

## Functions of Courtroom Responses in Cognitive Context Construction and the Realization of Litigants' Communicative Aims in Chinese Court Hearing

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### Abstract

In Chinese court hearing, litigants usually make responses to the questions of the judge or the public prosecutor on the basis of their communicative aims. However, few studies have been conducted to investigate the process how their communicative aims are realized. This paper, based on the relevant theories on cognitive context construction, aims to reveal the functions of courtroom responses in the construction of cognitive context and how litigants realize their communicative aims thereby. It is found that litigants' responses in Chinese court hearing usually take four forms: H-Act, S-Act, H+S-Act and E-Act. They participate actively in the construction of such cognitive context as "knowledge script", "psychological schema" and "socio-psychological representation". It is through the construction of cognitive context with the different forms of responses that litigants finally realize their communicative aims.

**Key words:** Courtroom responses; Cognitive context; Communicative aims; Court hearing

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### INTRODUCTION

Questions and answers are the typical means of communication in court hearing, through which participants' communicative aims are realized (DU, 2009, p. 360). As one of the focuses of forensic linguistics, courtroom communication has attracted the attention of many scholars (Atkinson & Drew, 1979; Shuy, 1993; SUN & ZHOU, 1997; WANG, 1999; LIAO, 2005; GE, 2010), who mainly focus on questioning strategies. Other scholars (Philips, 1998; Ehrlich, 1999; Eades, 2000; XU & LI, 2006) have analyzed the features of courtroom responses. It is found that, in court hearing, instead of offering passive answers to questions, litigants usually make active choices among response strategies on the basis of communicative aims (XU & LI, 2006; DU, 2008, 2009). However, these studies are mainly conducted from a sociological perspective, without touching upon the cognitive mechanism underlying courtroom responses. Hence, this study aims to reveal the hidden relation between litigants' response strategies and the realization of their communicative aims in Chinese court hearing.

### 1. STUDIES ON CONTEXT

Context is an important notion closely related to communicative aims, since it can help to explain how "our discourse is strategically structured and adapted to the whole communicative situation" (van Dijk, 2008, p. 71). But the notion of context has been interpreted variously from different perspectives.

Context is traditionally regarded in pragmatics as the premise for pragmatic inference. It refers to the stable and shared knowledge of communicative parties, which consists of linguistic knowledge, co-text, time and place of

communication, identities and relations of speakers, and other social, cultural and political background knowledge (XIONG, 1996). Systemic Functional Linguistics (Halliday, 1994) takes a similar stand and classifies context into two groups: Linguistic context and social context, with the latter including context of situation and context of culture. In context of situation, the three variables – field, tenor and mode – are connected with the three meta-functions of language: Ideational, interpersonal and textual functions. Traditional pragmatics and Systemic Functional Linguistics take context as a stable entity and focus on its social dimensions by exploring the functions it realizes. This viewpoint, however, by defining context as a preset mechanism, does not reveal the psychological state of the communicative parties during the use of language (XIONG, 1996).

From the 1980s, the discussion of such concepts as proposition, psychological representation and modularity in cognitive psychology (Fodor, 1983; Jackendoff, 1997) has promoted the discussion of context from a cognitive perspective. For example, Sperber and Wilson (1986/1995) define context as a dynamic psychological representation or construct, and accordingly, communication is regarded as a process to activate context variables, on the basis of which context is reconstructed and speakers' communicative aims realized. Verschueren (2000) also focuses on the dynamic features of context and proposes that "contexts are generated in language use" (p. 109). Compared with the general discussion on the cognitive nature of context, XIONG (1996) puts forward a more comprehensive model by classifying context into three basic groups: Knowledge script, psychological schema and socio-psychological representation, the activation of which constitutes the structuring of cognitive context. He (1996) emphasizes that the construction of cognitive context is the result of the co-effort of participants of communication. This model elaborates the constituent factors of cognitive context and is more operative for the analysis of cognitive context in courtroom communication.

