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Submission date: 15-Sep-2023 02:31AM (UTC-0700)

Submission ID: 2166792425

File name: Function_and_Presupposition_in_Indonesia_Courtroom_Discourse.pdf (271.05K)

Word count: 5024

Character count: 27812

Speech Function and Presupposition in Indonesia Courtroom Discourse

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Abstract

This research aims at describing the speech functions used by the judge to the defendants and witness in the process of trials at courtroom and the realization of presupposition in the trials to get the functions of presuppositions. In particular, the research aim at What are types of of speech function and presupposition are used by judges in the courtroom investigation? There are some theoretical framework used by the reseacher such as Jan Svartick (1968), Zhang (2015), Fairlough (2004) This research is a descriptive qualitative research that describes the types of presupposition at the courtroom investigation. The data is the transcription of the investigation between the judge and defendant, witness and lawyer with various case of trial process at the courtroom. The case was taken from Kantor pengadilan Negeri Medan (Pengadilan Tinggi Medan) Kelas I A which is located on Jln Pengadilan no 10 Medan (Sumatera Utara). The subject of this research is the judges who will be involved at investigating the defendants' case in the proceeding courtroom in Pengadilan negeri Medan. The object of the research is the utterances of the judge while in the process of the trial at the courtroom. In this research, the data is acquired by doing an observation, recording and interview. The data is recorded by using video mobile phone type OPPO F9. The technique of data collection here is referred with Miles, Huberman and Saldana (2014) whose mention that data collection is obtained through the process of criminal case recording at courtroom. The result of the research are described as follows: (1) There are 9 types of speech function used by the judge in the courtroom investigation (2) There are 6 types of presupposition used by the judge in the courtroom investigation. (3) There are 3 functions of the speech function used by the judge in the courtroom investigation (4) There are three result of the function presupposition used by the judge in the courtroom (5). Based on the research findings, the conclusions are drawn as below: (1) Language has a power in the trial of the courtroom investigation because the judge is one person who has a controll to give question among all the participants in the courtroom. investigation, (2) The judge has a strategy to investigate the defendant and witness in the courtroom investigation.

Keywords: Language, Courtroom, Forensic Linguistics, Presupposition, Speech Acts Function.

I. INTRODUCTION

The court is an organization to serve all citizens for a justice to get human rights. In the court, the truth will be raised up through the process

of interaction investigation between the judge, lawyers, witness and prosecutor to the defendant. Here, language has a legal power to answer all the multiple case. The legal

language applied in the courtroom conversation appealed with the best strategy of legal language are generated and interpreted in the process of investigation (Susanto: 2016). In his research of Language in a courtroom discourse found that role speaking of the judge in the courtroom is directing, ruling, and instructing. It was said that the purpose of the roles for the obligation, conferring power and justice in the process of trial (Susanto: 2016). The judge, lawyers, and prosecutor must have language knowledge ability and strategy to investigate through questions to the defendants in the courtroom. The judge is commonly the expert to ask the specific questions to the defendant and witness in the process of trial. The questions which are raised by the judge in the trials sometimes are friendly and confrontational to the defendants and witness for seeking the truth of the case. The defendant and witness could feel lack of confidence in responding the judge's questions.

In Indonesia, the language in the courtroom is still rarely to be discussed by researchers. There are some of the previous researchers investigated about forensic linguistics in Indonesia. Another researcher examines the functional features of forensic corruption in Indonesia (Sinar, 2018). She conducted the research about the metafunction multimodal functional features of law enforcement and witnesses in the proceedings of forensic corruption case in Indonesia. It focused on the forensic language. From the research, she found that the multimodal systems were very useful to representational meanings, interactive meanings, compositional meaning such as gestures, postures, non-verbal communication and eye contacts. Presupposition is a way to get facts and credibility of the answer of the defendant and witness to the judge in the trials. It includes the three basic functions in courtroom questioning namely: (1) introducing the new information and aid to measure the witness credibility, (2) generating a reasonable answer effectively, and (3) contributing to the judicial process. To let the judge and lawyers to present the story of the case, while formally asking questions and thereby respecting the rules of evidence which

require witness participant in the story of the case, it seems to test new information somewhat more efficiently than old, by relying more directly on witnesses' perception of what is actually being asked so as to accept or reject it.

