

PATHS TO A DISCURSIVE ANALYSIS OF THE VOICE IN THE DEFENSE OF THE JURY: THE EXCESS, THE LACK, THE STRANGENESS

CAMINHOS PARA UMA ANÁLISE DISCURSIVA DA VOZ NA DEFESA DO TRIBUNAL DO
JÚRI: O EXCESSO, A FALTA, O ESTRANHAMENTO

CAMINOS HACIA UN ANÁLISIS DISCURSIVO DE LA VOZ EN DEFENSA DEL JURADO:
EL EXCESO, LA FALTA, EL EXTRAÑAMIENTO

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ABSTRACT: The article discusses the issue of lack, excess and strangeness, with the discursive materiality of the legal discourse of the defense in a jury trial. The theoretical model that underlies this discussion is the French Discourse Analysis. In the chosen legal discourse there was a very articulate argument in an attempt to make the discourse transparent and objective. We also noticed two things that stand in the argument: the imaginary formations that try to predict who the caller is and the forgetfulness number one and number two, which provide the illusion that the subject articulates its creative and unique way of speech, and the great goal of the discursive subject of defense is to destroy the arguments of his opponent. From these findings we started our analysis, and Ernst's theoretical contribution, which presents possible paths for the discourse analyst, was essential considering the choice of the *corpus*.

KEYWORDS: Lack. Excess. Strangeness. Voice.

RESUMO: O referido artigo discute a questão da falta, do excesso e do estranhamento, tendo como materialidade discursiva o discurso jurídico da defesa em um tribunal do júri. A vertente teórica, que embasa esta discussão, é a Análise de Discurso francesa. No discurso jurídico escolhido, observou-se uma argumentação bastante articulada, na tentativa de tornar o discurso transparente e objetivo. Também puderam-se observar dois aspectos que sobressaem na argumentação: as formações imaginárias que tentam prever quem é o interlocutor e os esquecimentos número um e número dois que propiciam a ilusão de que o sujeito articula seu discurso de forma criativa e única, sendo que a grande meta do sujeito discursivo da defesa é destruir a argumentação de seu opositor. A partir dessas constatações, procurou-se então partir para a análise, e na escolha do *corpus*, foi essencial o aporte teórico trazido pelos aspectos abordados por Ernst, que constituem percursos eivados de perspectivas para o analista de discurso.

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PALAVRAS-CHAVE: Falta. Excesso. Estranhamento. Voz.

RESUMEN: El artículo aborda el problema de la falta, del exceso y del extrañamiento, con la materialidad discursiva del discurso jurídico de defensa en un juicio con jurado. El modelo teórico que subyace en esta discusión es el análisis del discurso francés. En el discurso jurídico elegido, había un argumento muy articulado en un intento de hacer el discurso transparente y objetivo. También se podrían notar dos cosas que se interponen en el argumento: las formaciones imaginarias que tratan de predecir quién es la persona que llama y los olvidos número uno y el número dos que proporcionan la ilusión de que el sujeto articula su discurso de forma creativa y única, y el gran objetivo del sujeto discursivo de defensa es destruir los argumentos de su oponente. A partir de estos resultados, partimos para el análisis, y los temas abordados por Ernst, que son caminos de trabajo para el analista, fueron esenciales considerando la elección del *corpus*.

PALABRAS CLAVE: Falta. Exceso. Extrañamiento. Voz.

1 INTRODUCTION

This article¹ has as a *corpus* the legal discourse of the defense in a jury² trial, characterizing an argument which emphatically seeks to destroy the discourse of the prosecution, as an attempt to obtain an acquittal of the defendant (a crime that happened in the city of Pelotas, aiming to show an innocence of guilt of the accused, who allegedly participated in the plot to murder her own father). Even if the statements and procedures point to her alleged involvement in a crime that has killed her father, the defense lawyer must present a convincing argument that could lead to her acquittal.

