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A Pragmatic Analysis of Deliberation in Legal Setting

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Abstract: Deliberation is an increasingly used concept in Argumentation Theory and Linguistic Analysis. But only recently research combined empirical and conceptual tool-boxes from these disciplines for the study of deliberative discourse. The aim of this article is to present a discursive analysis of deliberation as a genre using the relational pragmatic analysis of texts. In particular, we want to see whether different features of deliberation genre map onto relational pragmatic dimension of texts. To do so, authors analyze, in the framework of Rhetorical Structure Theory (RST), the relational discourse structure of legal speeches of argumentative micro-texts written by citizens participating in a series of deliberative mini-publics. Results suggest that genre affects the relational to pragmatic analysis of texts and that we could analyze this effect in RST. Finally, we present, to our knowledge, the first annotated corpus-based genre analysis of the relational pragmatic dimension of argumentative micro texts.

Keywords: Pragmatics, Deliberation, Assault, Appellant, Complainant, Claim.

1. INTRODUCTION

The current study investigates deliberation meanings and deliberation in legal cases and issues. Deliberation is the process of thoroughly considering, debating, and making a decision. In order to establish opinions and inform judgment, deliberation is the cooperative process of discussing contentious matters while taking into account different points of view. Argumentation that is suitable and maintained is a component of effective deliberation. There are many different ways to engage in deliberative practices, such as formal debates, role-playing games, and talks. These tasks all result in examining multiple viewpoints and providing information for different conclusions. Therefore, the goal of the current study is to respond to the following queries: How does deliberation occur and what does it entail? Furthermore, what roles does deliberation

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play in a legal context? In relation to the previously mentioned issues, the study's objectives are as follows: evaluating a case in order to demonstrate its effectiveness. Additionally, demonstrating how Toulmin's model of argumentation in a legal context works in terms of stages and phases of deliberation.

Two contributions are made by this study: theoretical and practical. Theoretically, this research expands on the sources used to examine legal case deliberation. In actuality, it will provide three benefits. Initially, this research will offer citations for the subsequent scholar who delves into the examination of debate within a political or legal context. Second, the students studying argumentative theory, deliberation, and pragmatics will find this study helpful. Finally, it is thorough. It is hypothesized that legal cases and concerns provide useful contexts for analyzing the discussion and arriving at methodical choices. Both bindingness and a direct bearing on policy are not requirements for the decision. In deliberative polls, for instance, participants agree only on the questions to ask policy experts or candidates for public office. The study will be conducted as follows: first, a theoretical framework for the study of language, pragmatics, deliberation, and the stages, features, and argumentative theory will be introduced; second, a model based on Toulmin's Theory in argumentation will be used to analyze a specific legal setting.

This research is restricted to the analysis of legal deliberation, especially legal deliberation in particular.Given that the study's focus is on a pragmatic examination and analysis of deliberation in a legal context, and specifically in It is intended that this will benefit pragmatics students who aim to articulate the meaning of deliberation in legal contexts and matters. In addition, textbook authors may find it useful.

2. RELATED WORKS

2.1 Language

Although language is an incredibly versatile tool with many intricate elements that work together to express a vast array of ideas, we can boil down the universe of communication to arguments for the purposes of this discussion. Argumentation is an essential communication theory, regardless of the mode of communication—verbal (written, oral, or both) or non-verbal (paralanguage). Mutual understanding, not force, is the aim of reasoning, according to Ramsy and Miller (2003:7).

2.2 What is Pragmatics?

Pragmatics is the study of how context affects meaning in language. The phenomena of implicature, speech acts, relevance, and discourse are all included in pragmatics. Pragmatics theories are closely related to semantics theories, which examine meaning components that are lexically or grammatically encoded. Pragmatic competence is the capacity to discern the intended meaning of another speaker (Al-Hindawi and Huwel, 2018).

