbed?). The defendant confirms (It should just be) though with some qualification. Then he gives a detailed description of the person (he pointed me with a knife and injured me, that one), which constitutes a stark contrast with the vague description in turn 4 (just someone from the other side). This response reveals his inconsistency and the evasive nature of the ‘not know’ response. Meanwhile, it shows the defendant’s orientation to alignment even when he tries to avoid providing information.

The following deviant case (Excerpt 14 in Chapter 4 reproduced as Excerpt 7 here) shows how a sequence might develop when alignment is not shown. The defendant’s response is questioned by the prosecutor when he claims that he does not know where he got a stick in a fight.

Excerpt 7:

1. 公:你的 棍子 哪 来 的 呀 ? (.)木棍

P: your stick where come PRT PRT stick

‘Where did you get your stick? (.)the stick.’

2. 被:→木棍 是 哪 来 的 , 说真的 我 真的 不 知道=

D: stick be where come PRT honestly I really not know

‘Where I got the stick, honestly, I really don’t know.=’

3. 公:→=也 不 知道 =

P: also not know.

‘=(You) also don’t know. =’

4. 被:=就是 当时 混乱中 我 就 不 知道 怎么 就 拿了 一个

D: that is at the time in chaos I just not know how just get-PST one

'=That is, at the time, in chaos, I just didn't know how I just got one.'

5. 公:不 符合 常理 啊, 解释 不通 啊

P: no comply with common sense PRT explain nonsense PRT

'It goes against common sense. That doesn't make sense.'

6. 被: 但是 事实 就 是 这样 的 就 是 说

D: but fact just be this PRT just be say

'But that is the fact.'

The defendant is trying to emphasise his honesty with ‘说真的(honestly)’ and the stressed ‘真的(really)’ in his ‘not know’ response in turn 2. The prosecutor repeats his response with an added ‘也(also)’ in the turn-initial position to imply the unacceptability of the defendant’s lack of first-hand knowledge as he is the person using the stick. The disaffiliation is fully revealed in turn 5 (That doesn’t make sense). The defendant detects the disaffiliation in the repetition and immediately gives an explanation about his not knowing (in chaos). This deviant case shows that ‘not know’ response is not well received as it impedes the progressivity of the activity initiated in the question and violates the questioner’s expectation of an answerer. Under such circumstance, a compensatory explanation is needed to show alignment.

This section demonstrates the movement from disalignment to alignment in ‘not know’ responses as a device to avoid answering questions. Claiming not knowing may

indicate a lack of alignment, but providing additional information or context afterward compensates for this, reflecting a cooperative attitude.

5.5 Aligning to disaligning narrative-based responses

Different from negation-based responses and ‘not know’ responses, narrative-based responses do not involve obvious disaffiliation or disalignment. Narrative-based responses usually reply to a question showing no affective stance such as ‘how did you chase after the victim’. Therefore, the discussion of affiliation might not be relevant in these cases. However, the narratives are not always required in the preceding questions and thus risk showing disalignment. Heffer (2005, p.22) argues that ‘legal-lay discourse is basically about the tension between two cultural-cognitive modes: paradigmatic mode and narrative mode.’ Defendants as lay participants in a trial orient to narrative mode. On the other hand, institutional participants tend to monitor the questioning process through controlling questions, as a result of which, the narrative in courtroom is usually fragmented (Harris, 1984; Harris, 2001; Heffer, 2005). Chinese legal professionals who were interviewed by me also admit to being cautious about inviting defendants to give a free narrative. Nevertheless, even under such circumstances, defendants are found to create opportunities for narration. And the narratives usually serve their defence purposes. This section aims to find out how they manage the constraint frame imposed by the question in their narration attempt, through which their endeavour to balance defence and cooperation is revealed. In the following excerpt, the defendant tells a story after giving an adequate answer.

Excerpt 8:

1. 审:那 你- 就是::

J: in that case you that's

后来 又 把 被害人(.) 衣服 脱掉 是 什么 目的?

later again BA victim's clothes take off be what purpose

'In that case, you-that's::what was your purpose in taking off the victim's (.) clothes later on?'

2. 被:→是(.) 帮 她 擦 一下 血, 然后 那时 (.)

D: be help her wipe a bit blood then that time

地上 的 血 都 不 太 动 的 时候,

ground-on PRT blood all not much flow PRT time

我 就 把 她 扶 到 床 上 ,

I jiu BA her help to bed on

然后 她 身上 全 是 血 , 我 就 给 她 把 衣服/

then her body all be blood I jiu give her BA clothes

'(That) was(.) to help her clean up the blood, and then at that time (.) when the blood on the ground was not flowing, I jiu helped her onto the bed. Then her whole body was covered in blood, I jiu (take) her clothes/

3. 审:你 把 她 抱 到 床 上 还是 扶 到 床 上 ?

J: you BA her carry to bed on or help to bed on

她 那会儿 是(.) 你 扶 到 床 上 的 时候,

she at the time be you help to bed on PRT time,

被害人 是(1 s) 处于 啥 状态?

victim be at what state

是 已经 死 了? 还是 说(.) [是 什么 状态?

be already dead PST or say be what state

'Did you carry her to the bed or help her to the bed? At that time, she was (.) when you helped her to the bed, the victim was (1 s) in what state? Was she already dead or (.) [in what state?'

4. 被 :[那时候(.) 不 知道 ,

D: at the time not know

那时候 应该 反正 也 不 动 了 已经.

at the time probably anyway also not move PST already

'[At that time(.)I didn't know, (she) probably, anyway, didn't move already.'

5. 审: 动 了 还是 不 动 了 ?

J: move PST or not move PST

'Did or didn't (she) move?'

6. 被:不 动 了 已经.

D: not move PST already

'(She) didn't move already.'

7. 审: 已经 不 动 了 .

J: already not move PST

'(She) already didn't move.'

8. 被: 已经 不 动 了 .

D: already not move PST

'(She) already didn't move.'

9. 审: 然后 你 把 她 等于是 抱 到 床 上 是吧 ?

J: then you BA her equal to carry to bed on right

'So you carried her to the bed, right?'

10. 被: 是 .

D: Yes.

In Excerpt 8, the judge asks about the purpose of the defendant taking off the victim's clothes after stabbing her. The defendant first answers briefly '(That) was(.) to help her clean up the blood'. This is an aligning and adequate response to the why-question. Then after a minor pause, he adds some details to contextualise his behaviour ('when the blood on the ground was not flowing, I *jiu* helped her onto the bed. Then her whole body was covered in blood, I *jiu* (take) her clothes). This elaboration is not required by the question in the prior turn and is interrupted by the judge before he finishes the whole narrative. All legal professionals interviewed by me emphasise the caution against redundancy. Defence lawyer Guo said according to her experience, judges like defendants who can answer questions 'accurately and concisely'. And in my dataset, defendants are asked to be simple and straightforward in answering questions repeatedly by judges and prosecutors in different trials. It is worthwhile to find out the purpose of the narrative. In such a short narrative, he twice uses 'I *jiu*', the most

frequent bigram in defendants' language (Figure 5.1). '*jiu*' has many meanings in Chinese. In this context, the first '*jiu*' indicates immediate temporal relations, similar to the meaning of 'then', and the second '*jiu*' marks a natural logical relation, similar to the meaning of 'so'. Both serve to portray a good image for the defendant. Mazzocco and Green (2011) distinguish between argument-based persuasive communications and narrative-based persuasive communications and maintains that '[l]acking straightforward arguments, narrative persuasion tends to be driven by the actions and portrayal of antagonists and protagonists' (2011, p.27). The defendant is subtle in presenting himself as a good man in the narrative. But the judge detects it and questions his description of 'helped her onto the bed' (turn 3), which implies that the defendant was still able to move herself somehow. The defendant seems to downplay the consequence of stabbing her, which is also evidenced by turn 4 where the defendant uses 'probably' 'anyway' to hedge his admission that the defendant could not move anymore at that moment. The judge seeks confirmation about this in turns 5 and 7, which is granted by the defendant in turns 6 and 8. Based on that, the judge changes the lexical choice of the defendant from 'helped' to 'carried' in turn 9.

This excerpt shows the judge's attention to detail as well as the defence implied in the defendant's narrative. Such kind of defence should be interpreted in terms of sequential organisation or the 'agenda', 'goal', 'game', or 'activity' (Robinson, 2013, p.260) of a trial, where defendants try to defend themselves whenever possible by minimizing their responsibilities and portraying a good image for themselves. And narration is their preferred device for that purpose. It merits attention that the defendant

gives an aligning response first before his additional narrative, which demonstrates his orientation to alignment. This orientation is more obviously seen in the following excerpt where a defendant provides a narrative under the disguise of an answer.

Excerpt 9:

1. 公: 你 跟 被害人 发生 推打 的 时候,

P: you and victim happen push and fight PRT time

另外 两个 人 有 没有 围过来 一起 打 ?

the other two people have neg-have come over together fight

'When you and the victim were pushing and fighting with each other, did the other two people come over and join the fight?'

2. 被: 他们 他们 三个 人 追 我 嘛 , 那 三个 人 /

D: they they three people chase me PRT those three people

'They, they three people chased after me, those three people/'

3. 公: 公诉人 问 的 问题 是 ,

P: prosecutor ask PRT question be

你 跟 被害人 发生 推打 的 时候,

you and victim happen push and fight PRT time

另外 两个 人 有 没有 过来 一起 打 ?

the other two people have neg-have come over together fight

'The prosecutor's question is, when you and the victim were pushing and fighting with each other, did the other two people come over to join the fight?'

4. 被:没有,[听不清

D: *No, [inaudible*

5. 公:[没有 是吧? 你们 当时 是 在 哪 一间 房 ?

P: [no right you at the time be at which one room

你 跟 被害人 是 在 哪 一间 房 ?

you and victim be at which one room

'No, right? Which room were you (plural) in at the time? Which room were you and the victim in?'

6. 被: 被害人 ?

D: *The victim?*

7. 公:你 跟 被害人 [是 在 哪 一间 房 ?

P:you and victim be at which one room

'You and the victim [were in which room?'

8. 被:→[你 听 我 讲 ,我是 住 306 房间 ,

D: you listen me talk I be live 306 room

他 去 我的 306 房间, 我就 退 两 步,

he go my 306 room I *jiu* step backwards two steps

因为 他 三 个 人 我 肯定 怕 啊 是 不 ?

because he three people I definitely scared PRT right

我 就 退 两 步,

I *jiu* step backwards two steps

刚好 307(.) 一 个 人 在 那 里 吃 西 瓜,

coincidentally 307 one person at there eat watermelon

西瓜 上 有 把 刀 , 我 就 把 它 拿 起 来 了 ,

watermelon on have M knife I jiu BA it pick up PST

牛某 就(.) 不 知 道 用 什 么 东 西 把 我 打 在 -

Niu then not know use what thing BA me beat at

刚 好 打 去 了 那 个 308 , 308 那 个 地 下 ,

coincidentally beat to PST that 308 308 that ground

他 就 睡 在 我 身 上 ,

he then sleep on my body-on

那 时 候 肯 定 就 伤 害 到 他 了 .

that time definitely then harm him PST

我 也 不 想 发 生 这 种 事 情 ,

I also not want happen this kind thing

因 为(.) 我 也 是 出 于 一 种 本 - [出 于 一 种 本 能

because I also be out of one kind instinct out of one kind instinct

'[You listen to me, I was living in Room 306, he went to my room, I jiu stepped backwards for two steps, because he (had) three people, I surely was scared, right? I jiu stepped backwards for two steps, coincidentally in Room 307(.) one person was eating watermelon, there was a knife on the watermelon, I jiu picked it up, Niu then (.) beat me with something that I didn't know, coincidentally beat me to 308, on the ground of 308, he fell on me, that moment surely (I) harmed him. I didn't want this thing to happen, because(.) I was also out of instinct-[out of instinct'

9. 公: [你 离开 的 时候 被害人 是 什么 状况 ?

P: you leave PRT time victim be what situation

‘[When you left, what was the situation of the victim?’

The prosecutor asks a yes-no question in turn 1, but the defendant tells his story regardless of the question. As a result, he is interrupted by the prosecutor, who repeats his question and prefaces his question with ‘the prosecutor’s question is’ to highlight the deviance of the defendant’s response. In turn 4, the defendant gives a type-conforming negative answer to the question (did the other two people come over to join the fight) and intends to further explain, but he is interrupted by the prosecutor, which shows the institutional participant’s control. Then the prosecutor asks another question, and the defendant initiates a repair. However, before the prosecutor finishes repeating his question in turn 7, the defendant starts to reply, which shows that the repair does not necessarily indicate failure in retrieving the information but could be a strategy to buy more time in formulating his reply. His response starts with a preface (‘You listen to me’), which seems to promise a satisfying answer and clearly signals that a narrative is expected. Then he appears to reply to the question where he and the victim were (‘I was living in Room 306, he went to my room,’). However, if examined closely, this is not an answer to the question (turn 5), which asks where he and the victim were at the time, that is when they were pushing and fighting with each other (turn 3). The subsequent story shows that the fight occurred in Room 308 rather than Room 306. Perhaps he has learned the lesson not to ignore the constraint of the question

(disalignment) as it could result in being interrupted like his response in turn 2. This time he is not interrupted. Between his mention of Room 306 and Room 308, he used ‘*I jiu*’ three times to construct his story. Therefore, the reason that he chooses a narrative over a simple ‘Room 308’ can be revealed in the ‘*I jiu*’ sentences.

In the first occurrence (‘I was living in Room 306, he went to my room, I *jiu* stepped backwards for two steps, because he (had) three people, I surely was scared, right?’), he describes himself as a passive party doing all the things in reaction to what the victim did. *Jiu* here indicates natural logical relations similar to the meaning of ‘so’, which can be seen in the account immediately after the ‘*I jiu*’ sentence (‘because he (had) three people, I surely was scared, right?’). Interestingly, he uses a tag question to show that it should be easy for the prosecutor to understand. And the word ‘surely’ adds to the effect.

Then after giving the account, he repeats the first ‘*I jiu*’ sentence (‘*I jiu* stepped backwards for two steps’), which is unnatural both grammatically and logically. Grammatically, an ‘*I jiu*’ sentence is usually preceded by a description of an event or action not a question. The event or action serves as the prerequisite for the logical or temporal relations embodied in *jiu*. Here, a more natural and logical expression should be ‘after I stepped backwards’. However, the defendant still uses ‘*I jiu*’ sentence to highlight the natural logic for him to take that action.