2 LACK, EXCESS AND STRANGENESS IN THE DISCURSIVE POINT OF VIEW

The term “argumentation” comes from the Latin *argumentatio* and it is defined as the act of presenting ideas or formulating concepts for the sake of a goal. It is argued to persuade and, when arguing, the individual intends to convey a truth to the listeners, seeking the agreement of the other. In a trial, argumentation is the main key to the obtaining of a victorious speech or not. In order to get the attention for his speech and further enhance his presentation, the defense seeks to make a persuasive oral manifestation by using emotional appeal and rhetorical resources. It is also common to rely on scenic interpretations, with theatrical appeals and eloquent gestures used with different voice intonations, lengthening the vowels of certain words, questioning the arguments emphatically, and even using silence at appropriate times.

According to Orlandi (2004, p. 61), in argumentation, “[...] every subject (orator) experiences the place of the listener from his own orator’s place, formed by the play of imaginary formations (the image that he makes of X, of himself, of the other)”. This conception of anticipation, plus the forgetfulness one, linked to the interdiscourse, as well as to the opposing arguments in the discourse of a jury trial, are usually predicted before the enunciation situation, considering the subject positions, historicity and discursive formations. Such a prediction, about how the other will react to certain arguments, should be one of the factors to be considered when making a discourse that intends to be a winner. This is a fundamental factor for the strategy of preparing a saying, sometimes of doubtful content, which needs to be understood and approved by a heterogeneous audience of jurors and that needs to destroy the arguments of the opponent, rendering them ineffective. This conception of anticipation, plus the forgetfulness one, linked to the interdiscourse, as well as of “imaginary formations”, is extremely important, since the opposing arguments in the jury trial discourse are usually anticipated before the enunciation situation, when it is considered the subject positions, historicity and discursive formations. Such a prediction, about how the other will react to certain arguments, should be one of the factors to be considered in the elaboration of a discourse that intends to constitute itself as a winner. This is a fundamental factor for the strategy of preparing a saying, sometimes of doubtful content, which needs to be understood and approved by a heterogeneous audience of jurors and that needs to destroy the arguments of the opponent, rendering them ineffective.

¹ This article constitutes itself as part of my Doctoral thesis entitled “Mentira ou verdade? Marcas prosódicas assinalando sentidos no Discurso do tribunal do Júri”.

² This jury took place in the city of Pelotas, in 2008, being the recording made by the Prosecution and lent to the researcher. The discourse analyzed was the defense one. More information on the given episode cannot be provided due to ethical and legal reasons, therefore, all the names used are fictitious ones.

There is, according to the author, an assumption of the behavior of the listener before the argumentation, that is, how he will react to this or that word. It is like this that the speaking subject thinks how he will organize the ploys that will underpin his speech. It is by the use of this stratagem, of predicting the reactions and the opposing argumentations that may be raised by the opponent that is the discursive functioning of the argumentation. For the author, “to argue is to predict, taken by the game of images. Whether it is to transform the listener or to identify yourself to him, the anticipation plays from the different instances of the discursive” (ORLANDI, 2004, p. 76-77).

In the legal discourse of the defense, all that has been said in the jury or in other juries, beyond the common sense and the saying of other discourses, is there, meaning, coming from the interdiscourse. All the senses already spoken, in countless places, and even in diverse moments, even distant ones, have effect on the sayings. Therefore, for Pêcheux (1997), what is said is not a personal creation of the speaker, but something that has already been said by someone somewhere and at some time, meaning by history and language. In speaking, the subject believes that he has full ascendancy over his saying, but, certainly, it escapes from him the way the senses work in his speech:

If the same word, the same expression, and the same proposition can receive different meanings, [...] as they refer to this or that discursive formation, it is because [...] they do not have *a* meaning that would be “of their own” linked to its literalness. On the contrary, their meaning is constituted in every discursive formation, in the relations that such words, expressions, or propositions maintain with other words, expressions, and propositions of the same discursive formation (PÊCHEUX, 1997, p. 161 [author’s note]).

