

ISSA Proceedings 2014 ~ The Voices Of Justice; Argumentative Polyphony And Strategic Manoeuvring In Judgement Motivations: An Example From The Italian Constitutional Court

Abstract: Combining the ScaPoLine (Nølke, Fløttum, & Norén, 2004; Nølke, 2009, 2011, 2013) with the (extended) pragma-dialectical approach (van Eemeren & Grootendorst 1984; 2004; van Eemeren 2010), I suggest a reconstruction of judgement motivations as critical discussions between a plurality of voices conveyed even in one and the same sentence. In particular, I present some illustrative examples of polyphonic strategic manoeuvring from a landmark judgment of the Italian Constitutional Court: n. 440/1995.

Keywords: Critical discussion, Italian Constitutional Court, legal discourse, polyphony, Pragma-dialectics, ScaPoLine, strategic manoeuvring.

1. Introduction

When reading legal texts such as judgement motivations, one encounters a plurality of voices carrying different views on the issue at stake. This happens not only - quite unsurprisingly - at a textual level, but also at the micro-level of the utterance (cf. Nølke, 2009, p. 12). With Nølke (2009, p. 12), I focus here on “polyphonie en langue, conçue comme le produit des éléments de la langue susceptibles de favoriser une certaine lecture polyphonique de la parole.” I maintain that the use of such polyphony has an argumentative significance and that this can lead to reconstruct such apparently monological texts as fully fledged critical discussions permeated by the striving for rhetoric efficiency known in Pragma-dialectics as strategic manoeuvring (van Eemeren, 2010). In other words, I suggest focusing on argumentative polyphony in judicial motivations and looking at it from the angle of rhetoric efficiency, since, as van Eemeren (2010, p. 153) pointedly writes, it is the “ample room left for *strategic*

maneuvering [that] is, in fact, the basis of the legal profession.”

The matters addressed in the present contribution are of methodological order and can be broken down into two questions:

- * Can an integration of the pragma-dialectical and a polyphonic approach provide useful insights into argumentation analysis?
- * Does polyphony account for strategic manoeuvring in judgement motivations?

The fundamental suggestion put forward is therefore the integration of two theoretical pillars: the (extended) Pragma-dialectics on the one hand (see among others van Eemeren & Grootendorst, 2004; 1992; 1984; van Eemeren, 2010), and the linguistic polyphonic approach known under the acronym ScaPoLine - which stands for *Théorie SCandinave de la POLyphonie LINguistique* - on the other hand (see among others Nølke, Fløttum & Norén, 2004; Nølke, 2006; Nølke, 2013).

2. Theoretical framework

2.1 The first pillar: Extended Pragma-dialectics

I will not dwell largely upon the first pillar here, since it is the specialty of the Institution hosting the conference from which the present volume results. Only two aspects are to be briefly recalled to the reader's mind: the ideal abstract model of a critical discussion, in which argumentation and standpoint are staged, and the rhetorical component present in argumentation.

The former is articulated in four stages: a *confrontation stage*, where protagonists put forward a standpoint while antagonists cast doubt upon it, thus establishing a difference of opinion; an *opening stage*, where the common ground of the parties is established; the actual *argumentation stage*, where arguments are advanced in support of a standpoint; finally, the *concluding stage*, where the difference of opinion is either overcome or maintained (van Eemeren & Grootendorst, 2004, pp. 57-68). The four stages take place when a discussion about a difference of opinion begins; it is however important to keep in mind that Pragma-dialectics acknowledges the complexity of real life interactions by making clear that the logical order pictured above seldom coincides with the chronological one in a discussion, and that some stages of a critical discussion often take place implicitly. This is for example typical of the *opening stage*, which can mostly be elicited by the fact that a protagonist holding a standpoint directly proceeds to argue for it - and were they not to, it wouldn't strike anyone as surprising if they were challenged to do so.

On its way towards a resolution of a difference of opinion, the critical discussion thus described is invariably carried by both a dialectical and a rhetorical component at every single stage. While the former component aims at reasonability, the latter strives for effectiveness. Extended Pragma-dialectics tackles the matter by christening this component strategic manoeuvring (van Eemeren, 2010) and pointing out its three simultaneously present aspects: presentational devices, topical potential and audience demand.

