

# A Contrastive Study of Conceptual Metaphor in Chinese and American Courtroom Discourse

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**Abstract**—Based on the corpora of 20 Chinese cases from *Court Insession* and 20 American cases from *Famous Trials*, the current study aimed to apply Conceptual Metaphor Theory to carry out a contrastive analysis of the main conceptual metaphors between the two countries' corpora and further explore the reasons for selecting the same and different conceptual metaphors in the two courtroom discourses. By analyzing the two countries' corpora, the result showed that life experience and the way of thinking are the main reasons for similarities of the conceptual metaphors between Chinese and American courtroom discourses, while cultural connotation and social environment account for the dissimilarities of the conceptual metaphors in Chinese and American courtroom discourses.

**Index Terms**—conceptual metaphor, critical discourse analysis, courtroom discourse

## I. INTRODUCTION

Metaphors have been studied continuously for a long time. In traditional view, metaphors are treated as a rhetorical figure of language. However, in contemporary theories, metaphors are in fact a matter of thought and action. As Lakoff and Johnson published the book *Metaphors We Live By*, Lakoff and Johnson (1980) hold that metaphors are no longer just a way of expressing ideas by means of language, but a way of perceiving, thinking and acting; they are pervasive in our daily life regardless of culture, race, society, status etc., and they are the important way that we live by.

In legal scholar's view, legal language has the property of formalism, objectivity and accuracy. Therefore, any use of rhetoric is a kind of damage to legal language which will lose its authority and binding force. Jeremy Bentham (1931) holds that metaphors are not rational, but the opposite of the law. Lord Mansfield warns there is no more easily mislead people than metaphors in the law (Ross, 1989).

Regardless of the objections of some legal scholars, metaphors are pervasive in our language. "Metaphors are not simply rhetorical devices but are fundamental to the way we think" (Smith, 2007, p. 919). Lakoff and Johnson (1980) state that we define our reality in terms of metaphors and then proceed to act on the basis of the metaphors. Thus it can be seen that metaphors, as a critical way of thinking, is just as important to lawyers as it is to others (Oseid, 2010). No matter what opinions the scholars hold, there is an increasing study on metaphors in legal language from the perspective of cognition abroad.

Tsai Robert L. (2004) conducts a detailed analysis on the metaphors "speech is fire" in American legal judgments, believing that metaphors have special cognitive and constructive effect in legal discourse. Berger Benjamin L. (2002) focuses upon the explanatory and persuasive powers of the metaphors when used in judicial decision making. Hibbits Bernard J. (1994) discusses the nature of metaphors, analyzes the importance of metaphors in thinking and legal reasoning and highlights the thriving of audibility in American legal discourse. Steven Winter (1988) discusses the metaphors of standing and the problem of self-governance. Moreover, Adams Arms and Elizabeth Thornburg (1995) hold that the metaphors of fight, sports and gender greatly influence the leading roles in legal discourse, especially in litigation and women's subordinate status. In the case of technology and law, Harmeet Sawhney, Venkata Ratnadeep Suri and Hyangsun Lee (2003) add a new dimension – metaphors help establish precedents. They find out that "metaphors are the only conceptual tool we have for understanding the development of a new technology". Thomas W. Joo (2002) and Jeffrey M. Lipshaw (2012) pay attention to the role of metaphors in contract law.

According to the cognitive linguistic view, metaphors are essentially a cross-mapping. Metaphors pervade everywhere, regardless of their nation, culture, social status, educational background, sex, etc. Courtroom discourse, as a natural part of law in our times, plays an important role in our daily life. Courtroom discourse is rather abstract for most people to understand. To improve the situation, the abstract notions in the law are expressed via the metaphors. Berger (2002) remarks that the metaphors are an instrument used in the persuasive project of judicial decision making, an undertaking to arbitrate disputes and interpret legal principals while maintaining and asserting the legitimacy of the law.

## II. RELATED THEORETICAL BASIS FOR THE RESEARCH

Conceptual metaphor includes two domains: the source domain and the target domain. The source domain is more concrete whereas the target domain is more abstract. Based on the source domain, we can understand the target domain. As Lakoff and Johnson (1980) note, because a large amount of concepts which are significant to us are not abstract and familiar, or ambiguously explained in our experience like the feelings, thinking, time, etc., it's a must for us to understand on them based on other concepts that we realize in clearer terms such as spatial orientations, objects, etc. For example, in the metaphor LOVE IS JOURNEY, the source domain is JOURNEY and the target domain is LOVE. Based on the cognitive functions, Lakoff and Johnson (1980) divide conceptual metaphors into three categories: structural metaphors, ontological metaphors and orientation metaphors.

