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‘Please make your verdict speak the truth’: Insights from an Appraisal analysis of the closing arguments from a rape trial

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Abstract

It is common knowledge that language use inside the courtroom is an effective tool of persuasion; thus, even in cases where evidence is unreliable, men and women have found themselves facing charges, standing trial and, in the worst case scenario, wrongfully convicted of a crime. In this paper I examine one such case, in which a young American finds himself accused and, later, imprisoned for the rape of a minor, despite evidence to suggest otherwise. The case is taken from a database set up by *The Innocence Project*, a non-profit organisation comprising a team of volunteers working towards proving the innocence of over 200 individuals currently serving time for a crime that they insist they did not commit. More specifically, my analytical focus is on the closing arguments of the selected case for the purposes of acquiring insights into how the attorneys for each side make particular language choices in a final attempt to maximise the credibility of their version of events. To reveal how the defendant and the victim are portrayed by each of the lawyers and, moreover, whose feelings and/or character traits are brought to the forefront, an Appraisal analysis is carried out on the dataset.

Keywords

Appraisal, Forensic Linguistics, Rape, Systemic Functional Linguistics (SFL)

**‘Please make your verdict speak the truth’:
Insights from an Appraisal analysis of the closing arguments from a rape trial
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1 Introduction

Cases of wrongful convictions are far from rare in the USA, with several cases coming to light more recently (cf. *Making a Murderer*, *The Innocent Man*). As a result of such cases, a non-profit organization known as The Innocence Project now exists, seeking to try and prove the innocence of people serving time for a crime that they insist they never committed. The Innocence Project was set up at the Benjamin N. Cardozo School of Law and is run by more than 700 volunteers who created and maintain an online database of court cases comprising trial transcripts concerning a range of criminal activities. The Innocence Project estimates that of those people incarcerated in the United States, between two and five percent are, in fact, cases that have resulted in a wrongful conviction. Primarily due to the work of The Innocence Project, DNA evidence has led to the exoneration of more than 2,000 innocent people over the last twenty years. However, the power of language at trial in such cases would appear not to have received the recognition it deserves. As such, the current paper sets out to examine how language use inside the courtroom may have contributed to the wrongful conviction of a young American, who was found guilty of sexually assaulting a minor in 1993 and, is now known to be innocent in light of his exoneration in 1997.

The Appraisal framework (Martin and White 2005; Bednarek 2008) is employed here to examine the closing arguments of this rape case. The motives for selecting a case of sexual assault is that other research by, for instance, (Critical) Discourse Analysts has so far focused on one of three areas relating to the recontextualization of rape in the public eye, whether in the press, during the police interview, inside the courtroom or in other contexts. Studies to date have looked at (i) how the rape victim and their assailant represent the same series of events (i.e. the rape itself) differently (cf. Cotterill 2004; Ehrlich 2001), (ii) how victims of rape seldom use the term *rape* to describe what occurred (cf. Bartley 2018; Kahn et al. 1994), and (iii) how the alleged assailant and the alleged victim are linguistically construed by external sources in the outside world (cf. Clark 1992; Felton-Rosulek 2008). Where the current paper differs is that rather than look at the language that often results in a wrongful acquittal, the analysis offers insights into the language that instead served to secure a wrongful conviction, despite a lack of evidence at trial, thus, drawing attention to a different type of injustice.

In view of the fact that this paper employs the Appraisal framework (Martin and White 2005; Bednarek 2008) and, more specifically, *Affect* and *Judgement* as two domains of the Attitude system, the evaluative nature of the lawyers’ discourse concerning specific individuals is examined and the following research questions are put forward:

1. Is there an overall tendency for the prosecution to use more positive or negative appraisals in their discourse?
2. Is there an overall tendency for the defense team to use more positive or negative appraisals in their discourse?
3. Is there a tendency for each side of the case to reference more positive or negative Affect?
4. Which and whose emotions are brought to the forefront by either side of the case and in relation to whom or what?
5. Is there a tendency for each side of the case to reference more positive or negative Judgement?

6. Which character traits or behaviors are brought to the forefront by each side and in reference to whom?

Beginning with a review of relevant literature and the appraisal framework in Section 2, Section 3 introduces the data and methodology. This is followed by data analysis in Section 4. Section 5 offers a discussion of the key findings, followed by conclusion.

2 Literature Review

Much of the research to date that explores how sexual assault, alleged rapists and their so-called victims are reconstrued include studies of newspaper discourse, as is the case with Clark (1992). Clark (1992) examined articles retrieved from *The Sun* in the late 1980s that dealt with cases of both sexual and non-sexual violence and, more specifically, she carried out a naming and transitivity analysis of the dataset. Among her findings was the frequent use of passive structures as a means of avoiding any reference to particular participants (i.e. the *Actor* of a material clause); thus, the rapist or criminal in question was often not the focus of the clause and, consequently, not held accountable. In addition to the latter, studies on courtroom language and, more specifically, the closing argument phase, have also been carried out. Walter (1988), for instance, examined sentence constructions (e.g. imperatives, assertions) used in closing arguments for the purposes of identifying where the lawyer's focus lay, be it on appealing to the jury's emotions or, instead, on using legal jargon. Among others, Stygall (1994) analyzed the closing arguments of civil trials, with a focus on the use of the passive voice and collective pronouns.

