

Quoting dialogues and the construction of the narrative point of view in legal testimony

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QUOTING DIALOGUES AND THE CONSTRUCTION OF
THE NARRATIVE POINT OF VIEW IN LEGAL TESTIMONY.
THE ROLE OF PROSODY AND GESTURES.

The analysis is based on the assumption that the quotation of dialogues in the form of direct reported speech is not an objective representation of a speech event, but a creative act. The representation of dialogues through direct reported speech is considered a powerful tool for framing information. The research focuses on the interactional functions of quotations and shows that some aspects of quoting dialogues, i. e. prosody and gestures, can recall a larger scene from a specific point of view. In the context of the trial, the importance of using direct reported speech for objectifying evaluations and opinions about events is strengthened by the constraint on lay witnesses who are prevented from expressing personal opinions about the events they describe.

Keywords: direct reported speech, creation of voices, interactional functions, conflict, legal discourse.

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Introduction

The general theoretical framework of this research¹ is the phenomenon of polyphony (Ducrot 1984), i.e. the implicit or explicit presence of several enunciations contained in a single one. Bakhtin (1981; 1984) refers to this phenomenon with the term *dialogism*, indicating the intrinsically dialogic and interactive nature of any discourse, and Goffman (1979) uses the term *footing* referring to the different roles of animator, author and principal that the speaker can play, shifting from one to the other.

Among the different forms of *dialogism*, our attention focuses on reported speech, i. e. on its explicit forms. Reported speech occurs when “the speaker reproduces, in the oral sequence in which he utters his proper enunciative action, another enunciative action not necessarily to be ascribed to a different source” (Mortara Garavelli 1985).

Reported speech is traditionally analysed in four different forms: direct reported speech, indirect reported speech, free indirect reported speech and narrative speech.

Indeed, the distinction between the different forms of reported speech is very complex and we often meet, both in ordinary conversation and in literary texts, hybrid forms (Clark and Gerrig 1990; Mizzau 1999; Tannen 1989), so that it is not always possible to establish unambiguously who is speaking to whom or who is lending his/her own voice to whom.

The analysis we propose deals only with reported speech in its direct form, focusing on its interactional functions in the context of lay witnesses' testimony.

Direct reported speech

Direct reported speech, as Coulmas defines it, “evokes the original speech situation and conveys or claims to convey the exact words of the original speaker in direct discourse” (Coulmas 1986: 2). Features which distinguish direct reported speech from the other forms are the following:

¹ This research is part of a research programme about the conditions and modalities of the construction of credibility in court. See also Galatolo 2003, Galatolo and Mizzau 1999; 2001.

- a) the introductory verb, such as *say* or *tell* is not necessarily present;
- b) there are at least two deictic centres;
- c) the relationship between the reporting and the reported speech is of disjunction.

Many scholars now agree that even the form of direct reported speech, which is constructed as the most literal form if compared with the others, can't be a literal transposition of what has been said. For Tannen (1989), even the expression *reported speech* is incorrect because it suggests that reported words are the same as those originally uttered by somebody else or by the same speaker on a previous occasion. She suggests the use of the expression *creation of voices* which correctly evokes the activity of creating dialogues necessarily presupposed by every representation of speech through direct reported speech. For Mortara-Garavelli (1985), despite the unavoidable act of creation, there is a *convention of authenticity* which allows us to treat direct reported speech as a literal quotation of what has been said.

In accordance with this position, Hutchby and Woffitt (1998) use the expression *active voicing* underlining the dramatic and representational functions of direct reported speech. The expression *active voicing* doesn't refer to a static discursive entity which is simply moved from a different time or space, but to a necessarily new speech construction.

The form we traditionally refer to as *direct reported speech* is necessarily a new construction for different reasons; in the first place, because quotation presupposes the de-contextualization and re-contextualization of quoted discourse, and secondly, because of the necessary presence, in direct reported speech, of different aspects beyond the proper representative or depictive aspects (Clark and Gerrig 1990). For example, the presence of supportive aspects in the performance of proper depictive aspects (in the case of the quotation of a service during a tennis game, the use of the right or the left hand by the quoting person regardless of which hand was originally used for accomplishing the original movement), the annotative aspects or comments and the incidental aspects. Furthermore, studies on memory (Lehrer 1989) have proved that we are not able to reproduce an enunciation literally even after a few seconds.