**Structural Metaphors:** Structural metaphors mean that the structures of the source domain are systematically mapped onto the target domain. For example, LOVE IS JOURNEY. LOVE and JOURNEY have some certain similarities between them. We conceptualize this concept LOVE which is more abstract compared with the concept of JOURNEY by projecting some characters from JOURNEY to LOVE, such as “travelers” and “lovers”, “vehicle” and “love relationship”, “obstacles and difficulties experienced”, etc.

**Ontological Metaphors:** Ontological metaphors can be considered as “ways of regarding events, activities, feelings, thoughts, etc. as entities and substances” (Lakoff and Johnson, 1980, p. 25). Based on this view, the metaphors allow the comprehension of our experiences in terms of concrete entities or substance. Lakoff and Johnson (1980) further divided the ontological metaphors into three types: entity and substance metaphors, container metaphors and personification.

**Oriental Metaphors:** Oriental metaphors are grounded in the physical experience of people dimensional, and provide a concept a spatial direction. Thus, it's very normal for us to use orientational metaphors to understand or describe more abstract concepts like emotion, psychological state, health condition, and so on.

### III. ANALYSIS OF TYPES OF METAPHOR IN THE TWO COURTROOM DISCOURSES

#### A. Types of Conceptual Metaphors in Chinese Court Discourse

There are twenty cases in the Chinese corpus. The cases mainly are drawn from *The Court Is Now In Session*, which consists of a lot of exciting courtroom debates and arguments. The objective, truthful and rich language forcefully reflects the usage of conceptual metaphor in courtroom; as such, seven main conceptual metaphors are discovered, including journey metaphors, war metaphors, plant metaphors, human body metaphors, building metaphors, circle metaphors and chess metaphor.

##### *Journey Metaphors*

Journey metaphor is a model example in Lakoff and Johnson' Conceptual Metaphor Theory. For example, they once put forward the conceptual metaphor LOVE IS A JOURNEY to explain. Then Lakoff and Turner (1989) proposed a more famous conceptual metaphor LIFE IS A JOURNEY. Lakoff (1993) formulated the The JOURNEY metaphor as PURPOSEFUL ACTIVITY IS TRAVELING ALONG A PATH TOWARD A DESTINATION. Journey metaphor usually contains such key words like bear, burden, obstacles, destination, etc. Journey metaphor is used to describe the development or progress of the cases or the trials in the courtroom. A CASE IS A JOURNEY and A TRIAL IS A JOURNEY. The plaintiff and the defendant can be considered as “travelers on the journey of the trials”. the progress they have made is expressed by the “distance they have covered”. The troubles they meet can be treated as “obstacles in the case”. The destination they want to reach can be seen as “the rights they need to protect”, and at the same time, they should also “bear” the obligations. Journey metaphors belong to structural metaphors. The elements of a journey are systematically mapped onto cases or trials.

TABLE 4-1  
A CASE OR A TRIAL IS A JOURNEY

source domain	Mapping	target domain
Journey		case or trial
Traveler		the plaintiff and defendant
Distance		progress
Obstacles		troubles
destination		Rights and obligations

The following examples are found in the Chinese corpus:

C1<sup>1</sup>: 但最后的结果使我走到了今天, 给股民、给自己都造成很大的经济损失, 我向股民表示歉意, 也希望法官和股民给我一次将功补过的机会。

C2: 这是非常痛苦的, 我终身也不忘掉, 用我老伴的生命去冒这个险。

<sup>1</sup> Note: C represents Chinese examples in the Chinese corpus, while E (see below) represents English examples in American corpus.

C3: 我国法制建设的现实情况及法律教材编写修订的自身规律决定了法学教材既不可能超前于现行的法律、法规，也不可能与现行法律、法规同步。

In example C1, “走” means the destination you choose to go in the source domain which can be projected onto the target domain “turn him on the journey of crime”. Examples of C2 indicates that people may meet many difficulties, obstacles or risks to acquire truth during the journey of justice. In example C3, the source domain “超前”, “同步” expresses the metaphorical meaning of law and the legal textbooks as travelers on the journey.

#### **War Metaphors**

War is the inevitable topic in the world from ancient times. The key words associated with war metaphors are rivals, war, win, weapons, etc. THE LITIGATION IS A WAR OR A FIGHT. THE ARGUMENT IS A WAR. The judge prosecutor, plaintiff, defendant and their respective lawyers can be considered as “rivals in litigation or in argument”. The evidence can be seen as “weapons used by parties”. The winner is One party that beat the other party called the loser. Beating the enemy is the aim of the war and the purpose of litigation or argument is to win the other party and protect their justice or acquire their rights. War metaphors are considered to be structural metaphors. We can find that most of the characteristics of a war are systematically mapped onto litigation or argument.

