

Metaphor as a Means of Verbal Suggestion in Attorneys' Speeches (Based on American Legal Thrillers)

I. O. Harbar*

Kyiv National Linguistic University, Kyiv, Ukraine

*Corresponding author. E-mail: 6939484@gmail.com

Paper received 26.10.15; Accepted for publication 11.11.15.

Abstract. The article deals with scientific research of metaphor as a means of verbal suggestion which attorneys widely use in their speeches in order to influence the jury's feelings, emotions, thoughts and outlook. The research proves that metaphor in attorneys' speeches is characterized by an incredible power of suggestion and therefore is one of the most effective figures of speech that influence the jury's conscious and subconscious mind. On the basis of American legal thrillers the author offers her own classification of suggestive metaphors that are widely used by attorneys in their speeches to exert due influence on the jury.

Keywords: *suggestive metaphor, verbal suggestion, attorneys' speech, the jury, American legal thriller*

Introduction. American legal system has long been considered to be a role model for many other legal systems all over the world. However, until recently there have appeared a great many articles, publications, movies where we can witness considerable flaws in American legal system that involves trial by jury: "numerous attacks have been made upon the jury — so many in fact that it would be impossible for us to even list them" [15]. There arises a question: "Why is it happening to the most powerful state in the world?" There are several reasons for it. The first one is the fact that attorneys are the most powerful players on this battlefield. They are the only people who are empowered with the right to deliver speeches (especially opening and closing arguments) before the jurors. The aim of courtroom speech is to have psychological and emotional influence on the jury as well as implement certain changes into their outlook so that in the future they could give back a desirable verdict. The second reason is the fact that American trial by jury is considered to be the subjective one [24], where juries are called 'bleeding hearts' [13, p. ix,] or 'sentimentalists with bleeding hearts' [13, p. 4] where decisions concerning verdicts are made "according to emotion and sympathy more than according to law and evidence" [1, p. 4]. The third reason is the fact that attorneys abuse their rights and play vastly on jury's emotions, feelings and compassions concerning their defendants. Saul Kassin states that in order to win the case, attorneys have to enslave the jury's hearts but not their minds: *'the idea is that jurors are sentimentalists; they are gullible, easily aroused by feelings of sympathy, and handily manipulated by the skillful orator'* [13, p. ix]. In order to have a desirable influence on jury's mind, attorneys have to be aware of particular psychological phenomena.

Literature review. There are various ways to influence and subject jury's mind, but the most effective are psychological ones. Among the most effective psychological phenomena that help attorneys influence the jury's thoughts, opinions, outlook is *suggestion*. There are two approaches towards the definition of this phenomenon: psychological and linguistic one. From psychological point of view, by suggestion it is meant "the intrusion into the mind of an idea; met with more or less opposition by the person; accepted uncritically at last; and realized unreflectively, almost automatically" [14, p. 15]. From linguistic point of view verbal suggestion is defined as "a means of verbal influence on the person's mind, which is accepted by them almost uncritically" [20, p. 14]; "hidden verbal influence with the help of which a skillful orator can evoke strong feelings, emotions, memories by means of such facts and arguments which are charged with suggestion and whose aim is to expose a person to a particular psychological state and induce them to

certain actions" [19, p. 90; 73]. Verbal suggestion always exists in language. Consequently, if professional attorneys are willing to have due influence on jury's mind, they must be 'armed' with emotionally-charged figures of speech that will have powerful and long-lasting effect on the jury. Among such emotionally-charged figures of speech is *metaphor* which is claimed to have significant power of suggestion [17; 18; 19; 21].

Over its eternal existence metaphor has considerably evolved. This evolution has to do with the fact that a great myriad of scientists has started to view this linguistic phenomenon as the one endowed with the power of suggestion. Some scholars have even put forward such notion as *suggestive metaphor* [18], which we will frequently use in the paper. Suggestive metaphor is viewed as a means of language with the help of which it is easy to reach the effect of emotional excitement or persuasion [18]. Its main characteristic features are: its ability to implicitly influence the addressee's subconscious mind with the help of certain verbal means; its ability to activate the addressee's creative resources of imagination; its ability to foreground archetypes by activation of deep mechanisms of subconscious mind etc. Furthermore, suggestive metaphor is viewed as a method of 'psychological programming of people's conscious mind and behaviour' [22, p. 34].

Objective. The overall objective of the paper is to investigate the suggestive power of metaphor in attorney's opening and closing arguments; define what types of metaphors are frequently used by attorneys to influence jury's emotions, thoughts, feelings, outlook and finally their change of heart.

Materials and Methods. Analysis of metaphors as means of verbal suggestion is carried out in the scope of American legal thrillers [2; 3; 4; 5; 7; 12]. American legal thriller a relatively new genre of literature whose founder is considered to be former attorney John Grisham. It is defined as a genre of literature which describes legal proceedings by two main protagonists (prosecutor and defense attorney), whose main characteristic feature is thrilling and dynamic narration [23, p. 224; 6, p. 58].

