

The metapragmatics of legal advice communication in the field of immigration law

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Metapragmatic comments are crucial in lawyers' attempts at managing legal advice communication with asylum seekers. Drawing on linguistic-ethnographic fieldwork in the Dutch-speaking part of Belgium, this paper aims to demonstrate how/when/why textual features which tell interactants how to interpret the ongoing speech are used in the context of lawyer-client communication in the field of immigration law. The data analysis reveals how lawyers frame the discursive conditions (i.e. linguistic diversity, the institutional need for efficiency and the presence of emotional lifeworld concerns) of the local interaction in the lawyer's office. This is necessary as clients are not always acquainted with the discursive routines of the legal consultation, nor aware of its position within the wider chain of discursive asylum events. As many aspects of the legal advice context resemble the interactional conditions of the government-asylum seeker communication, it proves key yet challenging for lawyers to metapragmatically signal their advocating role in a way that enables a relationship of rapport with their client.

Keywords: metapragmatics, legal advice communication, lawyer-client relationship, linguistic ethnography, interactional management, frame

1. Introduction

Legal advice communication in the context of immigration law is a discursively complex endeavour. When asylum seekers arrive in Belgium and apply for international protection, they are appointed a pro bono lawyer to support them throughout the whole procedure. Most meetings between lawyers and asylum seekers are of a multilingual and intercultural nature, defined by the disclosure of sensitive topics and constrained by workplace limits of time and resources.

Metapragmatic framing is highly important in such legal consultations, as lawyers try to manage the local lawyer-client communication, while also providing the asylum seeker with discursive advice on how to manage their linguistic resources when communicating with the asylum authorities. As many aspects of the legal advice context resemble the interactional conditions of the government-asylum seeker communication, it is key yet challenging for lawyers to metapragmatically frame their advocating role in a way that enables a relationship of rapport with their client.

Because of the private nature of interactions that take place in the lawyer's office, the challenges inherent to lawyering across linguistic and cultural differences largely remain hidden from public view (Ahmad 2007). Few pragmatic studies have been able to ensure the access necessary to look into the interactional dynamics of lawyer-client communication (Eades 2010). Legal advice communication with asylum seekers, especially, has remained underexplored (Reynolds 2020). It is, however, crucial that scholarly attention is devoted to this setting, as the discursive events that surround the asylum procedure are of a high stake nature, with communicative moves determining whether an applicant is granted international protection or not. Language research that does shed light on this *backstage* counselling practice (Bohmer and Shuman 2007; Hambly 2019; Reynolds 2020; Smith-Khan 2020) often relies on self-reported data, case files or a limited amount of interactional data. Although highly interesting insights have been gained about the lawyer-client relationship, the employment of multilingual strategies and the discursive construction of credibility, I believe that a fine-grained pragmatic inquiry into the interactional dynamics of legal advice communication in the context of immigration law demands an ethnographic lens.

This paper intends to address the knowledge gap by drawing upon linguistic-ethnographic fieldwork at two Belgian law firms specialised in immigration law (Copland and Creese 2015; Rampton, Tusting, Maybin, Barwell, Creese and Lyra 2004). The data set consists of participant-observations as well as the recordings of 73 consultations. It also includes complementary interviews conducted with some of the legal practitioners present in the interactional data. The field notes I took during my time in the field reflect familiarity with the everyday practices that constitute legal service provision in the context of immigration law and pointed my analytical attention towards the crucial role of metapragmatics, which constitutes the topic of this paper. The pragmatic data analysis (Östman, Verschueren and Versluys 2007) shows how lawyers – with varying degrees of success – use metapragmatic utterances (i) to frame the discursive conditions of the legal advice communication that happens during lawyer-client consultations, (ii) to indicate the way in which the local communication is embedded in a chain of different asy-

lum encounters, and (iii) to clarify the different roles, responsibilities and alignments of the interactants that participate in these speech events.

In the next section, I will first lay out the conceptual framework of metapragmatics, by drawing on research that formulates a (working) definition of the notion and outlines ways to operationalise the concept in ways that render it productive for the purpose of describing and explaining the complex interactional dynamics of legal advice communication. Drawing on interactional as well as interview data, Section 3 zooms in on the lawyers' attempts at framing the discursive conditions of the local interaction. The section focuses on how the linguistically diverse nature of the communication, the institutional need for efficiency and the way in which time constraints conflict with the emotional dimension of asylum narratives are dealt with within the interaction that takes place at the lawyer's office. For each aspect, the role of metapragmatics is highlighted in the creation or maintenance of mutual understanding and rapport. Section 4 emphasises the fact that lawyer-client consultations are not stand-alone events, but rather embedded in a chain of institutional meetings. This discussion first invokes a short description of the different stakeholders at work in the asylum procedure. The section continues by illustrating the similarities between the discursive conditions of legal advice communication, on the one hand, and interaction in the governmental context of refugee status determination, on the other. This observation, paired with an interactional example of how role ambiguity and confusion about the nature of a service encounter can discursively play out, foregrounds the crucial role of metapragmatics when it comes to highlighting the distinct finalities of the different institutional encounters. In the conclusion, finally, I argue that the use of more explicit forms of metapragmatic framing could positively affect lawyer-client communication in the field of immigration law.

