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CRITICALLY ANALYZING THE DISCOURSE OF A WITNESS'S IDEOLOGICAL MOTIVATION IN A TRIAL TESTIMONY

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ABSTRACT

The discourse of (Expert) witnesses' testimonies represents one of the most important legal texts that occupy a great importance within the legal system. Such testimonies usually full of ideologies whether overt or covert, that affect the course of courtroom trials. The theories and approaches of critical discourse analysis can be of a great advantage in detecting, analyzing and explaining these ideologies and their motivation. The researcher chooses Wodak's (2009) Discourse-Historical Approach DHA approach in analyzing the discourse of the selected expert witness testimony as it provides the sound umbrella of analyzing such kinds of discourse. The conducted analysis proves that CDA approaches are useful in analysing such kinds of texts to detect the linguistic strategies and devices used by the expert witness such as contextual factors, focusing, hedging, naming, repetition, etc. to defend his stance.

KEYWORDS: Critical Discourse Analysis, Ideological Motivation, Ideology, Expert Witness, Testimony.

1. INTRODUCTION

The testimonies of expert witness (henceforth EW) and are considered one of the most important pillars of the judicial system, therefore they take a great deal of attention, due to their great impact on the course of the events of the court and its decisions. These testimonies are usually ideologically motivated in a certain direction when they are produced by EWs. Therefore, the researcher hopes that the adoption of critical discourse analysis (henceforth CDA) theories and approaches will be useful in detecting, revealing and explaining such ideologies that might pass unnoticed by the lay people and even legal personnel.

2. Critical Discourse Analysis (CDA)

As closely related to discourse analysis, van Dijk (1985: 6) defines CDA is more concerned with "the formulation of criticism and alternatives", which depends on different kinds of theories and diverse approaches (Weiss and Wodak, 2003: 6). This idea is enforced by Wodak and Meyer (2009: 2) who indicate that CDA is mainly interested in the investigation of social phenomena that are usually have a complex nature and in need to a multi-methodical and multidisciplinary approach(es).

van Dijk (2001: 352) defines CDA as:

"a type of discourse analytical research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context. With such dissident research, critical discourse analysts take explicit position, and thus want to understand, expose, and ultimately resist social inequality."

Such definition highlights the importance of context(s) in analyzing, detecting and revealing the meaning(s) of the different ideologies embedded with texts and discourse(s) produced in relation to the social, political and cultural dimensions.

It is also worth mentioning that Fairclough and Wodak (1997: 271-280) pinpoint the main principles of CDA as follows:

- i. "CDA addresses social problems,"
- ii. "Power relations are discursive,"
- iii. "Discourse constitutes society and culture,"
- iv. "Discourse does ideological work,"
- v. "Discourse is historical,"
- vi. "The mediated link of text and society,"
- vii. "The interpretative and explanatory analysis,"
- viii. "Discourse is a form of social action."

Therefore, doing CDA analysis means understanding discourse as socially conditioned and constituted that serves to form and enhance social identities and relations of power among people and groups, tools of individual and collective knowledge, (re)producing and transforming power and ideologies.

CDA sees discourse as ideologies carrier and these ideologies are images of society's beliefs, identities, values, etc. for this reason CDA approaches address any social problems that are language-related in an attempt to reproduce such language in a way that serves the dominant people and takes a stance with them.

3. IDEOLOGICAL MOTIVATION

Ideology is considered one of the core topics that CDA dealt with as an essential concept, that is why it is extensively defined and elaborated. Fairclough (2003: 57) sees ideology as a mirror of attitudes, beliefs, and values that are reflected in discourse whether individually or group related which is rooted in the collective minds of group members. Ideology contributes to the establishment, continuity, and maintaining domination, exploitation and the relation of power.

van Dijk (2000: 13) sees that in spite the fact that ideologies are in the minds of people, however, these ideologies are reflected and assigned within the linguistic components of the text structure and the choice of words and grammar.

Ideology for, Wodak and Reisigl (2009: 88), is:

"One-sided perspective or world view composed of related mental representations, convictions, opinions, attitudes and evaluations, which is shared by members of a specific social group. Ideologies serve as an important means of establishing and maintaining unequal power relations through discourse In addition, ideologies also function as a means of transforming power relations more or less radically."

Wodak (2009:312) understands ideology as an important means that helps people sustain asymmetrical power relations and the intervened techniques of ideology are exercised and implemented by using language tools, strategies and devices.

So, ideology as a mental process or representation helps establish a hegemonic identity that is asserted in the process of power relations transformation. This represented an indication of opposing and countering ideas and stances for the aims of affecting or changing them.

Ideological motivation can be seen as a cause for behaving or/and acting in a certain way, which leads to the initiation and maintaining goal-oriented behaviors of both people and groups (Maehr and Mayer, 1997). Ideological motivation is the process that causes people to act in a certain direction whether physically or mentally.

CDA aims to detect, study, analyze, interpret and explain what is the motivation(s) behind the actions taken by people for the aim of *raising the awareness* of people of such different ideological actions and behavior whether they are social, cognitive or social (Elliot and Covington, 2001).

The researcher sees that ideological motivation is the force that derives and guides the individual and group actions, behaviors, and decision(s) to produce the discourse that leads to actions, events and consequences that affect others, i.e., this ideological motivation is what compels people to participate and engage in activities that support certain and specific causes or to achieve certain goals based on the ideology they believe and embrace such as the political, cultural, legal ones.

Therefore, ideological motivation plays a significant role in creating, forming, and shaping individual's and people's behavior, attitudes, stances and perception in addition to providing a framework in interpreting the world.

Moreover, the involvement of CDA analysis means at least raising the awareness of lay people of the overt or covert ideologies of the produced texts/discourse and provide them with the necessary tools and devices to observe and detect such ideologies that usually passed unnoticed.

4. Expert Testimony

Many scholars, such as (Houston et al., 2013; Jones et al., 2017; Salerno et al., 2017; Wise and Kehn, 2020) see EW's testimony is one of the safeguards or safety measures set for enhancing the court and juror's understanding and comprehension of the case at hand and its evidence during a courtroom trials.

An EW is an individual who gains specific training, education, skills, knowledge, and/or experience that is able to testify during courtroom cases to help the judge and/or jury in reaching a sound and valid decision¹.

According to the Legal Information Institute (LII), an excerpt testimony is "an opinion stated during a [trial](#) or [deposition](#) (testimony under oath before trial) by an [EW](#) on a subject relevant to a lawsuit or a criminal case. The subject will usually be technical or scientific, such as ballistics, forensics, or medical."²

According to the American Federal Rules of Evidence, [Rule 702](#), the requirements for any EW testimony to be [admissible](#) are³:

- i. "The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;"
- ii. "The testimony is based on sufficient facts or data;"
- iii. "The testimony is the product of reliable principles and methods;" and
- iv. "The expert has reliably applied the principles and methods to the facts of the case."

Winiacki (2008) sees that the participation of EWs in courtroom trials is a "necessary part of modern legal proceedings in a society increasingly influenced by science and technology".

To summarize, EW's testimonies include presenting information, conclusions, opinions by knowledgeable skilful recognized people in certain field(s) that are related to the trial case. These testimonies that include professional opinions, views, interpretations, analysis and explanations could be presented during any stage of the legal proceedings to ease the understanding of complex or technical issues beyond the scope of common knowledge. These testimonies must be authentic,

¹ <https://www.appraisaleconomics.com/wp-content/uploads/2015/03/Appraisal-Economics-ROLE-OF-AN-EXPERT-WITNESS.pdf>

² https://www.law.cornell.edu/wex/expert_testimony

³ <https://www.uscourts.gov/rules-policies/archives/committee-reports/advisory-committee-evidence-rules-may-2022>.

truthful, reliable and credible as they impact the course of legal proceedings and affect the final decision(s) concerning the legal cases.

5. The Adopted Model

a. Wodak's (2009) Approach

Wodak's (2001;2009) approach adheres to the sociophilosophical aspects of critical theory and it conforms the complex concept of "*social critique*" that includes:

- i. Text/Discourse Critique,
- ii. Socio-diagnostic Critique,
- iii. Prospective Critique.

The first component is concerned with analyzing the linguistic tools, features and strategies that are used by the producer of the text, *the second component* is concerned with the social, cultural, political dimensions and ideologies that motivate the producer of the text/discourse, and *the third component* is the future pursue of the investigation according to the resulted obtained from the analysis (Reisigl and Wodak, 2009: 88).

Wodak (2002: 12) states, in her own words, that:

"The concrete analysis should take into account historical developments of discursive practices (change), intertextuality, and interdiscursivity. This might explain why it is so difficult to provide "short, telling" examples in a paper: an example needs the deconstruction of the whole social-political and historical context in which the discursive practices are embedded. This approach . . . explains why interdisciplinarity is a necessity when undertaking CDA. "

Reisigl and Wodak (2009: 88), as the rest of the CDA analysts and theoreticians, see language as a powerful tool that makes people powerful as they use it to spread ideologies and ideas, and ultimately affect others' positions and ideas physically and mentally.

The most important features of DHA are its (Wodak, 2015: 2):

- i. eclectic methodology,
- ii. integration of ethnography and research,
- iii. interdisciplinarity,
- iv. problem-oriented nature,
- v. supplication of middle-range theories, and
- vi. continuous elaboration of tools according to the specific problem under investigation,
- vii. historical context interpretation,
- viii. necessity of applying results to the alteration of some identified social and discursive practices.

