This book compares the courtroom discourse of the adversarial system to the courtroom discourse of the inquisitorial system by comparing a trial occurring in the United States of America, which has an adversarial system, to a trial occurring in Poland, which has an inquisitorial system. Though the trials are quite different from each other – a murder case involving the famous American football player O. J. Simpson and a theft case involving a teenage boy – the manner in which these cases are handled illustrates important differences between the two systems.

As such, it falls within the broader literature on comparative legal systems. This literature is already quite robust. Indeed, a quick search of LexisNexis Academic using the key words "adversarial legal system" or "adversarial legal culture" yeilds 997 hits, and a search using the key words "inquisitorial legal system" results in 999 hits. The literature has been increasingly critical of the adversarial system since at least the 1980s, despite its entrenchment in the American legal system.

Although much has been written about both systems, few studies include the case of Poland. Even fewer apply discourse analysis to Polish courtroom discourse. Thus, the book fills a gap in the literature. It also serves the practical purpose of aiding legal translators and interpreters in understanding the cross-cultural variation of field-specific discourses (e.g., Polish vs. American legal discourses). Its detailed observations and explanations of the protocol are imminently useful for translators and interpreters while an academic audience will appreciate its more theoretical contributions.

The book is divided into four sections. The first chapter introduces and justifies the research question, provides an overview of the features of the adversarial and inquisitorial systems, discusses the interdisciplinary of the project, and describes methods and sources of data. The second chapter analyzes the O. J. Simpson trial. The third chapter analyzes a Polish criminal trial. The fourth chapter summarizes the findings. I found the first and last chapters to be the most valuable, and I wished that the author's discussion of Civil Law and Common Law had been more extensive since her analysis draws from their comparison. At only three pages (pp. 10-12), it barely scratched the surface of two very complex and rich traditions.
The research questions are: "What are the similarities and differences between the inquisitorial and adversarial procedures for examining witnesses? What explains these differences? How have they been shaped by distinct institutional, cultural, and historical contexts? By what means? To what extent?" (p. 3). The author then proposes two hypotheses to test: 1.) courtroom discourse is culturally varied, and 2.) courtroom discourse is socially conditioned.

The results reveal a number of similarities and differences between the two systems. These are explained by each system's alignment with a particular philosophical approach to truth and justice. Whereas Civil Law is founded on the principle of substantive truth, Common Law is founded on the principle of formal truth.

While the research questions are interesting and significant, the hypotheses are hardly original or compelling. Most comparativists accept cultural diversity as self-evident. Indeed, the literature review alone establishes a difference between Civil Law and Common Law, and between the inquisitorial and adversarial systems. It is easy to imagine that the courtroom discourses associated with each approach would similarly vary. When these hypotheses are validated, we learn nothing new.

A neopositivist epistemology modeled on the scientific method and pursing hypothesis-testing as its main goal is perhaps not well-suited for exploring the richness of historical and cultural influences on courtroom discourse. The real question is not "Is there a difference?" but "How have these differences been shaped by distinct institutional, cultural, and historical contexts?" – in other words, the very question the author sets out to answer. An interpretivist approach would have been more appropriate, and indeed, the author does address this question using methods associated with interpretivism – the ethnography of discourse, conversational analysis, and pragmatics.

Unfortunately, the author does not go far enough. The fascinating discussion of the historical and cultural context underpinning procedures for witness examination was too brief, and the discussion of the effects of these procedures was similarly on point but superficial. The result is a pastiche of epistemologies, three methods serving two epistemological masters, and five research questions inadequately answered by an analysis of two trials.

Nonetheless, these shortcomings do not detract from the book's original empirical contributions. Thanks to its voluminous and detailed descriptions of trials, it serves as an excellent resource for courtroom translators and interpreters who are seeking examples of each type of discourse.

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Sposób cytowania: