



EVIDENCE SPEAKS FOR ITSELF: METAPHORS IN COURTROOM HEARINGS

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Introduction

Legal English, like legal Lithuanian or legal French, or any other language of the law, is usually characterized by very specific features, such as rigid structures, long sentences specific vocabulary, Latin terms, also sometimes as manifesting obscurity, ambiguity and exceptional complexity (Makodia, 2007). The verbosity of legal language has become almost a myth. Interestingly, Tiersma in his paper (2006) discusses many features of legal English as myths. A huge argument resulting in the plain English movement seems to be a logical reaction to a certain insularity and complexity of the legal language (cf. Schane, 2006) and has already had an impact on lawyers and the society (cf. Tiersma, 2006). However, the movement might also be rather debatable, both from the professional lawyer's point of view (cf. Assy, 2011) and from that of a linguist, especially working in the field of genre and discourse, which are notably characterized by certain undisputable conventions.

Despite its complexity, legal language, like any other language for specific purposes (language for engineering, language for medicine, etc.), draws on general language principles and follows general principles of human cognition. One of them is metaphoricity of reasoning manifested in language. As pointed out by the authors of the notion and of a seminal book on the Conceptual Metaphor Theory (CMT), Lakoff and Johnson, metaphor is pervasive in language, thought and action (cf. Lakoff and Johnson, 1980/2003, 3; Grady, 2007). Another salient principle governing human activities and closely linked to metaphor is



embodiment (Johnson, 2007). According to it, our reasoning about abstract things relies on our bodily experience. As a result, we *give and take ideas*, like we give and take cups, books or any other material things, *we keep ideas in our minds*, like we keep cups in a cupboard or books in our bags.

Legal language and reasoning are no exception. As claimed by Johnson (2002) in reference to Steven Winter's book (*A Clearing in the Forest*, 2001, discussed in Johnson, 2002, 951ff), as a result of empirical cognitive research into legal reasoning, it has turned out to be embodied, situated and imaginative. It has also turned out to be metaphorical. Since metaphor reveals a great deal about our understanding of the world, a study into legal or any other professional discourse should disclose the mechanisms of reasoning of people involved in that discourse. This "disclosure" is not so simple; as noted by Johnson in reference to Winter's book (2001; discussed in Johnson, 2002, 952),

We do not simply "discover" legal concepts and apply them to cases; we do not construct them out of thin air, driven only by our interests or our pursuit of power. Instead, they grow out of our problematic, historically and culturally situated communal practices and institutions. They are at once constrained by our communally embedded understandings and practices; and yet they are open-ended in important ways that make it possible for law to grow in response to significant changes of human history.

Presumably, those concepts emerge and persist, on the one hand, among professionals, as part of and due to the ongoing professional discourse, and on the other hand, they are culture-specific. The two are closely linked; as seen in previous research, they do not escape the attention of metaphor researchers.

Many discourses, such as political or economic, seem to have been studied in terms of metaphoricity a great deal. It seems that the more publicly accessible the discourse, the more attractive it looks to metaphor researchers. As a result, research into political discourse is one of the most prolific. Speeches of political leaders, election discourse, news reports and other genres in the media (cf. Chilton and Lakoff, 1995; Lakoff, 1996; Cienki, 2005; Musolff, 2006; Fetzer and Lauerbach, 2007; Cibulskienė, 2012; Wodak, 2012), also more comprehensive studies (cf. Chilton, 2004) are just a couple of examples of metaphor studies in political discourse. Economic, educational and many other discourses have been analysed from the point of view of metaphoricity as well (cf. a number of essays in Gibbs, 2008, among others). Interestingly, such discourses as medicine (Hodgin, 1985), mathematics (Lakoff and Núñez, 2000) or music (Johnson and Larson, 2003, Šeškauskienė and Levandauskaitė, 2013) have also been subject to

metaphor analysis. Presumably, each discourse seems to give preference to different metaphors (cf. Semino, 2008).

