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TRANSGRESSION AS A COMMUNICATION TOOL OF INFLUENCE IN AMERICAN COURTROOM DISCOURSE

The article aims to identify the types of transgression in courtroom discourse. The study was carried out using discourse analysis as the main method. According to the mode of expression, the explicit type of transgression and the implicit type were determined. Forms of verbal expression of transgression are words and phrases with negative emotional coloring, and the use of contextual and conceptual antonyms. In cases of implicitly represented transgression, the true interpretations of the speakers are expressed by means of Aesopian language allegories. It is proven that the use of transgression ensures the success of the speech's impact. The influence effect of transgression in courtroom discourse increases under the following conditions: frequent use; use of accusation and refutation strategies; emotionally charged vocabulary; piling up in narrative details, even inventing; and the construction of speeches on the principle of increasing transgression.

1. Introduction

The phenomenon of transgression, which in ontogenesis was the subject of research (overcoming the child's traits peculiar to parents) and geology (flooding the land space with the sea), has passed beyond these spheres of world cognition and started to be metaphorically interpreted in other sciences – philosophy,

psychology, history, linguistics. In all the sciences mentioned, the phenomenon is interpreted as a violation of the established standards, rules, and traditions. The interest of representatives of the humanities in the problem of transgression can be explained by the fact that in the twentieth and twenty-first centuries the center of research of all sciences was a human being in a variety of activities. The phenomenon of transgression has become especially noticeable in the communicative interaction of society, the effectiveness of which often determines the success of the individual, the collective, and the organization.

Nowadays it is impossible not to observe the existing contradiction: on the one hand, there is a significant prevalence of transgression in communication, its importance for the solution of practical issues, on the other hand, there is no such scientific understanding of the regularities, functions, features of the implementation of the phenomenon, which could provide a theoretical basis for the successful practice of communication contacts in society. To solve the above contradiction, it is necessary to investigate the peculiarities of transgression in different spheres of social activities.

In our study, courtroom discourse has been chosen as such a sphere, and this is not random. In this type of discourse, more than in any other, different factors interact the rule of law and justice, the value priorities of society, the role of personality in solving crucial issues, and the types of speech impact (Batsevych 2009, Sternin 2012, Turk 2003) of the speaker on audience's perception, the relationship with the ideology of society and many others. Orientation to resolve the contradiction formed in science, the insufficient study of transgression as a means of communicative influence in courtroom discourse with its practical importance testifies to the **relevance** of the topic of our article.

Thus, the **aim** of the paper is to identify the types of transgression in the courtroom discourse, forms of verbal expression in the narratives of the prosecutor and the defense lawyer, as well as communicative strategies of its implementation, ensuring the success of the language and speech style the speaker uses. To achieve the stated goal, it is necessary to perform several **objectives**. First, it is important to clarify the concept of transgression in the context of communicative influence since the definition of transgression and its role in communication is somewhat different from the aforementioned, for example in biology or geology (Bokuniewicz 2005, Rieseberg et al. 2003).

Since the phenomenon under analysis must be reflected in one way or another in human language activity, it is logical to identify the types and forms of linguistic expression of transgression in courtroom discourse. No less important in the adopted perspective of the study, we consider the identification of communication strategies and tactics for the implementation of transgression. At the last stage of the analysis, we will define the peculiarities of the influence of transgression on the organization of the prosecutors' and defense lawyers' courtroom narratives and, most importantly, its role in ensuring the success or failure of communicative influence.

2. Background review

One of the crucial problems of the term "transgression" is that it came to different scientific paradigms from biology and geology, but the concept it denotes has acquired a different content. Philosophy and psychology, literary studies, linguistics, and communication theory have borrowed the semantic components "change" and "violation of established attributes" from the definitions of these sciences, while interpreting the meaning of change and the nature of violations differently. In modern scientific paradigms, the interpretation of the essence of transgression varies, but the common thing is the understanding of it as going beyond the framework of the established (Miles 2017).

The range of perceptions of transgression is quite broad: the movement of contestation (Blanchot in Gregg 1994: 67); the blurring of familiar boundaries (Bataille in Fokin 1994, Bataille 2000); revolt, rebellion, *epatage* (Razinov 2002: 3); going beyond the boundaries of the artwork, its meaning, the focus on engaging as many readers as possible for the success of the work, for its publicity (Visoi 2014: 5), and even for its 'hype' (Foley, McRobert, and Stephanou 2012: xii).

