Language in the Negotiation of Justice: Contexts, Issues and Applications
Christopher Williams and Girolamo Tessuto eds (2013)
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There have been several volumes and monographs on language and law in the last 15 years or so (e.g., Cotterill 2002; Coulthard and Johnson 2007; Rock 2007) which have covered and compared diverse judicial systems, methods and approaches in forensic linguistics, legal genres and texts, linguistic evidence in cases, courtroom interactions and alternative dispute resolution. These books cut across the legal and linguistic aspects and show the inter- and multi-disciplinary nature of the discipline of language and law.

The volume under review adds to the above studies and focuses on linguistic issues in the way justice is negotiated in today’s world. After an introductory overview by the editors, 15 chapters are presented in three parts. Part 1 focuses mainly on the legal contexts in which negotiation of justice in litigation, arbitration and mediation is done, Part 2 explores the main issues identified in these contexts, and Part 3 discusses the applications of the interdisciplinary research. More specifically, this volume, as the editors state, covers the following themes:
analyses of legal discourse and genres in specific contexts;
issues of power and ideology in the use of legal language;
cross-cultural legal communication;
issues of recontextualisation, accessibility and plain language;
disciplinary identity and pedagogy of legal language.

The first three chapters under the first sub-theme are all concerned with litigation. The contexts, however, are all different. While the first two are about courtrooms, one a Scottish Court and the other a Chinese one, and focus on the power of the advocates or the judges, the third one examines the style and approach in judgments in the civil and common law courts. In the first chapter, “‘Mrs Buckley, you’re telling a pack of lies’: Cross-examination in the High Court of Justiciary in Edinburgh’, asymmetrical power relations are investigated by Bromwich in the analysis of the verbal interactions. In Chapter 2 ‘Power in interruption in Chinese criminal courtroom discourse’, Liao analyses data from seven courtroom trials in China to show power imbalance through interruptions used as an index of power. An interesting outcome of this analysis is that interruption in the courtroom arises out of specific strategic, goal-oriented and interest-motivated reasons. In Chapter 3 “‘For the reasons given above, I consider that the Court should …”: A linguistic analysis of argumentation in the opinions of British and Italian Advocates-General at the Court of Justice of the European Union’, Turnbull deals with the multilingual and multicultural contexts of the courts that lead to hybrid texts, and shows in her analysis similarities as well as differences in the drafting of these opinion documents.

Arbitration from different perspectives is at the centre of the next three chapters in the second sub-theme. The first two discuss the current changes in international commercial arbitration and the effects these changes have on the language used. The third chapter takes us back to the very origin of arbitration as it was conceived in ancient Rome. Chapter 4 ‘International commercial arbitration: A protected practice’ includes insights into arbitration by looking at arbitration as a practice controlled by a small legal community. Bhatia identifies and discusses some of the main factors that have led to the present state of arbitration practice as a ‘protected practice’ that denies new entrants to the field and its implications for the development of international arbitration practice as an independent and non-judicial alternative to litigation to settle cross-border commercial disputes.

In Chapter 5 ‘Arbitration across genres: From “private resolution” to “public war”’, Corona examines the re-contextualisation of the discourse of international commercial arbitration across genres. It focuses on the two genres that
appear at the final stage to publicise arbitration: the press releases produced by
the corporations and the resultant news reports. Findings from this study
reveal the transformation of the discourse of arbitration via the corporations’
messages to the public and the re-articulation of these messages by the media.
The history of arbitration in ancient Rome, which traces the origins of arbi-
tration, a relatively unknown area, is examined by Rampazzo in Chapter 6
‘Arbiter→Arbitration: Genesis of a functional word’.

The third subtheme is that of mediation. Two chapters analyse mediation in
the negotiation of justice from two different angles: the first from the angle of
restorative justice, the second in the context of online dispute resolution. In
Chapter 7 ‘Restorative Justice a comparative analysis of discursive practices:
Dialogistic exchanges in the USA and Italy’, Abbamonte and Cavaliere discuss
an area unknown to many, that of restorative justice that deals with the causes
of crime by changing behaviours. The authors look at samples of legal media-
lation linguistic exchanges from a cross-cultural perspective, comparing US and
Italian texts. They were evaluated in the light of CDA, particularly of the
Appraisal Framework and the notion of inter-discursivity, and the findings
show that the attitudes of US and Italian mediators appear as basically similar,
with some lingua-cultural differences.

