

Comparative Legilinguistics

vol. 27/2016

DOI : <http://dx.doi.org/10.14746/cl.2016.27.5>

IDEOLOGY AND LEGAL DISCOURSE DURING ALBANIAN COMMUNISM

ELSA SKËNDERI RAKIPLLARI, PhD candidate

University of Tirana, Faculty of History and Philology,

Department of Linguistics

Fakulteti i Historisë dhe i Filologjisë,

Rruga e Elbasanit, Tiranë, Albania

skenderi.elsa@gmail.com

Abstract: This paper aims to explore the traces of ideology in court decisions from the Communism period in Albania. A court judgment on a certain case, except from playing a role in setting the punishment, it also reinforces the ideological stance of dictatorship. As recent studies of Discourse Analysis and Critical Discourse Analysis highlight, ideology is linguistically mediated. The CDA methodological tools are used to analyze the linguistic categories that are marked by ideological traces. The paper also examines conceptual metaphors and the metaphoric scenarios employed in the above legal discourse fragments, which help communism construct its own legal and political reality. All the findings of this research prove that ideology outreaches the political realities, and it may also affect the legal discourse, especially during the lead of a communist dictatorship.

Key words: legal discourse, ideology, Albanian communism, discourse analysis, metaphoric scenarios

IDEOLOGJIA DHE DISKURSI LIGJOR GJATË KOMUNIZMIT NË SHQIPËRI

Përmbledhje: Kjo kumtesë synon të qëmtojë gjurmët e ideologjisë në vendimet gjyqësore të periudhës së komunizmit në Shqipëri. Një vendim gjyqësor për një çështje të caktuar, përveç se luan rol në përcaktimin e dënimit, përforcon po ashtu edhe qëndrimin ideologjik të diktaturës. Siç nëvizojnë studime të kohëve të fundit të Analizës së Diskursit dhe të Analizës Kritike të Diskursit, ideologjia ndërmyjetësohet me anë të gjuhës. Mjetet metodologjike të AKD-së, janë përdorur për të analizuar kategoritë gjuhësore që janë të shenjura me gjurmë ideologjike. Ky artikull, po ashtu, këqyr metaforat konceptuale dhe skenarët metaforikë që përdoren në fragmentet e diskursit ligjor të sipërpërmendura, të cilat i kanë ardhur në ndihmë komunizmit për të ndërtuar relitetin e vet ligjor e politik. Të gjitha gjetjet e këtij hulumtimi provojnë se ideologjia i tejkalon realitetet politike dhe se mund të ndikojë po ashtu edhe diskursin ligjor, veçanërisht gjatë udhëheqjes së një diktature komuniste.

Fjalë kyçe: diskurs ligjor, ideologji, komunizmi shqiptar, analizë diskursi, skenarë metaforikë.

IDEOLOGIA A DYSKURS PRAWNY W KOMUNISTYCZNEJ ALBANI

Abstrakt: Artykuł ten ma na celu prześledzenie śladów ideologii komunistycznej w wyrokach i postanowieniach sądów albańskich okreu komunizmu. Decyzja i wyrok sądu w określonych sprawach nie tylko pełni rolę wymierzenia kary. Stanowi także narzędzie umacniania władzy dyktatorskiej. Jak wskazują najnowsze badania analizy dyskursu (Discourse Analysis) oraz analizy dyskursu krytycznego (Critical Discourse Analysis), ideologia podlega prawom mediacji językowej. Narzędzia metodologiczne CDA pozwalają na analizę kategorii językowych uwypuklonych w ideologicznych poszlakach. Artykuł przygląda się także metaforom konceptualnym a także scenariuszom metaforycznym zastosowanych we wspomnianych już fragmentach dyskursu prawnego, który stanowiły pomoc dla komunizmu w tworzeniu jego własnej rzeczywistości prawnej i politycznej. Wyniki uzyskane w toku niniejszych badań wskazują, że ideologia przekracza rzeczywistość polityczną oraz, że może się ona bezpośrednio przekładać na dyskurs prawny, szczególnie w czasach dyktatury komunistycznej.

