

## **FIGHT Metaphors in Legal Discourse: What Is Unsaid in the Story?\***

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Within the theoretical and methodological framework based on the Conceptual Metaphor Theory, Critical Discourse Analysis, and corpus linguistics, this study examines FIGHT metaphors employed in Taiwan legal statutes and judgments and further identifies the influence of a new system of justice on language use. In identifying the metaphor LITIGATION IS A FIGHT and examining the interplay between language and ideology, we demonstrate that there was a clear shift in the type of discourse before and after the 2003 amendment, and reveal how ‘fight’ metaphorical lexical uses reflect litigant ideologies and further shape legal reality. The proliferation of FIGHT metaphors appearing in judiciary judgments after enacting the revised law suggests that the concept of FIGHT to individuals engaged in litigation may have been mapped unconsciously to their thoughts and may have the potential to affect subsequent discursive behaviors in the courtroom. We hence argue that FIGHT metaphors in legal discourse contain a latent effect that intensifies feelings of aggression and hostility. We further propose that the legal profession and any engaged individuals take a more reflective approach to their linguistic behaviors, whether oral or written, as well as to reconsider how FIGHT metaphors affect the legal culture and, by extension, the lives of individuals as part of society.

Key words: FIGHT metaphor, critical discourse analysis, ideology, legal discourse, Taiwan

### **1. Introduction**

In 2003, the Republic of China (Taiwan)<sup>1</sup> passed an amendment to the Code of

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Criminal Procedure that significantly altered the manner in which criminal proceedings are conducted. The original Code was based on the Continental inquisitorial model, while the amendment is derived from the American model. Unlike the previous inquisitorial model, in which the proof-taking and fact-finding processes are officially conducted, the amendment introduces cross-examination, an important litigation proceeding in the American legal system, into the existing criminal procedures, thereby creating an antagonistic atmosphere in the courtroom that is making litigation procedures more adversarial in nature. We propose that this newly enacted law has had far-reaching impacts on Taiwan's criminal procedures. One impact is the considerable changes in linguistic behaviors in the courtroom. Despite the pivotal role linguistic practices play in the implementation of the new system, relatively little research has been conducted on the interplay between language and ideology resulting from this new system of justice. Most of the related studies concerning this judicial change evaluate the old system and the new system from the perspective of jurisprudence (e.g. Hou 2002, Chen 2006, Huang et al. 2007, Lewis 2009). Since cultural, political, and economic change often affects the ideology of a group, the introduction of a new system in society may bring about, accordingly, a change in concept, especially if introduced via an ongoing process of discourse. This study thus aims to investigate the impact the new system has had on linguistic devices used to represent litigation after 2003, and to demonstrate how the introduction of the new system influences the ideologies of legal professionals and related litigants in Taiwan. The texts under analysis, composed of approximately 2,685,827,860 Chinese characters, are 134,141 official transcripts of the judicial criminal judgments of the Taiwan High Court extracted from the corpus of the Judicial Yuan of Taiwan (the highest judicial organization) from 2000 to 2007.

Ideologies, according to van Dijk, "form the basis of the social representations and practices of group members, including their discourse, which at the same time serves as the means of ideological production, reproduction and challenge" (for details, see van Dijk 1998). The reciprocal relationship between ideology and discourse is also of paramount importance in understanding how language use shapes the cognitive domain of human interactions (cf. Fairclough 1995, 2001, 2004, van Dijk 1996, 1998, 2001a, 2001b, 2006, among others). To explore ideology, metaphor serves as a good resource because it reflects processes of human thinking and acts as a useful tool for the investigation of mapping in thoughts and language. The notion of conceptual metaphor,

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<sup>1</sup> Although technically it is the Republic of China (R.O.C.), hereafter, this article uses 'Taiwan' to refer to both the political entity and the territory under the effective administration of the R.O.C. government.

developed by Lakoff and other researchers working within a cognitive approach to language and thought (cf. Reddy 1979, Lakoff & Johnson 1980[2003], Lakoff 1987, 1993, Lakoff & Turner 1989, Gibbs & Steen 1999, Kövecses 2002, among others), provides a helpful way for linguists to analyze ideologies implicit within language. Scholars investigate conceptual metaphors for the purpose of finding systematic conceptual correspondences between domains and hence unveiling the ideologies behind them (Charteris-Black 2004, 2005, Chiang & Chiu 2007, Koller & Davidson 2008, Lu & Ahrens 2008, among others). The analytic method adopted in this study is Critical Discourse Analysis (henceforth, CDA). CDA regards language as a kind of social practice and an inseparable part of social construction among which ideology serves an indispensable role. The ideology of the text producers, according to CDA, is often hidden in the subtle choice of linguistic forms, and only by examining them in a critical way can the ideological underpinnings of the discourse be unveiled. The analysis of metaphor, therefore, is one way in which the ideological motivations behind the discourse can be made explicit.

In this study, FIGHT metaphors, and their influential effects in particular, are examined. Influential effects refer to the ideological implications behind the use of metaphors that reflect the values and assumptions held by a specific community (i.e. in this study, litigants and legal professionals) that uses them. We chose FIGHT metaphors and their influential effects in legal texts as our research focus for the following reasons. First, as mentioned above, since the 2003 amendment, not only have court procedures taken place in a more antagonistic atmosphere but also this has resulted in a legal system that has become more adversarial in nature, making the legal environment more fight-like (for details, see §2.1). Second, though previous studies have shown that FIGHT metaphors are embedded in various kinds of public discourse (e.g. Lakoff & Johnson 1980[2003], Tannen 1998, Lönneker 2003, Koller 2004, 2005, Wallis & Nerlich 2005, Goatly 2007), few critical or metaphorical analyses were conducted on the use of FIGHT metaphors in legal texts. Among the few metaphor studies in the legal field, most have focused on the powerful role that legal metaphors play in enhancing legal reasoning and individuals' awareness of the nature of the law (Winter 1989, 1995, 2001, 2008, Hibbitts 1994, Tsai 2004, Bjerre 2005, among others). While metaphors are indispensable tools for helping individuals comprehend abstract concepts and abstruse legal doctrines, they may also limit human understanding by selectively highlighting certain features of an issue while marginalizing others. When one thinks of a 'fight', the concept of struggle and aggressiveness in relation to the issue of 'vanquish' or 'control' often comes to mind. Acceptance of the FIGHT metaphor in legal discourse may force one to focus only on those aspects of experience in which it highlights. Therefore, the influential effect the FIGHT metaphor has caused since the enactment of the 2003

amendment is worthy of our attention.

Specifically, we raise two research questions:

- (I) Which metaphors, specifically those related to the conceptual domain FIGHT, are used in legal judgments to portray the litigation?
- (II) What impact has the 2003 enactment of the new law system had on language use, in particular those lexical patterns associated with the domain 'fight', in a legal context?

Our hypothesis emerges from the Conceptual Metaphor Theory, which claims that metaphorical language is mainly a reflection of phenomena at the conceptual level. As such, we would expect more 'fight'-related metaphors to appear in the use of metaphorical language in legal judgments after the revision in 2003. Therefore, we hypothesize that because of the introduction of a new judicial system, judges would use FIGHT metaphors more frequently in their judicial judgments (i.e. the token frequencies of such metaphors would be higher) than they previously did, based on texts of court proceedings.<sup>2</sup>

Through the analysis of FIGHT metaphors in legal documents, we hope to reveal the ideologies underlying the litigation process and the latent effects of the employment of the 'fight' domain in the conceptualization of litigation. The results are expected to show an increasing frequency of FIGHT metaphors appearing in judicial judgments after 2003. We posit that social practices and their linguistic realization are inseparable; therefore, the findings of our study will contribute to the understanding of the role of language in constructing the concept of litigation, in addition to an understanding of how the power of words can influence courtroom behavior in legal procedures. We propose that any engaged litigants or members of the legal profession, whether they are judges, prosecutors, or defense attorneys, should take a more reflective approach to their linguistic behaviors, whether oral or written, as well as to reconsider how FIGHT metaphors affect legal culture and, by extension, individuals' lives as part of society.

## **2. Background information**

### **2.1 The 2003 revision of the Taiwan Code of Criminal Procedure**

In 2003, Taiwan revised the Criminal Procedure Code to implement a new legal system. The new law stresses an adversarial structure, embracing the cross-examination

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<sup>2</sup> By judicial tradition, the questioning and interaction between the litigant parties in the courtroom are commonly restated in judges' judgments.

process in legal proceedings. This indicates that the Taiwanese Criminal Procedure<sup>3</sup> is moving away from the Continental inquisitorial model and toward the American Criminal Justice system.<sup>4</sup> Cross-examination, according to John Henry Wigmore,<sup>5</sup> is the greatest legal engine ever developed for the ascertainment of truth. Although the adoption of the cross-examination process represents the public's interest in the pursuit of justice, the atmosphere it creates is one of antagonism between the parties involved. During cross-examination, every effort is made to attack the opposing party, which suggests that this procedure results in conflict rather than resolution.

## 2.2 The adversarial legal system

The adversarial legal system,<sup>6</sup> a system of law generally used in common-law countries, is defined in Black's Law Dictionary<sup>7</sup> as "The jurisprudential network of laws, rules and procedures characterized by opposing parties who contend against each other for a result favorable to themselves" (2004:53). Its earliest genesis can be traced back to the medieval mode of 'trial by combat,' where physical combat was used to resolve guilt or innocence in a trial (cf. Landsman 1983). While physical contact is no longer a recognized legal technique in a modern trial, 'adversarial fighting' is a practice that is used frequently in the adversarial system. A court decision is made based on the effectiveness of an adversary's ability to attack orally his or her opponent in order to convince the judge or jury that his or her perspective on the case is the correct one. This two-sided adversarial structure shapes not only the system of law but also its culture, including the nature of the courts and litigations, the training and the function of lawyers, and the way individuals resolve their conflicts.

Although the essential goal of the adversarial legal system is to discover the truth and pursue justice, it has been criticized as an inadequate, willful, dangerous, and

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<sup>3</sup> The Law of Taiwan is based mainly on the civil law system. Civil law, sometimes known as continental European law, is the most widespread system of law in the world. The emphasis of the legal system is placed on statutes rather than case law.

<sup>4</sup> The law of the United States was originally derived from the common law system of English law, which places great weight on court decisions rather than on statutory or regulatory laws.