2.2 *The second pillar: ScaPoLine*

The second theoretical pillar is represented by a linguistic theory of polyphony developed by a French-speaking group of Scandinavian Romanists around Nølke and indebted to Ducrot's linguistic approach. The Scandinavian Theory of Linguistic Polyphony deals with the plurality of points of view, abbreviated with POV in English (Nølke, 2006) communicated through an utterance. This theory is an utterance oriented, semantic, discursive, instructional and structuralistic theory originally inspired by the Ducrotian approach (1984a; 1984b), which it aims at formalizing in order to "préciser les contraintes proprement linguistiques qui régissent l'interprétation polyphonique" [specify the strictly linguistic constraints governing the polyphonic interpretation] (Nølke, 2009, p. 15).

A certain language parochialism has likely prevented the Scandinavian Theory – not unlike its Ducrotian precedents – from expanding far beyond the French-speaking field of Romance studies. Such borders have only just begun to be removed by sporadic non-French publications: in "The semantics of polyphony (and the pragmatics of realization)" (2006), Nølke introduces the English-speaking readership to the theory, while in "Types of Discourse Entities in ScaPoLine" (Nølke, 2011, p. 58), he specialises in the "images of the 'persons' who are created by the speaker and the 'persons' who inhabit the discourse". Dendale (2006, 2007) contributes to the propagation of the theory to the English-speaking audience by presenting and confronting it with other polyphony frameworks, namely Ducrot's (1984a; 1984b), Bres's (1998; 1999) and Kronning's (1996). For other languages, one might refer to Gévaudan (2008), who explains Ducrot's and the ScaPoLine's approaches to polyphony on the basis of German examples. If the theoretical framework of ScaPoLine deserves a broader consideration, so does its application to different natural languages, such as Italian. Considering the relatively few non-French papers on the subject, it will not be superfluous to give a brief account of basic concepts of the ScaPoLine in

this contribution as well.

The ScaPoLine theory distinguishes first of all between *polyphonic structure*, which deals with linguistic coding, and *polyphonic configuration*, which has to do with utterance meaning. From a logical perspective, the *polyphonic structure* precedes the configuration, since it is composed of instructions for the configuration and thus yields semantic constraints on the interpretation. But to gain insight into the structure, the starting point cannot but be the configuration (cf. Nølke, 2006, p. 145).

The *polyphonic configuration* is to be attributed to an entity named *locutor as constructor* (LOC) for its property of presenting the elements composing the *polyphonic configuration*. These are: LOC as a constructor itself as well as any copy of the locutor as a discourse entity, namely the locutor “as a virtual source of a point of view” (Nølke, 2006, p. 148), also called utterance locutor (cf. Nølke, 2009, p. 23); the points of view (POVs); the discourse entities (DE) and the utterance links[i] (cf. Nølke, 2013, p. 26). It is possible for the elements of the configuration to be coded in the linguistic form and therefore be part of the *polyphonic structure*, but this is not necessarily the case.

The POVs (cf. Nølke, 2013, pp. 32-33) are semantic units constituted by a source[ii] X, instantiated by a discourse entity, and a judgment upon a content p, which might here tentatively be qualified as of facts or actions. The POV form is expressed as

[X] (JUGE (p))

where the judgement, lacking specific indicators to the contrary, is by default one of truth. The POVs can be either simple or complex, in which case they will be either relational - as in a typical argumentative link, where a POVARG is put forward in support of a POVSTP - or hierarchical, when the judgement is made upon one or more different POVs.

The DE (cf. Nølke, 2006, pp. 147, 149-150; 2013, pp. 26-32) are semantic entities that can be held responsible for the points of view. They are constructed images of the discourse referents and relate to the LOC as string puppets to their master, to use Nølkes efficient metaphor (cf. 2009, p. 23). In ScaPoLine special attention is paid to the speaker’s role, whose images can be distinguished as the following basic DE:

- * the textual locutor (L), i.e. “the source of a POV that the speaker had prior to [the] utterance act, and which” is still held (Nølke, 2006, p. 155); L can be constructed by LOC as a L at another point in time (cf. Nølke, 2013, p. 27);
- * the utterance locutor (l0), i.e. the source of a POV which is held *hic et nunc* in the utterance[**iii**]; l0 exists only in the present utterance (cf. Nølke, 2013, p. 27);
- * the locutor of the utterance (lt), i.e. the source of a POV held at the moment of the utterance construction and who is, in fact, an l0 at a different point in time (cf. Nølke, 2013, p. 28).

In addition, it is useful to present the represented locutor (RL), a discourse entity introduced to explain reported speech (cf. Nølke, 2013, p. 52), which is a type of what is known as *external polyphony* because of the presence of DE different from the locutor’s images (cf. Nølke, 2013, p. 36)[iv].

Besides the speaker’s POVs, ScaPoLine also takes into consideration POVs of the addressee (text addressee [A] and utterance addressee [*at*]), and of thirds. The latter can be individuals - either textual thirds [T] or utterance thirds [τt] - as well as collective entities such as the LAW or an impersonal voice named after the French indefinite pronoun ON (cf. Nølke, 2013, pp. 30-32)[v].

The utterance links (cf. Nølke, 2013, pp. 33-35) finally connect the discourse entities to the points of view. They can be of responsibility, as in an unquestioned statement, or of non-responsibility, in which case they will be either of refutation, as in a negation, or of non-refutation, as in indirect speech.

As far as the *polyphonic structure* is concerned, I shall confine myself to reporting two principles that apply to it (cf. Nølke, 2006, p. 152): on the one hand, the *polyphonic structure* necessarily contains at least one simple POV; on the other hand, the link between locutor and at least one POV is of responsibility.

2.3 Argumentative acts between Pragma-dialectics and ScaPoLine

Starting from the pragma-dialectical understanding of argumentation as a communicative and interactional complex speech act linked to the (complex) speech act of a standpoint it means to defend (cf. van Eemeren & Grootendorst, 2004; 1984), argumentative acts *stricto sensu* are here understood as relational POVs linking standpoint-POVs (=POVSTP) to argument-POVs (=POVARG)[vi]. The link between the two is part of LOC’s construction and is therefore to be traced back to LOC even if it can apparently be attributed to another locutor’s image: in fact, even this image is LOC’s creation. In other words, since LOC decides what elements of the *polyphonic configuration* to stage and in what way,

it is LOC who is held responsible for the utterance and any argumentative acts occurring through it (cf. Nølke, 2013, p. 34).

3. *Illustrative analysis*

I now suggest an intertwining of Pragma-dialectics and ScaPoLine by using some examples from a judgement of the Italian Constitutional Court, specifically number 440/1995, regarding the constitutional legitimacy of art. 724, clause 1, it. Poenal Code, on blasphemy (it. *bestemmia*)**[vii]**. This judgement was a milestone in the development of religious discourse in Italy, as it meant a shift in the jurisprudence and argumentation of the Court, resulting in the abolishment of the special treatment reserved for Catholicism in the punishment of blasphemy. For its intervention in the law, the aforesaid judgement is regarded in the legal community as a manipulative one (cf. Casuscelli, 2005, p. 4).

The constitutionality issue was raised by the court of Milan. In the motivation of judgement 440/1995, the final question the Constitutional Court is confronted with is: *Should the norm of article 724, clause 1 it. Poenal Code (religious blasphemy) be declared unconstitutional?* The outcome will of course depend on the answer to the question: *Is the norm constitutionally legitimate?* The answer to the latter in turn will be decided by the court's position on two possible arguments for constitutional illegitimacy - which can be formulated as follows: *Is the norm indeterminate according to art. 25 of the Italian Constitution***[viii]**? and *Is the norm discriminatory according to art. 3 and art. 8 of the Italian Constitution***[ix]**? In the argumentation supporting the answer to the latter, the deciding court raises a further matter, namely: *What is the object of legal protection of the norm?*

Concentrating on the judgement part concerning constitutional indetermination, i.e. chronologically the first matter the court seeks to solve, I will now introduce some examples to show how, through the identification of the *polyphonic configuration*, it is possible to reconstruct the chosen argumentative extracts as critical discussions and identify polyphonic means specific to single natural languages - in this case, Italian.

To this end, I name the various POVs relevant for the reconstruction of the critical discussion after its four stages. Therefore, the standpoints from which the discussion starts in the *confrontation stage* will be *POVCONF(i)* and *POVCONF(ii)*. The various speech acts that can take place in the opening stage

are abstractly represented as POVOP. The arguments in support of $POVCONF(i)$ and $POVCONF(ii)$ shall be $POVARG(i)$ and $POVARG(ii)$. If an argument becomes, in turn, a standpoint, it shall be marked as such as well ($POVARG/STP$). Different numeration systems are given to different argumentation structures (see van Eemeren & Grootendorst, 1992, pp. 86-92): 1, 2, 3... for *subordinate* argumentation, i.e. when argumentation is made of various arguments supporting each other and finally the standpoint; i, ii, iii... for *multiple* and *coordinate* argumentation, i.e. respectively when multiple arguments support the standpoint independently from each other and when they function jointly. The latter joint function is signalled by an ampersand. The conclusive speech act will be named $POVCONC$. The integrated model proposed can be outlined as in Tab. 1:

	Protagonist	Antagonist/Protagonist2
Confrontation Stage	$POVCONF(i)$	$POVCONF(ii)$
Opening Stage	$POVOP$	
Argumentation Stage	$POVARG(i)(i2...n(i2...))$	$POVARG(ii)(i2...n(i2...))$
Concluding Stage	$POVCONC$	

Table 1

Table 1

The judgement upon the propositional content of a POV shall be given in the analytical tables of the following paragraphs through the explicitly verbalised markers found in the text. Otherwise, a judgement of truth is to be assumed, according to the ScaPoLine principles.

3.1 Confrontation Stage coded through REPORTED-DUBITATIVE SPEECH

In the first example, the confrontation stage of a critical discussion is rendered through the polyphonic use of reported-dubitative speech. On a macrolevel, example (1) stems from the confrontation stage in which the court of Milan puts forward a standpoint as to the indetermination of the contested measure. **[x]** This standpoint of the court of Milan is outlined here as having been said (cf. example (1): *si sostiene che*) by a RL: Inside this passage of reported speech, the beginning of a critical discussion is staged in the italicized utterance in example (1) around the question if the alleged indetermination stems from specific arguments:

1. Si sostiene [...] che, poiché la norma impugnata sanziona [...] chi pubblicamente “bestemmia [...] contro la Divinità o i Simboli o le Persone venerati nella religione dello Stato”, e poiché il Protocollo addizionale dell’Accordo di modifica del Concordato lateranense [...] prevede testualmente il venir meno della religione cattolica come sola religione dello Stato italiano, ne *conseguirebbe* [...]

la indeterminatezza della fattispecie penale.

[It is maintained that, since the contested norm sanctions the person who “utters blasphemy against the divinity or the Symbols or Persons revered in the State religion”, and since the Supplementary Protocol to the Modifications Agreement of the Lateran Concordat provides verbatim that the catholic religion as sole religion of the Italian State be abolished, it *would follow* that the legal paradigm is indeterminate.]

RL puts forward a complex standpoint, constituted by an argumentative POV and marked as such both by the fact that it is subsequently argued for and by the introductory *verbum putandi sostenere* (en. *to maintain*), while L questions it. This confrontation stage is carried - besides by the assertive *verb sostenere*, which concerns *POVCONF(i)* - by the *condizionale* mood in its present tense, which has here a twofold function:

- * on the one hand, as *condizionale riportivo*, it reports a protagonist voice maintaining that certain arguments follow a certain standpoint (*POVCONF(i)*) and
- * on the other hand, it casts doubt upon (and challenges) *POVCONF(i)* through an ideal antagonist (*condizionale dubitativo*) (cf. Patota, 2006, p. 116).

As can be clearly seen in Table 2, we have a complex polyphonic structure in which three POVs (*POVSTP1*, *POVARG(i)(i)* and *(POVARG(i)(ii))*) that form a coordinate compound argumentation are related and, in turn, are subject to the judgement of a different source: L responds to the POV of RL, thus setting off to become the antagonist in the subsequent argumentation stage: it is noteworthy that L does not question the arguments in defence of the first standpoint *POVSTP1* (*the legal paradigm is indeterminate*), which arguments the protagonist RL has already given in *POVARG1(i)* (*blasphemy against the State religion is punished*) & *POVARG1(ii)* (*the State religion was abolished*). It is rather the soundness of the relation between arguments and standpoint, which constitutes a new, hierarchical, standpoint (*POVCONF(i)*), that is being challenged in *POVCONF(ii)*. So in one sentence a potential critical discussion is begun, and then interrupted by another one. The difference of opinion is thus shifted from the macro-question: *Is the norm indeterminate?* to a sub-question: *Does the indetermination of the norm follow from the given arguments* (which *per se* constitute common starting points between protagonist and antagonist)?

These POVs can be distributed following the *critical discussion* scheme of Pragma-dialectics as in Table 2, in which the role of the *condizionale* is reported as well:

	Protagonist	Antagonist/Protagonist2
Conf. Stage	POV _{COND} (i) (it is maintained) would follow (POV _{TR}) (the legal paradigm is indeterminate)	POV _{COND} (i) (it would follow (POV _{COND}))
	POV _{AB} (i) (blasphemy against the State religion is punished) & (POV _{AB} (i) (the State religion was abolished))	

Table 2

Table 2

The *condizionale* is a typical means for LOC to stage the confrontation stage of a critical discussion in a monological text, because it implies neither a refutation nor a responsibility link, but only a non-refutation utterance link between the locutor and the POV attributed to a third, which is reported. Thus, the reader expects an argumentation either for or against a standpoint, and there is then room either for the acceptance or the refutation of said standpoint.

3.2 Confrontation & Concluding Stage through NEGATIVE + DUBITATIVE SPEECH

Example (2) gives an instance of a *compound confrontation* and *concluding stage* in the same utterance. The *critical discussion* revolves here around the matter expressed in the final standpoint, placed at the very beginning of the utterance and once more constituted in turn by a standpoint and arguments subordinately linked to it. For concision, we shall focus only on the marked part of the extract and operate under the assumption that the source of the POVCONF(i) and of POVCONC is L.

2. Né la censura *potrebbe superarsi* ritenendo che la norma denunciata continui a riguardare la religione cattolica come confessione religiosa più diffusa del Paese – mutuando l’espressione dalla sentenza n. 14 del 1973 della Corte costituzionale – poiché non verrebbe ora in discussione la ratio della norma incriminatrice, bensì la sua (sopravvenuta) incompatibilità con il principio di tassatività.

[Neither could the censure be overcome considering the contested norm as still regarding the catholic religion as the most widespread religion of the country – borrowing the expression from the judgement n. 14 of 1973 by the Constitutional Court – for it would not be the ratio of the incriminating norm that is in question, but rather its incompatibility with the taxativity principle.]

Again, we have the *condizionale presente* that opens the *res dubia* carrying two POVs (POVCONF(i) and POVCONF(ii)) and introduces to the *confrontation stage*. RL questions POVCONF(i) in POVCONF(ii) through the *condizionale dubitativo*. The *argumentation stage* follows, signalled by *poiché* [xii]. This leads to the outcome of the critical discussion, reached in the concluding stage: the refutation of POVCONF(i), which is anticipated at the very beginning of the sequence condensed in the negative particle *né*. It is noteworthy that negation implies a refutation, a non-responsibility link between POVCONF(i) and the discourse entity linked to it, but that the entire passage of example (2) is actually reported speech: through reported speech a non-refutation link is built between LOC's image (which can be traced back to the extralinguistic institution of the Constitutional Court) and the whole argumentation. This supports the hypothesis that the whole critical discussions are included in the long motivation of the judgment to slowly lead the audience towards acquaintance with and acceptance of the final standpoint. The mentioned stages of the *critical discussion* can be reconstructed as in Table 3:

	Protagonist 1	Antagonist / Protagonist 2
Conf. stage	POV _{CONF(i)} (could be (POV _{CONF} (the censor can be overcome)) ↓ POV _{CONF(ii)} (the norm still regards Catholicism) ↓ POV _{CONF(i)} (Catholicism is the most widespread religion) (...)	POV _{CONF(ii)} (could be (POV _{CONF})) (...)
Concl. stage	POV _{CONF} (with (POV _{CONF}))	

Table 3

Table 3

The negation is strategically placed at the beginning of the sequence and right before POVSTP1, thus orienting the audience and anticipating the outcome of the macro-discussion - in the end the censor cannot, indeed, be overcome, as the Constitutional Court will decide: the norm is (if only partly) unconstitutional. Of course, a concluding *stage stricto sensu* cannot take place in a monological text, but this is in fact also part of the *strategic manoeuvring*: the arguments are staged as if an actual discussion was taking place, where the interlocutor can explicitly accept or refute a standpoint in the end.

3.4 Argumentation Stage through QUOTED SPEECH

In example (3) the *argumentation stage* is conveyed by a quotation. The voice quoted is that of the Constitutional Court at another point in time:

3. A sostegno della censura, nell'ordinanza si riportano brani di precedenti pronunce di questa Corte che sono consistiti in espressi inviti al legislatore, non ancora accolti, per una revisione della disciplina in vista dell'attuazione del principio costituzionale della libertà di religione), dal momento che *“la limitazione della previsione legislativa alle offese contro la religione cattolica non può continuare a giustificarsi con l'appartenenza ad essa della quasi totalità dei cittadini italiani”*.

[In support of the censure, the order reports passages of former rulings by this Court, which consisted in explicit requests addressed to the legislator to revision the discipline [...], since *“the limitation of the legal prevision to the offences against catholic religion can not continue to be justified with the fact that virtually the entirety of the Italian citizens is religiously affiliated to it”*.]

In *POVCONF(i)* it is maintained by a RL that the norm must be censured. *POVCONF(i)* is not explicitly challenged, but reveals itself as the final standpoint of the passage at the beginning of the argumentation stage, which involves arguments for an implicit *POVCONF(ii)* of another RL maintaining the contrary of *POVCONF(i)*. In *POVSTP1/ARG(i)1* the argument for *POVCONF(i)* is that the legislator should revision the discipline; at the same time, this is a standpoint supported by a subordinate argument: the complex *POV STP1/ARG(ii)2*, according to which the argumentative *POVARG(ii)1* justifying the limitation of the legal prevision to the offences against Catholicism (*POVSTP1/ARG(ii)1*) with the well-known (ON) affiliation to it of the majority of Italians (*POVARG(ii)2*) and altogether supporting the implicit *POVCONF(ii)* (*the norm must not be censured*) is not justified.

Quoted reported speech is used here for accepting and not for refuting a standpoint, as is attested to by the fact that it is syntactically integrated in the speech of the hierarchically superior locutor, without *inquit*, which implies sticking to the epistemically assertive indicative. Interestingly enough, the quoted utterance is presented here as an argument for the critical discussion attributed to the Court of Milan, whose standpoint will be refuted, as seen. But it is also a decisive argument for the final declaration of unconstitutionality and it is strategically already reported at the beginning of the judgment, functioning as a material starting point. Table 4 can serve as a reconstruction of the critical discussion stage:

	Protagonist	Antagonist/Protagonist2
Conf. Stage	POV _{CONF} (norm should be censured)	(POV _{CONF}) (not (POV _{CONF}))
Arg. Stage	POV _{STP1/ARG(ii)} (request (legislator revision discipline))	POV _{ARG(ii)} (justified (POV _{STP1/ARG(ii)}) legal provisions limited to the offences against Catholics)
	?	?
	POV _{ARG(ii)} (cannot (POV _{ARG(ii)}))	POV _{ARG(ii)} (the majority of Italians are affiliated to Catholics)

Table 4

Table 4

Direct speech, which implies the construction of the locutor's representation with all its locutor's properties, as a mimed LOC (cf. Nølke, 2013, p. 56), is only used for two discourse entities in the analysed judgement: the third-person-DE LAW (which in this judicial text is to be taken as a *stricto sensu* reference; e.g. *POVSTP1/ARG(ii)1*) and the images of the locutor at a given moment in the past. These voices are thus integrated in the utterance supporting the point of view of the utterance locutor. This strategy is applied throughout the judgement and it is particularly evident how it is meant to support the final decision of unconstitutionality when the DE involved is an image of the same extralinguistic subject instantiating the decision of judgement 440/1995: in fact, the new decision is staged as not so new after all, given that the voices of the same referent in the past back it up.

4. Concluding

In summary, I believe that the integration of the polyphonic approach into the pragma-dialectical can enrich the latter with an analysis apparatus that allows going beyond the universal perspective inherent to the pragma-dialectical approach. The polyphonic theory suggested here can in fact help to identify antagonistic voices coded in one and the same utterance as well as stages of an ideal critical discussion coexisting in one and the same utterance - and this while showing the specific linguistic means responsible for such phenomena, which may differ in various natural languages. Moreover, a systematic application of the ScaPoLine to a discursive tradition can highlight the patterns of strategic manoeuvring polyphony used: in the judgement taken into consideration in the present paper, polyphony could be identified as a manoeuvring by means of presentational devices, but other aspects of strategic manoeuvring are still to be taken into consideration through further research.