TABLE 4-2  
THE LITIGATION OR THE ARGUMENT IS A WAR

source domain	Mapping	target domain
War		the litigation or the argument
Rivals		the judge, prosecutor, plaintiff, defendant and their respective lawyers
Weapons		evidence
Triumph/win		rights, justice, interest
Failure/lose		obligations, duties responsibilities

The following examples will be proved.

C4: 他认为，日本丰田自动车株式会社要在中国市场奋起直追，就要甩开吉利这个对手。

C5: 客户确实是以王林岩销售时有误导行为，以夸大回报的行为来公司投诉的，当时客户就误导这一块没有相关证据来支持，用一句白话说就是没有什么硬伤。

C6: 正因为有王岩林的代签字，公司已经作出很大让步了，只追回她的佣金已经是很客气了，这个代签字导致了公司还有其他很多损失。

In examples C4 and C5, “对手” and “硬伤” respectively refers to the defendant and the evidence. In examples C6, “让步” belongs to the category of war. Since these words are grounded in people’s mind, and the features of war are projected onto litigation or argument, people can understand these words in legal relationship easily.

#### **Plant Metaphors**

Metaphors from the domain of plant are the conceptual metaphor, e.g., A CASE IS A PLANT. Plant metaphors are ontological metaphors. The developing process of the case is just like the growing process of plant. A strong root deep in the earth can make plant growing. In this domain, the keywords “根”, “源” and “本”, which have the meaning of, or are closely related to “root”, appear most frequently in the Chinese corpus.

TABLE 4-3  
A CASE IS A PLANT

source domain	mapping	target domain
Plant		case
Fruits		the results or the consequences of the case
Roots		the reason of the case

We can find the following:

C7: 我理解 52 户居民的心理，理解噪音对他们造成的危害后果，所以我非常赞同他的观点。

C8: 本案的最终处理结果有待于有关执法部门对众阳公司销售的“香武仕”产品是否构成欺诈作出结论。

C9: “香武仕”这个品牌是真是假，根源在哪里，根源就在刘燕生这里。

From the above conceptual metaphors, “后果” indicates that the damage fact has created some harmful consequences. “结果” shows that the case will have an ending finally. “根源” implies the legal relationship and logic relationship in the cases where people should find the basic reason.

#### **Human Body Metaphors**

Our body consists of many different kinds of organs, and our bodies also need to take part in the legal activities. If one involves in the case or a legal relationship, the part of body will represent themselves. For example, MORALITY IS HEART, THE PSYCHOLOGICAL EFFECT IS HEART, and LAW IS EYES. Human body metaphors also belong to ontological metaphors. Therefore, people are accustomed to these expressions that contain the organ of the body.

C10: 尤其是发生在小孩身上，我觉得他们在良心上也会过不去的，就算是父亲给女儿挣个脸面，讨个说法也是应该的。

C11: 上述事实足以说明第二被告宇天能利用人们对中科院院士的信任与尊敬，以达到其误导消费者购买产品的目的，用心何其良苦！

C12: 作为小倩的母亲，原告是在不忍心让女儿幼小的心灵再受创伤。

In Examples C10, “heart” is an important organ of people. Once heart stops working, people will die. “heart” is always used by people to realize the concept of morality, like “良心”, “忍心” and “用心”. The “heart” also refers to the psychological effect, like in example C12, “心灵”. Without eyes, people can hardly do anything. How People view the world is also through the eyes, too. Therefore, “Eye” is a very important organ for human beings.

#### **Building Metaphors**

Chateris-Black proposed that building metaphors stem from a conceptual metaphor SOCIETY IS A BUILDING. In Chinese courtroom discourse, the domain of building can be projected onto the process of legal relationship development. Here we have the top-level conceptual metaphors: THE CASE IS A BUILDING, A CRIME IS A BUILDING. Building metaphors are ontological metaphors. A key revealing this metaphor is the word “建”, and under this keyword, there are a great number of derivative words such as “建设”, “创造”, “改造”, “建立”, “构成”, and so on. What follows are some examples:

C13: 因为这个案子是在集资建房合同的基础上成立的，在房屋建成前所有权归开发商所有。

C14: 他的行为不正当，是采取符合敲诈勒索罪构成要件的行为来进行的。

Just as a building needs a solid basis, the legal relationship needs a stable foundation. As for examples C13 and C14, the contract is the foundation of the case building, and his wrongfulness is the basis of the crime building.