Słowa-klucze: dyskurs prawny, ideologia, komunizm albański, analiza dyskursu, scenariusze metaforyczne

Introduction

For 45 years (November 1944 to 1990) Albania suffered a repressive and harsh communist regime. 34 135 people were imprisoned and punished for political reasons, 59, 009 people were deported and prosecuted, 6 027 were executed during dictatorship. (ISCCA 2016). The dictator, Enver Hoxha eliminated all his political enemies and put the country in a ruthless isolation. The party and the state controlled almost every facet of the social life, starting from the press, to the cultural associations and all economic enterprises. The state intelligence agency Sigurimi i Shtetit would closely survey every single life sphere of every single Albanian. People were not allowed to go abroad and crossing the state border was considered a serious crime. All these are enough to understand that there were no applicable human rights, no freedom of speech, no political parties, except the Labor Party of Albania (Partia e Punës), moreover at a certain point on the course of Albanian communism (in 1967), even the religion was declared illegal. Albania was proclaimed by the regime the first atheist state in the world.

All the power was centralized in the hands of the party and this power centralization was accompanied with strong ideological implications. To a dictatorship of any kind, the underlying ideology is a sine qua non, and that was also the case for Albanian communist dictatorship. Ideology was omnipresent and it persistently shaped not only the reality of Albanians, but also it shaped all the discourses and the discursive practices in the country.

A prevailing mechanism that legitimizes a certain rule/ regime is the legal system and the laws. Therefore the communist rule modified not only considerable aspects of the legal system, but also its legal terminology to fit the ideological stance of the regime. The penal code of 1977, was clearly established on ideological and political principles. This code states that “the penal punishment is a coercive mean with a political and ideological character of the socialist state in the class struggle and a powerful weapon of the proletarian dictatorship in the struggle against its enemies, for the sake of preserving and empowering the socialist order”.

Ideology emerges not only in the legal codes and law, but in court decisions as well. Court judgments imposed not only the penalty

to the person found guilty, but through the legal discourse they would also reinforce the ideology of proletarian dictatorship.

Theoretical background

Legal discourse is a part/ strand of the macrostructure of discourse. There is a rich spectrum of different type of discourse analyses, based on theoretical approaches (conversation analysis, discourse analysis, critical discourse analysis, feminist discourse analysis etc.), or on the contexts where the discourses take place (classroom discourse, political discourse, media discourse, business discourse etc.) However it is important to underline that in this paper, discourse does not refer exclusively to language in se, but also to institutional and social practices. “A discourse is a system for the production of a set of statements and practices which, through inscribing themselves in institutions and appearing as more or less normal, constitute reality for its bearers and has a certain degree of regularity in a set of social relations” (Neumann 2001: 41, cited in Harald, Lie 2004).

For Teun A. Van Dijk, a renowned scholar of discourse studies, providing a comprehensive definition of discourse is challenging, as the definition can be provided by a whole theory. Nevertheless, discourse is “a specific form of language use, as a specific form of social interaction, interpreted as a complete communicative event in a social situation. What distinguishes discourse analysis from sentence grammars is that discourse analysis in practice focuses specifically on phenomena beyond the sentence” (van Dijk 1990: 164).

As it was already mentioned above, there are numerous theoretical and methodological approaches employed in the discourse inquiry. Critical Discourse Analysis (henceforth CDA) is among those disciplines that study discourse, by taking into consideration that: “the world-view comes to language-users from their relation to institutions and the socio-economic structure of their society. It is facilitated and confirmed for them by a language use which has society’s ideological impress. Similarly, ideology is linguistically mediated” (Fowler, Kress 1979: 185). CDA employs multidisciplinary approaches to examine discourse and sees it as tightly intertwined with power and ideology.

It is quite interesting that the philosophical grounds of CDA lie in the Critical Theory proclaimed by Max Horkheimer, one of the members of the Frankfurt School, and to some extents also in the Marxist philosophy (Wodak, Meyer 2009). N. Fairclough (1989), a critical discourse analyst, considers CDA a “contribution to the general raising of consciousness of exploitative social relations, through focusing upon language” (1989: 4). Trying to study the legal discourse of a communist regime, whose ideology was built upon the Marxist ideas and principles, by making use of a Marxist related discipline, such as CDA, might seem quite paradoxical. Indeed our aim is to use two key concepts of CDA, ideology and power and to rely on the theoretical considerations of this field, which highlight that discourse “always involves power and ideologies. No interaction exists where power relations do not prevail and where values and norms do not have a relevant role” and that “discourse ... is always historical, that is, it is connected synchronically and diachronically with other communicative events which are happening at the same time or which have happened before” (Wodak, Ludwig 1999: 12).