<sup>5</sup> John Henry Wigmore (1863-1943) was a U.S. jurist and expert in the law of evidence. He is best known for his *Treatise on the Anglo-American System of Evidence in Trials at Common Law*, an encyclopedic survey of the development of the law of evidence, and a graphical analysis method known as a *Wigmore Chart*.

<sup>6</sup> In Taiwan, the term *adversarial system* is often rendered 對抗制 *duìkàng zhì*.

<sup>7</sup> Black's Law Dictionary, by Henry Campbell Black, is the most widely-used law dictionary in the legal profession. It has been cited as a legal authority in many Supreme Court cases. It is also the reference of choice for definitions in legal briefs and court opinions.

complexity-simplifying method of reaching a verdict (cf. Freedman 1975, Mashaw 1983, Menkel-Meadow 1996, Sergienko 2004, among others). Within this adversarial legal system, we have observed that Taiwan's codes or statutes regarding court proceeding and judicial behavior always employ lexemes related to the concept of 'fight' to express certain phenomena or regulations of litigation. For example, in (1) below, Article 196 of the Code of Civil Procedure of Taiwan states:

- (1) 攻擊 或 防禦 方法，除 別 有 規定 外，  
gongji huo fangyu fangfa chu bie you guiding wai  
attack or defense means except otherwise there is provision exception  
 應 依 訴訟 進行 之 程度，於 言詞 辯論  
 ying yi susong jinxing zhi chengdu yu yanci bianlun  
 shall according to litigation progress ASSOC<sup>8</sup> degree in oral argument  
 終結 前 適當 時期 提出 之。當事人 意圖 延滯  
 zhongjie qian shidang shiqi tichu zhi dangshiren yitu yanzhi  
 conclusion before due phase present them a party intend to delay  
 訴訟，或 因 重大 過失，逾時 始行 提出 攻擊  
 susong huo yin zhongda guoshi yushi shixing tichu gongji  
 litigation or because of gross negligence dilatory begin to present attack  
 或 防禦 方法，有 礙 訴訟 之 終結 者，  
 huo fangyu fangfa you ai susong zhi zhongjie zhe  
 or defense means to hinder litigation ASSOC conclusion [particle]  
 法院 得 駁回 之。攻擊 或 防禦 方法 之 意旨  
 fayuan de bohui zhi gongji huo fangyu fangfa zhi yizhi  
 the court may deny them attack or defense means ASSOC purpose  
 不明瞭，經 命 其 敘明 而 不 為 必要  
 bu mingliao jing ming qi xuming er bu wei biyao  
 not clear through order the party explain but not to do necessary  
 之 敘明 者，亦 同。  
 zhi xuming zhe yi tong  
 ASSOC explanation [particle] as well the same

'Except as otherwise provided, the means of attack or defense shall be presented in due course according to the phase of litigation before the conclusion of the oral-argument sessions. Where a party, attempting to delay

<sup>8</sup> The Chinese character '之 *zhi*' is used as a connector to associate two noun phrases (NPs). In this kind of expression, the first NP plus '之 *zhi*' is called the associative phrase, which is used to modify the second NP. With the associative phrase, we use ASSOC as a marker to signify '之 *zhi*'. (For details, see Li & Thompson 1981.)

litigation or through gross negligence, presents an attack or defense in a dilatory manner at the possible cost of a timely conclusion of the litigation, the court may deny the means of attack or defense so presented. The same rule shall apply when the purpose of the means of attack or defense presented is unclear and the presenting party fails to provide a necessary explanation after being ordered to do so.’

This statute utilizes fight-related lexemes, such as ‘attack’<sup>9</sup> and ‘defense’, which presents a confrontational atmosphere. A similar example in (2) below is taken from Article 105, Paragraph 4 of the Code of Criminal Procedure of Taiwan:

- (2) 依 前 項 所 爲 之 禁 止  
 yi qian xiang suo wei zhi jinzhi  
 in accordance with the preceding provision to make ASSOC prohibition  
 或 扣 押 ， 其 對 象 、 範 圍 及 期 間 等 ， 偵 查 中  
 huo kouya qi duixiang fanwei ji qijian deng zhencha zhong  
 or seizure its object scope and time period etc. investigation in  
 由 檢 察 官 ， 審 判 中 由 審 判 長 或  
 you jianchaguan shenpan zhong you shenpanzhang hu  
 by the public prosecutor trial in by presiding judge or  
 受 命 法 官 指 定 並 指 揮 看 守 所 爲 之 。  
 shouming faguan zhiding bing zhihui kanshousuo wei zhi  
 commissioned judge decide and command detention house enforce it  
 但 不 得 限 制 被 告 正 當 防 禦 之 權 利 。  
 dan bu de xianzhi beigao zhengdang fangyu zhi quanli  
 but NEG can restrain the accused justified defense ASSOC right

<sup>9</sup> Conceptual metaphor is defined as “a cross-domain mapping in the conceptual system” (Lakoff 1993:203) that includes two domains: the source domain and the target domain, which is understood in terms of the source domain. For example, in the metaphor ARGUMENT IS A WAR, the source domain is war and the target domain is argument; thus, the conceptual structure represented by WAR is mapped onto the domain of ARGUMENT. The concept of shooting, originally associated with a war, can be mapped onto ARGUMENT, which creates expressions such as “He *shot down* all of my argument.” In cognitive linguistic conventions, the source and the target domains are written in capital letters to distinguish between a metaphor, which is a conceptual cross-domain mapping, and a metaphorical expression, which is the instantiation of the metaphor in an utterance. In this study, a metaphorical expression will be in underlined italics, e.g. ‘...the means of *attack* or *defense* shall be presented in due course according to the phase of litigation ...,’ whereas a cross-domain mapping (i.e. conceptual metaphor) will be in capital letters, e.g. LITIGATION IS A FIGHT/WAR. Any keyword used to identify the conceptual metaphor is presented in a square.

‘The object, scope, and time period subject to the prohibition or seizure made in accordance with the provisions of the preceding section shall be decided, in the stage of investigation, by the public prosecutor, and in the stage of trial, by the presiding judge or commissioned judge. The same shall be enforced by the detention house under the instruction of the above referenced persons, provided that nothing can be done to restraint the accused’s justified right of defending himself.’

Whether in the statutes of civil law or criminal law, lexemes utilizing the ‘fight’ domain<sup>10</sup> are easily located.

### 3. Theoretical and methodological framework

In order to carry out the analysis of collected data, the methodological framework of this article is based upon an integration of models, which include the Conceptual Metaphor Theory (CMT) (cf. Lakoff & Johnson 1980[2003], Lakoff 1993), Critical Discourse Analysis (CDA) (cf. Fairclough & Wodak 1997, van Dijk 2001a), and corpus linguistics. Based on a critical analysis of a corpus of legal data, we identify the FIGHT metaphors appearing in judicial judgments in constructing the concept of litigation. We will also demonstrate that the increase in the metaphorical lexical use of ‘fight’ reflects its ideological influence over individuals during proceedings following the law revision in 2003.

The central tenet of CMT is that metaphors reflect individuals’ thoughts and hence are primarily a conceptual phenomenon. It interprets metaphor cognitively as a mapping relation from a source domain (a more abstract concept) to a target domain (a more concrete concept) (Lakoff & Johnson 1980[2003]). In this view, cross-domain mental projections reveal conceptual metaphor and ideology implicit within linguistic forms. Few studies have addressed conceptual metaphor as the principal analytical tool in the analysis of legal discourse, instead focusing on the potency of metaphors in helping individuals to understand the abstruse and intricate nature of law. Therefore, this study focuses on the ideological underpinnings hidden beneath metaphorical usages in legal writings and reveals the delusive effects of those metaphors. Through a detailed investigation, we demonstrate that whether used consciously or unconsciously, metaphors now infiltrate legal documents, which before the 2003 change rarely occurred. Moreover, the metaphorical rhetoric found in our data further demonstrates the ideological influence caused by the introduction of a new legal system.

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<sup>10</sup> For details on source domain decision-making, see §4.2.

In this study, CDA will be employed to explore the legal texts and contexts systematically and comprehensively. CDA, a multidisciplinary approach, is particularly interested in how ideology influences discourse, how discourse reacts to ideology, and how they both interplay with society. Language, or discourse, according to CDA, is not an objective and transparent transmission medium; rather, it is a kind of social practice that is imbued with power and ideology. While CDA provides methodological insights into how language plays a part in ideological and hegemonic struggles by linking “the *surface* of talk and text to *underlying* ideologies” (Hodge & Kress 1993:157), within this discipline to date, few longitudinal studies reveal ideological influence after the implementation of a new system in a society. Most critical discourse analysts focus their analyses on ethnic prejudices, racism, media bias, and more general issues, such as the abuse of power and (re)produced inequality through ideologies (Teo 2000, Chiang & Duann 2007, Ferrari 2007, among others). Van Dijk (1996:14) suggests that ideological change requires “a fairly complex social process of communication and consensus building before an opinion is adopted by groups.” Our research, therefore, is poised to fill this ideology gap. Although this study, like much research in the CDA tradition, has its origins in the perception of a discourse-related problem in an area of social life, it focuses mainly on the ideological influence due to the intervention of a new social system, especially from chronological and longitudinal perspectives. We posit that every text is assumed to have a potentially conscious intent with an ideological underpinning; chronological and critical analysis of discourse is thus necessary to examine the subtle ideological variations hidden within legal documents. This study, through the longitudinal analysis of laws, codes, and legal judgments over eight years, discloses how FIGHT metaphors may shape the ideology of the public to form a certain social cognition/structure. A marked lexical shift in the type of discourse before and after 2003 reveals how fight-related language reflects an ideological underpinning.