2. Operationalising “metapragmatics”

The notion of “metapragmatics” (and its related concepts of metalanguage and metacommunication) has a long and intricate scholarly history and has taken on different definitions over the years. The metalingual function of language was first introduced in Jakobson's (1985) revision of Karl Bühler's model of language. Jakobson (1985), who attributed, loaned and translated the term from the Polish work of Alfred Tarski, was the first scholar to distinguish between two levels of language: (i) the object language, which speaks of matters that do not have to do with language itself and (ii) the metalanguage which addresses the verbal code. The relationship between metalanguage and object language is co-dependent. On the one hand, metalanguage is implemented “out of ordinary language” (Lucy

1993, 2), and, in this way, consistently embedded in primary communication (Hübler 2011). On the other hand, the existence of the metalingual function, is central to all communicative activity, with everyday language practices heavily relying on the existence of metalanguage. Lucy (1993), in this regard, describes language as fundamentally reflexive and permeated by metalanguage. Silverstein (1993), in the same seminal volume, argues that interactional coherence – and therefore mutual understanding – is only possible when there is a constant *calibration* between the pragmatic and the metapragmatic function of language. Much like Habermas's concept of "Doppelstruktur" (1984), this refers to the idea that understanding has to be reached on two levels: speaker and hearer have to agree on the content of what is being communicated yet they also have to pick up metacommunicative cues about how to understand what is being communicated on the object level of language (Hübler and Bublitz 2007). Verschueren (2000) acknowledges the pervasiveness of metapragmatic utterances and, accordingly, puts metalanguage (in all of its linguistic manifestations) on (top of) the agenda of scholarly research. Following his argument, this paper argues that metapragmatic comments are a crucial topic for academic inquiry as they reflect metapragmatic awareness, which – from a pragmatic point of view – is key to "the meaning-generating capacity of language in use" (Verschueren 2000, 439) and therefore to the "core process of what language use is all about" (453).

This paper envisions metapragmatics in the broadest sense of the notion. Accordingly, the analysis is concerned with the way in which, in the context of lawyer-client consultations in the field of immigration law, discursive instances refer to, frame, organise and evaluate language activities. The analyses in Section 4 therefore comprise explicit as well as implicit manifestations of metalanguage. In Bateson's (1972) terms, this means that the paper focuses on metalinguistic messages (language about language) as well as on what he refers to as metacommunicative messages, which provide information about the relationships between the participants, the interactional goals and the discursive conditions of the communicative frame. As will become clear in the pragmatic analysis, ample of *metalinguistic messages* can be found in the interactional data. As legal advice communication is embedded in a chain of discursive asylum encounters, the local communication in the lawyer's office (i.e. the interactions which I observed and recorded) is permeated with references to past or upcoming speech events. The data therefore contain many instances in which the interactants reflect on the use of discursive strategies and multilingual repertoires for the purpose of managing the local communication, looking back on past interactions (anaphorically) or organising linguistic support for future speech events (cathaphorically; Caffi 1998). My metapragmatic scope does, however, not limit itself to such explicit manifestations of metalanguage but also includes *metacommunicative*

messages, which implicitly frame the communicative activity. As pragmatics is interested in patterns of language use, metapragmatics is concerned with speech that comments on these regularities (Lucy 1993). In allowing these comments to be denotatively implicit, the relevance of metapragmatics considerably expands and encompasses the whole metalinguistic *dimension* of language use (Verschueren 2000). The data analysis will accordingly also address implicit discursive strategies (e.g. contextualisation cues, code switching and pragmatic markers) to demonstrate how speakers aim to index both *what* they mean and *how* they mean it. A disclaimer is however in order here as the explicit-implicit distinction constitutes a continuum rather than a clear-cut dichotomy.

It is not the ambition of this paper to further define the notion of meta-language, but rather to look into the ways in which meta-utterances manifest themselves within specific communicative settings, a scholarly endeavour which Hübler and Bublitz (2007) call “metapragmatics in use”. I therefore intend to demonstrate how/when/why textual features which tell interactants how to interpret the ongoing speech (Lucy 1993) are used in the context of legal advice communication for asylum seekers. I hope, in this way, to unravel the purpose as well as the effectiveness of the different metapragmatic strategies, while taking into account the communicative frame and the interactional relationships that define the context in which the strategies are employed.

3. The metapragmatics of managing interaction

There is an epistemic inequality inherent in the lawyer-client relationship. The lawyer, who ‘owns’ the frame of the legal advice communication often controls the speech event in terms of regulating the turn-taking and the topic choice. The client’s role, on the other hand, is rather of an ephemeral nature as they visit the frame and are therefore rather unaware of the discursive and institutional routines that characterise the genre of the legal consultation (Ahmad 2007; Blommaert, Collins and Slembrouck 2005). By means of metapragmatic comments, lawyers are able to indicate the discursive conditions of the local consultation and of the asylum seeker’s upcoming interactions with government authorities. This section will shed light on how lawyers metapragmatically frame interactional activities, by managing (i) the linguistically diverse nature of the communication, (ii) the institutional need for efficiency, and (iii) the way in which time constraints conflict with the emotional dimension of asylum narratives. By drawing on interactional excerpts as well as interview data, it will become clear that metapragmatics play a crucial role in the creation or maintenance of mutual understanding and rapport.

One of the first things my fieldwork at law firms specialised in immigration law revealed is how many different language repertoires employees are exposed to on a daily basis. The lawyer-client interaction within this asylum context seems *linguistically diverse* and intercultural by default. Although legal directives stipulate the importance of adjusting legal information provision to the (sociolinguistic) needs of the asylum seeker (EU Agency for Fundamental Rights 2014), it is up to practitioners to manage the local interaction by addressing discursive challenges and safeguarding mutual understanding (Jacobs and Maryns 2021). Meeting the sociolinguistic needs of the multilingual clients is closely intertwined with organising language support (Inghilleri and Maryns 2019): about half the consultations in my corpus were mediated by an interpreter or a confidant of the asylum seeker. The other half of the corpus took place in a *lingua franca* (mostly English, but sometimes French or Dutch). Time in the field revealed that the decision between those multilingual strategies is taken based on three parameters: estimations of the language level of the client (often informed by people working in asylum shelters and social assistants), the practical possibilities of hiring an interpreter (as this can be a hassle for last minute consultations or even an impossibility for minority languages like Tigrinya, a language spoken in Eritrea or Pulaar, a language spoken in areas of West-Africa), and thirdly, the activity type of the consultation (i.e. the level of importance/accuracy/delicacy of the topic that will be discussed; Reynolds 2020). Interviews revealed that the lawyers value adequate language support, as they are aware that they would not be able to represent some clients without the availability of interpreters. They also strongly believe that mediation benefits the level of detail that characterises the asylum account. However, language ideologies of “direct communication” (which in this case means unmediated, dyadic, *lingua franca* interaction) and frustrations with “bad interpreters” also influence their decision making process of whether to request an interpreter.