On the other hand, CDA approach may be used in legal discourse studies, although similar studies, with a “critical” disposition, seem not to be very common in the present state of art. “Each statement from Fairclough and Wodak [16: 258] remains powerfully true when we specify legal discourse as the object of inquiry: law constitutes society, does ideological work, and is a form of social action. However, from a CDA point of view, the legal field remains an under-researched area” (Potts, Kjær 2015: 3). Thus we believe that the paper adds a modest contribution to twofold studies of legal discourse and CDA.

Data and Methods

The materials used for an in-depth analysis is a compact corpus comprised of 5 court decisions about the offenses of agitation and propaganda against the state and related correspondences among state institutions about penal cases. The materials are all official documents of the communist period, which were gathered from the Central State Archives of Albania, and from daily newspaper chronicles.

The legal discourse materials of our corpus may be considered as discourse fragments, as far as they have the same thematic concerns “Each discourse strand comprises a multitude of elements which are traditionally called texts. What I call a discourse fragment is therefore a text or part of a text which deals with a certain theme, for example, foreigners/foreigners' affairs (in the broadest sense)” (Jäger 2002: 46).

In these legal discourse fragments it is possible to notice the traces of the communist ideology in the language and formulations of law. Thus we chose to examine some salient linguistic categories that are typically part of the CDA toolkit: pronouns, passivizations and conceptual metaphoric scenarios. The linguistic categories are not very broad, as the aim is to accomplish a qualitative research, but also not to depart from the distinctive CDA methodological approach which is “small corpora which are usually regarded as being typical of certain discourses” (Meyer 2002: 25). For each linguistic category examined, we then present some illustrative excerpts, but not all the present cases.

Linguistic categories examined:

Pronoun

The linguistic categories we examine are person deixes. Many discourse analysts claim that the use of pronouns in political discourse is significant and manipulative, since it generates political and ideological stands. (Fowler and Kress 1979, Fairclough 1989, Wilson 1990, Chilton and Schäffner 2002, van Dijk 2002, etc.) “Pronouns, especially the first person plural (*we, us, our*) can be used to induce interpreters to conceptualize group identity, coalitions and parties and the like, either as *insiders* or as *outsiders*. Social indexicals arise from social structure and power relations, and not just from personal distance” (Chilton, Schäffner 2002: 30, our italics). In the discourse fragments a closer attention is paid to the inclusive vs. exclusive use of personal pronoun *we* and to the contraposition *we* vs. *they*.

Passivizations

The discourse fragments were checked for existing forms of passivizations. From a syntactic point of view the active construction detransitivized yields a passive construction. “Passivization clearly affects argument prominence, and a passive construction may be used for the purpose of inverting the prominence relations of the active” (Blevins 2006: 236).

The passive structures serve mainly to bring to the attention a different topic from the one which is the agent, so the informationally important topic comes to the first place. Another function that the passivizations serve is avoiding explicit pointing to the real agents of some actions in order to perform a politically correct speech.

Metaphoric scenarios

Discourse analysts such as Musolff and Zinken (2009), Chilton (2004, 2006), Chilton and Lakoff (1995) etc. under the light of the *Metaphors we live by* (Lakoff, Johnson 1980) have brought to discourse analysis the mechanism of the conceptual metaphor. The cognitive metaphor in the Lakoffian sense is beyond the borders of rhetorical metaphor. Its importance lies in the mapping of one concrete and familiar domain of experience, to another abstract unfamiliar domain.

In the discourse, metaphors conceptualize political actions or processes, by offering a certain ideological view of the reality. Thus specific metaphoric scenarios can be identified. The legal discourse fragments that comprise our corpus were inspected closely to identify and elicit the conceptual metaphors and the metaphoric scenarios they hold.