Linguists that study pragmatics look at how language is related to the situations in which it is employed. As this description makes clear, pragmatics only comes together as a separate and

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cohesive field of study when it comes to the study of language as it is abstracted from its context, which has been the main focus of linguistics and philosophy of language in the twentieth century. Pragmatics is a general term that covers a variety of subjects, such as deixis, presupposition, speech acts, implicatures, politeness, information structure, and so forth (Slotta, 2018:1).

2.3 What is Deliberation?

The act of carefully analyzing choices is called deliberation, and it usually happens before voting. Logic and reason are prioritized during deliberation above communication, innovation, and power struggles. Group choices are typically decided by a vote or consensus among those participating, following discussion and consideration. A jury is renowned for using deliberation in legal contexts since it is presented with evidence and arguments to consider, coupled with definite options, such as guilty or not guilty. The goal of "deliberative democracy" is to have voters and elected officials base their decisions on discussion rather than conflict over power (Pedro, 2010:959).

According to Jacobs et al. (2009), deliberate action is becoming a more popular way to participate in politics and already has a direct or indirect impact on society and politics. Governmental entities consult individuals in a variety of policy decisions through deliberative forums (Gastil 2000; Karpowitz 2006; Rosenberg 2007). For instance, Chicago's citizen deliberations have increased public participation with both the police and the schools by soliciting opinions on matters pertaining to both (Fung 2004). According to Jacobs et al. (2009), deliberate action is becoming a more popular way to participate in politics and already has a direct or indirect impact on society and politics. Governmental entities consult individuals in a variety of policy decisions through deliberative forums (Gastil 2000; Karpowitz 2006; Rosenberg 2007). For instance, Chicago citizen discussions offer feedback on matters pertaining to schools and law enforcement, For example, Chicago citizen talks provide input on issues including police enforcement and education, and juries make decisions that impact business, trade, rights, and a range of other aspects of people's and organizations' lives (Gastil et al. 2010b). Certain advisory bodies, like the British Columbia Constitutional Assembly, release formal proposals that may serve as the foundation for future constitutional amendments (Warren & Pearse 2008).

Deliberation is becoming more common in developing or post-conflict societies as a means of mending trust deficits and establishing democratic processes or institutions (Humphreys et al. 2006), and numerous American communities host deliberating groups to promote inter-racial communication (Walsh 2007). Lastly, deliberation is employed to gauge public opinion that is taken into account when developing environmental, health, and bioethical policies (Kim et al. 2010, Owens 2000).

One person or a group may engage in deliberation. Accordingly, we characterize a "deliberative process" as one that permits a collection of participants to obtain and share information, analyze a problem critically, and reach a consensus that will guide decision-making (Fearon, 1998:44). The notion that regular argumentation is an intrinsically contextual activity is one of the most notable insights offered to the study of argumentation by the pragma-dialectical theory, which

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was developed by Frans van Eemeren, Rob Grootendorst, Peter Houtlosser, and other collaborators from Amsterdam. In fact, it is the core of the pragma-dialectical theory itself: argumentation is viewed in pragma-dialectics as a "purposive verbal activity" that occurs in a variety of interaction contexts, in line with the meta-theoretical principle of functionalization. Numerous creative applications of information and communication technology (ICT) are being used in many facets of modern life in an effort to foster the capacity for debate in decision-making (van Eemeren & Grootendorst 1984: 7).

ICTs have given rise to forms of deliberation that are many-to-many communication as opposed to the conventional contemporary usage of deliberation, which usually refers to contexts of interpersonal (one-to-one), mass (one-to-many), or small group (few-to-few) communication.

Aristotle provides the classical explanation of group discussion. According to Aristotle, the process of collective deliberation falls under the purview of politics. It involves members of a deliberative assembly reaching a consensus on the best course of action as a group. Public reasoning, which Aristotle described as "deliberative rhetoric," is always used in deliberation since the deliberating public presents and evaluates arguments for and against different future courses of action (see Nieuwenberg, 2004).

Furthermore, even while a relatively tiny portion of the ancient polis's political society actively engages in debate during the deliberation process (Yack, 2006: 427).

