Constructing Legal Discourses and Social Practices

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Issues and Perspectives

Co-Editors

Girolamo Tessuto, Vijay K. Bhatia, Giuliana Garzone, Rita Salvi and Christopher Williams

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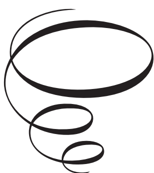

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Series Editor: Girolamo Tessuto
Co-Editors: Vijay K. Bhatia, Giuliana Garzone, Rita Salvi
and Christopher Williams

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SERIES EDITOR'S PREFACE

I am pleased to inform the reader that volume 1 of the *Legal Discourse and Communication* international series (2016) is now available. *Legal Discourse and Communication* is a refereed international series initiated by the Centre for Research in Language and Law (CRILL) of the English Language Chair, Law Department of University of Naples 2 (http://www.crill.unina2.it/) and published by Cambridge Scholars in the UK. It is a research tool series that explores theoretical, descriptive and applied issues of legal discourse and communication manifest in different languages, cultures, systems and societies.

This series ensures that only a select number of research papers submitted go to print, and several academic members of the Advisory Board from Asia, North America and Europe, each in their own area of expertise, ensure the quality of published papers within the international community of scholars involved in legal discourse and communication studies.

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Like its sister E-book of selected articles (*Language and Law in Social Practice Research*, Universitas Studiorum, Mantova, Italy, 2015) co-edited by Girolamo Tessuto and Rita Salvi, this volume grew out of the 3rd International Conference *Language and Law in Social Practice* held at the Royal Palace on 14-17 May 2014 and organised by the Centre for Research in Language and Law (CRILL). This conference was attended by highly-renowned international keynote speakers, Professors Vijay K. Bhatia, Giuliana Garzone, Jan Engberg and Dr Tim Grant, who lectured on different topics, along with a host of national and international scholars and researchers from linguistic and legal backgrounds. As such, the volume is a careful selection from 40 out of 90 total papers presented at this conference by those scholars and researchers and reshaped into articles after a double-blind peer review by members of the Advisory Board for inclusion in this volume.

I would like to thank the members of the Conference Scientific Committee and of the Editorial Board of this series, Vijay K. Bhatia, Giuliana Garzone, Rita Salvi and Christopher Williams, for their invaluable work in refereeing and offering suggestions on the conference papers included in this volume. While my first thanks go to these members and co-editors for their unwavering enthusiasm and close reading of several drafts of the papers, I want to mention my debt to other fellow colleagues from the Advisory Board of the series and outside for their feedback on the ideas and approaches presented by some contributors in their papers.

Legal Discourse and Communication
Series Editor
Girolamo Tessuto

INTRODUCTION

GIROLAMO TESSUTO

Research landscape in legal discourse studies

Research work on legal language has evolved rapidly over the past quarter of a century, attracting the attention of scholars from diverse research traditions, whether legal experts, philosophers, linguists or other academicians and practitioners. For linguists, in particular, concerns about the use of language in the law and its representation of social action, social actors and social practices have provided systematic insights into the meaning and function of text, discourse or talk realized in academic, professional and institutional sites of communication and generated different data for analysis, method and theory.

In addition to earlier studies of legal language focusing on different aspects of legal texts (Goodrich 1987; Kurzon 1994; Trosborg 1997, Tiersma 1999, among others) and the structural and lexico-grammatical features instantiated in specific written genres of legal discourse (Bhatia 1993), more recent studies of courtroom interaction have shown how the analysis of a particular genre of spoken discourse discloses the distribution of power between the lay and expert participants in the legal process (Cotterill 2003; Harris 2011; Heffer 2005; Stygall 2012), or reveals the centrality of narrative as a discourse activity in trial contexts (Harris 2001, 2005; Heffer 2002; Johnson 2008). While other significant research on written legal genres has pointed out that legal language is inherently vague and indeterminate (Bhatia, Engberg, Gotti, Heller 2005) and that legal meaning is a sum of the parallel formulations existing in different language versions (Engberg 2012), analysing language for its social relevance to the law has also recently provided timely new insights on the practices and attendant discourses of 'legal communities' alongside their elaboration of identities, roles and cultures (Bhatia, Candlin, Gotti 2003; Bhatia, Candlin, Engberg 2008; Bhatia, Candlin, Evangelisti 2008; Tiersma 2010; Gotti and Williams 2010; Bhatia, Candlin, Gotti 2010/2012; Bhatia 2011; Bhatia, Garzone, Degano 2012; Tessuto 2012a; Tiersma and Solan 2012; Williams and Tessuto 2013; Bhatia, Garzone,