The last decade has witnessed an upsurge of research into law-related metaphors. Notably, law subsumes an array of different branches, sometimes very culture-specific. Therefore, many researchers focus on specific branches of law and specific genres. For example, Chiu and Chiang (2011) focus on a fairly well-established metaphor of legal fight in Taiwan statutes and judgements. Loughlan (2006) deals with metaphors of intellectual property. Interestingly, the prevailing conceptualization of intellectual property is in the framework of the heavily negatively charged pirate-predator-parasite metaphor rather than the neutral agrarian reaping and sowing (ibid., p. 225). Larsson (2013) researches metaphors in copyright law in a digital society, i.e. as copying is conceptualized by the younger generation. His study reveals that copyright materials are not conceived as limited and constrained but rather as a flow of the content of consumption. The paper shows that on the one hand, legal norms are closely linked to societal norms and patterns of behaviour and on the other hand, there is a gap between them. Presumably, the copyright law will only work when people conceptualize the reproduction and distribution of copies as limited and constrained. A cross-cultural analysis of corruption as metaphor has been conducted by Tänzler (2007), even though in a slightly different framework. The results suggest that in many European cultures corruption is perceived as something religious and mystical. Twardzisz (2013) discusses metaphors in company law and confirms the existence of person, container and other object metaphors. No prevailing metaphors have been identified in his study.

A discussion of previous research into legal discourse, especially from the metaphor point of view, brings us to the issue of different methodological frameworks. Most of above scholars have focused on written discourse of a selected branch of law and on a certain amount of linguistic or other data. However, the American school of metaphor relies to a large extent on experimental studies (for an overview of methodologies see Šeškauskienė, 2012). Thibodeau and Boroditsky (2011), both specializing in cognitive psychology, have conducted experimental research into human reasoning about crime. In their five experiments the researchers asked people about many aspects of dealing with crime. As a result, the initially posited metaphors CRIME IS A VIRUS (e.g. *crime is infecting the city*) and CRIME IS A BEAST (e.g. *crime is preying on the city*) have been confirmed as the most prevalent. Moreover, the results of the experiments suggest that metaphors do influence how people perceive crimes and how they attempt to solve crime-related problems. If a crime is conceptualized as a virus, people tend to suggest the investigation into its causes. If a crime is



conceptualized as a beast, most people think that catching and caging the perpetrator would be the best solution.

The present investigation focuses on courtroom language and metaphors identified in spoken legal discourse of criminal cases. Relying on Winter's claim that "metaphor is both basic dimension of human reason and an indispensable tool of legal thought" (Winter, 2008, 364) and on previous findings in different discourses which point out to rather different prevailing metaphors (cf. Semino, 2008), we presume that in legal proceedings of criminal cases person- and object-related metaphors should prevail. We also adhere to the non-experimental approach working on a collected corpus of linguistic data.

Further, the paper is going to proceed to the explication of the data and methods of the present investigation. Then it will move on to introduce the main findings and interpret them in the framework of the CMT and later research into metaphor.

Data and Methods

The data for the present research includes the transcripts of three oral arguments of the Supreme Court of the United States¹ of 2004, 2005 and 2006, with one transcript per year: *Roper v. Simmons* (2004), *Oregon v. Guzek* (2005) and *House v. Bell* (2006). All arguments are concerned with criminal cases. The total number of words of the collected corpus amounts to about 32,000 words, with about 10,000 words each. The transcripts show that in the three cases there were 16 different participants involved; all of them legal professionals. Of the total number of the participants, 13 were males and three females.

The analysis of the data consisted of two stages: linguistic metaphor (or metaphorical expression, ME) identification in the transcripts and interpretation of the findings. During the first stage, the main principles of the metaphor identification procedure (MIP) suggested by Pragglejaz Group (2007) and further elaborated by Steen and his colleagues (Steen et al., 2010, 2010a) have been employed. Below the four key steps of the MIP are given:

1. Read the entire text–discourse to establish a general understanding of the meaning.
2. Determine the lexical units in the text–discourse.
3. (a) For each lexical unit in the text, establish its meaning in context, that is, how it applies to an entity, relation, or attribute in the situation

¹ The transcripts for the cases are archived and freely available on the webpage of the Supreme Court of the United States (<http://www.supremecourt.gov/>). All analysed cases are listed at the end of this paper.

evoked by the text (contextual meaning). Take into account what comes before and after the lexical unit.

(b) For each lexical unit, determine if it has a more basic contemporary meaning in other contexts than the one in the given context. For our purposes, basic meanings tend to be

- More concrete [what they evoke is easier to imagine, see, hear, feel, smell, and taste];
- Related to bodily action;
- More precise (as opposed to vague);
- Historically older;

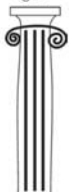
Basic meanings are not necessarily the most frequent meanings of the lexical unit.