When a client walks into the lawyer’s office, the question of language is often the first one that comes up. In the fragment below, which features a young Somali asylum seeker, his confidant (who used to be his teacher), and his lawyer, no interpreter was called upon; a decision that motivated by the fact that the asylum seeker attended Dutch-speaking education and that the legal consultation is of an exploratory nature. Note that the second line in the transcription represents my English translation of the sentences that were spoken in Dutch.

- Excerpt 1. 1. *Lawyer: Spreek je een beetje Nederlands of eerder English of (?)*
 Do you speak a little bit of Dutch or rather *English* or (?)
2. *Applicant: English*
3. *Lawyer: English*
4. *Applicant: Ya*

5. *Lawyer: English better*
6. *Applicant: Ya*
7. *Lawyer: Okay then we'll speak English*
8. *Guardian: Zeker (?)*
Sure (?)
9. *Applicant: Ya*
10. *Guardian: Ja okay (?)*
Yes okay (?)
11. *Lawyer: Oké je mag nog altijd wisselen als je=you can always change if you want*
Okay you can always switch if=you can always change if you want
12. *Applicant: No no is good*

The excerpt above reveals how the first utterances of the consultation contain a metapragmatic, or in more specific Batesonian terms, a metalinguistic message as the interactants explicitly discuss which language to use during the consultation (1972). Although the client indicates that he prefers to speak English (turn 02, 04, 06), his confidant double-checks his decision, as the two of them always speak Dutch – something which is unsurprising as they met in a context of Dutch-speaking education. The lawyer's metapragmatic utterance in turn 11, foregrounds how asylum consultations take place in in a “space of multilingualism” (Blommaert, Collins and Slembrouck 2005). In this turn, the lawyer communicates that all kinds of linguistic resources and repertoires can be employed in order to reach mutual understanding and to enable successful communication – a dynamic which Reynolds (2020) refers to as an “ideology of linguistic inclusion”.

The legal advice communication is not the only communication type that is monitored by means of metapragmatic utterances. Lawyers can often be seen to cathorically advise their client on how to use their linguistic resources during upcoming interactions with the asylum authorities as well (Caffi 1998). These metalinguistic messages (Bateson 1972) are of a strategic nature, as lawyers – based on their experience – prepare their client to present their refugee narrative in a way that will be convincing according to migration management criteria. In the excerpt below, which deals with a legal consultation between an Afghan asylum seeker, his guardian and his lawyer, the client is being prepared to talk to the authorities during the hearing at the General Commission for Refugees and Stateless Persons (for more information on the different steps of the procedure, see below). The pragmatic conditions of the upcoming speech activity are being anticipated in the local consultation. In the excerpt, the lawyer is recommending his client to ask for the support of an interpreter during the interview, although he is in fact quite proficient in Dutch – something which is exemplified by the fact that the legal advice communication is taking place in the lingua franca.

- Excerpt 2.
1. *Lawyer: Je spreekt nu ook al goed Nederlands natuurlijk he maar ik denk dat het ook belangrijk is om een om een tolk te hebben he euhm*
You are proficient in Dutch now as well of course but still I think it's also important to have an interpreter right uhm
 2. *Guardian: Voor de momenten waarop het moeilijk word om te zeggen is het misschien beter he*
For the instances in which it gets difficult to speak it's maybe better right
 3. *Lawyer: Ja ja maar ik denk dat je eigenlijk gewoon best altijd Dari praat*
Yes yes but I think it's actually just better if you always speak Dari
 4. *Applicant: Ja*
Yeah
 5. *Lawyer: Euhm als er een probleem is met de tolk=*
Uhm if there's a problem with the interpreter=
 6. *Applicant: Ja*
Yeah
 7. *Lawyer: dan mag je daar bijvoorbeeld tegen mij in het Nederlands zeggen en wij kunnen tegen mekaar in het Nederlands praten*
then you can for example tell me in Dutch and then we can talk to each other in Dutch
 8. *Applicant: Ja*
Yeah
 9. *Lawyer: Als je nu graag eens iets in het Nederlands zegt tegen de meneer of de mevrouw is dat geen probleem maar het is zo belangrijk dat het allemaal=*
Now if you really want to tell something in Dutch to the sir or the lady that's not a problem but it is so important that everything is=
 10. *Applicant: juist*
correct
 11. *Lawyer: juist genoteerd is en je spreekt heel goed Nederlands maar je spreekt nog beter Dari denk ik (laughs)*
correctly noted and your Dutch is very profcient but you still speak Dari better I believe (laughs)
 12. *Applicant: Ja ja*
Yeah yeah
 13. *Lawyer: he dus kan je dat best denk ik in het Dari zeggen*
right so it's best I think if you say it in Dari
 14. *Guardian: Ja ja*
Yeah yeah

15. *Lawyer: Maar het is wel heel belangrijk en jij begrijpt ook Nederlands dus jij kan de tolk een beetje controleren (.) als er een probleem is moet je dat zeker zeggen*
 But it is very important and you understand Dutch so you can check the interpreter a little (.) if there's a problem you definitely have to say so

The lawyer provides specific and explicit metalinguistic recommendations about which language to use at which point in the hearing (turn 03, 05, 07, 09). He motivates his advice by referring to the importance of “getting everything right” in turn 09 and turn 11. In this communicative move, the lawyer hints at the way in which the asylum authorities attach importance to the consistency of the facts when assessing applications. Asylum institutions consider a certain level of narrative detail as indicative of the credibility of the testimony (Jacobs and Maryns 2021; Maryns 2006) – an idea motivated by metapragmatic assumptions that evaluate certain discourse as (un)convincing. Therefore, lawyers often request interpreters at the official governmental hearings. The client is aware of the fact that his upcoming language performance will be evaluated. Having already been briefed about the linguistic criteria that indicate credibility, he finishes the lawyer's sentence in turn 10. Next to emphasising the importance of speaking Dari at all times during the interview, the lawyer can also be seen to compliment the client's Dutch proficiency in turn 01 and turn 11. In turn 15, the lawyer even spins the client's knowledge of Dutch as an asset by encouraging him to oversee whether the interpreter does their job well.