Every assembly member has the potential, in theory, to transition from being a passive listener to a public speaker. Hence, many-to-many communication is a prerequisite for deliberation. It is not merely an orator speaking in public before an audience of silent listeners, as "epideictic rhetoric" is, nor is it a polished dialogical exchange where two opposing parties alternately present their cases to a third party adjudicator, as in "forensic rhetoric," or to each other, as in dialectics. Important questions for fostering deliberative practice are raised by this recently realized ancient form of many-to-many discourse through the design and implementation of ICTs (Yack, 2006: 427).

2.4 Characteristics of Deliberation

Many deliberative theorists define deliberation as a mode of public argumentation that can take place outside of officially sanctioned venues of decision-making. It is distinguished by its high quality of critical argumentative exchanges, freedom of access, and equality of participants (Benhabib 1996; Bohman & Rehg 1998; Gutmann & Thompson 1996). In the view of Habermas (1989/1962), whose theories have greatly influenced deliberative theorists, public deliberation occurs not only in formalized state assemblies but also in a wide variety of public forums, including coffee shops, salons, clubs, newspapers, and other public media. Since Habermas' (1989/1962) criticism of traditional mass media's ability to function as these kinds of forums coincided .

In this research, it has been debated whether "the virtual public sphere" has created new opportunities for reasoned discussion or, conversely, new disappointments. In one form or

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another, it appears to be a given that the Internet heralds a fresh revolution in the public realm by providing a plethora of spaces for extensive discourse..

Forums that facilitate critical and logical deliberative interactions among all stakeholders interested in the outcome are therefore essential to the exercise of public deliberation. While the technology applications and goals for facilitating large-scale deliberation may differ, all initiatives, including the ones mentioned above, are focused on determining the essential interaction aspects for many-to-many debate.
This covers things like the types of contributions that should be made, when they should be made, the role that participants play in contributing, and so on. The technological aspects of deliberation-support systems, such topic categories, voting mechanisms, identity indications, conversation threading, and so forth, clearly reflect these design decisions. Whether deliberate or not, these design decisions are effectively conjectures about how to structure interaction in a way that produces—under the specific conditions—communication that approaches the goals of discussion (or so it would appear).

Parliamentary debates, in their various forms, influence how politicians wield power not only through the hostile rivalry between political parties but also through face-to-face competitions involving questioning and responding techniques. Parliamentary question-and-answer sessions are widely recognized in many legislatures as institutionally established procedures for monitoring the executive and managing the government's operations (Martin and Rozenberg 2012).

2.5 Argumentative Theory
Van Emermen et al. (2014: 38) contend that the argumentation theory version developed in Amsterdam by Frans van Eemeren and Rob Grootendorst, known as the Pragma-Dialectical Theory of Argumentation, combines a rhetorical and dialectical perspective on argumentation and is both normative and descriptive. Pragmatista-dialecticians see argumentation as a component of speech that aims to settle differences of opinion. Speech acts are associated with argumentative debates. Pragmatists begin from four meta-theoretical points of departure in order to integrate the dialectical and pragmatic dimensions in a methodical manner. First, communication occurs during argumentative conversation.
utilizing speech act performances in a functional manner (functionalization of the study object). The second is that by expanding the speech act perspective socially to the level of interaction (socialization), it is possible to account for the ways in which positions about the other party's standpoints, as well as criticisms and defenses of standpoints, are conveyed. The third is that by recognizing the communicative and interactional obligations generated by the speech acts executed, the commitments obtained in argumentative discourse can be externalized (externalization). The fourth is that by creating the perfect model for an uncontrolled interchange of speech actions in a critical conversation, one can create a dialectical regimentation of argumentative discourse.
Van Emermen et al. (2014: 38) draw attention to the fact that Van Eemeren and Grootendorst describe several phases that an argumentative discourse must go through in order to settle a disagreement. Analytically speaking, there need to be a conflict stage,

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1. Confrontation: In this type of discussion, one person presents an opinion while another casts doubt on or disputes it.