There is, therefore, a link between the already said and what is spoken, the same thing that exists between the interdiscourse and the intradiscourse, that is, between the elaboration of meaning and its formulation. Orlandi (1999, p. 33) mentions that “all saying is actually at the confluence of the two axes: the one of memory (constitution) and the one of up-to-datedness (formulation)”. According to the author, the interdiscourse is the whole range of formulations mentioned and already forgotten that influence what is spoken. In this way, the interdiscourse has the effect of causing a previously mentioned formulation to be completely forgotten, as if it had never been heard before, and then producing senses in the words belonging to the discourse.

In any case, the subject needs, consciously or unconsciously, to ignore his subjection, and, then, to have the illusion of being the owner of his discourse, according to Pêcheux (1997), creates two types of illusory discursive realities. Pêcheux (2001) explains this issue by what he calls the subject’s illusions of forgetfulness. For the author, the subject is affected by two illusions: forgetfulness #1, which is ideological occultation, a forgetfulness through which a concrete discursive sequence is made or verified as having meaning – what causes the subject to conceive itself as origin of his saying, and the meaning because of it. The subject does not perceive the belonging of what he says to a certain discursive formation and not to another, since he is questioned by the ideology; therefore, illusion #1 is unconscious. Forgetfulness #2 directs the subject’s belief in the sense that what he speaks is equivalent to what he deduces about something (transparency of thought), as if there were a complete analogy between the word and the world. It is a (pre-conscious/conscious) linguistic concealment, interlinking itself to the choice by a specific word and not to another as to how to insert it in the discourse (paraphrase), that is, to select a form, among the conceivable countless ones, of expressing the same thing. However, what has not been said is still there, ready to be transformed into saying, accessible to the subject who made the choice by a certain statement to compel the interlocutor to understand the discourse produced in a certain way and not another one, reason why illusion #2 is pre-conscious/conscious.

However, such oblivion serves as a support to the subjects and the senses, because it is through it that the subject deceives himself of being the creator of his saying and of being the producer of the senses, an illusion that is part of the constitution of the subject. It is in this way that the words acquire meaning and the subjects mean, collecting existing words as if they had been formulated at the time of their discourse. The words are always the same, but their meanings are always changing due to history, ideology, and context. And the argument is permeated by all these factors.

In this argumentative struggle, which constitutes itself as a real clash, some points of greater incidence in the *corpus* are analyzed. Among them, the issue of the lack, the excess, and the strangeness, which stand out as warning signs for the analyst. These three aspects, pointed out by Ernst (2009), within a given *corpus*, are, undoubtedly, indicative marks the analyst must be attentive to.

For Ernst (2009), one of the difficulties of the analyst, before the discourse to be analyzed, is how the choice of the discursive *corpus* should be made in order to make an interpretation under the perspective of the Discourse Analysis. Thus, the choice for an enunciative or linguistic characteristic will be linked to the functioning mode of the discourse under the perspective of the analyst, involving the subject that was subjected to the order of the ideology and of the unconscious, the structuring memory of speech and the opacifying meaning" (ERNST, 2009, p. 01). The author develops her study taking as parameters three conceptions, namely, the lack, the excess, and the strangeness. The analyst, faced with a given discourse, will observe whether the statements have such properties. According to the author (Ibid., p. 02), "in a given historical context, in relation to a given event, what is said too much, what is said less, and what does not seem to fit to be said into a given discourse" can constitute itself in clues to begin the analytical process.

In the discourse that constitutes the *corpus* of this article, it was possible to closely observe the materialization of these three aspects in the approaches made. The excess occurs when certain elements repeat themselves many times. This can be perceived, above all, in statements in which the lawyer explicitly acquitted the accused by using negative expressions such as "there is no proof anywhere", "I have not seen a proof or even a guilt indication", "no one said that Dona Lara got hold of the company" and "there is no proof". According to Indursky (1990), namely, that "no" means "yes", this incidence of negative expressions seems to be a form of convincing not only of the jurors, but also of the defense itself in relation to the guilt of the acquitted.