In our opinion, some of the definitions are controversial. So, Polish psychologist J. Koziellecki developed the "transgressive concept of personality". He views transgression as an intentional and conscious action or thought process "beyond the hitherto existing material, symbolic, and social capacities and achievements of man, becoming the source of new and important values, positive and negative" (Koziellecki in Pufal'-Struzik 2002). The oxymoron of *important values*

– *negative values* prompts the discussion. In their discursive psychology, Derek Edwards and Jonathan Potter's put the spotlight on psychological problems from the perspective of the participant (Edwards and Potter 1992). In linguistics and communication theory, transgression has been analyzed in two aspects: its function in the narrative (Schutz and Baumeister 1999) and in the aspect of the function of repression (Moses 2021). S.M. Kashtanova, considering transgression as a socio-philosophical concept, interprets it somewhat differently: "Within the framework of this study...transgression, considered in its specific manifestations in the life of man and society, is primarily understood as a rejection and therefore contestation of the insurmountable limit, as a manifestation of human disagreement with it" (Kashtanova 2016: 3). There is also a definition of transgression as deception (Talwar and Lee 2002). If we consider deception as a way of going beyond the established axiological representations of society, a kind of violation of rules and norms (it is bad to lie), then we can agree with this definition. Accepting this position, we at the same time accept the logical conclusion that the phenomenon of transgression is realized in different acts: contestation, suppression, violation of norms, deception, and others.

The approaches outlined here provide grounds for drawing two conclusions that are important for linguistic research. They are: 1) the phenomenon of transgression cannot be studied without observing the process of communication in the unity of its discursive and linguistic features proper; 2) the phenomenon of transgression is at the intersection of the sciences, and in its linguistic study it is not only possible but also necessary to use data from related sciences.

In light of the above, the common feature of the definition in all sciences – "going beyond the established, violation of norms" – integrates quite an extensive class of speech acts: from contestation to deception. In our study, we take it as a basis. Therefore, from the position of the communicative approach, we define transgression not only as a process, a phenomenon but also as a tactical communicative technique, implemented in violation of established norms of communicative behavior and aimed at challenging the opponent or other types of communicative influence in the strategic goal. It is obvious that the types of communicative influence are different in different spheres of human activities as well as in society, and therefore the features of the actualization of transgression will be different. It is worth noting that the question as to which of them

is characteristic of courtroom discourse has not yet been considered in science. There is still no answer to the question of the extent to which transgression is used in this discourse and whether it is used at all since everything connected with the judicial process is limited by the strict framework of law and justice. At the same time, the practice of public activities has convincingly proved that different interpretations of events are possible within the same discourse.

Using interpretative techniques, as N.P. Busygina rightly points out, “people construct their own versions of the world and themselves” (Busygina 2010: 68). The interpretative repertoire determines both the essence of narratives and the linguistic means of their expression. If the interpretation of the event and its assessment differ between the prosecutor and the defense lawyer, and each of them defends his own position, it is logical to assume that they also involve transgression in their arsenal of means of communicative influence, breaking the usual ideas about the content of speech and remaining faithful to the law and justice.

Given the aforesaid, we can state the underlying **hypothesis** of the research: transgression in courtroom discourse is a tool of communicative influence, which is realized through communicative strategies and tactics, is used in different forms, and varies in the ways of verbal expression of the courtroom narrative.

In the academic literature, it was mentioned that another phenomenon, termed cognitive dissonance, could also be a means of communicative influence and a peculiar manipulative device (Saussure 2005). In this regard, there is a need to identify common and distinguishing features of transgression and cognitive dissonance. First, let us pay attention to the distinction of these phenomena: transgression is a process, an action, while cognitive dissonance is a state.

To summarize the above, we can define cognitive dissonance as a state of psychological discomfort for an individual due to the lack of correspondence between their beliefs, views, and value priorities and the real, unexpected for the subject of the state course of events, actions, or communicative behavior of others. The unexpected course of events can be the result of transgression; in other words, transgression used by a participant in communication can be the cause of cognitive dissonance for the object of influence – the communication partner (Kent-Walsh 2008).). Projecting this statement onto the courtroom discourse, we

conclude that transgression used by a defense lawyer or prosecutor can cause cognitive dissonance in jurors and judges. The analysis of the speeches of the agents in the courtroom discourse will prove to what extent the described phenomenon is widespread.