2. Opening: Reaching a consensus on guidelines, like how to present the evidence, which factual sources to utilize, how to resolve conflicting interpretations, and how to determine the closing criteria. Put differently, the decision is made by the parties to resolve the disagreement, and so the protagonist and antagonist roles are decided.
3. Argumentation: Using logical principles in accordance with predetermined guidelines. By presenting arguments to refute the antagonist's concerns or doubts, the protagonist defends her/his position.

4. Concluding: Upon fulfillment of closing prerequisites. These could include, for instance, a deadline or the appointment of an adjudicator who will indicate how well the disagreement has been settled. If the protagonist retreats, the conflict will be resolved in the antagonist's favor; if the antagonist gives up on her/his convictions or misgivings, the conflict will be resolved in the protagonist's favor.

3. METHODOLOGY

Toulmin offers a fresh method in the model for examining how assertions might be supported in the face of objections. In his approach, the terms "premise" and "conclusion" are replaced with "claim," "data," "warrant," "modal qualifier," "rebuttal," and "backing."

Toulmin (1958) presented a structure for assessing arguments in The Uses of Argument that includes six interconnected parts (Toulmin, 2003: 90–100): The claim is the conclusion whose merits we are attempting to prove. For instance, if someone were to persuade the listener that Harry is a British subject, the claim would be "Harry is a British subject."

Data: the facts we use as support for the assertion; they will be referred to as our data (D). For instance, the individual mentioned in point 1 can bolster his assertion with the evidence that "Harry was born in Bermuda."

Warrant: The declaration that gives us permission to go from the data to the assertion. The person must provide a warrant to close the gap between 1 and 2 with the statement "A man born in Bermuda will legally be a British subject" in order to go from the data established in 2, "Harry was born in Bermuda," to the claim in 1, "Harry was a British citizen."

Model qualifier: Expressions that express the strength, the degree of force, or the likelihood that should be associated with the assertion. Examples of these terms or expressions are "possible," "probably," "impossible," "certainly," "presumably," "as far as the evidence goes," and "necessarily." Compared to the statement "Harry is a British subject, presumably," the declaration "Harry is definitely a British subject" has more weight.

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Rebuttal: Using the Toulmin technique, we examine an argument for possible objections to its premises, arguments that the author anticipates the opponent would raise (acknowledgments the argument's limitations or exceptions). "Harry born in Bermuda will legally be a British subject, unless he has betrayed Britain and has become a spy of another country," is how the argument is expressed.

Backing: When the warrant alone isn't compelling enough to readers or listeners, backing—which a warrant depends on in every field—must be presented. In the event that the listener does not find the warrant in 3a trustworthy, for instance, the speaker will cite the legal provisions (which regulate the nationality of individuals born in British territories) as evidence to support the claim that "Harry born in Bermuda will legally be a British subject."

4. RESULTS AND DISCUSSIONS

The data for the study is a jury found appellant, James Jacobson, guilty of the offense of aggravated sexual assault and assessed his punishment for sixty years and because of the insufficient of legal evidence and support for his conviction, the criminal wants to be pardoned.

Claim: The claim is that the appellant tries to prove that he is innocent because there is no physical evidence that the complainant was assaulted. He wants to prove that he doesn't deserve the sentence he just stole chicken and money, but he wasn't the one who assaulted the girl, maybe another one who is similar to his appearance or physical characteristics.

Data: The appellant asserts that the evidence is legally insufficient to support his conviction that the DNA test was poor, and the complainant's initial description of her attacker differed from his later statement. Taking into account that the authorities do not have any paperwork demonstrating he was the attackers' intended target.

