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НАУЧНЫЙ ЖУРНАЛ  
Торайғыров университета

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УНИВЕРСИТЕТІНІҢ  
ХАБАРШЫСЫ**

**Филологиялық серия**  
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**\*G. T. Kussepova<sup>1</sup>, K. S. Kenzhigozhina<sup>2</sup>, B. K. Zhumabekova<sup>3</sup>**

<sup>1,2</sup>L. N. Gumilyov Eurasian National University,

Republic of Kazakhstan, Astana

<sup>3</sup>Toraighyrov University,

Republic of Kazakhstan, Pavlodar

## **PHONETIC PECULIARITIES OF THE DEFENCE SPEECH OF A LAWYER**

*The article aims to uncover the phonetic peculiarities of an attorney's defence speech in the English and Kazakh languages from the perspective of persuasive speech technique. The reason for analysing the phonetical peculiarities of an attorney's defence speech is that the responsibilities of an attorney comprise the litigation of the client from the beginning to the end of the case; in particular, working with the client, revealing evidence and witnesses; identifying, selecting, and collecting paperwork; talking with the client to formulate the exhibits; clarifying the issue through questions and answers, and the last step is defending in court. These activities require an attorney to be well acquainted with legal literature and the language of the court, which precisely, takes place in the courtroom. Thus, we have collected the fragments of attorney defence speech that took place at the trial from the YouTube channel and analysed the phonetic features using the Praat computer program. The authors demonstrate how phonetic features are realised during cross-questioning moments using excerpts from an attorney's persuasive speech. These findings shed light on how the persuasive speech of the attorney can create the discursive space and phonological features of the speech to effectively impact the process.*

*Keywords: phonetic features, persuasive speech, attorney, lengthening, tonal ascertainment.*

### **Introduction**

To establish justice and to protect the rights of all people, regardless of their language, nationality, gender, and other issues, the attorney undertakes his duty before the law and the court. The attorney represents the defendant in court, regardless of guilt or partial guilt, due to the circumstances under which the defendant committed the crime. Thus, phonological peculiarities play a significant

role in proving innocence or getting the opportunity to sentence the defendant to a shorter period.

It is known that asking rhetorical questions, answering questions, and protecting human rights have been important since the time of Aristotle. However, in the field of modern linguistics, language and law have their own identity and place, and it is directed to a detailed study of the discursive features used in the linguistic field of law. The main goal of an attorney includes all processes of the legal process of the client from the beginning to the end of the case; in particular, working with the client; identifying, selecting, and collecting paperwork; talking with the client; clarifying the issue through questions and answers, and the last step is defending in court. These activities necessitate that an attorney be well-versed in legal literature as well as the court language. Thus, from the perspective of persuasion word effect, there is literature devoted to positive and negative persuasion, touchstones, etc. However, less importance is paid to the phonological aspects of persuasion, taking into account the persuasion strategies.

As a result, it is important to examine defence speech through the lens of persuasive speech and vocal alteration principles. In other words, the article aims to analyse the phonetic peculiarities of the defence speech of the attorney, taking into account the linguistic units based on the current linguistic knowledge in the area of the court system.

The foremost goals of the research are as follows:

- review literature and scholarly works;
- collect data from news or hearing processes published online on YouTube channel with attorney speech in the court;
- analyze YouTube videos using the computer programme Praat and examine the findings. [a, b, c, d]

### **Methods and materials**

Within this topic, research methods have been based on the placement of expressive language units used by attorneys throughout defence in the discursive boundary and, foremost, the analysis of phonological features of questioning and defensive performance utterances during courtroom defense. Synthesis, phonological analysis, description, and classification methods have been implemented in particular.

The data for analysing the speech of the attorneys has rested on the YouTube channels [a, b, c, d]. The cases include a couple suing each other for domestic violence in order to recover compensatory damages [a, b, c]; and the case with 48 people of a pyramid scheme for money laundering and fraudulent money trap companies attempting to prove their innocence [d]. The analyzed cases are in the English and Kazakh languages.

### A literature review

G. Gizdatov, professor of the academy of jurisprudence at «Adilet» Higher Law School, defines the concept of «defensive speech» as follows: A «defensive speech» is one given by a lawyer to defend a defendant or one given by the victim’s representative [1]. The defence speech’s function is based on the method of persuasion used to defend the accused. It is done in order to explain the defender’s case as thoroughly as possible, justify it, or reduce his responsibility by providing evidence.