In spite of the progress in the research of the features of cognitive context, however, no effort has been tried to discuss the relation among questioning/response strategies, construction of cognitive context and the realization of communicative aims. For that reason, this study, by focusing on the discussion of litigants' response strategies in Chinese court hearing, will try to investigate how courtroom responses construct cognitive context, through which litigants realize their communicative aims. To achieve such a research objective, three specific questions are raised: (a) What response strategies are frequently employed by litigants to answer questions? (b) How is cognitive context constructed by these courtroom responses? (c) How are litigants' communicative aims realized by these courtroom responses?

## 2. METHODOLOGY

As put by Sperber and Wilson (1986/1995), language use is mainly a cognitive process which involves the activation and construction of cognitive context. Therefore, cognitive context can be regarded as the key element that bridges courtroom responses and the realization of litigants' communicative aims.

In the following sections, I will first make an investigation of the types of litigants' response strategies in Chinese court hearing. This will be based on the analytical model proposed by Edmonson (1981), who classifies response into Head Act (shortened as H-Act) and Supportive Act (shortened as S-Act), with H-Act fulfilling the major function and S-Act being complementary. Then, on the basis of Xiong's framework (1996), the activation and construction of cognitive context will be analyzed into knowledge script, psychological schema and socio-psychological representation. Finally, following Atkinson and Drew (1979), who classify litigants' communicative aims into affirmation, denial, justification and rebuttal, analysis will be made to reveal the process how litigants' communicative aims are realized with their response strategies.

The database used in this article is composed of 15 Chinese cases randomly selected from Corpus for the Legal Information Processing System (CLIPS), which are transcripts of courtroom conversations. These cases cover a variety of topics, ranging from murder, fraud, breach of contract, labor disputes and many others. During the research, qualitative analysis is to be predominantly adopted, focusing on the discussion of construction of cognitive context and realization of communicative aims; quantitative analysis will be applied as a secondary method to investigate the distribution of litigants' response strategies in court hearing.

## 3. RESPONSE STRATEGIES

Based on the analysis of the 15 cases, it is found that, as is discovered by Edmonson (1981), H-Acts and S-Acts are the two common forms of litigants' responses in court hearing. Besides, litigants' responses also take two other frequently used forms: the combination of H-Acts and S-Acts (shortened as H+S-Acts) and Evasive Acts (shortened as E-Acts). These forms of responses assume different functions in court hearing. H-Acts provide clear and definite answers to the questions asked. S-Acts are usually used together with H-Acts to form H+S-Acts, in which S-Acts offer complementary explanations. But sometimes, S-Acts are used independently to furnish vague or indirect answers. E-Acts refer to the behavior of failing to provide any substantial information. The most frequently used expressions in E-Acts are "I don't know", "I have no idea" or just keeping silent, as is illustrated by the following example.

- (1)  
 01 [PP]: 是谁给你钱的?  
     Who gave you the money?  
 02 [D]: 收条上写王小林给我的。王小林是公司的经理。  
     The receipt showed that it was WANG Xiaolin.  
 He is the manager of the company.  
 03 [PP]: 以什么名义给的?  
     In what name was the money given to you?  
 04 [D]: 以劳务费的名义给我的。  
     In the name of labor cost.  
 05 [PP]: 不让人家开工是怎么回事?  
     Why were they forbidden from starting working?  
 06 [D]: 我不知道是怎么回事。  
     I have no idea.

**Note:** PP, public prosecutor; D, defendant.  
 The defendant's response in 02 is an H+S-Act, with the first part "The receipt showed that it was WANG Xiaolin" being an H-Act which directly answers the prosecutor's question in 01 and the second part "He is the manager of the company" being an S-Act which provides further explanation of the post of WANG Xiaolin. Similarly, the defendant's answer in 04 constitutes an H-Act, while that in 06, an E-Act, since the defendant fails to provide any substantial information to the prosecutor's question in 05.

The result of the analysis of the 15 cases shows that there is some regularity in litigants' response strategies in Chinese court hearing. As is shown by the following table, H-Acts are the most frequently used strategies, which account for as much as 58.42% of the total responses. H+S-Acts rank the second, which occupy 22.18%, followed by S-Acts (12.28%) and E-Acts (7.13%).