- ix. recursive movement of research between theory and empirical data,
- x. study of intertextual relationships,

Moreover, Wodak et al. (2009: 2) also claims DHA focusses generally on the investigating and the studying of experimental data to be able to reach some practical findings rather than theoretical results only.

The researcher adopts this critical approach as it allows for dealing with the variety of the data under scrutiny using various methodological approaches to reach sound and valid results as Wodak (2001: 65) confirms. Moreover, this approach gives the researcher the flexibility to select whatever tools to analyze the data to detect the ideologies intended and embedded by the text.

The researcher chooses Wodak's (2009) approach as a model as it allows him to analyze selected linguistic features and expressions that he sees suitable for achieving the aims of this paper of detecting the ideological motivation behind the EW testimony in front of the court, in doing so he follows van Dijk (2001: 99) suggestion that CDA analysts should "select those structures for closer analysis that are relevant for the study of the (targeted) social issue". However, the researcher also focuses on the contextual features such as the cultural, legal etc. dimensions or aspects as they are closely and directly related to the ideological aspects of the testimony.

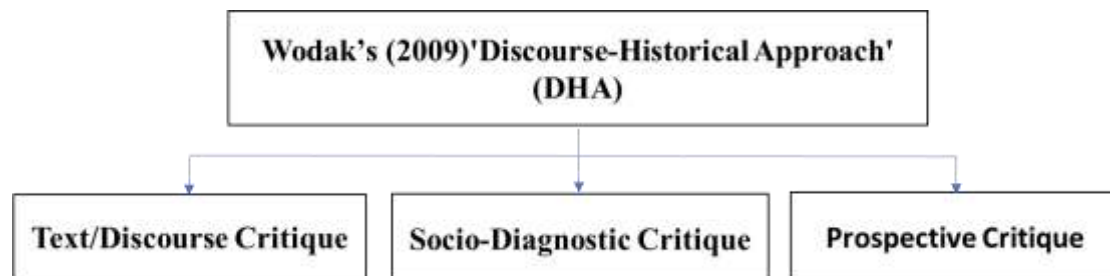


Figure (1): Wodak's (2009) 'Discourse-Historical Approach (DHA)'

b. Data Selection

The researcher chooses one of the cases presented before a US court from its official website (the link is at the end of the research with the references) to preserve the ethical scientific consideration and proof.

The selected pdf file is entitled "TRANSCRIPT OF PROCEEDINGS" of the court that was held in Washington, D.C., in January 27, 2023. The topic of the court case is "*In the matter of the proposed amendment to the federal rules of evidence*". the data pdf file consists of 46 pages; however, the researcher chooses the testimony of the testimony of Ryan Babcock, The Babcock Law Firm, P.C. is

out of six testimonies to show the ideological motivation of his testimony that lasts on the pages (2-6)⁴.

c. The Method of Analysis

The researcher chooses one testimony of this court case for many reasons: *the first* is to present more clarified analysis, *the second* is the researcher aims to conduct a qualitative study rather than a quantitative one for the aim of conducting an in-depth analysis to see the effectiveness of the adopted model of revealing ideologies that motivate the EW to produce the text/discourse in this way which represents *the third reason*, *the fourth* is to show the reader the mechanism and method of analysis, *the fifth* is to verify the extent of the validity and accuracy of the results.

As the testimony is rather long, so, the researcher cuts it into excerpts to make the analysis deeper and clearer.

d. The Conducted Data Analysis

Excerpt 1

"Okay. Thank you so much. Good morning, Mr. Chairman and Members of the Committee. Thank you for the opportunity to testify regarding the proposed amendments to Rule 611. I represent plaintiffs in injury cases, and before starting my own firm, I defended such cases and worked as a federal judicial law clerk for several years."

"The use of visual aids at trial assists with effective advocacy and it ultimately aids the truth finding function of the jury, which the current Rule 611 recognizes as a prime consideration of the trial process."

i. Gratitude in Introduction and Politeness and Diplomacy

For the aim of establishing a positive rapport with a high degree of politeness with the judges, the EW uses gratitude expressions in a formal way, i.e., **"Thank you so much ... Good morning Mr. Chairman and Members of the Committee."** Moreover, to the recognition of politeness to the judges, he also recognizes the authoritative power of them.

The strategy of thanking the committee for giving him the opportunity to testify and then to acknowledge his presence, the EW uses hedges to reveal politeness and respect. The phrases, **"Thank you for the opportunity to testify regarding the proposed amendments to Rule 611,"** helps him provide a gracious and diplomatic opening.

