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Linguistic Insights

Studies in Language and Communication

● María Ángeles Orts,
● Ruth Breeze &
● Maurizio Gotti (eds)

Power, Persuasion and Manipulation in Specialised Genres

● Providing Keys to the Rhetoric
● of Professional Communities

Peter Lang

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Studies in Language and Communication

Edited by Maurizio Gotti,
University of Bergamo

Volume 227

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Bibliographic information published by die Deutsche Nationalbibliothek

Die Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available on the Internet at (<http://dnb.d-nb.de>).

British Library Cataloguing-in-Publication Data: A catalogue record for this book is available from The British Library, Great Britain.

Library of Congress Control Number: 2017946569

Published with the support of the Department of Foreign Languages, Literatures and Cultures of the University of Bergamo, Italy.

ISSN 1424-8689 hb.

ISSN 2235-6371 eBook

ISBN 978-3-0343-3010-7 hb.

ISBN 978-3-0343-3011-4 eBook

ISBN 978-3-0343-3013-8 MOBI

ISBN 978-3-0343-3012-1 EPUB

This publication has been peer reviewed.

© Peter Lang AG, International Academic Publishers, Bern 2017
Wabernstrasse 40, CH-3007 Bern, Switzerland
info@peterlang.com, www.peterlang.com

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Acknowledgement

The editors are grateful to a scholarly group of their peers for the job accomplished in the present volume. Appraising the work of one's colleagues and helping to make it even more excellent is not an easy task, and one never sufficiently recognized. In particular, we would like to thank:

Guadalupe Aguado-De Cea
Ismael Arinas
Marina Bondi
Magda Bielenia-Grajewska
Emilee Moore
Laura Muresan
Carmen Pérez-Llantada
Nadezda Silaski
Girolamo Tessuto

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Introduction

1. The scope of our study

The present volume of *Linguistic Insights* wishes to focus upon the study of linguistic persuasion and power in the written texts of professional communication, to go further into the understanding of how they are “constructed, interpreted, used and exploited in the achievement of specific goals” (Sancho Guinda *et al.* 2014: 18). Such texts are here contemplated from the stance of genre theory, which starts from the premise that specialised communities have a high level of rhetorical sophistication, the keys to which are offered solely to their members. We, therefore, aim to bring forth studies on the language of professions – law and arbitration, engineering, economics, advertising, business, politics, medicine, social work, education and the media – focusing upon the analysis and scrutiny of the communicative devices that serve the need of such professions to exert power and manipulation, and to use persuasion. However, the perspective adopted in our work does not envisage power simply as a distant, alienated and alienating supremacy from above, in the exercise of what Marx called the ‘false consciousness’ (McLellan 1995). As an everyday, socialized and embodied phenomenon (Foucault 1972), power is, indeed, not restricted to merely constitute the possession of authority, status and influence, “the enabling mechanisms for the domination, coercion and control of subordinate groups” (Simpson/Mayr 2010: 3). Specifically, much along the lines of the seminal work by Berger/Luckmann (1967) and along the lines of Foucault’s (1991) work, we depart here from the general premise that reality is socially constructed, and, hence, that any theory of knowledge must account for the relationship arising between human thought and social context; between the institutions made by humans

that, paradoxically, create their subjugation. In Foucault's vision, power is creative, since it lies at the origin of the social order. In his words:

We must cease once and for all to describe the effects of power in negative terms: it 'excludes', it 'represses', it 'censors', it 'abstracts', it 'masks', it 'conceals'. In fact power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production. (1991: 194)

From this stance, knowledge in everyday life may be regarded as socially distributed, possessed differently by different individuals and types of individuals (Berger/Luckmann 1967: 4–22), where professions are contemplated, firstly, as “finite provinces of meaning, marked by circumscribed meanings and modes of experience”, the result of “human beings being continuously interacting and communicating with others” (Berger/Luckmann 1967: 29). Secondly, we understand professions as part of the *habitus*: the “mental or cognitive structures through which people deal with the social world” (Bourdieu 1989: 18). In this sense, what Swales (1981, 1985, 1990) and Bhatia (1993, 2002) called ‘specialised discursive communities’, are instances of the way in which humankind organizes and institutionalizes the world; they constitute pre-defined patterns of conduct which are perceived as possessing a reality of their own; a reality that confronts the individual as an external and intrinsically *coercive* fact.

