



HAL
open science

Praxeology

Baudouin Dupret

► **To cite this version:**

Baudouin Dupret. Praxeology. Encyclopedia of Law and Society (D.S. Clark, ed., Sage), 2007. hal-02624278

HAL Id: hal-02624278

<https://hal.science/hal-02624278>

Submitted on 26 May 2020

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Praxeology

Baudouin Dupret

The praxeological study of law aims to analyze practices concerning what professional and lay people identify and treat as law. It seeks to describe the modalities of production and reproduction, the intelligibility and understanding, the structuring and public character, of law and its many legal activities.

Four principles characterize the praxeological approach. First, one pays attention to the means used to produce an action in a way that allows others to understand it. Second, one identifies social facts as ongoing social and collaborative productions within culturally identified contexts. Third, one describes toward what participants in particular settings are oriented. Finally, one pays attention to people as rule-using, not rule-determined, creatures.

In the praxeological perspective, which emanates from the work of Harold Garfinkel and Harvey Sacks, many studies specifically dealt with legal and judicial activities. For instance, the fine collection by Max Travers and John Manzo includes the work of juries, attorneys, judges, and police officers. From a conversation analysis point of view, John Atkinson and Paul Drew, drawing from the transcription of a North Ireland court that dealt with sectarian disorders, were the first to study some of the main features of law in terms of turn-taking, sequentiality, cross-examination, accusations, justifications, and excuses.

Douglas Maynard closely studied the procedure of plea bargaining and its internal constraints, whereas Martha Komter dealt with the dilemmas that both judges and accused people face when interacting in a Dutch judicial process. Gregory Matoesian contributed two books on court language in rape trials. His

studies shed light on language in the legal context and on how it constitutes and transforms evidence, facts, and rules in relevant objects of legal knowledge.

Following an ethnomethodological perspective, Michael Lynch and David Bogen analyzed the 1987 Iran-Contra hearings in the United States Congress and described the practical dimensions of procedural rules, narrative accounts, evidence production, and the use of memory in the context of hearings and interviews. In a more phenomenological tradition, Melvin Pollner scrutinized the functioning of mundane reason and its many postulates in the context of American traffic courts, although James Holstein focused on the practical ways through which courts ordered involuntary commitment. Max Travers contributed a book to the detailed study of daily legal work in a firm of criminal lawyers. Finally, Baudouin Dupret proposes a thorough analysis of law in action, its practical grammar, and its actual enfolding in the context of Egyptian courts dealing with the issue of public morality.

Baudouin Dupret
Chargé de Recherche
National Center of Scientific Research
French Institute for the Near East (IFPO)
Paris, France

FURTHER READINGS

Atkinson, John M., and Paul Drew. (1979). *Order in Court: The Organization of Verbal Interaction in Courtroom Settings*. London: Macmillan.

Dupret, Baudouin. (2006). *Le jugement en action : ethnométhodologie du droit, de la morale et de la justice en Egypte*. Geneva: Librairie Droz.

Garfinkel, Harold, and Harvey Sacks. (1986). "On Formal Structures of Practical Actions." In *Ethnomethodological Studies of Work*, edited by Harold Garfinkel. London: Routledge, 167-96 (orig. 1970).

Holstein, James A. (1993). *Court-Ordered Insanity: Interpretive Practice and Involuntary Commitment*. New York: Aldine De Gruyter.

Komter, Martha. (1998). *Dilemmas in the Courtroom: A Study of Trials of Violent Crime in the Netherlands*. Mahwah, NJ: Lawrence Erlbaum Associates.

Lynch, Michael, and David Bogen. (1996). *The Spectacle of History: Speech, Text, and Memory at the Iran-Contra Hearings*. Durham, NC: Duke University Press.

Matoesian, Gregory. (2001). *Law and the Language of Identity: Discourse in the William Kennedy Smith Rape Trial*. New York: Oxford University Press.

Maynard, Douglas W. (1984). *Inside Plea Bargaining: The Language of Negotiation*. New York: Plenum Press.

Pollner, Melvin. (1987). *Mundane Reason: Reality in Everyday and Sociological Discourse*. Cambridge: Cambridge University Press.

Travers, Max. (1997). *The Reality of Law: Work and Talk in a Firm of Criminal Lawyers*. Aldershot, UK: Ashgate.

Travers, Max, and John F. Manzo, eds. (1997). *Law in Action: Ethnomethodological and Conversation Analytic Approaches to Law*. Aldershot, UK: Ashgate.

Words (Text & Further Reading) = 600