In the third ‘*I jiu*’ sentence (‘coincidentally in 307(.) one person was eating watermelon, there was a knife on the watermelon, I *jiu* picked it up’), he again tries to legitimise his behaviour. He starts with the word ‘coincidentally’ to construct his

innocence, then he contextualises his move to pick up the knife, the key weapon for the killing later, in a harmless and even peaceful story, that is ‘in 307(.) one person was eating watermelon, there was a knife on the watermelon,’ As he has already described himself in a disadvantageous position with three people against him and being scared, to pick up the knife is like an instinctive self-defence option as embodied in the use of ‘*jiu* (so)’ and his description ‘out of instinct’. Then the prosecutor interrupts the defensive response and by asking ‘When you left, what was the situation of the victim?’, he refocuses the questioning on establishing the fact.

To the defendant it is important to start the narrative with what happened in room 306 rather than room 308 because it allows him to present himself as a passive party who harmed the victim out of self-defence with a weapon that ended up in his hand very accidentally. And the ‘*I jiu*’ sentences serve his purpose properly. The provision of a seemingly aligning answer in the beginning has created an opportunity for the narration. Atkinson and Drew (1979, p.182) explain that ‘as the pre-allocation of turns in examination ensures that only counsel have rights to ask questions, witnesses cannot guarantee that questions will be asked which allow them the opportunity to explain their actions, or otherwise defend themselves’. Therefore, defendants are creating opportunities for narration, in which they bear in mind the importance of alignment. The defendant’s attention in showing alignment and cooperation is important as the following deviant case shows.

Excerpt 10:

1. 公:那么 这个 被害人 他 有 没有 要 逃跑 啊 ?

P: in that case this victim he have neg-have want escape PRT

'In that case, did the victim try to escape?'

2. 被:(3s) 有.

D: have

'(3s) Yes.'

3. 公: 你 有 没有 追上去 呢 ?

P: you have neg-have chase Q

'Did you chase after him?'

4. 被: (3s)嗯 (3s) 有 .

D: mm have

'(3s)Mm(3s)yes.'

5. 公:怎么 追 啊 ?

P: how chase PRT

'How (did you) chase?'

6. 被:→(3s)因为 是(5s) 那个(.) 他 先 是 在 那个(.) 言语上(.) 刺激,

D: because be that he first be at that verbally challenge

然后 我 是 那个(.) 就是说/

then I be that that's

'(3s)Because it was (5s) that(.)he who verbally challenged me first, then I was

that(.)that is/

7. 公:→你 直接 回答, 你 是 怎么 追:: 的 ?

P: you directly answer you be how chase PRT

'You answer directly, how did you cha::se?'

8. 被:(3s) 就是(.) 嗯(.) 捅 了 之后, 然后 嗯(.)

D: that's mm stab PST after then mm

情不自禁 一直 往前 的.

couldn't help all the way forward PRT

'(3s) That's (.)mm(.) after stabbing (him), then mm(.) (I) couldn't help but (run) all the way forward.'

In turn 5, the prosecutor asks the defendant how he chased after the victim. In response to the how-question, the defendant starts the turn with 'because' in an attempt to account for his chase and turn 6 shows his intention to blame the victim for verbally challenging him first. It is possible that later the defendant will talk about the chase, but before he could finish, the prosecutor interrupts him and demands 'answer directly' and repeats the question. Though the narration in Excerpts 8 and 9 above is also interrupted, the defendants are interrupted after the stories have been told thanks to the display of alignment. This example demonstrates the necessity of the effort to maintain alignment.

This section illustrates defendants' efforts to provide (seemingly) aligning responses to display cooperation in order to create space for narration, which is not required in the question.

5.6 Discussion

The analysis shows that defendants' effort to balance defence and cooperation is seen in their most common three response types. A negation-based response is likely to show disaffiliation explicitly, but it is usually an aligning response. When it is a disaligning response, defendants employ strategies to mitigate the damage. An evasive 'not know' response is an explicitly disaligning response, but it usually provides information that addresses the agenda of the question and shows the effort to display alignment. Narrative-based responses are produced within or breaking the frame imposed by the question. To create an opportunity for a defensive narration, defendants try to display alignment by maintaining the relevance of a narrative on the surface. The analysis shows the importance of alignment in defendants' responses. Theoretically speaking, it might be because affiliation is not always relevant. Many questions aim to solicit information without implying accusation or any stance. Their response, therefore, cannot be discussed in terms of affiliation. More importantly, the common occurrence of aligning without affiliating responses derives from the attempt by the defendants to balance cooperation and defence.

Furthermore, this chapter clarifies the relations among the features of alignment and affiliation as well as the relations between affiliation and alignment. In the discussion of affiliation, as courtroom interaction does not involve the display of empathy, the analysis mainly discusses the other two features: match, support, and endorse stance, and cooperate with action preference. These two features might be in conflict. For example, a denial is a preferred response to an accusation based on action

preference principle, but a denial usually embodies disaffiliation with the questioner. The action preference principle prevails. In terms of alignment features, support of activity/sequence initiated by the prior turn figures more importantly than the other features, which points to the different levels of (dis)alignment. For example, claiming no knowledge or shifting topic does not facilitate the activity proposed in the prior question and represents a high degree of disalignment. Consequently, damage control devices are in place. On the other hand, a response that fails to match formal design preference might still be aligning in terms of the other three alignment features. In comparison, alignment is found to be a more fundamental principle governing courtroom interaction despite the affective stance. When affiliation is not relevant, responses display alignment. When affiliation is relevant, preferred responses usually show alignment. This is different from stance alignment in daily conversation, which usually prioritises social solidarity and affiliation (Pomerantz, 1984; Goodwin and Goodwin, 1992). This chapter demonstrates that the concepts of alignment and affiliation facilitate the analysis of defence strategies, and they also enhance the understanding of preference in courtroom interaction.

Though defendants' language is the focus in this chapter, the examination of their interaction with questioners also reveals some dimensions of legal professionals' questioning styles. For example, judges may ask the same question that the prosecutors have asked earlier in defendant examination if there is inconsistency in the defendants' testimony. Both Excerpts 1 and 5 involve the questioning about the cause of the dispute between the defendant and the victim. Excerpt 5 shows that the defendant gives a

testimony in court different from the one he gives in police interrogation. The judge further pursues the line of questioning after the prosecutor's and the defence lawyer's questioning. This is in line with the view of Judge Wang whom I interviewed. In response to the question 'When would you question the defendants after they are questioned by the prosecutors and the defence lawyers?', she said that when there are inconsistencies in the defendants' testimonies. In this sense, the judges' questioning serves as a complementary role to the questioning by the prosecutors and the defence lawyers. This also points to one advantage of the Chinese trial system, where judges question the witnesses/defendants, over the Anglo-American system, where the decision-maker—jury members cannot ask questions. Judges' effective questioning is also seen in Excerpt 8, where the judge pursues the accuracy in the defendant's description of helping/carrying the victim onto bed.

The analysis also shows the similarities and differences between the judges' and prosecutors' questioning. Defensive responses are observed in both of their defendant examination. Both prosecutors and judges are authoritative participants as shown in Excerpt 3, where the judge demands the defendant make a clear-cut plea, and in Excerpt 10, where the prosecutor demands a straightforward response to how he chased after the victim. Both prosecutors and judges use questioning strategies in defendant examination. For example, in Excerpt 8, the judge successfully reformulates the defendant's description of helping the victim onto the bed to carrying her onto the bed. Similarly, in Excerpt 6, the prosecutor skilfully gets the defendant to admit that the victim fell on ground and bled after being stabbed. Nevertheless, the prosecutors are

still the major questioners in Chinese criminal trials as evidenced by their significantly more turns than the judges and the defence lawyers. As defensive responses are uncommon during defence lawyers' questioning, their questioning style is examined in the next chapter in comparison with prosecutors' questioning.

Chapter 6 Controlled storytelling in the courtroom: Stance conveyance in the narrative construction of testimonies

6.1 Introduction

Narration in a courtroom trial is different from that in daily conversation, as it is usually ‘fragmented’ (Harris, 2001) in the form of question and answer with narrative in one extended turn being very rare, which calls for turn-by-turn analysis to unveil the stance. Different from collaborative narrative construction in daily conversation, in a trial, the questioner and the defendant might hold different, even opposing stances. Under such circumstances, the management of stance alignment may involve strategic consideration as shown in Chapter 4 and Chapter 5. Additionally, both prosecutors and defence lawyers know about the defendants’ stories before the trial as they question the defendants beforehand. Defendant examination serves to construct the defendants’ testimonies before the judges during a trial. Meanwhile, both prosecutors and defence lawyers come to the courtroom with a story to tell. This is the basis for their closing arguments, which are prepared before a trial starts though changes may be made based on what happens in a trial. Both prosecutors and defence lawyers expect to ensure that the testimonies fit the stories in their prepared closing arguments. Therefore, closing arguments should be considered in investigating defendant examination.

This chapter starts with the analysis of the closing arguments, which are delivered sequentially by the prosecutors and defence lawyers after defendant/witness

examination and evidence presentation. In the closing arguments, prosecutors usually explicitly state whether they believe defendants have given truthful or false testimonies during the questioning process, which is important both in presenting their arguments and in giving sentencing suggestions. Though '[w]hether or not a narrative is true in the factual sense is hard to identify by simply looking at the narrative (the text or oral testimony) itself' (Grunewald, 2013, p.369), I'm interested in finding out how the prosecutors display their stances in defendant examination to facilitate the construction of a testimony that is deemed as truthful or false in their closing arguments. The questioning by the defence lawyers is examined for comparison. Though defendants are also questioned by judges in Chinese criminal trials, the judges' questioning is not the focus in this chapter. Meanwhile, the narratives constructed at the questioning stage and those in the closing arguments are compared based on the concept of 'textual travel', or 'the way that texts move through and around institutional processes and are shaped, altered, and appropriated during their journeys' (Heffer et al., 2013, p.4). Therefore, this chapter aims to answer two research questions: 1) How does stance conveyance by the defence lawyers and prosecutors shape the narrative construction of testimonies? 2) How does stance display influence the evolution of testimonies from the questioning stage to the closing arguments?

Studies based on Anglo-American trials focus on the contrasting stories told by the prosecution and the defence (e.g. Cotterill, 2003; Rosulek, 2015; Bartley, 2020). Due to the inquisitorial nature of Chinese criminal trials, the adversariality between prosecutors and defence lawyers is not as obvious as it is in Anglo-American trials.

More importantly, most trials going to the court involve a plea of guilty. Therefore, both sides usually do not disagree on the essential facts. However, we can still see different stories constructed and different strategies for conveying stance used by the prosecutors and the defence lawyers. In this chapter, I compare the prosecutors' and the defence lawyers' examination process regarding the narration of a fight in AA5 (No. 5 assault trial in city A), use of scissors in MC2 (No. 2 murder trial in city C), and the use of knife in AC7 (No. 7 assault trial in city C). Following Gubrium and Holstein (2009), the analysis makes a distinction between 'the whats' ('stories') and 'the hows' ('storytelling'), asking what the focus of a story is, and how the story is told, in particular how the stance display contributes to narrative construction.

This chapter first provides a corpus-based analysis of the closing arguments to illustrate the importance of defendants' testimony in the closing arguments and explain the selection of instances for close examination. Then two sections discuss the narrative construction of testimonies that are evaluated by the prosecutors as truthful and false respectively. The last section provides a discussion based on the analysis.

6.2 A corpus linguistic analysis of the closing arguments

This section provides a corpus linguistic analysis of the closing arguments and demonstrates the prominence of defendants' testimony in the closing arguments. Two sub-corpora were built with the closing arguments by the prosecution (sub-corpus PC) and the defence (sub-corpus DC). Sub-corpus PC has 29,467 tokens and sub-corpus DC has 37,959 tokens. Defendants' testimony used to be the central evidence in Chinese

criminal trials, but Chinese legal experts have been advocating its decentralisation (Yan, 2013; Li, 2015). Nevertheless, it still figures prominently in both sides' closing arguments. '供述(to give) a defendant's testimony' stands out as the only evidence type shared by the wordlists of the 50 most frequent words in the two sub-corpora. In sub-corpus PC, it occurs 141 times as the 23rd most frequent word. In sub-corpus DC, it occurs 131 times as the 32nd most frequent word.

A closer look at the concordance lines reveals that defendants' testimony is often referred to, not only as evidence to establish facts (Figure 6.1), but also as a basis to evaluate the defendants' performance in the trial and consider sentencing (Figure 6.2).

结合 被告人 孙某的 combine with defendant Sun's	供述,	可知 孙某 具有 杀人的 故意 it's known Sun had killing intent
与 被告人 林某 当庭 with defendant Lin's in court	供述	能够 相互 印证, 形成 完整的 证据链条 can mutually verify, form complete evidence chain
被告人 自己 也 defendant himself also	供述,	案发现场 仅有 他 与 被害人 两个人 crime scene only have him and victim two people
根据 被告人 谢某的 according to defendant Xie's	供述,	他 对 跟 李某 发生 纠纷 he to with Li occur conflict
证人 证言, 被告人 witness' testimony, defendant's	供述	等 证据 均 证实 被告人 在 and other evidence all verify defendant in

Figure 6.1 Concordances to show '供述(to give) a defendant's testimony' as evidence to establish facts

归案 以后 能 如实 arrested after can truthfully	供述	自己的 罪行, ... 依法 可以 从轻 his own crime according to law can leniently
他 是 自始至终 都 是 如实 He be always all be truthfully	供述	自己的 罪行, 具有 明显的 悔罪 态度 his own crime have obvious remorse attitude
被告人 归案 之后 能够 如实 defendant arrested after can truthfully	供述	自己的 罪行, 认罪 态度 较 好 his own crime admit guilt attitude relatively good
而且 到案后 能够 如实 and after being arrested can truthfully	供述	自己的 罪行. 那么 今天 在 庭审 过程 当中 his own crime also today in trial process middle
到案后 也 能 如实 after being arrested also can truthfully	供述	自己的 罪行. 根据 中华人民共和国刑法 his own crime according to PRC Criminal Law

Figure 6.2 Concordances to show '供述(to give) a defendant's testimony' as a basis to

evaluate defendant's performance and consider sentencing

Further exploration of the collocates (5L-5R) of ‘供述(to give) a defendant's testimony’ reveals various evaluations of defendants' testimony as shown in Table 6.1.