The second aspect mentioned by Ernst, the lack, can happen in the intradiscourse, when certain elements connected to the grammatical aspect do not happen, such as the ellipsis and the suspension points, being seen within the AD as resulting from the historical determinations of the speaking subject. Besides, the lack can happen in the interdiscourse of a given discursive formation, "which can only be rescued from the appeal to the exteriors of linguistics, provoking a discursive contingency. This is determined by certain historical and/or enunciative conditions of production" (ERNST, 2009, p. 04).

In order to explicit the third aspect mentioned by the author, the strangeness, and an example is drawn from the *corpus*, when the defense says: "The jacket... I do not know how it entered the accusatory libel... Is wearing the husband's jacket a proof? Did you expect that she would be pressed by the weight of these objects...? Then she would be floating... as there are no weights here... there are not...". These are statements that refer to the statements of the accusation and that are said in a later context, which denotes strangeness. The one who did not pay attention to what the prosecution said, in the previous day, in relation to these aspects, ends up having not understood such ideas.

In this case, it would be the pressure of guilt, argued by the prosecution, saying that the defendant should be weighed down by the weight of her guilt, and not cold, without expressing any emotion.

This third aspect can also take place when there is a discursive strategy that exposes the conflict between discursive formations that become present in the intradiscourse and that are shown through the pre-constructed. According to Ernst (2009, p.5), the strangeness "[...] has as characteristics the unpredictability, inadequacy, and distancing from what is expected". Another example of strangeness in the *corpus* is observed in "Nowhere is there proof that Dona Lara planned and participated in the crime, except in the thoughts dispersed by time". In this example, the strangeness happens because, in a defense discourse of non-participation of the accused in the planning of the crime, arises a poetic discursive formation, unlikely to appear in a jury trial discourse that tries to express itself through objective language.

Therefore, it can be seen how important it is to analyze the three aspects mentioned by Ernst (2009) in part of the *corpus*, which become a very reliable parameter in the choice of the statements that will be submitted to the analysis. Therefore, through the criteria of choice of the discursive *corpus* shown by the author, it becomes much easier to have alternatives based on the approach options

of the defense discourse. In the analyzed discursive sequences, it is considered the ways in which the senses are linearized, the discursive formations from which they come and the different discursive positions that emerge in the discourse of the defense.

3 ANALYSES

SD1 – Jurors of my land, of this land that marked the Brazilian history because here we abolished the slavery, here the fight for freedom started... Here it was never allowed that the freedom, of whoever may be, were betrayed, were massacred, and you, the society of Pelotas that is here, with the supreme right to judge, the right to decide on a person's freedom, you are not going to allow it to happen.

In the case of the analyzed legal discourse, the subject needs to fight the arguments of his opponent; he must put himself in the other person's shoes through anticipation, and needs to be in the enunciative position that belongs to him as well. The pronouncing subject is the defense, manifesting in his speech what constitutes the duty of his empirical social place: attempting to evidence the innocence or the lesser severity of the act committed by his client. In the moments in which he manifests himself in the trial, there is also the voice and the desire of the client he is representing. Thus, the defense speaks in the position of spokesman of the defendant, expressing words that seek to convince the jurors that the image outlined by the prosecutor is wrong: the defendant is not the malevolent person that was presented, she is the one who is being judged unfairly, she is the Good and not the Evil.

In the words of Krüger (1997), it is found that one never lies without having the notion that he is hiding the "truth", for lying is not asserting something false, but rather affirming something that is admitted to be false. This is because there is no lie devoid of intention; there are always motives, causes, reasons and intentions; In this sense, "lie, as a substitute for compensation, attenuates the human dissatisfaction and compensates our tragic condition of always wanting and dreaming of more than we can have." (KRÜGER, 1997, p. 24). In this specific case of the defense, there is the clear intention to defend the defendant and above all, to make his speech the winner, after all, the jury is a dispute. The defense thus "built" its argument, based on the precept of proving the innocence of the defendant.