(c) If the lexical unit has a more basic current–contemporary meaning in other contexts than the given context, decide whether the contextual meaning contrasts with the basic meaning but can be understood in comparison with it.

4. If yes, mark the lexical unit as metaphorical. (Pragglejaz Group, 2007, 3)

To pursue the aim of the paper, the principles of the above procedure were applied to contexts with the law-related key words, such as *law*, *court*, *argument*, *case*, *trial*, *evidence*, *defendant*, etc. It is also important to mention that metaphors emerge on the basis of contextual contrast, which Stefanowitsch (2004) described in terms. Further in the paper, the terms *metaphorical expression*, *linguistic metaphor* and *metaphorical pattern* will be used synonymously despite that the first is the most traditional, was introduced by Lakoff in Johnson back in 1980 (Lakoff and Johnson, 1980/2003), the second has prevailed in many papers of the European school (see, for example, Deignan 2005), and the last, as used by the author (Stefanowitsch 2004), has been defined as a particular structure. Presumably, in this paper the distinction is not crucial.

The interpretation of the results was based on the CMT, which helps uncover the link between two conceptual domains – the source and the target, where the latter is seen in terms of the former (for more details see Lakoff and Johnson, 1980/2003, Kövecses, 2010, also further studies such as Deignan, 2005, 13–32, etc.). For example, the ubiquitous linguistic metaphor *to give evidence* points to the underlying metaphor LAW IS AN OBJECT, whereby the abstract notion



of evidence is understood as something that could be given physically. Focusing on the target domain of law, further we will introduce our main findings in reference to the source domains, including major tendencies and the interpretation of specific metaphors.

Overall results. Major tendencies of metaphoricity

In total 887 MEs related to the law or legal matters have been identified. Some MEs occurred more than once, twice or even more than 20 times, such as, for example, *the evidence showed*. In total 465 different MEs related to the law or legal matters have been identified.

In Table 1 below, you can see the overall distribution of metaphors in the data. The results clearly demonstrate preference given to two major metaphors signalling the main tendencies of metaphorical reasoning about legal matters in spoken discourse: LAW IS AN OBJECT and LAW IS A PERSON, with 561 and 289 MEs, respectively. The other metaphors, where law is seen through the domains of performance, illness and other, presumably, less salient domains (cf.: *legislative arena, immune from criminal punishment*), account for 37 ME. The OBJECT metaphor is about twice as frequent as the PERSON in our data.

Table 1. *Metaphors and metaphorical expressions in court hearings*

Metaphor	No of MEs	%
LAW IS AN OBJECT	561	63.25
LAW IS A PERSON	289	32.58
Other	37	4.17
Total	887	100

As seen in the above table, all metaphors in this paper are presented in accordance with the Lakoffian approach, i. e. as the formula A IS B, where LAW is understood as A, or target domain, and B as a source domain. It does not mean that the target domain, law, is always explicitly mentioned in the text. Rather, as mentioned, the key words of the target domain serve as anchors in the text and help identify law-related metaphors. The domain of law subsumes all participants of the proceedings (judges, jury, defendants, etc.), evidence, claims and other legal matters.

Further in the paper, each major metaphor will be discussed in more detail. The first two, object and person, often subsume several other metaphors, such as LAW IS A BUILDING or LAW IS A CONTAINER within the OBJECT metaphor, or LAW IS A BUILDING and LAW IS COMPETITION within the PERSON metaphor. Minor

metaphors, or those realized by a fairly low number of MEs in our data, will be shortly discussed afterwards. Also, there will be an attempt made to account for the main tendencies and draw conclusions.

LAW IS AN OBJECT

As seen from the above table, the law in more than half of all cases (63.25%) is conceptualized as an object. By *object* we mean something tangible, a thing that might be of a certain shape, size, colour; made up of some material or consisting of several parts, taken and given, serve as a container, etc. Also, it might be perceived as less tangible but extending in time. As mentioned above, the understanding of object-related characteristics comes from the context, or metaphorical patterns of law-related words (cf. Stefanowitsch, 2004).