Table 6.1 Evaluative collocates of ‘供述(to give) a defendant's testimony’ in sub-corpora PC and DC

Sub-corpus PC (29,467 tokens)			Sub-corpus DC (37,959 tokens)		
freq	collocate	translation	freq	collocate	translation
19	如实	truthfully	53	如实	truthfully
9	稳定	consistently	5	稳定	consistently
5	虚假	false			
3	不属实	untruthful			
2	避重就轻	minimizing one's responsibility and avoiding the key issue			

The two subcorpora share two evaluative collocates: ‘如实(truthfully)’ and ‘稳定(consistently)’ with the first one being the most frequent evaluation in both subcorpora. ‘如实 供述’ literally means ‘truthfully testify’ and usually indicates ‘truthfully confess’, but its occurrences in sub-corpora DC and PC are different. In the closing arguments by the defence, ‘truthfully testify/confess’ is mainly used to portray the good character and cooperative attitude of a defendant, which serves to argue for a lighter sentence as shown in Excerpt 1.

Excerpt 1:

辩: 我 认 为 本 案 既 因 婚 姻 家 庭 纠 纷 引 发 的 , 被 害 人 在 案 件 的 起 因

上存在着相应的过错，犯罪后朱某某能够认罪悔罪，能够如实供述犯罪事实，所以依据法律和相关的司法解释，辩护人请求对朱某某从宽处罚。

DL: I think this case was caused by marriage and family dispute. The victim had her share of fault in the cause. After committing the crime, Zhu admitted to his guilt and felt remorseful, truthfully confessed his crime. Therefore, according to law and relevant legal interpretation, the defence counsel requests the court to punish Zhu leniently.

The concordances show that similar expressions are found in 26 out of the 48 closing arguments by the defence lawyers. And the reason is that there is a legal regulation about this. According to the provisions of the third paragraph of Article 67 of the Criminal Law of the People's Republic of China, those who truthfully confess their crimes can be given a lighter punishment. However, the concordances of ‘truthfully testify/confess’ in the closing arguments by the prosecutors show that out of the 19 occurrences, 15 are acknowledging the defendants’ truthful testimonies while four are criticising the defendant NOT giving truthful testimonies. It is found that the prosecution’s statements are always a comment on his/her cooperative attitude or sincerity in admitting to guilt, which serves as one of the conditions to consider for sentencing, as Excerpt 2 shows.

Excerpt 2:

公:被告人 陈某 被 抓获 后 能 如实 供述 自己 的 罪行 , 对 起诉书 指控
的 犯罪 事实 及 罪名 没有 异议 , 案发 后 能够 对 被害人 进行 积极
的 赔偿 达成 了 协议 取得 了 谅解 , 并且 同意 量刑 建议 , 签署 了
认罪 认罚 具结书 可以 依法 从宽 处理 . 建议 对 陈某 判处 有期徒刑
13~15 年 .

P: After being arrested, the defendant Chen truthfully confessed his own crimes
and had no objection to the criminal facts and charges stated in the indictment.
He actively compensated the victim, reached a settlement, and gained
forgiveness. He also agreed to the sentencing proposal and signed a letter of
admission of guilt and acceptance of punishment. Therefore, he can be treated
leniently according to law. It is recommended that Chen be sentenced to 13-15
years in prison.

A broader examination of sub-corpus PC finds that prosecutors not only provide
positive appraisals to defendants' performance in giving testimonies like '如实
(truthfully)' and '稳定(consistently)', but also negative appraisals such as '避重就轻
(minimizing one's responsibility and avoiding the key issue)', '虚假 (false)', and '不
属实(untruthful)'. The examination of the concordance lines of '虚假供述 false
testimony' reveals that in the 49 trials, two defendants (in trials MC2 and AC7) are
explicitly criticised for giving false testimonies. Therefore, corresponding
question-answer sequences in those two trials were selected for a close analysis of
stance conveyance by lawyers in the face of a testimony that is deemed as false by the

prosecution. In addition, one trial was selected randomly (trial AA5) to study closely the construction of testimonies that are considered truthful.

6.3 Narrative construction of truthful testimonies

This section investigates the questioning process in trial AA5 to show how a defendant, who the prosecutor believes is telling the truth, gives his testimony under the control of prosecutors and defence lawyers through different ways to convey their stance, and how his testimony is reconstructed in the closing arguments. The analysis demonstrates that the prosecutor and defence lawyer not only differ in their way of stance conveyance but also their story focus. In comparing the narratives constructed during defendant examination and in the closing arguments, both prosecutors and defence lawyers are found to control narrative construction in the courtroom. Moreover, prosecutors in their closing arguments transform the testimonies constructed during the questioning stage.

6.3.1 Transforming a truthful testimony

In the closing argument, the prosecutor claims that the defendant's testimony can be corroborated by all the other evidence presented in court and argues for a conviction for assault, while the defence argues for not guilty based on self-defence. The following narrative by the prosecution in the closing argument as a factual basis for the conviction for assault:

Excerpt 3 (Its Chinese version can be found in Appendix D):

P: Defendant Xue cannot properly manage conflict with his colleagues. Because of

a minor physical contact due to a minor issue, he challenged them to a fight. After the victims Guo and Tian went downstairs, he brought with himself a knife downstairs and again had a spat with the two people and fought with each other. When both parties stopped and turned to leave the scene, that is when the victim Guo was already leaving, to revenge and vent frustration, (he) stabbed Guo with the knife from behind by surprise, which resulted in Guo's neck injury and his subsequent death due to hemorrhagic shock.

Negative stances are embodied in the above narrative. The first sentence built with a negative structure of 'cannot' attributes blame to the defendant. The use of 'minor physical contact' and 'minor issue' to describe the prelude to the main conflict shows the prosecutor's negative affective stance towards the defendant's behaviour. A seemingly neutral description 'he brought with himself a knife downstairs' implies that the defendant had premeditation to harm the victims given that this event is narrated after saying he challenged the victims to a fight and before narrating another spat and fight between the two sides. The description of 'to revenge and vent frustration' and 'stabbed...by surprise' portrays the defendant as a man harbouring malicious thoughts. The defendant is clearly indicated as the agent carrying out the key actions including challenging the victims to a fight and stabbing the victim. The narrative functions to manage 'characterisation'(Heffer, 2012, p.268) and present a very negative image of the defendant.

The remainder of this section elaborates on the narrative construction of the

‘minor physical contact’ in the defendant examination by the prosecutor. This analysis demonstrates that the truthful testimony is constructed under the control of the prosecutor through the display of her stances. The questioning process by the defence is provided for comparison in the next section, which constructs a different narrative.

The following excerpt is about the ‘minor physical contact’ mentioned in the closing argument. This happened after a verbal altercation between the defendant and the victim and was the prelude to the fight that led to the victim’s death.

Excerpt 4:

102. 公: 嗯, 然后 呢?(1s)

P: mm then Q

他 说了 之后 你们 之间 有 什么 冲突 没有?

he say-PST after you between have any conflict neg-have

‘Mm, then? (1s) Was there any conflict between you after he said (that)?’

103. 被: 说 完了 以后 我 就:: 跟 他 两个::

D: say over after I just with him two

我 就 说 他 (.) 你- ‘你 妈’

I just say him you your mom

是 不 是 有 病 啊

be not be have disease PRT

我 就 就 跟 他- 发生- 就 说了 一句

I just just with him have just say-PST one sentence

脏- 粗话 脏话 嘛

dirty foul language dirty words PRT

'After he said (that), I just:: to them two:: I just told him (.) you-° you son of a bitch°

*what's your problem?' Just like that, I and him- had-(I) just used one sentence of
dirty- foul language, dirty words.'*

104. 公:你 说 的 粗话 啊

P: you use PRT foul language PRT

'You used foul language.'

105. 被:嗯 我 说了

D: mm I say-PST

<后来 就 两个 就 你 一句 我 一句

later then two then you one sentence I one sentence

就 骂起来了=

so curse-PST

*'Mm, I did<then the two of us started arguing, and then we were cursing at each
other='*

106. 公:=嗯=

P: =Mm=

107. 被:=骂起来了,

D: curse-PST

田某 就(.) 田某 就 帮着 他 两个人 一起 骂 我 =

Tian then Tian then help him two people together curse me

'= (We) started to curse each other, Tian then(.) Tian then helped him and they both were cursing at me='

108. 公: =嗯=

P:=Mm=

109. 被:=后来 后来 骂着 骂着 他 看着 他 看着 田某 帮着 他,

D:=later later curse curse he see he see Tian help him

帮着 他 嘛 他 就 不 知道 怎么

help him PRT he then not know how

他 就 从 箱子 那边 找了 一个 那个 臂力棒

he then from box over find-PST one that arm force rod

带 铁 的 那个 棒子 就 就 拿 过来

containing iron PRT that rod then then grab over

我 在 床上, 拿 过来 打 我

I in bed grab over beat me

'Later later as we continued to argue, he saw he saw that Tian was helping him, helping him, and then he, I don't know how, he went to a box and found an arm force rod, a rod containing iron. He then then took it and beat me with it while I was lying in bed.'

110. 公:你 当时 在 床上 躺着 呢?

P: you at the time in bed lying PRT

'You were lying in bed at that time?'

In turn 102, the prosecutor asks the defendant ‘then?’, a very open question inviting a narrative, but there is a one-second silence, which means that the defendant does not give a response when it is expected. The prosecutor follows up with a more specific and more controlling polar question (Was there any conflict between you after he said (that)?). In response, the defendant gives a narrative about the conflict rather than simply confirming that a conflict occurred. This shows that the defendant orients to the prior turn as inviting a free narrative rather than seeking confirmation. And this is a correct interpretation because the continuer ‘mm’ in turns 106 and 108 shows that the prosecutor expects and allows a free narrative. The narrative in turn 103 includes reported speech and an explanation of the reported speech ‘dirty words’. The reported speech was delivered in a careful manner as the defendant obviously lowers the volume when he says the dirty words (you son of a bitch) in front of the prosecutor. The reported speech could have been omitted, but it is a useful resource for a narrator to enhance credibility and authenticity (Shuman, 2012). In turn 104, the prosecutor repeats the last part of the defendant’s response ‘You used foul language’. But the particle in this declarative utterance ‘啊(a)’ indicates only a weak intention to seek confirmation but mainly expresses unexpectedness (Jin, 2011, p.57). Thus, it prompts further story-telling. Meanwhile, through the repetition, the defendant’s fault is highlighted, which implies the prosecutor’s disaffiliation with the defendant’s behaviour. Showing alignment, the defendant gives a minimal confirmation ‘mm, I did’ first and follows it with a hurried start of the narrative development. This narrative explains how the altercation developed into a physical fight. The agent of different

actions in the narrative changes from ‘the two of us’ (turn 105) to ‘Tian’ and ‘they’ (turn 107), and then to ‘he’ (turn 109), which emphasizes the fault on the part of the victims. The analysis shows that the ‘minor physical contact’ story was told under the prosecutor’s solicitation. The story-entry turns also reveal the stances of both speakers. The prosecutor allows the defendant to tell the story and stresses the defendant’s fault in the conflict. The defendant shows cooperation in telling the story, but he defends himself by blaming the other side for starting the physical conflict. Then in turns 110-143 the prosecutor unpacks the story as exemplified in turn 110 by soliciting every detail of it including which bunk bed it was, who slept on the other bed of the bunk bed, how they found a rod to beat him, whose rod it was, how he fought back.

The following excerpt (turns 144-163) examines the story-exit of the ‘minor physical contact’. Turns 144-155 show that according to the defendant’s responses, the physical contact is not a minor one.

Excerpt 5:

144. 公:他们 都 打 你 哪 了 ?

P: they all beat you where PST

‘Where did they beat you?’

145. 被:嗯 反正 当时 照片上 身上 头上 还有 到处 都是 青的/

D: mm anyway at the time photo body head and everywhere all bruises

‘Mm, anyway, the photo shows that I had bruises all over my body and head/’

146. 公:就是 郭某 用 拳头

P: that is Guo use fists

'That is Guo used fists'

147. 被: 呃 拳 /

D: *Er ° Fists ° /*

148. 公: 就是 用 拳头 是吧 打 在 你 头部 身上(.) 都/

P: that's use fists right beat in your head body all

'So (Guo) beat you with his fists, right? He beat you in the head and body(.) all/

149. 被: 最开始 拿 铁棒 打 的

D: very beginning grab iron rod beat PRT

'At first he beat me with an iron rod'

150. 公: 嗯

P: *Mm*

151. 被: 嗯

D: *Mm*

152. 公: 打了 有 几 分钟? (2s) 有 多久 ?

P: beat-PST have how many minutes have how long

'How many minutes did the beating last? (2s) How long?'

153. 被: 从 开始 从 开始 拿 棒子 到 最后

D: from beginning from beginning take rod to the end

估计 有 小 10 分钟 吧 =

estimate have nearly 10 minutes PRT

'From the beginning from the beginning when he took the rod until the end, it

lasted nearly 10 minutes=

154. 公:=有 10 分钟 的

P: have 10 minutes PRT

'=10 minutes'

155. 被:嗯

D: *Mm*

156. 公:后来 怎么 停 的 手 了 ?

P: later how stop PRT hand PST

'How did it stop in the end?'

157. 被:(.)最 开始- 后来 打 打 打 的 时候,

D: very beginning later beat beat beat PRT time

边 打 边 骂 嘛 (.)

while beat while curse PRT

说 说 他 说 让 我 别 在 他 地盘上 跳 什么 这些

say say he say let me not on his territory hop what these

'(.)At the very beginning- later (when he) beat, beat, beat, he was cursing at me

while beating me (.) (he)said, said, he said I'd better not act arrogantly on his

territory, things like that.'

158. 公:嗯

P: *Mm*

159. 被:不要 在 他 地盘上 跳(.) 不要 嚣张 这些

D: not on his territory hop not arrogant these

他 说 信 不 信 我 还 叫 人 过 来 打 我 嘛

He say believe not believe I still call people over beat me PRT

'Don't act arrogantly on his territory(.)don't be arrogant, things like that, and he said believe or not I (he) will call more people to beat me up.'