In the judicial setting, the courtroom questioning are not easily raised by the judge and lawyers up in asking the priority and important informations from the defendants. Language plays an important role for the speakers to express questions and responds at courtroom. Here the language is used to interrogate the defendants, witness or the parties involved in the criminal case and the judge or lawyers should be able to employ the strategy of investigating of the people that involved at courtroom interactions. The researcher wants to find out the types of speechpresupposition and speech function by the judge in the courtroom investigation. From the above explanation, the researcher formulates the research problems: (1) What are the types of speech function used by judges in the courtroom investigation?, (2) What are the types of presupposition used by judges in the courtroom investigation?

The purpose of the research is to describe the ways in which types of of speech function and presupposition are used by judges in the courtroom investigation.

2. LITERATURE REVIEW

2.1 Forensic Linguistics

The term of forensic linguistics has known since 1950's and 1960's to the present day. A linguistics professor The term "The Evans Statement" A Case for Forensic Linguistics". In his book which discussed the application of linguistics and sociolinguistics to legal issue. In the case, police investigated Timothy Evans, a man suspected of the murdering case to wife and baby (Svartvik in Sinar : 2018) . It showed and compared the transcription of the recorded interview to get the evidence . From the research, Evans was executed in 1950 and 16 years later his name

was cleared. Forensic linguistics work used to get the justice in a court law. The meaning of forensic linguistics is an applied linguistics closely related with language, law and crime. For instance: law enforcement, judicial matters, legislation, trials in law. Language can describe the character of a person and attribute the background of the identity from the education, profession and character. It can also be seen from the way he/she talked from the pronunciation and intonation which showed their nation or ethnic of the origin. It means that we can know that the language users tells the truth or not in speaking. Forensic linguistics rises the truth and honesty in the courtroom. It can tell whether the purpose is lie or not. Forensic linguistics is closely related with law and justice.

Parts of concentration forensic linguistics is divided into: (1) the language of legal documents, (2) the language of police and law enforcement, (3) interviews with children and vulnerable witnesses in the legal system, (4) courtroom interaction, (5) linguistic evidence and expert testimony in courtrooms, (6) authorship attribution and plagiarism, and (7) forensic phonetics and speaker identification Coulthard and Johnson (2007) in Sinar (2018) . She adopted from the source : *Guidance of Forensic Linguistics Studies*, Center for Strategy Development and Linguistic Diplomacy:2016) mentioned the scope of analysis forensic linguistics studies consists of three parts namely: (1) language in legal products, (2) language in courts, (3) language as evidence both written and oral language. we can draw that the aspect of functional linguistics in forensic linguistics consists of (1) text as product, (2) text as process, and (3) text as evidence. The use of linguistic evidence in the legal proceedings from the diagram is (1) author identification; to identify somebody's' wrote which relies of idiolect /patterns of language such as vocabulary, collocation, pronunciation, spelling and grammar), (2) discourse analysis; to analyse the written, oral or sign of the language. (3) Language structure analysis, (4) linguistic proficiency. Language honesty is to identify whether the defendants telling lie or

truth in the trial at court. While language style of forensic is to identify the written or spoken analysis of the content, meaning, speaker identification and detecting plagiarism. Forensic phonetics is to identify the similarities of the speaker of two or more separate recordings. Last, dialectology is to identify the systematic of dialect of the person.

Forensic linguistics is an applicable and interdisciplinary knowledge linking language, crime and law" . The application of forensic linguistics methods to the language includes conversation analysis, discourse analysis, theory of grammar, cognitive linguistics, speech act theory etc. we can conclude that forensic linguistics is the implication of the linguistics knowledge in a legal cases or proceedings and private disputes between parties which may at a later stage result in legal action of some kind being taken.