It is known that since ancient times, persuasion has weighed the great importance of defending the person, foremost when the case is ambiguous and complicated. Michelle Pan describes the defiant attorney as the person, who «attracts us with his charm, invites us to join him in the quest for justice, wins our hearts with his powerful voice and penetrating stare, and conquers our minds with his split-second judgement and nimble strategizing...» [2, p. 259].

Thus, the attorney’s role entails being one of those individuals with unique principles and specialised roles in order to uncover the truth and bring justice. However, there are not always right and wrong cases, as the attorney’s responsibilities include defending guilty clients, considering defamation claims, defending his clients to enforce the other side’s law agreements, and dealing with funding interference claims as well.

Thus, the process of defying the defendant or being the representative of a victim requires the ability to speak eloquently. As an example, Tony L. Axam & Robert Altman present touchstones in order to depict a vivid picture of a defendant substituting words with euphemisms or gentler alterations, such as replacing the word «rape» with «sexual intercourse» or «sexual relationship,» creating a scenario in which the defendant is engaged in a consensual relationship rather than a rape crime [3; p.9] They present colour, consistency, contrast, and closing as touchstones that may influence the jury to refrain from announcing the verdict of «life sentence» or «death penalty.» Thus, they persuade unconsciously prospective jurors by asking, «Do you understand that the state is asking for N to be killed?» – a question that mainly instils fears rather than the phrase «sentencing the death penalty.» [3, p. 10] Colored words have a big impact on the emotions of the jury and help the attorney examine the predicament and understand the intention.

Furthermore, Adam Corner and Ulrike Hahn present the positive and negative framing of persuasion methods in order to uncover cases. There is another fact they present in their research that amidst applying the same communication “frame,” the result might differ, be a gain or loss appeal [4, p. 154].

Thus, the phonological features and persuasive speech of the attorney play valuable roles in influencing the listeners and are the main tools in order to win the case.

## Results and discussions

As established in the law of the Republic of Kazakhstan, «lawyer activity» is legal assistance provided on a professional basis by lawyers in the manner prescribed by this law, in order to protect and assist in the realisation of the rights, freedoms, and legitimate interests of individuals and legal entities» [5].

Therefore, as a lawyer, the main advantage is to assist in revealing the truth and proving innocence or proving the defendant's guilt within the law. An example of this is one of the high-profile cases considered not so long ago. This case was led by lawyer Camille Vasquez, who showed the eloquence of a lawyer and the ability of a good writer, as well as the ability to identify objections such as hearsay, leading witnesses, lack of foundation, speculation, and evidence outside the scope of expertise that emerged while cross-questioning.

The lawyer not only defends in court but also gathers a large amount of evidence to justify the infidelity or lying of the defendant by the plaintiff's attorney.

Leading witness questions were considered as follows:

After the phrase «*You have been suggested by ... you didn't tell anyone [6].*» was sustained as the leading witness question, the attorney for the defendant tried to rephrase it to another question, «*Who did you tell about the abuse during the time it was happening? [6]*», which was considered the leading as well. However, the situation can also impact the case, as the result of accepting those questions as leading based on the situation might lead to inviting more witnesses. However, this might have less importance in this case. But, in another situation, those open questions might bring new facts to light.

In order to question and reveal the witnesses, the defendant's attorney continued asking the following questions, which are basically the same as the first two questions with a little difference.

«*What if anything did you tell anyone about the abuse?*» [6]

«*How many people have you shared the fact with prior to 2015?*» – «*Roughly about 10*» [6].

Further cross-questioning moments were considered to be whether there was a lack of foundation or improper expert opinion. In the article «Evidence: Lack of foundation», the definition of «a lack of foundation» is given. It describes an objection based on lack of foundation as the evidence or document lacking authentication, identification, logical relevance, or legal relevance [7]. While the «improper expert foundation» reveals the testimony requires consideration by well-qualified experts in order to prove the evidence.

«*You were asked whether you had consulted a medical doctor about any problems with your nose. Correct?*» [6]

«*You indicated that you, in fact, had after the divorce.*» [6]

«*Did you consult the ENT after the divorce?*» [6]

«*Did you produce medical records to the defendants relating to this?*» [6]

Improper question formulation can result in the deponent's opinion being excluded or rejected. We analysed the video in terms of the phonological features of the attorney's defence speech, and given the circumstances, the lawyer benefits from being persuasive. Following the numerous objections, the defendant's lawyer had no questions that could help her client. The opponent's lawyer, on the other hand, was confident in directly questioning the defendant and determining her testimony lacked foundation, and presented several exhibits proving the inconsistency of her indication.