The functions of direct reported speech in legal testimony

Studies on direct reported speech in legal testimony assert the presence of two main functions:

- a) an epistemic function, so that direct reported speech works as an attestation of authenticity (Philips 1986).² In the case of the testimony this can develop in the important function of certifying the witness' status (Dulong 1998);
- b) an emotional function connected to the speaker-listener involvement (Matoesian 1999). The emotional function is linked to the possibility the forms provides of directly witnessing past discursive events.³

The epistemic and emotional functions of direct reported speech are clearly connected. The emotional involvement or the lack of it affects the credibility of the speaker and a believable dialogue will make the identification process easier and facilitate emotional involvement.

The communication of the speaker's point of view about the communicative event represented

From the analysis of our data another specific function of direct reported speech has emerged, one which is connected to the already mentioned epistemic and emotional functions and which seems to have an important role in the context of lay witnesses' testimony.

As for other elements of a narrative, such as lexical choices or the construction of sequential order of events, through the use of direct reported speech the speaker can covertly express his/her point of view about the speech events he/she represents.

In the context of lay witnesses' testimony, direct reported speech can become a useful tool for covertly expressing one's point of view about events, bypassing the rule that prevents one from expressing individual opinions and evaluations while testifying. Lay witnesses are in fact called

² This function has been recovered also in medium sitter interaction (Wooffitt 1992; 2001) and in ordinary conversation (Holt 1996). O'Barr (1982) analyses the use of direct reported speech in testimony in relation to the general effect of credibility.

³ The emotional function of direct reported speech has been highlighted also by Chafe (1982). On the functions of direct reported speech in legal testimony, see also Galatolo (forthcoming).

to testify for their first-hand knowledge of facts, i.e. for their direct experience, and the legal context requires them to behave as “perceptive machines”, reporting only what was perceived.⁴

The use of direct reported speech can become a powerful tool for witnesses because it allows them to hide their personal perspective on an event behind the apparent objectivity and neutrality of literal quotes.

The data

The analysis focuses on data taken from the Marta Russo murder trial which took place in Italy in 1998. Marta Russo was a student at Rome university who was killed by a gunshot while walking along an avenue on campus. The first verdict confirmed the prosecutor’s reconstruction, which established that the shot was fired by two researchers from the window of classroom No. 6 in the Department of Philosophy of Law. The Court of Cassation confirmed the verdict on November 2002. The examples are taken from Maria Chiara Lipari’s testimony. She was a researcher in the above-mentioned department and she reported having entered room No. 6 immediately after the shot had been fired. Her testimony was substantially based on the reconstruction of what she had seen upon entering the room and on what she had seen and heard in the department during the subsequent period. In the examples, Maria Chiara Lipari is examined by the prosecutor, on her side, so that the questioning is less pressing than in cross-examination, and the use of direct reported speech is mostly decided by the witness herself or only implicitly solicited by the prosecutor’s questions.⁵

Analysis

We will analyse two excerpts in which the witness, Maria Chiara Lipari, uses the form of direct reported speech to represent two different conver-

⁴ The function of lay witnesses is different from that of expert witnesses. The latter are called to testify in order to express their competent opinion about some material evidence or about other witnesses testimonies.

⁵ On the degree to which witnesses can be implicitly solicited by questions of directly reporting past speech events and, more generally, of producing expanded answers, see also Galatolo (forthcoming).

sations she had with another witness, Mrs. Alletto.⁶ The aim of the analysis is to show how Maria Chiara Lipari succeeds in covertly communicating her evaluation of Mrs. Alletto's behaviour during the two conversations she represents through the use of direct reported speech.

In the first example, she mainly communicates her evaluation through the representation of the prosodical cues, and in the second example mainly through the use of a gesture.

The role of prosody

Example 1⁷

Maria Chiara Lipari Examination

243. L: e:: liparo- c'è anche
 244. liparota e::h sta invece
 245. in piedi pt .hhh più
 246. sulla sinistra (.)
 247. proprio: (1.7) appena
 248.→ entro dico ma che fai †
 249.→ (.) eh e lei subito si
 250.→ alza e dice no
 251.→ controllavo: (1.4) un
 252.→ attimo i fili (1.1) cioè
 253. a me è sembrato:: (1.3)

243. L: and:: liparo –
 244. there is also liparota
 245. e::h he instead stands

⁶ Mrs. Alletto was the secretary of the Department of Philosophy of Law and she also was a prosecution witness. Her testimony had a central role for the prosecution's thesis, but it was weak because she decided to testify only after Ms. Lipari told the prosecutor that she had seen Mrs. Alletto with Liparota, the janitor of the department, and the two defendants, Scattone and Ferraro, when she entered in the room number 6. In the example, Maria Chiara Lipari reports a conversation she had with Mrs. Alletto before she decided to testify. This is the reason why it is so important to demonstrate that Mrs. Alletto was probably interested in discovering what Maria Chiara knew about the murder, in order to verify whether or not Maria Chiara had seen her in room number 6.

⁷ For the transcription conventions, see the appendix. During the analysis, the line numbers refer to the English translation.

246. pt .hhh more on the left (.)
 247. exactly (1.7) as soon as
 248.→ I enter I say but what are you doing↑
 249.→ (.)so she immediately
 250.→ gets up and she says no
 251.→ I was checking (1.4) the wires
 252.→ for a minute that is it seemed
 253. to me (1.3)

The example is taken from a long narrative produced by the witness in answering a series of the prosecutor's open questions.

The analysis focuses on lines 248-252, when Maria Chiara Lipari quotes the conversation she had with Mrs. Alletto. The quote begins with the witness's question ("what are you doing↑") at line 248). The witness reproduces the question using a peremptory tone (the underlined Italian form "ma che fai↑", at line 248) which conveys all the amazement she felt, and which is in stark opposition to the uncertainty of Mrs. Alletto's response ("no I was checking (1.4) the wires for a minute"). Beyond the contrast between the witness's tone and Alletto's tone, the effect of Alletto's uncertainty is also communicated by the initial "no" (line 250), which seems to be a filler used in order to prepare the response, the prolongation of the last syllable of "controllavo:" ("I was checking", line 251) and the long pause of 1.4 seconds at line 251. Both the reconstruction of Alletto's uncertainty and the previous description of the way in which she got up ("she immediately gets up") helps to evoke guilty behaviour, that is, the immediate reaction someone has when caught in the act of doing something wrong. Through the apparent literal reproduction of the conversation she had with Mrs. Alletto, the witness represents Alletto's behaviour as guilty behaviour. She represents Alletto as reacting after having been discovered doing something wrong. The witness's moral evaluation of Alletto's behaviour is mostly conveyed through the reproduction of prosodic cues⁸ which are constructed as mimetic, that is, as part of the literal quotation of Alletto's words.⁹

⁸ For the study of prosody in direct reported speech, see Couper-Kuhlen (1996).

⁹ Through her implicit moral evaluation, the witness accomplishes what Drew calls *moral work*, that is "providing a basis for evaluating the "rightness" or "wrongness" of whatever is being reported" (Drew 1998: 295). On the moral function of direct reported speech in court, see also Galatolo, forthcoming.

The role of gestures

The following excerpt from the trial, in which Maria Chiara Lipari represents a conversation she had with Gabriella Alletto, at the University, a week after Marta Russo was wounded, demonstrates how gesture adds meaning to a witness' quotation of the speech of another. By analysing the relationship between gesture and speech, it is possible to find structural features that show how the gesture helps to convey the speaker's point of view about Mrs. Alletto's conversational behaviour.¹⁰

Example 2

Maria Chiara Lipari examination

PM: Public Prosecutor

L: witness.

330. PM: in istituto quindi
 331. da lunedì(..) in poi (..)avete
 332. scambiato lei personalmente ha
 333. scambiato (.) impressioni
 334. commenti con-
 335. con qualcuno con chi ↑
 [...]
348. L: .hh ecco io l'Alletto::
- [((Espressione facciale di perplessità))
349. (1.3) di[.h l'ho vista m-
- [((P)) ((S))
350. mi disse ma[: *ha- ha sentito
- [((H)) ((R))
351. [di quella ragazza che è mor[ta ↑
- [((H))
352. [(..)di quella ragazza
 353. che è morta ↑

¹⁰ For the analysis of this excerpt we are indebted to Tony Wootton for his precious suggestions and comments.

354. me lo disse il [venerdì] (.)
 355. cioè una settimana dopo# (.)
 356. io gli dissi ma come:: (.)
357. ma* come un'altra↑ (.)
 358. perché era una settimana dopo#
 359. (1.2)e::h effettivamente::
 360. Marta h:m h (1.6)
 361. non è morta subito
330. PM: so in the institute
 331. from Monday(..)on(..) did any of you
 332. or did you personally exchange(.)
 333. impressions comments with-
 334. with anyone with whom↑
 [...]
 348. L: .h so I Mrs Alletto: :
349. [((facial expression of perplexity))
 (1.3) [.h well I saw her
350. she said so[:
 [((P))
351. *did -did you [hear about
 [((S))
352. [((H)) [((R))
 [that girl who di[ed↑
 [((H))
353. [(.) about that girl who died↑
354. she said it to me on [Friday
 355. (.) which was a week later#
 356. (.)I said what (.)

- [((S))
357. what* [another one ↑ (.)
358. because it was a week later#
359. (1.2)e:h Marta didn't
360. actually h:m h (1.6)
361. die right away

* beginning of the gesture unit¹¹

end of the gesture unit

gesture: joining hands on her chest, with fingers extended, palms facing one another, and swinging them up and down repeatedly.

P: preparation-movement that ends up as a gesture

S: peak of effort in the gesture

H: hold, temporary cessation of the swinging movement

R: renewal of the swinging movement

In the example, the witness answers the prosecutor's question (lines 330-335) about the alleged conversations about the murder she had with the members of the Department of Philosophy of Law. The quotation of the conversation she had with Mrs. Alletto appears in the context of a long answer in which Lipari describes different conversational exchanges she had with different individuals during the period following the crime.¹²

As she speaks, Maria Chiara Lipari performs a gesture at lines 350-355 and 357-358 which consists of joining her hands on her chest and then swinging them repeatedly up and down.

In the sequence, parts of direct reported speech alternate with background information about the same discursive event. The quotation "did - did you hear about that girl who died ↑ about that girl who died ↑" (lines 351-353) is followed by background information: "she said it to me on Friday(.) which was a week later#" (lines 354-355). Then comes the quotation "what* another one ↑" (line 357) followed by more background information "because it was a week later#" (line 358).

From the transcript, it emerges that the gesture doesn't coincide only with parts of the quotation, but is instead more or less present, with or without the back-and-forth movement, throughout the entire sequence.

¹¹ The gesture unit is defined as the period of time between successive rests of the limbs (McNeill 1992: 83). The terminology for describing the different phases of the gesture has been derived from McNeill.

¹² In the example, Maria Chiara Lipari reports a conversation she had with Mrs. Alletto before she decided to testify. This is the reason why it is so important to demonstrate that Mrs. Alletto was probably interested in discovering what Maria Chiara knew about the murder, in order to verify whether or not Maria Chiara had seen her in room number 6.

By setting the conventional meaning associated with the *mani giunte* gesture¹³ aside for a moment, it is possible to concentrate on the way in which the gesture functions, in this instance, as a *beat* gesture that punctuates the discourse and serves to give emphasis to some of its parts (McNeill 1992). Over the course of the sequence, the gesture gains in intensity, clearly increasing in correspondence with the emphasized words, getting bigger and moving faster (*stroke*) in correspondence with the words “hear” (line 351), “Friday” (line 354) and “another one” (line 357). All of these words are already emphasized by the intonation, but the gesture underscores them even further. Hence, the emphasized words seem to play a special role in conveying the witness’s evaluation of the conversation. The exchange took place one week after the murder, but Mrs. Alletto initiated it with a question formulated in a way ordinarily used to refer to very recent events. The contrast between the moment when the conversation took place and the formulation Alletto used for initiating it conveys the sense of somehow artificial or otherwise suspect behaviour on the part of Mrs. Alletto. The emphasis on the word “hear”, indeed, the entire expression “did you hear about that girl who died”, conveys a sense of temporal proximity between the time of speaking and the time of the event in question. The form and urgency of the question suggests that it was asked as if the event were its direct source, but we learn that is not the case. The witness’s quotation works to show which elements of Alletto’s speech don’t fit the circumstances. Lipari represents the question and indeed the entire conversation as having been misplaced in time “she said it to me on Friday which was a week later” (lines 354-355), “because it was a week later” (line 358). The emphasis on the central temporal element “Friday” is obtained by the intonation and the stroke of the gesture as in the case of the word “hear”. The evaluative role of this background information is stressed by its sequential position. The speaker could have inserted it at the beginning, when introducing the direct reported speech: “on Friday she said it to me but [...]”. Instead, she puts it last, where it serves as an isolated element that demands attention. Her words and the emphasis she places on them serve to support her evaluation of the initial question and of the conversation that followed as having occurred too long after the fact.