160. 公:就是 怎么 停 的 手?

P: just be how stop PRT hand

'Just how did it stop?'

161. 被:就 最后 打 打了 一会儿

D: just at last beat beat-PST a while

他 没 见 我- 见 我 没 还手 就 停 手 了

He not see me see me not fight back then stop hand PST

'At last, after beating, beating for a while, he did not see me- he saw me not fight back, then he stopped.'

162. 公:他们 就(.) 停 手 了?

P: they then stop hand PST

'They then (.) stopped beating you?'

163. 被:嗯

D: Mm

The prosecutor asks, 'Where did they beat you?' Earlier in the questioning, the defendant described the entire process of the victim grabbing an iron rod and beating him with it first, and then with fists. The defendant's response in turn 145 shows his

emphasis on the severe result of the physical contact (I had bruises all over my body and head), but the prosecutor's interruption prevents it from standing out as important. After the interruption, the prosecutor says that the victim used fists to beat him, which omits the description about the use of the iron rod. Before the defendant attempts to respond to this description, the prosecutor highlights 'fists' again by embedding it in a tag question based on the defendant's response in turn 145 (So (Guo) beat you with his fists, right? He beat you in the head and body). This time she was interrupted by the defendant, who corrects her that an iron rod was used first. This again highlights the severity of the physical contact. Then the prosecutor registers with 'mm' and does not question further along the way. Instead, she turns to talk about the length of the fight, which is a preparatory question for the story exit. Interestingly, there is a two-second silence before the prosecutor asks the question again. It might be because the defendant was trying to come up with an accurate number as the first time the prosecutor asks 'how many minutes'. Then the prosecutor rephrases it as 'how long'. The defendant does not simply give a number. He calculated the time 'from the beginning when he (the victim) took the rod' to extend the timeframe as much as possible. And 'nearly 10 minutes', which is long in light of an intense fight with an iron rod being the weapon. The prosecutor repeats the time and turns to ask about its termination (How did it stop in the end). But the defendant attempts to bring back the story and starts the reply with 'at the beginning' but cuts it off quickly and replaces it with 'later' to show alignment. Nevertheless, he continues to give more details about the fight through reported speech, which involves a threat by the victim. The prosecutor utters a continuer 'mm'. Then the

defendant repeats the reported speech (turn 159). In turn 160, the prosecutor shows no uptake of this information and repeats her question about how the fight stopped prefaced with ‘就是 (just be)’, which suggests that the prior response is deviant from the question and implies the prosecutor’s dissatisfaction with the response. Then in turn 161, the defendant prefaced his response with ‘at last’, but he talks about ‘beating for a while’ before saying how it stopped. The prosecutor then repeats the ending of the story in a declarative question and gets a confirmation from the defendant. The questioning about the ‘minor physical contact’ officially ends and then the prosecutor starts to solicit the key story about the fight that led to the victim’s death.

This excerpt shows that the defendant attempts to portray a non-minor physical contact. According to the defendant’s responses, the ‘minor physical contact’ lasted 10 minutes, involved the use of an ‘iron rod’ and resulted in bruises on the defendant’s head and body. On the other hand, the prosecutor downplays its severity through interruption, toning down the severity (emphasising the use of fists instead of the iron rod), ignoring certain details (threat), and fast-tracking the storytelling by turning to discussing its ending. It is unclear how intense the physical contact was, but it is described as a ‘minor physical contact’ in the closing argument by the prosecutor, which silences the defendant’s voice. In this sense, major transformation is found in the story told in the closing argument by the prosecutor compared to the narrative constructed in the questioning of the defendant.

This analysis shows that the prosecutor is in control of the events to be highlighted and those to be marginalised through the questioning, which can be viewed as

‘emplotment’, which is ‘the process by which a meaningful story is drawn from a heterogeneous collection of events and incidents’ (Heffer, 2012, p.275). The prosecutor comes to the court with a story to tell. When there is any discrepancy found between the defendant’s testimony and his story, he chooses to convey a divergent stance by toning it down, disrupting it or ignoring it in defendant examination, whether the defendant is telling the truth or not. The defence lawyer’s questioning reveals the other side of the story and adopts a different strategy in stance display to facilitate the storytelling.

6.3.2 The other side of the story revealed by the defence lawyer

This section examines the narrative construction by the defence regarding the ‘minor physical contact’. This is demonstrated with Excerpt 6 below. The defence lawyer does not solicit further details about the physical contact, which shows that both sides do not have a disagreement about what happened during the physical contact. However, the defence lawyer still manages to construct a different narrative by discussing the defendant’s feelings and thoughts.

Excerpt 6:

11. 辯: 你们在楼上第一次打-呃 打斗的过程中,

DL: you in upstairs first time fi er fight PRT process middle

你当时 感觉到有 危险 有 压力 吗?

you at the time feel have danger have pressure Q

<一个人 面对 他们 两个人

one person face they two people

'During the first fight upstairs, did you feel any danger or pressure at the time, <facing two people alone?

12. 被:有 有/

D: have have

'Yes yes/'

13. 公: 审判长

P: *Your Honour.*

14. 审:这个 辩护人 注意 你的 发问 方式 好吧?

J: this defence counsel pay attention to your questioning manner alright

你 有 什么 问题 你 就 直接 问,

you have any question you just directly ask

不要 把 你 这个 答案 放 在 这个 问题 里,

not BA your this answer put in this question inside

继续 提问 吧

continue questioning PRT

'Defence counsel, please be careful with the way you question, alright? If you have a question, just ask it directly. Don't put your answer in the question. Please continue your questioning.'

15. 辩:(3s)嗯 你 下楼 的 时候 为什么 要 带上 水果刀?

DL: mm you go downstairs PRT time why want take fruit knife

'(3s) Mm, when you went downstairs, why did you bring the fruit knife?'

16. 被: 就 就/

D: *just just/*

17. 辩: 当时 你 怎么 想的?

DL: at the time you how think

'What were you thinking at the time?'

18. 被: 最 开始 我 想法 就是 就是

D: very beginning my thought just be just be

那个 那个 就是 就是 就是 给 自己 壮壮胆,

that that just be just be just be for myself bolster courage

最后 扎 他, 我 就是(.) 最后 才 产生 的 想法

at last stab him I just be at last only arise PRT thought

最 开始 根本都 没有 想 过 要 去 扎 扎 他 这些

very beginning at all neg-have think EXP want to stab stab him these

'At the very beginning, I just just that that just just just wanted to bolster my courage, and only later did I (.) come up with the idea to stab him. I didn't even think about stabbing stabbing him at the beginning.'

The defence lawyer starts by asking about the defendant's feelings and thoughts after the 'minor physical contact', and he intends to tell the story for the defendant with a leading question in turn 11, which is most obviously seen in the hurried start (<facing two people alone) after the yes-no question. Before the defendant could give a full response to it, the question is objected to by the prosecutor and criticised by the

judge. Then the defence lawyer pauses for three seconds to reformulate his question with a wh-question (when you went downstairs, why did you bring the fruit knife?). In consideration of the sequential position, the seemingly neutral why-question embodies the defence lawyer's suggestion to talk about the defendant's fear and stress as an excuse to bring a knife with him to go downstairs, which is the defendant's response in turn 18. In light of the narrative structure developed by Harris (2001) based on Labov's (1972) work, which includes orientation, core narrative, elaboration and point, while the prosecution solicits information about the orientation, core narrative and elaboration, the defence stresses the point, that is the 'significance of the narrative account for the larger trial narrative' (Harris, 2001, p.60). By articulating the point, the defence constructs a different narrative.

The story about the 'minor physical contact' is told by the defence in the closing argument as shown in Excerpt 7 (Its Chinese version can be found in Appendix D). A clear connection between the questioning and closing argument by the defence lawyer can be seen.

Excerpt 7:

DL: The cause of the incident was that Guo and Tian (victims) got into an argument with Xue (defendant) when they returned to their dormitory after drinking. After the argument, Guo first used a rod to beat Xue. During the process of both sides fighting over the rod, Guo and Tian formed a two-on-one situation, and Guo and Tian clearly held a dominant position.

The narrative emphasises the strength difference between the two sides and highlights the weakness of the defendant in the confrontation, which changes the nature of the ‘minor physical contact’ and paves the way for the storytelling about carrying a knife downstairs (Excerpt 8). The much more personal description by the defence where the feelings and thoughts of the defendant are included, totally changes the story about the same act of carrying a knife to go downstairs. It shows the power of narrative.

Excerpt 8 (Its Chinese version can be found in Appendix D):

DL: We noticed a detail in the case that although he took the knife downstairs, initially they didn't use the knife, but instead threw it on the ground. It was only after being beaten for the second time that he picked up the knife. This fully illustrates that the reason that defendant Xue took the fruit knife downstairs was not for the purpose of harming the victim, but only for self-defence. It was because he felt in danger after the first beating and realized that he was at a disadvantage that he took the knife downstairs.

Section 6.3 demonstrates that though both the defence and the prosecution have no disagreement on the essential facts about the physical contact, they construct two different narratives. While the prosecutor stresses what the defendant did, the defence lawyer highlights how the defendant felt and thought. During the questioning stage, though the prosecution shows alignment in the questioning process by allowing the

defendant to give free narratives, their disaffiliation is embodied when they tone down, ignore, or interrupt the responses about a certain event that does not fit their story. On the other hand, the defence tries to control the storytelling through leading questions and directs the defendant to talk about their feelings and thoughts. In the closing arguments, the seemingly objective narrative by the prosecution is filled with evaluation. The defence tries to construct a narrative with a more personal touch where the defendant is portrayed as weak and helpless and attacks to defend themselves in the face of danger. In terms of textual travel, the defence is relatively more consistent from the questioning stage to the closing argument, as both feature the same story. However, transformation is seen in the narrative constructed during the prosecutor's questioning and his closing argument. Though the prosecutor controls the questioning process, he gives space for the defendant to tell his story. As a result, two stories are constructed: one is the defendant's version and the other is the prosecutor's version, but the narrative constructed during the questioning stage is reconstructed by the prosecutor in the closing argument to benefit the prosecution's argument.

6.4 Narrative construction of false testimonies

This section looks at how a testimony deemed to be false by the prosecution is dealt with at the questioning stage and in the closing argument. Two trials (MC2 and AC7) are under investigation in this section. They are chosen because the prosecutors adopt different strategies in the display of their stance towards a testimony deemed as false. Correspondingly, the defence lawyers also respond differently. Nevertheless, in both

trials, when the testimony is first discussed, the prosecutors withhold their judgement.

6.4.1 Withholding judgment towards false testimonies

This section shows the narrative construction of two testimonies that are evaluated as false by the prosecutors. Though, according to the closing arguments, the prosecutors believe the defendants are lying during defendant examination, they choose not to show a disaffiliative stance in the beginning or even during the whole questioning process.

The prosecutor explicitly states in the closing argument of trial MC2 that the defendant gives a false testimony regarding a pair of scissors as shown in Excerpt 9.

Excerpt 9 (Its Chinese version can be found in Appendix D):

P: During the court investigation today, the defendant changed his testimony and claimed that the victim had stabbed him with scissors, and he had used a kitchen knife to stab the victim for self-defence. We hold that based on the physical evidence at the scene and crime scene investigation, it can be seen that the defendant gave a false testimony about this. No scissors were seized in the crime scene. After a comprehensive investigation, no scissors were found at the scene. No evidence was found to support the defendant's claim of a struggle that would have caused such marks as he described.

Evaluation of the defendant's credibility can be discerned between the lines, which shows the prosecutor's disaffiliation with the defendant. For example, the

description that the defendant changed his testimony shows the inconsistency of the defendant's testimony. The defendant's testimony about the scissors is defined as 'false' to show the defendant's dishonesty. And in showing the evidence that supports the prosecutor's argument, three negative structures are used consecutively 'no scissors were seized, 'no scissors were found' 'no evidence was found' to strengthen the argument. During the questioning stage, corpus tool *AntConc* shows that the word 'scissors' occurs 38 times in two sequences (turns 193-289, turns 343-356). The following excerpt starts with the entry point of the scissors story.

Excerpt 10:

193. 公:然后 呢 ?

P: then Q

'Then?'

194. 被:(1s)然后 谢某某 就 去 拿 剪刀

D: then Xie then go take scissors

'(1s)Then Xie went to get scissors.'

195. 公:被害人 去 拿了 剪刀

P: victim go take-PST scissors

'The victim went to get scissors.'

196. 被:她 拿 剪刀 把 我 把 我::: 颈部 想 把 我(.) 杀,

D: she take scissors BA me BA my neck want BA me kill

我 就 怕 了

I so scared-PST

我 就 去(.) 跑 去 阳台 拿 菜刀 嘛 就这样

I so go run to balcony take kitchen knife PRT just like this

'She took scissors, my, my::: neck, (she) tried to kill me(.), so I was scared, so I went (.) ran to the balcony to get a kitchen knife, that's how it was.'

197. 公: (3s)你 拿 菜刀 之前 被害人 是 清醒的 [是 吗 ?

P: you take kitchen knife before victim be conscious right

'(3s) Before you got the knife, the victim was conscious, [right?'

198. 被: [她 清醒的

D: she conscious

'[She was conscious.'

199. 公: 她 是 清醒的,

P: she be conscious,

然后 是 她 先 去 拿了 剪刀 准备 杀 你?

then be she first go take-PST scissors prepare kill you

'She was conscious, and she went to get scissors first and was about to kill you?'

(9 turns discussing where the victim took the scissors are omitted here)

209. 公: 嗯, 她 当时 拿 剪刀 怎么样 对 着 你 的 ?

P: mm she at the time take scissors how face you PRT

'Mm, how did she hold the scissors in front of you?'

210. 被: 就是 她 过来 想 刺 我 嘛,

D: that's she come over want stab me PRT

我就跑出去阳台拿菜刀, 这样

I so run out balcony take kitchen knife like this

'She came towards me trying to stab me, so I ran to the balcony to get the kitchen knife, that's how it was.'

211. 公:她想刺你,

P: she want stab you

然后你跑到外面拿了菜刀 是吧?

then you run to outside take-PST kitchen knife right

'She tried to stab you, and then you ran outside to get a knife, right?'