Adrian Evans states that, in fact, the ability to be persuasive is arguably the best predictor of a lawyer's success – at least if success is measured by the results a lawyer achieves for his or her client [8, p. 246].

The following extracts can be the touchstones used by the attorney in order to redirect the evidence, changing the modal verb «can't» to the auxiliary verb «won't» that drastically changes the meaning of the sentence in that situation.

*Attorney of the plaintiff: He won't look at you ..*

*Defendant: He can't look at me ...*

*Attorney of the plaintiff: He won't ...» [9]*

In terms of the phonology, the attorney uses the tone of ascertaining, repeatedly stating «*He won't look at you ...»* and followed with the exhibits where defendant and plaintiff were talking and the moment with the exact phrase was recorded. In other words, this moment demonstrated the attorney's preparedness to consider all aspects of the case. Choosing exact winning positions is also crucial in the case of taking a winning position.

Considering the cross-examining of the attorney by the defendant lasted an hour and twenty-one minutes, we highlighted the particular moments of the extract where the attorney emphasised the word «'man' is a victim of violence» several times. Thus, establishing the acknowledgement that «a man» shown prosody in Fig.1 could also be a victim of violence, not only a woman.

*«A man(lasts 0.642 ms) is a victim of violence (2008Hz), right?» [9]*

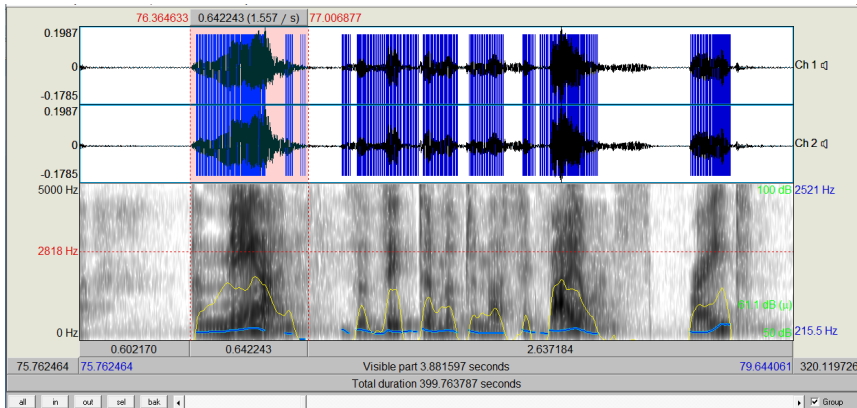


Fig.1

The following extract from cross-examining showed that both sides tried to persuade others in their correctness.

- «... **finally** told the world that he is a victim of domestic **violence** (Fig.2 shows the intensive pronunciation of a word).

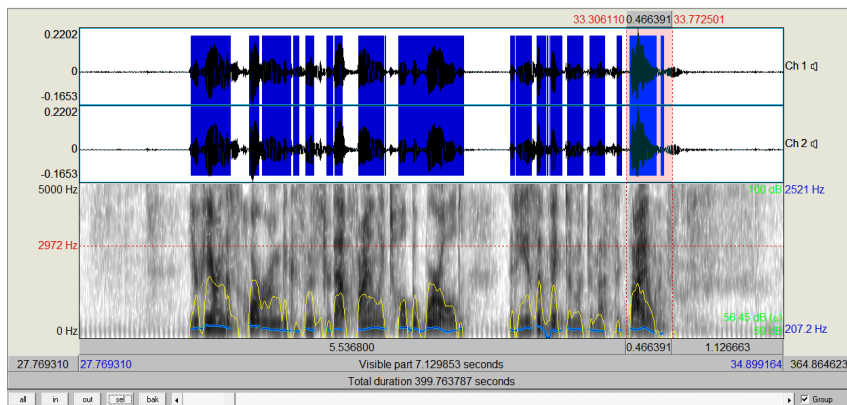


Fig.2

- I know that he is suing me and **has sued other people or corporations** that have said that as well.

- You **didn't think he would tell** the world he was a victim of domestic violence, did you?