#### **Circle Metaphors**

Circle is deeply rooted in Chinese ancient culture, which means sky, the sun, the earth, the unity, etc. And it symbolizes good things. When we refer to the success of some activities or events, we always say “圆满成功”. However, in legal relationship, circle always refers to the fraud, so we have the key word “圈套”. Apart from that, circle means the segment of the link of the whole case. Sometimes, circle refers to arguments, for people make arguments around the focus of events. Therefore, we have following conceptual metaphor: THE FRAUD IS A CIRCLE, THE SEGMENT OF A CASE IS A CIRCLE and THE ARGUMENT IS A CIRCLE. Circle metaphors are ontological metaphors.

C15: 辩论意见主要是围绕着双方争议的焦点，即精神损害赔偿问题进行。

C16: 每一个被认定涉嫌犯罪的行为都应具备独立的完整的犯罪构成要件，不见要看某个环节，更要看全过程。

C17: 李爽被指控犯罪是其丈夫设下的一个圈套。

In example C15, “围绕着” means the arguments made by people is like a circle, which circle round the central point. In example C16, “环节” refers to the part of the act which committed the crime. In example C17, we can easily find that the fraud is a circle.

#### **Chess Metaphors**

Chess playing is familiar to us, and many of us know the term like “大局”, “全局”, “布局” and “设局” very well. Under the chess metaphor, the whole case or the country is conceptualized as a chessboard. Therefore, the conceptual metaphors here are A CASE IS A CHESSBOURD, and A COUNTRY IS A CHESSBOARD. Chess metaphors belong to ontological metaphors.

C18: 所谓的丹麦产的“香武仕”音响只是一个骗局，已经成为众所周知的事实，无需举证。

C19: 处理好改革、发展和稳定的关系是全国的大局。

In example C18, “骗局” refers to the law breaker who wants to gain some benefits take some illegal measures to design and create the fraud. In example C19, “大局” means people take the whole situation into consideration and sometimes can make sacrifice when necessary.

### B. Types of Conceptual Metaphors in American Court Discourse

In American, legal system is based on the case law. Unlike the previous Chinese model, in which the proof-taking and fact-finding processes are officially conducted, the American judicial system contains a very important litigation procedure, the cross-examination in the criminal procedures, thereby creating an antagonistic atmosphere in the courtroom which makes litigation procedure more adversarial. Berger holds that “The judicial opinion is not just a reflection of a opinion and a representation of authority but also a device that must persuade while maintaining the legitimacy of the legal system” (Berger, 2002, p. 30). He also believes that “a critical component of the judge’s linguistic toolbox is metaphor and that this device is most necessary and effective at these turning points in the law” (ibid). Therefore, in this part, we should pay attention to the kinds of metaphors used in American courtroom, and how the metaphors mold the future development of jurisprudence.

There are twenty cases in the American corpus. The cases are mainly drawn from *Famous Trials* by Douglas O. Linder on the University of Missouri-Kansas City (UMKC) School of Law website. Famous trials went on line in November, 1995, which is older than more than 99.96% of all websites. Therefore, the cases that the author selected are very classical. A large quantity of metaphors in these cases can bridge the gap between the abstract and the concrete.

Similar to those in the Chinese corpus, metaphors are also from a great number of domains that are closely related to our personal experience and social activities in everyday life. In the American corpus, seven main conceptual metaphors are found, i.e., journey metaphors, war metaphors, plant metaphors, human body metaphors, building metaphors, religion metaphors, and fire metaphors.

#### **Journey Metaphors**

In American corpus, journey metaphors usually contain such key words like “travelers”, “distance”, “starting point”, “speed”, “go head”, “obstacles”, “destination”, etc. As in Chinese courtroom discourse, journey metaphors are used to describe the development or progress of the cases or the trial in the courtroom. Therefore, the conceptual metaphors are A CASE IS A JOURNEY and A TRIAL IS A JOURNEY. The following examples are found in the American corpus.

E1: When Judge Huxman replied, “All right, go ahead and tell it.”

E2: We doubt that the time has arrived when Americans can be “gotten” for the crime of telling the truth.

E3: The crime was more an escape from the ordinary.

In example E1 and E2, “go head” and “arrive” are used to mean the process and the development of the case or the trial in the courtroom. In example E3, the source domain “escape from” expresses the metaphorical meaning of crime as travelers on the journey.