212. 被:我当时 我这个手 痛 我怎么打的了-

D: I at the time I this hand pain I how beat-

我打不赢她呀

I beat not win her PRT

'My hand was in pain at the time, how could I fight- I couldn't fight her'

213. 公:嗯

P: Mm

214. 被:我这手 很痛,

D: my this hand very painful

又出血, 又出了 很多血

also bleeding also bleed-PST much blood

'My hand was in great pain, and bleeding, bleeding a lot.'

215. 公:你拿了 菜刀 之后 是 直接 砍 她 吗?

P: you take-PST kitchen knife after be directly stab her Q

'Did you stab her with the kitchen knife immediately after you got it?'

216. 被:我 就- 当时 她 拿 剪刀 刺 我 刺 我/

D: I just at the time she take scissors stab me stab me

'I just-at the time she was trying to stab me with the scissors/'

217. 公:刺到 你 了 没有?

P: stab you PST neg-have

'Did she stab you?'

218. 被: 刺到 我- 刺到 我- 没 刺过 我

D: stab me stab me not stab through me

我 就 闪 闪 过 一 边 去 了

I just dodge dodge ASP one side to PST

'(She) stabbed me-stabbed me- (she) didn't stab through me. I dodged to the other side.'

219. 公:没有 刺到 你, 你 躲开了 是吧?

P: neg-have stab you you dodge-PST right

'(She) didn't stab you, you dodged, right?'

220. 被:躲开了 让- 我 让开 了

D: dodge-PST give I give way PST

'I dodged, moved away from her'

221. 公:然后 菜刀, 当时 你 拿 菜刀 反击 了?

P: then kitchen knife at the time you take kitchen knife fight back PST

'Then the kitchen knife, at the time you use the kitchen knife to fight back?'

222. 被: 嗯 我 就 用 菜刀 就/

D: mm I then use kitchen knife then

'Mm, I then used the kitchen knife then/'

223. 公: 你 用 菜刀 砍 她 什么 部位?

P: you use kitchen knife cut her what body part

'Which part of her did you chop with the kitchen knife?'

224. 被: 开始 我 这边 手 没有 力, 这边 手 痛,

D: at first I this side hand neg-have strength this side hand pain

这边 手 没有 力 嘛,

this side hand neg-have strength PRT

我 就 这个 手 也 砍 不 准,

I so this hand also cut not precise

砍 了 一 刀, 发空了.

cut PST one knife miss-PST

然后 她 手里 还 拿 个 剪刀 啊,

then she hand still take M scissors PRT

如果 我 不 防备 她,

if I not defend against her

我 就 给 她 拿 剪刀 把 我 捅 死/

I would give her take scissors BA me stab death

'At first, my hand on this side was weak, the hand was painful, the hand was weak,

so I couldn't aim accurately with that hand, I swung the knife once, and missed.

Then she still had a pair of scissors in her hand, if I didn't defend myself, she could have stabbed me to death with the scissors/’

225. 公:直接 回答 我的 问题 ,

P: directly answer my question

你 用 菜刀 砍 她 什么 部位?

you use kitchen knife cut her what body part

‘Answer my question directly, what part of her did you cut with the kitchen knife?’

226. 被:后来 我 就 砍 了 她 颈部 , 也 是 轻轻地 划 了 ,

D: later I then cut PST her neck also be lightly cut PST

呃, 也 不 是 竖 刀 ,

er also not be vertical knife

也 是(.) 一边 划 了 一 刀.

also be one side cut PST one knife

‘I used the knife to cut her neck, but only lightly, er, I didn't stab her, it was(.) one cut on each side.

227. 公:一边 划 了 一 刀 ?

P: one side cut PST one knife

‘One cut on each side?’

228. 被: 嗯 .

D: Mm.

229. 公:当时 她 是 用 剪刀 准备 刺 你 是吧?

P: at the time she be use scissors prepare stab you right

'She prepares to stab you with the scissors at that time, right?'

230. 被:对, 她 就 用 剪刀 ,

D: right she then use scissors

如果 她 不 用 剪刀 我 就 不会(.)

if she not use scissors I then would not

跑 去 阳台 拿 菜刀 的 , 就 这样.

run to balcony take kitchen knife PRT just like this

'Yes, she used scissors. If she didn't use scissors, I wouldn't have run to the balcony to grab the kitchen knife. That's how it was.'

231. 公:当时 她 剪刀 是 怎么 拿着 呢 ?

P: at the time she scissors be how hold Q

'How was she holding the scissors at that time?'

The discussion of scissors is initiated by the defendant in turn 194. Then the prosecutor repeats the defendant's response verbatim, except she specifies 'she' as 'the victim'. The repetition in a non-question-intonation is accompanied with a very calm prosody and seems to show a neutral stance. The response in turn 196 shows that the defendant interprets the repetition as registering his response, so he takes the floor back and continues the storytelling. There is no account or defence in the response, which shows that the defendant does not detect any disaffiliation in the repetition in the prior turn. In turn 197, the prosecutor asks whether the victim was conscious back then,

which does not seem to relate to the topic of scissors. Then the prosecutor circles back to the scissors discussion in turn 199, which shows that the question in turn 197 is to seek confirmation on a prerequisite for the defendant to get scissors to attack the defendant. Then from turns 199 to 209, the prosecutor asks a series of questions about where the victim took the scissors. In turn 209, she asks a specific question (how did she hold the scissors in front of you). In response, the defendant does not give a relevant response, but tells a vague story that the victim was trying to kill the defendant with the scissors and the defendant was so scared as to get a kitchen knife, which was basically the same as the response in turn 196. The prosecutor registers the response in turn 211 without demanding details required by her question and gives a continuer in turn 213 as the defendant continues his storytelling without giving more details about how the victim held the scissors. Then in turn 215 when the prosecutor asks, “did you stab her with the kitchen knife immediately after you got it?”, the defendant again fails to give a direct answer, but vaguely describes the victim’s behaviour (at the time she was trying to stab me with the scissors). The prosecutor again shows alignment and follows his story line to ask, ‘Did she stab you?’. It is not until turn 225 that the prosecutor for the first time demands that the defendant answers her question directly, but the question is not about the scissors. By comparison, when they discuss the scissors, the prosecutor tends to follow the defendant in the storytelling by showing alignment rather than controlling the storytelling. The prosecutor returns to the topic of the scissors in turn 229 and continues her line of questioning about how the victim held the scissors (turn 231), which was first asked in turn 209.

This analysis demonstrates the coping strategy of the prosecutor who was ambushed by a testimony. This testimony was not given during the pre-trial interrogation of the defendant, as she later mentioned (Excerpt 11). The analysis shows that she tries to clarify details about it without showing her disbelief or scepticism. She displays structural alignment most of the time even when the defendant provides an evasive or deviant response. No disaffiliation can be identified in her language. At this point, she seems to acknowledge the existence of the scissors. And her engaged discussion of the topic facilitates the development of the testimony, which she believes to be false. As the questioning goes further and she collects more information about this new story, she starts to display her stance more explicitly as shown in Excerpt 11, which is the exit of the scissors story.

Excerpt 11: (Note: word: The double underline indicates loud sound relating to surrounding talk; word: The underline indicates speaker emphasis.)

343. 公:她 是 坐 起来 的(.) 她 怎么 坐着 的? (2s) 她 坐 在 哪里? (6s)

P: she be sit up PRT she how sit PRT she sit in where

回答 我的 问题, 她 是 躺着 的 还是 坐着 的 ?

answer my question she be lying PRT or sitting PRT

'She was sitting up(.) how was she sitting? (2s) Where was she sitting? (6s)

Answer my question. *was she lying down or sitting up?'*

344. 被:(2s)她 斜着的 嘛

D: she slanted PRT

‘(2s) She was sitting slanted.’

345. 公:斜着的 是吗?(1s) 当时 她 已经 不能 反抗了 是吗? (2s)

P: slanted right at the time she already can't fight back-PST right

被害人 到底 有没有 拿 剪刀 ? (5s)

victim after all have-neg-have take scissors

回答 问题, 被害人 到底 有没有 拿 剪刀 ?

answer question victim after all have-neg-have take scissors

‘Slanted, right? (1s) she was already unable to fight back at that time, right? (2s)

did the victim take scissors after all? (5s) answer the question, did the victim take scissors after all?’

346. 被: (.)她 拿了 一把 剪刀 啊

D: she take-PST one scissors PRT

‘(.) She took a pair of scissors.’

347. 公:是 在 你 拿 刀 之前 , 拿了 剪刀 去 捅刺 你 吗? (2s)

P: be in you take knife before take-PST scissors to stab you Q

是 在 案发 当时 拿 剪刀 要 去 袭击 你 吗?

be in occurrence of the case at the time take scissors want to attack you Q

有没有? (6s) 说话, 有没有 ?

have-neg-have speak have-neg-have

‘Did she take the scissors to stab you before you took the knife? (2s) did she take the scissors to attack you at the time of the incident? Yes or no? (6s) speak, yes or no?’

348. 被: 有 .

D: Yes.

349. 公:当时 (.) 拿 剪刀 准备 袭击 你, 是吗 ?

P:at the time take scissors prepare attack you right

'At the time (.) she took the scissors to attack you, right?'

350. 被: 对 .

D: Yes.

351. 公:为什么 公安 机关 提审 的 时候

P: why public security organ interrogate PRT time

和 检察院 提审 的 时候 你 没有 说 过 这个 细节,

and procuratorate interrogate PRT time you neg-have talk ASP this detail

为什么? (9s)回答 为什么? 你 解释 一下

why answer why you explain a bit

'Why didn't you mention this detail during the interrogations by the public security organ and the procuratorate? Why? (9s) Answer (me) why? Explain why.'

352. 被:(2s) 当时 提审 我 的 时候, 我 记不起 了

D: at the time interrogate me PRT time I remember not PST

'(2s) I couldn't remember at the time of the interrogation.'

353. 公:那 为什么 隔了 这么 久 你 反而 记起来 了 呢?

P:in that case why separate-PST this long you instead remember CRS Q

(3s)提审 你 也 不 是 一次 两次 了

interrogate you also not be once twice PST

这么 多 次 为什么 没 记起来 ?

so many times why not remember

为什么 现在 突然 想起来 了 呢 ?

why now suddenly remember PST Q

'In that case, why do you remember now after such a long time? (3s) (we) interrogated you not just once or twice, for so many times, why didn't you remember (it)? Why do you suddenly remember now?'

354. 被:(2s)当时 我 脑子 很 乱 很 糊涂的

D: at the time my brain very confused very muddled

'(2s) At that time, my mind was very confused, in chaos.'

355. 公:(2s)现在 脑子 不 乱 了 ? (9s)

P: now brain not confused CRS

你 拿 刀 砍了 被害人 几 刀 ?

you take knife stab-PST victim how many knife

'(2s) Now your mind is not confused? (9s) how many times did you stab the victim with the knife?'

356. 被:三 刀

D: three knife

'Three times.'

At the beginning of the sequence (turn 343), the prosecutor asks about the victim's situation after the defendant beat and stabbed her. At this point, the narration of the

murder story is drawing to an end. Then in turn 345, after repeating the defendant's response in a tag question without waiting for an answer, the prosecutor asks a follow-up question (she was already unable to fight back at that time, right?), but after two-second's silence, the defendant does not reply. However, without waiting longer for the defendant to answer the question, the prosecutor returns to the topic of the scissors, by asking the defendant 'did the victim take scissors after all?' The word '到底 (after all)' suggests that the prosecutor is seeking a final and honest answer to the question. Then there is a five-second silence when she is waiting for an answer from the defendant, who, however, fails to produce one. Then the prosecutor demands explicitly ('answer the question') and repeats the question word by word. The defendant affirms that 'she took a pair of scissors' after a minor pause in turn 346. Then the prosecutor asks a series of related questions in turn 347, but no answer is produced two seconds after the first question and six seconds after the second question. At last, the prosecutor demands 'speak' in a loud voice and follows up with a short but forceful question 'yes or no?' The turn design including asking the same question twice, a short but forceful question, and the high volume and harsh tones accompanying the questions, demonstrates the prosecutor's disaffiliation with the defendant. After a long silence, in the end, the defendant confirms with a minimum answer 'Yes'. In turn 349, the prosecutor asks again the question in turn 347 in a tag question (At the time (.) she took the scissors to attack you, right?). After obtaining the defendant's confirmation, she finally confronts the defendant with his inconsistent testimony (turn 351). And it is followed by a nine-second silence, when the defendant produces no response. Then the

prosecutor demands explicitly ‘Answer (me) why?’. After two seconds, the defendant says he didn’t remember back then. Then the prosecutor upgrades the expression of her disbelief by asking a series of why questions, which implies the incredibility in his response in the prior turn. In response, the defendant says he was not clear-minded, shifting from no memory to the confused state of mind. Then the prosecutor asks a declarative question sarcastically ‘Now your mind is not confused?’, to which the defendant gives no response. After that, the prosecutor moves on to a different topic. The story about the scissors ends with the prosecutor’s confrontation and the defendant’s silence. And the story is labelled as a false testimony in the closing argument by the prosecutor as presented at the beginning of this section. The defence lawyer did not ask any question about the scissors, nor did the defendant mention the topic again when he was questioned by the defence lawyer.

Interestingly, the prosecutor in the receipt of a false testimony might choose to show acknowledgement without any confrontation throughout the questioning process. The following excerpt is taken from defendant questioning by the prosecutor in trial AC7. Before this sequence, the prosecutor asks how the conflict started between the defendant and the victims. And the defendant gives a free narrative until the point when he took out a knife to attack a victim.

Excerpt 12:

41. 公:那 刺了 他 几 刀 啊?

P: in that case stab-PST him how many knife PRT

'In that case, how many times did you stab him?'

42. 被: 当时 就是 刺 了 一 刀.

D: at the time just be stab PST one knife

'At the time, I just stabbed once.'

