

## Iraqi lawyer's Employment of Presupposition in Courtroom Discourse

Fatima Naji Hameed<sup>1</sup>, Dalai Naji Hameed<sup>2</sup>

<sup>1</sup>*Republic of Iraq , Ministry of Higher Education & Scientific Research /University of Imam Ja'afar Al-Sadiq /Faculty of education/English Department fatima\_naji@ijsu.edu.iq*

<sup>2</sup>*Republic of Iraq , Ministry of Higher Education & Scientific Research /University of Kufa /college of science/ Department of physics dalal.alkaraawi@uokufa.edu.iq*

**ABSTRACT :** In semantics and pragmatics, presupposition is a key concept. However, we understand the role of presupposition considerably better in practice. Many linguists have pointed to the significant role of presuppositions in courtroom discourse. Crossexamining lawyers, in context of courtroom discourse, employ presuppositions with questions for implicitly assert evidence and the criminals are legally prohibited from denying. This research aims to investigate the function of presupposition in a qualitative manner based on the investigation of actual and authentic data from criminal cases. The work will demonstrate how Iraqi lawyers employ presuppositions in courtroom to entrap the criminals and confirm the evidences against them.

### I. INTRODUCTION

According to Spencer (2002,p.1), presupposition is semantic and pragmatic phenomena. Presupposition can assist the speaker in determining the context of meaning statements. Presupposition is a phenomena that occurs in the middle of a conversation. Every utterance that is made by the speaker is related to the assumption created by the speaker when he hears the preceding utterance. Presupposition is a thing that is presupposed, whereas presupposes means to presume something to be true before it is proven. Even if it is not stated, a speech or sentence must transmit some information. The speaker then uses this knowledge to build the presumption (ibid). Yuniardi (2015), on the other hand, states that most of the work on the courtroom discourse emphasizes the way lawyers employ presupposition in terms of questions to impose a certain evidence of events (p.6).

A number of academics have emphasized the importance of presuppositions in institutional discourse. Van Dijk (1991), for example, suggested that presuppositions are a significant tool in the implicit declaration of contested ideas in his examination of racist discursive techniques in the press. Similarly, in his consideration of political speech, Chilton (2004: 64) believes that presuppositions help to "the construction of a consensual reality." Cross-examining lawyers can indirectly assert the important evidence in the context of courtroom language by asking questions with presuppositions, and criminals cannot legally, in many cases, oppose or deny the lawyers' presupposition. Indeed, Gibbons (2003,p.98) suggests that the criminals, generally speaking the addressees, have trouble disagreeing with or contesting the presuppositions of inquiries in his assessment of work on forceful questioning in police interrogations and courtroom discourse. Furthermore, it is often unclear whether and how presuppositions are understood by participants because, as presuppositions, they are rarely made explicit (ibid).

Presupposition is a key concept in pragmatics. However, we understand the role of presupposition considerably better in practice. Many linguists have pointed to the significant role of presuppositions in courtroom discourse. Crossexamining lawyers, in context of courtroom discourse, employ presuppositions with questions for implicitly assert evidence and the criminals are legally prohibited from denying. Thus, the significant role of presupposition in courtroom discourse for investigating the facts cannot be denied. Consequentially, this research aims to investigate the function of presupposition in a qualitative manner based on the investigation of actual and authentic data from criminal cases. The work will demonstrate how Iraqi lawyers employ presuppositions in courtroom to entrap the criminals and confirm the evidences against them.

### II. THEORETICAL FRAMEWORK:

#### 2.1 Literature Review

Gottlob Gerge, a German scholar, proposed the concept of presupposition as a linguistic construct. The definition of presupposition is viewed differently by different academics. As defined by Keenan (1981),

pragmatic presupposition is the relationship between a speaker and the acceptability of a sentence in a given situation. It's characterized as "a sincerity condition on the utterance by a speaker of a sentence in a context". According to Levinson (2001), it is the outcome of intricate interactions between semantics and pragmatics, and modeling such interactions requires a far greater understanding of both the structure of semantic representations and the pragmatic principles that interact with them. Ziran (1997), a Chinese scholar, define precondition as "the requirement that is based on the linguistic structure and relies on the logic idea, semantic meaning, and context to deduce the meaning of the utterance." Scholars in both the United States and overseas believe that the presumption should be based on a pragmatic and semantic approach to the investigation.