2.2 Presupposition

There are many definitions of presupposition from different scholars or linguists on the perspective pragmatics and semantics. Presupposition is a part of pragmatic sense, that was developed by Keenean (1971) as pragmatic presuppositions Stalnaker (1970 in Sinar (20018). Presupposition is "something the speaker assumes to be the case prior to making an utterance" (Yule:1996). It means that presupposition the information that the speaker got from the utterances in the context. The relation between presupposition and this research is how the language courtroom discourse (judge, lawyer, defendants and witness) in a trial process. Presupposition is a way or the strategy of the speaker while conducting the trial process in the courtroom in order to get the speaker's intention. Presupposition implies in two propositions such as statement and negation presuppositions. In the presupposition, the symbol is signified (>>) implies for. Presuppositions of the utterance are the pieces of information that the speaker assumes in order for their utterance to be meaningful in the current context" (Potts: 2014) . Next, presupposition is as inference background about what is assumed to be true in the utterance rather than directly asserted is true

and it originates from the knowledge which language users share together to illustrate the lexical items or syntax in the utterance. The definition of presupposition can be informally defined as an inference or proposition whose truth is taken for granted in the utterance of a sentence is (Huang: 2007). In this case, it means the main function is to act as a precondition of some sort for the appropriate use of that sentence. In other words, presupposition is a way to get information for raising the truth from the utterance and the use of the sentence. Presupposition is a background belief relating to an utterance that: (1) Must be mutually known or assumed by the speaker and addressee for the utterance to be considered appropriate in context, (2) generally will remain a necessary assumption whether the utterance is placed in the form of an assertion, denial or question and, (3) can generally be associated with a specific lexical item or grammatical feature (presupposition trigger) in the utterance. For example: John regrets that he stopped that he stopped doing linguistics before he left Cambridge. This example is taken from Levinson (1983) and presupposed: (1) There is something uniquely identifiable to speaker and addressee as John, (2) John stopped doing linguistics before he left Cambridge, (3) John was doing linguistics before he left Cambridge, (4) John left Cambridge, (5) John had been at Cambridge.

The types of presupposition have been discussed by some scholar that is aimed to the purpose of the presuppositions. There are two types of presuppositions: (1) pragmatic presupposition and (2) semantic presupposition (p.3). Based on semantic perspective and logic, Alwood et al (1977) categorized the types of Presupposition into three three types such as (1) existential presupposition, (2) factive presupposition, and (3) generic presupposition (Potts: 2014). In addition, There are 13 types of presupposition: (1) Existential presupposition/Definite description, (2) Implicative presupposition, (3) Lexical presupposition/ Change of state verbs, (4) Iterative presupposition, (5) Verbs of judging presuppositions, (6) Temporal clauses presupposition, (7) Cleft sentences

presupposition, (8) Factive presupposition, (9) Comparison and contrast presupposition, (10) Non restrictive relative clauses presuppositions, (11) Counterfactual presupposition / counterfactual conditional, (12) Implicit cleft with stress constituents, (13) Questions. Types presupposition can be divided into six types namely: (1) existential presupposition, (2) factive presupposition, (3) lexical presupposition, (4) structural presupposition, (5) non factive presupposition, (6) Counterfactual presupposition. Below is the explanation of each types of presupposition: (1) Existential presupposition is a basic type of presupposition which assumed to be committed to the existence of the entities names by the speaker (writer) and assumed present to be in a noun phrase. Existential presupposition is commonly used proper names, definite article, demonstrative pronouns and possessives, (2) Factive presupposition is a type of presupposition which considers factual information and identified by some verbs such as: know, realize, regret, be, aware, odd, glad, be sorry that, be proud that, be indifferent that, etc. Those verbs are implied to be meaning as a fact, (3) Lexical presupposition is another type of presupposition with asserted meaning is conventionally interpreted with the presupposition that another (non asserted) meaning is understood. Yule (1996) says that the words like manage, stop, start and again are carried by lexical presuppositions. (4) Structural presupposition is a type of presupposition that is associated certain words and phrases. In structural presupposition, certain sentence structures have been analyzed as conventionally and regularly presupposing that part of the structure already assumed to be true. For example: WH-questions, alternative question and yes/no question are the construction in English conventionally interpreted with the information after the who form is already known to be the case. (5) Non factive presupposition is a type of presupposition that is assumed not to be true. This presupposition are identified by a number of verbs in English for instance verbs like dream, imagine and pretend. (6) Counterfactual presupposition is a type of presupposition which is not only untrue but it is opposite what

is true or contrary to the facts. For example some conditional structure generally called counterfactual conditionals presuppose that the information in if-clause is not at the time of utterance.