In arguing, according to Orlandi (1998), the ideological affiliations are already articulated, and the alternatives of argumentation only provide meaning. The subject already has a ready-made position, although the argumentation is articulated by his intentions, generating his arguments at the mercy of his subjective illusion "affected by the will of the truth, by the evidences of the sense. The arguments themselves are products of the discourses in force, historically determined" (ORLANDI, 1998, p. 06).

In the first part of the speech, here in focus, the defense makes a call through the vocative "Jurors of my land" working with the idea that in this land, Pelotas, it was historically fought for freedom since the abolition of slavery. An emphasis is made on the word "here", highlighting the fact that Pelotas is a city with ideals of freedom, put into practice as time went by, as the events attest. Being the place where the defendant's trial happens, as at other times in history, her ideal of freedom cannot be compromised, nor shattered. The defense then goes directly to the jurors, summoning them to share the ideals of freedom because they were given the responsibility to sentence the face of someone who is being wronged and deserves to get a fair sentence: the acquittal.

The narrated story serves to revive a fact that is the subject's memory as a historical fact; it is an already said that needs to be remembered and repeated, as confirmed in the use of the verb tenses and modes. The past tense is used as way of showing a fact that, in fact, "happened", "marked", "abolished", "started", "never allowed" and that needs to happen again. The past, then, needs to be followed in the present to live up to a tradition. The sequence "you, the society of Pelotas that is here" is a way of reminding the jurors what they represent in the jury, the people of the city, needing to honor this representation. In the saying "you are not going to allow this to happen", the lawyer complements his speech, using a verb in the future, in the same way of the others, a tense that as we all know, represents certainty.

Making use of statements with historical discursive formations as arguments for her discourse, the defense prints crystallized meanings, in order to avoid direct meanings, seeking to avoid contradictions and putting into practice the legal ideology, which has specific constraints and laws. Discursive formations that oppose each other are shown in the spokesperson's speech.

It is important to substantiate the remembrance of a historical fact. For Pesavento (2007), history and memory share a similar mode of existence, with the two narratives being ways of expressing the world, of looking at the real. They are statements that express, narrate, describe, explain, and convey meanings to a fact, to a reality.

It is evidenced that the repetition of the word "here" emerges in the discourse of the defense as a way of showing that in this place, in this city, justice is always done and this fact cannot be ignored in the case of the defendant who, in the argumentation of the defense must be acquitted. Like the narratives about something, they are reproductions of something, that is, "they are discourses that put themselves in the shoes of the thing that happened" (Pesavento, 2007, p.27). Moreover, history and memory are discourses bearing images that show that what they say through writing or speaking; they are both "presentiment of an absence that needs to be remembered to be followed by juror-subjects.

SD2 – The coat, what importance would it have? It was just an exchange... is that a reason for such a strong accusation? Why? Is it for the lack of reasons? Maybe... What does the Public Prosecutor look for? Faults...? Which faults...? Are there faults...?

In this discursive sequence, it is observed two factors pointed out by Ernst (2009): the lack and the repetition. The lack happens because the discursive subject of the defense does not take up the fact expressed by the prosecution, reviving only a few words that appear in a disconnected way with suspension points and questions. Earlier, the prosecutor's discursive subject had already addressed, at the beginning of his saying, the issue of a coat that the defendant had exchanged with her husband, also accused of taking part in the crime. This jacket identified him, in more than one occasion, in the moments when he met the murderer, just as he confirmed his presence in the place where the body had been buried. This exchange, carried out by the defendant, was emphasized several times by the discursive subject of the prosecution as a way of showing that the defendant was the co-author of the crime, since she would be protecting her consort.

