Text Commenting in Mediatised Legal Discourse: Evaluating Reader Understanding of (International) Criminal Law

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1 Introduction

With its complex syntax, archaic and foreign lexicon and age-worn expressions which symbolize and reproduce often ancient traditions, legal discourse can often appear bewildering to non-experts (Boyd 2013; Danet 1980; Jackson 1985, 1987; Sarcevic 1997; Walbaum Robinson 2011). To complicate matters even further, on the surface, many of the terms and expressions used in legal language often look exactly like ordinary language, but with very different meanings due to the presuppositions that the language makes about legal systems and the rules of law that these imply (Cao 2007; Jackson 1985). Such factors can lead to misunderstandings among non-experts which, in turn, may trigger misrepresentations of legal concepts and/or entire legal systems, especially when a foreign system (or systems) is involved. In addition, when analysing legal discourse, "cultural differences – especially distinctions in legal culture" are important and "outweigh any shared historic or geographic elements" (Walbaum Robinson & Spitzmiller 2009: 229). Hyland (1990: 39) highlights the complexity of 'legal system' as concept: "[e]ach legal system articulates the meaning of law and justice in a particular way. Wisdom in the law is not located within any particular understanding, but results rather from grasping all of these articulations at once". The same author (Hyland 1990: 45) further notes, "[e]ach pursues a particular goal, which it might be useful here to call a *cultural*

project." Distinctive contextual characteristics of a legal system, and language in which it is expressed, are key to understanding and correctly interpreting its distinct cultural project.

The present work is specifically focused on the representation of legal concepts in the online comments of news reports about legal issues and the role commenters take in the creation of these texts. Such comments are a mainstay of contemporary online newspapers, allowing users to share their ideas and opinions on important issues, including, of course, legal ones. In the literature, text commenting has been portrayed in a positive way as a means both to "expand the potential for text production" (Savoie 2009: 182) and to allow users to selectively recontextualize both text and discourse (Boyd 2014b). In their study of the 'interactive opportunities' available on newspaper websites Richardson & Stanyer (2011) demonstrate that, commenting behaviour varies depending on whether the newspaper is a tabloid or broadsheet. In their analysis, which was focused on the latter, the authors observed: "readers interacted with each other far more frequently, though here comments were often direct attacks on other discussants. Threads on the topics of immigration, race and religious difference were typically intemperate, used weak evidence, and frequently drew on racist unexpressed premises" (Richardson & Stanyer 2011: 19). Such attacks can also lead to users posting indiscriminately opinionated commentary on certain issues that commenters feel particularly strong about. This may lead to arguments being "used fallaciously with little justifiable connection between their standpoint and arguments, often driven by 'unexpressed premises' not strongly supported by evidence that result in *ad hominem* attacks on other discussants" (Richardson & Stanyer 2011: 19).

One of the goals of this study was to determine whether

such behaviour could also be observed in posts about legal issues. Thus, the corpus-based analysis focuses on recurring lexical items and patterns among commenters. The data were selected from an online comment forum (Comment is Free from The Guardian newspaper) posted in response to newspaper articles regarding the murder of British exchange student Meredith Kercher in Perugia, Italy, in November 2007, and the subsequent arrest, conviction and acquittal of American, Amanda Knox. Particularly, the work is interested in drawing out any lexical realisations that could be indicative of evaluative language. The underlying hypothesis is that lexical usage in comments regarding mediatised legal discourse can gauge users' evaluation and/or understanding of important legal questions and issues.

The comments used for the empirical study also provide an interesting case study for analysing readers' understanding and misunderstanding of legal issues. Since the crime was discussed at length by media outlets often in quite sensationalistic ways, it provided many opportunities for the public to comment online and also express their culture-based evaluations. This was corroborated by the fact that many arguments and opinions regarding the case were based on nationalistic lines that frequently led to ill-founded criticism about a foreign target (Italian) legal system in the source newspaper articles (Boyd 2013) and, subsequently, in the comments. In fact, many of the news reports and the ensuing comments were based on a rather incomplete understanding of the complexities of both the source Anglo-American and target Continental systems (Grande 2000; Mirabella 2012). The corpus-assisted lexical analysis was aimed at determining commenters' understanding (and apparent misunderstanding) of the legal issues involved in the case as well as perceived differences regarding legal concepts, trial procedure and uses

and misuses of the law. In §2 we discuss the most pertinent aspects of the case and introduce some important theoretical points about legal discourse.

2 The case and its theoretical foundations

2.1 The Case

On November 2, 2007, a British Erasmus student, Meredith Kercher, was found dead in her Perugia (Italy) apartment, covered by a duvet. Four days later, two students were arrested in connection with the murder, Kercher's American roommate, Amanda Knox, and Knox's recent boyfriend, Italian Raffaele Sollecito. They had been detained and interrogated in relation to the case and arrested almost immediately, only two days following the crime. They were held in prison for almost four years, while their case was tried in first-instance and appeals courts.

In October 2008, another man, Rudy Guede, originally from the Ivory Coast, but raised in Perugia, was convicted of sexually assaulting and murdering Kercher, and given a 30-year sentence through so-called fast-track proceedings. On appeal in December 2009, the sentence was reduced to 16 years. Meanwhile, in December 2009, both Amanda Knox and Raffaele Sollecito were convicted on charges of sexual assault and murder and sentenced to 26 and 25 years in prison, respectively. In appeals in October 2011, a panel of two professional and six lay judges (known in Italian as *giudici popolari*, or "people's judges") reversed the court's decision, and Knox and Sollecito were acquitted.[1] Today, Guede is the

[1] This decision was later reversed in March 2013 in a surprise turn of events in which the Italian Supreme Court, or Court of Cassation, ordered the case reopened and retried beginning in September 2013, while Knox remained in the US. On January 30, 2014, the court of Florence returned guilty verdicts, effectively re-convicting and sentencing her to 28 years in prison. At the end of April 2014 the

only person serving a sentence for the Kercher murder.

Many aspects of the case, including the events surrounding the murder, the Italian forensic team's evidence collection procedures at the crime scene, police interrogation practices, the Italian "jury" system, the prosecution's behaviour and the sentences were brought into question in both news reports and, as we shall see, comments, dividing public opinion. For months, accusations were made in Italy and abroad in favour or against Knox's and Sollecito's guilt. Moreover, accusations and counter-accusations abounded in the mass media about Italy and its seemingly 'unjust' legal system. Many denounced the modality by which the evidence in the Perugia trial had been collected. And both sides vociferously hailed or criticized the legal systems and the actors within. As Annunziato (2011: 66) notes, after the eleven-month first-instance trial "jurors returned guilty verdicts against both Knox and Sollecito, while the public and reporters in Britain and the US were left under the impression that the prosecution had succeeded in unanimously convincing the panel of six laypersons and two judges of Amanda Knox's guilt".

2.2 Legal lexis and discourse

Legal language, as noted above, exhibits a number of important differences from ordinary language. One reason for this is that many legal items can denote metaphysical phenomena rather than physical ones (Bhatia 2010). Furthermore, certain lexical items have "technical legal meanings" which might be interpreted by a layperson in their common meanings or as part

court published its reasoning stating that it was Amanda Knox "delivered the fatal blow" to Meredith Kercher. At the time of writing Knox remains in the United States and Raffaele Sollecito has yet to be imprisoned (Davies 2014). The case was definitively decided on 27 March 2015, when both Knox and Sollecito's convictions were overturned by the Italian Court of Cassation, its highest ruling body.

of legal professionals' "habit of being verbose" (Stubbs 1996: 109). Another reason for this complexity is that lexical items in legal language are related to each other in different ways than in ordinary language, such that the language "may only, to the extent that it resembles ordinary language, appear to be intelligible to the layperson" (Jackson 1985: 47). Furthermore, legal language often reflects what Stubbs (1996: 104) calls "conflicting versions of reality" due to the fact that, at least in courtroom discourse, "the presentation of these versions is carried out at an abstract and formalized level". Moreover, there may be complications at the level of argument creating "rigid formats of legal argumentation", which when combined with technical legal lexis can make legal discourse "incoherent" to the lay public (Azuelos-Atias 2011: 43). We should not forget, however, that legal lexis is indicative of value and cultural-based preferences and choices which underlie differences in legal systems. These systems, in turn, are based on mental images (or frames) creating a vision of authority, an awareness of rights and a means to evaluate acts, decisions and laws (Villez 2010). Yet, misunderstanding can also arise from a "lack of knowledge of the system, rather than of individual lexical items" (Jackson 1987: 47). In his analysis of courtroom language, Stubbs (1996: 106) provides an insightful summary of the possible reasons for misunderstanding between legal professionals and the lay public:

> Because the law relies on interpretation of language, the standards by which words are interpreted are inevitably different for the legal profession and the lay public, and it is inevitable that judge and jury will use language differently. People interpret discourse according to their own conventions, and it is therefore very likely that the jury are not always able to suspend their common-sense

> interpretations of language in ways the court may require of them. This is another potential source of misunderstandings.

When more than one legal system and tradition are involved, as we shall see below in §2.3, it can be even more difficult to transpose notions from one system into another (Villez 2010), as elements taken from one source legal system cannot be easily transferred into the target legal system (Sarcevic 1997: 13). This system boundedness has implications for linguistic practices, so that "[e]ach society has different cultural, social and linguistic structures developed separately according to its own conditioning" (Cao 2007: 24). Therefore, it can be hypothesized that if non-experts do not have a full understanding of these systems they will be more likely to misrepresent important concepts of law, especially when a foreign legal system is being discussed. As discussed below in section §2.3, the Anglo-American common-law system is significantly different from the continental Roman-law system.

2.3 Italian criminal law

Mirabella (2012: [28] 230) suggests that much of the criticism arising in the US and UK press about the Italian justice system and its dealings with the Amanda Knox case may actually stem from misunderstandings about the differences "between concepts of 'truth' in common law and civil law systems of criminal procedure" as well as "from an imperfect comparison of fundamentally different criminal systems" (Boyd 2013: 7). After Knox and Sollecito's conviction, the public frequently expressed strong opinions in favour or against both the verdict and sentencing voiced in various online comment fora. Most of the comments were far from neutral often providing strongly inaccurate comparative analyses of the legal systems and the

case itself. For instance, superficial comparisons were made of Italy's Criminal Procedure Code Reform of 1989 and subsequent amendments (Grande 2000; Mirabella 2012). Annunziato (2011: 67), for example, who monitored the reporting in the US media, observed a pattern of using "experts on various points of law or forensic science who attempt to discredit the case against Knox, without interviewing any experts who give an opposing perspective". This lack of opposing views, according to the same author (*ibid*: 69), "leaves the reader or viewer with a stilted version of events" and the belief "that the case against Knox is at best deeply flawed and at worst an example of malicious prosecution".

Three recurrent themes are reiterated throughout the newspaper reports about the case (as well as the comments that stemmed from these as we shall see in §4): forensic team inefficiency, police misconduct and unfair prosecution. Annunziato (2011: 71) stresses the international nature of the case as an important factor in influencing public (and media) opinion, which led to often unfounded criticism of a foreign legal system even though "standards applicable in the USA would not necessarily transfer to the Italian proceedings". Not surprisingly, such reporting often leads to misunderstandings, putting into doubt, as Mirabella (2012 230) notes, "whether proper comparative methodologies have been used in assessing how Italian criminal procedure relates to traditional adversarial systems". Mirabella (2012) further focuses on three elements at the core of the contentions surrounding the Perugia case. First, the Italian procedural code allows civil and criminal cases to be heard at the same trial. Furthermore, in the trial, unlike in the US or UK systems, three different cases were discussed: the criminal trial for the murder of Meredith Kercher, the defamation lawsuit brought to court by Patrick Lumumba and the Kercher family lawsuit (Mirabella 2012: 241). Evidence

which was considered crucial for the civil lawsuit, "even if that same evidence would not be considered probative or might be considered unduly prejudicial" (Mirabella 2012: 241), was not excluded from the jury in the criminal trial as would most likely have been the case in the common-law system. Whilst to an Italian jurist, a mixed jury is a guarantee that even if jurors know about the existence of evidence they will be prevented by professional judges during deliberations to make use of such evidence, for an American jurist exclusionary rules of evidence cannot be included in the trial. The reason for this, Damaska argues, is:

> Evidence which has passed the test of logical relevancy and has been found suitable for rational inference may still fail to be admitted under the common law rules of evidence. Some of these rules, more rooted in experience than inspired by logic, exclude certain classes of logically relevant evidence, largely on the theory that its impact on the trier of facts may be stronger than its actual probative weight. (Damaska 1973: 5, in Mirabella 2012: 251)

The second element, the manner in which the Italian system deals with character evidence, also raised criticism from the public (Mirabella 2012: 242). The prosecution's use of character evidence, based on data retrieved from social networks, was damaging for both Amanda Knox, often depicted as sexually unscrupulous "Foxy Knoxy," and Raffaele Sollecito, described as a student with an erratic personality who spent most of his time under the influence of alcohol and drugs. The third main criticism was the way the Italian criminal code deals with jury sequestration. Particularly in the US, the public was outraged by the fact that jury members were allowed to

continue their daily routines, without sequestration, until they were summoned to court to deliberate (Mirabella 2012: 242).

It should also be noted, that the hybrid (i.e., part inquisitorial, part adversarial) nature of the Italian criminal law system is often misunderstood internationally. According to Grande (2000: 230), it consists in the adoption "not of the adversary model, but […] rather the transplant of some of its features". There are historical reasons for this, and, as Pizzi & Montagna (2004: 465) suggest, "Italy had no choice but to try to blend two great legal traditions: the civil law tradition and the common law tradition". There are three fundamental reasons for this, according to the authors: to protect adversarial values, to reduce the importance of the issue of guilt, and to maintain some "features of its civil law heritage, such as the judicial role of the public prosecutor and the right of crime victims to participate in criminal trials" (2004: 465). This renders the reformed Italian criminal code unique among world legal systems. In practice, however, as Mirabella (2012: 230) highlights, the hybrid nature of the criminal procedure code in the Italian legal system has gone against the objective of the reformed code: for instance, "despite including adversarial processes into its criminal procedure code, Italy's inquisitorial foundations have continued to exert considerable influence over trial procedures", which is one of the key objections made at international level in relation to this case.

2.4 Communication paradigms offline and online

There are other important factors which must be taken into consideration when discussing an international mediatised legal case such as this. First of all, the actors involved (defendant(s) and victim) are from different nations, so we can assume that the journalists' and commenters' frames and scripts are shaped by intercultural factors. Furthermore, such frames are

influenced by hypotheses and interpretations speakers have about what another says: "Our interpretations and hypotheses are based on available contextual and cognitive information such as historical knowledge, schemata, and logic" (Hardaker 2013: 63). Moreover, commenting on newspaper websites is generally open to people from all backgrounds as long as they adhere to the community standards (see, in this case, http://www.theguardian.com/community-standards), so that the interaction that takes place on this type of forum is ostensibly of an intercultural kind. Due to the variability of online media communication and interaction, we would argue that media discourse encounters can lead to misunderstandings on a number of different levels. Boyd (2014a: 49) notes that although the new "communication paradigms" found in Computer-mediated Communications (CMC) have "reshaped the pragmatic features of language in online environments", such exchanges still "imitate spoken conversation". As highlighted by Herring (2010: 2), users "experience CMC in fundamentally similar ways to spoken conversation, despite CMC being produced and received by written means''. Finally, in line with Levinson (1988: 44), whose theories can be extended to CMC, online newspaper forum commenting can also demonstrate "chains of mutually-dependent acts, constructed by two or more agents each monitoring and building on the actions of the other".

Our interpretations and assumptions, however, are also shaped by other factors that influence intercultural online interaction. Gudykunst's intercultural communication, Anxiety Uncertainty Management (AUM) theory, which admittedly pre-dates CMC, argues that manifest differences exist in the way people manage encounters of this kind due to the build-up of anxiety and uncertainty when relating to "strangers", to use the author's term (Gudykunst 1995: 10-13). The theory defines

"stranger" as a person who is "physically present" in a given situation and yet "outside the situation". As such, the person is perceived as not belonging to the same group or community (i.e., in-group, host community) (Gudykunst 1995: 10). Anxiety is the affective phenomenon that has to do with the way we react to interacting with "unknown others". Uncertainty, on the other hand, is a cognitive phenomenon that affects the way people view communication with those which are considered 'strangers'.

One particularity of intercultural communication encounters is the tension that is created among interactants from realizing that marked differences exist among them in terms of communicative approaches, cognitive perspectives and linguistic and cultural traditions. It involves the ability (or inability) to predict attitudes, beliefs, values and behaviours of unknown persons. If anxiety and uncertainty are not managed adequately, barriers that impede effective communication and reciprocity tend to be erected, affecting the effectiveness of this type of encounter. A strong link exists between lack of reciprocity and misunderstanding. In initial intercultural interactions, it results in a tendency to either retreat into known territory – so that communication with those we do not know is often avoided – in favour of interactions with those who share similar points of view. It also results in the manifestation of less accommodative reactions towards a stranger by holding negative attitudes towards the person and/or the encounter. Gudykunst (1998: 229) claims, "[w]hen anxiety is too high, strangers communicate on automatic pilot." They interpret unknown others' behaviours applying their own "cultural frames of reference" (1998: 229).

Some important points from AUM theory have been extended to the communication paradigm under discussion here, i.e. the online newspaper comment forum. First of all,

communication in this kind of forum fits the intercultural communication description: comments are open to people from many different cultural-linguistic traditions. Secondly, the very nature of the subject matter in this case – Italian civil vs. UK and US common law systems – although the object of many comparative law studies, is still subject to misunderstanding not only in CMC environments but also in academic and judicial ones. Hence, it provides an interesting and productive theoretical underpinning for new media discourse description and analysis. The assumption grounded on AUM theory is: intercultural communication barriers are lifted by mindful and accommodative behaviour; this kind of behaviour consists in purposefully reducing the levels of anxiety and uncertainty; and, anxiety and uncertainty can be replaced with positive conceptualizations of the social organization of others including human enterprise, education, family and the legal system (Gudykunst 1995, 1998).

To conclude this section, Neuliep (2012: 2) points out that anxiety and uncertainty are theoretically associated with communication apprehension and, importantly, ethnocentrism, i.e. "the technical name for this view of things in which one's own group is the centre of everything, and all others are scaled and rated with reference to it" (Sumner [1902: 13] in Neuliep [2012: 43]). Both of these variables can have repercussions in CMC encounters, and negative consequences for intercultural communication effectiveness; "to the extent that humans are ethnocentric, we tend to view other cultures (and micro-cultures) from our own cultural vantage point. In other words, our culture becomes the standard by which we evaluate other cultures – and the people from those cultures" (Neuliep *et al.* 2005: 45).

In this case, as noted, different cultures are involved in the interpretation of diverse legal norms and questions of what is

right or wrong. As mentioned previously, we can assume that the commenters on The Guardian Comment is Free web forum are from many different cultures and, therefore, their comments should be representative of myriad world-views. Nevertheless, we cannot likewise assume that the commenters examined have a full understanding of the legal case or the various legal norms and views in the different systems (Italian, English, American, etc.) discussed in the comments (and in the original news articles). As noted by Stubbs (1996: 9), misunderstandings may also relate to the simple fact, that "a major source of misinterpretation is when texts are read outside a specialist context".[2] Predictions made by Shuter (2012: 221) point to both the importance of new media and intercultural communication as a new research area and to the challenges faced by practitioners and theoreticians working in it, in light of the fact that our understanding and assumptions about intercultural communication is far from complete. The author argues that "available research suggests that new media play a major role in the ebb and flow of intercultural encounters, conceivably augmenting twentieth century theories on communication across cultures" (Shuter 2012: 221).

As we have seen in §2.2, in the legal sector, language and law are closely intertwined. Understanding and interpretation are linked to knowledge of the law and the language used to express it (Engberg & Rasmussen 2010: 368). Constructivist approaches that view language as "an entity applied by individuals in their communicative and meaning creating (=semiotic) activities", argue that in legal settings meaning

[2] Such misinterpretation can also occur in the original news report especially when the legal context is involved. Boyd (2013: 47) goes so far as to argue that "the use and recontextualization of certain legal lexical items may lead to an erroneous interpretation and retelling of the events and facts of foreign criminal procedure in the media". We did not take this into consideration, however, in the present analysis.

making is reached by negotiating with other individuals in concrete situations such as those discussed here, "a process which leaves much more relevance to the opinions and the ideological stance of the people involved" (Engberg & Rasmussen 2010: 368). Our findings indicate that in intercultural mediatised dialogic interactive encounters, constructing meaning is facilitated by managing anxiety and uncertainty, reducing the proclivity for ethnocentric behaviour and adopting an accommodative attitude towards cultural differences of unknown others.

3 Corpus and methodology

The corpus used in the study is drawn from the online Comment is Free section[3] of The Guardian newspaper and is provided in Figure 1.

	N
Articles	13
Comments	3,943
Words	396,801

Figure 1. Guardian AK Comment Corpus.

Although only 13 articles were selected for the study, specifically because they were part of the Comment is Free section of the online newspaper, as we can see in Figure 1, they elicited a significant number of comments. Before continuing, however, we need to say a few words about the newspaper and accompanying website. Although The Guardian is well-known for a generally liberal and educated readership, it has remained one of the few major UK papers that has not created an internet

[3] http://www.guardian.co.uk/commentisfree/

paywall, unlike other UK newspapers such as The Times, which is known for a more conservative stance. The relatively open access to the comments section in The Guardian as compared to other media outlets might help to explain the presence of both liberal and conservative opinions among commenters. However, according to the Comment is Free section of The Guardian's webpage, while they do indeed "publish a plurality of voices", the liberal bent of the newspaper remains evident: "our centre of gravity as a progressive, liberal, left-leaning newspaper is clear".[4] This worldview is presumably maintained by the moderators who, however,

> are not employed on the basis of any affiliation, and are required to enforce the community standards neutrally and consistently across the site, whatever their personal perspectives.
>
> Although they sometimes need to make decisions which may be unpopular, their actions should not be interpreted as being revealing of pro- or anti- leanings apart from pro-[our community standards] and anti-[behaviour which goes against them].[5]

Finally, it should be noted that the online commenting function is only available for those articles that include "features which are discursive and likely to engender thoughtful, insightful, collaborative responses".[6] Furthermore, comments and commenters are moderated according to community standards

[4] http://www.theguardian.com/help/2008/jun/03/1

[5] http://www.theguardian.com/community-faqs

[6] http://www.guardian.co.uk/community-faq

to avoid instances of personal attacks, trolling, thread-jacking, and other such antagonistic online behaviour.

Before discussing the corpus data, we should also briefly address the use of comments as empirical data. While they represent a relatively new and valuable source of 'user-generated metalinguistic data' (Jones & Schieffelin 2009), comments have been shown in the literature to expand the potential for text production (Savoie 2009), to encourage the re-contextualization of texts, discourses and genres (Boyd 2014b) and to foster a "dialogic" platform (Jones & Schieffelin 2009). In their discussion of YouTube comments, Jones & Schieffelin (2009) stress that such data "demonstrate that respondents have strong opinions about language and texting practices, and freely question and evaluate linguistic choices in terms of competence, appropriateness, and 'correctness'" (Jones & Schieffelin 2009: 1062). The comments under discussion here could be seen as examples of a dialogic platform, which is enhanced by the fact that they are not fully anonymous and, importantly, moderated. The commenters thus interact with the original text (the newspaper article) and with each other. Furthermore, commenting allows members of the lay public to express themselves on a wide range of topics including legal discourse. This dialogic platform provides unlimited opportunities to capture, from commenters' descriptions and interpretations of events, actions and actors, instances of misunderstanding and misrepresentation of legal discourse. The platform also opens to further research in the field of intercultural mediatised communication commenting practices in legal and other specific language genres.

We also need to address the issue of corpus size, and namely how large a corpus should be for it to be considered valid. While there has been much debate about this in the literature (*cf.*, e.g., Sinclair 2004), we follow Baker (2006: 28)

who asserts that when dealing with a "linguistically restricted" genre – as in this case in which we are dealing with the relatively restricted (hybrid) genre of online newspaper forum comments – it may not be necessary to create a corpus consisting of millions of words. He further states that "when building a specialized corpus for the purpose of investigating a particular subject or set of subjects, we may want to be more selective in choosing our texts, meaning that the quality or content of the data takes equal or more precedence over issues of quantity" (2006: 29). Moreover, small, specialized corpora, according to Ahrens (2006: 377), may be useful in "testing specific linguistic hypotheses" helping researchers to draw out underlying conceptual patterns. Although limited to the comments of only one newspaper, we feel that the empirical data can still offer some preliminary findings about the nature of comments generated by a certain type of user interested in (international) law and/or this particular case. We hope that the discussion of these comments will lead to further research on the ways in which online users react to and interact with mediatised legal discourse.

In the current analysis we were specifically interested in determining and categorizing the most frequently used legal lexemes, potentially indicative of an accurate or inaccurate evaluation – or, possibly, understanding – of legal concepts and systems. The quantitative analysis of such data, as noted by Stubbs (1996: 121), can provide "direct empirical evidence about the connotation of words". Furthermore, a focus on legal terms as a "specific semantic subset" or "preference" can provide an indication of the evaluative meanings that commenters make use of (Baker *et al.* 2008). Moreover, the qualitative analysis complements the quantitative one in light of what Baker et al. (2008: 296) have observed: "'qualitative' findings can be quantified, and 'quantitative' findings need to

be interpreted in the light of existing theories, and lead to their adaptation, or the formulation of new ones". The added value of such a 'corpus-assisted' approach to empirical data is underlined, once again, by Baker *et al.* (2008: 296), as one that

> [...] can help to identify some terms that can be significant in a corpus and see their use in context through concordance searches, thus pointing out the frequent co-occurrence of two or more words and revealing the collocation of a word with other words from a specific semantic subset (semantic preference) as well as the evaluative meaning that a speaker/writer gives to a word by using it with specific collocates (semantic prosody).

The corpus analysis and compilation will be discussed in more detail in the next section.

4 Discussion

4.1 Quantitative analysis

The first stage of our analysis was concerned with a quantitative lexical frequency account of The Guardian UK Comment Corpus to ascertain the most important legal concepts expressed in the comments (Baker 2006). A raw frequency word list was generated using the wordlist function in WordSmith Tools (Scott 2008). Subsequently, the wordlist was manually scanned for high-frequency legal lexical words. On the basis of this, we created a number of categories to sort the lexical items, i.e. terms related to the legal procedure, the crime, as well as more general terms. Secondly, we refined the search focusing on terms that had a tendency to collocate with legal terms and certain qualifiers we felt would be indicative of value-based judgments such as the words 'Italian', 'case',

'American' (see Fig. 2). Finally, the words were lemmatized to include grammatically-related forms. The 20 most frequent terms[7] in these categories are listed in Fig. 2.

Lexeme	Frequency
evidence	1901
murder*	1495
case*	1490
Italian*	1485
guilt*	1015
police*	918
DNA*	870
crime*	834
court*	815
innocent*	811
prosecution*	758
trial*	670
convict*	662
American*	649
US	560
justice*	554
system*	541
appeal*	498
accused	442
judge*	435

Figure 2. Legal lexis frequency.

The actual legal lexis frequency word list, in fact, contains 107 lemmas accounting for a frequency of 5.37% in overall usage,

[7] Lemmatized forms are indicated by an asterisk (*).

pointing to a relatively high concentration of legal lexis. Before moving to the next stage in our analysis, however, we looked at a number of lexical items in context using the concordance function in WordSmith Tools.

```
the attacks on the incompetent Italian judicial system, ther
ns turned victory into defeat. Italian forensic science had
If you believe that the entire Italian judicial system is co
ardian over four years ago the Italian police's ludicrous "t
owever, your little dig at the Italian police is pretty unca
ardian over four years ago the Italian police's ludicrous "t
arge dose of dishonesty, of an Italian prosecutor. I shall s
service to justice done by the Italian courts in this case.
east AK was brought before the Italian courts rather than an
 of her life locked away in an Italian prison for a crime sh
n accused someone of being "an Italian cop" in a comment. Re
ublic alike (encouraged by the Italian prosecutor) against A
eally bad to make a joke about Italian cops. Each and every
y closely, and I do understand Italian. And I have read what
d. Rather than the far-fetched Italian theory of a sex game
usible theory than that of the Italian police. Recommend (8)
ay and she was returned to her Italian prison then her suppo
```

Figure 3. *Italian* concordance

Figure 3 demonstrates that most of the uses of Italian are part of clusters containing legal lexical items such as *judicial system*, *forensic science*, *police*, *prison*, etc. This allowed us to develop coding criteria for the identification of key words from both single words and phrase clusters. Subsequently, these were sorted according to the following categories: (a) procedure (evidence, police, DNA, court, prosecution, trial, appeal, judge); (b) crime (murder, squad, scene); (c) general legal (case, guilt, innocent, convict, justice, accused); (d)

nationality qualifier (Italian, American, US); and (e) collocating with legal (system, council, advice, team). The overwhelming majority of these terms concern legal procedure and general legal lexis. As far as the terms related to legal procedure are concerned, the similarity of many of the items demonstrate a strong tendency for what Sinclair (1996: 94) calls extended units of meaning or semantic preference for certain terms. Among the general legal lexical terms, on the other hand, we can find examples of lexical items that "convey connotations of emotion or violence" and, therefore, are subject to conflicting interpretations (Stubbs 1996: 110).

In the second stage of the quantitative analysis, the raw wordlists were compared against the British National reference corpus (BNC) to determine keyness, i.e. the measure of saliency (Baker 2006: 125) or the main focal terms (Stubbs 1996) of the two corpora. The keyword list was then sorted manually to include only legal terms and is provided in the list shown in Fig. 4.

Keyword
Italian
evidence
guilt
convict
murder
innocent
DNA
crime
case
trial
justice
police
interrogation
forensic
accused

prosecutor
kill
American
court
prosecution

Figure 4. Legal keywords.

The majority of the terms in Fig. 4 are the same as those contained in Fig. 2, which, we would argue, provides a strong indication that the comments address predominantly the legal process and the crime. In this way, the keyword analysis demonstrates that many of the most salient terms concern legal procedure and general (abstract) legal concepts, precisely those which would presumably be more open to misinterpretation among text commenters. In the next section we will examine the actual usage of two of the terms, *evidence* and *guilty*, to further test our hypothesis from a qualitative perspective.

4.2 Qualitative analysis

In order to determine specific uses of evaluative language, we examined some individual comments more closely. A small sample: the first 30 non-threaded (but chronological) items were considered. The limited size of the sample is justified by both the nature and scope of the study: since the main focus is commenting practices among users it was considered that this type of behaviour could better be observed, studied and classified through manual reading and sorting. Although such an approach is admittedly subjective, it was thought that a manual analysis would prove to be the best way to determine the use of evaluative lexis and uncover possible instances of misunderstanding and/or misrepresentation. We were also interested in finding seemingly unbiased, well-argued examples. Here we limit our discussion to seven examples that

are illustrative of the different strands of commenting.

Extracts (1) - (4) include two of the five most frequent legal terms among the legal keywords (Fig. 4), *evidence* (1) and (2) and *guilty* (3) and (4), typical of the characteristic disparaging nature of commentary. Below are two extracts containing the word *evidence*:

(1) There is nothing left of the "case" against the 2 of them at all - why do you think the prosecution abdicated all discussion of the **evidence** during the appeal trial and devoted their entire time to character attacks on the defendants and ad hominem attacks on the independent experts who rubbished their so-called DNA **evidence**?

(2) There is no truth in the story of the "faked" break-in or the "multiple assailants" claims by the prosecution – this was an invention by the investigators who needed to rationalise their over-hasty arrests of 3 innocent people […] on 6 November. The simple truth, supported by all the actual **evidence**, is that the crime was committed by a lone burglar, Rudy Guede - and the police and prosecutor were too pig-headed to give up their crackpot theme of a 3-way attack committed by their original suspects.

Comment (1) is clearly critical of the prosecution (and the entire Italian judicial system). The graphological use of inverted commas is most likely aimed at mocking the prosecutors' work by suggesting that there is indeed no case against Knox and Sollecito. The commenter also purports that the prosecution had avoided discussion of the (DNA) evidence and directed attention to attacking the defendants and experts who had discredited that very evidence. The commenter's critical tone is highlighted through the use of the verbs *abdicated* and *rubbished*. While the former ostensibly legal

term, generally limited to constitutional law, appears to be used sarcastically to further criticize the prosecution possibly hinting at the monarchic – and therefore undemocratic – behaviour of the prosecution, the latter is used in relatively informal contexts in British English to indicate strong criticism. Comment (2), instead, focuses on the allegedly *hasty* attempts by investigators to justify their work, which resulted in the decision to arrest three people, whom the commenter claims are innocent. The commenter suggests that both the *break in* and the *multiple assailants* hypothesis should represent foul play, which had been set up to divert public attention. This comment also makes use of informal language – *pig-headed* and *crackpot* – to discredit the Italian prosecutorial procedure. In both comments, no mention is made as to whether allowing character evidence influence the jurors in court met or violated the rules of evidence standards prescribed by the Italian Criminal Procedure Code (CPC) or whether investigators involved in attempts to cover up procedural mistakes by acting contrary to standards and steps set out in the Italian CPC effectively did so, most likely indicating that the commenters here are applying their own cultural frames of reference for rules of evidence.

Below are two extracts that contain the lemma *guilty* (and its derivative *guilt*), as exemplifications to support the faulty practices claim:

(3) The police told her [AK] she had to implicate someone to save her own skin. Knox was held for over 24 hours, questioned incessantly in a language she didn't fully understand, told over and over that she was **guilty** of the crime, slapped around, and denied access to an attorney.

(4) Think whatever you like but there was not enough evidence to find her **guilty**, period. She would never have been found **guilty** in any civilised country, where justice is dispensed according to the principle which obliges the prosecution to prove **guilt** beyond reasonable doubt.

Comment (3) criticizes police behaviour when Knox was first arrested. It accuses them of using interrogation techniques that lasted too long and included linguistic and legal isolation as well as, importantly, violence (*slapped around*). While some of these accusations might be true, the commenter fails to mention that Knox did not have legal representation because she was still officially being treated as a witness, rather than a suspect, at her interrogation, and, in fact, the statements made by her during this time were later ruled inadmissible by the Court of Cassation[8]. Furthermore, Knox was allegedly offered legal representation, which she refused. The commenters makes certain assumptions based on only one side of the argument erroneously representing many of the events in the police investigation. Comment (4) mentions both *evidence* and *guilt* focusing on different understandings of how evidence is treated in court, which illustrates why the Italian approach to evidence might appear as being unfair to American and UK observers (Mirabella 2012: 248). The commenter also indirectly accuses the Italian system as being uncivilised, claiming that Knox *would never have been found guilty in any civilised country*. While to an Italian jurist, a mixed jury is a guarantee that even if jurors know about the existence of evidence they will be

[8] http://themurderofmeredithkercher.com/Amanda_Knox%27s_Confession For an alternative version, that fails to mention many of the facts surrounding the three different interrogations, see http://www.injusticeinperugia.org/TheInterrogation.html

prevented by professional judges during deliberations to make use of such evidence, to an American jurist exclusionary rules of evidence cannot be included in the trial. The reason for this, as mentioned previously, is the possibility for this sort of evidence to influence the jury's decision even with the exclusion of probative weight.

Another example (5) which also contains the lemma *guilty*, builds on the word to launch an attack on the Italian justice system on many different levels:

(5) I have no idea whether Amanda Knox is **guilty** or whether she made some unwise choices and is a victim of circumstances that spiraled out of control. I do know that the Italian so-called system of justice has completely failed to address the issue. From their amateurish mishandling of evidence, through their insistence on utilizing a prosecutor who was currently under investigation for unprofessional behaviour, and through the showing to the jury of a fictional film clip depicting Knox in the act of murder, the trial has been a joke. In this light, the invoking of witchcraft comes as no surprise within the apparent overall medieval context of their perceptions of justice.

Many of the points made by the comment is certainly influenced by the original article, which rather pointedly compares Carlo Pacelli's (civil defense lawyer for Lumumba, whom Knox falsely accused of murdering Kercher during her police investigation) examination of Amanda Knox to a trial from 1486 that involved witchcraft, and rightly labels the lawyer's examination as anachronistic and misogynistic, but appears to extend its criticism to the entire Italian justice. The commenter appears to extend such criticism even further by mentioning *the Italian so-called system of justice, the trial has*

been a joke, amateurish mishandling of evidence, invoking of witchcraft comes as no surprise and *apparent overall medieval context of their perceptions of justice*. While the commenter sarcastically admits to having incomplete knowledge of the suspect's situation, he/she appears assertive about how the legal system in which the suspect is kept in custody should operate, highlighting its apparent faultiness, amateurishness and lack of professionality. Comments, however, are not always so emotionally charged and can demonstrate a more impartial position in regards to Italian and other justice systems. In (6) below, for example, the U.S. system is implicitly criticized by mentioning *death sentences*, which, in fact, have long been abolished in all EU countries including the UK. The commenter praises the Italian courts characterized as having a *more detailed appeals process*.