Other studies of courtroom language that more specifically deals with rape have also been carried out. For instance, Cotterill (2004) looked at the use of certain lexical items that were employed by lawyers during court cases of sexual abuse and domestic violence, with the intention of revealing how lexicalization and re-lexicalization (i.e. how certain words, which on the surface appear synonymous of those already uttered, in fact encompass subtle differences in meaning) unfold at trial. As Cotterill (2004: 516) acknowledges, this may not only coerce a jury in a given direction, but potentially leave the alleged victim frustrated if their version of events is to some extent manipulated and, thus, no longer a reflection of the facts or, at least, their own side of the story (cf. Young 1983; Kebbel et al. 2003 for similar findings).

Two other studies that merit attention here include those of Felton-Rosulek (2008) and Statham (2016), with both employing frameworks pertaining to Systemic Functional Linguistics (SFL) and, thus, somewhat relevant to the current paper. Felton-Rosulek (2008) analyses the closing arguments of a child-sexual abuse case using the SFL transitivity framework in order to establish how opposing attorneys describe the same defendant, the same victim, the same witnesses and the same events, and yet still manage to provide conflicting accounts of the same case (Felton-Rosulek, 2008: 530). This analysis revealed that although both sides of the case regularly referred to the defendant as *Actor*, the prosecution did so in reference to acts of sexual violence, whilst the defense avoided this at all costs and, instead, focused on alternative neutral activities involving the defendant. The latter coincided with the general topic focus of each attorneys' discourse; that is, the prosecution drew largely on the alleged sexual cruelty committed against a minor, whilst the defense evaded any mention of the sexual abuse itself so as not to incriminate their client. Felton-Rosulek (2008: 541) also remarks on the use of mental processes, with the prosecution showing a tendency to use mental emotive processes to reflect the victim's fear in, presumably, an attempt to acquire the jury's sympathy; and the defense using mental emotive processes, but with the aim of highlighting the victim's general hatred for the accused, thus attempting to undermine her allegations. In addition to the transitivity findings, it is also

worthwhile mentioning that the dataset uncovered many examples of explicit reference to the age of the victim by the prosecution during their closing argument, which is argued to perhaps being a strategy also designed to gain sympathy from the jury, who as a result may be more inclined to empathize with the prosecutor's version of events. Meanwhile, the defense attorney instead employed terms that would distance the jury from the alleged victim, using, for instance, her full name (Felton-Rosulek 2008: 536-537).

Statham (2016) examined the appraisal patterns in the closing arguments of a court case of manslaughter in order to determine how evaluation is rendered in the courtroom. His focus lay with the subdomain Judgement (i.e. how we depict ourselves and others in relation to a set of societal standards). Statham (2016: 258) found relatively few explicit evaluations by the prosecution which, as he explains, may have been the result of lawyers being prohibited by law to make overt judgements. He (2016: 259) also discovered a notable number of implicit examples of Judgement in the discourse of both the prosecution and defense attorneys, thus rendering the closing arguments by no means judgement free. Furthermore, the latter would function not only to represent the attorney as law abiding, but equally, to enable lawyers to provide convincing arguments to the jury.

Similarly to Statham (2016), the current paper also employs the Appraisal framework (Martin and White 2005; Bednarek 2008), which is designed to reveal one's position to a particular proposition. In this instance, it will prove particularly useful because it can demonstrate how lawyers "highlight and silence different aspects of the crime, the trial and the people involved" (Felton-Rosulek 2008: 548) through a focus on particular language items that have been employed in favor of other potential alternatives.

In what follows the APPRAISAL framework is briefly outlined.

2.1 APPRAISAL framework

The APPRAISAL framework comprises 3 separate systems: *Attitude*, *Engagement* and *Graduation*. *Engagement* is defined as the "resources for positioning the author's voice with respect to the propositions and proposals conveyed by a text" (Rentel 2012: 342), whilst *Graduation* is concerned with the ranking of individuals' evaluations along a scale that serves to intensify or diminish the strength of an assertion. Both systems are considered attendant resources, unlike *Attitude*, (Martin 2000: 165) which is core and where the focus of this paper lies.

The system of Attitude is defined as the system of meanings that represents: (i) positive and negative emotions (i.e. *Affect*); (ii) positive and negative evaluations of our behaviors (i.e. *Judgement*); and (iii) positive and negative evaluations of aesthetics (i.e. *Appreciation*)¹ (Martin and White 2005: 42).

Each of these domains comprises several subcategories, some of which have altered over time. The focus in this paper is on 2 of the 3 Attitude domains, namely Affect (see Table 1), to include the changes proposed by Bednarek (2008), as illustrated in Table 2, and Judgement as proposed by Martin and White (2005) and exemplified in Table 3.

¹ Examples of Appreciation are not dealt with in this paper due to space constraints.