Salvi, Tessuto, Williams 2014a/b; Bhatia and Gotti 2015). Central to these stimulating works has been, for instance, the articulation of a set of issues of inquiry which underpin major ADR processes at work, where *colonization* of arbitration discourse and practices by litigation has considerable relevance in the realm of today's international, inter-linguistic and inter-cultural social actions motivated, in particular, by increasingly globalized economies (Bhatia, Candlin, Gotti 2010/2012; Bhatia 2011; Bhatia and Gotti 2015). Viewed simply as an action brought in court to enforce a particular right, litigation has thus provided the important locus for *interdiscursivity* and asymmetrical power relations in the professional practice of law and accompanying systems, processes and procedures, and the variety of textual, discourse and ethnographic analytical data have pointed out how the discursive genre of multilingual arbitration awards "is not immune from litigation contagion" (Bhatia, Garzone, Degano 2012: 12), or expanded on "the 'integrity' of arbitration principles" adopted in international commercial arbitration practice (Bhatia and Gotti 2015: 9). In addition to describing how the law itself and the actors within the legal system conceive of relations between discourse, power and ideology (Wagner and Cheng 2011; Bhatia, Hafner, Miller, Wagner 2012), further insights have been brought to "the way language is used by the professional legal community for the communication of its main business, i.e. the negotiation of justice" (Williams and Tessuto 2013: 1), and to the "diverse and complex features of legal discourse construction where socially informed aspects of language use are inherently negotiated by professional practices" (Bhatia, Garzone, Salvi, Tessuto, Williams 2014b: 7). Not only this, within our culturally and jurisdictionally diverse world, and not least because of the increased internationalization of law, legal translation issues have also been extensively addressed in theory and practice (Garzone 2000, 2008; Chromá 2004; Gotti and Šarčević 2006; Cao 2007; Tessuto 2012b; Cheng, Sin, Wagner 2014), where the system-bound nature of legal language typifying a wide array of legal texts (including legislation, regulations, and contracts in national and international jurisdictions) and originating from the two most influential legal families (Common Law and Continental Civil Law) accounts for specific syntactic, semantic and pragmatic rules behind the process of linguistic and cultural (un)translatability of legal texts. Clearly, the inter-relatedness of legal language and culture and its implications for translation still forms part of the cultural identities that are negotiated in the translatability process. However, it also naturally poses a series of challenges to legal discourse which mirrors ‘the organization of society and its institutions and the roles and power structures inherent therein’

(Wodak 1989: 155), and consequently brings up new forms of 'reconstruction' of disciplinary discourse in legal translation processes and practices.

It therefore becomes clear that the formal list of legal language and discourse-based studies in the review above, though by no means exhaustive, is relevant to emphasise how the disciplines of applied linguistics and law can work together to acknowledge interdisciplinary research trajectories in terms of knowledge bases build up by the cross-cutting methodological confines of language and law. Most importantly, the list of studies is significant to account for the complexity of legal discourse (written as well as spoken) in a variety of socio-cultural and socio-interactional contexts, where linguistic constructs (such as those deriving from generic patterns) are firmly rooted in the construction of reality and its representations. While these contexts bear upon the conditions of production within which legal discourse is framed and used as well as the basis of social constructionist theories looking at social life as socially (discursively) constructed as an effect of discourses, they also however shape the values, discursive resources and structures of social practices themselves (Fairclough 1992) through a range of situated discursive practices (Fairclough 2001; Candlin 2002; Bhatia 2004). In making this case for discursive practice and social practice of the law relevant to “the defining work of a specific community” (Goodwin 1994: 630), a (genre-based) legislative discourse equates a legal discourse that is forged with its argumentative social and institutional/professional practices (people represent to themselves and each other what they do in terms of activities enacted in the particular discourse), and is unified and distinguished by its own background of legal culture. Culture, viewed broadly as a set of traditions and standardized social practice in the existing discourse, is not exempt from the reproduction of this community's ideology and power in socially relevant norms, values, goals and principles that define the everyday activities of the professional community itself. By the same token, the use of this type of discourse is contingent upon the role assigned to the law in society where it is generated by moral, political and economic arguments, and therefore filtered through the peculiarity of legal language use in this form of communicative practice.