3. Analytical techniques

The choice of approaches to the exploration of the material and methods of analysis is conditioned by the content of the underlying hypothesis. Because transgression is being examined through the lens of courtroom discourse, we will focus on the discursive approach to problem analysis.

The corpus material was the texts of the opening and closing speeches of prosecutors and defense lawyers at the two high-profile trials of 2004 and 2011 (the Scott Peterson Trial 2004, and the Casey Anthony Trial 2011). The first process lasted intermittently from 2003 to 2021. The second process took one year to complete. Both trials caused and keeps causing a great deal of public resonance (Helling 2021).

In terms of time, these are video recordings that last more than 20 hours. Episodically, to better characterize the mechanisms of transgression in American courtroom discourse, examples of defense lawyers' speeches in American movies based on real-life trials have been used (*Devil's Advocate*, *Find Me Guilty*).

The methods of analysis differed at each of its different stages. The clarification of the position of the authors of this article concerning the definition of the concept of transgression was carried out in the process of the analysis of the interpretation of the named concept presented in the theoretical sources. With the use of methods of comparison, the approaches to the interpretation of this concept and types of signs of the considered phenomenon, generalization (which generalized the general and differing views of the authors), and argumentation were compared. For performing other tasks, the method of discourse analysis was chosen, which necessitated the determination of the features of three types of contexts: social, pragmatic, and linguistic. In analyzing the social context, we focused on identifying the specific features of the judicial social context and the status roles of different agents of courtroom discourse.

In characterizing the pragmatic context, we proceeded from the fact that the main (illocutionary) goals of the speakers (in our case, a defense lawyer, or a prosecutor) are conditioned by their status functions (the prosecutor – to prove the guilt of the defendant; the defense lawyer – to prove the innocence of the defendant or to mitigate the punishment). While determining their intentions at different stages of utterance production, the communicative strategies and tactics used by them and their correlation with the phenomenon of transgression, the methods of intent analysis, component analysis (when revealing the ways of language expression of intentions), and partially functional-stylistic analysis (in cases of emotional tension of utterances) were used.

The method of modeling was applied to form the structure of the analysis according to the following features: revealing the essence, types, forms of representation, type of communicative strategy and/or tactics, ways of linguistic expression, and functions of transgression. A typified characterization of the three discourse contexts (social context, pragmatic context, and linguistic context) was created using a design method: the results of observations of actual trials in the United States (and, in some cases, other countries) were projected onto each of the named contexts of the courtroom discourse.

In identifying the features of the speeches of defense lawyers and prosecutors, we applied the techniques of component analysis: the semantic components (seven) meanings of words and phrases that represent the indicators of transgression, as well as those that ensure the effectiveness of influence on the audience. The method of classification was exploited in highlighting the specific signs of transgression in the courtroom narrative, while the method of generalization was used to draw conclusions on the results of the study.

4. Findings and discussions

The definition of transgression as transcending the established and the discursive approach to analysis dictate the need to verify the established rules and norms in judicial discourse. We determine courtroom discourse as a communicative event that takes place in the context of a trial. It has specificity in all three types of contexts – social, pragmatic, and linguistic. Several constant features characterize the social context of court discourse: a well-established script, clearly delineated status roles and functions of participants (agents) (Zaitseva and Pelepeychenko 2021, Kobzieva 2017, Burns 1999, Cotterill 2003), the hierarchy of status roles (the judge is in charge, other agents are only subordinate to).

The standard structure of courtroom discourse assumes a sequence of speeches (the judge starts the process, then the prosecutor speaks, then the defense lawyer, etc.), as well as the use of the rules of official behavior and formulas of speech etiquette. The content of the speeches should be dominated by arguments appealing to the facts, laws, and value priorities of society; there is no room in the narratives of the agents of the courtroom discourse for emotional means of influence on the jury and the judge or for criticism of their opponent. To what extent are well-established norms and rules followed in real-life trials? As a careful review of the speeches of defense lawyers and prosecutors shows, the established requirements are generally met, but they are also violated quite frequently. Each of these agents of the courtroom discourse creates their own interpretation of the crime and the actions of the defendants in their narratives (Pelepeychenko and Zaitseva 2021).