Happiness/Unhappiness		Satisfaction/Dissatisfaction	
cheer	misery	pleasure	displeasure
affection	antipathy	interest	ennui
Security/Insecurity		Inclination/Disinclination	
confidence	disquiet	desire	fear
trust	surprise		

Table 1. Affect (Martin and White 2005)

Category	Before (Martin & White 2005)	After (Bednarek (2008))
Security/ Insecurity	Security: confidence, trust Insecurity: disquiet, surprise	Security: quiet, trust Insecurity: disquiet, distrust
Inclination/ Disinclination	Inclination: desire Disinclination: fear	Inclination: desire Disinclination: non-desire
		Surprise

Table 2. Affect: Modifications to the original system

Social Esteem	Social Sanction
normality (i.e. references to the extent that one meets the general standard)	propriety (i.e. references to how ethical or immoral one is)
capacity (i.e. references to one's capacity)	veracity (i.e. references to how honest or deceitful one is)
tenacity (i.e. references to how determined one is)	

Table 3. Judgement (Martin and White 2005)

Examples of both explicit (also termed inscribed) and implicit (also termed invoked) evaluations are also taken into account in view of the fact that, as Bakhtin (1981: 293) acknowledges, “[e]ach word tastes of the context and contexts in which it has lived its socially charged life”, thus, supporting the notion that, words, whilst neutral on the surface as individual items, can produce a positively or negatively charged piece of discourse when used in combination in a particular context. Moreover, Thompson (2014: 51) asserts that appraisals which are invoked in this way often prompt an evaluative reaction.

3 Data and methodology

The dataset comprises a set of courtroom transcripts retrieved from the *Innocence Project* (<http://www.innocenceproject.org/>) online database. The case for this paper was selected on the basis of 3 criteria, namely: (i) a charge of sexual abuse; (ii) a complete trial transcript; and (iii) a sufficient sample size.

The trial under analysis concerns an 11 year old child, who, whilst at home alone one morning in Tulsa, Oklahoma, received a knock on the door from a man asking if he could do any yard work and, who requested to speak to her parents. On informing him that her parents were out, the man proceeded to enter the property by force and sexually assaulted her.

Although the physical evidence shows that the assault occurred, it later emerges that the victim failed to make an accurate identification of the perpetrator.

A criminal trial encompasses several stages (i.e. the voir dire, the opening statements, the examination phase, the cross-examination phase, the closing arguments and the verdict), but given space constraints, this paper focuses solely on the closing arguments. Thus, the dataset comprises a word count of approximately 11,000 words (prosecution: 5931 words; defense: 4835 words). The closing arguments were examined on the basis that not only do they provide a synopsis of everything discussed and presented at trial, but also give lawyers a final opportunity to present the case from their own, biased perspective, thus potentially proffering highly evaluative lexis and, in turn, valuable insights into how a verdict of guilty was reached in a case of mistaken identity.

In this paper, the Appraisal framework is employed to examine a reasonably large dataset with the aim of determining particular language patterns employed by attorneys of the case in their closing arguments. The function of certain language items in context is explored together with a look at the meanings behind why the lexical and grammatical choices are selected in favor of others.

It is worthwhile remarking that prior to data analysis, it was necessary to create a coding system for each of the following: (i) the transcribed .txt files of the trial; (ii) the individuals involved in the court case; and (iii) the individuals referenced during trial, whose presence was not necessarily required at court. Coding of .txt files incorporated the stage and date of the trial, as well as the recess number (e.g. CA-100893-04). The process of coding participants that were either present at trial to testify or otherwise mentioned at some point generated a total of 132 different codes. A 3-digit code inside <> was used to reference a participant as speaker, whilst the mention of anyone involved was coded inside <<>>. Table 4 provides the codes encountered in the examples discussed in this paper.

Participant	Code as speaker	Code (when spoken about)
The Judge	<JU1>	<<JU1>>
The prosecution attorney	<PAS>	<<PAS>>
Defense attorney 1	<DAN>	<<DAN>>
Defense attorney 2	<DAZ>	<<DAZ>>
The victim/complainant	<PJC>	<<PJC>>
The defendant	<DFT>	<<DFT>>
Prosecution witness 1 (Victim's mother)	<WCP>	<<WCP>>
Prosecution witness 2 (Victim's father)	<DCO>	<<DCO>>
Prosecution witness 3	<ODS>	<<ODS>>
Prosecution witness 4	<DKU>	<<DKU>>
Prosecution witness 5	<DGI>	<<DGI>>
Defense witness 1 (Defendant's mother)	<WDM>	<<WDM>>
Defense witness 2 (Defendant's father)	<WJD>	<<WJD>>
Defense witness 3	<WSH>	<<WSH>>

Table 4. Participant codes

For the appraisal analysis itself, the UAM corpus tool (O'Donnell 2016), an online piece of software that facilitates textual annotation, was employed.

4 Analysis

An analysis of the appraisal patterns employed by each of the attorneys in this case are expected to provide useful insights into how each, in line with their own aims, portrays the defendant, the victim and the case, as well as indicate the extent to which the lawyers' language use may have manipulated the jurors' thoughts in the final stages of the court case.

4.1 Evaluative tendencies

This subsection deals with research questions 1 and 2. The general evaluative nature of the prosecution and defense lawyers' closing arguments is examined and, more specifically, whether each side of the case shows a stronger tendency for positive or negative appraisals, whether inscribed or invoked, in their discourse. These results are presented in Figure 1.²