Under these conditions for uptake of research paradigms, however, it is undeniable that analytical confines as well as procedures for a useful investigation of legal discourse remain wide open from the increasingly complex and dynamic sites of legal professional and institutional communication, and may provide further opportunities for interpreting and explaining the ways in which legal discourse as the product of institutional

structures and systems of the law functions within a social context and practice through the agency of language in use. This, then, is the principal *leitmotif* of this co-edited book, focusing on several different legal discourse-creating practices - namely, legislating, court ruling, reporting, translating, social networking sites and Web-generated news.

Content of this book

The present book *Constructing Legal Discourses and Social Practices: Issues and Perspectives* brings together European scholars and researchers primarily from a linguistic background to address the realized forms of legal discourse, how these are framed and organized across the participants, activities and purposes in distinctive sites of legal and para-legal communication, and how these discursive forms are closely controlled by social practices. To weave these objectives into a tight thread, the thirteen chapters included in this volume are organised into four Parts, addressing significant issues of legal discourse in a variety of genres (spoken and written) from institutional, professional and organizational contexts of disciplinary communication:

Part I - Multi-voiced/dialogic and conceptual analyses of legal discourse
Part II - Identity, diversity, equality and justice in legal discourse
Part III - Judicial and out-of-court discourse
Part IV - Legal discourse in Internet-enabled communication

Descriptive analyses of such issues in data gathering and data interpretation rely on specific perspectives, varied applications, and different methodological procedures necessary to provide a multifaceted overview of the ongoing research. The volume therefore offers a variety of interests in undertaking analyses of legal discourses and genres alongside their social as well as cultural practices constructed, negotiated and used within the socially-informed framework of language and law.

Part I - Multi-voiced/dialogic and conceptual analyses of legal discourse

Part One of the book opens with two keynote papers delivered at the conference, looking at the diverse theories that have informed the authors' research and analysis and providing theoretical and empirical perspectives from which professional legal discourse practices can be viewed.

In the first keynote paper, *Polyphony and dialogism in legal discourse: focus on syntactic negation*, **Giuliana Garzone** looks at the role of syntactic negation in legal discourse as enacted particularly in appeal legal judgments, and provides the theoretical background to the linguistic issue under consideration by considering the notion of 'polemic' negation inbreeding within legal reasoning theories. In this chapter, the author thus draws the reader into an understanding of syntactic negation as an inherently dialogic form that contributes to the polyphonic character of discursive practices in the ongoing domain. Importantly, the emphasis on polyphony in this chapter draws from the author's earlier research into the discourse of arbitration awards, where polyphonic devices signalled by concessive constructions and the use of language reports (Garzone/Degano 2012; Garzone 2012) are shown to be salient in the corpus-based analysis of argumentative legal texts. Using a representative corpus of appeal judgments from the UK Supreme Court and a methodological framework for the study of polyphony and dialogism involving negation forms, the author formulates the relevance of the research issue within a pertinent body of published literature available on the subject, and refines it as she proceeds with her research in a manner that entices the reader into pursuing the full content of this spellbinding chapter. After introducing and discussing the general notions of polyphony and dialogism and the relevant theoretical frameworks, the author focuses on one polyphonic device, i.e. syntactic negation, and its interpretation and categorisation in the literature. She then looks at how dialogism is realised through syntactic negation in appeal judgements, with special attention being paid to polemic negation. Some variations on the syntactic patterns in which polemic negation is set are also valuably considered, before drawing everything together and tying it into her initial research within conclusions.