For a thorough investigation of data, we also employed the methods used in corpus linguistics. While the conceptual metaphor approach is very inspiring as a tool for identifying underlying meaning, many earlier studies of metaphor within Lakoff & Johnson’s Cognitive Theory of Metaphor based their analysis on individual metaphorical expressions, without considering their overall frequency or pattern of distribution. However, any research claim based on limited linguistic evidence and inconsistent procedures for identifying metaphors may result in overgeneralization or an oblique outcome. Therefore, this study adopts a quantitative corpus-based approach and uses concordance keywords from the source domain (as proposed by Partington 1998, Deignan 1999, 2005, Charteris-Black 2004) to identify every metaphorical usage appearing in the legal corpus over a span of eight years. Manually checking every candidate token after it has been identified is worthwhile, as this is a longitudinal study centered on

lexical variation reflecting ideological influence. In collecting a great quantity of linguistic data, establishing consistent procedures for identifying metaphors, and comparing the subtle variations of the use of FIGHT metaphorical language over eight years, this study demonstrates that implementing a new social system via the realization of language brings about an influential effect on litigant ideologies.

## 4. Materials and methods

### 4.1 Materials

Since cross-examination and interaction<sup>11</sup> between the litigants in the courtroom are commonly restated in judges' judgments, we chose these as our data for analysis. In this study, we examined 134,141 criminal cases, containing approximately 2,685,827,860 Chinese characters, extracted from the Taiwan High Court from 1 January 2000 to 31 December 2007. All of the data were drawn from the official transcripts gathered in the corpus *Sifayuan Faxue Ziliao Jiansuo Xitong* (司法院法學資料檢索系統 'The Judicial Yuan of the Republic of China Law and Regulations Retrieving System') at <http://nwjirs.judicial.gov.tw/Index.htm>. The Judicial Yuan of Taiwan, the highest judicial organ, is one of the five governmental branches. We chose our data from the High Court<sup>12</sup> because the wording of its judiciary judgments is considered more restrained than that of the District Court, and because the Supreme Court decides only law issues and reviews the cases by documentary proceedings (i.e. all oral proceedings terminate at the High Court). We also incorporated Taiwan statutes, both criminal and civil laws, into our corpus since they are directives that both legal professionals and the public follow.

### 4.2 Methods of analysis

In this study, we use an integrated model comprised of CDA, CMT, and corpus linguistics to analyze the conceptual metaphors appearing in the statutes and judiciary's judgments. Our research focuses on locating FIGHT metaphors (i.e. FIGHT as the source domain)<sup>13</sup> because the adversarial legal system, as stated in §§2.1 and 2.2, emphasizes

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<sup>11</sup> This includes methods of attack and defense and the statements, claims, and opinions from both parties in all respects related to the case.

<sup>12</sup> The hierarchy of courts in Taiwan is divided into three levels: District Courts (lower trial courts), High Courts (intermediate-level appellate courts), and the Supreme Court (the court of last resort for civil and criminal cases).

<sup>13</sup> While LITIGATION is the target domain in this study, we cannot use 'litigation' as the concordance keyword from the target domain to identify metaphors because every judicial judgment extracted from the legal corpus is, in a broader sense, about 'litigation'.

procedural rules characterized by *opposing* parties who *contend against* each other via *oral dispute/arguing* for a favorable result. Our determination that FIGHT is the source domain is therefore threefold: (i) adversarial fighting is not only the essence of the adversarial system, it also embodies it; (ii) one sense of the lexeme ‘fight’, according to the online lexical reference system WordNet 3.0 (<http://wordnet.princeton.edu/>), is “an intense *verbal dispute*,” which reflects the adversarial conflict between litigant participants of the modern trial; and (iii) the underlying concepts of FIGHT, such as *opposing*, *contend against*, or *oral dispute/arguing*, employed to practice the new law are all entailments of the lexical domain of ‘fight’.

After choosing FIGHT as our source domain, we follow Ahrens’ approach (2009, 2011) in selecting lexemes associated with this source domain as our metaphorical keywords to identify the FIGHT metaphor by using WordNet 3.0. Despite the fact that the target language of the present study is Chinese, two considerations led us to use WordNet to identify FIGHT-related keywords. First, the newly enacted adversarial system is based on ‘legal transplant’ (for details, see Watson 1974, Langer 2004), where the legal ideas or practices imitate the Anglo-American model, and terms or expressions used under the revised law are usually translated from English. Second, WordNet is a cognitively based lexical database, which maps lexemes and concepts via synsets and thereby provides a candidate set of cognitive abstractions for ontology matching.

We first selected the appropriate sense in WordNet for the lexeme ‘fight’. As suggested by Ahrens (2002:276-277), the conceptual elements in the source domains may consist of entities (nouns and participants included), qualities of these entities (adjectives), and actors/recipients of any function (verb); therefore, two parts of speech, noun and verb, of the lexeme ‘fight’ are both considered and then selected. Next, concrete nouns and verbs, which are underlined below in (3) and (4), were selected from WordNet definitions and direct hypernyms. Finally, we discarded any verb or noun that was considered too vague to be useful in the analysis. Those discarded verbs or nouns are indicated with shading in (3) and (4).

- (3) Selected sense and its direct hypernym for the noun ‘fight’  
*Selected sense:* (n) fight (an intense verbal dispute)  
*Direct hypernym:* (n) controversy, contention, contestation, disputation, disceptation, tilt, argument, arguing (a contentious speech act; a dispute where there is strong disagreement)
- (4) Selected sense and its direct hypernym for the verb ‘fight’  
*Selected sense:* (v) fight, oppose, fight back, fight down, defend (fight against or resist strongly)  
*Direct hypernym:* (v) contend, fight, struggle (be engaged in a fight; carry on a fight)

Using this method to identify associated lexemes ensures that our keywords are all relating to the FIGHT conceptual domain. By employing this method, 15 ‘fight’ keywords,<sup>14</sup> listed below in Table 1, were selected and then given a corresponding Chinese phraseology to ensure their possible occurrence in the legal corpus.<sup>15</sup> Among them, ‘tilt’ has a figurative usage meaning *attack in speech or writing*; we hence use the Chinese term *gongji* (攻擊 ‘attack’) as one of our keywords.

**Table 1:** List of metaphorical keywords used

|  |  |  |
|--|--|--|
| (1) <i>duikang</i> 對抗<br>‘fight’           | (6) <i>zhenglun</i> 爭論<br>‘disceptation’ | (11) <i>fanji</i> 反擊<br>‘fight back’         |
| (2) <i>zhengzhi</i> 爭執<br>‘dispute’        | (7) <i>gongji</i> 攻擊<br>‘tilt’           | (12) <i>zhengfu</i> 征服<br>‘fight down’       |
| (3) <i>zhengyi</i> 爭議<br>‘controversy’     | (8) <i>bianlun</i> 辯論<br>‘argument’      | (13) <i>fangyu/fangwei</i> 防禦/防衛<br>‘defend’ |
| (4) <i>zhengdian</i> 爭(論)點<br>‘contention’ | (9) <i>yiyi</i> 異議<br>‘disagreement’     | (14) <i>dikang</i> 抵抗<br>‘resist’            |
| (5) <i>zhengbian</i> 爭辯<br>‘contestation’  | (10) <i>duili</i> 對立<br>‘oppose’         | (15) <i>zhengdou</i> 爭鬥<br>‘struggle’        |

After identifying 15 ‘fight’ lexemes as our keywords, we then searched for each of these keywords throughout the corpus. When a keyword was located, we carefully examined the contexts in which they occurred to decide whether each keyword was being used metaphorically or literally in that instance. The major criterion for conceptual metaphor selection is based on domain incongruity. That is, wherever an expression shows a source-target domain mapping with semantic tension for a keyword, such a mapping is considered a conceptual metaphor. Therefore, expressions that were considered literal in sense were excluded.

Excerpt (5) below, a metaphorical example, was extracted from a 2003 defamation case:

<sup>14</sup> Any verb or noun that was considered the same word with different parts of speech is combined into one Chinese phraseology, as in Chinese, one word form may express the different parts of speech of this word.

<sup>15</sup> In giving the Chinese equivalents, we have consulted a variety of English-Chinese bilingual law references (Cheng 2000, Xue 2003, Lin 2006, Wu-Nan 2008) in order to make sure that the renditions are proper and all have a distinct legal sense.

- (5) 上開 答辯 係 被告 於 該 案 攻擊 防禦  
 shangkai dabian xi beigao yu gai an gongji fangyu  
 the above-mentioned plea is defendant under that case attack defense  
 範圍 內 為 保護、 防衛 自己 之 權利 而 委請  
 fanwei nei wei baohu fangwei ziji zhi quanli er weiqing  
 scope in for protect defend self ASSOC rights then commission  
 律師 提出， 難 認 有 誹謗 之 故意，  
 lushi tichu nan ren you feibang zhi guyi  
 defender present hard consider has libel ASSOC malice aforethought  
 …足 認 證人 與 被告 利益 對立， 自  
 …zu ren zhengren yu beigao liyi duili zi  
 …evidently consider witness and defendant interests oppose surely  
 難 期 為 真實 之 陳述。  
 nan qi wei zhenshi zhi chenshu  
 hard expect make true ASSOC statement

‘The above-mentioned pleas, which aim to defend the rights of the defendant himself/herself, are presented by the commissioned defender under the scope of means of attack and defense according to the phase of litigation. The court thus finds it difficult to consider it a libel with malice aforethought... It is evident that the interests between the witness and the defendant are at opposite ends; therefore, this court is surely hard put to expect the witness to make a true statement.’

When the key lexemes, such as *gongji* (攻擊 ‘attack’), *fangyu/fangwei* (防禦/防衛 ‘defend’), and *duili* (對立 ‘oppose’), were located in our corpus via concordance, we then carefully read the text containing the keywords to decide whether each of the keywords was being used metaphorically. In the instance above, the action of attack and defense is via courtroom arguments and procedures, not via physical actions; it hence generates a semantic incongruity with the original meaning of the keyword and further demonstrates a source-target domain mapping for this keyword. The mapping in this example is therefore considered the conceptual metaphor LITIGATION IS A FIGHT.

Extract (6) below is a non-metaphorical example:

- (6) 莊 XX 不敵 逃竄， 徐 XX 追 至 木新 路， 復 持  
 zhuang budi taocuan xu zhui zhi muxin lu fu chi  
 Zhuang defeat escape Xu chase to Muxin Rd. again hold  
 鋁 棒 攻擊 蔡 XX 胸部 及 手肘， 致 其 受  
 lu bang gongji cai xiongbu ji shouzhou zhi qi shou  
 aluminum stick attack Cai breast and elbow cause he suffer

傷害；... 又 其 手 腳 關節 部分 並 有  
 shanghai... you qi shou jiao guanjie bufen bing you  
 injure... besides his hand foot joint part and have  
 防禦 性 切割 傷。  
 fangyu xing qiege shang  
 defense property cut wound

‘Zhuang was defeated and escaped. Xu chased him to Muxin Rd., and held the aluminum stick to attack Cai’s breast and elbow, which caused him injury. Moreover, Cai’s hands, feet and joints had cut wounds, which were due to his defense.’