In becoming acquainted with the institutional logics of the law firms, other, more logistic aspects of workplace dynamics started to stand out to me as well. I noticed how limited resources result in tight schedules and how the lawyer-client communication is considerably affected by the constraints of time. The status of pro bono lawyers and the right to (free) legal assistance, is under great pressure, due to budget cuts and the current political climate in Belgium (Asylum Information Database 2019; Jacobs and Maryns 2021). This translates into an inevitable preoccupation with *efficiency*. During one of the interviews, a lawyer told me that she had to learn to live with the “economic realities” of doing ‘pro bono cases’. She argued that she cannot afford to spend more time on particular cases, saying: “*That's annoying and my colleagues find that annoying I believe (...) but you have to make sure that you get somewhat reimbursed when summoned through the pro deo system*” (emphasis mine). During fieldwork, I often noticed how the day's schedule (as it was written in a calendar beforehand) would become completely messed up, because a certain consultation took longer than expected. I perceived how lawyers made deliberate estimations about which issues were “worth” the extra time. When asked about this, one lawyer said: “*We have*

too little means so we have to invest our time and resources and make a selection". Throughout the corpus this statement found many echoes and the sentiment was often voiced in a frustrated or apologetic way. The interviewees agreed that, due to the time constraints, they often have to cut clients short before they have even started to tell their story. The interactional data support this finding, as they contain many instances in which the lawyer asks the client to explain their problem "in a nutshell".

The data excerpt below, which was taken from a legal consultation between an asylum seeker from Palestine, his lawyer and an interpreter Arabic-Dutch, foregrounds such a communicative move. In the excerpt, the lawyer metapragmatically explains to his client that the fact that he is running behind on schedule will influence the consultation. Note that the Arabic turns were translated into Dutch by an independent translator. I myself have translated the Dutch turns (those from the translations as well as the ones that were originally spoken in Dutch) to English for the purpose of this paper. In the first part of turn 01 the lawyer refers to the client's problems in his home country.

- Excerpt 3. 1. **Lawyer:** *Misschien kan u dat dan eventjes kort voor mij samenvatten zodat ik het weet (.) oké ga u wel moeten vragen om te proberen het zo kort mogelijk te houden (.) want u zal gezien hebben ik heb al een beetje achterstand en ik ben heel geïnteresseerd in uw verhaal ik ga meegaan naar u uw gehoor op het commissariaat maar vandaag heb ik er nu echt niet veel tijd voor (.) het spijt me zeer (.) maar ik wil wel een idee hebben van wat wat het inhoudt (.) dus als u het kort kan samenvatten zou dat fijn zijn (.)*
 Maybe you can briefly summarise this for a bit so I know it (.) I have to ask you however to try to keep it as short as possible (.) because you will have noticed I already have a bit of a delay and I am very interested in your story I will accompany you to your hearing at the commission but today I really don't have much time for this (.) I am deeply sorry (.) but I would like to have an idea of what it is about (.) so if you could briefly summarise that would be great (.)
2. **Interpreter:** *ya3ni hwa mohtam jiddan bi9adhiyatik, o hay haymchi m3ak l bruxel, o lial2assaf chadid ma3ndo wa9t kabir, hal momkin ?to3tih fikra mokhtassara jiddan hawla gissat hayatik*
 He is very interested in your case (.) he will accompany you to Brussels (.) sadly enough he does not have time (.) is it possible then to give him a brief summary of your story (?)
3. **?Client:** *amochkil li ana bsababo tala3t mn ghaza*
 You mean the problem because of which I left Gaza (?)

4. **Interpreter:** *away*
Yes (.)

The metapragmatic utterances in this excerpt intend to control the communicative activity at hand (Hübler and Bublitz 2007). In turn 01, the lawyer can be seen to ask his client to explain the reasons why he fled his country while also indicating that he does not have much time. Within this same turn, he also inserts a disclaimer, saying that he is in fact very interested in the refugee narrative and drawing upon the client's own experience when he refers to the long line in the waiting room. The lawyer therefore request his client to keep his testimony short, a message that is emphasised repeatedly over the course of turn 01 (briefly $\times 2$, a bit, as short as possible and the repeated use of "summarise"). The metapragmatic framing of the lawyer seems to refer to the Gricean maxim of quantity, which (especially in a legal context) comes down to questions of "relevance" (Grice 1975; Janney 2007). The request for a "summary" thus prompts the asylum seeker to distinguish between matters that are legally relevant (and therefore worth telling) and matters that are peripheral. This is not a straightforward task for someone who is not acquainted with the legal framework of asylum administration, especially so, because delicate, emotional, and often traumatic experiences are being elicited. The lawyer seems to be aware of this as he, although being very explicit about the time constraints, does formulate his message in a polite way, a metacommunicative move which indicates a relationship of alignment and understanding (Bateson 1972). The switch to a more careful register is remarkable and can be interpreted as a contextualisation cue that indicates the lawyer's apologetic stance (Gumperz 1992). This observation is supported by the lawyer's employment of the pragmatic marker "maybe" and the hedged performative expression "I have to ask you" which narrows the force of the imperative down to a suggestion (Fraser 1996). Towards the end of turn 01, the lawyer eventually explicitly apologises for the inconvenience.