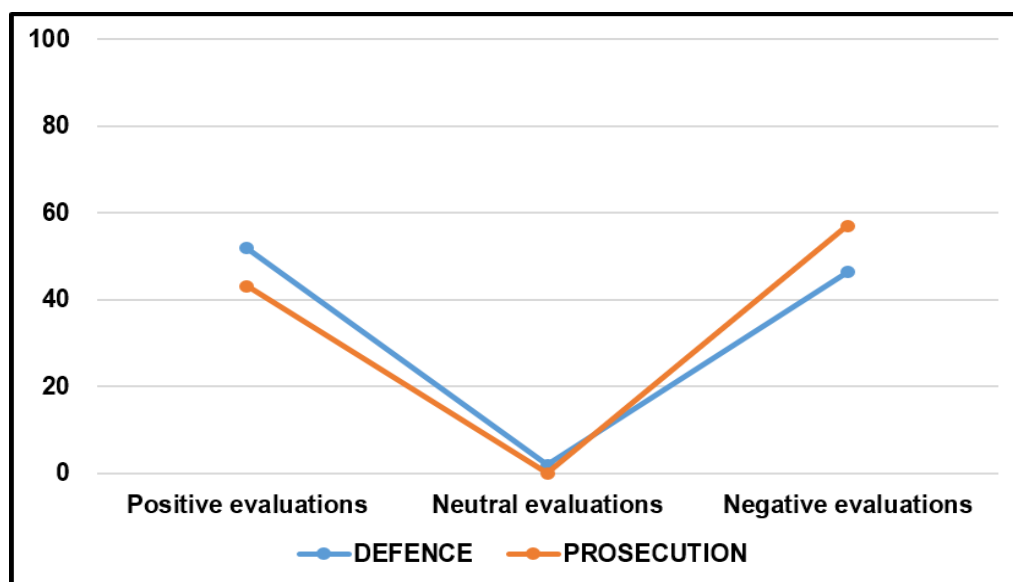


Figure 1. Prosecution vs. defense evaluative tendencies

As evident above, the frequency of positive, negative and neutral appraisals revealed a slight difference between the prosecution and defense attorneys, with the former more inclined to employ negative evaluations (57%) than the latter (46%). One may argue that this is not surprising if we consider that the aim of the prosecutor is to, primarily, portray the defendant as an evil character and, therefore, use a degree of negative lexis, as evident in (1).

(1) <PAS>[...] this *cocky, bossy* man did this to her. [...]</PAS> (CT.)

That said, statements such as (1) are not necessarily foreseeable on the grounds that in a court of law “courtroom dialogue should proceed without judgement being passed upon a defendant” (Statham 2016: 253). This rule is irrefutably defied in (1), although still likely to work in the prosecution’s favor; that is, the use of explicit negative lexis leaves a clear image in the minds of the jury and, thus, proves a powerful linguistic tool when presenting their side of the case.

² The results of all figures are expressed in percentages.

A second aim of the prosecution is to challenge the arguments put forward by the defense, which could prove more difficult given that the defense closing argument comes second. As a result, the prosecution must rely solely on the defense claims, as in (2), or the testimony of the witnesses for the defense, as in (3), that were made during the main trial.

- (2) <PAS>[...] Did you listen to what <<DAZ>> told you? He went through and he told you that <<ODS>> said there was no blood. Well that's not what <<ODS>> said. She said my records don't reflect blood [...]</PAS> (CT.)
- (3) <PAS>[...] I've been a prosecutor for ... well working on 9 years now and I'm 37-years old. And in the history of me being in the prosecutor's office, I've never seen such perfect alibi witnesses. [...]</PAS> (CT.)

Example (2) is an illustration of how the prosecuting lawyer picks apart the defense attorney's statements in order to discredit his claims. In example (3), the prosecutor adopts irony in her discourse with the aim of insinuating the unreliability of the defense witnesses; that is, she struggles to believe that people are able to recall such precise details that the average person would presumably forget, thereby manifesting an example of Judgement (Social Sanction: Veracity). To add to the latter, it is also clear that, as well as more transparent evaluations, such as (1), the use of invoked appraisals, as in (3), can prove just as effective when attempting to portray a particular image of someone.

To briefly return to Figure 1, we also observe that, unlike the prosecution team, the defense attorneys employ more positive appraisals in their discourse. This may be explained by the fact that the defense attorneys strive to portray their client as a man of integrity and, moreover, an innocent man given that, as the evidence suggests, he was elsewhere when the sexual assault occurred. The latter is exemplified in (4) and closely aligns with what Bennett and Feldman (1981: 86) refer to as a reconstruction strategy, in which different evidence is introduced for the purposes of telling a different story.

- (4) <DAN>[...] I feel sorry for <<PJC>> [...] But the evidence is overwhelming that <<DFT>> did not do it. [...]</DAN> (CT.)

Other examples of (implicit) positive appraisals by the defense team are used to reference their witnesses as respectable and trustworthy, as illustrated in (5).

- (5) <DAN>[...] Is <<WSH>> lying to you? None of these people are lying to you. They're telling you what happened. Has the State's [sic] proven beyond a reasonable doubt that <<DFT>> committed these crimes? No. [...]</DAN> (CT.)

The strategy observed here by the defense team is how they invite the jury to view their client and their witnesses as the ones who are telling the truth and, as such, the ones who need to be believed in this case.

It is noteworthy that 46% of the defenses' overall appraisals were negative evaluations and almost all of these were examples of invoked evaluation, as in (6); when they were inscribed, they differed somewhat to those from the prosecution, as they focused on the negative evaluation of a thing or concept as opposed to an individual, as in (7).

- (6) <DAN>[...] What do they say? They say, we show <<PJC>> a picture. Didn't <<PJC>> say they showed me 6 pictures? [...]</DAN> (CT.)
- (7) <DAN>[...] within 10 days of *this horrible crime* you submitted a known child rapist's fingerprints to your expert [...]</DAN> (CT.)