⁴ https://www.uscourts.gov/sites/default/files/2023-01-27_hearing_transcript_final_0.pdf

The EW starts with politeness markers "*Thank you so much,*" "*Good morning*", addressing authority figures "*Mr. Chairman*" and "*Members of the Committee*", which suggests deference and respect. This establishes an ideological power dynamic where the EW acknowledges the authority of the committee.

ii. Stating Affiliation and Experience

The EW is ideologically motivated to talk about his professional background. To add credibility to his appearing without being excessively self-assured, he uses a short introduction to himself and his background as law clerk and defense attorney. This aims to affect the audience to take his testimony for granted. Mentioning his legal expertise and work as a federal judicial law clerk is ideologically motivated in order to establish his identity and to enhance his credibility.

iii. Advocating for Visual Aids

To describe the advantages of using 'the visual aids', the EW uses "*assists with effective advocacy*" and "*ultimately aids the truth-finding function of the jury.*". He ideologically aims to soften the assertion and presenting the predicted advantages of using those "*visual aids*" at trials as plausible rather than absolute. Moreover, the use of "*current Rule 611 recognizes*" submits an acknowledgment of the close relatedness of the existing perspective. The EW ideologically uses repetition and logical progression to make a persuasive argument targeting the audience to agree with his ideas and viewpoints.

This happens intentionally after highlighting his past experience and his current role as qualified and knowledgeable person, then he tries to persuade the judges of his own viewpoint, i.e., ideologies of positionality and persuasion.

iv. Presenting Jury's Role

To discuss the jury's role, the EW uses a naming strategy of the case at hand: "*which the current Rule 611 recognizes as a prime consideration of the trial process.*". His use of "*recognizes*" infers the acknowledgment of the jury's role as an effective and established fact keeping at the same time a cautious tone to avoid provoking them.

The EW tries to show himself ideologically aligning his argument with "*truth finding*" concept in the trial process as he focuses on the importance of searching for and finding the truth within the judicial system, i.e., both ideological underpinnings and ideologically meeting the social norms and values.

Excerpt 2

"I start from the position that trials should be a user-friendly process for the jury, and they have a difficult job to do. They play a crucial role in the justice system and society, and expert testimony especially can be boring or difficulty for a lay jury to follow."

"It's crucial that we keep our jurors engaged. Advocates use visual aids based on the belief that many jurors will have a better recall of key facts when deliberating if the evidence is presented using additional methods of presentation apart from oral testimony. That can include the use of all senses, for example, the physical touch of an anatomical model or an injured body part of the plaintiff."

"As a threshold matter, the rule, in my view, will likely create confusion as it does not define the term "illustrative aid," and it's a term that would prove difficult to define or describe comprehensively."

i. Defining Position and Juror Challenges

The EW begins ideologically by stating his perspective and stance by stating **"I start from the position that trials should be a user-friendly process for the jury."** This starting, i.e., **"I start"** represents a subjective viewpoint rather than an absolute truth. He then introduces the challenges that jurors face with **"they have a difficult job to do,"** acknowledging the complexity of the jurors' role in general and in this case in particular.

The EW ideologically starts by acknowledging and admitting the challenges that face the jury putting these challenges as an important factor in the justice system as a whole. This is a strong ideological argument to persuade the judges of his viewpoint.

ii. Describing Juror Role

The EW attracts the attention towards the importance of jurors and their part in the justice system as a whole with phrases like **"They play a crucial role in the justice system and society."** By using **"crucial"** and **"society"** the EW highlights this importance while maintaining a cautious tone.

Ideologically, the EW concentrates on the **"crucial role"** of the jury within the judicial system to achieve justice aligning himself with the societal values and norms to achieve justice and fair. He also aligns himself with the idea that juries are important for protecting the democratic ideals and ideologies.

iii. Discussing Expert Testimony

When discussing the EWs' testimony of courtroom trials, the EW uses: **"expert testimony especially can be boring or difficult for a lay jury to follow."** The use of **"especially"** and **"can be"** suggests that not all expert(s) testimony is necessarily difficult or boring, but it can present challenges to lay jurors.

The EW implies ideologically the **dynamic power** between legal EWs, including himself, and the lay jury members. He delicately reinforces and emphasizes the expertise he has, while deliberately showing that the lay jury are struggling to grasp and understand complex matters, evidence and cases.

iv. Advocating for Juror Engagement

The EW states that it is "*crucial that we keep our jurors engaged*" emphasizing the importance of juror involvement. The phrase "*we keep our jurors engaged*" suggests shared collaborative approach and responsibility as they both after the same goal, i.e., serving justice and revealing the truth.