43. 公: 嗯 (1s) [那 除了 被 你 刺] 这 个 人 你 还

P: mm in that case besides BEI you stab] this person you also

'Mm(1s) [in that case besides stabbing] this person, you also'

44. 被: [听不清] (2s) 除了 被 我 刺 的 这 个 人,

D: [inaudible] besides BEI me stab PRT this person

刺 了 他 之后 他 在 那里 叫 有 刀,

stab PST him after he in there shout have knife

我 就 看 到 刘 某 在 对 方-

I then see Liu in the other side

被 对 方 打 得 满 头 是 血,

BEI the other side beat DE all over the head be blood

有 三 四 个 人 在 那 里 都 打 了 他 一 个 人,

have three four people in there all beat PST him one person

打 得 满 头 是 血, 我 就(.) 叫 不 要 打

beat DE all over the head be blood I so shout not beat

他- 他 们 对 方 就 说 有 刀,

he they the other side then say have knife

他 们 打 刘 某 的 就 往 往 外 面 一 闪,

they beat Liu PRT then to to outside dodge

我就把刘某拉着往外跑,

I then BA Liu pull to outside run

往外跑的过程中,

to outside run PRT process amid

他们两-后面有人打,

they two behind have people beat

前面就有两三个把那个(.)

front have two three BA that

门给堵住了,我就往外冲,

door give block PST I then to outside rush

他们就(.)后面打,前面也打,

they then behind beat front also beat

我就是用刀乱甩(.)乱划,

I that's use knife swing randomly slash randomly

后面的我不知道伤到几个,

later PRT I not know injure how many

在过程中我都是迷糊的.

in process middle I all be confused

'[inaudible](2s) Besides the person being stabbed by me, after (I) stabbed him, he shouted that there's a knife, and then I saw Liu was (beaten) by people from the other side- (he) was beaten by the other side and his head was covered in blood,

three or four people were beating him, (his) head was covered in blood, so (.) I shouted to them no more beating, he-they, (people from) the other side said there's a knife, and then those who beat Liu started to retreat to, to the outside. I pulled Liu to run to the outside, but as we were running, they two- people behind us were beating us, and there were two or three people in front blocking that (.) door, I tried to run to the outside, they then (.) beat from the behind, and the front, I just used the knife to swing randomly(.) and slash randomly, after that I didn't know how many people I injured. I was confused during the whole process.'

45. 公:你 用 刀 去 这个(.) 挥来挥去 都 是 迷糊的 是吧?

P: you use knife to this swing back and forth all be confused right

'When you were using the knife to this(.) swinging back and forth, you were confused, right?'

46. 被: 对 啊 他们 都 是::: 很多 人 进行 对 我们 打 ,

D: right PRT they all be many people conduct to us beat

我 迷糊的 乱甩 那 时候.

I confused swing randomly that time

'Right, they all were:::many people were beating us, at that time I was confused and swinging the knife around.'

47. 公: 你 记不记得 是 有 捅中 几个 人 哪?

P: you remember-neg-remember be have stab how many people PRT

'Do you remember how many people you stabbed?'

48. 被: 嗯, 记 不 清楚 那些 都(.)因为 我 都 是 乱-

D: mm remember not clearly those all because I all be randomly

用刀乱挥的,

use knife swing randomly PRT

那种过程当中捅伤了他们

that kind process amid stab injure-PST them

'Mm, I don't remember clearly those things all(.) because I were all randomly-using knife to swing randomly, and during that process, I injured them.'

In turn 43, after an acknowledging 'mm', the prosecutor pauses for one second, so the defendant starts speaking, which overlaps with the prosecutor's first part of the follow-up question. Then the defendant stops for the prosecutor to finish, but before the prosecutor's question finishes, the defendant continues to tell what happened after he stabbed the person. The uninterrupted narrative in turn 44 shows that the unfinished turn might aim to invite a narrative or at least shows that the prosecutor allows a free narrative. At the end of turn 44, the defendant claims that he was '迷糊的(confused)' when he was stabbing people. In turn 45, the prosecutor formulates a tag question based on the defendant's description of being 'confused' (When you were using the knife to this (.) swinging back and forth, you were confused, right?). Though '挥来挥去(swing back and forth)' is not the exact word used by the defendant, it retains the meaning of the original saying '乱甩(swing randomly)' and '乱划 (slash randomly)'. No disaffiliation is conveyed in this utterance. And it is confirmed by the defendant with an expanded response to defend himself in turn 46, where he

contextualises the action in a scenario with many people beating them. Then the prosecutor moves on without expressing any stance in turn 47, where instead of asking ‘how many people did you stab?’, the prosecutor asks, ‘Do you remember how many people you stabbed?’. This seems to acknowledge that he was confused as he claimed to be. During the whole questioning process, the prosecutor conveys no scepticism or disbelief in the defendant’s response.

However, the prosecutor’s stance towards this testimony about being confused when he was stabbing others is revealed in the following excerpt from his closing argument.

Excerpt 13 (Its Chinese version can be found in Appendix D):

P: The prosecutor maintains that his defence is a case of avoiding the key issue and minimizing his own responsibility. We can see the injuries sustained by the victims, one died and three were seriously injured, and their wounds were all puncture wounds. According to defendant Long and other co-defendants’ account of the weapon used, it was a small fruit knife. Using a fruit knife caused so many people to have puncture wounds, some people's livers ruptured, and some people's intestines and stomach were ruptured. Such great force does not seem like what Long described, that is he was confused at the time and didn't know what was happening, and he was just swinging the knife around and caused the injuries.

The condemnation is based on evidence other than the defendant's testimony, which is presented after defendant questioning according to the institutional design of Chinese criminal trials. It might explain why the prosecutor withholds expressing their disaffiliative stance in the questioning process. Judge Wang and Prosecutor Luo that I interviewed also said that when the physical evidence is solid, they do not waste time pressing the defendant to tell the truth or confront them about their dishonesty.

This section shows that prosecutors choose not to show their disaffiliation when a false testimony is first brought up in the questioning process, though the defendant might be confronted later. Sometimes, the prosecutor withholds revealing his/her disaffiliating stance until the closing argument. This makes the defendant examination seem even more cooperative than the construction of a testimony deemed as truthful as shown in Section 6.3.1, where the prosecutor tries to shape the testimony in various ways to align it with the narrative in the closing argument.

6.4.2 Damage control by the defence lawyer

This last section shows that the defence lawyer might not ask any question about any new testimony explicitly evaluated as false by the prosecutor to avoid further damage. However, if the prosecutor does not reveal its falsity, the defence lawyer is found to discuss feelings and thoughts to undermine the prosecutor's narration. The way the defence lawyer in trial AC7 questions about the stabbing is very similar to the strategies adopted by the defence lawyer in trial AA5 (Section 6.3.2) as shown in the following excerpt.

Excerpt 14:

47. 辩: 你 是 不 是 看 到 刘 某 被 殴 打(.) 的 情 况 下,

DL: you be not be see Liu BEI beat PRT circumstance under

你 才 这 个 你 的 手 臂 被 对 方 划 伤 了 后 ,

you only this your arm BEI the other side cut injure PST after

你 才 想 起 自 己 拿 刀 .

you only remember yourself take knife

你 这 个 是 看 到 刘 某 被 殴 打 你(.) 才 捅 了 对 方 ,

you this be see Liu BEI beat you only stab PST the other side

你 是 不 是 为 了 去 救 刘 某 啊 ?

you be not be in order to save Liu PRT

'Did you only remember to grab a knife after seeing Liu being beaten (.) and your arm was cut and injured by the other party? You (.) only stabbed the other person after seeing Liu being beaten, and did you (do it) to save Liu?'

48. 被:我 就 是 为 了 把 他 往 外 拉 着 往 外 跑 ,

D: I just be in order BA him to outside pull to outside run

他 满 头 打 的 是 血 .

he all over the head beat PRT be blood

'I was exactly in order to pull him out and run away, his head was covered in blood.'

49. 辩: 那 么 说 就 是 说 你 这 个 捅 -

DL: so to say that's to say you this stab

在 捅 伤 对方 的 臂膀 的 时候,

in stab injure the other side's arm PRT time

他 一 躲, 你 捅到 胸部(.)

he one dodge you stab chest

这个 过程 你 都 是 为了(.) 为了 去 救(.) 刘某 吗?

this process you all be in order in order to save Liu Q

'So that's to say when you stabbed-stabbed and injured the other person's chest (.) instead of his arm when he dodged, did you do it because you were trying to (.) to save (.) Liu?'

50. 被: 是 .

D: Yes.

51. 辩: 你 当时 你 拉着 刘某 的 时候 是 往 外 跑

DL: you at the time you pull Liu PRT time be to outside run

有人 在 阻拦 你 对不对?

someone in block you right

'When you were pulling Liu out and running away, there were people blocking you, right?'

52. 被:对 , 前面 有 人 堵, 后面 有 人 追.

D: right front have people block behind have people chase

'Yes, there were people blocking in front and people chasing from behind.'

53. 辩: 你 你 为了 能够 把 刘某 拉 出去 跑 出去,

DL: you you in order able BA Liu pull out run out

你 对 前面 阻挡 你 殴打 你 的 前面 那个 人

you to front block you beat you PRT front that people

进行 用 刀 乱 刺,

conduct use knife randomly stab

是 这个 情节 吧 ?

be this scenario PRT

'To be able to get Liu out and run away, you beat the people in front of you and stabbed randomly with a knife, is it what happened?'

54. 被:是 这个 情节, 乱 甩-

D: be this scenario randomly swing

用 刀 乱 甩 才 捅 伤 了 他们

use knife randomly swing only stab injure PST them

'That's what happened, I was swinging randomly-, swinging the knife randomly and then stabbed and injured them.'

55. 辩: 你 完全 是 为了 逃离 险境 当中 [(听不清)]

DL: you completely be in order escape danger amid (inaudible)

'You were completely trying to escape from the danger [(inaudible)'

56. 审: [辩护人 辩护人 辩护人] 辩护人 服从 法庭 的 ,

J: [counsel counsel counsel] counsel obey court PRT

现在 法庭 在 提醒 你 , 不要 对 他 进行 诱导性 发问,

now court in remind you not to him conduct leading questioning

你 所有 的 发问 基本上 都 在 对 他 进行 诱导.

you all questions basically all in to him conduct leading

这个 情节 他 刚才 已经 描述 完 了,

this scenario he just now already describe over PST

我 再次 提醒 你, 你 下次 如果 再次 这么 提问,

I again remind you you next time if again this ask

我 就 会 禁止 你 发问 了. 听 清楚 没有?

I then will forbid you questioning CRS hear clearly neg-have

注意 你的 发问 方式 好吧? 没有 了 吧 ?

pay attention to your questioning manner alright neg-have CRS PRT

'[Counsel, counsel, counsel,] counsel, please follow the court's (rules). The court

reminds you not to ask leading questions. Almost all of your questions are leading.

He has already described this scenario. I remind you again that if you ask like this

next time, I will prohibit you from asking any more questions. Do you understand?

Please be careful with your questioning manner, okay? Is there nothing else?'

57. 辩: 没有 了 .

DL: neg-have CRS

'Nothing else.'

The excerpt shows that the defence lawyer instead of the defendant is the main narrator. In turn 47, the defence lawyer suggests that the defendant stabbed others out of a motive to save Liu. The defendant confirms this with an expanded response in turn 48,

but it is not as detailed as the defence lawyer's narration in the prior turn. The defence lawyer asks the same question in turn 49 (did you do it because you were trying to (.) to save (.) Liu?), but he changes the description of what the defendant did to save Liu. While in turn 47, he emphasises that the defendant used a knife to stab others to save Liu, in turn 49, he says that the defendant accidentally stabbed the victim's chest instead of his arm in order to save Liu. The seemingly same question contains different propositions. And turn 49 is prefaced with '那么说就是说(So that's to say)' to indicate this is the defendant's testimony while in fact it is his own formulation. In turn 50, the defendant confirms with a minimum response 'Yes'. In turn 51, the defence lawyer implies with a tag question that the defendant stabbed others because they were blocking him, which is confirmed by the defendant. In turn 53, the defence lawyer narrates a relatively complete story by combining the above events, which sets the stabbing in a context where the motive and the circumstance for the stabbing are clarified as expected by the defence lawyer. One phrase worth special attention in turn 53 is '乱刺 (stab randomly)', which is consistent with the stabbing as a non-premeditated action in response to a crisis in panic and echoes the description by the defendant in Excerpt 12 where the defendant uses '乱甩 (swing randomly)' and '乱划(slash randomly)' to describe his own behaviour. As criticised by the judge in turn 56, the defence lawyer was trying to tell the story for the defendant with a series of leading questions. Nevertheless, a narrative has been constructed through the confirmation by the defendant, and it is included in the closing argument by the defence lawyer, which is shown below (Excerpt 15). This excerpt explains all the leading questions by the

defence lawyer earlier in the trial and shows the effectiveness of telling a different story by describing the defendant's motive.

Excerpt 15 (Its Chinese version can be found in Appendix D):

DL: But what is his motive? (It was) to save Liu from the scene where he was surrounded and beaten by the victims...but his purpose was to save Liu from the danger, escape from the danger. Therefore, this case should find Long as committing intentional injury (assault), and the intentional injury should be considered as an intentional injury for excessive self-defence and cannot be regarded as intentional killing of others.

Section 6.4 shows that in the face of a testimony believed to be false, the prosecutors might choose to confront the defendant, who usually cannot provide a valid response. In this case, the defence lawyers avoid giving the story more weight by not asking questions about it. However, the prosecutor might choose to show receipt of a false testimony without showing any stance towards it. The defence lawyer highlights the motive of the defendant to display the side of a story which is not fully developed in the prosecutor's questioning. This is in line with the responses by two defence lawyers (Guo and Fan) when I asked them about the difference between the questioning by the defence lawyers and prosecutors. They both pointed out that they would reveal what is not asked by the prosecutors, who might intentionally avoid asking certain things. Again, this section shows that prosecutors tend to allow free narratives while the

defence lawyers prefer to do the narration themselves with confirmation from the defendants. Both sides adopt different strategies in the closing arguments regarding these testimonies. Whether the testimony is confronted or just registered during the questioning process, it is evaluated explicitly in the closing argument by the prosecution. This undermines a defendant's credibility. On the other hand, the defence lawyer cannot do much damage control under such circumstances except by talking about the defendant's motive.

6.5 Discussion

This research shows that different from stance conveyance in narratives in daily conversation, obvious stance display is not always immediately available in courtroom interaction. In prosecutors' questioning, which goes before the defence lawyer's questioning and focuses on what happened, a story might go without stance display from the prosecutor. While sometimes prosecutors may confront defendants about false testimonies, they might simply register the responses. Hiding their disaffiliation, they display alignment in defendants' storytelling regardless of whether they consider the testimony truthful or false. This might be related to the institutional design of the Chinese criminal trial, where evidence presentation is separated from defendant examination. This means that there can be no substantial contestation between the prosecutors and the defendants without the support of evidence.