The most prominent contextual clues of the object metaphor have been verbs like *give get, take, lay, obtain, accept* used in reference to abstract legal issues. They occur in combination with *evidence, testimony, law* and serve as important indicators of metaphoricity of this type of discourse, cf.:

- (1) *So, in fact, it's Dr. Blake's testimony which has to be impossible to accept (...). (Case 3)²*
- (2) *(...) a confession made to law enforcement where once obtaining evidence of guilt, law enforcement pursues and tries to get as many of the details out of it. (Case 3)*
- (3) *(...) to accept the law as it was given by a judge. (Case 1)*
- (4) *(...) and we [the defendant] have laid before the Court peer-reviewed scientific studies (...). (Case 1)*

Among the key concepts in the object source domain are the concepts of taking and giving. The latter seems to be particularly salient. The patterns with *give* and its synonyms *present, offer, return* make up 53 cases, of which the lexeme *give* has been found 20 times.

Another frequent contextual indicator referring to the object source domain is *have*, which in its primary meaning is closely linked to possession. Notably, metaphor researchers find the concept of possession, especially realized by contexts with *have*, rather problematic (cf. Steen et al. 2010a). However, following the Amsterdam group approach (ibid.), in this paper we adhere to the opinion that the following cases are metaphorical:

² In all the examples reference is given to one of the three cases (Case 1, 2 or 3). All of them are enumerated at the end of the paper. Also in each example the words constituting a metaphorical pattern are underlined. All relevant pronouns have been disambiguated by adding the actual referent in the square brackets after each pronoun of a metaphorical pattern.

- (5) (...) *we may not have held they [the State] have a constitutional right to make that argument (...).* (Case 2)
- (6) (...) *and at the trial, we [hearing participants] have a lot of evidence about the alibi.* (Case 2)

Like most material objects, law(s), evidence, report(s) can be seen; hence the frequent collocations of law-related nouns with *look* and *see*. This seems to be compatible with the well-known metaphor SEEING IS UNDERSTANDING or SEEING IS KNOWING (Lakoff and Johnson, 1980/2003), usually exemplified by such linguistic metaphors as *I see what you mean, it looks different from my point of view*. In our data, looking and seeing point to the idea of understanding, as in the following examples:

- (7) Justice Breyer: (...) *arguably it's more relevant to look at the convictions* (Case 1)
- (8) (...) *when we [hearing participants] look at the blood evidence in this case, yes, we don't deny that there is evidence which could support conviction.* (Case 3)
- (9) (...) *you [participants in the proceedings] will see that there are doubts as to whether the man is guilty or not.* (Case 2)

The range of the keywords of the target domain is broad; they include *guilt, testimony, findings, alibi, evidence, judgement* and many more. In the collected data, *evidence* has been the most frequent word of the target domain. Interestingly, one of its object-like characteristics emerging in the text is its 'considerable size' rendered by the adjective *substantial* (cf. ODE, 2010). Thus, we have a number of cases of *substantial evidence*, one *substantial penalty* and one *substantial consensus*. Even more explicit reference to the object's bulkiness is the contextual clue of weight. Since all references to weight suggest heaviness rather than lightness and bearing in mind the importance of persuasion in legal proceedings, the weight seems to be compatible with the metaphor HEAVY IS IMPORTANT. In arguing a case, the emphasis on the credibility and trustworthiness of legal matters seems to be paramount, cf. the following example:

- (10) (...) *an argument that could have been made to spare this particular defendant but it need not have been credited or given dispositive weight (...).* (Case 1)

One of legal terms, *the burden of proof*, seems to be explainable within the heaviness metaphor. Despite that *burden* in its primary meaning is understood as a heavy load that is difficult to carry (ODE, 2010) and hence brings into the text

its overall fairly negative evaluation, the term *burden of proof* is devoid of such evaluation. Rather, the idea of importance is highlighted.

Another characteristic of a material object foregrounded in the data is its decomposability into smaller parts. In other words, legal matters are seen as made up of several parts, which might be assembled or disassembled. In the data, there are several contextual clues that helped identify this aspect of the object metaphor. They include such verbs as *consist* and *divide*, also such semantically transparent nouns as *part*, *piece*, *component*, *portion*, *element*, *entirety*, cf.:

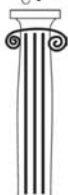
- (11) (...) *the district court order was divided into two distinct parts.* (Case 3)
- (12) (...) *did the district court explain that it was rejecting that element of witnesses' testimonies?* (Case 3)
- (13) (...) *the evidence has to be viewed in light of the entirety of the evidence of the record.* (Case 3)

In addition to the bulkiness and weight, the vertical dimension in the physical domain encoded in the adjective *high* has also been rather frequent. The adjective *high* has been found in all three forms (*high*, *higher*, *highest*) used in combination with law-related words. Interestingly, it also combines with *burden* alongside with *heavy* and *hard*, which in the primary meaning of the word *burden* would hardly be possible, cf.:

- (14) *The burden is... It's quite high and it's high for a reason.* (Case 3)
- (15) (...) *it would effectively allow jurors, at their discretion, to apply what is a higher standard of proof at capital sentencing (...).* (Case 2)

The frequency of *high* rather than *low*, which in combination with law-related words has not been found, seems to be also related to emphasis. Such cases as (10) and (11) are explainable with reference to the metaphors MORE IS UP or GOOD/IMPORTANT IS UP (Lakoff and Johnson, 1980/2003). Thus what is high is important and valuable.

References to the dimensionality of an object are frequently found in the metaphorical patterns of law-related words with prepositions. Notably, they indicate location and also in many cases suggest many other spatial parameters, such as two- or three-dimensionality of the reference object. For example, *in* is used with three-dimensional containers, *on* refers to two-dimensional surface (cf. Pullum, 2007). In our data, the most frequent prepositions used in combination with law-related words were *under*, *on*, *in*, *before* and *beyond*. Each of them presupposes a different conceptualization of the object, cf.:



- (16) *But under (...) Oregon law, what is not clear is you want to put the mother on the stand.* (Case 2)
- (17) *Well, the jury did determine, at the guilt phase, that the defendant was guilty beyond a reasonable doubt.* (Case 2)

Under, which is the key preposition in terms of frequency, imposes a schema of *Figure* being lower than the *Ground* (the terms *Figure* as an object located in reference to *Ground* and *Ground* as a reference object are used in conformity with Talmy's approach advocated in many of his publications, e.g. Talmy 2000). In our case, *Ground* is legal matter encoded by a law-related word, such as *law*, *amendment*, *statute*, etc. In collocations with *under*, the idea of the law being superior and imposing is highlighted, as seen in example (12) above.³

When it comes to the image of a concrete object of conceptualizing the law, there are two that are rather distinct—a building and a container. These are the two source domains frequently discussed in metaphor studies (cf. Kövecses, 2010, among others). Thus building as an object emerges in contexts with the foundational elements, such as *ground*, *basis*, *support* as well as in prepositional phrases with *on*, in most cases signalling the key idea of support (cf. Stasiūnaitė and Šeškauskienė, 2004). Hence we have such frequent combinations as *on the basis of the testimony/amendment*, *the opinion rests on Federal ground*, *evidence supports*, etc. As noted by Grady and his colleagues in several of his publications (see, for example, Grady and Johnson, 1997) in conceptualizing abstract things in terms of a building, the structural element of a building that is frequently transferred to the target domain is the foundation, with other elements, such as windows, doors, balconies or roofs remaining in the background (ibid.).

The image of a container is usually construed as an enclosure, in the text mainly signalled by the preposition *in*. Moreover, the verbs *put*, *contain* and the adjectives *full* and *closing* also contribute to the understanding of legal matters in terms of containers, cf.:

- (18) *If you look at the autopsy record that's (...) in the trial record, it specifically says (...).* (Case 3)
- (19) *But the record also contains the testimony of the TBI agent (...).* (Case 3)
- (20) *I don't yet have the record showing the full closing argument of both sides (...).* (Case 1)

³ Spatial terms pointing out to different conceptualization of law are numerous and are worth a more extensive study. Here we will not focus on all cases of conceptualization but only point out the most characteristic ones.

No other clues as to the size of shape of a container have been identified. The main idea of containerizing legal matters is concerned with merely locating (in something) or giving more prominence, especially in a combination with *full*. Thus it is quite understandable that there have been no *empty* legal matters identified in the data.

In addition to an object which is usually located and has certain physical dimensions, equally plausible is its temporality. Many cases could be subsumed under the metaphor TIME IS SPACE, for example, in contexts with the preposition *throughout*. In legal contexts this preposition, however, like the preposition *during*, seems to impose an understanding of something extended in time, cf.:

- (21) (...) *throughout the rest of an argument he uses terms to reinforce that.* (Case 1)
- (22) (...) *he never made the argument in the trial court during his trial* (...). (Case 1)

The continuance in time, also signalled by the word *phase*, and indirectly, by the word *stage*, blurs the image of an object that is tangible, can be given and taken, etc. However, temporality is a characteristic of material objects, irrespective of their shape, size and other physical qualities.