In (6) above, the defense attorney draws on what their opponent has claimed at trial in order to find fault in their argument and undermine their trustworthiness. In (7), we encounter an overt example of negative evaluation, yet one that shifts the focus away from those allegedly

involved and onto the crime itself. This is arguably a means of shrouding the victim, a minor, who consequently, may acquire a higher degree of sympathy from the jury than an adult would receive in similar circumstances. Furthermore, this may serve to conceal the responsible party (argued to be the defense lawyer's client); that is, removing the accused from the spotlight may also prove positive for the defense.

Lastly, although there are less instances of positive evaluation used by the prosecutor, she, nonetheless, does reveal an overtly positive stance when portraying the victim, as in (8) and, more indirectly, when portraying both herself and the prosecution witnesses, as in (9) and (10).

(8) <PAS>[...] She took that stand [...] she didn't cry and she was very *brave*. [...]</PAS> (CT.)

(9) <PAS>[...] He didn't hesitate. He didn't qualify his results or anything else. He just told you the results. [...]</PAS> (CT.)

(10) <PAS>[...] ladies and gentlemen, if I really wanted to tamper with the evidence in this case, I would have said, for you \$1,000, you better get up here and say it's <<DFT>>. [...]</PAS> (CT.)

In example (8), an explicit evaluative lemma (i.e. *brave*) is used to refer to the victim, which not only serves to present her in a positive light, but also, reiterate what this young child has had to endure. As defined in the Longman Online Dictionary of Contemporary English, a person who is described as *brave* has had to deal with danger, pain or a difficult situation with courage; thus, this type of evaluation is intended to melt the hearts of the jury members and encourage them to side with the victim. In examples (9) and (10), the evaluation, whilst still suggestive of positive traits, is nonetheless, implicit. In (9), the prosecutor implies that the witness (i.e. *he*) is confident and, thus, to be trusted; he is also depicted as an objective witness, whose testimony is based on factual evidence, serving to further echo his reliable character. Lastly, in (10), the prosecutor insinuates that she has been nothing but honorable, with no reason at all to present fabricated evidence, despite what the defense lawyers infer.

4.2 Attitude

4.2.1 Affect

On close inspection of the closing arguments, a number of interesting findings for Affect emerged, starting with how the two sides of the case used either more positive or negative examples in their concluding statements (see Figure 2 below).

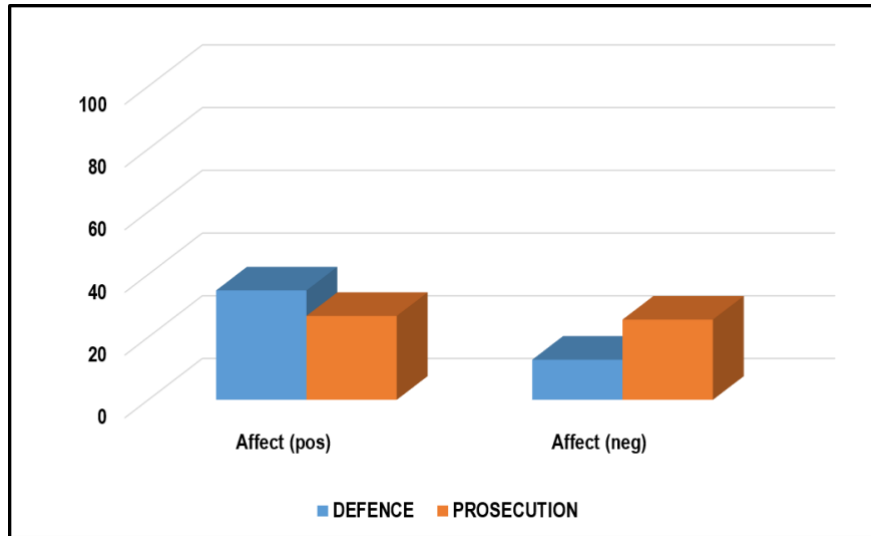


Figure 2. Occurrence of positive and negative affect

Figure 2 serves to answer research question 3 in which we observe contrasting tendencies, with the defense attorneys using mostly positive Affect and the prosecution showing a preference for negative Affect. To examine this in more detail and address research question 4, a clear difference that emerges between the two sides is for the category Affect: Unhappiness misery (-), which for the prosecution is used substantially more by comparison to the defense team. In fact, the latter used just two examples in their closing arguments in order to declare sympathy for the victim in question. Meanwhile, the prosecuting lawyer, on the other hand, is seen to resort to instances of *Unhappiness: misery* in order to describe the sadness that the victim and the parents of the victim are experiencing, as in (11a) and (11b) below.

(11a) <PAS>[...] even at the time when *she was crying* and wanting to be held, she was able to describe the person that did these horrible things to her. [...]</PAS> (CT.)

(11b) <PAS>[...] She took that stand and *she didn't cry. Her mom and her dad did* [...]</PAS> (CT.)

The fact that the prosecution plays on the emotions of the victim in this way is foreseeable, given that such a strategy is likely to gain the sympathy and support of the jury. Clearly, the defense team has no interest in focusing on the victim's feelings; rather, their concern is with clearing the name of their client, which may explain why this subcategory is so infrequent in their discourse.