The study of presupposition in linguistics begins with the study of semantic relations. It inherits the philosophical and logical ideas on the link between sentences and propositions from the semantic approach. It is suggested that presupposition be represented as the semantic relationship between sentences and propositions, with the truth-value factored in. Furthermore, Gazdar (1979), Leech (1981), Van der Sandt (1998), and Green (1998) have all discussed Truth conditional theory.

Presupposition, according to Stalnaker (1974), should be investigated pragmatically rather than semantically. Presupposition analysis, according to Deirdre Wilson (1975), should be viewed as an approach to the theory of interpretations that are preferred Levinson (1983) made a significant contribution to the presumption. From the past to nowadays, making comparisons and comments on each major thought, justifications for their existence. Xu Jun(1996) and Zhou Liquan(2000), two Chinese scholars, have proposed that Presumption should be approached with a realistic mindset. According to Ziran (2002), it is the prior and common knowledge in which the addresser and the addressee shared before the start of communication. Xun Shengheng (2005) and Jiang Wangqi (2003) conducted extensive research on pragmatic presumption. In addition, several academics have looked into how people interact in courtrooms.

Presupposition, according to Yule (2000, p. 25), is what the speaker assumes to be true before making an utterance. This is confirmed by Levinson (1997, p.167), who claims that presupposition is a pragmatic inference, meaning that it is founded on a contextual assumption underpinned by the cooperativeness of conversation participants rather than the linguistic structures of the phrase. To put it another way, presupposition is the assumption that someone has in mind when they hear, read, or say something. Speakers have presuppositions, not sentences. Presupposition is described as a relationship between two assertions in certain discussions of the idea (ibid).

Although presupposition studies ,within the legal context, have a long history in foreign nations, there is little literature dedicated to this topic in Iraq. Besides, no research is found on the employment of presupposition in courtroom discourse by Iraqi lawyers. For this reason, this research aims to bridge this research gap by investigating how Iraqi lawyers employ presuppositions in courtroom to entrap the criminals and confirm the evidences against them.

## **2.2 Dentition of the Main Terms:**

### **2.2.1 Courtroom Questioning**

Courtroom questioning is a procedure in which presenting counsels ask questions of witnesses on the witness stand who are testifying on subjects relevant to a particular case in order to bolster a legal claim or undermine one's credibility. Furthermore, the presiding judge may, at his discretion, ask witnesses and presenting counsel questions. The prosecution lawyer's goal, according to Gibbons and Turrel (2008), is to disprove the accused's innocence and prove his or her guilt, whereas the defense lawyer's goal is to persuade the court to disclose considerable detail to aid his or her client be exonerated. As a result, courts are employing a variety of questioning techniques to elicit facts and provide the court with a better understanding of the situation.

### **2.2.2 Witness**

A witness, according to the Rules of Court (2005), is a person who has the ability to comprehend, be comprehended, and communicate their understanding to others. Experts, specialists, and interpreters are also called upon to testify as witnesses in courtroom procedures under international law. Furthermore, the witness could be placed under witness protection, particularly if his testimony would support the material points (ibid).

### **2.2.3 Victims/Accused**

Victims/Accused are persons whose rights are violated. They are influenced psychologically and physically (Rules of Court ,2005).

### **2.2.4 Lawyers**

Lawyers are individuals who have completed the required bar test, taken the lawyers oath, and signed the roll of attorneys. In a similar spirit, they are court officers with the authority to represent and plead for their clients. They use their expertise to technically define and interpret the law because the language of the law is rife with ambiguity (Rules of Court ,2005).

### 2.2.5 Multiple cases

Multiple cases include cases on rape ,robbery ,murder, theft, drugs, and so on. These cases are just a kind of classification (Rules of Court ,2005).

### III. RESEARCH METHOD:

The data of this study are actual and authentic data from different criminal cases. The data are gathered through recording the observed cases by the researcher with the help of some lawyers ,under the approval of the judge and the responsible council. To provide different examples of how of Iraqi lawyers employ presupposition, different cases are recorded and analyzed about different cases like firing and robbery. These collected data are analyzed with respect to the concept of presupposition to know how Iraqi lawyers employ questions with presupposition to dig out the truth and entrap the criminals to affirm the evidence.