(6) If there is any good in this scenario that is the Italian courts do no issue **death sentences** and have a more detailed appeals process which almost resemble a retrial.

The final comment, (7), we would argue, suggests a less frequent tendency in the corpus to show both unbiased and informed reasoning about the case and the facts surrounding it.

(7) Knox's case highlights one of the many failings of the Italian court system? It never delivers door-slamming certainty, but it's not supposed to. Trials are for examining evidence and seeing if certain evidence should be held for consideration or not. The jury decided not to decide the case on conjecture and hypotheticals this time and they looked at the evidence and the lack of evidence – and based their verdict on that. I commend them. That's the best any trial can do in any country. Jurors have a responsibility to look at

> the evidence, and the judge has the responsibility to allow evidence or not allow it. The judicial systems (democracies, really) in the free world are not designed to be door-slamming. I'd say they're more like sliding scales (or maybe just scales)?

While the comment clearly recontextualizes parts of Jones' (2011) critique of the Amanda Knox acquittal in 2011, which according to the journalist, "highlights one of the many failings of the Italian court system – it never delivers door-slamming certainty", it does offer a detailed account of the principles underlying jury trial procedure within a democratic judicial system. Of consequence here is the fact that the commenter constructively expands the concept of 'door-slamming' justice by questioning the imperative nature of the concept of truth in common and civil law legal systems along the lines of Mirabella (2012: 230). The commenter points out the different conceptualizations in both traditions in relation to the concept of decision making thus mindfully taking the discussion a step forward into an unchartered new dimension; a reminder to co-commenters that a decision is above all a question of ponderation of facts and law, rather than subscribing unquestioningly to water-tight absolute sentencing. In doing so, the commenter upholds the concept that lack of knowledge and understanding block "intercultural communication" as argued in Neuliep (2012: 12).

5 Conclusions

The high frequency of certain legal lexical items in the corpus-assisted analysis attests to a high interest in legal matters by commenters, with a particular interest in substantive and procedural criminal law and the nationalities of those involved. Since we were interested in demonstrating commenters'

evaluation and possible misrepresentation of important legal issues, the mere quantitative analysis of legal lexis usage and lexical categories was regarded insufficient. Moreover, categorizing the terms was not always clear-cut with many of the comments and categories remaining fuzzy. Collocates and concordances offer a better indicator of actual value-based language usage. A closer examination of collocates, concordances and specific examples demonstrates that the use of legal lexical items does not necessarily imply an understanding of a legal system. Thus, while the quantitative analysis helps to demonstrate legal lexical foci, the qualitative analysis helps to demonstrate the actual knowledge and level of understanding (or misunderstanding) of the arguments discussed in the mediatised forum.

Furthermore, by focusing on the use of certain lexical items and extended lexical units from legal English, a map of semantic preference and lexical foci begins to emerge. The detailed examination of certain terms, moreover, reveals misunderstandings of a legal system and value-laden judgments about it. It also reveals commenters' tendency to target "representatives" (actors & bodies) within the legal system (prosecutor, police force, forensic team), criticizing them in like manner in disregard of the roles they are called on to play within the system.

In the examples, the high-frequency terms *evidence* and *guilty* were both often 'misused'. This indicates that, first, the lay person makes affirmations of an intuitive or emotional nature in reaction to a verdict. These reactions resonate with those in other intercultural encounters described in Gudykunst (1995, 1998), Neuliep (2012) and Neuliep *et al.* that include 'strangers,' perceived as bearers of a different, unknown and as such 'defective' or 'faulty' cultural project (and legal system), for the mere fact of not fitting the known cultural project

mould. Secondly, there is often disregard of court arguments on sources of law (criminal code, judicial opinions, sentence reasoning). The fact that the actual sentencing published by the Court of Assizes of Perugia in 2010 in English, known as "the Massei Report" (2010), is written for a legal professional audience not for a non-professional one shows just how complex and incomprehensible the underlying legal principles, doctrine and procedures may remain to the lay public.

Differences between the Anglo-American common law legal systems, on the one hand, and the Italian hybrid criminal system on the other, tends to configure "vastly different understandings about how evidence should be controlled at trial and explains many of the aspects of the Knox case that seem unjust" (Mirabella 2012: 251) to observers on both sides of the Atlantic. This research shows misunderstanding and misrepresentation run high in debates over complex issues in media outlet commentary spaces. This may unleash far from satisfactory constructive and collaborative engagement. Spaces of this nature may be rendered far more satisfying for participants, particularly in high profile intercultural debates involving several legal systems if commenter contributions were grounded on solid factual, conceptual and procedural knowledge. This is particularly relevant in cases such as the one here in which commenters engage in often complex legal discourse involving the comparison of two major world legal traditions.

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[i] Note: **Section (§)1**. Introduction is written by Isabel A. Walbaum Robinson (IAWR) and Michael S. Boyd (MSB); **§2.** The case and its theoretical foundations, sub-section **(§§)2.1.**The Case is written by IAWR and MSB; **§§2.2.** Legal lexis and discourse is written by MSB;**§§2.3.** Italian criminal law and **§§2.4.** Communication paradigms offline and online are written by IAWR; **§3.** The corpus and methodology is written by MSB; **§4.** Discussion, **§§4.1.**Quantitative analysis is written by MSB; **§§4.2.** Qualitative analysis is written by IAWR; **§§5.**Conclusions is written by IAWR and MSB.