NOTES

- i. In Nølke (2006), unlike in Nølke (2011), more confusingly for the English-speaking reader, enunciative links.
- ii. The sources are variables corresponding to the utterers (*énonciateurs*) of

Anscombre and Ducrot: cf. among others Nølke (2011, p. 64).

iii. “The utterance locutor is always responsible for the highest POV in a hierarchical point of view structure. This is why sentence adverbials, for instance are the utterance locutor’s responsibility.[...] An analogous difference between the t-locutor and the utterance locutor is that while the POVs of the latter may be shown (in Wittgenstein’s sense) [...], those of the former can only be said (or narrated).” (Nolke 2006, p. 155) Following Wittgenstein’s distinction (1969, §§ 4.022 & fol.), this amounts to saying that the POVs of the It can always be considered in terms of truth, but not the POVs that are merely shown: as such, they cannot be subject to discussion.

iv. As opposed to external polyphony, internal polyphony takes place when an utterance conveys both the POV of L and the POV of locutor0.

v. ON is rendered in Nølke (2006, p. 156) as VOX PUBLICA, in Nølke (2011, p. 66) as ONE. In my opinion, it is better left untranslated, as in Dendale (2006, p. 13), due to the useful semantic ambiguity of the French pronoun, which can be translated in English into both one and they.

vi. This is not to say that a simple standpoint cannot be endowed with argumentativity in a Ducrotian sense – but to deepen this matter here would go beyond the scope of this contribution.

vii. The norm text of art. 724, clause 1, it. Poenal Code reads: “Chiunque pubblicamente bestemmia, con invettive o parole oltraggiose, contro la divinità o i simboli o le persone venerati nella religione dello Stato, è punito con la sanzione amministrativa pecuniaria da euro 51 a euro 309.” [The person who publicly utters blasphemy against the Divinity or Symbols or Persons revered in the state religion shall be punished by a financial administrative sanction of 51 and up to 309 €.]

viii. Art. 25 co. 2 Costituzione della Repubblica italiana: “Nessuno può essere punito se non in forza di una legge che sia entrata in vigore prima del fatto commesso.” [No punishment may be inflicted except by virtue of a law in force at the time the offence was committed.]

ix. Art. 3 co. 1 Costituzione: “Tutti i cittadini hanno pari dignità sociale e sono eguali davanti alla legge, senza distinzione di sesso, di razza, di lingua, di religione, di opinioni politiche, di condizioni sociali e personali.” [All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions.]

Art. 8 co. 1 Costituzione: “Tutte le confessioni religiose sono egualmente libere davanti alla legge.” [All religious denominations are equally free before the law.]

x. It is to note that, although the standpoint the norm is indeterminate will ultimately be refuted by the Constitutional Court, the argumentation in its support is given in great detail. Since the LOC holds the power to present the referents by constructing the images at will, there must be a reason why LOC indulges in this long construction of a complex critical discussion even though in the end it doesn't revolve around the question that will be decisive in the constitutionality matter (i.e. its discriminatory nature). One of the reasons can be found in a long discursive tradition of judicial texts according to which it is first the arguments and standpoints that will not be accepted that are put forward, only eventually followed by the voice that "set things right". The staging of critical discussions between POVs through reported speech (which means a partial, selective construction of other voices than the speaker's) entails also the possibility to attribute wrong argumentation to other sources than the image of the LOC's self. On the other hand, the detailed argumentation attributed to different sources in defence of the standpoint the norm is indeterminate, which is theoretically accepted as argument for the standpoint the norm is unconstitutional, means that the reader has the time to get used to the final standpoint of the unconstitutionality of the norm.

xi. In this operative translation, I have kept as close as possible to the Italian original - even at the cost of the English grammaticality, if it helped to render the polyphonic means used in Italian.

xii. It is noteworthy that the internal argumentation of *POVCONF1*, namely *POVARG1,1/STP2* and *POVARG1,2*, are implicitly accepted by the parties as arguments for *POVSTP1*. Insofar this acceptance is part of the negotiation of the common starting points in the opening stage.

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