On the other hand, in the middle of his speech, as a way of destroying the arguments of the prosecution, the defense addresses the matter without resuming the speech of the opponent, leaving a disconnected phrase, in which there is a lack of connection with the facts already addressed in the speech of the Prosecutor. Analyzing this phrase, one notices that arguments seem to be lacking for the lawyer and he makes this digression a little loose, repeating the words "reason" and "fault" which were the two words most used by the discursive subject of the prosecution. In the pauses of his saying, shown by the suspension points, it is perceived that arguments are missing, or that arguments are no longer being said because they would worsen the situation of the defendant. For Orlandi (2001), silence contains the most important, what is left to say and which cannot or should not emerge in the discourse. She adds that the "suspension points" are a sign of silence, the presence of an unannounced absence. A radical adding that opens for everything, for anything. It is not the emptiness: it marks the place of a possible addition (p. 121). Therefore, the use of such punctuation means to say that it does not present itself through the word, but through the symbolization of the three dots that prove to be beholders of may sayings.

Going back to the issue of repetition, from the point of view of the Psychoanalysis, one can see that, for Lacan (1998), repetition is initially seen as an obstacle, and in a second moment, as an event. It is like this that the author represents the segmentation between the imaginary repetition (linked to fantasy), symbolic (automatism of the signifying chain) and real repetition. If the first two can be considered as a return, the latter will be visualized in another way, by being associated with gaps that would show themselves in signification, irreducible points of resistance to symbolization. In this sense, the real repletion, beyond the reappearance of repressed contents or effects of the signifying chain, brings to light the insistence of what cannot be absorbed as meaning. Between Lacan's view on repetition and what was said about the lack in this discursive sequence of the *corpus*, one can make a parallel with the idea of gaps that would appear in the senses, by a failure to say that it refuses to be symbolized or a saying that cannot be symbolized because it would cause damage to the defendant's defense.

Besides, it can also be observed that in addition to the ellipsis already mentioned, there is another form of punctuation that repeats itself: the question marks, emerging in a relatively small discursive sequence, indicating that they are questionings that the discursive subject itself cannot answer and that arise there, repeatedly, directed to the hearing subjects to raise doubts regarding the facts, as well as questions whose answers were not given by the defense, but by the prosecution, which had to be discredited. In this way, silence and question marks are used, coming from the interdiscourse as way of protection for a saying that should not be symbolized, otherwise it will destroy the arguments from a discourse apparently planned by the discursive subject of the defense, which can be destroyed by contradictory arguments. For the legal, silence does not mean, the unspoken word is registered in the records, but the meanings do not fail to mean, despite the attempt to make them transparent.

SD3 – There is nothing to do with the planning that was the reason for the accusatory libel. There is nothing to do with the hiring of a corpse, that is, the hiring to bury the corpse. He, who says what he likes, shall hear what he does not like. But justice is always attentive to the truth; it punishes those who do not comply with it....

In addition to the excess of negative expressions, this sequence presents strangeness. One of them is related to the connection between the statements that seem to be disconnected, although it is possible for the listener to establish the correlations from the links with other jury events, such as the statements made by the prosecution's speech, which made vehement accusations about the involvement of the defendant in the crime. Moreover, in this statement, there are flawed acts that express strangeness arising from the unconscious, and which indicate submerged truths that inter-match themselves. It was from the psychoanalysis that the discovery was discovered. Thus, for those who are not aware of the psychoanalysis and want to conceal the real meaning of the supposed errors, the faulty acts are considered simple mistakes/puns, an "unintentional" occurrence that does not have major importance, that has no cause and that receive the denomination of a "misunderstanding". Freud (2006) explained these alleged errors/stumbling as having a hidden meaning that needs to be unveiled. Thus, faulty acts consist of small lapses – forgetfulness of names, times, dates, things to do, or something said – that emerge unexpectedly, that is, any process in which there is some interference in what was planned, in the expected "normal" attitude, causing strangeness. For Lacan (1986, p. 302), "Our faulty acts are those which are successful, our words that stumble are words that confess. They reveal a truth behind them. [...] If Freud's discovery has a meaning, it is this – the truth picks the error by the back of the neck, in the misconception".