**Table 1**  
**Distribution of Response Strategies in the 15 Cases**

Case No.	H-Act	S-Act	H+S-Act	E-Act	Total
1	13	2	8	0	23
2	20	3	5	0	28
3	33	3	0	0	36
4	3	3	6	0	12
5	13	2	2	3	20
6	33	8	7	6	54
7	16	6	16	3	41
8	24	4	6	4	38
9	13	5	8	3	29
10	11	6	5	3	25
11	20	5	16	2	43
12	29	7	9	5	50
13	30	2	10	2	44
14	14	3	9	2	28
15	23	3	5	3	34
Total	295	62	112	36	505
PCT	58.42%	12.28%	22.18%	7.13%	

## 4. CONSTRUCTION OF COGNITIVE CONTEXT

### 4.1 Knowledge Script

XIONG (1996) defines knowledge script as "a pre-existing knowledge structure", based on which we build

interpretations of accounts of what happened and make predictions of what will happen. In court hearing, the construction of cognitive context is usually realized by knowledge script, as is in the following example.

- (2)
- 01[PP]: 你如何联系事主?  
     How did you contact the victims?  
 02[D]: 冒充某公司运货的名义，给事主发名片。  
     I passed myself off as a shipping agent, giving them business cards.  
 03[PP]: 名片有什么内容?  
     What information was included on your card?  
 04[D]: 公司名称，运货内容等。  
     Name of the company, scope of business, etc..  
 05[PP]: 名片上的姓名是什么?  
     What was the name on the card?  
 06[D]: 吴XX。  
     WU XX.  
 07[PP]: 是你的真实姓名吗?  
     Was it your real name?  
 08[D]: 不是。  
     No.

The defendant mainly adopts H-Acts as his response strategy, among which the H-Act in 02 activates the knowledge script of "business card". It is then further developed and constructed by the questions and answers in the following turns of the interaction, which center on the information included on the business card. For example, in 05 and 07 the public prosecutor questions about the name used on the card, since name is one of the essential components of business card. The construction of the knowledge script of "business card" can help to define whether the defendant's behavior has constituted fraud.

In some cases, litigants may make more contributions to the construction of cognitive context by offering over-informative responses with H+S-Acts. For example:

- (3)
- 01[PP]: 退款你拿到了吗?  
     Have you got the refund?  
 02[P]: 拿到了，10万元，是现金。在饭店拿到的。  
     Yes. 100 thousand Yuan in cash. I got it in the hotel.

**Note:** P, plaintiff.  
 In 01 the public prosecutor asks the plaintiff whether the refund was made to him. The question activates the knowledge script of "refund", which is then further developed by the plaintiff's response in 02 with an H+S-Act. In the response, "Yes" is an H-Act that offers direct answer to the prosecutor's question, while the remaining part constitutes S-Acts, which provide supportive information for the H-Act. For example, "100 thousand Yuan in cash" clarifies the amount and the form of the refund; and "in the hotel" points out the location where the refund was made. By providing detailed interpretations of the knowledge script, the plaintiff's response in 02 has made important contributions to the construction of the cognitive context.

## 4.2 Psychological Schema

In particular situations, knowledge scripts can be combined together to form more complex situation units which are called “psychological schemas”. They are fixed structures which combine people’s pre-existing knowledge in a sequenced way and can enforce people to interpret new happenings in fixed ways (XIONG, 1996). Psychological schemas are very important components of the cognitive context in court hearing and are also activated and constructed by litigants’ responses. Here is an example.

(4)

01[J]: 原告陈述误工情况及误工费的计算。

Please state the lost labor hours and the cost incurred thereof.

02[P]: 原告没有固定工作，按照每个月1500元计算的，7个月，共是10500元。

The plaintiff has no permanent jobs. We claim for 1,500 Yuan per month. The total amount for 7 months is 10,500 Yuan.

03[J]: 被告有无质证意见？

Does the defendant have any opinions?

04[D]: 一个农村妇女，每月1500元的误工费过高。

1,500 Yuan per month for a woman farmer is too much.

