Expert saying and doing in dealing with domestic violence: reflections on a case of legal aid in an antiviolence center

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Structured Abstract:

Purpose – This article sheds light on the legal services offered by antiviolence centers through a discursive practice-based analysis of women who have experienced domestic violence and the lawyers who volunteer in the center.

Design/methodology/approach – Using a practice-based framework, the article utilizes a case study of the first legal meeting between a lawyer and a woman who has experienced violence. The case study illustrates how the legal advisors’ expertise is augmented by the use of ‘discursive practices’ in dealing with women who have experienced domestic violence. Through a systematic analysis of the verbatim narrative, the case shows how the lawyer performs her legal help through expert ‘discursive practices’ which are situated in a recognition of the texture of practices experienced by women in the legal system.

Findings – The case study shows how a practice-based approach is able to account for lawyers’ discursive and interactional knowledge in dealing with domestic violence. This expert doing and saying includes the ability to read the complexities of abusive situations, using ‘professional vision’ to identify, highlight, and codify clues and patterns of a partners’ violent behavior; the mastery of ‘co-implication’ with women to
support the development of a narrative of the abuse as a crime recognizable both by the victim and the legal system.

Originality/value – The analysis shows that practice-based approaches to knowing and learning in investigating discourse practices, can provide insights on practitioners’ interactional expertise as well as the relevance of the service. While a close look at the actual practices illustrates the lawyer’s interactional mechanisms, the crucial role of legal aid in the antiviolence center can be appreciated by contextualizing within the texture of practices that characterizes women’s experiences with violence.

Keywords: Practice theory; knowing-in-practice; discursive practices; gender-related violence; domestic violence; legal advisor; zoom out.

Article Classification: Paper type – Research paper

Introduction

The phenomenon of gender-based violence against women is not new. However, it is only in recent decades that it has become a recognized social problem (Edwards, 1987; Yllo and Bograd 1990; Thomas and Beasley, 1993). The World Health Organization defines violence against women as the most widespread violation of human rights (Garcia-Moreno et al, 2005). The European Convention on preventing and combating violence against women and domestic violence by the Council of Europe (2011), also known as the Istanbul Convention, acknowledges that violence against women is a form of gender-based violence. It also defines domestic violence as all acts of physical, sexual, psychological or economic violence that occurs between partners. In so doing, the Convention includes intimate partner violence (IPV) in the phenomenon of gender-based violence against women, that is to say the intended violence directed against a woman because she is a woman or that affects women disproportionately (Council of Europe, 2011).
A crucial front-line role is played by non-governmental, and civil society, organizations who are active in combating violence against women. The Convention recognizes the importance of these in establishing effective co-operation with relevant organizations (Council of Europe, 2011). The literature indicates that “as many as a third of survivors seek help from community-based domestic violence and sexual assault agencies following an incident of violence” (Macy et al. 2010: 1138), along with many women who seek help from these services having experienced violence at some point in their lives (Henning and Klesges, 2002; Hutchison and Hirschel, 1998). The beneficial effects of help seeking, as well as the disclosure of abuse, depends in large part on whether a supportive response is received (Foynes and Freyd, 2011). In Italy, relevant organizations are the local antiviolence agencies where women who have experienced violence find help.

Wright and Bertrand (2017) underline the importance of the antiviolence agencies’ focus on access to legal services which plays a crucial role in informing victims how they can navigate through the judicial system. However, little attention has been paid to this aspect of the antiviolence agencies. To fill this gap, this article focuses on a case of onsite legal consultancy and reflects on the professional expertise of the legal advisors who volunteer in an antiviolence center. Doing so, demands methodological considerations about how discursive practices are studied as means to reveal specific forms of professional knowledge.

Using a practice-based analytical framework on learning and knowing (Gherardi, 2000; 2006; Nicolini, 2012), the article presents an analysis of discursive practice in legal help meetings to account for legal advisors’ ‘doing’, and ‘knowing how to do’ with words (Gherardi 2012). In so doing, the article provides new insights, not only into legal work practices and legal advisors’ professional knowledge, but also into the intricacies of gender-related domestic violence and its organizational implications.

This article is structured as follows: Section 1 presents a practice-based approach to knowing and learning in organizations. Section 2 briefly presents the debate about language in institutional work as it is framed by this stream of practice-based studies. Section 3 briefly introduces the topic of gender violence and domestic violence in Italy. Section 4 introduces the case study and illustrates the research methods used. Section 5 provides and discusses excerpts from an audio-recording of a
meeting between a lawyer and a woman seeking help at an antiviolence center. Section 6 offers conclusions and thoughts on methodological and theoretical concerns.

1. Working as knowing-in-practice

In recent decades, an important shift has occurred in organizational and professional settings toward an alternative, non-individualist and non-rationalist, explanation of the relationship between knowing and organizing (Nicolini, 2011). Coming from a tradition critical of rationalism and cognitivism, ‘practice-based studies’ (see Nicolini, 2012, for an overview) create a compounded image of the relationship between organization and knowledge (Gherardi, 2000, 2006). As Silvia Gherardi (2006) points out,

knowledge does not reside in cognitive activities, nor is it subject to particular production conditions; rather, it can be described processually through analysis of the material discursive practices that deploy it within a given setting (p. xx).

Organizational knowledge is thus conceived as a process in the form of social expertise and collective knowledgeability, situated in the historical, social, and cultural context from which it arises (Blackler, 1995; Cook and Yanow, 1993; Elkjaer 2004; Engeström, 2000, 2001; Gherardi, 2006; Lave and Wenger, 1991; Nicolini, 2011; Nicolini et al., 2003; Tsoukas, 2005; Wenger, 1998;).