In considering turn 02, it immediately becomes clear that the interpreter's rendition of the metapragmatic and apologetic statement of the lawyer is highly reductive. It is beyond the scope of this paper to analyse the omissions and transformations that take place in the interpreter's turn. I did, however, want to include the rendition because interestingly it is the "object level" of language that gets communicated to the asylum seeker but not the metalinguistic level (Hübler and Bublitz 2007). The asylum seeker, who only understands the words of the interpreter and not the discourse of the lawyer, picks up that the lawyer is interested in his case, will join him to the commission and sadly does not have a lot of time. These statements are followed by the question of whether he wants to give a summary of his story. The contextualisation cue as well as the pragmatic markers have

disappeared. Turn 02, accordingly, feels like an imperative rather than a suggestion. In turn 03, the asylum seeker makes a metapragmatic move himself as he requests clarification because he does not know what he is supposed to summarise. This is understandable as the previous stretches of talk indeed remained implicit about what exactly the lawyer is looking for.

The analysis of this data fragment, in which the lawyer tries to manage the interaction by indicating the institutional conditions of time constraints, foregrounds how the need for efficiency poses a challenge in the face of the client's *emotions and lifeworld concerns*. Within scholarly literature, a shift can be noticed with regard to the ways in which the role of the lawyer is characterised (Barkai and Fine 1982; Jacobs and Maryns 2021; Westaby and Jones 2018; Zwier and Hamric 1996): whereas law used to be regarded as an objective and rational undertaking, the inherently emotional dimension of legal problems, and accordingly the importance of trust and rapport between lawyer and client, is foregrounded in contemporary job descriptions of legal practitioners. The idea that there is an inherent emotional dimension to law can be nuanced when it comes to certain branches of the law, but it is clearly relevant when it comes to asylum law. Emotion is inevitably present when asylum seekers discuss delicate (which can in most contexts be considered a euphemism for heartbreaking) matters with their lawyer. The disclosure of such stories is facilitated through a relationship of trust and rapport, the building of which – and it is here that the shoe pinches – takes time (Cochran, DiPippa and Peters 2011).

If clients – despite of the lawyer's request to be brief or provide a summary (as seen in Excerpt (3)) – do bring up topics that are outside of the scope of what the asylum authorities are looking for, lawyers can often be seen to interrupt clients by asking questions to redirect the discourse towards matters that will be considered “legally relevant” (Janney 2007). An example of this can be found in Excerpt (4), presented below. The excerpt was taken from a consultation between a Nigerian asylum seeker, her daughter (a 10-year-old girl, who was not an active participant in the participation framework), and her lawyer. The woman's request for asylum had been denied. As a new application can only be submitted when there are “new elements” to be disclosed, the lawyer-client interaction focuses on finding additional grounds for an asylum claim. In turn 01, the asylum seeker can be seen to make a suggestion: she hopes that the fact that she is in touch with the “CLB”, the Centre for Student Support (i.e. a service provision for children who go to school in the Flemish part of Belgium, in Dutch: *Centrum voor Leerlingenbegeleiding*) might constitute a legal argument. Note that the name “Lucy” is a pseudonym and that ‘*kapot*’ (turn 23) and ‘*juf*’ (turn 25) are Dutch words for ‘broken’ and ‘teacher’.

- Excerpt 4.
1. **Applicant:** And also element for she have erm a problem like a my daughter Lucy she have problem even now the CLB is in our xxxx
 2. **Lawyer:** I'm sorry I didn't catch the last sentence
 3. **Applicant:** I said she
 4. **Lawyer:** uhu
 5. **Applicant:** She have a problem
 6. **Lawyer:** Yeah
 7. **Applicant:** The CLB
 8. **Lawyer:** Yes
 9. **Applicant:** They in the case
 10. **Lawyer:** Uhu
 11. **Applicant:** They are following her up
 12. **Lawyer:** Uhu
 13. **Applicant:** I also need the government to help me for that because if they take her back to=
 14. **Lawyer:** Is it a problem in school (?)
 15. **Applicant:** Yeah
 16. **Lawyer:** Or what kind of is it (?)
 17. **Applicant:** In school and for her she she's very strange for a lot of things she's doing (...)
 18. **Lawyer:** Do you have some documents from the CLB (?)
 19. **Applicant:** No not yet normally yesterday I had to have appointment with them but I have appointment here=
 20. **Lawyer:** Ya
 21. **Applicant:** then I euhm cancel it
 22. **Lawyer:** Okay what kind of problems are there in school (?)
 23. **Applicant:** Ya the problems she have she don't concentrate she talk too much and euhm when she when you give her something to play she *kapot* it immediately
 24. **Lawyer:** Ya
 25. **Applicant:** When the *juf* is talking to her she don't listen you have to repeat repeat repeat repeat every time
 26. **Lawyer:** Ya since when euhm are you in Belgium (?)
 27. **Applicant:** I was in Belgium 2012

In turn 02, the lawyer inserts a metalinguistic comment to negotiate the meaning of what his client said in turn 01. Asking for a re-run (Goffman 1981) is prevalent in most types of discourse, but even more prominent in intercultural communication settings in which the interactants do not share a common framework, but do try to find a common ground as to how to interpret what is being said (Penz 2007). The lawyer inserts several more less explicit metapragmatic requests for

clarification (turn 14, 16 and 22), while the client explains that her daughter has problems at school and that the CLB is involved with her case. This clearly constitutes an emotionally loaded topic for the client's, as indexed by her changed body language and her suddenly hurried pace of speaking.

The lawyer, however, seems focused on examining whether the client's line of argumentation will be qualified as "relevant" by the authorities. His request for documentation in turn 18 seems to anticipate the fact that the government will only take the client's concern into account if official, material documents can be provided to back the story up – a dynamic motivated by the authorities' metapragmatic assumptions which value "written" discourse as more official and reliable than spoken testimony. When the client responds negative to the question (in turn 19), the lawyer quickly assesses the type (and severity) of the school problems in turn 22, before deciding to abruptly switch topic – probably because he determined that the client's "element" (turn 01) will not be considered a valid reason to re-open her case. Little to no metacommunication is used to frame or explain the lawyer's transition to a request for factual information about the client's residence status in turn 26. As the shift in topic comes out of the blue, it seems to discredit the lifeworld concerns that the asylum seeker foregrounded. The motives behind the lawyer's communicative moves, however clear to people with epistemic knowledge about consultation routines and the dynamics of the asylum procedure, remain unknown to the client. This is in sharp contrast with Excerpt (3), in which the lawyer metadiscursively managed the discourse by explicitly asking his client to be brief, while explicating his intended communicative strategy (not going over time) and indicating his stance (the fact that he was sorry to be cutting his client short, but very supportive and interested in his case).