Results and Discussion. Findings suggest that the suggestive power of metaphor gives attorneys an opportunity to influence the jury's subconscious mind by arousing certain feelings and emotions with the help of various associations, symbols and images. The function of suggestive metaphor in attorneys' speeches is to make changes in the jury's cognitive structures so that they could influence their thoughts, opinions, decisions in defense attorney's/prosecutor's favour. Having heard the prepared metaphor by attorneys, jurors have a feeling that they themselves have come

to the conclusion suggested by attorneys. This effect is reached by emotional means of suggestive metaphor in attorneys' speeches which evoke particular feelings and sympathies in the panel concerning the attorneys and their defendants, which in its turn leads to the jury's change of heart and even change of verdict.

From the point of view of cognitive metaphor theory any metaphor exists in the form of metaphorical concept in people's mind, which is one of basic means of the world cognition that some scholars view as individual's subjective attitude to the reality [16, p.17]. In course of the paper we provide classification of the most popular conceptual metaphors in attorneys' speeches which are endowed with the power of suggestion. The classification is built on the basis of semantic types of conceptual metaphors:

1) journey metaphor. Court trial in attorneys' speeches is identified with the following metaphorical model: 'COURT TRIAL IS A JOURNEY THROUGH THE TUNNEL'.

– "*Ladies and gentlemen, this case is about tunnel vision. The focus on one suspect and the complete lack of focus on anything else. And I will promise you that when you come out of the prosecution's tunnel, you're going to be looking at one another and squinting your eyes against the bright light. And you're going to be wondering where the hell their case is. Thank you very much.*" [3, p. 153] – in this defense attorney's opening statement court trial is identified with the tunnel, where jury members, being led by the prosecutor through this tunnel, are blinded and unable to see and understand the case clearly. The defense attorney suggests the jury the thought that when they come out of the prosecutor's tunnel, only he will be able to help them understand what the case is all about; only he will be able to prove that his defendant should not be sitting in the courtroom with the introduced charges against her because she is innocent. This suggestive metaphor helps the defense attorney create in jury's mind an opinion that the prosecutor's evidence is poor and inaccurate and that he deliberately wants to muddy waters against defense attorney's defendant.

2) transport metaphor. Journey defines a track, so there appears another metaphorical model: 'COURT TRIAL IS A TRACK'. The track is connected with the movement of a particular means of transport, that is why we get another metaphorical model 'COURT TRIAL IS A TRAIN', 'COURT TRIAL IS A BOAT'.

– "*The police had blinders on. Like those blinders put on horses so they stay on track. The police were on a track that led to Lisa Trammel and they would look at nothing else. Lisa Trammel, Lisa Trammel, Lisa Trammel... Well, what about ALOFT and the tens of millions of dollars that Mitchell Bondurant was threatening? Nope, not interested. Lisa Trammel, Lisa Trammel, Lisa Trammel. The train was on the track and they rode it home." ... "*But you see what they didn't see or refused to see. You see that they got on the wrong track. You see that they were cleverly manipulated. You see the truth.*" [4, p. 252] – in this defense attorney's speech court trial is associated with the wrong track where there is the wrong train whose passengers are the prosecutor and the police. By telling the jury that the prosecutor has taken the wrong track and train during the court trial, the defense attorney makes the jury believe that the prosecutor has offered them incorrect evidence and that his defendant has been wrongly accused. Using the suggestive power of metaphor, the defense attorney plants the seed of doubt about the prosecutor's and the police's actions in the jury's mind.*

– "*The prosecution would like you to believe that this is a simple case of vengeance. But murder is never simple and if you look for shortcuts in an investigation or a prosecution then you are going to miss things. Including a killer. Lisa Trammel did not even know Mitchell Bondurant. Had never met him before. She had no motive to kill him because the motive the prosecution will tell you about was false. They'll say she killed Mitchell Bondurant because he was going to take away her house. The truth was, he wasn't going to get the house and we will prove that. A motive is like a rudder on a boat. You take it away and the boat moves at the whim of the wind. And that's what the prosecution's case is. A lot of wind.*" [4, p. 109-110] – in the given example the court trial is associated with the boat which moves at the whim of the wind. The defense attorney suggests the jury the thought that in what direction the wind will blow, in that direction the prosecutor's boat will move. Such metaphor negatively characterizes prosecutor's actions and professionalism, it forms jurors' bad attitude towards the prosecutor.

3) meteorological metaphor. Metaphorical expressions based on nomination transference from the meteorological sphere to the legal one refer to this group. Such metaphorical expressions usually describe favourable and unfavourable weather conditions, where we get the following metaphorical model: 'COURT TRIAL IS A SLIPPERY GROUND'.