Ideologically speaking, the EW concentrates on the idea of *engagement and communication* emphasizing the importance of keeping the jurors engaged with a high degree of effective communication and comprehension which in result requires the need to use visual aids as a solution or assistance to enhance juror recall and understanding.

v. *Advocating for Visual Aids*

In discussing the belief of the effectiveness of visual aids, he states: "*Advocates use visual aids based on the belief that many jurors will have a better recall of key facts.*". However, by ascribing the belief to advocates, the EW ideologically distances himself to some extent from this assertion while presenting it as a common perspective.

Ideologically speaking, the EW uses hypothetical scenarios and logical reasoning, i.e., rhetorical strategies, to set a persuasive argument appealing the concept that multiple manners and methods of presentation and visual aids to enhance the juror's abilities to recall and retain information.

vi. *Describing Types of Visual Aids*

The EW uses hedges to clarify the types of visual aids that can improve juror engagement: "*That can include the use of all senses, for example, the physical touch of an anatomical model or an injured body part of the plaintiff.*". The use of "*can include*" and "*for example*" proposes a range of options and possibilities without imposing a definitive list.

Ideologically speaking, the EW strongly suggests that the participation and engagement of all human senses can enhance the juror's understanding and comprehension. This indicates the ideological positioning of the EW with the holistic learning and *sensory experience* in communication and education.

vii. *Critiquing the Proposed Rule*

The EW presents his own critique of the proposed rule: "*As a threshold matter, the rule, in my view, will likely create confusion.*" The hedging strategy, "*in my view*" and "*likely*," intentionally signals his own personal perspective while at the same time leaving an area for multiple alternative interpretations.

Critically speaking, the EW is criticizing the proposed rule's lack of definition in addition to shed the light and attract the audience attention of his own *expertise* and knowledge of linguistic precision and legal matters which mentally reinforce his credibility in front of others as a person who can assess, *interpret* and analyze legal language.

viii. *Defining "Illustrative Aid"*

The EW indicates a possible matter with the proposed rule: "*it does not define the term 'illustrative aid,' and it's a term that would prove difficult to define or describe comprehensively.*". he uses "*prove difficult*" and "*describe comprehensively,*" to highlight the probable challenges in defining the term.

Ideologically speaking, the EW raises strong concerns about the legitimacy and the degree of the clarity of the term itself positioning himself as a critical thinker who is capable of identifying ambiguities and potential issues, i.e., legitimacy and cognitive complexity.

Excerpt 3

"Now, with respect to the notice provision, I'm concerned that it would prove unworkable in practice. Trials are dynamic, and many visuals may not be prepared a great deal of time in advance. There may be unexpected events at trial based on the statements or conduct of any number of participants that might suggest a visual aid to use at trial that would be beneficial to employ."

"As I read it, the proposed rule would act as a prior restraint on the contemporaneous use of a flip chart during trial, which I would view as a step backward for jury understanding in trial practice and a rule change that would undo generations of prior acceptable trial conduct."

"We know that teachers write important concepts on the blackboard, and trial lawyers sometimes emulate that practice during trial. They understand it will help jurors remember those ideas."

i. *Expressing Concerns*

The EW presents his own concerns about the notice provision: "*I'm concerned that it would prove unworkable in practice*". By using "*concerned*" and "*would prove,*" the EW expresses doubts and reservations while opening for the possibility for alternative interpretations.

Ideologically speaking, the EW is apprehensively that the notice provision might not practical in the context of dynamic trials and courtroom interaction as it likely requires advance preparation and notification for the use of visual aids. He concentrates that courtroom trials are unpredictable and fluid as visuals need to be created on short notice according to the developments during the processes of trials. In other words, he focuses on the unworkability of notice provision.

ii. *Describing Trial Dynamics*

To describe the dynamic nature of trials, the EW states that: "*Trials are dynamic, and many visuals may not be prepared a great deal of time in advance.*" His usage of "*may not be*" and "*a great deal of time*" acknowledges and admits the unpredictability and variability of trial preparations which implies an ideological attack against "*the notice provision*".

iii. *Addressing Unexpected Events*

The EW continues with hedges when discussing unexpected events at trial: "***There may be unexpected events at trial based on the statements or conduct of any number of participants that might suggest a visual aid to use at trial that would be beneficial to employ.***" The use of "***may be,***" "***might suggest,***" and "***beneficial to employ***" suggests possibilities rather than certainties to avoid implicate or tie himself to something that might not be approved yet.

iv. Critiquing the Proposed Rule

The EW employs hedging strategy to criticize the proposed rule: "***As I read it, the proposed rule would act as a prior restraint on the contemporaneous use of a flip chart during trial.***" The phrase "***as I read it***" and the use of "***would act as***" indicate the EW's interpretation rather than a definitive statement concerning the issue at hand.