2.3 Speech Functions in the Courtroom

There are many numbers of studies of speech functions conducted in the case of courtroom. Theory of the rules in communication need "speaking". "Setting refers to the place and time where communicative event take place (Hymes: 1962). Participants refer to speakers and hearers and their role relationships. Ends refer to the stated or unstated objectives the participants wish to accomplish. Acts refers to the form, content, and sequence of utterance. Key refers to the manner and tone (serious, sarcastic etc) of the utterance. Instrument refers to the channel (oral or written) and the code (formal or informal). Norms refers to the conventions of interactions and genre refers to the categories of communication such as lecture, report, essay, poem etc". In the courtroom, the testimony/explanation of the judge, defendants, lawyer and witness used a variety of speech functions. It can be explained in the following parts: (1) Summon is a speech act used to demand the presence somebody but in the study it was only found to be used by counsel and lay litigants calling out the name of the witness at the start of cross examination (Farinde: 2009), (2) Encouragement is used to urge the witness to continue with what they are saying and for the proceeding process at the courtroom (3) command is used to coerce the witness especially in example where it is obvious the witness would rather do or say something else, (4) Clarification and information are expected to be witnessed supportive speech act functions by the data revealed instances of clarification by the examining counsel that are actually used to the detriment of the witness, (5) Discoursal indicators is observed being used to indicate terminate of a conversation in a way that the other party cannot continue with the discourse even if he or she wanted to. Because such indicators is language as a resource only available to the judge, they are evidence of the power asymmetry in the courtroom discourse, (6)

Matoesian (1993) says that metadiscoursal comment on the discourse that are always used by the dominant party called meta-talk which allow the dominant party 'to produce overt and covert blame-inferential comments' about the testimony given by a witness (p.173). it means that in this role they serve the function of positively or negatively evaluating the contributions by witnesses and also keeping the witnesses from wandering of a particular path which the dominant party wishes for them, (7) Appeal to Felicity Condition is the fact that the dominant discourse participants carried the power from institutional conventions for example the witness cannot ask the questions and refuse to answer them

3. METHOD

The type of this research is a descriptive qualitative research. Descriptive qualitative research design is "descriptive method whose the purpose of which is to represent systematically, factually and accurately" (Isaac and Michael: 1987). Here, the methodology is to describe the types of presupposition and speech function of the judge at courtroom interactional trials. The descriptive and qualitative research is to use to acquire the systematic, variable and situational responsive analysis. Although the methodology of the research is generally qualitative approach, the writer will do the frequency and percentage computation to determine the types of questions, presupposition and realization of speech function of language discourse at courtroom. The case will be taken from Kantor pengadilan Negeri Medan (Pengadilan Tinggi Medan) Kelas I A which is located on Jln Pengadilan no 10 Medan (Sumatera Utara). There are some consideration why the researcher select the time and location of the research at Kantor pengadilan Negeri Medan (Pengadilan Tinggi Medan) as below: (1) kantor pengadilan Negeri Medan (Pengadilan Tinggi Medan) Kelas I A which is located on Jln Pengadilan no 10 Medan (Sumatera Utara) is nearly located with UNIMED so the researcher will be easily to get access of doing observation and research; (2) kantor pengadilan

Negeri Medan (Pengadilan Tinggi Medan) Kelas I A which is located on Jln Pengadilan no 10 Medan (Sumatera Utara) is never used for a research by forensic linguistics; (3) there are many various criminal case which is proceeded by Kantor pengadilan Negeri Medan (Pengadilan Tinggi Medan).

The source of data is the speech event of the process investigation in the courtroom. In the process of getting the data, the writer will do (1) observation during the trial process at courtroom, (2) Recording of the trial process at courtroom which is taken from different time and date, (3) all the utterances (judge, defendants, witness and lawyers) through the process of investigation at the trial interaction at courtroom. In this research, the writer will use only the utterances of the judge for the data. (4) Interview from the judge at Pengadilan Negeri Medan kelas IA. The observation has been done for several times by sitting and watching directly the process of trial at the courtroom. Here, the researcher only took notes and record the trial process from the sit. (2) There are (14) recordings used for the data acquired by the researcher. After transcribing the data of recording, there are total (41) different criminal cases of recording. (3) The description of the realization of questions, presupposition and speech functions from all the utterances through investigation in the trial process among judge, defendants, witness and lawyers at the trial process courtroom. The subject of this research is the judges who will be involved at investigating the defendants' case in the proceeding courtroom in Pengadilan negeri Medan. The judges will be different in each case because it depends on the case and the schedule of the judges. The object of the research is the utterances of the judge while in the process of the trial at the courtroom.