– "*You've already heard the term "consciousness of guilt" in the people's opening statement. And I don't dispute that there are certain actions that would seem to admit guilt. These would include such behavior as flight to avoid prosecution, resisting arrest and so on. But we're on very slippery ground here when we're using consciousness of guilt – a very general legal area – as a catchall for a specific crime.*" [7, p. 233] – in his speech the attorney transfers the nomination 'slippery ground' from the meteorological sphere to the legal one. It allows the attorney to draw in jury's mind a picture that the court trial is not always a smooth path, but very often it is a slippery, full of stumbling blocks ground which can lead them to the wrong verdict. Using meteorological metaphor helps the attorney stress the jury's attention to this significant fact as well as make them pay their utmost attention to another attorney's 'slippery' evidence in order not to be sidetracked.

4) zoomorphic metaphor. This group is mainly formed on the basis of such conceptual domain as 'the world of animals'. In the course of study it was discovered that zoomorphic metaphors are used in attorneys' speeches to give negative characteristic features of the accused and positive characteristic features of the victim. Consequently, there appear the following metaphorical models: 'DEFENDANT IS A PREDATOR', 'CLAIMANT IS A PREY'.

– "*What this case is about is a predator," he told them. "Louis Ross Roulet is a man who on the night of March sixth was stalking prey. And if it were not for the sheer determination of a woman to survive, we would be here prosecuting a murder case."* [5, p. 135] – in his opening statement the pro-secutor calls the accused a 'predator': '*an animal that kills and eats other animals*' [8], who was stalking his prey. Using this metaphor the prosecutor draws in the jury's imagination a horrendous portrait of the accused which definitely doesn't evoke their compassion. If they form a negative opinion about the defendant, it will be very difficult for the defense attorney to dissuade them of the opposite. On the contrary, the prosecutor calls his

claimant a 'prey': 'an animal, bird etc that is hunted and eaten by another animal (predator)' [9] in order to evoke the jury's sympathy which in the future might work in the prosecutor's and claimant's favour.

5) artistic metaphor. Court trial is sometimes viewed as the one with the subjective character [24]. Due to these characteristic features, trial at court is often compared with some artistic actions: circus performance with various circus performers and magicians, whose role at court is usually played by the attorneys. Subsequently, we get the following metaphorical models: 'COURT TRIAL IS A CIRCUS', 'ATTORNEY IS A CIRCUS PERFORMER/MAGICIAN'. This is done with the purpose of making juries believe that court trial is a well-planned performance where everybody has their own script and role to follow:

'...She'll testify that the defendant told her that she drugged Mr. Tester and killed him after he passed out on the bed. I wish I had a videotape to show you, or an eyewitness, but unfortunately, I don't. What I do have is a web of circumstantial evidence so tightly woven that the defendant cannot possibly escape. Everything points to her. Don't let yourselves be taken in by her attorney's tricks or the smoke and mirrors that will be placed before you during the course of this trial. That young woman sitting over there committed a vicious murder, and we have the evidence to prove it...' [12, p. 108] – using metaphorical model 'ATTORNEY IS A CIRCUS PERFORMER/MAGICIAN', the prosecutor transfers the magician's/circus performer's actions on the actions of his opponent (defense attorney). The defense attorney is

viewed by the juries as not the one who is seeking the truth and obeying the letter of the law, but the one, who using different 'tricks' and 'the smoke and mirrors', wants to deceive the jury, conceal the truth and subsequently mislead them. It can be explained by the fact that the word 'trick' is perceived by our conscious mind as 'something you do in order to deceive someone; a skilful set of actions that seem like magic, done to entertain people' [10] and idiomatic expression 'smoke and mirrors' as 'something that is intended to take attention away from an embarrassing or unpleasant situation' [2]. In such a way, the prosecutor skillfully creates in the jury's mind the picture that the defense attorney is a con-trick artist who will do anything to satisfy his hidden intentions. So, the jury should not trust him, his client and his evidence on no account and should mind carefully what he says. It should be mentioned that the usage of zoomorphic metaphor together with the artistic one intensifies the prosecutor's suggestive message to the jury.

Conclusions. Overall, the findings suggest that while delivering their opening statements and closing arguments attorneys widely use conceptual metaphors that have great suggestive influence on the jury's mind. The main aim of such metaphors is to produce in the jury either positive or negative attitude, compassion or hatred to the defendant/claimant or even to the prosecutor/defense attorney. In such a way, suggestive power of metaphor gives the attorneys a possibility to influence the jury's emotions, feelings, behaviour, outlook and their way of thinking in favour of them and their clients and thus the future verdict.

