

Introduction:

Law-in-(inter)action: communicative practices in legal settings

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This collection is the result of the work of the “Law and Language” working group, which convened at the Empirical Research in Law Meetings in 2019 and 2021. At these meetings, we had the opportunity to bring together Brazilian researchers interested in studying different interactional and discursive practices in a wide range of police and judicial contexts. Originally, the special issue was conceived as a way to organise and disseminate research conducted in the Brazilian context, but it took a different form when we decided to accept contributions from researchers worldwide. This decision opened the doors to insights and perspectives beyond the Anglo-American tradition. The result is a rich compilation that includes studies from Brazil as well as those conducted in Denmark, Nigeria and Switzerland.

Despite the distinctive contexts in which these studies were produced, the research gathered in this issue shares two fundamental characteristics: a) it focuses on the communicative practices used by law and legal participants in conducting their affairs in justice institutions; b) it employs theories and methodologies associated with linguistics to unravel these practices.

The rather restrictive scope of the Language and Law work assembled here is essential to distinguish it from the studies in forensic linguistics conducted with the main goal of assisting legal professionals in decision-making and case resolution. The articles in our collection are focused on describing and analysing the language in the legal process (Coulthard *et al.* 2017, 2020), ranging from police practices to interrogating suspects, to the work of judges and interpreters in court hearings, and the role of mediators and conciliators in judicial mediation sessions and preliminary hearings, respectively. Although these studies were conducted by researchers primarily interested in observing aspects related to language and who found Law a fertile field for developing their research, by unveiling the linguistic underpinnings that constitute the fabric of law-in-action (Ferraz de Almeida and Drew 2020) in particular contexts, this collection has the potential to dialogue with other interdisciplinary traditions, especially those that maintain a close relationship with legal scholarship, such as Socio-Legal Studies and Law

& Society. Emerging from Sociology, these two traditions expanded their territory by adding knowledge produced by a multitude of disciplines - such as Anthropology, Political Science, History, and Linguistics itself, among others - to study actors, institutions and processes that constitute or are constituted by the law.

Despite language's pervasive role in the routine of legal professionals, the study of interactional and discursive practices in police and judicial institutions remains on the fringes of Law and Social Sciences. By employing methodologies, approaches and concepts that are typical of Linguistics, the papers here highlight the centrality of language to understand law as a social phenomenon and help to unveil the interactional mechanisms by which legal institutions operate in their micro-level.

The special issue starts with a focus on UK police departments. Benefiting from privileged access to audio recordings of police investigative interviews, Heini (2022) studies how police warnings are presented and explained to 17 and 18-year-old suspects. The analysis reveals, for example, how the comprehension check, followed by a paraphrase of the legal text, becomes a professional police formula. The problem with this protocol is that it disregards the interactional context in which it is produced and, therefore, does not guarantee that young suspects actually understand the warning. Combining methodological tools and concepts from Conversation Analysis and Critical Discourse Analysis, the author reveals how police warning reformulation practices can involve the participation of suspects to ensure comprehension and how the course of the interaction can alter - positively or negatively - the way in which officers rephrase the warning and check the suspects' comprehension.

In the second article, the focus remains on issues related to police-suspect communication. This time, however, we are introduced to Nigeria's complex multilingual context. Adebite and May (2022) delve into the use of linguistic code-switching in police interrogations with suspects. In their analysis, the authors show that in addition to the common uses by both parties, which aim to endow their speech with credibility and authority and highlight shared sociocultural knowledge, this alternation also serves very particular interests. For police officers, it serves to warn, threaten and carry out verbally aggressive acts that attack the self-esteem of those questioned; while for suspects, it serves to beg for mercy and shift responsibility. In addition to the detailed analysis of these episodes, the article by Adebite and May invites us to reflect on the suspects' rights, more specifically on how apparently harmless resources, such as switching linguistic codes, are capable of coercing suspects to confess or self-incriminate. The discussion proposed by the authors points to the importance of audio and/or video recording of interrogations, despite the difficulties in turning this procedure into a mandatory one.