The vitality of this linguistic research and the way it enriches our understanding of the issue in discourse and genre frameworks proceeds with the second keynote paper *Conceptualising corporate criminal liability: legal linguistics and the combination of descriptive lenses* by **Jan Engberg**. The basic assumption underlying this captivating chapter is that a legal concept may exist in different legal systems, be defined similarly, but be realized as different versions. By combining different lenses in the description of the different versions, the author argues, a fuller and thus more justified picture of legal meaning can be obtained. The analytical framework for the author's study is therefore offered by the concept of Corporate Criminal Liability, i.e., the idea of using criminal punishment against corporate crimes of different kinds. Due to the characteristic of the concept as a balance between interests of corporations and of the public, the author

maintains, developing and rooting the idea requires compromises between system characteristics and regulatory will, which generate partially different legal concepts in different jurisdictions. Drawing from the Knowledge Communication Approach, the author thus starts off with a description of the chosen concept and the ways it is realised in German, Danish and Spanish law. He then goes on to provide three descriptive lenses that are applied in comparative law studies (culture, socio-functional systems, interpersonal communication). While these studies often seem to urge to choose only one of them, the author thus shows how the lenses may be combined to produce a fuller picture of the actual complexity of the concept and the factors influencing its development. This is strikingly demonstrated through an empirical comparison of aspects of the Danish and German (position in legal system) and the Danish and Spanish (relative value of compliance programs) versions of the concept, respectively.

Part II - Identity, diversity, equality and justice in legal discourse

Part Two brings together four chapters addressing varied, yet overlapping, issues within this topic area. In the first chapter, *Freedom from Fear and Want: Communicating Language Rights*, **Tarja Salmi-Tolonen** sets her analysis in the context of modern democracies and constitutional states where basic rights, including access to justice and fair trial, are of utmost importance. For these rights to have any real meaning, the author argues, the language rights are essential to ensuring that a number of legal principles, including the principles of fair trial, are fulfilled in a justice system. With this in mind, the chapter examines how the fundamental rights and questions of fair trial are communicated in transnational, supranational and national legal instruments, and seeks to answer four different questions: are regulative texts impersonal and decontextualized, how are the principles of fair trial, equality of arms and language rights expressed in regulative texts, and how do the law-makers use metalinguistic means to communicate their purpose, and is there variation between international, supranational and legislative discourse in this respect? Using a metalinguistic framework for the analysis of different materials, namely, covenants, directives and acts at international, supranational and national levels, the author's findings support previous results of variation when the texts are seen as being functionally equivalent. Although legislative texts, as a genre, are generally considered to be decontextualized and impersonal, the argument is therefore made for

these texts to employ similar means of metadiscursive markers than other genres.

In the second chapter, *Legal necessity or competitive advantage: a critical analysis of workplace diversity initiatives in Hong Kong,* **Aditi Bhatia** explores how workplace diversity initiatives are communicated in corporations, particularly in the banking industry, and focuses on the language used in informational documents intended to promote and support diversity efforts from two major licensed banks in Hong Kong. The author starts from the premise that Hong Kong is one of the world's largest and freest trading economies, so it should be relatively easy, at least theoretically, to institute effective diversity initiatives in its economy than other Asian economies, especially given the increasing support of its legal system on the issue. Informed by the theoretical framework for Critical Discourse Analysis where the focus is on the relationship between text, interaction, and context, this chapter therefore investigates how the banks in question specifically talk about 'diversity' in their attempts to inform and educate their audiences. The author's analysis reveals that the implementation of diversity initiatives often seems to be motivated by a legal obligation or need for competitive advantage, and results in certain linguistic pitfalls in communication about workplace diversity, including de-personifying labels such as 'talent management' and 'talent pool' that counteract the spirit of diversity and turn workforces into material assets.