A second subcategory in which discrepancies surface between the sides is for the subcategory Affect: Security trust (+), whereby a higher number of examples are observed in the discourse of the defense team when compared to the prosecution. These examples express what the defense lawyers feel that they know to be certain about the evidence, as in (12a) or the feelings of confidence that the jury should have regarding what they have been told, as in (12b).

(12a) <DAN>[...] *We know* <<DFT>> was there. [...]</DAN> (CT.)

(12b) <DAN>[...] you seen how <<PAS>> cross-examined these witnesses and *you know* these people are telling what they remember. [...]</DAN> (CT.)

One possible explanation for the higher number of Security trust (+) examples by the defense is that their main strategy throughout the trial is to insist that the evidence is far from sufficient to prove their client's guilt; in fact, if anything, they argue that the evidence would

seem to prove otherwise and, for that reason, their version of events is the one the jury must trust.

The prosecuting attorney, although less frequently, also spoke of self-assurance, but in connection with the victim, as in (12c) or the other prosecution witnesses, as in (12d). In example (12d), no single lemma, but rather the discourse as a whole is what leads the reader or listener to infer that <<DGI>> is a reliable witness.

(12c) <PAS>[...] She looked at the photo lineup. [...] It's him. *Not I think* it's him, not maybe it's him, it's him. [...]</PAS> (CT.)

(12d) <PAS>[...] <<DGI>> came in and talked to you about his DNA studies and explained them to you. [...] he indicated to you that the DNA in sperm that was found in this case was consistent with the defendant. [...] He also told you that he could positively exclude 90 percent of the population and that <<DFT>> falls in the other 10 percent. [...]</PAS> (CT.)

The last discrepancy worth remarking upon is the tendency for the defense attorneys to use examples of *Inclination: desire* much more often than the prosecution. For the latter, just three examples emerged, in which a desire was attributed to others, as in (13), as opposed to the attorney herself.

(13) <PAS>[...] If you love someone and *you want* to help someone [...]</PAS> (CT.)

The defense attorneys also make reference to the desires of others, as in (14a), but, in contrast to the former, they also express their own wishes, as in (14b).

(14a) <DAZ>[...] We asked him, why didn't you run it a fourth time? I didn't think it would add anything more. He'd gotten the art that *he wanted* at that time. [...]</DAZ> (CT.)

(14b) <DAZ>[...] This man is innocent. *I want* you to find him not guilty of all this stuff and put it back like it ought to be, because this is not right. [...]</DAZ> (CT.)

The fact that *Inclination: desire* is generally favored by the defense attorneys is the result of their consistent petitions to the jury to find their client innocent and ensure justice is served. The defense lawyer also appears to be trying to establish an intimate communicative style with the jury by using the first person singular (i.e. *you*) in the hope that they will be more inclined to agree with his version of events.

4.2.2 Judgement

Judgement represents a second strand of the Attitude system and concerns our evaluations of an individual's behavior or character. This is of interest here, given that the outcome of a criminal trial is likely to be shaped, to a large extent, by the positive or negative character traits or qualities ascribed to an individual. Figure 3 provides a general overview of the positive and negative judgements employed by each lawyer.

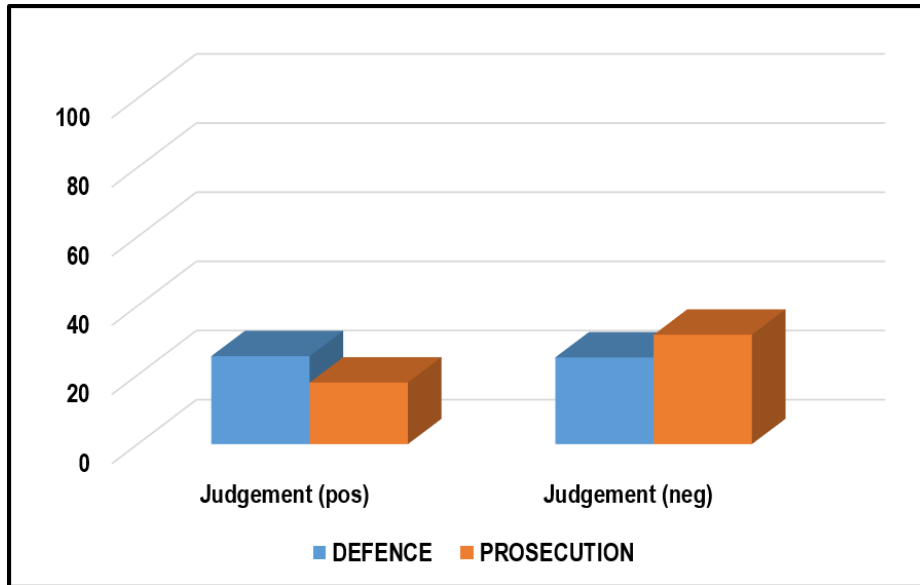


Figure 3. Occurrence of positive and negative Judgement

As Figure 3 reveals and, in answer to research question 5, the defense attorneys are inclined to use more positive judgements, as in (15), whilst the prosecution lawyers more often employ negative judgements, in either an openly offensive manner, as in (16a), or otherwise less explicitly, through negatively charged words, as in (16b).