Results and Conclusions

Deictics

In the present legal discourse fragments that belong to the Albanian communism, there seems to be a redundant use of the

pronoun *we*, mainly in its genitive form (*our*). Whenever *the state, the party, the socialist state, the socialist order, and/or people's power, the party leader* is mentioned, the possessive pronoun *our* determines the above nouns.

Excerpt 1

He has reached up to the point of using even quite insulting expressions about our great leader, friend Enver Hoxha.

Excerpt 2

Being fed with this adverse feelings, at this defendant was noticed an overt enmity toward our socialist order as he started to overtly agitate and propagandize among different people against our socialist order and our main party and state leaders. (Our translation)

This sort of usage of the person deixis is not unintentional. The judges and law authorities that compiled these discourse fragments, were actually positioning themselves as *insiders* (Chilton, Schäffner 2002) and performing their own identities. All in all, discourse not only shapes reality, but it also serves as a medium where people perform identities.

The pronoun *we* is always used in its *exclusive* form. It does not include the defendant. Furthermore, there is a clear opposition among the pronouns *we* vs. *they*. They might refer either to the defendant/s (who are considered to be immoral, agitators, degenerated elements, terrorists etc.), or to enemies (such as bourgeoisie/ capitalist countries).

Passivizations

The passivizations are prone to a twofold effect. They allow the speaker to hide the agent of an action, the one performing the action. On the other hand they place in the foremost obvious position the information that is more crucial to be processed first in a sentence. "Passivization allows a noun denoting an affected participant, a non-agent, to be placed in the subject position in the sentence, the left-hand noun-phase slot which is conventionally regarded as the theme or topic of the sentence.[...] This device allows a writer or speaker to emphasize his thematic priorities, to emphasize what a text is 'about'" (Fowler, Kress 1979: 209). In our corpus there are several cases of

passivizations, but interestingly there seem to be no agentless passive constructions.

Excerpt 3

The causes of the entrance in the road of crime of A. K. and S. D are: -they are spoiled by the family and by the family every single whim they had, was fulfilled (our translation)

Excerpt 4

Harsh offensive words have been used by him, towards our great leader, friend Enver Hoxha. They both had adverse conversation such as "here there is no freedom and democracy, there is a low living standard, the main leader of the Party is a dictator, you become imprisoned for a single word you say" etc.

This feature may be because of the kind of discourse fragments we are dealing with: *i.e.* in the legal discourse all the responsibilities have to be determined. The logic that stands behind the deletion of the participants is the same as for passivizations.

Conceptual Metaphors

Propaganda is food

Excerpt 3

Being fed with this adverse feelings, at this defendant was noticed an overt enmity toward our socialist order as he started to overtly agitate and propagandize among different people against our socialist order and our main party and state leaders. (our translation)

Agitation is a cutting tool

Excerpt 4

Taking into account the intensity and the sharpness of agitation that these two young men have done against our party and our power, we think that only the counseling by the Party Committee of the University is not sufficient for their education.

Excerpt 5

S.D. and A.K. have carried out agitation and sharp propaganda against the party and our power.

The Self Defense Scenario

In the discourse fragments, a self defense scenario is noticeable. The communist state used to live with a kind of paranoia, that every country and power outside Albanian borders, was going to attack Albania. The existence of articles in the penal code of that time, on agitation and propaganda are a clear sign of this paranoia. The law offenders /criminals that were punished for propaganda, were all called enemies/ villains/immoral people. It seemed that while punishing these (existent and inexistent) enemies, actually the Party of Labor, was defending the country and the rule of people. This self defense metaphorical scenario would make people perceive that propaganda and agitation were actually serious threats to the country and to themselves as well.

Excerpt 6

They have committed agitation and propaganda aiming the weakening and mining of the state of the proletariat dictatorship [...] aiming to definitively liquidate and mine the dictatorship of proletariat and socialism and to establish the fascist, bourgeoisie- revisionist dictatorship and to restore a capitalist order in Albania.

The state is a building

In the present discourse fragments the state and the party are conceptualized as a building that might be shaken by inapt actions, it can be mined, it can be (re-)established and restored.

Excerpt 7

Weakening and mining of the state of the proletariat dictatorship [...] aiming to definitively liquidate and mine the dictatorship of proletariat and socialism and to establish the fascist, bourgeoisie-revisionist dictatorship and to restore a capitalist order in Albania.