In the third chapter, *A Corpus-based Discourse Analysis of Refugee in EU Legal Texts*, **Giuseppe Balirano** and **Maria Cristina Nisco** represent the more general topic (the 'big context') for their study by informing the reader about the significant progress made in EU countries, where a variety of legislative and non-legislative instruments have been made to ensure fundamental rights and regulate migration flows. Despite these significant inroads, the authors maintain, there seems to be an increasing tension between general human rights and the specific interests of each Member State at a time when the EU is striving to cooperate for the creation of a common asylum system to promote solidarity, provide protection and integration for asylum seekers, and implement and support practical cooperation among all Member States. This scenery allows the authors to narrow down to the specific topic in their case under analysis and to examine the institutionalized language of the EU case-law constructed and used mainly through *judgments* and *opinions*, dealing with the intricate issue of EU refugees. Using the methodological framework for corpus-based discourse analysis, this chapter thus looks at the most salient linguistic patterns emerging from the discursive construction of refugees within the chosen texts. While uncovering an unsafe process of

social and political transformation with contradictory priorities, power struggles and contrasting ideological influences, the authors argue for such texts to also signal dangerous relations of inclusion and exclusion which foster an authorial and hegemonic type of EU legal discourse.

The chapter *Regulating the Law of Seeds: A comparative analysis of social representations in legal versus ecological discourses* by **Marilyn Pasqua** closes this section. As an explanation for her study, the author sets forth beforehand the recent adoption by the European Commission of a proposal to regulate plant reproductive material law, which has led to a European petition being promoted by consumer groups, small-scale farmers and gene banks. The restrictions imposed by the regulation of seeds control agro-biodiversity and violate farmer/breeder rights. Against this provision, Vandana Shiva, a prominent leader of ecological justice, has taken action to promote the ways in which seed laws should be regulated. With this scenery under focus, this chapter considers how new social representations in the regulation of seeds are pushed forward and old ones transformed through discourse. It highlights the crucial role played by social representations in legal vs. ecological discourse. Drawing from the social representation theory and the critical discourse analysis method, this study thus examines the interface between social and discourse structures where the social representation of seeds is involved. Findings indicate that contrasting representations strongly affect the social practice of legislation, which is countered by the discourse of ecological justice.

Part III - Judicial and out-of-court discourse

In this Part, the chapter *Multiple negatives in legal language: the case of English, Italian and Spanish* by **Stefano Ondelli and Gianluca Pontrandolfo** draws attention to the so-called “double” or “multiple negatives” in legal texts drafted in Castilian Spanish, British English and the varieties of Italian used in both Italian and Swiss Courts. This syntactic feature, the authors argue, belongs to the set of traits traditionally criticised by the advocates of plain language and are regarded as typical of the language of the law and public administration. In order to investigate this feature, corpora of court judgments are built in the current study, as well control corpora containing newspaper articles. The preliminary results of the study show that negatives are more frequently used in English and Spanish general and legal texts, whereas Italian negatives are more frequent in newspapers than in court judgments, even though the frequency of “non” before nouns, adjectives, adverbs and negative

prefixes is found to be greater in the legal texts. Regardless of the language, the author maintain, constructs involving more items classified as negatives from a strictly morphological viewpoint never add up to a significant share of the sub-corpora. The chapter also stresses that defining "multiple negatives" is a challenging task due to the subsequent problems in identifying semantically equivalent affirmative constructs.

In *Argumentative strategies in the judgments of the European Court of Justice: connectors in French and English*, **Silvia Cavalieri** and **Chiara Preite** examine the importance of language in the construction of argumentation in judicial settings, an area that has been largely underestimated in current literature. In an attempt to fill this gap, this chapter thus provides new insights into the description of the linguistic component of argumentation in legal discourse, and presents results of a comparative analysis of argumentative connectives in the judgments of the European Court of Justice delivered in French and translated into English. As French is the procedural language, the authors' objective is to discuss whether and to what extent translators make recourse to one-to-one equivalence or, conversely, one-to-many equivalence, or to *reduction*. Using two parallel corpora of judgements of the CJEU published in recent years and an integrated framework for discourse and corpus analyses, the authors test their claims against a possible influence of the French language on the use of connectives in the English translations, and compare the CJEU_En corpus to a reference corpus of judgments delivered by the UK House of Lords. While a massive use of connectives is shown in French judgements, a more frequent use of argumentative connectives however is also observed in CJEU_EN corpus rather than in the HoL corpus, providing evidence for the influence of the original French version on the English translations of CJEU Judgements.