In example (6), both ‘attack’ and ‘defense’ are physical actions occurring in a street fight. Since the lexemes ‘attack’ and ‘defense’ are used in the sense of a physical action against a challenge, we consider both lexemes non-metaphorical in sense and therefore excluded them from our ‘fight’ metaphorical lexemes count.

The corpus is consequential in this study, as it provides extensive context around the key lexemes and candidate metaphors and further helps us to carry out a thorough analysis. In order to separate the metaphorical uses from the literal ones, we inspected manually the context in which a ‘fight’ lexeme occurred. As this study hypothesizes that the ‘fight’ language used in litigation became more inclusive in legal judgments after September 2003, the frequency patterns of ‘fight’ lexeme usage were investigated and further analyzed.

After identifying all the metaphors in our corpus, we classified them into groups according to the different aspects of the FIGHT domain. We found that metaphors distinguish the purpose of fighting, offer ways of coping with fighting, single out the various people involved in fighting, and describe the scene where the fighting occurs. As such, four aspects of the FIGHT domain can be identified: *goal of fight*, *manner of fight*, *participants of fight*, and *location of fight*. That is, all identified metaphors, under the superordinate level LITIGATION IS A FIGHT, can be subdivided into four subordinate categories: ‘goal’, ‘manner’, ‘participant’, and ‘location’. The characterization of each category, as shown in Table 2 below, reflects the unique attribute of each ascribed metaphor specified.

**Table 2:** Categorization of the four aspects of FIGHT metaphors

| <b>Goal</b>               | <b>Manner</b>                             | <b>Participant</b>                    | <b>Location</b>                        |
|---------------------------|---|---------------------------------------|--|
| The purpose of litigation | The method of dealing with the litigation | The people involved in the litigation | The site where the litigation proceeds |

The categories of the present study are mainly phenomenological. That is, the four categories reflect the most dominant FIGHT metaphors applied in the legal corpus.<sup>16</sup> In addition, our attempt to categorize metaphors into subordinate categories is essential, since all identified metaphors come from the same source domain and thereby need to be further characterized. In terms of categorization, the study provides more fine-grained and structured information about the metaphorical findings “with the least cognitive effort” (Rosch 1978:28), and further shows how the majority of fighting metaphorical expressions integrate the source and the target domain into a single gestalt, and hence the conceptualization of litigation as a fight.

To explore the interplay between conceptual metaphors found in the corpus and ideology, CDA is then employed for the analysis and interpretation of the ideology implicit in those metaphors, since one of the aims of CDA is “to investigate critically social inequality as it is expressed, signaled, constituted, legitimized and so on by language use” (Wodak & Meyer 2001:2).

## 5. Results and discussion

At the beginning of this article, we stated our intention to address the role of FIGHT metaphors in the conceptualization of litigation in Taiwan by analyzing judiciary judgments in the legal corpus. The two research questions posed are repeated below:

- (I) Which metaphors, specifically those related to the conceptual domain FIGHT, are used in legal judgments to portray the litigation?
- (II) What impact has the 2003 enactment of the new law system had on language use, in particular those lexical patterns associated with the domain *fighting*, in a legal context?

With regard to the first research question, we found that a variety of FIGHT metaphors have been used in judicial judgments and those metaphors could be grouped into four categories based on the different aspects of the FIGHT domain. FIGHT metaphors are often used to describe goals (e.g. survival, winning, defeat, etc.), the process of litigation (e.g. the actions and strategies of attorneys, litigants, etc.), the individuals involved (e.g. defenders, aggressors, etc.), and the courtroom environment. Table 3 summarizes the findings of the conceptual metaphors underlying litigation in our corpus.

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<sup>16</sup> Some sporadic metaphors out of these four categories are not salient enough and thus are not discussed in the present study.

**Table 3:** The conceptual metaphors underlying litigation

| <b>LITIGATION IS A FIGHT</b>                     |  |   |   |
|--|--|---|---|
| <b>Goal</b>                                      | <b>Manner</b>                            | <b>Participant</b>  | <b>Location</b>                               |
| THE TARGET OF LITIGATION IS FIGHTING FOR VICTORY | LITIGATION IS AN ATTACK                  | THE OPPOSING PARTIES ARE RIVALS                             | COURTROOM IS COMBAT GROUND                    |
| THE END OF LITIGATION IS THE END OF STRUGGLE     | LITIGATION IS DEFENSE                    | THE LITIGANT IS FIGHTER/SOLDIER/DEBATER/ATTACKER/DEFENDER   | COURTROOM IS SITE OF STRUGGLE                 |
| THE CLAIM OF LITIGATION IS TARGET OF FIGHT       | EVIDENCE OF LITIGATION IS A WEAPON       | THE PROSECUTOR IS ATTACKER/FIGHTER/WARRIOR                  | COURTROOM IS SITE OF SHEDDING BLOOD AND SWEAT |
| LITIGATION IS A FIGHT FOR CONTROL                | LITIGATION IS CONFRONTATION/OPPOSITION   | THE ATTORNEY IS MASTER STRATEGIST                           | COURTROOM IS SITE OF CRUSADING FOR RIGHTS     |
| THE END OF LITIGATION IS CONQUEST                | LITIGATION IS BATTLE ROYAL               | THE WITNESS IS ALLY/ENEMY                                   | COURTROOM IS SITE OF KILLING                  |
| LITIGATION IS WINNING/LOSING A FIGHT             | LITIGATION IS ARGUMENT/DEBATING          | THE WITNESS IS SECRET WEAPON                                | COURTROOM IS SITE OF MARTIAL NEGOTIATION      |
| LITIGATION IS FIGHTING FOR INFLUENCE             | COURTROOM ARGUMENT IS FIERCE COMBAT      | THE CORONER IS CAMPAIGNER                                   | COURTROOM IS SITE OF DEBATING COMPETITION     |
| LITIGATION IS A STRUGGLE FOR SURVIVAL            | LITIGATION IS AGGRESSIVENESS             | THE ATTORNEY IS COMBATANT/FIGHTER/ATTACKER/DEFENDER/DEBATER | COURTROOM IS SITE OF LEGITIMATE ATTACK        |
|  | LITIGATION IS MILITARY NEGOTIATION       | THE PROSECUTOR/ ATTORNEY IS AGGRESSOR                       |   |
|  | LITIGATION IS MILITARY EXPEDITION        | THE PLAINTIFF/ DEFENDANT IS VICTIM OF A FIGHT               |   |
|  | LITIGATION IS MILITARY ACTION            | THE ATTORNEY IS STRATEGIC PROVIDER                          |   |
|  | LITIGATION IS FIGHTING DOWN THE OPPONENT |   |   |

The most schematic metaphor in our corpus is LITIGATION IS A FIGHT. Below the macro level, where the conceptual metaphor LITIGATION IS A FIGHT occurs, several subsidiary conceptual metaphors further comprise the conceptualizations of the litigation. That is, some metaphorical mappings comprise ‘micro level’ conceptual metaphors.

As mentioned, the analysis of LITIGATION IS A FIGHT is organized under four aspects of the FIGHT domain. For the sake of clarity and effectiveness, our expositional layout will begin at the synthetic level of LITIGATION IS A FIGHT. Thereafter, we will provide a more detailed sub-mapping of metaphors at the lower level by providing relevant examples.

### 5.1 Conceptual metaphor at the macro level: LITIGATION IS A FIGHT

Metaphorical expressions found in the corpus under any of the four aspects of the source domain are subsumed under the conceptual metaphor LITIGATION IS A FIGHT at the synthetic level. Example (7) below is extracted from our corpus:

- (7) 現行 刑事 訴訟 有關 審判 程序 之  
 xianxing xingshi susong youguan shenpan chengxu zhi  
 current criminal litigation related to court trial procedures ASSOC  
 進行， 以 採 當事人 間 互為 攻擊、  
 jinxing yi cai dangshiren jian huwei gongji  
 proceeding according to based on litigants between mutual attack  
防禦 之 型態 為 基本 原則， 並 確保 訴訟  
fangyu zhi xingtai wei jiben yuanze bing quebao susong  
 defense ASSOC type as basic principle also make sure litigation  
 當事人 到 庭 實行 攻擊 防禦。  
 dangshiren dao ting shixing gongji fangyu  
 parties appear in court carry out attack defense

‘According to the provision of the current criminal procedure law, the proceeding of the court trial should be based on the principle of litigants’ mutual attacking and defending. It is also the court’s obligation to make sure that the litigants will appear in court and carry out the attack and defense.’

As a contest that pits argumentation and persuasive skills of one litigant against another, the adversarial trial elicits rich evidence of fight-like actions, such as the attack or the defense, in our linguistic data. The tense confrontation between an aggressive attorney and an agilely alert defender comes to mind whenever people engage in a lawsuit. Via the linguistic expressions in (7), one can easily sense the smell of gunpowder on a battlefield.