Based on the analysis of the material, it can be argued that the narrative in which transgression is used more productively has a successful impact on the jury and the judge. Thus, we propose to trace what kind of narrative model interpretive repertoires based on transgression create, how they influence the recipients' perception of events, and what factors determine the productivity of transgression.

Then, the question of clarifying the kinds of transgression that are used in the courtroom discourse, as well as the forms that express them, comes up.

Here is the social background of the 2011 Casey Anthony trial. This was one of the most high-profile trials. The defendant was accused of the deliberate murder of her two-year-old daughter. A whole team worked on the collection of evidence for the prosecution, and it included well-known, highly successful professionals who had won more than one case. The ‘star team’ included the best forensic experts in the United States. The prosecution was actively supported by the public, following the process closely through the media. The defense lawyer was not famous, he had no influential assistants, and yet he won the case. What helped the defense win the trial and get a jury verdict of not guilty on all the substantive counts alleged by the prosecution? Note that the trial materials amounted to 26,000 pages.

After the acquittal, the protests of the people dissatisfied with the verdict began and did not subside for a long time in America. The public demanded that the court’s decision be reconsidered; most of the jurors had to change their place of residence. Here, we will analyze the ways in which the prosecutor and the defense attorney construct narratives.

The prosecutor arranged her narrative using transgression to create cognitive dissonance in the jury and the judge (1), which is an unusual and powerful technique in terms of influencing the recipients: Casey Marie Anthony – Caylee Anthony. In this example, the names of mother and daughter become opposites, which destroys notions of a deep mother-daughter bond that lasts a lifetime. In the prosecutor’s interpretation, the defendant and her daughter are two opposites; he creates contextual and conceptual antonyms. By conceptual antonym, we mean one that is used not only to articulate an expression but to convey an underlying and key idea. Here – these names become the expression of the opposition between absolute falsity and callousness (mother’s name) and absolute purity and defenselessness (daughter’s name):

(1) Good morning, ladies and gentlemen. Welcome to Orange County. As we have heard several times throughout the jury selection proceedings, this is the case of the State of Florida versus Casey Marie Anthony. However, it is time to tell the story of a little girl named Caylee. **This isn’t just a case about Casey Marie Anthony; it’s a story about Caylee Anthony as well.**

The cognitive mechanisms of the effect of transgression can be explained this way: at trials, prosecutors' narratives are constructed around the defendant. In this example, the usual structure is violated, so the presented communicative strategy of contraposition can be considered a means of expressing transgression. We will fix its type according to the purpose of its use, the focus on the result: it is a transgression in order to create cognitive dissonance. In terms of the form of expression, it is a transgression expressed explicitly. The means of verbal explicit expression are, first, the names of the mother and the dead daughter, and second, the denial of the obvious: the trial of Anthony Casey is announced, and the prosecutor, as if denying this fact, states that '**...it's a story about Caylee Anthony**'. Her speech goes on to contrast assessments of the lives of mother and daughter with the use of emotionally colored vocabulary: the story of a **little girl** named Caylee; her grandparents **filled her room with toys and stuffed animals; Winnie-the-Pooh**; there was **every little girl's dream** – a playhouse; **beautiful little** granddaughter.

The defense lawyer's narrative from the opening to the closing speech was built on transgression, which had a strong effect on the jury. The first violation of the usual course of events: the defense lawyer announces the plan of his speech: 1) What happened? 2) Roy Cronk 3) The investigation 4) Suburban Drive 5) The car 6) The forensics 6) Conclusion.

Defense lawyers do not usually present an outline of their presentation. In the analyzed discourse, the plan became a kind of challenge to the prosecution, who tried to circumvent confusing issues by shifting the conversation to the fate of the daughter. We record the transgression for challenging the accusing party. It is implicit in the form of representation: the lawyer does not explicitly say that the points in the plan represent the issues that the prosecutor circumvented – but those present heard the prosecutor's speech, and in this case, the comments were superfluous. The lawyer's speech acquires signs of intertextuality. He provided answers to the questions (albeit not exhaustive) that the prosecutor avoided. The narrative of the opening speech has three main purposes: to show that 1) the prosecution failed to fulfill its responsibilities; 2) the prosecutor engaged emotion rather than reason; and 3) the key question was not answered by the jury. At the end of each of the excerpts of the speech, we will comment on the types of transgression and the ways in which it is verbally expressed:

(2) It is not a two-sided affair, the **State has the only burden** here; that is **not your job**; Mr. Ashton **can only show you the garbage**; it's **their job so that you can make** an intelligent and just decision **so that you can** answer any question; The prosecution in a murder case is supposed to prove the case **beyond EVERY reasonable doubt**.