Throughout the interviews, it became clear that lawyers feel frustrated over the fact that they feel the need to treat lifeworld concerns as "digressions" and to think in "categories of legitimacy". One lawyer explained that, although such practices are caused by "limits in time and resources" and informed by reasonings as "we really want to help your case so we will have to spend our time on something else", the judgement that an emotional lifeworld concern is not within the scope of the consultation felt "unavoidably patronizing" to him. In the excerpt – and this observation is indicative of a broader pattern within the whole corpus – no motivation is given to contextualise the act of discrediting a lifeworld concern (in this case an anecdote about the CLB). The way in which the distinction between what is and what is not legally relevant that is at play within this legal consultation is in fact informed by government-imposed criteria, is not hinted at either. It therefore seems plausible, maybe even logical, that the client attributes this stance to her lawyer rather than to the asylum authorities' system of managing migration flows.

4. The metapragmatics of positionality

Legal advice consultations, as exemplified in the interactional data excerpt above, are not stand-alone events. Unlike the lawyer whose professional role is constructed through his relationship with the client, asylum seekers' "personhood encompasses the fleeting role of the client but is embedded within a web of numerous other relationships" (Ahmad 2007, 240). For them, asylum consultations are embedded in a series of institutional meetings: in the process of applying for international protection, they have many encounters with government authorities as well as service providers. In what follows, a short description of the different stakeholders at work in the asylum procedure is provided – a distinction is made between government officials (working *within the procedure*) and service providers (who can be said to work *at the margins of the procedure* – although the impact of their work cannot be underestimated). Afterwards, the similarities between the discursive conditions of legal advice communication, on the one hand, and interaction in the governmental context of refugee status determination, on the other are discussed. At the end of the section, an interactional example (Excerpt (5)) is presented to illustrate how role ambiguity and confusion about the nature of a service encounter affects legal service provision in the field of immigration law.

Within the asylum procedure itself, asylum seekers first have an interview with an official at the *Aliens' Office* to register their application. This interview is short and follows a questionnaire to assess the admissibility of the application. Lawyers are not allowed to be present during this interview. When it is decided that the application should be further investigated, a second interview is organised to investigate the merit of the application and to make a final decision about whether an applicant is granted international protection or not. This hearing takes place between a protection officer and the asylum seeker at the *General Commission for Refugees and Stateless Persons (CGRS)*. Lawyers are allowed to be present during this communicative event, but the role attributed to the legal professionals can be considered liminal (for a further discussion see Jacobs and Maryns 2021). At both stages there are opportunities for appeal at the *Council of Alien Law Litigation*. In terms of legal aid, a service provision which takes place *at the margins of the asylum procedure*, asylum seekers are appointed a pro bono lawyer by the Bureau of Second Line Assistance. These lawyers offer counsel during the whole asylum procedure. The lawyer-asylum seeker communication mostly takes place at law firms (the context from which this paper presents authentic, interactional data), although the lawyers also accompany their clients to the hearing at CGRS or to the appeals at the Counsel for Alien Law Litigation. Within the margins of the asylum procedure, asylum seekers encounter other service providers as well.

They, for example, often (have to) reach out to medical professionals, NGOs, civil servants at the municipal or city level and social assistants at the shelter.

It comes as no surprise that newcomers who entered Belgium unfamiliar with the language and the culture might experience confusion as they encounter the institutional maze of refugee status determination (Jacobs and Maryns 2021). My fieldwork revealed that many asylum seekers do not know what to expect of their lawyers: there is often ambiguity about the division of roles and responsibilities when it comes to the different institutional stakeholders. Similarly, it can be difficult for an asylum seeker to understand the positionality of the professional they meet. Whether an institution is government-run (the Aliens' Office is within the scope of the Ministry of the Interior), independent (as is the case for the CGRS) or partial (the pro deo lawyers), remains unclear. As asylum seekers have often fled their own country in fear of persecution, they tend to feel distrust towards authorities (Katzmann 2008). The hardship many of them endured during the travel route also has an influence. Dhondt (2021) – an immigration lawyer himself, in a lecture at Ghent University – argues that asylum seekers can accordingly not be expected to blindly trust their appointed legal support (translation from Dutch is mine):

A question that is relevant when we're talking about building trust that we <as lawyers> have to ask ourselves is also, why should they <asylum seekers> trust us? (...) Because of lawyer-client privilege? Because we cannot tell anyone about anything they say? In the end, we are people they have never seen before. They visit us two times for half an hour for a conversation, for a consultation (...) And they should trust us. But why? We know the route they've travelled. (...) They have lost months, sometimes years on the road. They've been thirsty, they've been hungry. They've slept in woods, they were beaten up by police officers, they've been subject to push backs, have been hit by fellow travellers, smugglers. There's been violence, we know there's also a lot of sexual violence – although it's seldom talked about. Some have been deprived of their freedom, some have had their belongings stolen (...) But we permit ourselves the idea that when they are at our office, at our desk that everything is different. Because we have good intentions, they can count on us. This is debatable. Why would youngsters believe that a European police officer or a government worker or really anyone in Croatia is different than a European officer or official in Brussel? (...) Why should they accept that what is happening in Greece, is not what happens in Belgium? That Croatia is not Belgium? That what happens in Dunkirk or the Maximilian park, when they are in transit, is not what happens when they are in procedure, when they have applied for asylum. Why should they believe this? And how does one explain this?

(Dhondt 24:00–26:00)

Although framing the distinct roles and positionalities of the different stakeholders in the asylum procedure is – indeed as the quote indicates – discursively complex, it is a crucial matter – as Excerpt (5) will reveal. The distinction between advocates and decision makers can be pivotal when it comes to building rapport and establishing a relationship of trust. The fact that lawyers, although they are independent service providers, often get associated with or even confused for government authorities in charge of the asylum adjudication can have severe legal consequences, as it entails the possibility of impeding the lawyer-client rapport and therefore hindering the counselling process.