### IV. RESULTS AND DISCUSSION

This work seeks to analyze how Iraqi lawyers employ presupposition as a tool or a linguistic device to dig out the truth and entrap the criminals. It is valuable to introduce syntactic presupposition in term of presuppositions in questions. According to Stalnaker (1978,p.321), at the syntactic level, presuppositions are what the speaker takes to be the common ground of the conversation's participants. Presuppositions can be a straightforward statement like 'The man with two bags was seen by John.' Two assumptions are made here: that a man was seen and that the man had two bags (ibid).

The role of presuppositions in questions is of special importance to this study. A question that contains a presupposition must presuppose that the presupposition is true because "every question presupposes precisely that at least one of its direct answers is true" (Belnap, 1966,p. 610). In a wh-question ,on the other hands, like 'Where did you put the shovel?', for example, the investigation assumes that the listener did indeed put the shovel somewhere and just wants to know where it was put. A yes/no question like 'Did you put the shovel in the cellar?' assumes that the listener did put the shovel somewhere and merely wants to know if the cellar was the location (Belnap, 1966, p. 610).

#### Case 1:

*Lawyer: well, X{the name of the defendant}, how to transfer the money to Y's{the name of someone} MasterCard account?*

*Defendant: I have no idea.*

*Lawyer: Who is the one who has given you the account number? Defendant: I cannot transfer the money, I cannot do this*

In the courtroom investigation, it's critical to double-check the defendant's information. Relevant facts and witness reliability are confirmed and verified using the presuppositional questions. Bribery is an illegal act. The lawyer asked this inquiry because he wanted to know whether the defendant had any direct ties to the money in this case. In the lawyer's query, there is an implicit presupposition: the defendant is the individual who sent money to Y's MasterCard account. The defendant's understanding of the lawyer's true objective and purpose will be called into question. In other words, in the lawyer's question, there is a hidden presupposition: The defendant is the person who transferred the money to Y's account. Then , one can doubt how the defendant gets the lawyer's real purpose and intention.

It has to do with how presuppositions are handled throughout discourse formation. Unless the defendant confirms the possible presumption, it still hypothesis. Both sides have altered their cognitive environment as a result of courtroom engagement based on shared knowledge. There were three different types of cognitive effects found. In this case, the defendant recognizes that the new knowledge he has acquired is in direct conflict with his current cognitive environment. Furthermore, after running the logical conclusions, the defendant understood that the lawyer's query was a trick. As a result, in response to the lawyer's query, the defendant used ambiguous language. It's a technique to turn a possible presumption into a real one.

It has involved how the presupposition is processed in the development of discourse. The potential presupposition remains a hypothesis unless confirmed by the defendant. In the process of courtroom interaction, based on the shared knowledge, both parties have changed the cognitive environment. Three kinds of cognitive effects have been yielded. From this example, the defendant is aware that the new information he received is the contradiction of his existing cognitive environment. Moreover, after the conduction of the logical inferences, the defendant realized that the lawyer's question is a kind of misleading question. Therefore, the defendant uses the vague language to answer the lawyer's question. It is a kind of way to transform the potential presupposition into the actual presupposition and try to prevent the presupposition trap. To summarize, it is clear that presuppositions can be altered in a certain cognitive context. The defeasibility of pragmatic presupposition is the outcome of a constant interaction between the addresser's ostension and the addressee's inference, resulting in a change in the communicator's cognitive environment.

**Case 2**

lawyer: X{the name of the defendant}, how much money did you have, here, in your bag?

Defendant: Um...it is about ten thousand as I think so.

lawyer: what!! That is not very much. You know that the life is very expensive and everything is not cheap. Tell me, How much can you buy...with your ten thousand?

Defendant: food and some basic stuffs.

lawyer: Did you need more money? For sure, to have more money you can sell the heroin{addictive narcotic which is made from morphine}, right? It is the best way for you to become rich, is that right?

Defendant: No!! that is not true.

