

Guest Editor's Introduction

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It is said that around 35% of women worldwide have suffered some sort of physical or sexual violence (<http://www.who.int/mediacentre/factsheets/fs239/en/>, retrieved on 8/11/17). Yet, these alarmingly high figures are only estimates and the United Nations warns that “statistics on rape from police records are notoriously unreliable, because of significant under-reporting” (<http://www.un.org/en/women/endviolence/situation.shtml> retrieved on 8/11/17).

Research suggests that a major cause of underreporting is the fact that the legal system, mainly embodied by the police and the judiciary, is at best inefficient when treating such cases. Research into police-witness interaction shows that female victims of physical violence and sexual assault struggle to be taken seriously, especially if the accused is their past or present husband or a man with whom they are having or have had a sexual relationship. The situation is further complicated because there is a deeply entrenched belief, not only among police officers, but also evident in interactions in Court and in the decisions made by judges and juries, that women often have often provoked the physical or sexual aggression they have suffered by their physical or verbal behavior or by their way of dressing and so on. In other words, socially constructed ideologies frequently lead people to question whether a woman was, rather than a victim, a willing participant who subsequently regretted her actions.

This special issue of *Language and Law/Linguagem e Direito*, which is devoted to Women and the Law, was planned to explore how the legal systems of a series of Portuguese- and English-speaking countries deal with cases of violence against women. The topics are diverse, but there is, even so, a lot of fruitful overlapping and a careful reading of the articles will leave the reader with much to ponder and fruitful ideas about ways in which the legal treatment of female victims could be significantly improved.

The issue begins with an article by Lima titled *Cultura do Estupro, Representações de Gênero e Direito*. It gives a historical account of 2,000 years of Judeo-Christian legal attitudes to rape to show how they underlie current views in Brazil. Lima introduces the concept of ‘the Culture of Rape’, a term created in 1970 to refer to social behavior that contributed to the communalization of acts of violence against women. She draws on religious and legal documents from the first to the beginning of the twentieth century

to offer a better understanding of what permeates the discourse of legal professionals in their treatment of cases of violence against women.

Then, a group of six articles discusses the approach taken by the legal communities in Brazil, Canada, the USA and England to cases of violence against women. The first article, *Mulheres em Situação de Violência Conjugal: a denúncia de conflitos no meio doméstico*, by Nunes-Scardueli, investigates the discourse of the police and the judiciary in cases of domestic violence against women. Using the techniques of French Discourse analysis, Nunes-Scardueli highlights the fact that the legal system emphasizes women's subordinate role in society. She points out that the treatment that women complainants typically receive from both the police and the judiciary makes it more likely that such cases will not be reported, or that complaints will subsequently be withdrawn, which, in turn, makes episodes of violence more common.

The next three papers show in different ways how the discourse of legal decision-making in cases of violence against women actually portrays the victims as being somehow responsible for their suffering, while, at the same time, the men's violence tends to be minimized. First, the article *Narrativas de Violência de Gênero em Acórdãos do STJ sobre Lei Maria da Penha*, by Freitas and Pinheiro analyses cases where the Brazilian Superior Court of Justice (STJ) was judging appeals in cases of violence under the Law of Maria da Penha, a Brazilian law created specifically to protect women against any type of violence. The authors demonstrate that the narratives in the legal decisions disregarded the fact that the behavior of men is historically, socially and culturally construed on the premises of their domination of women.

Next, in *Argumentação e Estratégias Textual-Discursivas em uma Sentença Absolutória: violência machista contra a mulher*, Tomazi and Cabral show that the discourse of legal professionals evidences their uncertainty about whether aggressors have evil intentions when they perpetrate acts of violence. Worryingly, the authors identify, in the judgments, a use of linguistic strategies that promote a positive view of the accused and a negative view of the complainer. To end this section, in the article *A Representação da Mulher no Sistema Jurídico Penal: um estudo de caso a partir das análises das expressões referenciais*, Canuto and Colares present findings that reinforce the other articles. They use CDA tools to analyse and comment on a judicial decision from a case of rape tried in a lower court. Their analysis shows how the judge's language choices suggest that the woman's behaviour may have triggered the defendant's attack and subsequent rape. Embedded in the discourse is the ideology that women rape victims can often be blamed, thereby turning their status from victim into accused.

Next, in the article "*She was quite capable of asserting herself*": *Powerful Speech Styles and Assessments of Credibility in a Sexual Assault Trial*, Hildebrand-Edgar and Ehrlich provide a very interesting discussion of how a witness's credibility in court can be significantly affected by listeners' reaction to their linguistic style, which, in turn, may condition legal-decision making. To illustrate this assertion, the authors refer to Conley and O'Barr's now famous concepts of "powerful" and "powerless" speech styles. Powerful speakers are more fluent and assertive, while powerless speech is hesitant, lacking in confidence and with lots of disfluencies. In most trials it is good for witnesses to use a powerful style because judges and juries are more likely to believe them, but the authors argue that it is counter-productive for a rape victim to be a powerful speaker because this leads the audience to question why she could not have been equally

powerful in resisting, especially so if the accused by contrast comes across as a powerless speaker.

The next article, *Witness Cross-Examinations in Non-Stranger Assault Crimes: An Appraisal Analysis*, by Gales and Solan, uses Appraisal theory (Martin and White, 2005) to analyse transcripts of cross-examinations in order to investigate whether accusing witnesses in sexual assault cases are treated differently from accusing witness in non-sexual assault cases in terms of the language used by the lawyers. They also use the results of this small-scale case study to evaluate the success of Appraisal analysis in exposing lawyers' questioning strategies when cross-examining witnesses/victims in cases of violence. The results show that the rape victim/witness was treated differently from the two witnesses in the non-sexual assault cases, but now the findings need to be tested on a larger sample.

The issue closes with two articles which are not specifically concerned with physical violence against women. In the article *(Mis)gendering and naming practices in appellate decisions in Santa Catarina's state court*, Rieger and Figueiredo discuss legal cases involving gender identity rights. Applying CDA and SFL analytical frameworks, they analyse appellate decisions produced by a state court in Brazil in cases where transgender people were asking to have their registered gender changed. The authors argue that the language in the texts, in particular the judges' choice of male or female pronouns to refer to the applicant, reveals a practice of 'misgendering'.

The special issue closes with a fascinating article about the techniques used by police officers to assume the identity of teenage girls in order to interact successfully on line with pedophiles. In the article "go on cam but dnt be dirty": *linguistic levels of identity assumption in undercover online operations against child sex abusers*, MacLeod and Grant show how the police benefit from training by language experts in how to analyse transcripts of past online interactions of the target identity. The authors demonstrate that there was significant improvement in the police officers' performance after linguistic training on how to detect the target individual's preferences in spelling conventions, vocabulary choice, pragmatic patterns and topic management strategies.

In summary, this issue of *Language and Law/Linguagem e Direito* represents an attempt not only to inform about recent developments in the area of violence against women, but also to promote reflection on options available to the legal systems for improving the ways they handle such cases. I would like to conclude by thanking the many blind reviewers, and of course the authors themselves, for all their hard work and willingness to produce revisions in response to the reviewers' suggestions and thereby producing collectively what I hope you will agree is not only an enjoyable, but also a significant volume.

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References

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