

CONFERENCE

# Confidence in the Courts

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## **Rougher Than Usual Media Treatment: The media, politics and the judiciary, a discourse analysis of disrespect and direction**

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# **ROUGHER THAN USUAL MEDIA TREATMENT: THE MEDIA, POLITICS AND THE JUDICIARY A DISCOURSE ANALYSIS OF MEDIA REPORTING AND JUSTICE**

## **Presentation notes**

Some common misconceptions about the justice system held by the general public and often seen in media and heard about on talkback radio:

- Judges are traditionally located within discourses as powerful and privileged
- “One law for the rich and another for the poor”
- Courts are often the focus of shock jocks and news headlines
- Sentencing outcomes are seen as a yardstick for community approval
- “No such thing as justice”
- Lock them up and throw away the key is a common catch cry for many
- Judges too focussed on the legal instruments of law rather than the community they are judging for or against
- Does the community really want public opinion to be the basis for sentencing which appears to be the case for news headlines?

## **What a lot of people still do not know or understand**

- Judges are independent
- Judges are constrained to work within the law especially the Criminal Law Act sections which exhorts them to consider imprisonment as a last resort
- Judges must have regard for the case put before them not popular opinion
- What is in the headlines is not necessarily reflective of what was presented in court
- Judges are *expected* to consider mitigating circumstances when sentencing

**Critical Discourse Analysis as a research tool; Language surrounding the justice system: Based on the work of distinguished socio linguistic theorists such as Fairclough, Hüllse Teo, Van Dijk, Wodak and Meyer etc.**

- Language and meaning is a focus of law
- Textual construction forms a legal framework for the rule of law
- Framing and representation affects how texts construct reality for media consumers
- Justice outcomes forms a dramatic backdrop for news media stories daily
- Language is the key to sentences, decisions and court reasoning reported by media

- Language of headlines is a signpost for what to think before reading a story
- Many court cases have turned on the meaning of a single word or ideal

### **The Study comprised**

- A Critical Discourse Analysis of more than 250 headlines pertaining to Courts 2002-2006
- Interviews with Judiciary including High Court to Magistracy...included Chief Justices, Chief Judge and Chief Magistrates plus others selected because of their public speaking or media activity etc.
- Interviews with politicians; Shadow Attorney, Attorneys-General including a former AG plus spokespersons related to law and order plus interviews with court reporters and public information officers to inform the study
- Analysis of 20 speeches delivered by Judges 1995-2005 related to Confidence and Courts

### **Comment: The Power of language to control and construct meaning**

- Language can give the researcher a tool to discern meaning implicit and explicit within certain discursive formation in this instance the discourses surrounding the courts, justice and how it is represented to the community
- Headlines have been suggested as a way of thinking about an article called semantic macrostructures by Teo (2000)
- Discourse Analysis can focus on specific elements to highlight issues of concern and how the discourse locates and places participants within it..
- This discourse analysis considered Lexis, Collocations and Metaphor as major elements of research
- Schiffrin (2001) believes that discourse analysis of language can also be used to defray common misconceptions and beliefs within communities

Interviews and analysis of interviews conducted and the speeches analysed reflect the prevailing *discourses of disapproval* in both politicians and judicial officers and regret *the lack of public understanding*. Judges continually say that they welcome media scrutiny but the constant attacks are a major focus of concern and show in their comments in speeches where judicial stress is also spoken about. It is **unrealistic** to think that an organisation *can survive continuous criticism and public opprobrium without being modified*.

But other than media as the vehicle and main conduit to promote understanding of courts not much has changed since the Lippmann Study of 1922 or Cicero's view of 65 BCE. There are solutions however and a selection of ideas has been presented for consideration.

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