Ideologically speaking, the EW suggests that some might interpret the proposed rule as a restriction on the visual aids or the flip charts during the processes of courtroom trials. Eventually, this could be seen problematic as it might hinder effective understanding and communication for all the participants or the parties of the trial especially the jury, i.e., he indicates ***the contemporaneous use of flip charts.***

v. Expressing Concern for Jury Understanding

The EW continues using a hedging strategy to express his own view on the potential impact and influence of the rule change: "***which I would view as a step backward for jury understanding in trial practice and a rule change that would undo generations of prior acceptable trial conduct.***" Using "***which I would view as***" and "***that would undo,***" help the EW present his viewpoint without enforcing it as an absolute truth.

Ideologically speaking, the EW, discussing ***the impact on jury understanding,*** claims that this proposed rule might negatively impact the jury's comprehension and understanding of the trial proceedings in a harmful way. He strongly argues that the restriction of the usage of visual aids might be counterproductive and hinder the ability of the jury to understand and comprehend the complex concepts or remember and connect the important points.

vi. Drawing a Comparison

The EW allows himself to draw a comparison to teaching practices: "***We know that teachers write important concepts on the blackboard, and trial lawyers sometimes emulate that practice during trial. They understand it will help jurors remember those ideas.***". Using "***we know,***" "***sometimes emulate,***" and "***understand it will help***" help the EW acknowledge the analogy and similarity while acknowledging the potential nuances. Moreover, the use of "***We***" indicates that he is including the court committee with his beliefs and suggestions to mentally force them to accept his viewpoints.

Ideologically speaking, the EW, in an attempt to make a ***comparison to teaching practices,*** draws a parallel between the practice of teachers using blackboards and the use of visual aids in courtroom

trials to convey important concepts and points. This comparison concentrates on the effectiveness of visual aids in helping the process of memory retention and understanding inferring that similar benefits could be gained in courtroom trial settings.

Excerpt 4

"Likewise, I've had the experience of preparing a PowerPoint presentation to be used during closing to help illustrate my argument. When I do so, I can guarantee that my draft will substantially change during the trial and I will add key slides late the night before or early the morning of closing argument. The proposed rule would make it difficult, if not impossible, to use that technology to help make such presentations at trial."

"Further, at least in some courts, I believe it's unclear to what extent materials used for impeachment must be disclosed pretrial as exhibits."

"In a federal criminal trial where I was appointed to represent a defendant, I made the strategic decision to not use a document as an exhibit, and without prior disclosure to the federal government, I used a printout of a cooperating witness's Facebook posts in an effort to impeach his testimony. I did not move to admit the same into evidence because I was happy to use the document solely for demonstrative purposes as a matter of trial strategy. I'm concerned the proposed rule as drafted could interfere with the ability to make such strategic decisions."

"Regarding the admissibility of illustrative aids, I would submit that certain types of visuals would routinely be admissible and considered by the jury during deliberations, including many photographs, for example. You know whether those visuals are actually offered into evidence should be within the discretion of counsel and whether they're admitted within the sound discretion of the trial judge."

i. Describing Personal Experience

The EW tries to show his personal experience of using PowerPoint presentations: ***"Likewise, I've had the experience of preparing a PowerPoint presentation to be used during closing to help illustrate my argument."*** By using ***"Likewise"*** and ***"I've had the experience,"*** the EW aims to share his own perspective without imposing it as a universal truth.

Ideologically speaking, in an attempt to show his personal experience of preparing a PowerPoint presentation for closing arguments of trials, he emphasizes both the structure and the content of these presentations that typically evolve during the courtroom trials. Furthermore, he attacks the proposed rule as it might hinder the ability to modify and adapt presentations to meet the requirements of trial development(s). Ultimately this imposes challenges that affect the usage of technology for persuasive and argumentative purposes during close arguments of courtroom trials, in other words, he attacks the ***dynamic nature of presentation.***

ii. *Describing Draft Changes*

The EW uses hedging to discuss changes to his presentation: "***I can guarantee that my draft will substantially change during the trial and I will add key slides late the night before or early the morning of closing argument.***". The use of "***can guarantee***" and "***substantially change***" helps him acknowledge the likelihood of any modifications or alterations while allowing for variability during the procedures of any legal courtroom interaction.

iii. *Critiquing the Proposed Rule*

The EW expresses his concern about the proposed rule: "***The proposed rule would make it difficult, if not impossible, to use that technology to help make such presentations at trial.***" The hedging strategy, "***would make it difficult, if not impossible,***" specifies any potential and possible challenges without presenting them as definitive or decisive outcomes.

iv. *Describing Disclosure of Materials for Impeachment*

The EW introduces his uncertainty about the extent of pretrial disclosure: "***Further, at least in some courts, I believe it's unclear to what extent materials used for impeachment must be disclosed pretrial as exhibits.***" By using "***I believe***" and "***at least in some courts,***" the EW acknowledges a subjective perspective and variation in practices.