#### **War Metaphors**

In American corpus, the key words associated with war metaphors are “attack”, “defense”, “fight”, “controversy”, “rival”, “struggle”, “dispute”, “competition”, “occupy”, “violate”, “damage”, “strike”, etc. Like war metaphors in Chinese courtroom discourse, THE LITIGATION IS A WAR and THE ARGUMENT IS A WAR also come into being in American courtroom discourse. However, compared with war metaphors used in Chinese courtroom, the antagonistic atmosphere which war metaphors create is more obvious in American courtroom, as can be evidenced by the following examples:

E4: “Well, let’s begin,” the Chief Justice announced, adding, “Fight fair”.

E5: He was investigating me, not defending me.

E6: Both sides have spoken in absolutes while it strikes many of us as a closer call.

In example E4, the judge uses the word “fight” to describe this litigation as a fair competition. In examples E5 and E6, “defend”, “strike”, which aim to defend the rights of the defendant himself or herself, are presented by the commissioned defender under the scope of means of attack and defense according to the phrase of the litigation or the argument.

#### **Plant Metaphors**

Compared with the high percentage of metaphors in the American corpus, plant metaphors make up a relatively smaller proportion. Plant is a very general and concrete source domain of natural world. Lakoff and Johnson (1980) have described the conceptual metaphor of plant as IDEAS ARE PLANTS. In American corpus, the conceptual metaphor of plant can be generalized as A CASE IS A PLANT. And the most frequent keywords are “root”, “growth”, “ground”, etc., which are usually used to express the development of cases. Here are some examples about plant metaphors in the American corpus:

E7: The prosecution objected on the ground of hearsay.

E8: The public looked for a response to the growing violence in their city.

In example E7, “hearsay” has become the plant which the prosecution is based on. In example E8, “violence” is seen as the plant which is on the increase continuously in the city.

**Human Body Metaphors**

In American legal discourse, there is a large quantity of human body metaphors, especially “heart” metaphors. A metaphor can have the ability to bridge the abstract and the concrete. Therefore, people always use the concrete heart to symbolize the abstract concept. THE PSYCHOLOGICAL EFFECT IS HEART. Besides, brain always refers to the thought of people. THOUGHT IS BRAIN. Therefore, people are accustomed to these expressions which contains organs of the body.

E9: Goodell’s heart was really in this case.

E10: To look into the heart of Zimmerman and remember that if he had done what he should have done – stay in his car and wait for the police to arrive – Trayvon Martin would still be alive.

Example E9 expresses that Goodell’s attention has not focused on the case. In example E10, the heart also refers to the psychological effect, or the true feeling of the person. “Brain” is also an important organ of human being.

**Building Metaphors**

Comprehending our experience in terms of objects and substances make us to choose sections of our physical experience and regard them as individual entities or substances of a homogeneous kind (Lakoff & Johnson, 1980). Therefore, we can treat our physical experiences as entities, so we can group them, quantify them and categorize them. In both corpus, people employ the building metaphors. The crime or the case can be conceptualized as a building, thus we have the conceptual metaphors, e.g. “A CRIME IS A BUILDING”, and “A CASE IS A BUILDING”. There are a great number of relevant key words such as “establish”, “door”, “bridge”, “build”, and so on. What follows are some examples:

E11: Simpson’s guilt that the prosecution would establish during the trial.

E12: Ito’s decision opened the door for the defense to offer its rather fantastic theory.

E13: J. Edgar Hoover urged his Bureau employees to aggressively attempt to build a triable case against Ethel.

In examples E11 and E12, “establish” and “build” express the case or the crime which are conceptualized as the outcome of a staged process. In the domain of building, the most frequently used metaphors in the corpus that refer to the types of building are “door” and “bridge”. Obviously, in example E13, people make their arguments more persuasive and understandable by application of such metaphors.

**Religion Metaphors**

Every stage of people’s life is influenced by religion, so that it plays an important role in western culture. In western countries, as a kind of cultural phenomenon, religion affects people’s ideology in a unique way. It’s no surprise to mention that religion metaphor is a familiar role in the history of America. In American courtroom discourse, people use religion metaphors to exert religious ideological function. Religion metaphors are structural metaphors. The most frequently used metaphors of religion domain are “god”, “belief”, “evil” and “hell”, which derive from the conceptual metaphor of LAW IS RELIGION.

TAB.4-4  
LAW IS RELIGION

source domain	mapping	target domain
religion		Law
God		spirit of law
Evil/satanic stuff		crime
believe in/belief		faith in law

For example:

E14: Whatever happens, it is God’s will.

E15: This is not a case of hear no evil, see no evil. This is a case where there was no evil.

From the above expressions, we can find that words like “God”, and “evil”, in the domain of “religion” are projected onto the domain “law”. Understanding these words is dependent on people’s common knowledge.