In this fragment, the narrative is constructed as a message about what the prosecution should do, but implicitly the negative assessment of the actions of the prosecution and even the aggressive mood of the lawyer is presented: he is indignant about the way the case was investigated. The essence of the violation of the well-established norms is that the lawyer does not provide the facts testifying to the innocence of the defendant (he will do this in the second part of the speech) but expresses his indignation at the results of the work of the prosecution team. Verbal markers (ways of verbal expression) of the lawyer's negative feelings are the words and phrases we emphasized in the text. And, the last sentence implicitly represents the assertion that the prosecution failed. As we can see, transgression is implicit and is implemented with the help of the accusation strategy. Its type by the purpose of the use is to accuse the prosecutor and his team of a lack of professionalism.

(3) We want you to base your verdict **on the evidence not on emotion**, and things were done to draw into **your emotion** to get you angry at someone; you must base your verdict **on the evidence, not on emotion**; to **use emotion to get you angry** is improper; if you hate her if you think she is lying **it has nothing to do with the evidence**.

In the excerpt cited, the defense lawyer uses the tactic of innuendo, which expresses a transgression of contestation, accusation, and exposure. The lawyer does not explicitly say who tried to incite the jury's anger toward the defendant, but it is clear to all that it is about the prosecutor, and his emotional performance. The narrative is built around the theme of "How a verdict should be rendered," but in fact, the lawyer exposes the prosecutor, who presented emotion rather than evidence. The accusation is not expressed directly, but through an emotional assessment of the actions of an abstract person: **to use emotion to get you angry is improper**.

(4) The **key question will never be answered. It can never be proven** and that is **how did Caylee die?; What happened to her?; What is proven beyond and to the exclusion of EVERY reasonable doubt**, not just some but **EVERY SINGLE** one, and these **questions were never answered**; we do not ask you **what you THINK happened**, we want you to tell us **what was PROVEN happened**.

In this example, the narrative is organized as a clarification to the prosecutor of what the audience expects from him and, at the same time, a repeated accusation of unprofessionalism. The communicative strategy of refutation is used and the transgression of challenging the claims of the prosecution is implemented. The accusation is presented implicitly – the names of the prosecutor and his team are not named. The linguistic markers of transgression are syntactic indicators (impersonal sentences); lexical and semantic (opposition expressed by contextual antonyms ‘think proven’).

The defense lawyer actively attacks the prosecutor, proving her unprofessionalism. This attack is the essence of the transgression in the analyzed fragment of the speech: the defense lawyer exceeds his authority to some extent and goes beyond the usual communication behavior of defense lawyers in court. The narrative of his closing statement focuses on three assertions: 1) many facts are not proven; 2) the defendant has made many mistakes in her life, but they are not connected with the murder; 3) the prosecutor has not presented evidence of the murder:

(5) It was directed **not to your emotion** but specifically directed at the child abuse charge; if there is an abused child **people know it, they will see** bruises, and broken bones; **Casey was a good mother** Caylee loved Casey; **different theories** that were posed before you; **10 people did smell nothing**; he did **not see what she was doing** with the shovel; the car **does not shed any light** on how Caylee died; Caylee **may or may not have been transported**; **if the body was in the car**; it is a **square peg in a round hole**; **there is only logical conclusion**; **tons and tons of evidence**.

The nature of the transgression in this fragment of the speech is that the lawyer simultaneously rebels against the accusations of the prosecutor and teaches him how to establish causal relationships in the collection of prosecution evidence and

gives his interpretation of the actions of the defendant. According to long-standing traditions, only the last communicative action should have been realized. Here the transgression is presented explicitly; the way of its verbal expression is the presentation of the prosecutor's allegations and their refutation, listing the questions that remained unanswered. The means of expressing transgression is the strategy of refutation, which is realized in the tactics of exposing the manipulative techniques of the prosecutor, or in the tactics of appealing to the facts.