Critically speaking, the EW raises a specific concern about the surrounding ambiguity of the disclosure requirements for materials used for impeachment, i.e., discrediting the EW's testimony. He argues that the implication of the proposed rule might not adequately address or clarify the pretrial disclosure requirements for such materials, leading to potential inconsistencies and uncertainty in different court settings. i.e., ***disclosure of impeachment materials.***

V. *Discussing Trial Strategy*

For the aim of describing a specific trial strategy, the EW pronounces: "***In a federal criminal trial where I was appointed to represent a defendant, I made the strategic decision...***" The use of "***made the strategic decision***" highpoints his agency while also inferring that other strategies could have been selected.

Ideologically speaking, the EW strategically mentions a specific case example as a document is not used as evidence but for demonstrative purposes during courtroom trial. He uses this example to attack the proposed rule as it could interfere with the ability to make such kinds of strategic decisions in the future, possibly restricting the flexibility of courtroom trial tactics, i.e., discussing the ***strategic decision-making.***

Vi. Expressing Concern for Strategic Decisions

The EW expresses his own concern about the possible interference with strategic decisions: "*I'm concerned the proposed rule as drafted could interfere with the ability to make such strategic decisions.*" The use of "*could interfere*" suggests a possible result while allowing other alternative interpretations.

vii. Discussing Admissibility of Illustrative Aids

The EW presents his own standpoint on the admissibility of illustrative aids: "*Regarding the admissibility of illustrative aids, I would submit that certain types of visuals would routinely be admissible and considered by the jury during deliberations, including many photographs, for example.*" The use of "*would routinely be admissible*" and "*I would submit*" offers a viewpoint without imposing it as an absolute truth.

The EW claims that the admissibility of certain visual aids such as photographs should or should not be left to the decision of the jury itself. He also highlights the importance of the trial judge's discretion in determining whether such visuals are admissible or not, i.e., *the admissibility of illustrative aids*.

viii. Describing Discretion of Counsel and Judges

The EW accentuates and highlights the role of discretion: "*You know whether those visuals are actually offered into evidence should be within the discretion of counsel and whether they're admitted within the sound discretion of the trial judge.*" The use of "*You know*" and "*should be within the discretion*" acknowledges shared understanding and the nuanced decision-making process. Moreover, the use of "*You*" implicates that he is including the members of the court committee with his suggestions and beliefs to mentally force them to accept his viewpoints and stance.

Excerpt 5

"In a past car wreck trial, for example, I've offered into evidence photographs of the wrecked vehicles after the crash, but I may only show a photograph of the plaintiff lifting her young child at the playground to help illustrate testimony that she could no longer do such important daily activities like that after the crash. I would not offer a photograph like that or similar photographs into evidence simply as a matter of strategy, and I'm concerned the proposed rule would foreclose that approach."

"Finally, when examining an expert, I have on occasion written key phrases from an expert's testimony on a flip chart during the testimony. I might return to that paper as an illustrative aid during closing to remind the jury of what I view as important testimony in the case, but I don't believe that paper ought to be or need be routinely admitted into evidence or go back with the jury. For these reasons, I oppose the adoption of the proposed amendment. Thank you very much."

i. Presenting a Trial Example

The EW introduces a trial example: "***In a past car wreck trial, for example, I've offered into evidence photographs of the wrecked vehicles after the crash...***" The use of "*for example*" and "*I've offered*" helps him present the example as one of several possible scenarios.

ii. Describing the Use of Photographs

The EW discusses his strategy with photographs: "***but I may only show a photograph of the plaintiff lifting her young child at the playground to help illustrate testimony that she could no longer do such important daily activities like that after the crash.***"

The EW uses hedging in "*may only show*" to acknowledge the variability in his choices and to suggest a selective approach. The EW mentions this example of "a car wreck trial" to explain his viewpoint. He ideologically describes this example situation when he offered certain photographs as material evidence to support his case. However, he emphasizes that the use of these photographs not as formal evidence but as illustrative aids. The implied a criticism against the proposed rule as it might potentially limit the strategic use of such illustrative aids but that are not intended for formal evidence presentation but to enhance understanding of testimonies.

iii. Discussing Strategies and Flexibility

The EW elucidates his strategic choices and decisions: "***I would not offer a photograph like that or similar photographs into evidence simply as a matter of strategy...***" The use of "*I would not offer*" and "*simply as a matter of strategy*" emphasize his decision-making agency while inferring that alternative choices are possible.