¹³ This gesture seems to be an occurrence of the gesture *mani giunte* (joined hands) that was studied by De Iorio (1832-1979) and Kendon (1995) in their work on southern Italian gesture. Kendon analyses it in the context of what he calls the “pragmatic gesturing” which expresses aspects of utterance structure, including the status of discourse seg-

The conventional meaning of the gesture *mani giunte* also plays a role in conveying the speaker's skepticism about the discursive event she is representing. In his study of Italian gestures, De Jorio says that the gesture *mani giunte* is "one of the gestures we use most commonly to indicate that one is begging for indulgence" (1832; 1979: 262). Diadori (1990) shows two different possible uses of the gesture: as a means of communicating the idea of entreaty, as suggested by De Jorio, and as a means of communicating the sense that it was, is or will be impossible for a person to do something. Kendon (1995) also mentions the use of the gesture *mani giunte* to mark the implication of someone else's reported speech.

In our example, the conventional meaning of the gesture as expression of impossibility reinforces Lipari's evaluation of the reported conversation as somehow suspect. The impossibility this gesture conveys is not the impossibility of performing an action but an impossibility on a metadiscursive level, the suspicion of the implausible nature of the represented discursive event. Furthermore, the illocutionary force of the gesture as entreaty seems to function as a request for comprehension of and agreement with this evaluation.

Another element that seems to help create the general effect of the suspect nature of the scene is the facial expression of perplexity performed at line 349. The expression seems to have a retroactive value, as if it were the result of an act of thinking (during the pause of 1.3 at line 349) ahead to what will be said later, as well as a projective value as a comment about what will be said later.

To conclude, several speech dimensions in this example contribute to creating the effect of suspicion regarding the conversational exchange: the content, the sequential position of the background information, the intonation, a gesture, and a facial expression.

The effect of evaluating the misplacement in time of the discursive event has further implications for the moral judgement of Mrs. Alletto's behaviour. By casting doubt on Mrs. Alletto's motives in initiating and

ments with respect to one another, and the character of the 'speech act' or interactional move of the utterance' (Kendon 1995: 247). They both call it "joined hands" and the only element which seems distinguish the gesture *mani giunte* from the gesture we analyse here is the absence of the movement.

conducting conversation, Maria Chiara Lipari implicitly suggests that she was perhaps not acting in good faith, and that she had an ulterior motive when she asked the question. Thus, revealing the conversation as suspect becomes a tool for evaluating the moral behaviour of one of the main witnesses in the trial. Gabriella Alletto probably had a particular reason for asking such a question at such a late point in time, probably the necessity of discovering what Maria Chiara Lipari knew about the murder, mainly if she had seen Mrs. Alletto in room number 6 or not. This special reason is not mentioned but simply alluded to.

Conclusions

From the analysis of our data we can conclude that witnesses can use direct reported speech for covertly expressing their opinion and evaluation of people and events. As during testimony lay witnesses are prevented from expressing their opinions about facts, direct reported speech can be an important device for objectifying their subjective evaluations. In this regard, the use of direct reported speech allows witnesses to convey their point of view while avoiding being sanctioned by the interrogators.

The analysis has shown that both prosody and gestures can have an important function in conveying the speaker's point of view about the scene represented using direct reported speech. The use of a particular intonation or the accomplishment of a gesture accompanying the quotation of speech can in fact evoke the "same" scene while according it a very different significance.

Key to trascription conventions

TEXT:	increased volume
°text°:	lower volume
<u>text</u> :	emphasis
>text< :	acceleration
te - :	cut-off of the prior word or sound
te::xt:	extension of the prior sound
text ↑ :	raising intonation
=:	latching or contiguous utterances

[text :	beginning of an overlap
(1.5):	length of an interval
(.):	interval length less than 0.5 second
(..):	interval length between 0.5 and 1 second
(text) :	doubtful items

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