REFERENCES

- [1] Abramson, Jeffrey B. We, the jury : the jury system and the ideal of democracy : with a new preface / Jeffrey Abramson. Harvard University Press; 1st Harvard University Press pbk. ed edition (November 15, 2000). – 350 p.
- [2] Cambridge Dictionaries Online / URL: <http://dictionary.cambridge.org/dictionary/british/smoke-and-mirrors>
- [3] Connelly, M. The Brass Verdict. – Grand Central Publishing. – 592 p.
- [4] Connelly, M. The Fifth Witness. – Vision; Reissue edition (May 1, 2012). – 576 p.
- [5] Connelly, M. The Lincoln Lawyer. – Grand Central Publishing; Reprint edition (May 1, 2012). – 544 p.
- [6] Harbar, I. Modern Legal Thriller and Its Main Characteristic Features // English in Globalized World: Collected Works. – Kamenets Podolsky: Publishing and Printing Enterprises "Apostrophe", 2012. – 220 p.
- [7] Lescroart, J. Hard Evidence. - Signet (June 1, 2002). – 688 p.
- [8] Longman English Dictionary Online / URL: <http://www.ldoceonline.com/dictionary/predator>
- [9] Longman English Dictionary Online / URL: http://www.ldoceonline.com/dictionary/prey_1
- [10] Longman English Dictionary Online / URL: http://www.ldoceonline.com/dictionary/trick_1
- [11] Oremus Bible Browser. Concerning retaliation/ URL: <http://bible.oremus.org/?q=174954909>
- [12] Pratt, S. An Innocent Client. – Create Space Independent Publishing Platform. – 360 p.
- [13] Saul, M. Kassir, Lawrence, S. Wrightsman. The American Jury on Trial : Psychological Perspectives. Taylor & Francis; New Ed edition (May 1, 1988). 246 p.
- [14] Sidis, B. The Psychology of Suggestion : A Research into the Subconscious Nature of Man and Society. – Nabu Press (March 5, 2010). – 424 p.
- [15] Sparks, M.E. Trial by Jury vs Trial by Judge/ URL: <http://fee.org/freeman/trial-by-jury-vs-trial-by-judge/>
- [16] Arutyunova, N.D. Metaphor and Discourse / N.D. Arutyunova // The Theory of Metaphor : collection / Translated from English, French, German, Spanish, Polish; Chief compiler N.D. Arutyunova. – M. : Science, 1990. – P. 5-33.
- [17] Bronikova, S.A. Metaphor as a modern technology of management consulting / URL: <http://www.kbuapa.kharkov.ua/e-book/putp/2011-2/doc/1/03.pdf>.
- [18] Valeeva, L.V. Semantic model of suggestive metaphor (on the material of advertising texts) / L.V. Valeeva, K.V. Sukhorukova // Scientific notes [National University 'Ostroh Academy']. Ser. : Philology. – 2012. – Publication 24. – P. 31-34. / URL: http://nbuv.gov.ua/j-pdf/Nznuoaf_2012_24_12.pdf
- [19] Zheltukhina, M.R. Specifics of figures of speech verbal influence in Mass Media / M.R. Zheltukhina: dis. ... of Doctor of Philology: 10.02.19. – Moscow, 2004. – 722 p.
- [20] Il'nytz'ka, L.L. Metaphor in modern political discourse / L.L. Il'nytz'ka // Burning problems of philology and translation. – 2009. – Ser. 4. – P. 84-86. / URL: http://nbuv.gov.ua/j-pdf/apftp_2009_4_33.pdf
- [21] Il'nytz'ka, L.L. English-speaking suggestive discourse : dis. Cand. Sc: 10.02.04 / Kyiv National Taras Shevchenko University. – Kyiv, 2006. – 222 p.
- [22] Petrenko, V.F. Psychosemantics grounds : [study guide] / V.F. Petrenko. – Smolensk: Publ.house SGU, 1997. – 400 p.
- [23] Savochkina, E.A. Linguoevocative research of belles lettres genre of American legal thriller : on the novel of J. Grisham 'The Runaway Jury' and its translation into Russian / E.A. Savochkina: dis. Cand. Sc: 10.02.19. – Barnaul, 2007. – 190 p.
- [24] Skuratovs'ka, T.A. Argumentation in American legal discourse (on the material of cases tried by the jury) : dis. Cand. Sc: 10.02.04 / Kyiv National Taras Shevchenko University. – Kyiv, 2002. – 196 p.
- [25] Surovtzev, V.A. Metaphor, narration and language game. Once again about the role of metaphor in scientific cognition // Science methodology. Establishment of modern scientific reality. – Tomsk, 1998. – P. 186-197
- [26] Tolkunova, E.G. Semantic description of modern Russian advertising texts (suggestive aspect) / E.G. Tolkunova : dis. Cand. Sc : 10.02.01. – Barnaul, 1998. – 184 p.