(15) <DAN>[...] This is all we got. We're not here trying to give you a side show, mention things that aren't true. We're merely showing you what the truth is. [...]</DAN>

(16a) <PAS>[...] He was *bossy*. He was *cocky*. [...]</PAS>

(16b) <PAS>[...] She told you that this man over here held her down, stuck his hands inside her. He pulled out his penis. He made her put it in her mouth. [...]</PAS>

Example (15) is classed as positive Judgement given that what may be inferred here is that both the defense team and their witnesses are individuals with integrity and are primarily there to tell the truth. Meanwhile, examples (16a) and (16b) are considered negative, with the former involving inscribed negative appraisals (i.e. *cocky* and *bossy*); example (16b) consists of words that, due to their use in combination and the context of use, serve to conjure up a very negative image in one's mind. That is, the prosecution provokes an image of the accused as a violent and forceful character with the aim, in turn, of creating a feeling of strong dislike for the accused and, thus, securing a conviction from the jury.

To now turn to research question 6 and consider the traits that come to the forefront and concerning whom, the highest number of examples by both sides pertain to *Social sanction*, which, as Martin (2000: 156) maintains, refers to “praise and condemnation, often with legal implications”. Given the context of this paper, this finding is unsurprising, although examples of *Social esteem* (i.e. behaviors considered inappropriate by society) also come to light in the dataset, with reference made, above all, to *Capacity* and *Tenacity*.

For *Capacity*, there was almost no difference between the prosecution and defense lawyers' discourses, with both using practically an equal number of positive and negative examples, as in (17), (18) and (19) below.

(17) <PAS>[...] <<DCO>> and <<WCP>> told you that <<PJC>> is a *bright* young girl and that even at the time when she was crying and wanting to be held, *she was able* to describe the person that did these horrible things to her. [...]</PAS>

(18) <DAN>[...] The truth, ladies and gentlemen, <<PJC>> *is mistaken*, and that's all. [...]</DAN>

(19) <PAS>[...] He acted like *he didn't know what he was doing* [...]/<PAS>

As evidenced in the above examples, reference to one's capacity is not only positive or negative but also ascribed to different individuals involved in the court case. Thus, in (17), the focus of the prosecution's positive examples of Capacity are directed at the victim, whilst those of a negative nature, predictably so, are aimed at the accused, as in (19), where he is inferred to be clumsy and awkward. The prosecution also uses the clever tactic of reported speech in order to cite the claims of others and, thus, simultaneously give her own statement added weighting and make it seem less subjective. Unlike the prosecution attorney, the defense lawyer uses examples of negative Capacity when referring to the victim to imply that she is confused about what happened, as in (18) above. Therefore, what is observed here, as one would expect, are examples of negative Judgements whereby each lawyer targets the clients of their opposition in order to portray them in the poorest light possible.

The subcategory *Tenacity* reveals an inverse tendency to the latter when comparing the prosecution and defense lawyers. Whilst the defense lawyers employ more negative Tenacity to target the victim yet again, as in (20), the prosecution lawyers use more positive Tenacity and most often in relation to the victim, as in (21), or the case evidence, as in (22).

(20) <DAN>[...] <<PJC>> said the complexion and hair looked like the same man. But now we come in here, we change our testimony and say she was absolute. [...]/<DAN>

(21) <PAS>[...] And she tells you the person that she spent this time with is the man right there. She doesn't equivocate, she doesn't hesitate. She says it was him, right there, I'm sure. [...]/<PAS>

(22) <PAS>[...] Now <<DAZ>> said 3, 3 signatures is plenty good enough. The State has 3 hairs. 3 signatures is good enough. Do you know how many signatures they got from <<DFT>> so they say that was his? 66. You know how many they got from <<WJD>>, the man he's supposed to be copying? 3. [...]/<PAS>

The evaluations in the aforementioned examples are invoked as opposed to inscribed, with (20) implying that the victim is not reliable because she alters her story. It is important to reiterate that the defense's aim in this case was not to prove that the rape never occurred; rather, their intention was to demonstrate that the defendant standing trial was not the perpetrator. Thus, we witness the defense recurrently undermine the victim's credibility in an attempt to convince the jury not to trust her wavering recollection of events. In example (21), the prosecution directly challenges the latter by insisting that the victim does anything but hesitate and, rather, is a reliable witness who must be taken seriously in order to achieve just the opposite effect, i.e. that the victim is 100% credible. Lastly, in (22), the prosecution argues that, if her evidence is not reliable, by the same token neither is that of the defense because the same criteria have been applied by both sides (i.e. collection of 3 pieces of evidence). However, rather than cast doubt on the evidence in general (her own included), which would not necessarily lead to a desirable outcome for her client, the prosecutor instead uses this strategy to strengthen her own claims.

We now turn to the subcategories of *Social sanction*, namely *Propriety* and *Veracity*. When compared, the prosecution reveals a higher number of negative evaluations than the defense, who shows a preference for positive *Propriety*. Unsurprisingly, the prosecutor's negative evaluations of Propriety most frequently focus on the accused, as in (23) or the lawyers who represent the accused, as in (24). In contrast, the defense attorneys use positive Propriety to cite the accused for the purposes of emphasizing his innocence, as in (25), or alternatively to complement their own ethical conduct, as in (26).