**Fire Metaphors**

Fire symbolizes burning and passionate. In a series of controversies in the wake of World War I, fire and law become fatally entwined (Tsai, 2004). Oliver Wendell Holmes has become a promethean fire-giver who believes in the conceptual metaphor “SPEECH IS FIRE”, which is projected from the source domain fire to the target domain speech. Fire metaphors belong to ontological metaphors. Fire signifies the key characteristics of speech that the justices wish us to contemplate. We can find numerous examples in the American famous trials:

E16: There was another man not too long ago in this world who had those same views, who wanted to burn people, who had racist views, and ultimately had power over people in his country.

E17: A single revolutionary spark may kindle a fire that, smoldering for a time, may burst into a sweeping and destructive conflagration.

Speech is like fire, ignited by the speaker. In example E16, speech is fire which can burn people. In examples E17, Frohwerk's "little breath" becomes "Gitlow's spark". When sacred flame is invoked in this way, we become afraid. Our danger instinct is immediately engaged.

### C. Comparative Analysis and Findings

The above examples demonstrate that there are similarities and dissimilarities of the conceptual metaphors between Chinese courtroom discourse and American courtroom discourse. The table below clearly shows similarities and dissimilarities between the Chinese courtroom discourse and American courtroom discourse.

TABLE 4-5  
SUMMARY OF MAIN CONCEPTUAL METAPHORS IN CHINESE AND AMERICAN CORPUS

Source Domain	Conceptual Metaphors in Chinese Corpus	Conceptual Metaphors in American Corpus
Journey	1. A CASE IS A JOURNEY 2. A TRIAL IS A JOURNEY	
War	1. THE LITIGATION IS A WAR. 2. THE ARGUMENT IS A WAR.	
Plant	A CASE IS A PLANT	
Building	1. A CASE IS A BUILDING 2. A CRIME IS A BUILDING	
Human body	1. MORALITY IS HEART 2. THE PSYCHOLOGICAL EFFECT IS HEART 3. LAW IS EYES	1. THE PSYCHOLOGICAL EFFECT IS HEART 2. THOUGHT IS BRAIN
Circle	1. THE FRAUD IS A CIRCLE 2. THE SEGMENT OF A CASE IS A CIRCLE 3. THE ARGUMENT IS A CIRCLE.	
Chess	1. A CASE IS A CHESSBOURD 2. A COUNTRY IS A CHESSBOARD	
Religion		LAW IS RELIGION
Fire		SPEECH IS FIRE

From the above table, we can see that the conceptual metaphors employed in both Chinese and American courtroom discourse have some similarities and dissimilarities. Meanwhile, we can conclude that the way Chinese people and American people view, understand and involve in the law is different. Living in the same world, Chinese people and American people's physical experience and culture background are somewhat similar. Because of the life experience, Chinese people and American people all convinced that A CASE OR A TRIAL IS JOURNEY, and hold that THE LITIGATION OR THE ARGUMENT IS A WAR. They treat A CASE as PLANT, and view THE PSYCHOLOGICAL EFFECT as HEART. They agree that A CRIME OR A CASE IS A BUILDING.

However, differences also exist. For example, ILLEGAL ACTIVITIES IS BLACK, MORALITY IS HEART, LAW IS EYES, A COUNTRY IS A BUILDING, THE FRAUD IS A CIRCLE, THE SEGMENT OF A CASE IS A CIRCLE, THE ARGUMENT IS A CIRCLE, A CASE IS A CHESSBOURD and A COUNTRY IS A CHESSBOARD, are specially used by Chinese legal courtroom discourse. ATTENTION IS HEART, THE CENTER IS HEART, LAW IS RELIGION and SPEECH IS FIRE are specially employed by American legal courtroom discourse. Because of different courtroom' culture, history background and religious belief, people from China and America view the same thing differently. Conceptual metaphor is powerful. Oseid (2010) proposes that Metaphor has been eternally criticized for its inability to capture every nuance and delicacy contained in abstract concepts. Yet, metaphor is the way all human, including lawyers, make sense of difficult ideas. We should choose concrete, creative, and analogic metaphors. The way two people in two countries use metaphors is different. Take A CASE IS A CHESSBOURD for example. This metaphor is used by Chinese people, for in Chinese history, people like playing chess very much. They often see the chessboard as their life. In legal actions, people also prefer to treat the chessboard as the case to analyze the legal relationship.

## IV. CONTRIBUTING FACTORS FOR THE SIMILARITIES AND DISSIMILARITIES

The reasons for the similarities and dissimilarities of the conceptual metaphors used in Chinese courtroom discourse and American courtroom discourse are explored as follows:

### A. Underlying Reasons for the Use of Same Conceptual Metaphors

Lakoff & Johnson (1980) once claim that our communication is dependent on the same conceptual system which we use in thinking and acting. People live in one world, so their way of thinking and life experience sometimes are similar.