Excerpt 8

The defendant K.H. and A. C. are accused of having committed terrorist acts and have propagandized against the principles that are in the foundations of our party.

To conclude we want to summarize the main issues that this paper has focused on. First and foremost ideology is linguistically mediated. Discourses are mediums where identities are performed and

where ideological stances are reinforced. Although a legal discourse has to be less affected by ideology, the discourse fragment from the communism era in Albania, reveal that there is no discourse immune to ideology, especially when the discourse context is that of a dictatorship.

“Michel Foucault, who famously defined discourses as ‘practices that systematically form the objects of which they speak’ (Foucault, 1972: 42). In simpler terms, discourses are more than just linguistic: they are social and ideological practices which can govern the ways in which people think, speak, interact, write and behave. (Litosseliti 2010: 133)”. Similarly the legal discourse strands not only set law or directives, but they also may affect the way people think of reality and behave in society.

Another consideration we want to recall once more is that, certain cognitive metaphoric scenarios that showed up in the legal discourse fragments we analyzed were actually omnipresent in all discourse strands. These metaphoric scenarios shaped the conceptualization of reality by Albanian people during communism. As Lakoff (1991) highlights, the system of metaphors that people use without being aware, is actually the way reality is comprehended. “What metaphor does is limit what we notice, highlight what we do see, and provide part of the inferential structure that we reason with. Because of the pervasiveness of metaphor in thought, we cannot always stick to discussions of reality in purely literal terms.” (Lakoff 1991)

Methodologically, this paper was built employing the discourse and critical discourse analysis toolkits. In our opinion, the combination of two disciplines like legal studies and (critical) discourse analysis, is quite fruitful to offer new inquiry perspectives. We would recommend further research on this area, by not only interpreting different kinds of legal discourse strands, but also by conducting comparative legal discourse analysis.

Bibliography

Chilton, Paul, and Christina Schäffner. 2002. *Politics as Text and Talk Analytic approaches to political discourse*. Amsterdam/Philadelphia: John Benjamins Publishing Company.

- Chilton, Paul, and Christina Schäffner. 1997. Discourse and Politics. In *Discourse as Social Interaction*, ed. Teun Van Dijk, 206-230. London: Sage.
- Fairclough, Norman. 1989. *Critical Language Study*. London: Longman.
- Fowler, Roger, and Gunther Kress. 1979. Critical Linguistics. In *Language and Control*, eds. Roger Fowler *et al.*, 185- 213. London: Routledge and Kegan Paul.
- Lie, Jon Harald Sande, and Hovedfag UiO. 2004. Remarks on the interface between Discourse and Agency. In *Betwixt and Between*, eds. Kjersti Lillebø *et al.*, 47-53. Oslo: University of Oslo. ISCCA, Institute for the study of communist crimes and consequences in Albania. <http://www.iskk.gov.al/?lang=en> (accessed May 1, 2016)
- Jäger, Siegfried. 2002. Discourse and knowledge: Theoretical and methodological aspects of a critical discourse and dispositive analysis. In *Methods of critical Discourse analysis*, eds. Ruth Wodak and Michael Meyer, 32- 62. London: Sage Publications.
- Lakoff, George, and Mark Johnson. 1980. *Metaphors We live By*. Chicago: University of Chicago Press.
- Litoseviti, Lia. 2010. *Research Methods in Linguistics*. Bloomsbury: Bloomsbury Academic.
- Potts, Amanda, and Anne Lise Kjær. 2015. Constructing Achievement in the International Criminal Tribunal for the Former Yugoslavia (ICTY): A Corpus-Based Critical Discourse Analysis. *International Journal for the Semiotics of Law- Revue internationale de Sémiotique juridique*, pp. 1-31.
- Van Dijk, Teun. 1990. Social Cognition and Discourse. In *Handbook of Language and Social Psychology*, eds. William Peter Robinson and Howard Giles, 163-183. New York: John Wiley & Sons Ltd.
- Wodak, Ruth, and Christoph Ludwig. 1999. *Challenges in a changing world: Issues in Critical Discourse Analysis*. Vienna: Passagenverlag.
- Wodak, Ruth, and Michael Meyer. 2002. *Methods of Critical Discourse Analysis*, London: Sage Publications.