Moreover, this research demonstrates the importance of separating alignment and affiliation in the discussion of stance. While questioners rarely explicitly show

affiliation or disaffiliation, their display of structural (dis)alignment offers clues to their carefully veiled stance to some extent. However, in the case of a testimony believed to be false, even showing alignment might be misleading. This further illustrates that courtroom questioning is akin to 'theatrics' (Maryns, 2013).

Prosecutors and defence lawyers are found to choose different events for their narratives ('stories') and adopt different strategies in the narrative construction ('storytelling'). In Chinese trials, both sides usually agree on the essential facts, but they still tell different or even contrasting stories. The prosecution emphasises the defendant's actions while the defence lawyer stresses the defendant's feelings and thoughts, which usually include a motive to protect themselves rather than harming others. By telling a story with or without revealing the defendant's inner world, the prosecution and defence can present two different stories, where the same defendant has different identities. It shows the power of narration in law. The same basic facts, in combination with different motives, which cannot be proved categorically, can produce different stories. This is similar to findings by Auburn et al. (1995) and Heydon (2005) in police interviews that show how the police focus on the actions of the suspects, while the suspects themselves like to provide contextual information that serves to explain or excuse their behaviours. Here in courtroom interaction, defence lawyers solicit such information by asking relevant questions.

The analysis also reveals different storytelling strategies by the prosecutors and defence lawyers. Defence lawyers are often found eager to tell the stories for the defendants by asking leading questions. On the other hand, even when a testimony is

believed to be false, the prosecutor is observed to allow for its narration, though not necessarily in a free manner. Meanwhile, prosecutors take various strategies such as toning down, ignoring, interrupting responses about certain story elements, even when a testimony is believed to be truthful. Nevertheless, when free narratives are permitted, or when narratives are constructed collaboratively with the prosecutors' structural alignment, two versions of stories are presented: the defendant's and the prosecutor's. As a result, in the prosecution's closing argument, whether it is a testimony believed to be truthful or false, narrative transformation has been observed while the defence usually has one story to tell, the same as the one constructed during the questioning stage.

The above findings can be triangulated by the corpus-based analysis and interviews with legal practitioners. The top 100 words in sub-corpora built with the defence lawyers' questioning turns (Sub-corpus DQ) and prosecutors' questioning turns (Sub-corpus PQ) share most of the words, though they might differ in terms of rank and raw frequency. However, two words in the defence lawyers' turns stand out as unique: '想(think)', '审(J)' (This symbol prefaces a turn by a judge, which means an intervention from the judge in the defence lawyers' questioning). They occur 39 times (rank 47) and 25 times (rank 75) respectively in the defence's turns, but they are not among the top 100 words in prosecutors' language. The more prominent presence of these two words in the defence lawyers' questioning point to some bigger issues in Chinese criminal trials.

'想(think)' mainly occurs in questions soliciting the thoughts of the defendants.

For example, 那 你 当时 拿 刀 出来 以后 你 怎么 想 的 ? (In that case after you took the knife at the time, what were you thinking?). This verifies the finding based on the conversation analysis above. When I asked legal professionals whether they inquire about defendants' motives, feelings, or thoughts, all of them said that it depends on the nature of the case in question. For example, defence lawyer Yuan said that offences against the person might involve motive consideration, but offences against property might not. Defence lawyer Guo said that she would question about motive in cases involving intimate relations and crimes of passion including killing and assault. Prosecutor Luo replied that prosecutors usually try to find out the motive in interrogations before a trial, but they only ask about the motive in the courtroom if the conviction of a crime requires motive as one of the necessary constituents. Judge Wang said that motive is important in courtroom questioning if it reflects the degree of social harm of a defendant's behaviour and influences the sentencing. Therefore, motive in murder trials and assault trials is important, but prosecutors might not question it. Defence lawyers play an important role in showing more dimensions of the defendants and the incident to the judge. Interestingly, according to prosecutor Luo and defence lawyer Yuan, who was a prosecutor for six years, prosecutors are in charge of presenting the 'whole truth' to the court including elements that are both for and against the defendant's benefit. But the defence lawyer's questioning reveals that prosecutors choose not to ask certain things, which raises the question of the so-called 'whole truth' and points to the unreasonable requirement for the prosecution to supervise the practice of law in a trial where they play against defence.

Judges intervene in the defence lawyers' questioning more often due to their improper questioning such as asking leading questions. All Chinese legal practitioners dismiss leading questions as improper practices. However, based on this study, defence lawyers are found to ask leading questions more often. This might not be random. It might be because some defence lawyers were assigned to a defendant rather than being hired by the defendant or his/her family to represent him. These defence lawyers might not prepare as fully. This might also be related to the different ways that prosecutors and defence lawyers are trained in China. According to defence lawyer Yuan, who was a prosecutor for six years, there is a tutoring system in China for new prosecutors to be trained by an experienced prosecutor while defence lawyers need to learn through experience. As a result, even a very young prosecutor might outperform a defence lawyer, who does not have access to enough training resources. Regardless of the cause, the competence gap between prosecutors and defence lawyers in general is concerning, as it might undermine the delivery of justice.

Chapter 7 Conclusion

7.1 Introduction

This research investigates stance conveyance in the courtroom. Specifically, it investigates how trial participants convey their stances in courtroom interaction, which features institutionalism and interactional asymmetries. It also looks at the impact of stance display on narrative construction and ‘textual travel’ (Heffer et al., 2013) of testimonies in the courtroom. This chapter summarises the findings of the analysis and describes the significance and practical implications of this research before pointing out its limitations and the future research directions.

7.2 Responding to the research questions

This section summarises the responses to the two primary questions: How trial participants including legal professionals and defendants convey their stances in the courtroom? How does stance conveyance by the different trial participants shape narrative construction in a trial?

In Chapter 4, the analysis shows that legal professionals, in particular prosecutors and judges, frequently repeat a defendant’s response in the preceding turn. The analysis focuses on the prosody of the repetition. It finds that prosody, which is deemed as a common cue to convey and interpret a stance, is not a reliable resource to identify a speaker’s stance in courtroom interaction. Instead, both prosecutors and judges may strategically use prosody to conceal their stances in order to establish

prerequisites for an impactful question. Nevertheless, the analysis shows that defendants might rely on lexicogrammar and multimodal cues (gaze) to figure out a questioner's stance towards their responses.

Chapter 5 examines how defendants convey their stances in defensive responses. A corpus-based analysis finds that there are mainly three kinds of responses by the defendants: negation-based response, evasive 'not know' response, and narrative-based response. Among the three response types, only the negation-based response might convey disaffiliation explicitly. The other two types (evasive 'not know' response and narrative-based response) do not explicitly display disaffiliative stances but could serve defensive purposes. Defendants' orientation to structural alignment enables them to respond defensively without appearing uncooperative. The analysis shows that cooperation at the structural level (alignment) is prioritised over that at the affective level (affiliation). This shows that stance alignment management in the courtroom is different from that in daily conversation, where interlocutors prioritise social solidarity and affiliation (Pomerantz, 1984; Goodwin and Goodwin, 1992).

Chapter 6 looks at how stance display impacts narrative construction in the courtroom. The analysis shows that both prosecutors and defence lawyers display their stance strategically to construct their narratives in defendant examination, but they are found to adopt different strategies. Prosecutors are skilful in conveying their stances subtly. They might convey their disaffiliative stance through structural disalignment such as toning down, ignoring, or interrupting a response, which secretly

serves the construction of their story version while seemingly allowing for the defendants to tell their version. They might even conceal their disaffiliation and ‘facilitate’ the development of a story believed to be false through structural alignment. But the defendant’s version is usually transformed in the closing arguments, which therefore silences the defendant’s voice in the end. On the other hand, defence lawyers are not as well-trained in managing stance alignment as shown in their frequent use of leading questions and judges’ frequent interventions in their questioning. Consequently, the research discovers a competence gap between prosecutors and defence lawyers in China, which has implications for the delivery of justice.

The analysis demonstrates that stance conveyance in the courtroom is subtly accomplished both for legal professionals and defendants. The finding is basically in line with the nature of stance alignment as stated by Du Bois and Kärkkäinen (2012, p.440): ‘participants deploy subtle and often elusive signals to articulate the complex and highly variable mapping of the stance-alignment relation. The exact nature of this alignment is in any case often left implicit by coparticipants’. However, it still surprises me that in the courtroom, where different participants’ stances are obvious and usually in conflict, stance alignment is managed in such a subtle manner. The subtlety might be out of strategic consideration by the trial participants. Defendants strategically conceal their defensiveness in order to balance defence and cooperation as shown in Chapter 5. Prosecutors and judges might avoid explicit display of disaffiliation in order to establish prerequisites for an impactful question as shown in

Chapter 4. The counterproductive leading questions by the defence lawyers shown in Chapter 6 demonstrate the harm caused by the ‘conspicuous orientation to “winning the case”’ (Komter, 2000, p.420), which, therefore, shows the importance of subtlety in stance conveyance in the courtroom.

Furthermore, subtlety might be due to the constraints of the Chinese legal system, which is a combination of inquisitorial and adversarial elements with the former being dominant. Consequently, power hierarchy and respect of order is deeply rooted in the courtroom. Legal professionals’ power is established and manifested in the authority of their language, which, therefore, does not need to be explicit in conveying disaffiliative stances. On the other hand, defendants need to be cautious in defending themselves due to the interactional asymmetries in the courtroom, which include both power asymmetry and knowledge asymmetry. It is evident not only in the controlled storytelling within the courtroom but also in the fact that only powerful legal professionals have access to storytelling throughout the trial. Defendants, therefore, have to seize or even create any possible opportunities to tell their stories and defend themselves.

7.3 Significance of this research

This research explores defendant examination in Chinese criminal trials from different perspectives, including legal professionals’ language and defendants’ language as well as their negotiation. This not only contributes to our understanding of courtroom interaction in an underexplored jurisdiction featuring both inquisitorial and

adversarial elements, but also broadens our knowledge of stance conveyance in courtroom interaction in general. Stance alignment in the courtroom is found to be different from that in daily conversation as illustrated in defendants' responses, which prioritise structural alignment over affiliation. Moreover, while stance can be identified in immediate sequential environment of storytelling in daily conversation, in the courtroom, stance might be concealed until the text travels to the next stage. The impact of prosecutors' stance conveyance strategies on narrative construction is more clearly seen from the perspective of intertextuality. Defendants' stories constructed through the seemingly non-confrontational defendant examination are transformed in the closing arguments. This shows the power asymmetry in institutional talk.

Methodologically, this research has demonstrated the feasibility and benefits of combining corpus linguistics and conversation analysis for courtroom discourse studies. Though the two approaches have different requirements about transcription and different views about quantification, they are complementary in the discovery and analysis of language phenomena. The discovery of repetition, defendants' three response types, and the importance of defendants' testimony in the closing arguments illustrates the importance of corpus linguistics. The fine-grained conversation analysis of various types of repetitions and defensive responses as well as the narrative construction of testimonies constitute the backbone of this research. Furthermore, the triangulation provided by the combined approach for the comparison between the prosecutor's and the defence lawyer's questioning (Chapter 6) is impossible with

either approach alone.

Theoretically, this research has contributed to the modification of the stance triangle framework. First, courtroom discourse analysis points to the consideration of stance alignment not only between interacting subjects as in the current stance triangle framework, but also stance alignment with an overhearing audience. Participants in courtroom interaction also design their talk with an overhearing audience in mind, which partly explains the subtle stance conveyance as illustrated earlier.

Second, the analysis shows the importance of sequential organisation in stance alignment, which sheds light on the limitation of focusing on analysing dialogicity under the current stance triangle framework (Du Bois, 2007; Du Bois, 2014). The analysis of other-repetition by legal professionals and narrative construction of testimonies shows how stance might be revealed in a longer sequence rather than in the immediate adjacency pairs. In particular, the comparison of testimonies during defendant examination and in the closing arguments points out the necessity to introduce a broader notion that ‘involves contextual relations or intertextuality between two contexts that are not only immediate but also remote...across multiple texts’ (Takanashi, 2018, p.187).

Third, this research proves the necessity to distinguish between alignment and affiliation in the discussion of stance alignment. The analysis demonstrates that stance conveyance in the courtroom mainly resorts to structural (dis)alignment instead of explicit display of (dis)affiliation. In this way, both legal professionals and defendants manage to convey their divergent stances while mitigating interactional confrontation

as shown in defensive responses and narrative construction of testimonies in prosecutors' defendant examination.

7.4 Practical implications

This research is not only expected to explicate how participants communicate their stances in courtroom interaction, but also aims to contribute a linguistic perspective to the ongoing judicial reform in China. The findings of this study show that defendant examination is not a formality, reflecting changes in the Chinese judicial system. In addition, through the analysis of their language, this research unveils the roles played by prosecutors, judges, and defence lawyers in Chinese criminal trials, which may have practical implications for further reform.

We have seen some big changes in Chinese criminal trials over the past two decades. Chang (2004, p.705) claims that questioning in Chinese criminal trials is not to find out the facts, but to persuade by 'invoking Chinese cultural notions of shame and morality'. This research has shown that defendant questioning actually contributes to establishing the facts. Prosecutors and defence lawyers are found to construct contrasting stories during defendant examination. Legal professionals and defendants have negotiations about the facts. Institutional participants adopt various strategies including challenge-implicated repetition, gaze shift, and structural (dis)alignment to convey/conceal their stances to attain their goals. Defendants navigate carefully in their interactions with legal professionals. As the testimony collected during defendant examination are consistently referred to in the closing arguments, this

shows that defendant examination is not merely a formality, which reflects the progress of the ongoing judicial reform.

This research also unveils the roles played by different institutional participants in Chinese criminal trials. Chapter 4 reveals the similarity between prosecutors and judges in their stance conveyance as well as their questioning styles. Though Chapter 5 focuses on defendants' language, the investigation of defensive responses to the prosecutors and judges further highlights their similarity as well as their complementary roles. Chapter 6, in the comparison of the ways that prosecutors and defence lawyers convey their stances, not only unveils their different strategies but also the gap in their competence.

The analysis finds that in Chinese criminal trials, prosecutors are the major questioners with the most turns. In China, the prosecutors' defendant examination aims to display the facts to judges (Li, 2016). The analysis shows that prosecutors are often careful not to reveal their stance explicitly at the questioning stage, which can be seen in their stand-alone repetition and the narrative construction of testimonies. Furthermore, prosecutors seem to allow defendants to tell their story. As a result, there is relatively smooth cooperation between prosecutors and defendants during the questioning process, despite their different stances. A reasonable explanation is that opening the floor for the defendants to tell their stories gives the defendants a false 'sense of security' (Li, 2016, p.16). When the defendants are totally cooperative in telling the truth, they may display their regret in telling their stories, which helps realise one intended function of a criminal trial: to educate the public (Wang, 2017).

On the other hand, when they tell lies, the evidence will be used against them to undermine the defendants' credibility in subsequent stages.

The reason that prosecutors tend not to reveal any untruthfulness in the responses at this stage, despite their knowledge of the evidence collected before a trial, is that the questioning of defendants does not allow evidence presentation, which is an independent stage following the questioning. The institutional design makes direct confrontation and intense argumentation at this stage impossible (Yao, 2019, p.12). As Mou (2006, p.48) points out, when defendants deny facts, only evidence presentation could facilitate the smooth progress of the questioning; otherwise the questioning only ends up with reprimands, which I do find in the dataset. A few declarative statements in the prosecutors' turns are to express their 'hope' that the defendants honestly answer the questions, which can be interpreted as a warning.

Judges are the most powerful participants, which is shown in their intervention in the questioning process of the other two questioners. Meanwhile, the analysis also shows a similarity between judges and prosecutors. Judges also focus on the details of the crime, in particular those not investigated by prosecutors or producing controversy between the two parties. Different from judges in Anglo-American trials, Chinese judges participate in investigating the facts. This research has shown that judges adopt various strategies to find out the facts. For example, similar to prosecutors, they might strategically conceal their stance in questioning defendants in order to build a strong sequence. Judges are found to ask questions which are not clarified after prosecutors' and defence lawyers' questioning. This points to the complementary role that judges

can play in finding out the facts in addition to the prosecution and defence.

The power asymmetry between the prosecutors and the defence lawyers has been a deep-rooted problem in the Chinese judicial system and broadly criticised (e.g. Sun and Wang, 2017; Mou, 2017; Wang, 2019). This research also shows that defence lawyers have a smaller number of turns than the prosecutors and the judges. However, this is more likely due to asymmetry in competence than in power. This research finds that defence lawyers are playing an increasingly important role. This is evidenced by their efforts to construct a narrative competing with that by the prosecutors in both defendant examination and closing arguments. According to defence lawyer Guo, who has been a practicing defence lawyer for seven years, in the past, judges and prosecutors are 'one family'. But now the status of practicing defence lawyers is rising, there is more communication between prosecutors and the defence lawyers outside of the courtroom and there is a stronger sense of community among legal professionals regardless of their role in a trial. However, the gap in professional competence between the prosecutors and defence lawyers as discovered in Chapter 6 is worrying. Judges, prosecutors, and defence lawyers are expected to form a power triangle in a trial, which ensures the check and balance among the institutional participants. However, the relatively insufficient competence of the defence lawyers in questioning defendants, in comparison with the dominant roles played by the judges and prosecutors, could jeopardize the delivery of justice. This calls for attention to improve the training system for practicing lawyers who do not work for the state institutions. There is no standard training path for these lawyers while

mentors are assigned to new prosecutors. This increases the likelihood that in a trial, the defence lawyer cannot provide an equally strong defence against his/her counterpart prosecutor.

7.5 Limitations and future directions

This research focuses on defendant examination, but it should be noted that defendant examination is only one part of a criminal trial, which is in turn only one stage in criminal proceedings. Procedures outside of the courtroom have implications for the trial. For example, according to prosecutor Luo, how detailed they question a defendant is decided to a great extent by how their communication goes with the judges before a trial. If they have disagreements regarding certain points, the prosecutors might ask related questions in the courtroom to illustrate their views more clearly for the judges. If they do not have disagreements on the essential facts and charges, the questioning might be very brief. Before a trial, there is the testimony collection and the case-file production. And after a trial, the texts created before and during the trial do not terminate their travels if there is an appeal. Due to limited time and space, the textual travels before and after the trial are not discussed in this research and are worth further investigation. A bigger and clearer picture can be drawn if the research scope is expanded.

Data transcription is very time consuming. Only two kinds of trials (murder trials and assault trials) were collected for this research. Both are crimes against the person. It would be interesting to look at crimes against property such as theft and burglary

and find out whether language patterns are different. In addition, due to the constraints of the videos for this research, which do not always provide a clear view of every participant's facial expression, this research focuses on analysing the language and paralanguage of trial participants; it would be interesting to do a multimodal analysis of courtroom interaction if data permits. Moreover, with the emergence of remote trials in China, it is worth exploring the interaction pattern in remote trials and the impact of such a communication mode on the construction of stance and the delivery of justice.

This research finds that the concealment of stance is as important, if not more important, than stance display in courtroom interaction. The strategic considerations and diverse resources used for stance conveyance demonstrate trial participants' efforts in courtroom interaction. This shows that defendant examination in Chinese criminal trials is not a formality, which is an important aspect of the 'trial-centred' judicial reform. The linguistic analysis reveals the imbalance between the prosecution and defence and points out directions for future reform. Further exploration of stance analysis is worthwhile as it provides a good approach for investigating courtroom talk and interactional identities.

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Appendices

Appendix A: Ethical approval

19 January, 2021

Dear Yan

LTENG-036 - Narrative Construction in Chinese Criminal Trials

I am pleased to inform you that your light-touch research ethics application has been reviewed by the AHC Committee and I can confirm this has received a favourable ethical opinion based on the documentation received at date of this email.

Please retain this email as evidence of approval in your study file.

Please notify the committee if you intend to make any amendments to the original research as submitted and approved to date. This includes recruitment methodology. All changes must receive ethical approval prior to implementation. Please refer to the [amendment form](#) or contact the Research Ethics & Governance Administrator for further information (ahcresearchethics@leeds.ac.uk) if required.

Please remember that your research should be undertaken in accordance with all prevailing Government and University restrictions in force to prevent the spread of coronavirus. I am sure that you are already well aware of these, but to reiterate this currently (at the time of sending this email) means that you must conduct this research remotely (digitally) and from home. We therefore want to just flag that the digital platforms that you may use to carry out this research (Zoom, Teams, Skype etc) raise issues for both yourself as the researcher and for the participants. Specifically you should be aware that:

- Participants will be in their own home when being interviewed. This may limit the topics that are safe for discussion.
- That your own home environment will be exposed via video communication to research participants. Where possible the visible environment in your background must be minimised (or managed) to protect your own safety and to prevent distraction or influence over the subject of study
- If obtaining verbal consent from your participants then it must adhere to the University's 'Verbal Consenting Protocol' - please see attached for further information.

Please note: You are expected to keep a record of all your approved documentation, as well as documents such as sample consent forms (if you continue to do this by post), risk assessments and other documents relating to the study. This should be kept in

your study file, which should be readily available for audit purposes. You will be given a two week notice period if your project is to be audited.

It is our policy to remind everyone that it is your responsibility to comply with Health and Safety, Data Protection and any other legal and/or professional guidelines there may be.

Some funders require official confirmation that ethics approval has been achieved. If you require this email agreement in letter form please do let me know. I would be happy to provide this if it is needed.

I hope the study goes well. If you have any questions please do email me.

Best wishes,

Kaye

(on behalf of the AHC Faculty Research Ethics Committee)

Kaye Beaumont

Research Ethics Administrator

University of Leeds

Appendix B: Ethical approval (amendment)

16 March 2023

Good afternoon Yan

LTENG-036 Amendment 1 - Jan 2023 - Narrative Construction in Chinese Criminal Trials

NB: All approvals/comments are subject to compliance with current University of Leeds and UK Government advice regarding the Covid-19 pandemic.

We are pleased to inform you that your amendment to your research ethics application has been reviewed by the Faculty of Arts, Humanities & Communications Research Ethics Committee (AHC REC) and we can confirm that ethics approval is granted based on the documentation received at date of this email.

Please retain this email as evidence of approval in your study file.

Please notify the committee if you intend to make any further amendments to the research as submitted and approved to date. This includes recruitment methodology; all changes must receive ethical approval prior to implementation. Please see <https://ris.leeds.ac.uk/research-ethics-and-integrity/applying-for-an-amendment/> or contact the Research Ethics & Governance Administrator for further information ahcresearchethics@leeds.ac.uk if required.

Ethics approval does not infer you have the right of access to any member of staff or student or documents and the premises of the University of Leeds. Nor does it imply any right of access to the premises of any other organisation, including clinical areas. The committee takes no responsibility for you gaining access to staff, students and/or premises prior to, during or following your research activities.

Please note: You are expected to keep a record of all your approved documentation, as well as documents such as sample consent forms, risk assessments and other documents relating to the study. This should be kept in your study file, which should be readily available for audit purposes. You will be given a two week notice period if your project is to be audited.

It is our policy to remind everyone that it is your responsibility to comply with Health and Safety, Data Protection and any other legal and/or professional guidelines there may be.

I hope the study continues to go well.

Best wishes

Rachel Prinn

On behalf of Professor Matthew Treherne (AHC REC Interim Chair)

Rachel Prinn, Research Ethics Administrator, The Secretariat, University of Leeds,
LS2 9NL,
r.prinn@leeds.ac.uk

Appendix C: Interview questions

Questions for prosecutors and defence lawyers:

1. How do you prepare for defendant examination?
2. What kind of difficulties you expect in questioning the defendants? How do you deal with that?
3. How important is defendant examination in a trial? (What's the main purpose of it?)
4. What's the main difference between prosecutor's questioning and the defence lawyer's questioning?
5. When and how do you prepare the closing arguments? (How important is the closing argument to a trial?)
6. Is the closing argument prepared beforehand or based on the trial (defendants' responses and evidence)? How much is based on the defendant examination?
7. When you find something not consistent, how do you deal with that? (Do you try to be neutral in the questioning?)
8. When you suspect the defendant is lying (inconsistent), what do you usually do?
9. How important is it to construct a complete and coherent story for you in a trial?
10. How important is it to find out/ talk about the motive?
11. How do you evaluate a defendant's attitude in admitting to his offence? How important is the attitude?
12. Do you confront a defendant with the untruthfulness of his testimony at the questioning stage?
13. Do you repeat defendants' responses? Why?
14. When do you interrupt a defendant's response? Why

Questions for judges:

1. When would you question the defendants after they are questioned by the prosecutors and the defence lawyers? Why? (How important is defendant examination to a trial?)
2. What kind of difficulties you expect in defendant examination? How do you deal with that?
3. Based on your experience, how do questions by the prosecutors and the defence lawyers differ?
4. How important is the closing argument to a trial?
5. How important is a defendant's performance in a trial? How do you evaluate a defendant's performance in court?
6. How do you decide whether a defendant is lying or not?
7. When you suspect a defendant is lying, what do you usually do?
8. When do you think you know the fact of a case? Before the trial? After the defendant examination? After the closing argument? After the trial?
9. How important is it to construct a complete and coherent story for you in a trial?
10. How important is it to find out/ talk about the motive?
11. How do you evaluate a defendant's attitude in admitting to his offence? How

important is the attitude?

12. Do you confront a defendant with the untruthfulness of his testimony at the questioning stage?

13. Do you repeat defendants' responses? Why?

14. When do you interrupt a defendant's response? Why

Questions for court clerks:

1. What kind of difficulties are there in making court transcripts? How do you deal with that?

2. What's the guiding principle for your work?

3. What's the main use of court transcripts?

4. When questioners repeat defendants' responses, how do you deal with that?

Appendix D: Chinese excerpts from the closing arguments

Excerpt 3:

公:被告人薛某不能正确处理与同事之间的矛盾,仅因小事即发生轻微肢体接触后主动约架,在被害人郭某及田某先行下楼之后,自己又携带刀具下楼与二人再次发生口角并互殴.在双方停手并转身准备离开现场的时候,就是在被害人郭某这方已经离开的时候为报复泄愤,从郭某的背后趁其不备,持刀刺扎,致郭某颈部受伤,从而导致郭某失血性休克死亡.

Excerpt 7:

辩:事情的起因是郭某与田某酒后回到宿舍与薛某发生口角,口角之后郭某先持棍棒对薛某进行了殴打,之后双方对棍棒争夺过程中,郭某与田某形成了二打一的格局,郭某与田某明显的占有一个强势的地位.

Excerpt 8:

辩:我们注意到案件中一个细节,他虽然拿刀下去了,但是一开始他们并没有用刀,而是把刀扔在地上,恰恰是两人对他进行了二次殴打之后,他才拿起刀,这充分说明被告人薛某之所以拿水果刀下去,并不是为了伤害被害人,而仅仅是为了自卫,而是因为自身在被第一次殴打之后感觉到了有危险,他也感觉到了自己势单力薄才拿刀下去.

Excerpt 9:

公:被告人在今天当庭调查的时候翻供称被害人对他用剪刀进行捅刺,他是基于正当防卫的主观意愿对被害人持菜刀进行砍杀.我们认为根据本案的现场的物证,现场勘查可看出关于这个环节被告人是做了虚假供述,现场没有查获菜那个剪刀,进行了全面的勘查,没有发现剪刀这一物证,更没有发现像被害人所说的符合他辩解条件的这种搏斗痕迹.

Excerpt 13:

公:公诉人认为他这些辩解存在着避重就轻,逃避自己责任的这么一种情况.我们从被害人的伤势可以看到有一名死了,三名是重伤,他们的受的伤都是一些贯穿伤.而根据被告人龙某某还有其他同案人讲的刀具,它是一个比较小的一个水果刀,用水果刀导致了这么多人都有贯穿伤,有的人肝是破裂的,有的人肠还有胃这里都是破裂的,这么大的力度不像龙某某讲的,他当时是蒙了,什么都不知道,在这里乱挥舞而导致的.

Excerpt 15:

辩:但是他动机是什么?是为了救刘某逃出被被害人围殴的现场的情况...但是他这个目的是为了拉刘某出险境,不至于限于其中的危险,所以说本案应当认定龙某某是故意伤害,但是故意伤害应当是防卫过当的性质的故意伤害,而不能认定其故意杀伤他人的有意故意.