While the first two articles focus on the study of particular interactional practices in the police questioning of suspects, the third one, by Hohl Zürcher and Capus (2022), transcends a situated analysis of this type of interaction. Grounded on qualitative research on the different uses of confrontational questions in legal contexts (e.g. Drew 1992; Haworth 2013; Komter 2019), the authors propose an experimental study to test how judges in Switzerland assess the effects of a confrontational police questioning style in investigative interviews with suspects. Based on the results of an experiment in which magistrates evaluated written records of these interactions, Hohl Zürcher and Capus conclude, for example, that a confrontational style of questioning negatively impacts the credibility of the story told by the suspect and the perception of procedural fairness in the

interview. In the discussion, the authors highlight the importance of making magistrates aware of the effects of different questioning styles on their perception and evaluation of written records of police interviews.

In the fourth article, Machado and Vieira (2022) shed light on the overall structural organisation of preliminary hearings in Special Criminal Courts in Brazil. Created almost 30 years ago, these courts were an attempt to reduce the complexity of conflict resolution involving minor criminal offences. Studies in legal anthropology had already revealed the efforts of legal professionals to avoid a judicial process by promoting agreements and distributing non-custodial punishments (Fullin 2015). By revealing the interactional phases that constitute these hearings and describing the actions undertaken in each of them, Machado and Vieira (2022) show in detail the work done by conciliators to persuade the parties involved to close the case. The article contributes to the debate about the goals and objectives of criminal justice institutions in Brazil and the challenges associated with their bureaucratic procedures (Azevedo 2001).

The study of communicative practices in alternative means of conflict resolution is also the focus of the fifth article, in which Pereira *et al.* (2022) investigate the role of listening by mediators in a family court mediation session. One of the main difficulties experienced by these professionals involves how to act (or react) when a participant reports an episode of domestic violence. In the article, Pereira *et al.* (2022) demonstrate how the mediator's active listening reveals her interactional effort to avoid aligning or affiliating with the descriptions contained in the narratives of each of the parties, and to topicalize elements deemed relevant, but absent in the narrative until that particular moment of the interaction. In the article, the authors also analyse how the mediator re-textualizes these reports by producing written records of the session for the judge responsible for the case, calling into question the parity in the way episodes of violence are recontextualized.

The special issue concludes with a visit to a courtroom in Denmark. Based on audio recordings of interpreted-mediate criminal hearings, Karrebæk *et al.* (2022) investigate the ways in which defendants, who do not speak the national official language, are informed about the opportunity to speak with their lawyers in private. The authors demonstrate how this task involves not only the interpreter, as one could imagine, but also depends on the judge, who initiates these interactional sequences. Data analysis suggests that the work of interpreters goes beyond the exercise of translation, as they are also responsible for contextualising and detailing the information passed on by the judges, which seems to meet the latter's expectations.

While the articles in the special issue hold immense potential, they also illustrate, more or less explicitly, the challenges to connecting Social Sciences and Linguistics to Law. Karrebæk *et al.* (2022), for example, share their frustration in presenting their research results to judges in Denmark. Whereas for the authors, revealing the cooperative process by which an interpreter and the judge inform the defendant about the right to consult his lawyer is a relevant step towards understanding the functioning of interpreter-mediated judicial hearings, for the judges, the only real concern relates to the accuracy of the translation. Not by chance, although all the articles presented here propose alternatives to operationalize linguistic knowledge to conduct empirical analyses on how legal institutions are produced *in situ*, they also exemplify the difficulties in translating the social world to the legal field (Mertz *et al.* 2016). Thus, this collection serves to explore the complexities of interdisciplinary work, in this case, associated with the tensions, dilemmas and difficulties

faced by language and law researchers as we navigate between the Social Sciences and the Law and have to engage with the field (see D'hondt and May 2022).

We extend our profound gratitude to the journal's editorial team, especially Rui Sousa-Silva, for providing us with the opportunity to publish this special issue, and for the unwavering support throughout the laborious process of organising this collection. Our appreciation also goes to the authors, for their original and thought-provoking contributions, and to the reviewers, whose meticulous feedback enhanced the quality of the published articles. We hope that the special issue *Law-in-(inter)action: communicative practices in legal contexts* will inspire those interested in understanding law and legal institutions through the study of the language in the legal process. I hope you enjoy reading the articles!

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