Within this case, the lawyer ask these above-mentioned questions to convey his informative intention, "How much money did you have, here, in your bag?" All the related information will be embedded in way or another in the question. Thus, from this question, the lawyer wants to acquire more relevant and related information of the case. The lawyer ,in second inquiry round, makes each one in the court know more information of this case. X {the name of the defendant} has carried the heroin{kind of drug} and wants to earn a lot of money. And, the background knowledge indicates that selling the drugs in general is one fast way to get a lot of money. Therefore, depending on this context, the lawyer presupposes that X want ,at least, is ready to sell drugs for money.

The defendant starts to infer the lawyer's communicative intention and gives the uncertain answer. For this reason, in third inquiry round, the lawyer asks "How much can you buy...with your ten thousand? Here, the implied meaning that the ten thousand is not enough money for the defendant to buy all what he needs. Taking this ostension, the defendant infers the lawyer's communicative intention. It is very clear that their cognitive context has been mutually shown. The defendant has realized that his answer cannot make neither the judge or the jury, people in the court who sear to give the decision in the legal case on the basis of all the evidence that are given to them, believable. For this reason, the defendant is immediately gets nervous and ,then, he answers the related questions in an unsuitable way.

**Case 3:**

lawyer: Would you tell us who has proposed to start a fire in this restaurant? Defendant: X{the name of someone}

lawyer: would you please describe the clothes you wear at that night?

Defendant: Black sweater .

lawyer: when and where you set fire?

Defendant: We set fire at Y's restaurant at about 11 o'clock.

Presuppositions play a crucial role in the courtroom when it comes to investigate the earlier cases. Because the main goal is to look into as much pertinent facts as possible about the case in order to prove the defendant's innocence. It is clear from this example that the assumption trigger is critical. That question will be designated by the lawyer. The lawyer seeks to get more information and knowledge about the case and confirm who has really proposed to set fire by asking this question in the first inquiry round. The lawyer wants to collect the defendant's specific information in the second inquiry round since it is an excellent technique to verify the offered testimony. The lawyer attempts to determine the time and location in the final round of inquiry. As a result, the temporal phrase contains the presumption that the suspect and X set fire to Y's restaurant. Furthermore, presumption is a highly effective and good tactic for the lawyer to gather more important facts about the case.

**Case4:**

lawyer: Can you tell us what color is X's(the name of someone who possess the car} car?

Witness: May be white. lawyer: I beg your pardon

. Witness: Um.. I can't remember.

lawyer: You had just told the lie because at that time, X {the name of someone who possess that car} is in Iran

Some presupposition, in the courtroom discourse, traps. The criminals or the witnesses fall into the traps if they are not attentive. Within this case, it is clearly that the testimony that the witness provide is vital to the judgment of the court. To confirm whether the testimony is a real one or not, the lawyer use irrelevant information which is embedded in his question: "What color is X's(the name of someone who possess the car} car?" The lawyer wants to obtain a useful information correlated with the case. However, the witness's answer is not satisfied to the lawyer and the lawyer can't know what is the color of the car on the spot. Taking this inquiry round, the witness, within this context, uses unclear or a vague language, "May be white", " I can't remember", to indicate the uncertainty to the car's color.

Also, the lawyer is sure that the witness's testimony isn't discredited or real. In conclusion, the lawyer's question is a presupposition trap, the witness recognized his answer is very significant, and that is why he decided to make use of uncertain language to show discredibility and his nervous of the testimony. Thus, it is very clear that the presupposition is embedded to start the topic in order to take out the relevant information. Once the topic is given, the lawyer will complete the direction of the entire topic with hope to find the expected answer.

## V. CONCLUSION:

Presupposition is a key concept in pragmatics and plays a significant role in the court. The role of presupposition considerably better in practice than in theory. Many linguists point to the significant role of presuppositions in courtroom discourse. The analysis of the data show Iraqi lawyers, in context of courtroom discourse, employ presuppositions with questions for implicitly assert evidence where the criminals find themselves legally prohibited from denying. In this work, the function of the presupposition is investigated in a qualitative manner on the basis of authentic data from different criminal cases. The work comes up with a conclusion that Iraqi lawyers employ presuppositions in terms of wh-questions ,in courtroom, to entrap the criminals ,confirm the evidences against them, and to get more relevant information from the studied cases.

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