Within the macro conceptual metaphor LITIGATION IS A FIGHT, various subsidiary conceptual metaphors (i.e. those shown in Table 3) at the lower level constitute the integrated framework underlying litigation. In the following section, we will provide metaphorical examples based on the four aspects, respectively.<sup>17</sup>

## 5.2 Conceptual metaphors at the micro level based on four key aspects

(8) Conceptual metaphors based on the *goal* aspect

(8-1) LITIGATION IS A FIGHT FOR CONTROL

|                        |                   |               |                 |                |           |              |          |                |
|------------------------|-------------------|---------------|-----------------|----------------|-----------|--------------|----------|----------------|
| 律師                     | 職業                | 秘密            | 之               | 拒絕             | 證言        | 權            | 乃        | 保護             |
| lūshi                  | zhiye             | mimi          | zhi             | jujue          | zhengyan  | quan         | nai      | <i>baohu</i>   |
| attorney               | professional      | secret        | ASSOC           | refuse         | testimony | right        | is       | <i>protect</i> |
| 此                      | 種                 | 職業            | 社會              | 制度             | 隱私        | 地帶           | 之        |                |
| ci                     | zhong             | zhiye         | shehui          | zhidu          | yinsi     | didai        | zhi      |                |
| this                   | kind              | profession    | society         | system         | privacy   | domain       | ASSOC    |                |
| <u>防線</u>              | [...]             | 在             | 當事人             | <u>對抗</u>      | 主義        | 及            | 律師       |                |
| <i>fangxian</i>        | [...]             | zai           | dangshiren      | <i>duikang</i> | zhuyi     | ji           | lūshi    |                |
| <i>line of defense</i> | [...]             | under         | litigants       | <i>fight</i>   | ism       | and          | attorney |                |
| 專業                     | 角色                | 下，            | 反訴              | 代理人            | 為         | 行            | 達        |                |
| zhuanye                | jiaose            | xia           | fansu           | dailiren       | wei       | xing         | da       |                |
| profession             | role              | under         | counter-accuser | agent          | for       | possible     | each     |                |
| <u>控制</u>              | <u>訴訟</u>         | <u>攻擊</u> 、   | <u>防禦</u>       | 之              | 目的，       | 不斷           |          |                |
| <i>kongzhi</i>         | <i>susong</i>     | <i>gongji</i> | <i>fangyu</i>   | zhi            | mudi      | buduan       |          |                |
| <i>control</i>         | <i>litigation</i> | <i>attack</i> | <i>defense</i>  | ASSOC          | purpose   | continuously |          |                |
| <u>抗爭</u>              | 造成                | 審判            | 之               | 困擾             | [...]     |              |          |                |
| <i>kangzheng</i>       | zaocheng          | shenpan       | zhi             | kunrao         | [...]     |              |          |                |
| <i>contend</i>         | make              | trial         | ASSOC           | hindrance      | [...]     |              |          |                |

‘The right of attorney’s refusing to provide testimony due to keeping the secrets obtained from practicing his/her job duty is a line of defense, which is to protect professional privacy...Under the adversarial system and the professional role of the attorney, the attorney of the counter-accuser continuously struggles for control of the attack and defense during the litigation proceeding, which has already caused the hindrance of trial ...’

<sup>17</sup> Because of space limitations, not all examples of subsidiary conceptual metaphors are presented here.

In (8-1), the lexemes *baohu* (保護 ‘protect’), *fangxian* (防線 ‘line of defense’), *duikang* (對抗 ‘fight’), *kongzhi* (控制 ‘control’), *gongji* (攻擊 ‘attack’), *fangyu* (防禦 ‘defense’), and *kangzheng* (抗爭 ‘contend’) create a scene of the trial as a ‘battle’, an extreme form of fighting. In a conflict-ridden situation such as in the courtroom, the opposing parties are constantly fighting with each other and trying to outdo each other for the sole purpose of ‘controlling’ the litigation.

### (8-2) THE END OF LITIGATION IS CONQUEST

|                           |                    |         |        |          |            |         |                |
|---------------------------|--------------------|---------|--------|----------|------------|---------|----------------|
| 該                         | 等                  | 間       | 因此     | 衍生       | 官司，        |         |                |
| gai                       | deng               | jian    | yinci  | yansheng | guansi     |         |                |
| these                     | litigating parties | between | hence  | generate | lawsuit    |         |                |
| 不勝枚舉，                     |                    | 雙       | 方      | 雖        | 各          | 有       |                |
| bushengmeiju              |                    | shuang  | fang   | sui      | ge         | you     |                |
| too numerous to enumerate |                    | both    | side   | although | by oneself | has     |                |
| 勝                         | 負，                 | 但       | 兩      | 造        | 始終         | 對抗      | 不讓，            |
| sheng                     | fu                 | dan     | liang  | zao      | shizhong   | duikang | bu rang        |
| victory                   | defeat             | but     | both   | party    | all along  | fight   | not yield      |
| 多                         | 所                  | 興       | 訟，     | 期        | 達          | 征服      | 對方             |
| duo                       | suo                | xing    | song   | qi       | da         | zhengfu | duifang        |
| many times to             | file               | lawsuit | expect | reach    | fight down |         | the other side |
| 之                         | 目的。                |         |        |          |            |         |                |
| zhi                       | mudi               |         |        |          |            |         |                |
| ASSOC                     | purpose            |         |        |          |            |         |                |

‘There are hence numerous lawsuits filed in the court between these two parties. While each of the parties in turn wins or loses the lawsuits by oneself, no one wants to yield to the opposing party, and so they file more lawsuits against the other one with the hope of conquering him/her.’

When thinking about the meanings normally ascribed to ‘winning and losing’, conflict and competition appear most often. Moreover, litigation is viewed as a competition that must be won for the sake of survival. Winning and losing are processes that involve complex motivational aspects and skillful strategies, as well as fighting ability. The results of winning, losing, and conquest would therefore strengthen the antagonistic feelings between the parties.

### (8-3) THE CLAIM OF LITIGATION IS THE TARGET OF FIGHT

|       |     |            |       |        |      |                |              |     |
|-------|-----|------------|-------|--------|------|----------------|--------------|-----|
| [...] | 爲   | 爭點         | [...] | 雙      | 方    | 均              | 始終           | 不   |
| [...] | wei | zhengdian  | [...] | shuang | fang | jun            | shizhong     | bu  |
| [...] | is  | contention | [...] | both   | side | without except | all the time | not |

|               |               |                                |                     |    |
|---------------|---------------|--------------------------------|---------------------|----|
| 肯             | 承認            | <u>系爭</u>                      | 本票                  | 係  |
| ken           | chengren      | <u>xizheng</u>                 | benpiao             | xi |
| be willing to | confess       | <u>the target fighting for</u> | the cashier's check | is |
| 上訴人           | 所簽發           | [...]                          |                     |    |
| shangsuren    | suo qian fa   | [...]                          |                     |    |
| appellant     | by sign issue | [...]                          |                     |    |

‘...is the contention ... both of the litigant parties all along have not confessed that the check they fought for was signed and issued by the appellant.’

In Chinese legal judgments, the term *xizheng* (系爭), which means the target both sides are fighting for, is usually put before the litigation sign/object whenever the legal drafters mention it in their writings. It is common that in lawsuit cases, certain litigation objects have become focal points for conflict between the plaintiff and the defendant, and the fighting for them forms the heart of the battle.

Most of the conceptual metaphors are characterized by the *manner* aspect, as shown in the examples in (9) below:

(9) Conceptual metaphors based on the *manner* aspect

(9-1) LITIGATION IS OPPOSITION

|                   |                     |                  |                |                     |               |          |         |
|-------------------|---------------------|------------------|----------------|---------------------|---------------|----------|---------|
| [...] 其           | 與                   | 告訴人              | 處於             | <u>對立</u>           | 之             | 立場，      | 乃       |
| [...] qi          | yu                  | gaosuren         | chuyu          | <u>duili</u>        | zhi           | lichang  | nai     |
| [...] the accused | and                 | plaintiff        | lies in        | <u>opposition</u>   | ASSOC         | position | that is |
| 屬於                | <u>不能</u>           | <u>相容</u>        | 之              | <u>敵</u>            | <u>對</u>      | 關係。      |         |
| shuyu             | <u>buneng</u>       | <u>xiangrong</u> | <u>zhi</u>     | <u>di</u>           | <u>dui</u>    | guanxi   |         |
| belong to         | <u>incompatible</u> | <u>ASSOC</u>     | <u>hostile</u> | <u>antagonistic</u> | relationship. |          |         |

‘The accused acts in opposition to the plaintiff; therefore, there is an incompatible antagonistic and hostile relationship between these two parties.’

In this example, the most significant features of the fight—‘opposition’, ‘incompatibility’, ‘antagonism’, and ‘hostility’—are clearly envisioned. A fight is comprised of more than one side, and each of the participants must choose on which side he or she stands. Opposition, therefore, is a way of establishing a courtroom relationship in order to solve a litigant problem.

(9-2) LITIGATION IS MILITARY EXPEDITION<sup>18</sup>

自訴人 曾 對 張 XX 表示 不 阻止 任何人  
 zisuren ceng dui zhang biao shi bu zuzhi renheren  
 accuser once to Zhang express not prevent from anybody  
 對於 被告 採取 法庭 討伐  
 duiyu beigao caiqu fating taofa  
 towards the accused take courtroom *send punitive expedition*  
 不利 之 行動 [...] 兩 造 其餘  
 buli zhi xingdong [...] liang zao qiyu  
 disadvantageous ASSOC action [...] both party the rest  
 之 攻擊 防禦 策略 及 所 提 證據，經 本 院  
 zhi gongji fangyu celue ji suo ti zhengju jing ben yuan  
 ASSOC *attack* *defend* *strategy* and to propose evidence via this court  
 斟酌 後 [...] 後 [...] 後 [...]  
 zhenzhuo hou [...] hou [...]  
 consider carefully after [...]

‘The accuser has once told Zhang that he/she shall never prevent anyone from sending a punitive expedition to harm and disadvantage the accused in the court ...; After the Court carefully considers the other attack and defense strategies and evidence proposed by both parties...’

In (9-2), the action taken toward the accused is metaphorically analogized as a ‘punitive expedition’, which we associate with a military action, such as invading enemy territory, killing enemies, and winning fights on the battlefield. However, this military fight analogy is clearly not meant to represent a literal combat/battle in the course of a war. Because of the frequent metaphorical use of battle terms in the legal environment, we tend to think that a metaphorical battle and a literal oral dispute/fight are the same. In doing so, we risk confusing metaphorical battles with real ones, as metaphor constructs reality and further guides our actions.

## (9-3) EVIDENCE OF LITIGATION IS A WEAPON

重 為 事實 之 爭辯 [...] 現行 訴訟  
 chong wei shishi zhi zhengbian [...] xianxing susong  
 again as the fact ASSOC *contestation* [...] current litigation  
 常 以 勝 訴 為 目的，因此 證據 常  
 chang yi sheng su wei mudi yinci zhengju chang  
 often take winning lawsuit as purpose therefore evidence usually

<sup>18</sup> In this study, we regard either ‘military expedition’ or ‘combat/battle’ as a kind of ‘fight’.