In this research, the data is acquired by doing an observation, recording and interview. The data is recorded by using video mobile phone type OPPO F9. The technique of data collection here is referred with Miles, Huberman and Saldana (2014) whose mention that data collection is obtained through the process of criminal case recording at courtroom. In forensic linguistics, language is a

testimony for the evidence of criminal case to find out the truth of the case. In this proposal, there are some steps in collecting such as (1) observation; the researcher sits and joins the trial process at the courtroom for several times to get the description of the trial process, (2) recording: to record all the process case trial at the courtroom to obtain all the utterances of judge, defendants, witness, lawyers, (3) Interview; giving a short interview to the judge to confirm the answer from the result of transcription in the recording. There are some techniques of data analysis here: (1) Transcribing the utterances from the recording, (2) Identifying the types of the utterances into classification of questions, presupposition and speech functions, (3) Classifying into the types of each functions, (4) counting the percentage on types of question, presupposition and realization of speech function, (5) Interpreting the meaning of each function of the result.

4. RESULT AND DISCUSSION

4.1 RESULT

1. Types of speech function

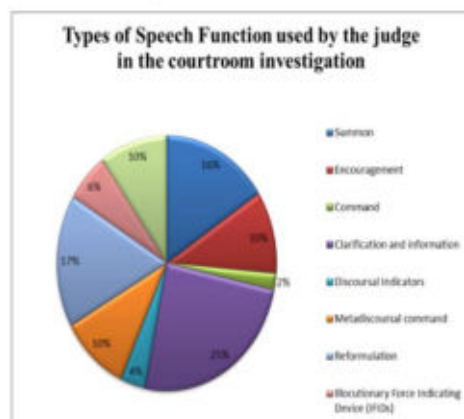
In this research which is entitled: "Speech function and presupposition in Indonesia courtroom discourse", the reseacher also found 9 types of speech function used by the judge in the courtroom investigation namely: (1) summon, (2) Encouragement, (3) Command, (4) Clarification and information, (5) Discoursal indicators, (6) Metadiscoursal comment, (7) Reformulation, (8) Illocutionary Force Indicating Device (IFIDs), and (9) Appeal to Felicity Condition. The representation of the recapitulation table and diagram of the types of speech function are described in the following table.

Recapitulation types of speech function used by the judge in the courtroom investigation

No	Types of speech function	Occurences	Percentage
1	Summon	30	16%

2	Encouragement	20	10%
3	Command	4	2%
4	Clarification and information	47	25%
5	Discoursal Indicators	7	4%
6	Metadiscoursal comment	19	10%
7	Reformulation	32	4%
8	Illocutionary Force Indicating Device (IFIDs)	12	10%
9	Appeal to Felicity Condition	19	17%
	Total	190	100%

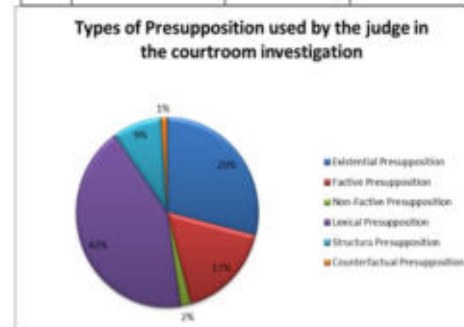
The pie chart shows that the types of speech function used by the judge is clarification and information as 47 times (25%). The judge usually use clarification and information in the courtroom investigation is to get the truth of the testimony from the defendant or witnesses in the trial. The judge has his own strategy in asking the defendant or testimony to get their answer honestly for the case.



2.Types of presupposition

From the data analysis of the research, the judge used 6 types of presupposition in the courtroom investigation. The sixth recapitulation types of presupposition used by the judge in the courtroom investigation are: (1) existential presupposition, (2) factive presupposition, (3) non-factive presupposition, (4) lexical presupposition, (5) structural presupposition, and (6) counterfactual presupposition. The highest occurrences of the types of presupposition is lexical presupposition 116 times (42%). The judge most used lexical presupposition while asking the defendants and witnesses to get the information of the case. The recapitulation of types of presupposition used by the judge in the courtroom investigation is on the following table.