Agar (1985: 164, in Simpson/Mayr 2010: 15) defines an institution as “socially legitimated expertise, together with those persons authorised to exercise it”. Hence, a dialectical relationship is established between individuals in a society and the human-produced reality of institutional frameworks – such as health, the media, the law, education, corporations –, together with the controlling mechanisms attached to them. Analysing power within professions is, thus, regarding such professions as specialized communities aiming to dominate, police and protect their particular area of expertise. As organizations or institutions with commanding influence over their entire field, they are inextricably linked to power, as much as they are to language. Indeed, the main controlling mechanism, the “instrument of the collective stock of knowledge” (Berger/Luckmann 1967: 68) for every institution is language. Language is used to create and mould institutions, and, in turn, institutions

use it to create, shape and impose their own discourses (Simpson/Mayr 2010), being a paramount aspect of interaction (Fairclough/Wodak 1997) and constituting the sheer fibre that institutions and organizations are made of.

2. The power of professions through their genres

In tune with our assertions above, specialized communities have a powerful tool to generate their own construction in their genres. Genres are the internal communicative mechanisms operating within a group of members of a specific professional community, as well as between these members and society as a whole. Genre theory implicitly supports Austin's (1962) and Searle's (1976) view that social and legal reality is not only represented in language, but also constituted through language (Salmi-Tolonen 2011a). Bhatia's works have been specially instrumental in the development of genre theory, since they tackle the analysis of professional practices and disciplinary cultures through the integration of textual, strategic or socio-pragmatic aspects, as well as other critical, text-external aspects of genre construction, interpretation, use, and exploitation in various professional contexts (Bhatia 2012).

This constructivist way to contemplate genres conceives language as discourse, as meaningful social action (Gunnarsson *et al.* 1997), as a key instrument to define individuals and their organizations, and the roles the former play in the latter. The transmission of the meanings, ideological frameworks and constructs of an institution is based upon the deployment of language as the main means of communication "inherently connected with human cognitive processes" (Salmi-Tolonen 2011b: 1). Professional genres are to be seen, in this light, as "reflections of the political ideologies and power structures within the studied society, as well as of the actual knowledge level of the field and of the social patterns of the professional group" (Gunnarsson *et al.* 1997: 3), where power within organizations and institutions is envisaged as the ability to make things happen (Kanter 1977). With this vocation, there are linguists that investigate how institutions interplay through language,

not only with their users, but also with other institutions and the world at large, so as to shape the overall public perception that they obtain. Breeze (2013), for example, tackles the analysis of the genres and texts of corporations as sets of social practices, which are not limited to those very genres and texts, but which include new complex realizations that are also conceived as part of the corporate discourse system in all its complexity and power of reverberation and regeneration. In the last few years this constructivist, positive study of power in language has gained momentum in the area of specialized discourse studies, with the rising interest in the role played by personal interactions in the elaboration and application of specialized texts, and in the analysis of bureaucratization in the contexts of law, banking, education and international organizations (Breeze *et al.* 2014; Sarangi/ Slembrouck 2014). These studies transcend the traditional, neutral envisaging of business genres and texts as the products of a discursive community to be mastered by newcomers, as has been the practice of second-language scientists and practitioners in recent years.

However, abandoning the constructivist thesis discussed above and laying the accent upon a critical notion of discourse – and upon the role that ideology plays in it – is the trend that conceives professional discourse as verbal manipulation, as an intentional exercise of elitist and/or exclusionary practices. From this critical stance, the acquisition or exhibition of supremacy by specialized communities is achieved through the technicality, precision and complexity of its written texts (Gibbons 2004). In other words, institutions seek to construct and promote their image through the deployment of their genres, discursive practices and communicative events, both to create a planned self-representation suiting their own interests and to exercise persuasion (Beder 2012). How writers and speakers achieve, maintain and reproduce social power and manipulation through discourse has been studied by Critical Linguistics (CL) (Fowler *et al.* 1979; Kress/Hodge 1979), and Critical Discourse Analysis (CDA) (Fairclough 1989/2014; van Dijk 2008), the former being specifically designed to analyse the discursive strategies deployed to legitimately control or ‘naturalize’ the social order, while the latter studies the opaque processes of domination through language, explaining how it constitutes a powerful social tool