- *I found it hard to believe that he could or that he would do that **considering the relationship he and I had**. I thought it would be crazy.*

- *Or as you said in that recording, **who was going to believe** that Johnny was a man who is the victim of domestic violence*

- *He was **a man who beat me up** (the phrase analysis presented in Fig.3 shows that *Fo* pitch is considerably higher than other words 2008Hz) **for 5 years**.*

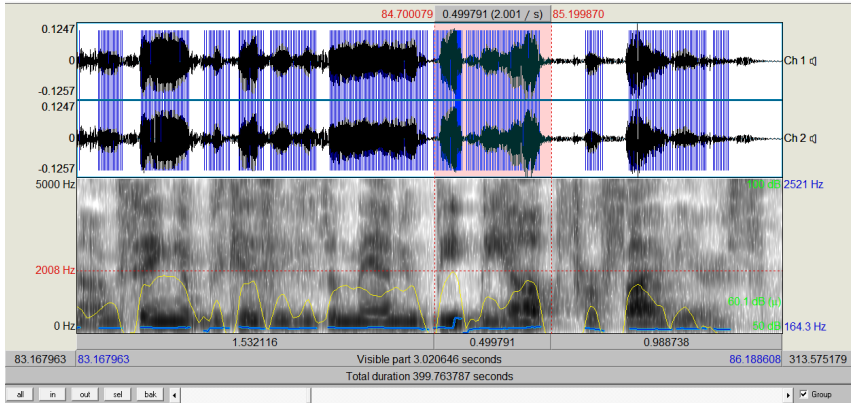


Fig. 3

- *You continued abusing him.»[9]*

«Finally,» «didn't think he'd tell,» and «who was going to believe» clearly indicated the persuasion moment, simply demonstrating the defendant's losing position. Furthermore, presenting exhibits prevented the defendant from attempting to prove the converse.

Another extract with a phonological feature «And you testified you felt like your lip went through your teeth and you got a little blood on the wall,» «supporting,» «You wanted a good press». Even though the attorney used almost the plain way of questioning the defendant, there were moments when she lengthened exact phrases in order to emphasize them, sounding confident and leaving the defendant without objection while cross-examining. According to Gussenhoven, C., & Jacobs, H., «Length equal to vowel duration (seconds)» is one of the features of the speaker's intention to reinforce a message [10, p. 31].

Another example of the persuasive speech of an attorney took place in a case of fraud where 48 members of the Pyramid were arrested for money laundering. The defendants received seven to eighteen years of imprisonment for atoning for the crime.

The attorney for the managers who worked in these companies stated that «Негізі бұл азаматтық істен бастау керек еді. Өйткен, мына салымшылар неге сенді? Салымшылар сенді, бұл заңды деп. Бұл Сол сияқты компанияда жұмыс істеген жастарда сенді. Неге? Олар E-gov арқылы тексергенде, олар мемлекеттік тіркеуден өткен компания.» (Basically, it should have started with a civil case. Why did these depositors believe it? Investors believed that it was legal. It was believed by the young people who worked in the same company. Why? When they check through E-gov, they are a state-registered company) [11].

The moment the attorney attempted to prove her clients' innocence based on the statement that the companies were legally registered, her defendants became victims as well. Under the circumstances, only three of them partially admitted their crime, while others assumed the verdict was too severe. As the attorney was intending to plead an application to a further higher court, we could assert that persuasion of bringing up the fact of the companies being state-registered might impact the decision in the subsequent trial.

### Conclusion

These findings shed light on how the persuasive speech of the attorney can create the discursive space and phonological features of the speech to effectively impact the process. While Mario Fontes & Sandra Madureira examined persuasion in terms of expression [12, p. 83], Blake R. Hills stated that persuasion is the art of linguistics and literature. He states that «the art of persuasion is at the heart of a successful advocate's skill set, any attorney who wishes to be effective must master the art of persuasion» [13, p. 1].

Therefore, based on the results of the analyses we come to the conclusion that eloquence has influence in depicting the crime picture, however in the case of [b], the attorney had difficulties in constructing proper questions that must avoid leading, lack of foundation, and other objections. Thus, eloquence is the part, but not the most important one. The persuasion technique and ability to use the facts and strictly stick to the law, furthermore, the phonological tactics of creating the situation of framing or proving the innocence are also essential. Thus, even eloquently prepared questions created the «loss-framing» picture of the case as the further cross-examining part covered the main part of the persuasion and revealed the «winning» side.