No	Types of Presupposition	Occurrences	Percentage
1	Existential Presupposition	79	29 %
2	Factive Presupposition	46	17 %
3	Non-Factive Presupposition	5	2%
4	Lexical Presupposition	116	42 %
5	Structural Presupposition	24	9%
6	Counterfactual Presupposition	3	1%
	Total	273	100%



The above figure presents the sixth types of presupposition with the calculating of each percentage in the use of the judge's investigation in the courtroom. the lexical presupposition is dominantly used by the judge in the courtroom investigation at 42 % with 116 occurrences while non factive presupposition is at 2 % as the lowest. If we look at the result, it shows that the judge has his own strategy to ask the defendant and witness for getting the honest testimony in the courtroom investigation.

5. DISCUSSION

Courtroom investigation is a good way to get relevant and true information of the case. The judge has a power to lead and control the trial at the courtroom investigation. A judge plays an important role in investigating the defendants at trial courtroom before taking the decision of the case to the defendant. Questioning to the defendants, using the strategy (speech acts function) in asking the defendants, the presupposition of the judge in the courtroom are the scope of the research in this proposal. Language courtroom discourse is a part of forensic linguistic's case. Yule (1996) says that presupposition is "something the speaker assumes to be the case prior to making an utterance (p.25). Questioning's strategy by the judge is very important in the language courtroom discourse to investigate the defendant. It is to get the information and clarification of the case from the defendant, witness and lawyer in the proceedings. Yule (1996) categorizes the types of presuppositions into six types namely: (1) existential presupposition, (2) factive presupposition, (3) lexical presupposition, (4) structural presupposition, (5) non factive presupposition, (6) counterfactual presupposition (p.27). According to Richard Schmidt (2010) speech act theory is the utterances of the judge and the court in communication. Kiguru, Ogutu and (Njoroge) investigated the speech acts functions in cross examination discourse in the Kenyan courtroom. From the research, they found 9 (nine) speech act functions to cross examination such as (1) summon, (2)

encouragement, (3) command, (4) clarification and information, (5) discorsal indicators, (6) metadiscorsal comments, (7) Reformulation (8) illocutionary force indicating devices (IFIDs) , and (9) appeal to felicity conditions. The scope of the research explains the types of presupposition and speech function of the judge in in the process of proceedings at the courtroom. The judge used question to investigate the defendant in the courtroom. the question is dominantly way used by the judge to get the information from the defendant.

6. CONCLUSION

This research is focused on the speech function and presupposition in Indonesia courtroom discourse. Based on the research findings, the conclusions are drawn as below: (1) Language has a power in the trial of the courtroom investigation because the judge is one person who has a controll to give question among all the participants in the courtroom. there are roles and strategy in questioning the defendant and witness in the courtroom investigation, (2) The judge has a strategy to investigate the defendant and witness in the courtroom investigation. It means that the judge who leads the trial needs communicative competence to lead the trial in investigation. There are 9 types of speech function used by the judge in the courtroom investigation namely: (1) summon, (2) Encouragement, (3) Command, (4) Clarification and information, (5) Discorsal indicators, (6) Metadiscorsal comment, (7) Reformulation, (8) Illocutionary Force Indicating Device (IFIDs), and (9) Appeal to Felicity Condition. There are 3 functions of the speech function used by the judge in the courtroom investigation such as (1) command, (2) statement, and (3) Question, (3) In courtroom investigation, presupposition plays an important role. From the data analysis the researcher finds 6 types of presupposition used by the judge in the courtroom investigation are: (1) existential presupposition, (2) factive presupposition, (3) non-factive presupposition, (4) lexical presupposition, (5) structural presuppositin, and (6) counterfactual presupposition. There are three result of the

function presupposition used by the judge in the courtroom investigation namely: (1) presupposition for investigation, (2) presupposition for confirmation, and (3) presupposition for trapping, (4) In the courtroom investigation, the judge has a neutral relationship to all participants among the trials. The judge is always consistent to follow the structures or roles in the trial of the courtroom investigation. The speech function and presupposition patterns in the courtroom investigation is WH-questions' patterns. There are seven types of WH-questions namely: (1) what, (2) where, (3) who, (4) why, (5) which, (6) when, (7) how (5) There are some reasons of the the speech function and presupposition realized in the ways they are in the courtroom investigation: (1) asking information (2) finding information, (3) Confirming the information, (4) agreement, (5) asking the comitment, (6) clarifying, and (7) repeating.

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