It does not help that, from an interactional point of view, legal consultations between lawyers and asylum seekers have interactional conditions that are comparable to the ones that govern the communication at the Aliens' Office or CGRS. The communication that takes place during the interviews with the asylum authorities, employs *multilingual* strategies similar to the ones used in legal service provision encounters. Although, my research interviews suggest that there is more quality control on the performance and the routine of interpreters at the CGRS, this is not necessarily something a multilingual client would pick up on, or consider indicative of a certain type of institutional encounter. Secondly, the institutional need for *efficiency* that inevitably influences the everyday practice at immigration law firms, almost dictates what happens within the government institutions in charge of asylum adjudication. This is part of a wider trend, in which European asylum administrations try to hit quantitative targets and are therefore preoccupied with reducing the amount of pending applications (Dahlvik 2018; Gill 2016; Maryns and Jacobs 2021; Severijns 2019). Those “logics of management”, which are inextricably linked with limited financial budgets, leave their trace on the interaction, the provision of language support and the quality of the procedure (Maryns 2006). It seems plausible to assume that the time constraints that characterise government official-asylum communication are experienced in a way similar to what happens at the lawyer's office during service provision interaction. Thirdly, the institutional disregard for *emotional matters* and the experiential side of the refugee experience is also – to a certain extent – characteristic of both contexts. The categories of “relevance” that due to the time restrictions in legal consultations determine whether or not certain lifeworld concerns can be discussed during legal advice communication are connected to the migration management categories of the asylum authorities. The way in which lawyers redirect their client's discourse towards what the institution deems relevant, stems from the government authorities' preoccupation with certain information. As indicated earlier, the procedure often overlooks the emotional dimension of the asylum narrative, whereas the chronology and the “facts” of the story are held in

high regard (Maryns 2006). As the data Excerpt (4) demonstrated, this attitude pervades legal service provision encounters as well.

Although the discursive conditions of the lawyer-client communication, resemble the ones present in government-asylum seeker interaction (with regard to the management of multilingualism, the need for institutional need for efficiency and the way in which time constraints conflict with the emotional dimension of asylum narratives), the finality of the institutional encounters are very different in the advocating context than they are in the decision making sphere. Lawyers are partial, act in the best interest of their client only, are sworn to confidentiality and are service providers. This is in sharp contrast with the positionality of the government authorities who are sometimes said to be operating in a “culture of disbelief” (Jubany 2011), as their job of investigating asylum cases and making decisions about whether to grant someone the refugee status or not, makes them suspicious of so-called “bogus asylum seekers”.

Excerpt (5) demonstrates the complexities of metapragmatically framing the legal consultation in terms of role division and alignments. In this way, the excerpt reveals how (the absence of) metacommunicative messages about the nature of the interactional encounter discursively play out and sometimes cause confusion. The fragment was taken from a legal consultation between a Congolese man and his lawyer, which used French as a lingua franca. The original French turns are followed by my own translation into English. In the excerpt, the lawyer tries to gain information about the man’s relationship with his children, something which she explicitly announces in turn 01. She does this because if one of his children is granted refugee status, and the client can prove that he is close to this child, it would be easier for him to get a residence permit.

- Excerpt 5.
1. *Lawyer: Mais je me demande quelle est quelle est votre relation actuellement avec vos enfants (?)*
But I ask myself what does your current relationship with your children look like (?)
 2. *Applicant: Oui mes enfants ça va (.) je, j’ai de très bonnes relations avec eux*
Yes with my children great (.) I I have a really good relation with them
 3. *Lawyer: Hmm*
Hmm
 4. *Applicant: Oui je=*
Yes I=
 5. *Lawyer: Vous les voyez combien de fois (?)*
How many times do you see them (?)

6. **Applicant:** *Oui oui je les ai vus euh=*
Yes yes I see them like=
7. **Lawyer:** *par semaine par exemple (?)*
Per week for example (?)
8. **Applicant:** *Par semaine je le vois une fois de temps en temps*
Per week I see them one time from time to time
9. **Lawyer:** *Hmm*
Hmm
10. **Applicant:** *Parfois parce que je fais la dialyse*
Often because I have dialysis
(...)
11. **Lawyer:** *oké et euhm il ya quelque chose à l'école par exemple des enfants vous y allez ou pas(?)*
Okay and erm if there is something at the school of your children for example do you go or not (?)
12. **Applicant:** *Non non moi je peux pas y aller parce que je fais la dialyse*
No no I can't go there because I have dialysis
13. **Lawyer:** *Hmm (?)*
Hmm (?)
14. **Applicant:** *Oui la dialyse et le lendemain on n'est pas sûre qu'on sera en forme hmm je suis très fatigué (.) le lendemain j'ai quatre heures de dialyse j'ai quatre heure et demi de dialyse oui et le lendemain je commence à midi trente (.) et je finis à dix-sept dix-sept dix-sept trente et le lendemain je suis vraiment bousillé (.) le mieux pour moi c'est le week-end la semaine c'est vraiment difficile*
Yes the dialysis and then the day after you're not sure whether you'll be fit hmm because I'm very tired (.) the day after I have four hours of dialysis I have four hours and a half of dialysis and yes and the day after I begin at 12:30 (.) and I'm done at five five five thirty and the day after I'm really screwed up (.) the weekend is better for me during the week is really difficult
15. **Lawyer:** *Et est-ce que vous faites quelque chose d'autre pour vos enfants alors avec eux par exemple euh ils vont pff ils jouent du football par exemple et vous y allez vous y allez regarder ou (?)*
And do you do other things for your children I mean with your children for example euhm do they they play soccer for example and do you go well do you go watch or (?)