In *Delivering justice: do mediators and lawyers speak the same language?*, **Lesley Allport** explores the use of language among mediators and legal professionals, who both would describe themselves as being concerned with 'justice' and 'fairness'. However, the author raises the question as to whether they mean the same thing. By considering the growing use of mediation within civil justice, this chapter thus examines the impact that the coalition of these two disciplines has had on language and definition. As the boundaries between legal practitioners and mediation professionals have become increasingly blurred, the author argues, so the language of these two areas of practice has been borrowed, exchanged and evolved. Drawing on empirical research conducted with mediation practitioners, the author explores terms and definitions, points to some immediate contradictions and raises three main questions: What

effect does the ‘win / win’ terminology of mediation have on establishing the rights or wrongs of a point of law? How does the language of the courts in promoting ‘settlement’ impact on the focus of mediation to build understanding and improve communication? Can there be a shared purpose when the legal framework effectively defines disputes in terms of ‘rights’, while mediation encourages the identification of ‘needs’?

Finally, **Glen Michael Alessi** examines US investigative accident reports used to help insurance companies determine liability compensation. Informed by a theoretical framework for corpus-assisted and critical genre analyses in a large corpus of adjuster-written accident reports, the author questions whether the language used in the chosen reports might reveal features of paralegal communicative practice. Two potentially conflicting functions seem to arise from the reports: first, by assembling facts and impartially narrating the events of the accident, and secondly, by interpreting and grading reliability of witness testimony. The author thus argues that the interdiscursive and intertextual features acting with the reports provide instances of professional and organizational discourse practices which are also aimed at defending, accusing or convicting, and therefore reports should be more accurately viewed as constituting investigative paralegal discourse. However, the author adds, the communicative purposes achieved in the reports appear straightforward to all parties as producing an accurate and unbiased account of events in fulfilment of a business-to-client relationship.

Part IV - Legal discourse in Internet-enabled communication

Part IV closes this volume with three contributions setting sights on the different aspects of institutional activity and social life conducted in the social media environment of Internet-based communication. In the chapter, *Reputation management and the fraudulent manipulation of consumer review websites* by **William Bromwich**, the focus of the study is provided by businesses which are increasingly reliant on TripAdvisor, Yelp and other consumer-review websites, in an awareness that user-generated content can damage their reputation. In response to critical reviews, and in defiance of the codes of conduct of these sites, the author argues, some businesses resort to covert “reputation management”, hiring freelance writers to disseminate fake reviews. In this sense, the author adds, it is debatable whether these operations are protected by the First Amendment, or whether they may the subject to criminal proceedings under consumer protection and anti-fraud legislation. With these questions in mind, this chapter focuses on the action taken by the New York State

Attorney General Schneiderman against companies disseminating fake reviews, including financial penalties and a requirement to sign an Assurance of Discontinuance. A genre theory perspective is adopted to examine the issues arising out of this case, identifying interdiscursivity in the Schneiderman press release that is likely to be followed by similar action by law enforcement authorities in other jurisdictions.

In *Client reviews of lawyer performance in sociolegal networking media: an appraisal analysis*, **Anna Franca Plastina** sets the context of her discussion within emerging socio-legal networking sites which allow laypeople to engage in the new practice of reviewing their lawyers' performance online. In the author's view, this practice can be seen as a paradigm shift from a lawyer-centred to a client-centred approach, which has been long advocated. In this sense, the act of judging lawyers places increasing value on the lay experience as a constitutive part of the social practice of law, and revolutionises traditional lawyer-client communication with an inevitable impact on legal practice and client service. Reviews automatically become an integral part of a lawyer's online profile, suggesting that clients regain power and contribute to shaping the perception of justice and fairness within the global lay community. As this practice is grounded in the key concept of judgement, this chapter thus aims at investigating which kind of judgemental discourse shapes legal client reviews, and whether this discursive practice is constrained by the new socio-legal medium. For this purpose, the author draws from two socio-legal networking sites and a combined methodological framework derived from Appraisal Theory and appraisal and content analyses as necessary to carry out the linguistic, judgemental and orientational levels of the current discourse. Findings show how clients shape their judgemental discourse more through social esteem than social sanction, suggesting their desire for relationship-centred lawyering. Results are further confirmed through content analysis, revealing how the unprecedented power gained by clients outweighs medium constraints. This chapter thus sheds light on the emerging role of clients as the primary agents of the social practice of law.