- (23) <PAS>[...] *He pushed the door open more, put his arms around her chest, came into the kitchen. When he came in and grabbed her and pushed her further into the kitchen, the most terrifying event of this little girl's life began. [...]*</PAS>
- (24) <PAS>[...] But they don't tell the detective that what, 6, 8 months ago when they talked to them but they're telling you this now. *Has their memory been enhanced?* [...]</PAS>
- (25) <DAN>[...] This man is *innocent* [...]</DAN>
- (26) <DAN>[...] *That's why I told these people, get up there and tell the truth. And they told you that's what I told them. [...]*</DAN>

We naturally anticipate examples of *Social sanction: Propriety* in a piece of courtroom discourse because the objective is either to annihilate the character of the person standing trial or to portray them in the most favorable light possible. Therefore, examples (23) to (26) are a reliable reflection of what one would expect in this context.

Closely related to the latter is the question of whether someone is perceived as honest or dishonest (i.e. *Social Sanction: Veracity*), which is also fundamental in circumstances such as these. Both the prosecution and defense lawyers employ an almost equivalent number of *Social Sanction: Veracity* examples that are classified as negative. That said, whilst the prosecutor highlights the dishonest nature of the defense witnesses, as in (27) as well as of the defense attorneys, as in (28), the defense team insist that those who are deceitful are the prosecution witnesses, as in (29) and the prosecutor who, in (30), is inferred to be manipulating the evidence.

- (27) <PAS>[...] *what they said 6 months to a year ago was not what they're saying today. [...]*</PAS>
- (28) <PAS>[...] Ladies and gentlemen, I heard you told that ... well first by <<DAZ>> *that I had told you not to listen. Well that's not true. [...]*</PAS>
- (29) <DAN>[...] *You can't have people not come in here and be absolutely truthful. [...]*</DAN>
- (30) <DAZ>[...] With test results that change, things that seem to appear and disappear, I hope that you will agree with me that *there's a credibility problem. [...]*</DAZ>

All of the above examples serve to reiterate that the responsibility of a lawyer is to represent their own client in the best way they know how and to ensure that their version of events is deemed the most credible. At the same time, they must ensure to paint a picture of their opponent that will strengthen their claims as well as weaken the case of their rival. This is certainly apparent in the closing arguments by both sides in this case, given the use of negative *Propriety* by the prosecution when referencing the defendant and, likewise, the negative *Veracity* evaluations by the defense team of their opposition. In sum, it seems that, given the outcome on this occasion, the prosecution may just have had the edge in this case.

5 Discussion and conclusion

This paper has looked at the appraisal patterns in the closing arguments of the prosecution and defense attorneys involved in a rape case that resulted in a wrongful conviction. The closing statements of a court case are of much interest to scholars (cf. work by Eades 2006; Stygall 1994; Walter 1988) because they can provide insights into how a monologue that comprises a summary of the evidence, concerning the same people and the same events, can be represented very differently. Essentially, closing arguments provide lawyers with their last chance to sway the jury and, therefore, they are likely to choose their language very carefully for maximum effectiveness and ensure their stories are irrefutable.

With a focus on two domains of the Attitude system, namely Affect and Judgement, an analysis of the closing arguments has served to bring the feelings and characters of those involved to the forefront, something which to date has rarely been explored, in spite of how a study of this kind can yield rich and insightful results. Through an appraisal analysis of courtroom data, we can observe how language use, which on the surface is said to be objective and merely a representation of the facts is, in fact, far from it; rather it is clear that those who have the authority to manage the direction a trial takes, use language that, even if implicit, is a clear indication of their feelings and evaluations of those involved.

In this case, as outlined in Section 4, a number of interesting findings emerged from the analysis, starting with a tendency for the prosecution, on the one hand, to employ more negative appraisals by comparison to the defense team and most often to refer to the defendant, as one might expect, or the defense team and their witnesses. The defense attorneys, on the other hand, used far more positive appraisals as a means by which to not deny the rape allegation but rather draw attention to the impossibility that their client was the perpetrator.

When turning to examine the more specific subsystems of the Attitude system, the findings for Affect revealed that at the heart of the prosecutor's discourse are the feelings of the victim with the aim of, presumably, acquiring a maximum degree of sympathy from the jury for her client. That is, aside from the qualities that the public are already likely to associate with a young girl, such as innocence, honesty and purity, a discussion of the victim's feelings concerning what happened to her will most probably serve to encourage the jury to further sympathize with her (cf. Felton-Rosulek 2008: 541 for similar findings). To add to this, both the prosecution and defense lawyers were also seen to use Affect often to make references to the degree of confidence people feel, although the two sides fail to coincide. Whereas the prosecutor centers on what the victim and the prosecution witnesses know, the defense attorneys emphasize their own knowledge of the facts as well as cite the jury members as those who deep down know the truth, i.e. that the defendant cannot possibly be guilty of this crime. With regard to Judgement, it is the defendant's ethical character that is most often brought into question by the prosecution in order to infer his immoral and wicked side, with the defense instead insisting on an opposite portrayal.

A final point worth mentioning concerns the use of invoked vs. inscribed appraisal. This is particularly interesting in this context because of the fact that, as Statham (2016: 253) acknowledges, courtroom discourse is supposed to be free of evaluative lexis. Nonetheless, this is not entirely applicable in this case, with, albeit on a very few occasions, explicitly evaluative comments actually employed by the prosecutor when describing the accused during her closing argument. That said, the vast majority of appraisals are, certainly, invoked here, which, whilst not meant to infer that this type of language is any less evaluative in nature, is nonetheless, cleverly constructed with the aim of appearing to abide by the aforementioned rule that objectivity is maintained inside the courtroom.

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