16. **Applicant:** *Mes enfants sont un peu fainéants ils aiment pas jouer au football ni basket ni rien du tout (.) Non non ils sont vraiment fainéants*
 My kids are a bit lazy they don't like to play football nor basket nothing really (.) No no they are really lazy
 (...)
17. **Lawyer:** *Et vous envoyez des messages par exemple ou est-ce que la mère par exemple la mère est ce qu'elle vous donne une copie de rapport de l'école (?)*
 And do you send messages for example or does the mother for example does she give you a copy of the school report (?)
18. **Applicant:** *Euh non*
 Erm no
19. **Lawyer:** *Non (?) Non oké*
 No (?) No okay
20. **Applicant:** *Mais je peux demander he=*
 But I can ask her=
21. **Lawyer:** *Ben parce que non c'est juste pour savoir si si les enfants ils font des examens par exemple vous obtenez les résultats d'une certaine façon (?)*
 No really it's just so I know if if your children for example make exams for example do you receive the result one way or another (?)
22. **Applicant:** *Ah oui oui pas la mère parce que euuh avant la maman travaillait euh dans la même école où les enfants étudiaient*
 Ah yes no no I don't because the mother because before the mother used to work at the same school were the children studied

Turn 01 introduces the main question that is being dealt with throughout this fragment. The lawyer wants to know what the relationship between father and children looks like. This information is strategically being elicited by the lawyer, as a close bond between father and child might positively influence the asylum seeker's chances of being granted international protection. The motivation behind this discursive move is, however, not communicated to the asylum seeker. The brief answer the client provides in turn 02 is subsequently of a vague nature. The lawyer poses follow-up questions, as the asylum authorities need concrete evidence to prove the relationship between the family members. In turn 5, 7, and 11 (and later on 15, 17, and 21), she tries to elicit numerical and more detailed information of the type that the asylum officials might deem convincing. In anticipating the judgment of the government authorities (Jacobs and Maryns 2021), the line of questioning of the lawyer can be considered quite personal and her style can – at points – may even come across as adversary.

Strangely, however, the lawyer expresses the question with a reference to her own positionality, by metapragmatically framing turn 01 with the phrase “but I ask myself”. As a consequence, she seems to be the principal (to put it in Goffmanian terms) of the follow-up questions which can come across as intrusive in trying to map the ways in which the father-children bond can be demonstrated. As the Congolese asylum seeker is not reminded of the complex ways in which the government criteria shape the legal consultation, this dynamic has the power to – in the face of the client – obscure the lawyer’s advocating position. As this type of interaction resembles an interrogation (much like what happens in the formal asylum hearings) the service providing nature of the encounter becomes less obvious.

When lawyers get associated with protection officers in charge of the asylum adjudication, this entails the possibility of impeding the lawyer-client rapport and therefore hindering the counselling process. It does not come as a surprise then that the client reacts in a defensive way, especially because he seems aware of the fact that all of his responses are dispreferred seconds, rather than the answer that the lawyer is hoping for/that would prove him to be an involved father. In turn 10, 12, and 14, the client can be seen to refer to his medical condition and the frequent treatments (dialysis) that he has to undergo because of it. Seemingly occupied with saving his positive face, he frames this as the reason why he does not see his children very often. Focused on how to frame the client’s bond with his children, the lawyer, however, does not communicate any interest in further pursuing this topic, except for a brief back-channelling response in turn 13. The lawyer’s question about attending his children’s hobbies in turn 15, is met with a self-deprecating joke on the part of the client – a communicative move that can also be interpreted as a face saving mechanism.

Throughout the excerpt, the asylum seeker does not pick up on the fact that the purpose of the lawyer’s questions is to probe him to talk about his relationship with his children and to elicit concrete evidence of what their bond looks like. The asylum seeker comes across as uncooperative, because he is confused about the goals that the lawyer envisions for this particular stretch of interaction. The lawyer’s interactional strategies are indeed not made explicit, although they are metapragmatically hinted at in the recurring use of the expression “for example” (07, 11, 15 × 2, 17 × 2, 21). In the case of the questions that are being asked in turn 17–21, this means, for example, that the lawyer is not looking for the reason why the client does not receive the school reports of his children (which the client provides in turn 22) but rather for other ways to prove the existence of a bond of attachment. When the client offers to acquire the school reports in turn 20, it becomes clear that he does not understand the lawyer’s case strategy nor the finality of the questions she is asking him. One could argue that the lawyer’s

metapragmatic framing of the discursive activity is too implicit, especially for an intercultural situation. Metacommunication in the form of verbalising the strategies, clarifying communicative goals and making stances explicit might help the client understand the finality of the encounter and therefore, cooperate in the building of his own case. Metapragmatic messages might also help remind the client of the advocating positionality of the lawyer and the service providing nature of the interaction – a development that would result in more trust, less adversity and therefore more mutual understanding.

5. Conclusion

Drawing on authentic, interactional data gathered through linguistic-ethnographic fieldwork, this paper has demonstrated that legal advice communication in the context of immigration law is a discursively complex endeavour. The multilingual nature of the lawyer-client communication, the institutional need for efficiency and the emotional dimension inherent in asylum narratives shape the lawyer-client interaction considerably. Metapragmatic comments are needed, as lawyers try to manage the legal advice communication, while also advising clients on how to manage their linguistic resources when communicating with the asylum authorities.

As many of the interactional conditions of lawyer-client encounters resemble those of government-asylum seeker contact, it is crucial for lawyers to highlight the finality of the service provision encounter – a metapragmatic endeavour that is taken on with varying degrees of success. This is important because – although it is the migration management categories of relevance that pervade and shape the legal service provision settings – it is unlikely that asylum seekers have enough epistemic knowledge or event perspective to distinguish between two similar settings in which the interactional power is distributed asymmetrically, the interaction is multilingual, time is scarce and there is no room for lifeworld concerns.

As the data analysis showed that ambiguity is sparked when such metapragmatic framing is happening on a rather implicit level, this paper argues that legal advice communication would benefit from verbalising its discursive strategies and making the advocating stance of lawyers explicit. Such metapragmatic framing could result in more cooperative communication, mutual understanding, and lawyer-client rapport.

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