(6) They **paint** Casey Anthony as a [slut], as a party girl, as a girl who lies but it has absolutely **nothing to do with** how Caylee died; **sudden, not repeated, not deliberate, not premeditated**; don't speculate, don't guess; it can explain her post-death behavior; Casey **made some mistakes and bad decisions**; **she should** have called the police; They do **not have the right to overcharge or inflate** the case; there are **so many lies** surrounding her.

The essence and the explicit way of expressing the transgression in the above passage are similar to the previous one. But we draw your attention to the fact that the degree of the lawyer's aggression is intensifying: he is no longer simply indignant but accuses the prosecutor of violating the rights and lying: They do **not have the right to overcharge or inflate** the case; there are **so many lies** surrounding her.

The following passage of the defense lawyer's speech continues the strategy of accusing the prosecutor and her team of unprofessionalism. Thus, the purpose of the transgression is a kind of mockery of the actions of the prosecution, the means of expression of which is the tactic of contraposition: all conditions for collecting evidence but there is no result. The speech of the prosecutor is just storytelling: it is not about the facts, but about a cute child:

(7) The prosecution **utilized the finest crime labs** in the country – the FBI laboratory, **no evidence, no DNA, no hairs, no soils, no fingerprints**; as **suggested by the State**; there was **a great deal of things** that you were probably looking for and **never received**; he was talking for a long time about that beautiful child, **not on his evidence, not on the evidence** that was presented before you; **How did she die?**

The defense lawyer did not ignore transgression in order to create cognitive dissonance. In the example below, it has the effect of epatage. At the beginning of

his statement, the defense lawyer states that Casey Anthony was forced to have an intimate relationship with her father and possibly her elder brother. Though the defense lawyer was forbidden to mention this later due to the totally unproven nature of this claim, he managed to cause intrigue and hype (Foley, McRobert, Stephanou 2012: xii). He initially insisted that the possible father of the child was her brother, but DNA testing did not confirm this. In the courtroom, there were even some poignant details about this intimate subject, but the focus was on how Casey's sexual abuse had affected her behavior before and after the tragedy with Caylee.

(8) Casey was raised to lie. This happened when she was 8 years old, and **her father molested her.** But, she went to school and played with other kids **as if nothing had happened. Sex abuse does things to us, it changes you.**

(9) On June 16, 2008, after Caylee died, Casey did what she's been doing all her life, hiding her pain, going into that dark corner, and **pretending that she does not live in the situation that she's living in; it all began when Casey was 8 years old, and her father came into her room and began to touch her inappropriately and it escalated.**

In the duel between the narratives of the defense lawyer and the prosecutor, the first interpretation won. The lawyer's interpretive repertoire was characterized by the use of transgression, on which both the opening and closing speeches were patterned. The defense lawyer's narrative resulted in an aggressive speech pattern, especially toward the prosecution. The interpretive repertoire of the prosecutor was characterized by using transgression to create cognitive dissonance in the jury and the judge by contrasting the callousness of the mother and the vulnerability of the daughter. This contributed to the aggressive pattern of speech in relation to the defendant.

The more effective was the defense lawyer's speech pattern with transgression. Its features are: 1) it was frequently used in both opening and closing speeches; 2) it was aggressive, and the aggression was directed at the prosecution team; 3) the predominant communication strategy was the prosecution team strategy and the tactics of Aesopian language; 4) the epatage information was directed at the psychological explanation of the actions of the defendant. The above set of attributes countered only one of the defense lawyer's arsenals of influence:

transgression was aimed at creating cognitive dissonance between the jury and the judge.

In researching the phenomenon of transgression as a means of influence in judicial discourse, we were interested in its prevalence. The analysis of materials from other U.S. trials (Amadou Diallo Trial 1999, Zimmerman Trial 2013, Alex Murdaugh Trial 2022) and movies (*I'm Guilty*, *Divorce American Style*, *Where the Crawdads Sing*) showed that it is a fairly common phenomenon, with the most common type noted as a transgression to create cognitive dissonance in the jury and the judge, as well as to refute the accusations of the prosecutor, and less often – for the purpose of epatage.