at the service of the powerful. In the thesis supported by CL and CDA, the relationship between discourse and power “produces, maintains and reproduces underlying asymmetrical relations of power” (Fox/Fox 2004: 17) to achieve dominance and subordinate individuals (Mumby/ Clair 1997; van Dijk 1993). Such relationship is wielded ideologically by the expert community as a dominant bloc which treats social hierarchies as natural and reifies human phenomena – professional discourses, professional genres and their constructs – as non-human, non-humanizable inert facticities (Berger/Luckmann 1967), an extreme step in the process of objectivation, whereby the constructs deployed by the issuers of the specialized discourse become incomprehensible and detached from laypeople (Orts 2014, 2015, 2016). This approach is also visited in critical analyses made of professional communities such as those of the law (Goodrich 1987; Cutler 2003; Barnett/Duvall 2004), of the media (Bhatia/Bhatia this volume), of international organizations such as the IMO (Bocanegra-Valle this volume) or the corporate world (Fox/Fox 2004; Palmer-Silveira this volume).

3. Legitimation: power through consent and persuasion

No matter how powerful specialized communities are considered to be, according to Weber (1958), power – mainly in democratic societies – cannot be administered without consent. In other words, the institutional world requires legitimation, ways in which it can be explained and justified. Every institution has a body of transmitted recipe knowledge which supplies the institutionally appropriate rules of conduct. However, the totality of the institutional order should make sense to the participants in the different institutional processes, and they should be subjectively meaningful. Hence, for institutions to last and remain, there must be explanations and justifications of the salient elements of the institutional tradition. Legitimation is this process of ‘explaining’ and ‘justifying’ (Berger/Luckmann 1967: 92–95). In other words, if the users of institutions and organizations are to comply with their dominance and their set of rules, they must be persuaded to believe in their

legitimacy (Simpson/Mayr 2010: 7). In the case of the law, for instance, and according to Kairys (1999), the great source of its power is that it enforces, reflects, constitutes, and legitimizes dominant social and power relations without the need for or the appearance of control from outside. In law, as in other discourses like medicine (Carter-Thomas/Rowley-Jolivet this volume), the balance is struck between the prescriptive character of its texts (the power that they aim to impose) and their need to be expressed so that a kind of consensus is to be attained precisely for them to stay in that powerful position.

There are linguistic and discourse analytical approaches to organizations and institutions that regard linguistic exchanges as constitutive of those very organizations and institutions; social structures are dialogical social realities where meanings have to be negotiated between issuers and receivers (Fairclough/Wodack 1997; Mumbly/Clair 1997). Gramsci's concept of 'hegemony' states that social practices and formations need to become 'natural or commonsense' for subordinate groups to accept their values (Gramsci 1971, in Simpson/Mayr 2010: 9). Along the same lines, for van Dijk (2000: 8), ideologies are "principles that form the basis" of a group's beliefs and as such "allow people as group members to organize the multitude of social beliefs about what is the case, good or bad, right or wrong, for them, and to act accordingly". In other words, specialized communities need to work at prevailing through consensus, which is achieved through the propagation by means of their genres of the principles, routines and discourses of the ruling group, the 'experts' within the community. It is precisely because the discourse of institutions needs to be seen as legitimate to its subjects in order to be accepted, that this process of legitimation is mainly expressed, not through imposition but through the deployment of strategies of verbal persuasion on the part of the issuers of their genres and discourses. Consequently, in this volume we also focus on how specialized communities must use persuasion for their genres to become legitimized. But legitimation needs credibility, and this, in turn, may be gained through an image of a consistent discursive community, one with a set of communicative purpose(s) which are "mutually shared by the participants" (Bhatia 1997: 630).

The concept of 'persuasive writing' is a common factor in studies dealing with interpersonal traits in texts. To study proximity or

distance between interactants and the role of persuasion in such proximity, researchers resort to the concept of metadiscourse as the set of strategies that reveal the existence of a dialogical framework between the writers and the readers of texts (Vande Kopple 1985; Crismore *et al.* 1993; Dahl 2004; Hyland 2005; Dafouz 2008; Gallego-Hernández this volume). Metadiscourse is “the means by which propositional content is made coherent, intelligible and persuasive” to receivers of texts (Hyland 2005: 39). As a result, the concept has been taken up and used by researchers to trace patterns of interaction, and to discuss different aspects of language in use (Amiryousefi/Eslami Rashek 2010). A study on the persuasive character of professional genres would draw differences between the discourse of litigation and those of arbitration and conciliation/mediation in the international context. If litigation has a strong prescriptive and authoritative hue, arbitration and conciliation/mediation are not ‘imposed’ on the international community, but have, in turn, different degrees of cooperativeness (Gotti 2014 and this volume). Still, courts of arbitration are bound to compete with the services offered by the rest of the arbitration institutions in the world, being designed to have international scope and provide a neutral and sound basis for the international resolution of disputes and needing to be persuasive enough to gain future clients (Giner this volume). This would, then, be a case of genres positioned closer to non-expert interlocutors, “acknowledging alternative viewpoints and bridging to less informed backgrounds” (Sancho Guinda *et al.* 2014: 30).