#### (1) Way of Thinking

Conceptual metaphors present great similarities in different languages. The way of thinking also shows that how people think about law, and reflects the similarities in different countries.

Lakoff & Johnson (1980) holds metaphor is a cognitive process by which we understand one conceptual domain in terms of another. In spite of great difference between Chinese and English, they consider the law in the same way, so both languages can produce similar metaphorical expressions. For instance, same conceptual metaphor A CASE OR A

TRIAL IS A JOURNEY in Chinese and American courtroom discourse is used. A CASE OR A TRIAL is the target domain, while A JOURNEY is the source domain. The target domain is consistent with the source domain. The plaintiff and defendant can be considered as “travelers on the journey of the trials”. Their journey is not smooth. The troubles they meet can be treated as “obstacles in the case”. The destination they want to reach can be seen as “the rights they need to protect”, and at the same time, they should also “bear” certain obligations. The elements of a journey are systematically mapped onto cases or trials. every matching system is well played and organized in this mapping.

In other words, the plaintiff and defendant correspond with travelers; the aim of the cases or trial is consistent with the destination of the journey; and they treat the frustration of the case or the trial as the difficulties of the journey. So they relate the knowledge of the case or the trial to the knowledge of the journey in their mind. Based on the common thought, the knowledge of the journey is able to make people have a better understanding of the concept of case or trial. Therefore, both Chinese people and American people choose the same conceptual metaphor: A CASE OR A TRIAL IS A JOURNEY.

Lakoff and Johnson (1980) think that metaphors are to realize and experience one thing through another thing. The common thought or sense of the two countries' people produces the similar conceptual metaphors in both Chinese courtroom discourse and American courtroom discourse. The system of conceptual metaphor, which is rooted in people's thought, is the mechanism which makes us understand the abstract or unfamiliar things by means of concrete and familiar things to us. The same cognitive process can cause the similar metaphorical expressions in both China and American courtroom discourse. Therefore, in the Chinese courtroom discourse and American courtroom discourse, people also conceptualize THE LITIGATION or THE ARGUMENT as WAR, and PLANT as CASE. The two countries' people also regard THE PSYCHOLOGICAL EFFECT as HEART.

#### (2) Life Experience

It's no doubt that similar life experience is the other main factor which leads to the choice of the same conceptual metaphor by people in two country. Most ontological metaphors treat things or activities as journey, because it could help us better understand the abstract concept through the concrete concept, journey. Therefore, we can find that the traveler of the journey, the obstacles encounter, and the destination of the journey, etc. in Chinese and American courtroom discourse. We can also conclude that both two countries' people consider case or a trial as journey. The similar perspective makes both two countries' people conceptualize the same conceptual metaphor: A CASE OR A TRIAL IS A JOURNEY.

Meanwhile, war is another familiar phenomenon to us in our daily life, regardless of sex, social status, culture and educational background. They all learn some knowledge about wars in history textbooks or on TV. For instance, the book “Sun Tzu's The Art of War” is well known to Chinese people, and the idioms from that book is over worn by us in our daily life. While in America, war also makes a great impression on American people, because of Iraq War, 911 Terrorist Attack, and so on. In social life, legal measures against crimes are as important as the victory in military warfare. Though Chinese people and American people have their own knowledge of war, they all know that war is full of characteristics, like blood, rights, struggle, weapons, fight, protection, etc. Therefore, both two countries' people use the conceptual metaphor THE LITIGATION OR THE ARGUMENT IS WAR.

Similarly, both Chinese and American people consider PLANT as CASE. No matter whether in Chinese or American culture, plants always need water, sunshine, soil and people's good care to grow up. At the same time, Chinese people and American people both think that the developing process of the case is just like the growing process of plant. Plant metaphors used by two countries' people to make a connection between the relations of things which can produce an outcome in the cases. So in the Chinese courtroom discourse and American courtroom discourse, both two countries' people make the conceptual metaphor of “A CASE IS A PLANT”.

### B. *Underlying Reasons for the Use of Different Conceptual Metaphors*

Although the use of metaphors is universal, the choice of explicit metaphors for illustrating the world is frequently culture-specific. Therefore, people from different cultures would find it difficult to understand complicated metaphors in another culture.