In the process of analyzing the material, another question arose that cannot be left unanswered: what affects the verdict more: the communicative strategies and tactics of the agents of the process, transgression as such, or the communicative personality of the lawyer or prosecutor. In other words, what determines the success of the impact: the communicative techniques used or the personality itself? In seeking an explanation for this question, we have paid particular attention to the analysis of the Scott Peterson 2004 trial. Peterson's brilliant, super-expensive defense lawyers failed to save their client from the death penalty, despite the relatively favorable circumstances for him. The prominent legal team can only hope for an Appellate Court in which they can prove that emotion, rather than impartial facts, dominated the jury at the time of sentencing.

Prosecutor Rick Distaso (2004), with circumstantial evidence, sought to generate hatred for the defendant. He made use of transgression in the opening speech according to the principle of increasing effect. First, there was an emotional narrative about the state of health of the pregnant woman for whose murder the husband was in the dock:

(10) Because now she has some problems walking. Her feet are hurting, she's late in the game in her pregnancy, and she's having the normal effects that a woman has when she pregnant. She's having **a hard time getting around**.

Then, instead of a succinct description of the situation, the prosecutor does not just serve up details – he makes them up:

(11) And so, she spent most of that evening, **I think she was only there an hour or two and she spent most of the time sitting in the chair** where you saw her where that picture was taken.

This is the first stage of creating transgression: it is not customary in court to second-guess the facts, but the prosecutor has done so. In addition, the further statement suddenly shifts to the husband of the woman defendant, and the purpose of this abrupt transition is to cause a state of cognitive dissonance in the jury and the judge, to show that the defendant has overthrown the most important value of American society: the family:

(12) At the same time, while that's going on, Scott was attending Amber Frey's Christmas party down in Fresno.

There is no trace of the transgression used by the prosecutor in the detailed description of the defendant's immoral behavior. However, the vivid, emotional description of how the defendant violated the principles of morality cannot but create cognitive dissonance in the audience. The axiological information is explicitly conveyed: the prosecutor condemns the defendant. The degree of condemnation is reinforced by the implicit contrast between socially accepted morality and the defendant's behavior that ignores it. Then the audience is given a fragment of the speech involving transgression: a detailed description of the unborn child:

(13) It's going to be hard for you to read, but what it says is on, on September 24th the baby was 19 and two sevenths' weeks with a due date of 2/16. The **baby's heart rate was 154**. And basically, what they said was the **baby was fine and growing normally at that time**. If you count out the weeks, and I've done that, it would actually put you on December 24th at 32, 32 and two- sevenths weeks.

Here's a schematic representation of how transgression works: an emotional description of the pregnant woman's condition – a transgression with additional details

an emotional contrast between the socially accepted moral norms and the immorality of the defendant – a transgression with a detailed description of the expected result - the birth of a child who was not born because of the crime. Based on the speech of the prosecutor it is possible to draw a conclusion that the efficiency of transgression increases if it is characterized by such attributes: 1)

at a verbal level is supported by emotionally colored lexical means; 2) is built on the description of details, even the invented ones. Now let us move to the defense lawyer's speech.

The super-successful defense lawyer's narrative can by no means be called bad or unprofessional – no, he diligently carried out his work within the techniques adopted at trial: he refuted some charges, lightly attacked the prosecutor, accusing him of trying to substitute the subject of the conversation:

(14) There is, clearly you **want to call him a cad**, you **want to say his behavior is boorish**. We're **not going to dispute that**. But the fact of the matter is, is that this is a murder case, and **there has to be evidence in a murder case**.

Without violating the principles of litigation and demonstrating a strategy of appealing to common moral values, the defense attorney agreed with the defendant's negative assessment of immorality:

(15) I'm not going to sit up here and defend his actions about having an affair. There is not going to be evidence up here, not going to put up any witnesses going to say it was a good thing.

Yet in the lawyer's speech, we did not find a single example of the use of transgression.

5. Conclusions

The research, the results of which are reported in this article, confirmed the underlying hypothesis and allowed us to identify the types of transgression in the courtroom discourse, the forms of its verbal expression in the narratives of the prosecutor and defense lawyer, as well as communication strategies for its implementation, ensuring the success of the speech impact.

In the context of the communicative approach, transgression is interpreted not only as a process, and a phenomenon but also as a tactical communicative technique, implemented in violation of long-standing norms of communicative behavior. It aimed at challenging the opponent or other types of communicative influence in the strategic goal.