4. The contents of this volume. Power, manipulation, persuasion

This volume brings together research on the workings of power in the discourses of different professions, showing how persuasive and manipulative techniques are used in professional genres to align readers with specific ways of understanding the world. In different ways, such texts are often moulded to promote the interests of the professional group,

the individual practitioner, or some other entity. Of course, this is not necessarily to say that individual writers have devised Machiavellian strategies to limit readers' options for interpreting the text. Rather, the techniques that are used have been conventionalized within specific genres that form part of the repertoire of the profession in question. This means that proficiency in these genres is needed in order to understand their message properly – and also to identify instances in which skilled users of a particular genre might be exploiting its potential in a way that is deliberately manipulative (Bhatia 2004). With a view to elucidating these practices in a critical spirit, these chapters will explore the way that persuasive or manipulative messages are habitually conveyed through specific professional genres, some of which are socially recognized to be substantially persuasive in nature (such as advertising or corporate web pages), while others (such as accident reports or arbitral awards) are not usually classified in this way.

Although it is important to acknowledge that persuasion and manipulation are overlapping categories, it is also probably true to say that one or other of these intentions prevails in any given instantiation. We have therefore grouped the chapters in this volume into two sections. Part One brings together six chapters in which manipulation seems to predominate, either because of the deliberate distortion or withholding of information, or because of the appropriation of discourses from other spheres. Part Two contains seven chapters in which more open-ended forms of persuasion are discussed, centring on genres which are intended for promotional or educational purposes, or which form part of consensual methods of dispute resolution.

4.1. Power through manipulation

The section on manipulative discourses is appropriately opened by VIJAY and ADITI BHATIA, who build on their previous work in the area of Critical Genre Analysis (2016) and discursive illusions (2015) to address the problematic area of media reporting in the context of recent financial scandals. They examine the specific case of revelations concerning the Panama Papers in India, looking in depth at newspaper reports about celebrities said to have been involved in the scandal.

They find that multimodal evidence and interdiscursive appropriation – that is, drawing on text-external generic resources – are used to lend an air of authenticity to accusations that are actually not founded on fact. Journalists routinely employ strategies such as using unwarranted negatively-charged adjectives or alluding to the existence of ‘secrets’ and ‘leaks’, in order to build speculations designed to arouse readers’ curiosity and excite suspicion. Fortunately, however, the authors conclude that the effects of such media manipulation are likely to be short-lived.

Secondly, moving to a very different area of public life, ANA BOCANEGRA-VALLE considers the annual speeches given by the Secretary General of the International Maritime Organization, and identifies four main themes that recur in their argumentation: globalization, leadership, hegemony and legitimation. She explains that the discourse of globalization emerges as a generative theme which empowers the institution’s interests and legitimizes its leadership to multiple audiences. At the same time, these speeches deal with issues of accountability, cooperation and solidarity intended to enhance the institution’s public image as a responsible player on the world stage.

Next, in a chapter which explores the issue of leadership and authority in academic medicine, SHIRLEY CARTER-THOMAS and ELIZABETH ROWLEY-JOLIVET show how power is deployed in the editorials of medical journals, linking this to the need for dominant groups in democratic societies to maintain their power through discursive means, engineering consent by careful deployment of language. Since editorials evidently constitute a genre with a considerable power asymmetry between writers and readers, it is interesting that they display many interpersonal features designed precisely to persuade the readership. By careful use of elements such as modals, questions, pronouns or extra-position to modulate epistemic claims and generate an air of consensus, the editorial writer can direct readers and manoeuvre them towards particular reading positions. The choice of particular syntactic forms thus enables the writers to achieve a dominant editorial voice, simultaneously imposing their point of view and boosting their own professional authority.