‘Knowing-in-practice’ thus became the pillar of a stream of research where,

knowledge is studied as a social process, human and material, aesthetic as well as emotive and ethical, and that knowledge is embedded in practice, as the domain where doing and knowing are one and the same (Gherardi, 2006, p. xii).

The focus on ‘practice’ and ‘knowing-in-practice’, links diverse research traditions such as the cultural approach to learning, situated-learning theory, activity theory, and actor-network theory (Gherardi, 2000; Nicolini, 2012). Knowledge in an organization is no longer viewed as a stable and well-defined set of tasks but rather as a collective achievement that work groups pursue through
material-discursive practices. Practices are thus considered “sites of knowing” (Nicolini, 2011) emphasizing that practicing is indistinguishable from knowing. As Gherardi (2012) pointed out,

We may say that knowledge can be seen and analyzed as an activity, rather than as an object (a body of knowledge), and that it can therefore also be studied as a situated activity. In other words, knowledge emerges from the context of its production and is anchored by (and in) material supports in that context. We may also say that knowing is an activity both individual and collective; that it is an activity situated in working practices; and that, therefore, practical knowledge is contextual as opposed to being decontextualized and theoretical (p. 20).

Following Frank Blackler (1995), this contribution considers knowing in an organization as a specific phenomenon that is (a) manifest in the systems of language, technology, collaboration, and control (that is, it is mediated); (b) located in time and space and specific to particular contexts (that is, it is situated); (c) constructed and constantly developing (that is, it is provisional); and (d) purposive and object-oriented (that is, it is pragmatic).

‘Practice,’ thus, constitutes the conceptual lens which enables reconnecting knowing with organizing; it is the empirical ground where such a relationship can be investigated (Gherardi, 2001). A practice-based understanding is attentive to interactions with others, situated communication, the process of construction of situations, and the relationship with the physical environment and the objects in it (Gherardi, 2006; Nicolini, 2012). Moreover, a practice-based theorization includes the idea that these elements are “held together” by a contingent logic (Bourdieu, 1990) that is embedded in the situation and is socially sustained and constantly reproduced (Gherardi 2012).

The following section shows how, in situated institutional settings, language is one of the principal mediators of working practices. Professional knowledge presupposes, therefore, specific communicative competences necessary for the use of language not only appropriate to the specific situation, but also to perform the actions required into specific operational contexts. It demands the capability to participate in the complex web of relationships amongst people and activities with the requisite (communicative) competences to contribute appropriately to unfolding courses of action (Nicolini, 2007).
By framing practical knowledge in this way, this article gives an account of how communicative competence is deployed in legal advisors’ discursive work practices. By critically analyzing a specific conversation in an antiviolence center, the article explores how the discursive practice of giving legal advice, is central to the unfolding of appropriate courses of action.

2. Working as a material-discursive practice

The background of language studies at work emerged from distinct but convergent lines of investigation in sociology, anthropology, and linguistics. As pointed out from the 1990s (Drew and Heritage, 1995; Gumperz, 1989; Llewellyn, 2008; Llewellyn and Hindmarsh, 2010; Travers and Manzo, 2016), these streams of scholarship increased their attention on the uses of language in specific institutional contexts and for particular purposes (Language for Specific Purposes, LSP). An interest in detailed accounts of interactions occurring in work settings is also shared by practice-based studies. However, being interested in ‘language as practice’, these analyses do not share the same rules of conversation analysis (CA). In the practice-based perspective, the interest is on work practices carried out by language, communication, and discourse as part of the practical expertise of the practitioners. Thus, the focus is on communication as practice that mediates and makes possible the service. Therefore, as suggested by Gherardi (2012), the expression ‘discursive practices’ can be used to indicate this set of practices:

They are practices because they are normatively sustained by a community of practitioners and are therefore learned and performed as an inseparable part of a practitioner’s competence. Moreover, they are practices because they are collectively performed as an integral part of work: indeed, the organizing of the practices themselves comes about through discursive practices (p. 104).

This characteristic of a practice-based perspective is also recognized by ethnomethodological studies of work that acknowledge a close relationship. Llewellyn and Hindmarsh (2010), for example, point out the importance of the ‘practice turn’ in organization studies:
This is because practice-based studies seem to share with ethnomethodology an interest in the fine details and normative character of ordinary work; these studies begin with work (see Gherardi 2001:134; Nicolini 2007)” (p. 11).

In mapping the connections between ethnomethodologically informed studies of work with organization studies, Llewellyn and Hindmarsh pay specific attention to practice-based studies. Unlike other traditions within organization studies that have been criticized for being surprisingly uninterested in “work itself,” practice-based studies are considered close to, and coherent with, the ethnomethodological program. Indeed,

In this literature, analysts have long since been attentive to easily missed details, competencies and practices of ordinary work. Such noticings include the ability to feel “the tension of the sling” or “the roof through your feet”. Practice-based studies have sought to connect notions such as community, knowledge, learning and identity with the practical “doings” of ordinary work (Gherardi 2001: 136), something that chimes nicely with ethnomethodological commitments to a “practice-based theory of knowledge and action” (see C. Goodwin 1994: 606). (Llewellyn and Hindmarsh, 2010, p. 11).

Using the practice-based approach to study “discursive practices” (Gherardi, 2012) in initial legal meetings, the article will show the deployment of knowledge, including the communicative skills, in the legal advice offered by the antiviolence centers. The emphasis on language, thus resides in the work practice as part of the legal advisors’ professional knowledge.