**Note:** J, judge.

The judge’s instruction in 01 activates the knowledge script of “cost for lost work hours”, which is then further elaborated by the plaintiff’s response with an H-Act in 02, claiming for 1,500 Yuan per month. In 03 the judge asks for the defendant’s attitude towards the claims of the plaintiff. Instead of giving a clear answer, however, the defendant in 04 responds only with an S-Act, which activates a new knowledge script of “woman farmer”. The new script thus forms a psychological schema with the script of “cost for lost work hours”, conveying the information that the plaintiff’s claims for 1,500 Yuan per month is too high for a woman farmer with no permanent jobs.

## 4.3 Socio-Psychological Representation

Socio-psychological representation refers to the manifestation of psychological schema in particular cultural background. It is the collective thought or shared knowledge structure of the social members of a certain community or culture (XIONG, 1996). In court hearing, litigants can take part in the construction of cognitive context by activating the socio-psychological representation of disputed issues.

(5)

01[J]: 原告购买新车的价格是多少？

How much did the new car cost?

02[P]: 裸车是39,000元。

The sticker price was 39,000 Yuan.

In 01 the questioning of the judge activates the knowledge script of “price of the new car”. It is then developed by the plaintiff with an H-Act in 02, which

narrows down to a more specific script of “sticker price of the new car”. The script of “sticker price” further activates the relevant socio-psychological representations shared by members of the community. Namely, by sticker price, the plaintiff refers to the payment made to the sales agent, excluding such charges as purchase tax, insurance cost, vehicle and vessel use tax, etc.. These are the shared knowledge between the judge and the plaintiff, which contribute to the construction of the cognitive context.

## 5. REALIZATION OF COMMUNICATIVE AIM

According to DU (2009), courtroom responses of litigants are interests oriented. This general goal can be divided into such specific communicative aims as affirmation, denial, justification and rebuttal (Atkinson & Drew, 1979), which are further realized by different response strategies in the construction of cognitive context.

### 5.1 Affirmation

During court investigation, the judge or public prosecutor usually asks questions about the basic facts of cases, for which litigants are required to give their opinions on their authenticity. For those statements that conform to the real situation or facts of the case, litigants would make affirmations with H-Acts, as is illustrated by the following example.

(6)

01[PP]: 被告人，在公安机关讲的是实话吗？

Defendant. Was your testimony in the police station true?

02[D]: 属实。

Yes.

03[PP]: 你犯罪的时间、地点以及情节是否与起诉书一致？

Is the account in the indictment about the time, location and process of your crime true?

04[D]: 一致。

Yes.

In 01 and 03, the public prosecutor activates the knowledge scripts of “testimony in the police station” and “account in the indictment” by asking the defendant to give opinions on their content. In 02 and 04, the defendant responds with two H-Acts, which affirm their authenticity. Confined by the knowledge scripts activated by the prosecutor, the defendant participates in the construction of cognitive context in a passive way. By affirming the authenticity of the content of the two scripts, which is legally binding, the defendant avoids getting involved in perjury and thus diminishes his interest losses.

### 5.2 Denial

Sometimes, litigants would deny the content of the question of the prosecutor or the judge if they find that it is contradictory to the facts of the case. The denial is usually made directly by litigants in the form of H-Act.

But in some cases, it is made indirectly in the form of E-Act, which offers very vague responses. Here is an example.

(7)

01[PP]: 你向被害人身上倒汽油了吗?

Did you pour gasoline onto the victim?

02[D]: 没有。

No.

03[PP]: 被害人身上的火是怎么着的?

How did the victim catch fire?

04[D]: 不知道。

I don't know.

05[PP]: 你想点燃汽油吗?

Did you intend to light the gasoline?

06[D]: 没有。

No.

In 01, 03 and 05, the prosecutor activates respectively the knowledge scripts of "pouring gasoline", "catching fire" and "lighting gasoline", which, on the basis of their cause-effect relation, forms a psychological schema of "pouring gasoline-lighting-catching fire". By associating the schema with the defendant, the prosecutor intends to prove his guilt in committing the crime of arson. However, the prosecutor's effort to construct the cognitive context is blocked by the defendant's responses. In 02 and 06, with two H-Acts, the defendant blocks the construction of the knowledge scripts of "pouring gasoline" and "lighting gasoline". In 04, the defendant gives a vague response with an E-Act and thus disrupts the construction of the knowledge script of "catching fire". By destroying the building of the psychological schema, the defendant breaks prosecutor's attempt to prove his guilt of arson.