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\*Г. Т. Қусенова<sup>1</sup>, К. С. Кенжигожина<sup>2</sup>, Б. К. Жумабекова<sup>3</sup>

<sup>1,2</sup>Л. Н. Гумилев атындағы Еуразия ұлттық университеті,

Қазақстан Республикасы, Астана

<sup>3</sup>Торайғыров университеті,

Қазақстан Республикасы, Павлодар

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## АДВОКАТТЫҢ ҚОРҒАУШЫ СӨЗІНІҢ ФОНЕТИКАЛЫҚ ЕРЕКШЕЛІКТЕРІ

*Бұл мақаланың мақсаты – сендіру әдістерін қолдану тұрғысынан ағылшын және қазақ тілдеріндегі адвокаттың қорғау сөзінің фонетикалық ерекшеліктерін ашу. Адвокаттың қорғау сөзінің фонетикалық ерекшеліктерін талдаудың негізі адвокаттың міндетіне істің басынан аяғына дейін құпия процесіті жүргізу жатады; атап айтқанда, клиентпен жұмыс істеу, дәлелдер мен құәларды анықтау; құжаттарды анықтау, іріктеу және жинақтау; заттық дәлелдерді жинақтау үшін клиентпен әңгімелесу; сұрақ-жауап арқылы мәселені нақтылау, ал соңғы саты – сотта қорғау. Бұл әрекеттер адвокаттан іс жүзінде сот отырысы залында өтетін заң әдебиетін және соттың тілін жақсы білуді талап етеді. Осылайша YouTube арнасынан сот процесінде болған қорғаушылардың сөзінен үзінді жинап, Praat компьютерлік бағдарламасы арқылы фонетикалық ерекшеліктеріне талдау жасадық. Авторлар айыпталушыдан немесе куәгерден жауап алу барысында орын алатын фонетикалық белгілердің қалай жүзеге асатынын заңгердің нанымды сөзінен үзінділер арқылы көрсетеді. Бұл тұжырымдар адвокаттың процеске тиімді әсер ету үшін сөйлеудің дискурсивті кеңістігін сендіру техникасы мен фонологиялық ерекшеліктер арқылы қалай жүзеге асыра алатынын түсіндіреді.*

*Кілтті сөздер: фонетикалық ерекшеліктер, нанымды сөйлеу, заңгер, дыбыстың ұзақтығы, сұрау үні*

\*Г. Т. Кусенова<sup>1</sup>, К. С. Кенжигожина<sup>2</sup>, Б. К. Жумабекова<sup>3</sup>

<sup>1,2</sup>Евразийский национальный университет имени Л. Н. Гумилева,

Республика Казахстан, г. Астана

<sup>3</sup>Торайгыров университет, Казахстан, г. Павлодар

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## **ФОНЕТИЧЕСКИЕ ОСОБЕННОСТИ ЗАЩИТЕЛЬНОЙ РЕЧИ АДВОКАТА**

*В статье ставится задача раскрыть фонетические особенности защитительной речи адвоката на английском и казахском языках с точки зрения техники убедительной речи. Основанием для анализа фонетических особенностей защитительной речи адвоката является то, что в обязанности адвоката входит ведение судебного процесса от начала до конца дела; в частности, работа с клиентом, выявление улик и свидетелей; выявление, отбор и сбор документов; беседа с клиентом для сбора вещественных доказательств; выяснение вопроса через вопросы и ответы, и последний шаг – защита в суде. Эти действия требуют от адвоката хорошего знакомства с юридической литературой и языком суда, что, собственно, и происходит в зале суда. Таким образом, мы собрали с YouTube-канала фрагменты выступлений защиты адвокатов, происходивших на суде, и проанализировали фонетические особенности с помощью компьютерной программы Praat. Авторы демонстрируют, как фонетические особенности реализуются в моменты перекрестного допроса, на отрывках из убедительной речи адвоката. Эти результаты проливают свет на то, как убедительная речь адвоката может создать дискурсивное пространство и фонологические особенности речи для эффективного воздействия на процесс.*

*Ключевые слова: фонетические особенности, убедительная речь, адвокат, растяжение, тон дознания*

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«Toraighyrov University» баспасынан басылып шығарылған

Торайғыров университеті

140008, Павлодар қ., Ломов к., 64, 137 каб.

«Toraighyrov University» баспасы

Торайғыров университеті

140008, Павлодар қ., Ломов к., 64, 137 каб.

67-36-69

e-mail: kereku@tou.edu.kz

www.vestnik.tou.edu.kz