3. Gender-related violence from an intimate partner and the Italian context

In advance of presenting the empirical research, a brief overview of domestic violence in the Italian legal setting will prove useful in contextualizing the case study.

From the 1970s, largely due to the impact of second wave feminist theories (Edwards, 1987), the problem of domestic violence, previously seen as a private matter, become an issue of human rights
(Joachim 1999; Thomas and Beasley, 1993). Consequently, gender-based violence, violence against
women, and domestic violence began to appear on local agendas, and programs of national and
international governments as an object of concern (Weldon and Htun 2013).

The complexities of domestic violence have its roots in patriarchal societies and in those cultures that
confer distinct values to men and women within their social and economic structure (Boyle 1993;
Clements et al., 2015; Council of Europe 2011; Garcia-Moreno 2005; Garcia-Moreno and Watts
2011; Hunnicutt, 2009; Johnson 1995). The complex nature of the gender-based violence within
intimate relationships poses unique challenges to community services, antiviolence centers and
women’s shelters that work on the frontline with women who have experienced violence.

As underlined in the extant literature, survivors’ experiences are not limited to the physical and
mental health problems connected with the violence suffered. “They also experience financial, social,
and family impairments, both directly and indirectly related to their experience of violence” (Macy
et al., 2018 p.39). Thus, in sustaining and helping women through the process of emancipation from
violence, demands dealing with a myriad of needs consequent to the violence they have suffered.
Analyzing the service requirements from the perspective of the agency directors, Macy and
colleagues (2010) identify six core services critical for the women who experienced violence: 24-hr
 crisis lines, counseling, support groups, and court/legal advocacy shelter services and
medical/emergency room advocacy services.

As stated by the Istanbul Convention (Council of Europe 2011) the characteristics of the phenomenon
imply an integrative approach able to exercise due diligence to prevent, investigate, punish and
provide reparation for acts of gender-based violence. However, Italian law introduced the Istanbul
Convention requests (Law 119/2013) that does not adopt such an integrative approach.
Although Law 119/2013 has adopted some of the indications contained in the Istanbul Convention,
including pro bono legal representation and the issue of the residence permit to abused foreigners, it
has been criticized for being particularly concerned with the criminal repression of acts of violence
against women, whereas other important aspects - such as prevention and protection - are not
enshrined in the legal framework (Capone 2018; Dona’ 2015; Pavich 2013). Furthermore, the
essential organizational measures indicated by the Istanbul Convention are difficult to implement due
to the financial limitations that affect the Extraordinary National Plan that would be responsible for
the coordination (Pavich 2013). Moreover, as pointed out by Alessia Dona’ (2015), in the Law n. 119/2013 domestic violence is understood (art. 3) as “all, not episodic, acts of physical, sexual, psychological or economic violence that occur in the family...” (original emphasis). An addition to the original text (art. 3) of the Istanbul Convention says, “all acts of physical, sexual, psychological or economic violence that occur within the family...” Arguably, the specification ‘not episodic’, could be regarded as a divide between forms of violence within the family that are socially accepted, and others subjected to legal constraints.

4. The research

The case used in this article is derived from a preliminary investigation carried out in an antiviolenice center in Italy. The center offers information, hospitality, medical and legal assistance, and psychological and social support for the many aspects of the trauma connected to the violence suffered and facilitates the transfer of the problem to social services and other institutions. It offers consultancies with experts such as social workers, gynecologists, forensic doctors, child neuropsychiatrists, psychiatrists, nurses, midwives, social workers, psychologists, and criminal and civil lawyers. All the services offered are free, including the legal consultancy that helps women familiarize themselves with the legal system.

The meeting with the lawyer is always preceded by a “risk assessment” for the woman and for any minors, carried out by front-line antiviolenice operators (social worker, psychologist) through an interview during which the “SARA” test6 is also used. After the initial assessment if the situation does not require immediate protection, a session with a lawyer takes place as soon as possible (for this purpose the lawyers are available over the entire year). This legal consultancy usually marks the first encounter the women may have had with a professional civil and criminal lawyer.

In negotiating access to the field, the researcher visited the antiviolenice center to carry out a small number of interviews and observe the weekly meeting of the professionals and volunteers who work at the center. The visit, which followed several informal conversations with two legal volunteers at the center, confirmed the necessity to meet a high level of ethical considerations if research activities were to be undertaken at the center. The researcher obtained the permission for a preliminary investigation that would include no direct interactions between the researcher and the women who
had experienced violence. Lawyers received permission from various women to record their initial legal meetings during one week. However, this article is concerned only with one specific initial consultation chosen for its relatively low level of complexity of the situation. The exploratory research employs several methods. In addition to audio recordings, the researcher conducted unstructured interviews with two of the lawyers and analyzed the official documentation of the center. While the primary data presented in this article comes from the verbatim transcript of an audio recording, the analysis also connects the discursive interactions with the texture of practices implicated by the woman’s experience with violence.

5. The case analysis

The analysis shows how lawyers’ practice knowledge is related to communication skills and the management of interactions with clients. Being able to question a woman about her experience with violence is the practical knowledge required in order to act professionally at the anti-violence center. Forty years ago, whilst studying the interactions between general medical practitioners and patients, Aaron Cicourel (1987) noted how communication skills were an essential part of medical knowledge. Even if the practice of medicine is characterized by sophisticated technologies, it is in the interaction with the patient, that the doctor frames and constructs an interpretation of the situation. Similarly, other professionals rely on communication skills that allow for the construction of a situated and participative interpretation of a situation. Legal work is no exception, and being able to question a client, or cross-examine a witness (Drew, 2016), is a crucial skill for lawyers and prosecutors. Domestic violence has specific characteristics that make it a delicate matter. In commenting on risk assessment in IPV, Mortiere (2015) affirms:

Victims of IPV often have the information experts need to formulate a risk profile. Such information includes specific things the perpetrator has said and done in the past that led to previous violence, indications of the perpetrator’s current state of mind and things the perpetrator has said or done which may be threatening in the present, but the victims are not always able or willing to access or provide such information. There are psychological reasons why a victim of IPV may or may not have the ability to communicate this
information to appropriate parties, including trauma, shock, fear, denial, privacy concerns, and resistance to outside help (p.35).

Being able to communicate in a manner that helps victims overcome her situational limitations is also a practical knowledge of those who provide legal help at antiviolence centers. The following section constitutes a close analysis of the first legal meeting between a lawyer and a woman who was trying to cope with a violent ex-partner.

5.1 Interpreting the violence

Prior to meeting the criminal lawyer, the counseled woman had already written a complaint. Thus, her first official contact with the lawyer began with a conversation (after greetings) about this complaint.

Lawyer: I read your complaint, it has not been filed; yet… we did check but it hasn’t been filed, yet… although we found one dated YEAR.

Victim: Ok

L: Did you file a complaint in YEAR?

V: Maybe that is the one of my father, because when… at the social services… because when we went to hospital when it happened in YEAR and...

L: What happened in YEAR?

V: We practically had an argument and let’s practically say that he was again out of his mind and battered me… in fact my parents intervened…

L: Your parents?
V: Yes, my parents. In fact, they came home and picked me up, then at that moment… he saw me…
that in fact, he was strangling me, so… and…

L: And?

V: And then we went, in fact… my parents said, “Let us go and file a domestic violence lawsuit so we will end it with this guy because it is not the first time he beats you”. I do not know exactly; it seems to me we went close to home, at NAME of street.

L: [name of the street where the police station is], in NAME of street.

V: Yes, but I think it was closed… then we went in…

L: Was it dark?

V: Yes, it was dark, yes, yes. And if I am not wrong we then went also to [NAME of the street of another police station], because only that one…

L: And you filed suit?

V: I think we did, or if I am wrong because when we went to the hospital the policemen said we had to file a domestic violence lawsuit.

L: But don’t you have a copy of something like this? Can’t you remember if you told the police about this fact, that he had put his hands round your neck?

V: I do remember that.

In preparation for the meeting, the lawyer had read the complaint referred to in the preliminary meeting and checked its status. During this check, the lawyer discovered that the complaint had yet
to be filed in the official register of crimes. However, the lawyer also noticed (in the register of crimes) a previous complaint regarding a violent episode that happened some years before. When asked about the previous complaint, the client mentioned the prior episode in which she was beaten and almost strangled by her husband. Clearly, the client had been in contact with the legal system regarding the violent behavior of the husband, yet her interaction with the legal system did resolve her situation. It must be noted that the old lawsuit was not filed on the woman’s volition, but on the suggestion of an operator (policeman) who was present in the emergency room. The woman, although experiencing violence, had not sought help from the institution.

As underlined by the extant scholarship, those who have experienced domestic violence often have difficulties in seeing the risks by their own resolve (Campbell 2004).

Many times, victims of IPV fail to realize the level of danger in their situation. Thus, a skillful interaction includes practices able to help the victim to see better the situation and recognize the risks. Throughout the process of interviewing during risk assessment, victims may also be able to view their situation more clearly, and possibly become convinced that they need to leave their home or relationship and seek shelter (Mortiere, 2015, p. 34).

The previous episode produced a lawsuit and thus a contact with the criminal justice system. However, the lawsuit produced was related to a specific episode of harassment and thus failed to reflect the enduring nature of the situation and its risk factors. This illustrate the limitations of the Criminal Justice System in Italy. The lack of “join up” institutional logic means that many instances of domestic violence, even those that have come into contact with various social legal agencies in the past are often not recognized because previous instances of violence are not considered relevant avenue of enquiry.

For examples, even the ‘strangling attempt’ was not enough to raise the alarm of domestic violence. Sheridan and Nash (2007) noted that the prevalence of strangulation by an intimate partner is reported in more than 50% of cases of IPV.
… choking, more accurately defined as strangulation, is a common mechanism of injury in victims of IPV and is often underassessed and underappreciated by health care professionals (p. 283).

The characteristic of the prior act of violence that involved the strangling attempt should have been interpreted by the police as a symptom of a violent relationship (Campbell et al. 2007; Glass et al. 2008). However, consistent with Sheridan and Nash’ assessment professionals failed to recognize it and consequently failed to translate it into the appropriate legal action. Unfortunately, as the police are not always well-informed on this topic (Loue, 2001), such incidents are no surprise to the lawyers at the antiviolence centers.

In a study of IPV murder cases, Sharps et al. (2001) showed that most of the murdered women had previously contacted agencies who ought to have foreseen those tragedies. Likewise, Campbell (2004) points out that almost half of the victims of femicide were seen in health-care settings in the year preceding their death but went undetected as victims of domestic violence. As Sharps et al. (2001) emphasize, the failure to identify and address violence in health-care settings when opportunities for intervention are presented, can be a death sentence. In this case for example, the lawyer skills enable the client to transform and take ownership of her story in ways that can be recognized not only as domestic violence but also as an offence acceptable by the public persecution service. It is strongly arguable that the sooner the case is recognized as a prima facie example of domestic violence crime, the less time those subject to male violence will be at risk.

The example from the case study above, illustrates how the lawyer used her professional knowledge to promptly recognize a case of domestic violence. The discovery of the previous complaint facilitated the recognition of a time dimension to the reported violence, on the basis that domestic violence is a recurrent behavior; thus, taking account of, or seeking out, previous episodes reveals a timeline of abuse.

In the conversation above, the lawyer was able to:

- put the episodes within a time frame of long-term abuse
• detect the failure of police to recognize, and translate, the woman’s abuse as a domestic violence crime
• recognize the role of the parents in supporting the woman, and
• interpret the old episode in a frame of the victim’s low self-awareness.

The excerpts below, show how the lawyer worked to codify events and patterns of behavior to transform the complexities of the victim’s experience into categories that are relevant to, and recognizable by, the legal system.

The practice of legal advice is characterized by a practical form of professional knowledge. Goodwin (1994, 2003a, 2003b) likens the practical learning processes to newcomers on an archaeology site. He uses the term ‘professional vision’ to indicate a process of learning whereby ‘seeing’ allows practitioners to recognize, highlight, and codify events and relevant categories. Just as educated seeing produces archaeological accounts, educated hearing allows lawyers to notice, codify, and transform the complexity of a victim’s narrative into accounts relevant to criminal justice.

5.2 ‘Co-implicating’ the victim in the diagnosis of abuse

By using comparisons and seeking clarification of the terms used by the victim, the lawyer helped the woman recognize the domestic violence categories relevant to her own experience. To achieve this, the lawyer started a conversation about the woman’s life with her ex-partner. The aim was twofold: to collect information about the violence and to help the victim acquire an awareness of the situation as being long-lasting abuse.

The first two exchanges were used to recap and to emphasize how the codification of the events in the two lawsuits did not equate with domestic violence for the legal system. Excavating the complexities of the woman’s relationship with the offender, the lawyer collected events, signs, and clues that indicated domestic violence.

L: Now, NAME listen to me, you filed a complaint in YEAR and one now, on DAY and MONTH, right?
V: uh-huh (positive).

L: You filed just these two suits… only two complaints that on their own are not for abuse, as a matter of fact, they are for two events, the one in YEAR for aggression and this one for the bag and for the fact that he arrived at the home of RELATIVE. Have there been other events since when you got married?

V: Yes! (with emphasis).

L: Many?

V: Let us say that even if they are minor things, several arguments, but then they become…

L: [she interrupts the woman] But listen to me, it is quite normal to get into an argument for couples. I can imagine that you also saw your mother and father argue, or with your SISTER/BROTHER. Physical aggressions are quite different, even if they are verbal, like insults, screams, yells, humiliations, these are not arguments, this is a person attacking another, one who could also defend herself, especially because you do not forcibly stay silent. Still, one thing is to argue, another one is to be regularly insulted, abused, threatened by someone, or it is always the one who ill-treats the other. What happened in your situation, in your past?

V: Yes, as a matter of fact, I was telling you… it all starts from something little, but then it becomes, then, he screams, and I scream, too. And then it happens that he, that is when it is… let us say… he is already upset… then he starts over.

These excerpts show the lawyer investigating the relationship, asking the woman if there were other events than those reported in the two complaints. As the woman answered affirmatively, the lawyer asked if there were “many?” The lawyer’s experience in the antiviolence center, attunes her to the temporal dimension of domestic violence as a recurrent pattern of violent behavior (maltreatment). The conversation then elicits a change in the woman’s narrative from one focused on single events,
(the harassments), into a description of actions and behaviors that were recurrent rather than occasional.

This is a significant professional knowledge embedded in the lawyer’s communicative skills. Domestic violence is recognized as habit-forming, whereby women’s experiences are often normalized, linked to the failure to recognize their partner’s behaviors as violent (Prosman et al., 2014). By questioning the victim about the recurrence, the lawyer helped the victim focus on behavioral patterns and recognize her own experience as maltreatment.

Moreover, the interaction is organized to facilitate the narratives of those who have experienced the abuse in the account. As Douglas Maynard (1992) suggests, when bad news is told, ordinary as well as professional conversation can be organized so that the recipient, rather than the bearer of news, pronounces it.

[a] bringer of bad news may have difficulty stating the news outright. By avoiding the pronouncement and simply confirming a recipient’s inference, a teller can manage the conveyance as a joint activity. The bearer does not claim completely independent knowledge, and instead elicits a display of what the recipients, through their knowledge or beliefs, can infer (p. 338).

By prefacing the bad news with pieces of information from which inferences can be made, the bearer’s allusion to the bad news induces the recipient to guess at what it is. In settings where the delivery of bad news is part of the professional practice, a method has been developed to ‘co-implicate’ the recipient’s perspective in the presentation of diagnoses, which for Gherardi (2012, p.107), involves three steps:

1. The professional asks the recipient of the bad news (e.g. a bad diagnosis) a question or invites him/her to give his/her opinion (perspective display) on the situation.
2. The recipient responds and expresses his/her assessment of the situation.
3. The professional delivers the bad news (e.g., a bad diagnosis), relating it to the recipient’s assessment.

This type of device is used in clinical settings where clinicians establish a communication strategy that allows them to deliver a bad diagnosis in a way that confirms the recipient’s own perspective. A
similar technique is used by the lawyer in the example above to ‘co-implicate’ the victim in the “diagnosis” of abuse. The lawyer asks the recipient to describe her view about the situation, the professional delivers the diagnostic news [the maltreatments] as a confirmation of what has been said by the woman who had experienced violence.

As in the clinical setting, depending on the patient’s perspective, the process of confirmation can be relatively simple or more complex. When the receiver has a perception/understanding of the situation too distant from the problem definition of the diagnosis, the alignment between the professional and the receiver becomes a matter of delicate interactional management involving a negotiating process of confirmation, reformulation, and elaboration. This negotiation can be an iterative process distributed across different turns of conversation where, in responding to the invitation to relate her experience, the victim furnishes discursive material that the lawyer uses to mark the terrain on which an agreement can be reached (Gherardi, 2012).

For example, the use of term ‘argument’ by the woman to describe her situation is discussed by the lawyer in order to transform the depiction of a situation that is too generic. Once a distinction between what is normal, acceptable behavior in an ‘argument’, and what is abusive, the lawyer was able to invite the victim to put her own experience within the newly depicted frame:

one thing is to argue, another one is to be regularly insulted, abused, threatened by someone, or it is always the one who ill-treats the other. What happened in your situation, in your past?

The lawyer’s reformulation of the discursive material introduced by the woman contributed to the victim acquiring a more specific language to reference her own experience, in a process where she was gradually able to put her experiences in the frame of the domestic violence. The lawyer’s reformulation thus facilitated the recognition and codification of her partner’s violent behavior. Once this first step toward a shared vocabulary was accomplished, a very different description emerged about the behavior patterns she previously had previously defined as “arguments.”

V: it all starts from something little, but then it becomes, then, he screams, and I scream, too. And then it happens that he, that is when it is… let us say… he is already upset… and then he starts over again…
L: Starts over again doing what?

V: Something like, like, if I am not silent, he… what does he… something like he pushes me and then…

L: Tell me… does he hit you?

V: Yes, sometimes he even hits me, otherwise he pulls me by the side, like this…

L: Did these things also happen when you lived together?

V: Yes.

[...]

In this extract, the woman referred to her ex-partner’s abusive behavior as something that started from ‘a little thing’ which often degenerated into aggression. She used the phrase “… he starts all over again,” which disclosed a characteristic, recurrent behavioral pattern. The lawyer recognized the phrase as a clear indicator of domestic violence: a relationship characterized by the partner’s abuse of power. The lawyer’s question “… starts over doing what?” highlights the behavioral pattern. It also subtly called for a specification of the actions that constitute the pattern. Once the actors within such conversations begin to establish a shared interpretation of the abuse, the following interactions can be dedicated to specifying the recurrent behavior.

The path toward agreeing a ‘diagnosis’ of the abusive relationship was also emphasized by the lawyer’s change of communicative style. When she asked the question “… starts over doing what?”, it is in a calm, reassuring way, thus shifting the rhythm of the conversation. By taking longer pauses and lowering her voice, the lawyer highlighted that the conversation had turned to more sensitive issues. This change also displayed the lawyer’s willingness to listen to the woman’s experiences. In making this change, the lawyer created a safe environment where the details of the violence could be communicated. The lawyer also sought to elicit the usual typologies of domestic violence by asking
“… does he hit you?” By offering that example, the lawyer encouraged the description of the abuse she suffered.

5.3 The narrative of abuse

During the conversation, the lawyer shifted the focus from the frequency of the violent episodes (used to frame the situation as abuse, characterized by recurrent patterns of ill-behaviors), to the details of the violent actions. Once they agreed that a situation of violence existed, the focus turned to the details of the violence to provide discursive material that gave a more accurate narrative about the abuse.

However, as the lawyer was well aware, domestic violence as a crime is not only defined from the specific typology of the actions (pushing, hitting, beating, throwing things, yelling, threatening, frightening, etc.) but also by the context in which it takes place. In the following exchange, the woman is invited to reveal her view within the newly established frame of an abusive relationship.

[...]

L: But [the abuse] took place just… does he drink or take drugs?

V: He drinks, yes, he also takes drugs.

L: He drinks, and he also takes drugs. And these facts took place just when he drank or took drugs, or indistinctively, also when he did not…

V: No, I think it is when… he is not under the effect of the drugs anymore.

L: Ah… so you noticed… it was not the argument, what is important is how he is in that moment… then any occasion could be good to argue. Was there any particular argument?

V: No, practically when he in fact, I have known him since he took drugs, since he took drugs…

L: What kind of drugs does he use?
Notice how the lawyer’s questions investigate the behavioral modality of the violent subject. The distinction introduced by the lawyer between an argument related to a topic and an aggressive behavior not triggered by a specific cause reflects a taxonomy described in the domestic violence literature. The feminist analysis of the phenomenon has, in fact, described the recurrent modalities of abuse reported by women who reach out to antiviolence centers for help (Pence et al., 1993). According to Johnson (2011), three typologies of violence can be identified: intimate terrorism, situational violence, and resistant violence. Intimate terrorism is the prototypical typology of violence in intimate relationships and involves a combination of coercive control and various typologies of abuse (Messinger et al 2014; Johnson 2006; Stark, 2007; 2009; Velonis, 2016). Situational violence refers to those situations in which there is a high level of conflict between the couple (that could also transform into violent events), but there are no elements of coercive control. With situational violence, there is no attempt by one partner to control the other member, an element that characterizes intimate terrorism. Situational violence is a symmetrical phenomenon in terms of gender as opposed to intimate terrorism, which is characterized by a patriarchal relationship (a man taking control of the woman). The third type of violence identified by the literature, resistant violence, is the reaction to intimate terrorism that some women victims of abuse act out when experiencing aggression. In others, this reaction can represent a way to end the continuous aggressions by physically eliminating the violent partner.

During the conversations described so far, the lawyer was able to identify, describe, and with available materials, make visible to the woman the specific form of violence she suffered. In doing so, the lawyer co-implicated the woman helping her to a construct a narrative of the abuse. Using what has been defined as a ‘prospective-display’ dispositive (Maynard, 1992), the lawyer engaged in a conversation that included the woman’s narrative material and point of view in a way that enabled her to make the diagnosis of domestic violence her own.

As emphasized by Gherardi (2012), this institutional discursive practice has…
… the purpose of inviting the patient to state his/her point of view is to elicit material on which to base a momentary agreement, produce confirmation of what the patient has to say, and progressively to construct confirmation of the diagnosis, with its subsequent reformulation, specification and other technical elaborations. It is, therefore, a process of alignment among the professional, the patient (or the user) and the clinical diagnosis (p.108).

Therefore, the lawyer’s discursive practices at the antiviolence center can be interpreted as a process of creating alignment between the lawyer, the woman, and the abuse that is able to translate more effectively into a lawsuit recognizable to the criminal judicial system. Accordingly, the last part of the meeting between the lawyer and victim was dedicated to defining further actions.

By summarizing the elements of the woman’s narrative, the lawyer outlined the type of offences relevant to her case that led the woman to file a domestic violence lawsuit. The first part of the conversation, which again uses ‘co-implication’, was dedicated to explaining the characteristics and logic of domestic violence lawsuits in relation to abuse.

[…]

V: And he also says: “Do not show yourself, otherwise…”

L: He threatens you?

V: Yes.

L: Be careful; the threats are offenses. That is, all that you have been telling me, they are all offenses that singularly are, the threat, the tear of the bag, the beating, the pushing, singularly they are not bad offenses, the point is that since they are all gathered, and every day there is one, or every week, maybe not one every day, this repetition of the continuous aggressions… A threat is a verbal aggression, “I scare you,” “I want to frighten you,” and therefore I will create a state of anxiety, of difficulty, the
pushing, the insults, his hands around your neck are all behaviors used to show that I am stronger than you and that I control you: “you have to be submitted to what I say.”
This integrates the abuse inflicted, and you are more and more scared, and you are thus forced to do what he asks you to do in order to avoid worse consequences. This is abuse. It is the continuous repetition of behaviors that never let you in peace since you are scared there might be a reaction coming from him. Probably a reaction you cannot foresee since, as you say, there is never a topic, a situation, any situation could do… If I do this today, he abuses me, tomorrow, if I do the opposite, he anyhow ill-treats me because it is not a topic, it is a modality of being continuously in power.
You, therefore, will go to this meeting today, you tell (name of a social assistant at the center against domestic violence), you talk to her as you have talked to me. I might inform her that you are ready to file a domestic violence lawsuit. Is that okay with you?

V: Mhmm

L: Is that okay?

V: The suit I have to file is..?

L: Against domestic violence. That is, you have to join all the facts because the suit you filed, like your complaint in YEAR, might be archived. It could be that the one in YEAR was archived because too many years have passed, SOME years, in which period you did not suffer any abuse, which seems strange to me. This happens because when the judge sees just one light event in a couple, s/he thinks, well, he pushed her… if instead s/he reads that this is one event of an ongoing series that have lasted for years, that keep on happening, and that there have been many and varied of those behaviors, and that they have kept on happening for years under different forms because you have not lived together although they still keep on happening even today, then it all acquires a different value. At this point it is actually a crime, and the crime is abuse. Do you understand?

Here, the lawyer worked to negotiate the construction of the domestic violence lawsuit⁸. The first part of her conversation reiterated the mechanism of co-implication, where the lawyer elicited other examples of abusive behavior once the material was provided by the victim (e.g. “… and he also says:
By highlighting the recurrence of the abuse, the lawyer helped the client become self-aware of her experiences of abuse. By codifying events that translated the experience of the woman, together they were able to explain how their recurrence constituted maltreatment. Moreover, using the characteristics of the violence in terms of occurrences and contexts, the lawyer displayed the experience suffered by the victim in such narratives. Those exchanges framed the abuse using the discursive material provided by the victim, which could be codified in terms relevant for the profession (Goodwin, 1994) and for a lawsuit with good prospects of going to trial.

At the end of the conversation, the lawyer explained why a lawsuit must be perceived correctly by the judicial system. When police officers, prosecutors, and judges see specific events of violence reported between a couple, these might not trigger an alert of domestic violence. Such occurrences have been discussed in the extant scholarship where the low prosecution rates for domestic violence cases and their high dismissal rates (Hartman and Belknap, 2003; Loue, 2001; Welch, 1993) have been noted. Prosecutors often perceive domestic violence cases as private familial matters, not crimes (Welch, 1993) demanding legal action appropriate to the offence. However, as the lawyer emphasized, when the recount is an ongoing series of violent events, threats, and abuse (that happened, and still happen), the perception of a crime of domestic violence (for victims as well as the criminal judicial system) starts to become clear.