Warrant: According to the appellant, the complainant was not granted a fair trial and the photo arrays that were presented to him were unduly suggestive, which increased the risk of a grave and permanent misidentification. Identification processes conducted before trial may be suggestive and result in an incorrect identification, depriving the accused of their right to a fair trial and their innocence. opportunity to evaluate the offender at the crime scene. Furthermore, there's a big delay between the offense and the encounter. The appellant argues that the complainant's viewing of the photographic arrays was inappropriately suggestive because he was the only suspect wearing a patterned shirt while the other suspects were all wearing plain white shirts.

Model Qualifiers:
"couldn't be excluded as possible contributors to that mixture"

details of mistrial in sexual assault conviction not abuse of discretion where appellant's conviction fairly given unambiguous testimony of complaint “

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" Here, the evidence supporting the appellant's conviction was strong. And appellant's conviction was sufficiently certain regardless of the second complained of statements by the state during its closing argument"

"the certainty of the conviction absent the misconduct also weighs in favor of the trial court's ruling".

"It was always possible that someone could have been wiped out of someone such that DNA couldn't be detected".

The quotations above, with qualifications The qualifier serves to highlight the degree of relevance or closeness between the warrant and the grounds. Qualifiers, which can be defined as terms like "always," "certain," "possible," or "fairly," are useful in assessing the overall level of thought.

The qualifiers highlight the possibility that a statement might not always be accurate. Use words like "fairly" and "possible" to let the audience know that there are situations in which your claim might not be true.

Rebuttals: the complainant testified that the appellant was holding the knife at her neck and told her to drove the car by following his instructions, her directs her to park in parking spot on a side street near some homes, he told her to give him the car keys, and to get out of the car to give him the money that she had. Then he abuses her physically telling her if she did anything he would kill her and the person living in the apartment. He was very mad with her after that, driving away from the park, he didn't allow her to get out of the car. Instead he told her to drive to another location and to park in dark area and to turn off the car as he left, and telling her if she told the cops or he looked in the newspaper and read about what had happened, he would come to her address and he would kill her a kill her daughter, he took the car license shirt, money about ten dollars.
This type of rebuttal acknowledges an alternative, legitimate interpretation of the facts that contradicts the appellant's assertion. One possible counterargument is the response. These can be refuted in two ways: either by carrying on a conversation or by providing the refutation at the outset of the argument, so avoiding the counterargument.

Backing: the complainant argued that after what had happened, she went to her manager, and told him that she had been robbed, the manager called the emergency assistance that she had been robbed,she didn't tell him that she had been raped because she was embarrassed. When the law officer arrived at her location, she told him first that she had been raped, she described the appellant and told him that she saw him before this time stealing chicken wings, this is not the first time to see him. The detective showed her photographic array, and she was able to pick the person out who had sexually assaulting her and she had no questions, doubt or hesitation about the identity of the person, she was able to identify him, because she spent two hours with him and his face was pretty close to hers when he was on top of her.

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By providing answers to various queries, this backup, or support, for the deliberation strengthens the warrant. In this case, backings are used to provide the warrant with more support. Since the warrant is frequently implicit, the backup supports the implied warrant by providing a particular example that supports the implied warrant.

5. CONCLUSION

In politics and society, deliberation is involved, either directly or indirectly. Deliberative forums are used by government entities to consult the public on a range of policy matters. The process of deliberations has increased public participation in institutions. Juries make decisions that have an impact on people and organizations' safety, rights, and quality of life. In developing or post-conflict cultures, deliberation is becoming more prevalent as a means of mending trust deficits and establishing democratic institutions or processes. Deliberation is a tool used in urban planning, health, and environmental policy to gauge public opinion. Deliberation is used mostly in politics and legal cases and issues. It has six stages according to Toulmin's model of argumentation to analyze the deliberation in political and legal cases: claim, data, warrant, backing qualifiers, and rebuttals

In addition to the six components of the model for analyzing the deliberation, this highly structured model has eight steps: introduction, careful reading, clarifications of the topic and reading, preparation and presentation of an initial position, reversing positions, and small group free discussion. It encourages critical thinking and the ability to make decisions based on evidence and logic, respect others' points of view, and identify multiple perspectives associated with deliberation topics.

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