In the final chapter of this section, *How the law is responding to a changing society: a comparative linguistic analysis of texts on cybercrime*, **Judith Turnbull** identifies the subject area of her interest within work, business, and transactions now being increasingly transferred online, with a consequent growth in the risk of and opportunities for cybercrime. In this sense, cybercrime has become a real challenge for society. With this focus in mind, this chapter investigates first how cybercrime is perceived by the UK society at large, and provides a linguistic analysis of articles and

editorials appearing in recently published newspapers and magazines. The chapter then focuses on the legislation on cybercrime and, more precisely on the *EU Directive on attacks against information systems*. This Directive is chosen because it is the latest legislative act on the matter and because it contains important Recitals where the directive's purpose and underlying philosophy are explained. Recitals thus contextualize the chosen legislation and give interesting insights on how and why the UK law is responding to the cybercrime challenge. By focusing on the recitals and articles of the Directive, the author also reflects on the language and style of this type of legal text.

Concluding remarks

All the contributing authors to this volume have brought together scholarly efforts in an attempt to produce an eclectic taste in the ever-evolving issues and perspectives that lie at the heart of the construction and use of legal discourse as social practice. By covering a diverse and complex range of areas for linguistic enquiry, this collection of insightful and innovative contributions provides the wide scope for the critical study of legal language as a tool for social action in establishing social identities, social relations, shared values and ideologies, and influencing and maintaining social processes and structures through the discursive organization and the choice of realisations behind professional, institutional and organizational activities and practices shaped by a specific disciplinary community. While the analytical focus on specific, yet dynamically complex sites of discursive and social practices in the range of the contributors' motivations also acknowledges theoretically scrutinized areas of dialogism, hybridity and interdiscursivity within communicative practices and constraints, it sets up a descriptive and interpretive framework for engaging with representations of text, (critical) discourse, genre, corpus-based and other analyses and approaches necessary for a proper account of those activities and practices across distinctive sites of legal communication.

This volume is therefore multidimensional and multiperspectival in its design and implementation of key applied linguistic activity, and takes the readers a step further in making them aware of the most recent concerns confronting language, discourse and communication in the law. We are sure that whatever the readers' interests and motivations, they will find some of these contributions in this book valuable and thought-provoking, as we have in putting it together. We believe this book will prove to be an

attractive and refreshing experience for old and new researchers, including students who seek to pursue research work in applied linguistics.

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PART I:

MULTI-VOICED/DIALOGIC AND CONCEPTUAL ANALYSES OF LEGAL DISCOURSE

CHAPTER ONE

POLYPHONY AND DIALOGISM IN LEGAL DISCOURSE: FOCUS ON SYNTACTIC NEGATION

GIULIANA GARZONE

Introduction

This chapter looks at the role of syntactic negation in legal discourse, and specifically in judgments, considering in particular the use which has been defined "polemic", especially recurrent in legal reasoning. Syntactic negation will be examined as an inherently dialogic form contributing to the polyphonic character of discursive practices in this domain.

In previous research, focusing on arbitration awards, I have shown that recourse to polyphonic devices is especially salient in argumentative legal texts, studying the use of language reports and of concessive constructions (Garzone / Degano 2012; Garzone 2012), whose rhetorical prominence in constructing legal argumentation was proved thanks to a detailed examination based on corpus analysis and close reading.

This study is based on the analysis of appeal judgments, and in particular of decisions of the Supreme Court of the United Kingdom.

The methodological framework is set in the tradition of research on polyphony and dialogism (for an overview, cf. Dandale 2006), with special regard for studies on negation. It also makes reliance on corpus interrogation, using the Wordsmith Tools 6.0 suite of programmes (Scott 2015).

The chapter is organised as follows. After introducing and discussing the general notions of polyphony and dialogism and the relevant theoretical frameworks, I shall concentrate on one polyphonic device, i.e. syntactic negation, and its interpretation and categorisation in the literature. I shall then look at how dialogism is realised through syntactic negation in appeal judgements, with special attention to polemic negation.