To briefly summarize the section on the most salient metaphor of spoken legal discourse, the image of an object emerging in this discourse is rather contradictory. On the one hand, it is tangible and could be given, taken, accepted, of considerable weight and height, can be divided into parts, conceptualized as a building or a container, located superior to many ordinary citizens. On the other hand, it extends in time and as such is much less tangible. Most characteristics of the law point to its importance and value.

LAW IS A PERSON

As seen in Table 1, more than 30 per cent of the data is interpretable as cases of personification. It suggests that legal matters are thought of in terms of a living being. Notably, the notion of a living being is very broad and on the basis of contextual clues it is not always possible to identify a very distinct image. A living being, which in most cases is human, is seen in spoken legal discourse as someone who travels (interpretable within the LAW IS A JOURNEY metaphor), someone who competes (LAW IS COMPETITION metaphor), also someone who is able to speak, instruct and evaluate (LAW IS A TEACHER metaphor), decide and think, which are exclusively human capabilities. Further in this section, all the above aspects of personification will be discussed in more detail.

Interestingly, only slightly over 20 MEs seem to be interpretable within the journey metaphor. As seen in ample research into political discourse, the journey

metaphor seems to be pervasive (see, for example, Cibulskienė, 2012). In our data, most expressions refer to moving towards a destination and are encoded by the lexemes *go (back)*, *come (in)* and *reach*. No starting points are ever explicitly mentioned. Legal argument is conceptualized not only as a forward moving, but also as going back – usually for the purpose of reconsidering the issue in question. In some cases reference to longer or shorter distances is rather explicit, cf.:

- (23) (...) *the Oregon Supreme Court went farther than it needed to* (...).
(Case 2)
- (24) (...) *this Court came very close to deciding this question* (...).
(Case 2)

Going farther than needed is understood as something negative, exceeding the power of the Court and probably being unjust. Moving close to an issue, presumably, highlights its importance and the effort taken on the part of the Court to solve it; hence, is associated with more positive evaluation.

Another metaphor, LAW IS COMPETITION, also frequently attested in political discourse, in our data has only been identified in several cases. Contextual indicators and keywords of the source domain in this metaphor include such lexemes as *win*, *lose* and *award* (cf. Morgan and Bales 2013). The first two were found in the data; however, the third only appeared indirectly, in the collocations *deserves the death penalty* and *merit capital punishment*. The notion of award in this context seems rather awkward since it is not earned for good performance. Quite the opposite, the award comes as punishment and is usually earned in case the accused loses the case. The winner in legal matters, as attested by language data, is usually not awarded.

In our further discussion we will concentrate on such human features as the ability to speak, listen, reason, instruct and the like. Many of them contribute to the image of a strict and authoritative person; however, some others demonstrate that interpreting rather than just deciding and even making mistakes might be part of a human image emerging in spoken legal discourse.

One of the most obvious contextual clues referring to human-like features and very frequent in the collected data is the ability to speak. It is realized by such verbs as *say* and *tell*, but also *announce*, *suggest* and *cite*, cf.:

- (25) *This Court has said that only when the penalty is death do you look at the character of the defendant* (...). (Case 1)
- (26) (...) *I was just curious about this statute that tells the jury* (...).
(Case 2)

Since the law and legal matters are often perceived as strict and imposing, it is logical that the personification metaphor is realized through the lexemes *require, decide, determine, allow, permit, authorize, acknowledge, entitle* presupposing that the one who is able to decide, permit, etc. is powerful enough to do so; hence the frequency of such collocations as *a/the statute /law/ legislature requires, the Court decides or refuses, the Constitution allows or prohibits, a/the statute permits or prevents*, etc., cf.:

- (27) (...) *a statute that deals with admissibility of evidence prevents the parties from having to go through making foundations* (...). (Case 2)
- (28) *It's an argument about what the Constitution prohibits*. (Case 1)
- (29) *The court should refuse to sanction such activity* (...). (Case 1)

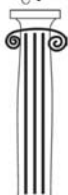
Interestingly, the data has demonstrated that the law is not always strict and imposing. The analysis of the courtroom transcripts has revealed that the law might also act as a teacher, who gives instructions, provides explanations, examines and evaluates, e.g.:

- (30) (...) *the court shall instruct the jury* (...). (Case 2)
- (31) (...) *the Court examined the credibility of the testimony* (...). (Case 3)
- (32) (...) *a legislature ought to be evaluating, not a court*. (Case 1)

The law may also be conceptualized as an interlocutor, a person who might be listened to and heard. Collocates of law-related words with *hear* and *listen* are particularly salient; with *hear* and *hearing* well-established in this type of discourse. In the communication setting, it is understandable that the law may be capable of interpreting and construing, also thinking; in most such cases the agent role is taken by the Court (e.g. *the Court thought, construed evidence; the Court interprets*). Another frequent lexeme in legal setting is *adopt* in such expressions as *adopt legislation, penal code, provision*, etc. As the first meaning of *adopt* is related to taking a child into a family and becoming its parents (ODE, 2010), in spoken legal discourse adoption is interpretable as a human characteristic mostly associated with accepting something and making it part of our everyday life.

Despite a fairly authoritative image of the law, a number of patterns suggest that the law might also be correct or make mistakes and be misunderstood. The agent role in those cases is also taken by the Court. Therefore, we have such expressions as *the Court is correct, the Court misapprehended* and *the Court made a mistake*.

The overall human image in spoken legal discourse is rather fragmentary. It can move towards a destination, come close to it, go back; however, a number of



details usually found in journey metaphors in other discourses (turning, crossroads, etc.) are missing. Law can also be seen as involved in competition, where there are winners and losers. The most explicit image is concerned with the ability to speak and listen as well as think, reason, interpret and instruct. The image is not devoid of such human features as making mistakes.

Minor metaphors

Less than 5 per cent of all cases represent a number of metaphors which are not very distinct in our data. Some textual indicators give a clue to a war metaphor, for example, *conflicting things*. However, these indicators are scarce and not many details as to the realization of the metaphor could be elicited. Another interesting metaphor identifiable in the text was LAW IS A PERFORMANCE, realized in such collocations as *legislative arena*. Some textual clues also point out to the metaphor of illness and treatment. However, they are mainly related to one's immunity – *from criminal penalty, capital punishment, even life without parole*. No other elements of illness or treatment appeared in the data. Some other metaphors have been even less distinct.

Conclusion

The analysis of spoken legal discourse, more specifically, of courtroom hearings, has revealed that this type of discourse is structured through metaphors conceptualizing legal matters mainly in terms of objects or human beings. These two broad umbrella metaphors subsume some other metaphors, such as LAW IS A BUILDING or LAW IS A CONTAINER within the object metaphor or LAW IS PERSON ON A JOURNEY, LAW IS A TEACHER, LAW IS COMPETITION, etc. A tendency to objectification seems to be a distinct feature of legal discourse, particularly of spoken legal discourse, where most participants are legal professionals. This tendency might also be linked with the branch of criminal law, which was the subject matter of all cases.

However, the conceptualization of law in terms of an object is not limited to fairly distinct metaphors of a building (mainly its foundation) or a container. Numerous contextual clues lead to an interpretation of a law as an object which is taken, given, accepted, can be divided into parts, has weight, also is located in a certain place, usually taking a superior position to the society. Interestingly, the visual image of the object is rather indiscriminate due to rather limited clues to the object's outer characteristics. The most outstanding feature is the object's weight and bulkiness.

The person metaphor is not limited to a (rather fragmentary) image of a traveller, teacher or competitor. In the metaphor LAW IS A PERSON the majority of textual clues point to the person's mental capabilities, also his/her abilities to

speak and listen, which are important indicators of a person's ability to engage in communication. We see language-related contextual features as revealing because in legal matters language plays a crucial role, being, in principle, the law's major instrument.

As noted in some passages in reference to many metaphors in this paper, metaphor in many cases carries evaluative connotations – in the language of legal professionals the connotations are mostly positive. Moreover, another function of metaphor in legal discourse is concerned with rhetorical emphasis, for example, something that carries weight or is high is also important; the frequent phrase *under the law* also highlights the law's power, superiority and importance.

It should also be noted that both of the above tendencies, objectification or personification, are in line with the cognitive principle of embodiment, because our perception of abstractions in terms of objects or humans arises from our interaction with the world, where people and the material world taking the form of concrete objects are the main 'interacting sides'. Despite the formulaic, rigid character of professional legal discourse, it seems to obey general human cognitive processes which we can witness in language.