For Pêcheux (1997), it is through the word that the subject reveals his ideology. Thus, in the defense discourse, there are two fail acts: one, in saying "hiring of the corpse", instead of "hiring the "gunman"; and another, in the correction of the statement, "hiring to bury the corpse", instead of "hiring for the murder". The odd thing is that, at the time of the jury, the killer had already been executed after threatening to tell the whole truth. So, it was the hiring of someone that would be executed that transformed itself into a corpse. The word reappears, even with the lawyer's correction of the faulty act. The deal was for the murderer to bury the victim in an unusual place and very deep, so that the body would not be discovered, and that was not what happened because the body of the victim was eventually found. Thus, the subject speaks and, illusorily, is sure that he has knowledge about what he expressed in words, but he has no way of mastering the way in which the senses are established.

In this statement with so many negatives, it is important to bring mention the ideas of Indursky (1990). The author characterizes the meaning of denial as the denegation of the psychoanalysis, bringing it into the scope of the Discourse Analysis and calling it 'discursive denegation'. Indursky defines it as that denial that, because it falls into a word, expresses knowledge proper to DF, bringing consequences to the subject of the discourse. That is, the discursive denegation establishes links with the subject that interacts with it. Therefore, its result is not controversial, and it is not polemical either.

There is a factor that is repudiated by the subject of the discourse, but, at the same time, can be enunciated by this same subject. In discursive denegation, the "no" masks a "yes". This is what appears to occur in the defense discourse that uses negative expressions at various times, so that this repeated use causes the discourse analyst to perceive another sense, which is outlined by the negative: "She is not guilty", it metamorphoses itself in "She is to blame". So, what it means in the defense words, even by denying it, is: "It's all about the planning". Everything has to do with the hiring of the corpse...", because in every speech in which the denial is made present, there is a statement in the interdiscourse that comes up. In this discourse, there is a mixing of the denial of the defendant's

guilt, opposing itself vehemently to the argument of the prosecution, a discursive formation of a common sense saying “who says what he wants, hear what he does not want” and a saying that comes from the legal discursive formation, prompting a fierce defense of how true and attentive justice is. With this, the defense intends to show the jurors that it is in their speech that the “truth” is, and not in the speech of the opponent.

4 CONCLUSION

Among the many options offered by the selected *corpus*, it would have been quite difficult to make a choice of the approaches, in the face of a discourse which is rich in pathways for fruitful analyses and with instigating discursive aspects, among them, the discursive formations that reveal the ideology propagated by the discursive subject of the defense. But, undoubtedly, it was the use of the three factors the lack, the excess and the strangeness, pointed out by Ernst (2009), the option indicators that made very interesting analyses, based on the theoretical foundation explained above and aiming for a good analysis.

In the discourse that constitutes the *corpus* of this article, it was possible to observe the concretization of these three mentioned aspects. The excess becomes effective when certain words or expressions and memory elements are recurring in the speech. The second aspect, related to the lack, is made in the intradiscourse when grammatical or interdiscursive elements are expected, but they do not happen. As an example of the lack of grammatical elements, we have the ellipsis and the suspension points, elements considered in the DA as resulting from the historical determinations of the speaking subject. The third aspect, the strangeness, can be explained as a discursive strategy that exposes the conflict between discursive formations present in the intradiscourse and that are evidenced through the pre-constructed.

Thus, in the course undertaken, what was noticed, above all, is that the excess of negatives demonstrates that, behind what was said, there is an unsaid signifying. This probably leads to the conclusion that some DF was masked by the discursive subject of the defense as part of another DF constitutive of his saying, in order to convince and show a “truth”. In addition, the lack and the strangeness materialized themselves into some statements of the *corpus*, functioning as beacons of new meanings that provided very well grounded analyses. On these discursive devices, which appeared in the jury trial, the present study sought to think it over, as an attempt to come to the effects of sense that stem from it.

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