In the courtroom discourse, transgression is actualized in the narratives of the prosecutor and the defense lawyer. The following types of transgression have been identified according to the purpose of their use: creating cognitive dissonance in the jury and the judge, condemning the actions of the opponent, and even accusing him of unprofessionalism, challenging the claims of the opponent, admonition, ridicule, attracting attention with the help of epatage. According to the way of expression, we have identified an explicit and an implicit type of transgression. The latter type is more widespread.

Forms of verbal expression of the transgression are words and phrases with strong emotional coloring, and the use of contextual and conceptual antonyms. In cases of implicitly represented transgression, the true interpretations of the speakers are expressed by means of Aesopian language, and allegories, through negative assessments of the actions of an abstract third party. The means of implementation of transgression in courtroom discourse are communicative strategies of opposition, accusation, refutation, and denunciation.

The mechanism of the effect of transgression on addressees is due to the discrepancy between the traditional notions of the content of the statements of the agents of the courtroom discourse and the violation of these notions in real communication. In other words, there is a dissonance between the expected communicative action and the actual occurrence. This discrepancy brings together the phenomena of transgression and cognitive dissonance.

What distinguishes these phenomena is the result of misalignment. In the case of cognitive dissonance, it is the addressee's psychological discomfort, from which he tries to find a way out, while in the case of transgression, it is the fixation of attention on the uncommonness, non-standard interpretations, and as a result, the comprehension of those details of the event that were previously concealed for the addressee.

The effectiveness of transgression in courtroom discourse increases under the following conditions: high frequency of use; the use of accusatory and rebuttal strategies and Aesop speech tactics; reinforcement at the verbal level with emotionally colored vocabulary; the accumulation of details in narratives, even pre-conceived ones. In any case, transgression is an effective technique that ensures the success of the influence of the speaker on the recipients.

The authors share the results of an analysis of judicial discourse in the 21st century, which prompted us to consider the query of whether transgression in the courtroom discourse is a legacy of the 21st century – the century of the destruction of customary norms and foundations. Or, whether it has been used as a technique in the narratives of judicial speech before. We consider the evolution of judicial discourse narratives and transgression as a research prospect.

The Research and Publication Ethics Statement

No ethical considerations were violated in this study.

The Conflict-of-Interest Statement

In line with the statement of the Committee on Publication Ethics (COPE), we hereby declare that we had no conflicting interests regarding any parties to this study.

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Transgresija kao komunikacijsko sredstvo utjecaja u američkome sudskom diskursu

Sažetak

Članak je posvećen proučavanju transgresije u američkome pravosudnom diskursu. Transgresija se tumači ne samo kao process i pojava nego i kao taktička komunikacijska tehnika koja se ostvaruje kršenjem utvrđenih komunikacijskih norma, a usmjerena je na izazivanje protivnika ili na druge vrste komunikacijskoga utjecaja u okviru strateškoga cilja. U sudskome diskursu transgresija se rabi u narativima tužitelja i odvjetnika. Prema namjeni korištenja identificirane su sljedeće vrste: stvaranje kognitivne disonancije između porote i suca, osuda postupaka protivnika, pa čak i optuživanje za neprofesionalnost, osporavanje izjava protivnika, poučavanje, ismijavanje, privlačenje pozornosti uz pomoć šokantnoga. Oblici jezičnoga izražavanja analiziranih tehnika jesu riječi i izrazi s jakim emocionalnim obojenjem, korištenje kontekstnim antonimima i pojmovnim oprekama. Implicitna transgresija izražava se ezopovskim jezikom i alegorijama te kroz negativne ocjene postupaka apstraktnih trećih osoba. Uporaba transgresije često osigurava da govor ima željeni učinak. Željeni učinak transgresije u pravosudnome diskursu, u radu označen terminom „produktivnost”, intenzivira se učestalošću uporabe; uporabom strategija optuživanja, opovrgavanja, suprotstavljanja i taktika ezopovskoga govora; uporabom emocionalno obojenoga vokabulara; gomilanjem (katkad i izmišljenih) detalja u narativima te konstruiranjem govora na principu postupnoga intenziviranja transgresije.

Keywords: Transgression, Courtroom discourse, Verbal expression, Explicit and implicit forms of transgression, Discourse analysis

Ključne riječi: transgresija, sudski diskurs, razina izraza, eksplicitna i implicitna transgresija, analiza diskursa