Despite that the investigation has been limited to slightly over 30,000 words and probably also in terms of genre and language (English), it has manifested some interesting tendencies that later could be verified on larger corpora or another genre and register. Hopefully, this type of research will reduce the distrust that some people have towards metaphor, especially in a highly formulaic and rigid legal discourse.

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Inesa Šeškauskienė, Julija Stepančuk

EVIDENCE SPEAKS FOR ITSELF: METAPHORS IN COURTROOM HEARINGS

Summary

Keywords: *metaphor, law, spoken legal discourse, English, target domain words, context.*

The paper sets out to examine metaphors structuring professional spoken legal discourse – courtroom hearings of criminal cases of the US Supreme Court. The choice of the topic has been largely determined by an obvious lack of metaphor studies in such professional field as law. The data has been collected from the website of the above court. The investigation has been carried out in the framework of the Conceptual Metaphor Theory and its later development – mainly of the European school. The principles of the MIP with the focus on combinatory features have been applied in identifying the manifestations of metaphor in contexts surrounding law-related words, such as evidence, judgement, court, etc. The results have shown that in more than half of all cases legal matters tend to be conceptualized in terms of material objects, which can be taken, given, have weight, serve as a container for another object, conceptualized as buildings, seen as located in reference to another object. Also legal matters are conceptualized as humans. The context foregrounds such human features as the ability to speak and listen, reason and think, decide, interpret or instruct. There are also some elements pointing to travelling, teaching or competition.

Apart from moulding the ideas, metaphors in such discourse perform an evaluative function, in most cases, positive. Evaluation is closely linked but not limited to the rhetorical function of emphasis put on certain legal matters, which is logical considering that only legal professionals are engaged in the discourse under investigation.

Inesa Šeškauskienė, Julija Stepančuk

ĮKALČIAI KALBA PATYS: METAFOROS TEISMINIO BYLŲ NAGRINĖJIMO PROCESĖ

Santrauka

Pagrindiniai žodžiai: *metafora, teisė, sakininis teisės diskursas, anglų kalba, tikslo srities žodžiai, kontekstas.*

Straipsnyje nagrinėjamos metaforos profesiniame sakininiame teisės diskurse. Tyrimui pasirinkti įrašai iš JAV Aukščiausiajame teisme nagrinėtų baudžiamųjų bylų. Visi įrašai yra transkribuoti ir prieinami minėto teismo interneto svetainėje. Tyrimą paskatino gana ribotas minėto diskurso metaforizacijos procesų ištirtumo laipsnis. Analizė buvo grindžiama pagrindiniais metaforų identifikavimo (MIP procedūra) principais, žodžių junglumo ypatumais bei konceptualiosios metaforos teorijos ir tolesnių tyrimų, kurių ypač daug atliekama Europoje, principais. Iš esmės tirtos tekstų atkarpos su pagrindiniais tikslo srities (*target domain*) žodžiais, tokiais kaip *parodymai, įstatymas, sprendimas, teismas* ir pan. Analizės rezultatai parodė, kad profesiniame sakininiame teisės diskurse vyrauja teisės kaip objekto metafora. Kontekste išryškėja tokie objekto bruožai, kaip galimybė jį paimti ar padėti, nemažas svoris ir apimtys, lokalizacija (dažniausiai aukščiau) kitų objektų atžvilgiu, taip pat išryškėjo objekto kaip pastato ir talpyklos įvaizdis. Kita ryški metafora buvo personifikacija. Nagrinėjamame diskurse teisė suvokiama daugiausia kaip kalbantis, klausantis, maštantis, sprendžiantis, interpretuojantis ar nurodantis asmuo. Kontekste yra elementų, rodančių keliaujančio, kitus mokančio, rungtyniaujančio su kitais asmens įvaizdį, tačiau, skirtingai nuo kitų diskursų, jis nėra labai ryškus ar kiek detaliau atskleistas.

Iš atlikto tyrimo matyti, kad metaforos neretai atlieka ir (teigiama) vertinamąją bei retorinę pabrėžiamąją funkcijas. Šios funkcijos atrodo logiškos atsižvelgiant į tai, kad nagrinėjant bylas minėto teismo procese dalyvauja tik profesionalūs teisininkai.