成爲 秘密 武器。  
 chengwei mimi wuqi  
 become secret weapon

‘They once again contest the facts. The litigation currently adopted aims at pursuing the victory; therefore, the evidence is usually taken as the secret weapon in litigation.’

Evidence provided in the court is described as a weapon used to apply force for the purpose of attack or self-defense in a fight. The use of weapons is usually for gaining victory in combat, whether on a real battlefield or in the courtroom. In this example, evidence is represented as a weapon, such as a knife, sword, bullet, or bomb, thus highlighting the aspects of the lethality of fighting and a lack of negotiation and compromise. However, as Lakoff states (1993:203), one of metaphor’s main functions is to act as a vehicle for understanding. Weapon metaphors are not just rhetorical devices for portraying litigation evidence; weapon metaphors exemplify how they are ordinarily conceived, as in a battle where negotiation and compromise are forbidden, or at least not promoted. Example (9-4) below illustrates how weapon metaphors are used in legal judgments:

- (9-4) 原審 法院 仍 繼續 羈押 被告， 在  
 yuanshen fayuan reng jixu jiya beigao zai  
 the first hearing court still continuously detain the accused at  
 交叉詰問 制度 下， 顯 有 武器 不  
 jiaochajiewen zhidu xia xian you wuqi bu  
 cross-examination system under apparently have weapon not  
對等， 攻 防 不 對稱 之 現象，  
duideng gong fang bu duicheng zhi xianxiang  
on a 50-50 basis attack defense not symmetrical ASSOC phenomenon  
 難 維 司法 天平 之 平等； 在 人權、  
 nan wei sifa tianping zhi pingdeng zai renquan  
 difficult maintain judiciary scale ASSOC balance at human rights  
 正義 傾斜 下， 進行 審理， 亦 難 獲得 信賴。  
 zhengyi qingxie xia jinxing shenli yi nan huode xinlai  
 justice slant under proceed hear and try also difficult obtain trust  
 ‘Under the system of cross-examination, if the court still continuously detains the defendant, it apparently is unequal on weapon equipment and asymmetric of the stands of attack and defense, and moreover, it is difficult to maintain the balance of the scales of justice. In addition, it would also be very difficult to

obtain people's trust and faith in justice if the court proceedings are carried out under the condition of inequality and injustice of human rights.'

In this example, to keep the scales of justice balanced and to make things fair, the basis should be built on giving both sides equal 'weapons' so they can have equal means to carry out the attack and defense in the process of litigation. Additionally, in the legal environment, having possession of weapons and a strategic plan of attacking and defending is a necessary and indispensable condition for solving problems and gaining fairness in judiciary justice, as shown in example (9-5) below:

(9-5) LITIGATION IS ATTACK/DEFENSE

若 出於 誤信、 誤解、 誤認 或 懷疑 有  
 ruo chuyu wuxin wujie wuren huo huaiyi you  
 if due to mistrust misunderstanding misbelieve or doubt have  
 此 事實，或 對於 其 事實 張大其詞， 或 資 為 其  
 ci shishi huo duiyu qi shishi zhangdaqici huo zi wei qi  
 this fact or about its fact exaggeration or take as its  
 訟 爭 上 之 攻 擊 或 防 禦 方 法， 或 其 目 的  
 song zheng shang zhi gongji huo fangyu fangfa huo qi mudi  
 litigation fight in ASSOC attack or defense strategy or its purpose  
 在 求 判 明 是 非 曲 直 者，  
 zai qiu pan ming shi fei qu zhi zhe  
 at ask for judge clearly right wrong skewed straight if  
 固 均 不 得 謂 屬 於 誣 告。  
 gu jun bu de wei shuyu wugao  
 definitely all not should regard as belong to false charge

'If it is due to mistrust, misunderstanding, misbelief, exaggeration or having doubts about the fact, or it is based on the realization of litigation procedures such as adopting the attack or defense strategy in the court proceeding with the purpose of finding out the facts, all of the above mentioned should not be regarded as a false accusation.'

Strategy plays an important role in litigation and can determine the outcome of the conflict. As in (9-5), these particular attack and defense metaphors appear frequently in our corpus and are used as explanatory devices of a strategic litigation that help to shape the direction in which litigation moves. Litigation has become so fixated on the strategies of attacking and defending that individuals perceive its nature only through the lens of fighting. While attacking and defending are important strategy metaphors associated

with litigation, the concept of the actors of the attack and the defense is frequently collocated with the concept of litigation as well. Examples in (10) below are such conceptual metaphors appearing in our corpus:

(10) Conceptual metaphors based on the *participant* aspect

(10-1) **THE LITIGANTS ARE FIGHTERS/SOLDIERS**

|             |                         |                  |                  |                  |                    |                |
|-------------|-------------------------|------------------|------------------|------------------|--------------------|----------------|
| 確保          | 訴訟當事人                   | 到                | 庭                | 實行               | 攻擊                 | 防禦             |
| quebao      | <u>susongdangshiren</u> | <u>dao</u>       | <u>ting</u>      | <u>shixing</u>   | <u>gongji</u>      | <u>fangyu</u>  |
| assure of   | <u>litigants</u>        | <u>appear at</u> | <u>courtroom</u> | <u>carry out</u> | <u>attack</u>      | <u>defense</u> |
| 以           | 杜                       | 司法               | 不公               | 之                | 爭議。                |                |
| yi          | du                      | sifa             | bugong           | zhi              | <u>zhengyi</u>     |                |
| in order to | stop                    | judiciary        | injustice        | ASSOC            | <u>controversy</u> |                |

‘To make sure the litigants involved appear at the courtroom to carry out their attacks and the defenses, in order to stop the controversy of judicial injustice.’

In (10-1), litigants are described as having to carry out the duties of a fight/combat. Armed and ready to attack, litigants are soldiers on the battlefield who must appear at the arena with an overbearing power of attack and defense for a fight that will defeat the enemy.

(10-2) **THE ATTORNEY IS MASTER STRATEGIST**

|                            |                     |                         |                      |                |                 |
|----------------------------|---------------------|-------------------------|----------------------|----------------|-----------------|
| 本                          | 案                   | 辯護人                     | 未                    | 依              |                 |
| ben                        | an                  | <u>bianhuren</u>        | wei                  | yi             |                 |
| the current                | case                | <u>defense attorney</u> | didn't               | according to   |                 |
| 刑事訴訟法                      |                     | 第                       | 九十五                  | 條              | 規定，             |
| xingshisusongfa            |                     | di                      | jiushiwu             | tiao           | guiding         |
| the criminal procedure law |                     | the                     | ninety-fifth         | article        | provision       |
| 事先                         | 告知                  | 上訴人，                    | 俾                    | 使其             | 於               |
| shixian                    | gaozhi              | shangsuren              | bi                   | shi            | qi              |
| <u>in advance</u>          | <u>inform</u>       | <u>appellant</u>        | <u>in order that</u> | <u>make</u>    | <u>he/she</u>   |
| 程序                         | 能                   | 充分                      | 行使                   | 訴訟             | 防禦              |
| chengxu                    | neng                | chongfen                | xingshi              | susong         | <u>fangyu</u>   |
| <u>procedure can</u>       | <u>sufficiently</u> | <u>perform</u>          | <u>litigation</u>    | <u>defense</u> | <u>right</u>    |
| 適切                         | 行使                  | 其                       | 攻擊                   | 防禦             | 措施。             |
| shiqie                     | xingshi             | qi                      | <u>gongji</u>        | <u>fangyu</u>  | cuoshi          |
| <u>properly</u>            | <u>perform</u>      | <u>his/her</u>          | <u>attack</u>        | <u>defense</u> | <u>measures</u> |

‘The defense attorneys didn’t follow the provision of Article 95 of the

Criminal Procedure Law to inform in advance the appellant that the defense rights he/she has in order to make the litigant perform his/her attack and defense measures sufficiently and completely in the proceedings.’

Each battleground presents a different environment and challenge, and victory in the courtroom must be achieved not through sheer grit but through strategies, skills, and tactics. Here, the defense attorney is the one who gives information in advance in order that his/her client is well prepared for the attacking and defending mission undertaken. We therefore regard the attorneys as master strategists in the litigant fight/combat.

The examples in (11) illustrate the *location* aspect:

(11) Conceptual metaphors based on the *location* aspect

(11-1) **COURTROOM IS THE COMBAT GROUND**

|                 |             |                 |               |                |                  |               |                |      |            |   |                |
|-----------------|-------------|-----------------|---------------|----------------|------------------|---------------|----------------|------|------------|---|----------------|
| 雙               | 方           | 展               | 開             | 激              | 烈                | 之             | 法              | 庭    | 攻          | 防 | [...]          |
| <i>shuang</i>   | <i>fang</i> | <i>zhankai</i>  | <i>jilie</i>  | <i>zhi</i>     | <i>fating</i>    | <i>gong</i>   | <i>fang</i>    |      |            |   | [...]          |
| <i>both</i>     | <i>side</i> | <i>wage</i>     | <i>fierce</i> | <i>ASSOC</i>   | <i>courtroom</i> | <i>attack</i> | <i>defense</i> |      |            |   | [...]          |
| 審               | 酌           | 證               | 據             | 取              | 得                | 之             | 違              | 法    | 對          |   |                |
| <i>shenzhuo</i> |             | <i>zhengju</i>  |               | <i>qude</i>    | <i>zhi</i>       |               | <i>weifa</i>   |      | <i>dui</i> |   |                |
| considering     | that        | evidence        | obtain        | ASSOC          | illegality       | cause         |                |      |            |   |                |
| 被               | 告           | 訴               | 訟             | 上              | 防                | 禦             | 不              | 利    | 益          | 之 | 程              |
| <i>beigao</i>   |             | <i>susong</i>   |               | <i>shang</i>   | <i>fangyu</i>    |               | <i>buliyi</i>  |      | <i>zhi</i> |   | <i>chengdu</i> |
| the             | accused     | litigation      | in            | <i>defense</i> | disadvantage     | ASSOC         | degree         | etc. |            |   |                |
| 各               | 種           | 情               | 形             | [...]          |                  |               |                |      |            |   |                |
| <i>gezhong</i>  |             | <i>qingxing</i> |               | [...]          |                  |               |                |      |            |   |                |
| different       | kind        | of              | situation     | [...]          |                  |               |                |      |            |   |                |

‘Both parties involved wage a series of violent attacks and defenses in the courtroom...the Court should consider the disadvantageous and harmful situations, which are owing to the improper and unlawful means to obtain the evidence, for the accused whenever it makes a judgment...’

In (11-1), the courtroom is a battleground where combat takes place. One of the core tenets of this fight is the raging conflict between the litigating parties, which causes a series of fierce attacks and defenses between the litigants.

(11-2) **COURTROOM IS THE SITE OF MARTIAL NEGOTIATION**

|                 |      |              |            |              |                 |             |             |        |             |
|-----------------|------|--------------|------------|--------------|-----------------|-------------|-------------|--------|-------------|
| 審               | 酌    | 兩            | 造          | 爭            | 訟               | 經           | 年           | ，      | 應           |
| <i>shenzhuo</i> |      | <i>liang</i> | <i>zao</i> | <i>zheng</i> | <i>song</i>     | <i>jing</i> | <i>nian</i> |        | <i>ying</i> |
| considering     | that | two          | party      | <i>fight</i> | <i>lawsuits</i> | through     | years       | should |             |

循 民事 爭 訟 程序 解決， 或 聲請  
 xun minshi zheng song chengxu jiejue huo shengqing  
 follow civil law fight lawsuit procedure resolution or apply for  
 調解 以 減少 訟 爭， 或 對立 之  
tiaojie yi jianshao song zheng huo duili zhi  
mediation in order to reduce lawsuits fight or opposition ASSOC  
 不 必要性。  
 bu biyaoxing  
 not necessity

‘The Court considers the opposing sides vying with each other many times and hence involving the lawsuits for months and years; therefore, it is suggested that opposing parties file and resolve the dispute following the civil procedures, or filing for mediation or reconciliation in order to stop the dispute or lessen the tension and confrontation.’

Regarding (11-2), the suggestion of filing for mediation or reconciliation occurs at the court, which is also the place where both litigating sides tensely dispute and confront each other. As reconciliation occurs at the same site of a struggle, we hence consider the courtroom as a place of martial negotiation.

As for the second research question, the related data are shown in Table 4 below, which lists the tokens of the metaphorical keywords and the total words in the legal corpus from 1 January 2000 to 31 December 2007.

**Table 4:** The distribution of the data collected in the legal corpus from 1 January 2000 to 31 December 2007

| Metaphorical Keywords of the Source Domain | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|--|------|------|------|------|------|------|------|------|
| <i>duikang</i> 對抗<br>'fight'               | 1049 | 1048 | 917  | 883  | 900  | 958  | 1211 | 1443 |
| <i>zhengzhi</i> 爭執<br>'dispute'            | 1183 | 1215 | 1032 | 1074 | 1593 | 1523 | 1631 | 1697 |
| <i>zhengyi</i> 爭議<br>'controversy'         | 145  | 177  | 190  | 188  | 206  | 314  | 308  | 317  |
| <i>zhengdian</i> 爭點<br>'contention'        | 139  | 109  | 148  | 193  | 176  | 200  | 206  | 233  |
| <i>zhengbian</i> 爭辯<br>'contestation'      | 53   | 51   | 63   | 77   | 98   | 98   | 112  | 138  |
| <i>zhenglun</i> 爭論<br>'disceptation'       | 507  | 587  | 570  | 661  | 798  | 857  | 973  | 955  |
| <i>gongji</i> 攻擊<br>'tilt'                 | 369  | 397  | 436  | 547  | 493  | 472  | 554  | 640  |

|   |           |           |           |           |           |           |           |           |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| <i>bianlun</i> 辯論<br>'argument'           | 1002      | 1027      | 1001      | 1072      | 855       | 1116      | 1742      | 1683      |
| <i>yi yi</i> 異議<br>'disagreement'         | 329       | 363       | 317       | 476       | 593       | 680       | 649       | 735       |
| <i>duili</i> 對立<br>'oppose'               | 41        | 58        | 91        | 72        | 78        | 75        | 131       | 154       |
| <i>fanji</i> 反擊<br>'fight back'           | 215       | 234       | 234       | 328       | 452       | 467       | 518       | 772       |
| <i>zhengfu</i> 征服<br>'fight down'         | 9         | 7         | 10        | 16        | 27        | 29        | 35        | 29        |
| <i>fangyu/fangwei</i><br>防禦/防衛'defend'    | 270       | 329       | 356       | 410       | 438       | 440       | 569       | 672       |
| <i>dikang</i> 抵抗<br>'resist'              | 130       | 110       | 83        | 173       | 225       | 318       | 266       | 340       |
| <i>zhengdou</i> 爭鬥<br>'struggle'          | 258       | 263       | 261       | 352       | 467       | 608       | 626       | 756       |
| Tokens of the<br>Metaphorical<br>Keywords | 5699      | 5975      | 5709      | 6522      | 7399      | 8155      | 9531      | 10564     |
| Total Number of<br>Words                  | 260941977 | 263352986 | 261910612 | 249468408 | 194256310 | 205148218 | 237852830 | 260303571 |

To see whether there has been a change in the type of discourse before and after 2003, we calculated the total token count of the metaphorical keywords and the number of total words in the corpus for each year and then normalized them to analyze the overall patterns of lexical change across eight years. To calculate the normalized ratio, the number of key tokens is divided by the number of total words in a particular year in order to derive its value, which is then multiplied by a pre-determined ratio (i.e. 1,000,000 in this study). Table 5 below shows the normalized ratio of key tokens to total number of words across eight years.

**Table 5:** The normalized ratio of tokens of the metaphorical keywords to total number of words

|   | 2000        | 2001        | 2002        | 2003       | 2004        | 2005        | 2006        | 2007        |
|---|-------------|-------------|-------------|------------|-------------|-------------|-------------|-------------|
| Tokens of the<br>Metaphorical<br>Keywords | 5699        | 5975        | 5709        | 6522       | 7399        | 8155        | 9531        | 10564       |
| Total Number<br>of Words                  | 260941977   | 263352986   | 261910612   | 249468408  | 194256310   | 205148218   | 237852830   | 260303571   |
| Normalized<br>Ratio<br>(k=1000000)        | 21.84010432 | 22.68818019 | 21.79751312 | 26.1435909 | 38.08885282 | 39.75174671 | 40.07099684 | 40.58338485 |

Referencing Table 5, one can see that the normalized ratio has risen remarkably since 2004. It also shows that since 2004, the ‘fight’ metaphorical lexical use in legal judgments has undergone a significant variation. In addition, to evaluate the difference of degree of the lexical variance prior to 2003 and post-2003, a chi-square statistical test was further employed. The test results show that the chi square equals 4319.928 with 1 degree of freedom, and the two-tailed P value is less than 0.0001 ( $\chi^2(1)=4319.928$ ,  $p<.0001$ ). By conventional criteria, this difference is considered to be extremely statistically significant. Table 6 below presents the number of total tokens and key tokens in the two groups, as well as relevant values in detail:

**Table 6:** Details of the data in the chi-square test

| <b>Year</b>                          | 2000-2003   | 2004-2007   |
|--------------------------------------|-------------|-------------|
| <b>Total Tokens</b>                  | 1035673983  | 897560929   |
| <b>Proportion of Total Tokens</b>    | 0.535720712 | 0.464279288 |
| <b>Key Tokens</b>                    | 23905       | 35649       |
| <b>Expected Number of Key Tokens</b> | 31904.31128 | 27649.68872 |
| <b><math>\chi^2</math> value</b>     | 4319.928    |             |
| <b>p value</b>                       | <.0001      |             |

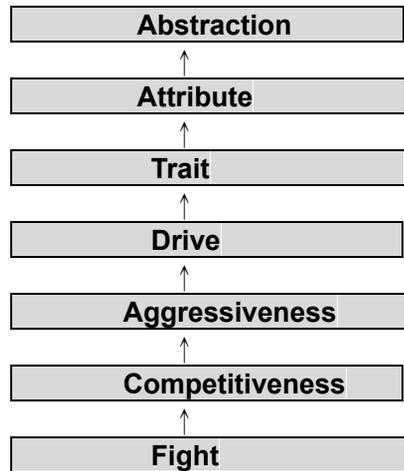
The small p value and large discrepancy between observed and expected values of key tokens indicate that there is a big difference in metaphorical keyword use before 2003 and after 2003. The demarcation between these two groups (i.e. 2000-2003 vs. 2004-2007) also marks a shift in the type of discourse used in litigation.

By means of statistical analysis, we demonstrate that there has been a change in the type of discourse before and after 2003. The variation of the frequency of the FIGHT metaphorical lexical uses occurring in our corpus may suggest evidence of the effects of FIGHT metaphors since 2003. A good deal of FIGHT keywords shown in Table 1 signifies that the characteristics of ‘fight’, such as conflict, opposition, resist, and struggle, may permeate the legal context. Moreover, the productivity of FIGHT metaphors since 2004 reflects not only its influence of creating a fighting mindset but also the cruel reality of being involved in a lawsuit.

This finding correlates with the influence the law revision introduced. The FIGHT metaphor itself, in the way it invites us to understand the litigation proceedings, becomes a framing device to frame the litigation as an all-out fight. It influences the way we reason and act about litigation and shapes our higher-level thinking in more aggressive and hostile ways, which in turn reflects a more rhetorical choice of ‘fight’-related lexemes among litigants. Since language embeds our values and beliefs, the way that we frame the litigation regarding the FIGHT metaphor is important. We argue that FIGHT

metaphors have potentially powerful influential effects on litigant ideologies, as they lead people to create a fighting image, increase aggression-related thoughts and emotions, and thereby indirectly promote a more hostile interaction in the courtroom.

When considering all of the entailments of the lexeme ‘fight’, as listed in Table 1, none of them highlights compromise, concession, peace talk, or cooperation, all considered positive features in an intentional process. When ‘fight’ moves beyond the literal meaning of ‘oral dispute’ to a cognitive abstraction meaning ‘an aggressive willingness to compete’, antagonism and confrontation may intensify. Figure 1 below shows the hierarchy of the ontological concept of ‘fight’ based on SUMO.<sup>19</sup> As ‘fight’ subsumes under the concept ‘an aggressive willingness to compete’, it is further superordinated by the concept of ‘competitiveness’, ‘aggressiveness’, ‘drive’, ‘trait’, ‘attribute’, and ‘abstraction’.