Chapter 8 ‘Participants’ relationships in online dispute resolution: Legal dis-
course as social practice’ discusses a relatively new area of research, Online
Dispute Resolution, which performs alternative dispute resolution procedures
through electronic means to solve disputes in online and offline environments.
In this chapter, Denti and Giordano analyse two websites to illustrate how
technology can enhance participants’ relationships and that improving infor-
mation exchange in such websites can prevent the escalation of conflict and
assist in its resolution. It is interesting that threaded discussions in mediation
are developing as a specific genre with specific moves and sub-moves. The role
of cultural issues is highlighted for disputants who come from different cultural
backgrounds.

Part 2 of the volume examines issues involved in the negotiation of justice.
Under the sub-theme ‘Identity’, Chapter 9 ‘Negotiating legal identity online:
Narratives of drug use’ is concerned with the way legal identities are created in
an online drug-user forum. Bowles and Moretti examine how legal identity is
negotiated in online discourse practices by looking at Internet narratives on
drug use. Interactional sociolinguistics is used to analyse linguistic construc-
tions of the posts to determine how narrative styles indicate orientations to
legality among the virtual discourse community. The authors draw three
interesting conclusions, namely, that linguistic markers show that the avoid-
ance of self-incrimination is prioritised in online drug forums, that the choice
of pseudo-anonymous formats indicates a willingness to take a legal risk to maintain credibility, and that the narratives include avoidance of self-incrimination in competition with reportability and credibility.

Dancy’s theory of unprincipled ethics, which according to Charnock has been neglected in jurisprudence, is discussed in Chapter 10 ‘Ethical particularism and contextualist interpretation in impossible attempts’ under the sub-theme ‘recontextualization’. This chapter argues that under certain circumstances Dancy’s theory applies and that strict adherence to precedence would lead to injustice in specific situations.

Chapter 11 ‘From primary legislation to public presence. The language of gay rights: From legislation to lobbying’ under the sub-theme ‘Comprehensibility’ explores the way discrimination against sexual orientation is dealt with and subsequently fought against in the legislative, institutional and public domains. Hughes and Napolitano highlight a move towards a new ‘hybrid’ and the use of a number of interdiscursive and intertextual devices accessible to the LGBT community. They also reveal an evolution towards harmonisation in the field of anti-discrimination law and in the linguistic presentation of Parliamentary Acts in the UK.

Incelli, in Chapter 12 ‘Shaping reality through metaphorical patterns in legislative texts on immigration: A corpus-assisted approach’ under the sub-theme ‘Metaphor’, looks at metaphorical language and its pragmatic, functional and communicative role in regulative acts in UK statutory laws and EU regulations on immigration. The approach used is socio-pragmatic as well as cognitive, and focuses on metaphorical language realised at a lexicosemantic and grammatical level in legal texts.

Part 3 ‘Applications’ comprises Chapter 13 ‘Legal linguistics as a line of study and an academic discipline’ and Chapter 14 ‘Learning to fly: The prospects for legal linguistics in the academic curriculum … and beyond’. In the first of the two chapters, Salmi-Tolonen highlights the importance of legal linguistics. She emphasises that legal linguistics is an essential part of legal science, that it combines law with linguistic methods, and that it can benefit legal scientists and legal practitioners by improving their understanding of legal language in general and in legal domains. Finally, in Chapter 14, Goddard argues for the relevance of legal linguistics in the curriculum for law professionals. He outlines core and peripheral legal linguistic skills which will enhance the content of course and programme components and concludes with practical applications of legal linguistics.

Williams and Tessuto present a volume that provides readers with a wide array of topics in language and law framed around different contexts, issues and applications providing theoretical, methodological and practical insights in
the field of language and the law. It is an excellent reference volume for both linguists and lawyers interested in the interface between language and the law as well as for students of forensic linguistics courses.

References