#### (1) Cultural Connotation

The cultural connotation is the main reason for American people and Chinese people to choose different conceptual metaphors. The religion culture and chess culture that all belong to the cultural connotation will be discussed below:

Religious culture plays an important role in human culture, and it refers to the one kind of culture that formed by a nation's belief, ideology, consciousness, and religion. America is a highly religious nation, and religion nearly covers every aspect of social life. Most of Americans have a deeply faith in Christianity, which also has a deep influence on language, so it is no exception for metaphors. Many metaphors are formed through the spreading of Christianity, and these metaphors are vivid and lively. Bible is the classic in Christianity to the whole world, so there are many metaphors in the Bible and some metaphors derive from Biblical stories. In such cultural environment, it's not difficult to find why there exist so many religion metaphors in the American courtroom discourse. In contrast, in Chinese culture, most people do not believe in religion because of the wide publicity of materialism, thus there are nearly no metaphors in Chinese language. So, it is easy for us to understand why religion metaphors are so popular in American courtroom discourse.

In ancient China, piano, chess, calligraphy and painting are important cultural activities for scholars and literati to



improve and perfect themselves. In modern society, playing chess is also one of the most important entertainment activities for Chinese people, especially the old in their daily lives. However, in America, people usually talk about the weather, sports, films and other entertainment activities in their spare time. Thus, it can easily explain why chess metaphors are unique to the Chinese corpus.

## (2) Social Environment

SPEECH IS FIRE is a conceptual metaphor, which belongs to the Ontological Metaphors. The ontological metaphors allow the comprehension of our experiences in terms of concrete entities or substance. Conceptual metaphors are conceptualized from our experience, and use the conceptualized experience to explain the abstract concept.

At the beginning of the 20th century, American big cities, like San Francisco, Chicago and New York caught city fire which destroyed the whole big communities. In 1906, the earthquake and the fires in San Francisco make 25000 buildings razed to the ground, 500 people were killed and hundreds of people homeless. San Francisco then gains the name of "hell city". This metaphor has broad-based cognitive force, not only because of citizens' experience with fire in daily life, but also because of an important source of the visceral sensations associated with war abroad, dissent and occasional violence at home, and the ideological challenge of socialism.

Individualism is the most important factor and most marked feature in American culture. American prefer to run after freedom and self-improvement, so the heart of American ideology is "freedom, equality and democracy of the individual". Americans focus on human right and individualism, so personal benefits occupy an important position in American culture. In American, people believe in law, and root their faith in law. American people can solve their problems by using the weapon of law. Morality can not solve anything. Nowadays, China is also likely to encourage people to pursue freedom and independence. As a representative of socialist countries, China emphasizes the realization of people's self-development, freedom and equality under the situation of the whole country's development. Besides, communism is the ultimate goal of China, and we should hold on socialism as the current central value system. Therefore, China emphasizes that the rights of democracy, freedom and equality are public. Chinese are unlikely to solve problems in the courtroom. So we can easily understand why MORALITY IS HEART takes a large proportion in the heart metaphors in Chinese corpus.

## V. CONCLUSION

This study has made a contrastive study of conceptual metaphors in 20 Chinese cases from *The court is now in session* and 20 American cases from *Famous Trials* in terms of Conceptual Metaphor Theory and the approach of Critical Discourse Analysis. Similarities and dissimilarities of the conceptual metaphors in the two countries' courtroom discourse are explored, and reasons why two countries' people use these conceptual metaphors are analyzed. The use of metaphor is a very popular phenomenon in legal courtroom discourse. Despite the conceptual metaphor is proposed in the English language, but the abundant existing in the Chinese has illustrated the universality of conceptual metaphor. The major conceptual metaphors in the two corpora are: Journey Metaphors, War Metaphors, Human Body Metaphors, Building Metaphors, Plant Metaphors, Circle Metaphors, Chess Metaphors, Religion Metaphors and Fire metaphors. Additionally, based on the contrastive study, the similar conceptual metaphors are: Journey Metaphors, War Metaphors, Building Metaphors, and Plant Metaphors. In addition, according to the classification, some conceptual metaphors share the same name, but the content is different, that is to say, although they derive from the same source domain, they have different content, such as Human Body Metaphors. Moreover, there are some metaphors unique to each country, for example, in this thesis, Circle Metaphors and Chess Metaphors are unique to Chinese corpus and in American corpus, Religion Metaphors and Fire Metaphors are unique. This study explores the factors why people chose the same or different conceptual metaphors employed in the two countries' courtroom discourse. The research showed that life experience and way of thinking are the main factors contributing for similarities of the conceptual metaphors used in Chinese and American courtroom discourse. The findings also highlighted that cultural connotations, as well as social environments, are the main factors which influence the choice of source domain to express law.

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