**Figure 1:** The hierarchy of SUMO classes for ‘fight’

As Figure 1 shows, ‘competitiveness’, ‘aggressiveness’, and ‘drive’ immediately dominate the concept of ‘fight’. When ‘competitiveness’, ‘aggressiveness’, or ‘drive’ combine with the concept of ‘fight’, it may signify that hostility and confrontation outweigh other characteristics among the parties engaged. If triumphing in a fight is the primary concern, then it further nurtures competitiveness in the fight and ignores possible resolution or reconciliation. In this view, we posit that ‘fight’ intensifies the

<sup>19</sup> The Suggested Upper Merged Ontology or SUMO is an upper ontology categorization scheme. SUMO and its domain ontologies form the largest formal public ontology in existence today. They are being used for research and applications in linguistics and reasoning. For details, see [www.ontologyportal.org](http://www.ontologyportal.org).

feelings of aggression and hostility, especially when it forces legal professionals or the parties involved to place winning ahead of pursuing justice.<sup>20</sup>

The basic problem of metaphor use in a legal context is that a metaphor highlights certain aspects of its subject while obscuring others. By examining prevalent FIGHT metaphors in the legal discourse of Taiwan, we argue that these FIGHT metaphors have an ideological influence, since metaphors can be delusive. The meaning of a subject once thought of in metaphoric terms can be polluted by the metaphor, as the examples found in our corpus have shown. Terms such as ‘attack’ and ‘defense’ easily map onto the realization of the litigation procedures as a whole, with the negative aspects of ‘fight’, such as conflict, opposition, struggle, and hostility, further reinforcing these concepts.

Ostensibly, the adversarial legal system in Black’s Law Dictionary is simply defined as being “active and unhindered parties contesting with each other to put forth a case before an independent decision-maker” (2004:52). However, we posit that the reality of the system is more complex and contains an influential effect, especially in terms of ideology. The ‘fight’ metaphors permeating litigation language focus on competition, strategy, and confrontation, with defeating one’s opponent the only goal, which leaves little room for cooperation and compromise in legal discourse. Therefore, to alter the rivalry in the legal culture, we argue that plain and more explicit expressions other than the FIGHT metaphors should be adopted and advocated.

In the provisions of the R.O.C. Civil Code, expressions such as *means of attacking or defending* and *new attacks or defenses* in the statutes refer to the *statements* and *evidence* submitted to the court by the litigants. These same ideas are illustrated in the following provision of Article 431 of the Civil Procedure of the R.O.C., excerpted in

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<sup>20</sup> To find out whether our views of ‘fight’ aligned with reality in the courtroom, we designed a questionnaire to survey those litigants who experienced the litigation process before and after the 2003 law revision to see how they felt about the procedures of litigation and whether it influenced their behavior. Among 57 subjects investigated, 52 (91.22%) replied that they felt the atmosphere during the proceedings was antagonistic; 49 (85.96%) thought that courtroom linguistic behaviors changed for the worse (i.e. it was bitterer and more unfriendly); and 35 (61.4%) thought that the new law proceedings (i.e. the adversarial legal system) could not result in judicial justice. When further asked the reasons for their responses, 30 (85.71%) complained about the time and money involved in litigation in paying skillful attorneys to perform the attack and defense in the courtroom. Moreover, 46 (80.7%) subjects thought that their litigation outcome depended on the skills and strategies their attorneys performed during the proceedings. While the outcomes of the litigants’ cases do not seem directly related to the enactment of the new law, most of the engaged litigants (80.7%) considered the fighting skills and strategies during the litigation important factors that ultimately affected the result of their case. We argue that those ‘fighting skills and strategies’ have a certain degree of influence because they are carried out via language practices, and language use further shapes the cognitive domain of human interactions.

example (12) below, in which the Code uses neutral and explicit wordings, such as *statements*, *alleged facts*, *allegation*, and *evidence*, instead of metaphorical expressions, such as *means of attacking*, *means of defending*, *attacks*, and *defenses*.

- (12) 當事人 於其 聲明 或 主張 之 事實 或  
 dangshiren yu qi shengming huo zhuzhang zhi shishi huo  
 the litigant party in his/her statement or allegation ASSOC fact or  
 證據，以 認為 他 造 有 非 有  
 zhengju yi renwei ta zao you fei you  
 evidence with respect to consider the opposing party have not have  
 準備 不能 陳述 者 為 限， 應 於 期日  
 zhunbei bu neng chenshu zhe wei xian ying yu qiri  
 preparation not can state kind as limitation should at the session  
 前 提出 準備 書狀， 並 得 直接 通知  
 qian tichu zhunbei shuzhuang bing de zhijie tongzhi  
 prior to submit preparatory statements and shall directly inform  
 他 造； 其 以 言詞 為 陳述者， 由  
 ta zao qi yi yanci wei chenshuzhe you  
 the opposing party his/her take oral speech as statements by  
 法院 書記官 作成 筆錄， 送 達 於 他 造。  
 fayuan shujiguan zuocheng bilu song da yu ta zao  
 court clerk make transcript send to at the opposing party  
 ‘The party shall submit and may directly send to the opposing party  
 preparatory pleadings prior to the session with respect to such **statements** or  
**alleged facts** or **evidence** to which the opposing party cannot respond without  
 preparation; where such **statement** or **allegation** is made orally, the court  
 clerk shall prepare a transcript to be served upon the opposing party.’

Considering unacceptable actions and attitudes may be fostered by competitive metaphors, explicit and precise linguistic expressions are perhaps a better choice.

As for the ideology issue, disadvantages also occur. If litigation is motivated by a conceptual metaphor such as LITIGATION IS AN ATTACK or LITIGATION IS DEFENSE, as explicitly stated in the R.O.C. statutes, then there are clearly implications for the type of litigation that is created. By employing ‘fight’-related metaphors, the opposing parties activate emotional associations of fighting, strengthen the image of confrontation, and further transfer its negative association to ideologies. Lakoff argues that metaphors not only reflect how people conceptualize certain concepts but also affect how people “frame” the issues (for details, see Lakoff 2004). We speculate that

when the language that evokes this framing comes from legal directives such as the R.O.C. Code of Criminal Procedure and enters the courtroom, the judiciary judgments, and the litigants' minds, the ideologies evoked fall into that framing—particularly the FIGHT frame—as well. Hence, problems might arise when the legal community concentrates on or is influenced by the metaphor rather than the cooperative aspects or other resolutions behind it. Again, we suggest that non-metaphoric and more explicitly literal expressions, such as 'statement' or 'evidence', will achieve the goal of bridging this gap between conflict for the purpose of winning and conflict resolution for the purpose of realizing justice.

## 6. Conclusion

This study demonstrates the relationship among concepts, ideologies, and linguistic configurations in legal discourse. In a traditional view of metaphor, which links it with figurative language and subjectivity, texts such as those in the legal field under analysis were not expected to contain metaphors, since language in legal settings is characterized by highly technical terms used in specialized ways. Legal writings with vague or flexible linguistic expressions may be interpreted in the future in a way that the drafter did not intend. The attempt to achieve unambiguous precision leaves legal professionals with little choice but to use established language (cf. Mellinkoff 1963, Solan 1993, Tiersma 1999, Gibbons 2003). However, through careful analysis, we demonstrated that legal language still makes use of metaphorical systems and that the descriptive power of metaphors makes its use relevant in legal documents.

Specifically, we demonstrated the employment of the 'fight' domain in the conceptualization of litigation in legal discourse—a once-neglected genre that is now worthy of attention. While scholars have systematically manifested FIGHT metaphors of argument (Lakoff & Johnson 1980[2003], Tannen 1998, Goatly 2007), sports (Lönneker 2003), public interest (Kruglanski et al. 2007), business (Koller 2004, 2005), and disease (Wallis & Nerlich 2005), to date there have been few critical or metaphorical analyses conducted on the use of the FIGHT metaphor in the legal field, especially in the texts of legal judgments.<sup>21</sup> Yet, law, by definition, represents, shapes, and codifies the values and ideologies of a society.

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<sup>21</sup> Most studies conducted in this field are based on spoken data in the courtroom (see, for example, O'Barr 1982, Bülow-Møller 1991, Matoesian 1999, Hobbs 2003a, 2003b, Winiecki 2008). However, the data analyzed in this study are collected from legal judgments, which are traditionally considered a genre in which the wordings used are more careful, conscientious, and restrained and should not contain metaphorical usages.

Based on a large collection of data, this study also reveals the roles of FIGHT metaphors in guiding people's actions and demonstrates a change in the type of legal discourse before and after 2003. The result of the high frequency of FIGHT metaphorical lexical uses appearing in judiciary judgments since the 2003 revision of the law suggests that experiencing litigation in terms of fighting has shifted individuals' ideologies and has become a dominant mode of rationality and conduct in the courtroom. In finding that FIGHT metaphors in legal discourse have influential effects, we propose that both the legal professionals and the individuals involved in litigation should take a more reflective approach to their linguistic behaviors, whether oral or written, and should reconsider how FIGHT metaphors affect the legal culture and, by extension, individuals' lives as part of society.

Unlike previous studies, which focus on metaphor's role as a powerful tool to enhance legal reasoning and the awareness of the abstruse nature of the law, our study focuses attention on metaphor's hidden effects. As CDA scholars, we will continue to make efforts to explore the interrelationship of ideology and metaphor in public discourse, as we believe that increased awareness of this interrelationship through critical analysis is necessary for individual empowerment and offers alternative ways to understand the world in which we live.

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## 法律語言中之對抗隱喻： 未說出的故事？

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本文以概念隱喻、批判論述分析及語料庫語言學為研究方法，分析台灣法律條文及司法判決書內之對抗隱喻，進而證明 2003 年新的刑事訴訟制度實施後對語言使用、意識及行為認知所產生的影響。研究發現，對抗隱喻及相關詞彙之使用在新制實施前後確有顯著差異。此類語言除具有強化對立及敵視意識之潛藏效果外，也可能導引後續更敵對的法庭語言行為。本文建議，法界或訴訟相關人士使用此類語彙時應更為謹慎，而對抗隱喻對訴訟文化及更宏觀的人類生活之影響，也值得進一步省思。

關鍵詞：對抗隱喻，批判論述分析，意識，法律語言，台灣