### 5.3 Justification

Apart from offering positive or negative responses to either affirm or deny the content in the questions of the judge or prosecutor, litigants may also provide over-informative responses, which go beyond the scope of the questions (XU & LI, 2006). One of the functions of those over-informative responses is to justify the behaviors or facts provided by litigants, as is in the following example.

(8)

01[J]: 被告是否有出苗率标准?

What is the standard of seedling emergence?

02[D]: 按机器播种, 80%就算是好的。

80% for machine seeding.

03[J]: 种子是从哪里买的?

Where did you buy the seeds?

04[P]: 平谷种子公司, 该单位是国营单位。

Pinggu Seeds Corporation. It is a state-owned company.

In the case, the plaintiff charges the defendant with mishandling during the wheat seeding, which leads to the poor seedling emergence. The judge's question in 02 activates the knowledge script of "source of seeds", which, combined with that of "seedling emergence"

activated in 01, forms a psychological schema of "source of seeds affects seedling emergence". In 04 the plaintiff employs an H+S-Act to participate in the construction of the cognitive context. The H-Act ("Pinggu Seeds Corporation") first develops the script of "source of seeds", and then is supported by an S-Act ("It is a state-owned company"), which provides extra information about the identity of the company. The S-Act activates the socio-psychological representation of "state-owned company", the most outstanding feature of which is its reputation and reliability. With the H+S-Act, the plaintiff intends to show that the seeds are reliable and have no quality problems. Thus, the plaintiff's construction of the cognitive context helps to justify his claim that the defendant is the person who should assume the responsibility for the poor seedling emergence.

### 5.4 Rebuttal

In some cases, litigants can challenge the statement or the questioning content of the opposing party. This is usually realized by H+S-Acts, where S-Acts are employed to offer rebuttal evidence. Here is an example.

(9)

01[J]: 如何证明你方向原告告知了免责条款?

How do you prove that you have notified the plaintiff of the exemption clause?

02[D]: 没有书面证据, 但是原告有多次理赔, 应当对此知情。

I have got no written evidence. But the plaintiff has been involved in several claims settlements and should have known the exemption clause.

The first part of the defendant's response ("I have got no written evidence") is an H-Act, with which the defendant participates in the construction of the knowledge script of "exemption clause" by denying its notification in written form. However, with the second part of the response, which is an S-Act, the defendant activates a new knowledge script of "claims settlement". It is combined with that of "exemption clause" to form a psychological schema of "claims settlement lead to knowledge of exemption clause". This schema helps the defendant to rebut the judge's request for the production of written evidence.

## CONCLUSION

The work of this study has suggested that the communicative aims of litigants are realized through their different response strategies which help to construct the cognitive context of courtroom interaction. In Chinese court hearing, litigants' responses usually take four different forms: H-Act, S-Act, H+S-Act and E-Act, among which H-Act and H+S-Act are the most frequently used. It is found that litigants' responses take an active part in the construction of the cognitive context of the courtroom interaction, which usually takes the form of knowledge

script, psychological schema and socio-psychological representation. By participating in the construction of cognitive context, courtroom responses help litigants realize such communicative aims as affirmation, denial, justification and rebuttal.

It is believed that the observations made in this study have some implications. Firstly, different types of litigants' response strategies are identified and classified into operable groups. This will contribute to the investigation of the functions of courtroom responses on a wider stage. Secondly, the study has revealed the dynamic features of the construction of cognitive context, which could shed light on the research of the cognitive mechanism underlying the realization of litigants' communicative aims. Thirdly, it is hoped that the framework proposed by this study could potentially provide a new approach for addressing the dynamic features of courtroom interaction. Finally, it should be noted that the analysis of the study is limited by the data it uses. Further research based on a larger body of cases could be done to investigate other functions of courtroom responses.

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