Ideologically speaking, the EW expresses his concerns that the proposed rule might limit trial strategies. He concentrates on the strategic consideration and decision of offering selected visual aids or photographs as evidence which means opposing the adoption of the proposed rule on the ground that it might impede the witnesses and lawyer's ability to use effective trial tactics to present fact and information in front of the trial.

iv. Expressing Concern for Proposed Rule

The EW expresses his concern about the influence and the impact of the proposed rule: "***and I'm concerned the proposed rule would foreclose that approach.***" The use of "*I'm concerned*" shows his personal viewpoint while allowing for other interpretations.

v. Describing the Use and the role of a Flip Chart

The EW clearly describes his usage of a flip chart during testimony examination: "***Finally, when examining an expert, I have on occasion written key phrases from an expert's testimony on a flip***

chart during the testimony." The use of "*on occasion*" and "*key phrases*" indicates variability and selectiveness in his approach.

Moreover, the EW discusses his use of the flip chart during closing: "*I might return to that paper as an illustrative aid during closing to remind the jury of what I view as important testimony in the case.*" The use of "*might return*" and "*what I view as important testimony*" highlights the EW's viewpoint while allowing further potential alternatives.

The EW expresses his own opinion on the role of the flip chart: "*but I don't believe that paper ought to be or need be routinely admitted into evidence or go back with the jury.*" The use of hedging such as "*I don't believe*" and "*ought to be or need be*" presents his own viewpoint without enforcing it as an absolute truth.

Ideologically speaking, the EW indicates his practice of writing key phrases or points from his testimony on a flip chart during the testimony in front of the court. He also explains that such technique helps the witnesses and lawyers highlight the important points and refer to them during any close arguments. However, the EW stands against any routine admission of these flip chart papers as formal evidence or sending them with the jury highlighting the difference between using them as formal evidentiary status and as illustrative purposes.

vi. Stating Opposition of the Proposed Rule

The EW completes and concludes his testimony by stating his opposition to the proposed amendment: "*For these reasons, I oppose the adoption of the proposed amendment.*" The use of "*For these reasons*" and "*I oppose*" presents and shows a rational, coherent and carefully considered viewpoint.

The EW opposes the adoption of the proposed amendment outlining his reasons for this opposition of this rule changing which primarily centers around hindering the use of illustrative aids, the potential negative effects of the proposed rule, the strategic use of visual aids, the flexibility of presenting evidence, limiting trial strategies and impacting the effectiveness of his advocacy. All these reasons, as the EW presents, undermine the ability to effectively communicate the key points and hinder the enhancement of the understanding and grasping during the process of legal courtroom interaction.

6. CONCLUSIONS

From the conducted CDA deep analysis, the researcher is managed to reach the following points concerning the ideologies and the ideological motivation(s) within the discourse:

1. The EW is ideologically motivated to use a language with a high degree of politeness to establish positive rapport, deference and admitting the kind of power relation paving the way to mention his expertise to testify in front of the committee.
2. The EW ideologically uses linguistic strategies of repetition, naming and logical progression to present a persuasive argument targeting the audience to agree with his ideas and viewpoints and

show his stance maintaining a balanced and respectful tone without overly assertive or confrontational.

3. All these linguistic tools and ideologies used by the EW to put him in the side of truth finding, transparency and effective communication within legal texts in front of a highly legal committee.
4. To defend, align and explain his ideological position and stance, the EW admits the difficulties of the jurors' complex important role within the justice system to convince the committee with a cautious tone.
5. The EW motivated ideologically with the importance of *engagement and communication* of the jury, he defends his position with the need to use visual aids to enhance the juror recall and understanding and at the same time he ideologically distances himself from any strong assertion while presenting his perspective.
6. The EW resorts, whenever possible, to the linguistic nuances, broader contextual factors, and any potential ideological influences to defend his position and present his case. The EW uses, among others, these linguistic devices and strategies to set an effective persuasive argument:
 - i. contextual factors,
 - ii. focusing,
 - iii. hedging,
 - iv. historical events,
 - v. holistic learning,
 - vi. logical reasoning,
 - vii. naming
 - viii. repetition,
 - ix. rhetorical strategies,
 - x. sensory experience,
 - xi. using hypothetical scenarios, etc.
7. The EW also ideologically tries to express his concerns and doubts within the context of dynamic trials and courtroom interaction, i.e., attacking the unworkability of the notice provision. He also directs the attention towards the usual unexpected events during trials which causes misinterpretation of the jury as a result of the proposed rule. Ultimately, this helps him draw his own comparisons and conclusions.
8. The conducted analysis and the resulted reached prove that CDA theories and approaches are useful in analyzing such kinds of texts revealing their hidden motivational ideologies.

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