Conclusions

This article analyzed the initial meeting of a woman who experienced violence with legal support provided by an antiviolence center. The research accounts for the lawyer’s professional knowledge in supporting those who experience violence in recognizing their experiences for what there were: violent abusive behavior. Consistent with Blackler’s (1994) classification, the lawyer’s practical knowledge was:
1. manifested in the system of language, specific terminologies, and artefacts (which implies the professional management of the communicative interaction, the use of specific vocabulary, references to a specific crime and to the expertise needed to file a lawsuit to address the crime);
2. located in time and space to particular contexts (that is, the encounter takes place at the antiviolence center, is related to the specific situation of the woman and her history with the violent partner, and is related to the victim’s previous interactions with the legal system);
3. Constructed and constantly developing. It is directly connected to the experience of the practice (i.e. constructed within the experience at the center) and it is constantly in the developing; and
4. purposive and object-oriented (that is, it is pragmatically oriented to activate the right course of action for the woman’s situation, aiming to assess the risk and eventually send the woman to the shelter and file the most appropriate criminal lawsuit).

Through the analysis of an example of interaction this article has described the lawyer’s practical knowledge displayed by her discursive practices mobilizing the agency of the women to overcome the limits of the judicial system. This knowledge includes

- the ‘professional hearing’ that allowed the lawyer to notice symptoms and patterns and thus interpret the situation as abuse,
- the interaction management that includes ‘perspective display’ and is able to ‘co-implicate’ the woman who experienced violence in the diagnosis of abuse,
- the frame of a shared narrative of the abuse that includes the victim’s perspective (woman’s discursive material noticed, highlighted, and codified by the lawyer to this purpose) and that can be easily interpreted as crime (mistreatments) by the criminal judicial system, and
- the frame of obstacles to action with regard to the criminal juridical system.

These elements of practical knowledge were integrated into the discursive practices through which the legal service occurs. Domestic violence has characteristics that have the potential to limit women’s self-awareness and accordingly its assessment by professionals. It requires professional knowledge to recognize the clues and behaviors consistent with patterns of domestic violence. It also requires skilful interaction management that includes enabling those who have suffered violence, to
reframe their own narrative, helping them recognize, codify, and interpret patterns of abusive behavior and become self-aware of their experiences of abuse and related risks.

It is tempting to imagine that co-implication implies a lack, or denial, of agency on behalf of those seeking legal counsel for domestic violence. Such a view would be a misreading of the process. To refer back to the archaeological analogy earlier in the article, both the lawyer and the client are working within the constraints of the known terrain. What may appear as a barren field, can with the right tools, gradually be revealed as a full and understandable object. Significantly, the lawyer does not dig, the excavation can only be made by client who knows exactly where to go. To achieve these practical accomplishments, the lawyer put specific events into a time perspective. She provided the tools for the client to find the appropriate vocabulary, frame the violence as an abuse of power where mechanisms of control characteristic of intimate terrorism could be identified, and significantly, enabled a strategy that overcomes the obduracy of the criminal judicial system.

The excerpts of the meeting allowed for the analysis of skillful interactional mechanisms. However, it is only from a broader consideration of the discursive practice, as a communicative competence necessary to perform the action required in a specific operational context (Nicolini, 2007), that can explain the significance of the service. A practice-based analysis of discursive practice allows the movement from a close analysis of a communicative interaction (zooming in), to a more general consideration within the texture of practices implicated in domestic violence and responses to it (zooming out) (Nicolini, 2011). In this specific case, a practice-based analysis allows for a consideration of communicative interactions that form part of a lawyer’s practical knowledge of doing and saying when dealing with women who have experienced domestic violence. The legal help provided at the antiviolence center was thus shown to be not only an essential service, but also a loci of skilled interaction that can overcome the limitations, identified by the extant literature as failures, of the institutional system (health-care operators, social services, police forces, criminal judicial system) regarding the interpretation and management of domestic violence cases.

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1 As emphasized by Nicolini (2012), several different practice traditions are considered under the umbrella of practice-based studies in work and organization; thus, there are several theories of practice. Among them, there is a stream of study coming from ethnomethodology and conversation analysis that conceives practice as an accomplishment (Lewellyn and Hindmarsh, 2010; Boden, 1994).
Domestic violence had been widely accepted at a social and legal level until the end of the 20th century as part and expression of the dominating male chauvinist cultures. The manifestation of endured violence within family relationships has been largely justified according to traditions and social habits; it was therefore not recognized by law (Loue 2001; Mortiere 2005).

The social roots of violence in intimate relationships (IPV), have been long downplayed, and have suffered harsh criticism (DeKeseredy; 2011 Dobash et al., 1992). See Johnson 2011 for a response which place IPV within gender violence.

For a discussion about the terminology used in the debate see Hamby (2014:10). This article follows Hamby’s suggestion adopting the term ‘women who suffered violence’. Other terms appearing in the text relate to the references mobilized.

The Istanbul Convention (Council of Europe, 2011) set obligations to the States parties structured around four main pillars: (i) integrated policies, (ii) prevention of all forms of violence, (iii) protection of victims from further violence, and (iv) prosecution of perpetrators (Art. 1).

The Spousal Assault Risk Assessment (SARA) is one of the most used tools for risk assessment developed in the 1990s to support the professional judgment of who deal with domestic violence (Kropp & Gibas 2011).

Prosman et al. (2014) found a lack of self-awareness of the impact of abuse on the victims and their children. The authors also remarked on the unfamiliarity with available options provided for assistance on the part of the victims and the victims’ negative experiences with untrained professionals. Moreover, the authors emphasized how fear of the partner influences the seeking of professional help.

According to the literature review of Sheridan and Nash (2007), areas of the head, neck, and face are the most commonly reported sites of injury significantly associated with IPV.

Technically, the crime is mistreatment in an intimate partner relationship, but it is ordinarily referred to as a domestic violence lawsuit.