In the next chapter, GIULIANA GARZONE examines an area of discourse from a controversial sector of the medical world in which producers have to deploy a range of subtle techniques in order to establish

credibility with their audience. She looks at the webpages of surrogacy organizations, exploring how they attempt to construct an image of high professional expertise. Notably, these websites employ strategies designed to construct the organizations' *ethos*, framed as competence and benevolence, which are accompanied by visual images that evoke *pathos*, such as images of smiling babies and happy couples. *Logos*, that is, the appeal to reason, is kept in the background. These choices are combined in a pattern which foregrounds sentiment over rationality, in such a way as to lend some respectability to what is intrinsically a dubious area of activity.

Following on from this, ESTHER MONZÓ-NEBOT analyses face-work strategies in a controversial judgment on a sexual assault case, in which the judge rationalizes a lenient sentence for an offender by downplaying the attack and silencing the victim's voice. Monzó concludes that the use of in- and out-grouping strategies enables the judge to rationalize an unjust decision, thereby manipulating the available system in order to perpetrate an injustice against a less privileged group.

In the last chapter in Part One, PASCUAL PÉREZ-PAREDES analyses aspects of discursive manipulation in the green paper produced by the UK government on higher education, showing how it is structured around three distinct features of language that materialize its endorsement of a predominantly economic vision of universities. He is able to provide linguistic evidence which links his analysis to other writers' claims that higher education in the UK is being constructed as a competitive market. By presenting controversial interpretations as consensual, such documents contribute to the manipulation of public opinion and conspire in the silencing of stakeholders' voices.

4.2. *Power through persuasion*

Part Two covers a variety of genres in which persuasion plays an important role, perhaps because of the more even power balance between participants. ANTOINETTE MARY FAGE-BUTLER investigates material produced by the Scottish NGO Zero Tolerance designed to prevent violence against women, analysing their lesson plans for primary schools on the one hand, and their handbook for journalists on the other. By

contrasting the way the messages are presented in these two genres, she shows how the sender's strategic intentions are fleshed out to operate persuasively on two very different audiences. Next, moving to aspects of persuasion in the area of business and intercultural communication, we can see how promotional genres in the area of banking vary from one country to another. On this topic, DANIEL GALLEGO-HERNÁNDEZ's chapter provides a detailed contrastive genre analysis of promotional banking texts in French and Spanish. He finds that certain persuasive functions are operationalized differently in the two different cultural spheres, partly because of the potential each language offers for interactional discourse, and partly because of the different way these genres have developed in these two cultural spaces. His chapter brings out the metadiscursive schemata underpinning interactional devices in the two languages, and demonstrates how persuasive messages engage the reader in each case.

Gallego-Hernández's work is followed by two chapters which address the world of Alternative Dispute Resolution (ADR), which is now taking on increasing importance particularly in the international sphere. MAURIZIO GOTTI's chapter provides an explanation of hybridization between the process of arbitration and mediation/conciliation in Asian countries, centring particularly on China, where mediation and conciliation are culturally favoured forms of dispute resolution, since they enable businesspeople to maintain two important aspects of face, namely authoritativeness and trust within the business community. He argues that the principles of harmony and conflict avoidance based on the Confucian tradition may account for the preference for mediation and conciliation in this context, and his analysis of Chinese legislative texts shows that hybrid options are explicitly admitted. The cultural contrast with European legal traditions brings out the importance of flexibility and persuasion in the eastern hemisphere, as opposed to the adversarial or inquisitorial systems favoured in the west. DIANA GINER also looks at ADR, but in the more familiar context of international investment arbitration. Her chapter investigates arbitral awards in terms of intensifying and mitigating strategies, as well as attitude and gradability. In the argumentative stages of the awards, the facts of the confrontation are presented in such a way as to create intensified or weakened arguments. Arbitrators do not commit themselves equally to

every assertion in the document, and maintain a cautious tone at times, although a firm stance is needed when presenting the final decisions. Importantly, since arbitration has a consensual basis, these awards pay similar amounts of attention to both parties' arguments. This serves the important function of showing parties that the arbitrators have taken their position into account, which is a way in which the arbitrators can maintain their credibility with parties even in the case of unfavourable resolutions. Her chapter provides an overview of the most important persuasive techniques used in these arbitral awards.

On a different note, JUAN CARLOS PALMER-SILVEIRA's study of companies' self-presentation on English-language corporate webpages and LinkedIn accounts presents a contrast between companies established in English-speaking countries and those of international firms. On the strength of an empirical analysis, he is able to show that the people who create social media and web information about companies seem to be following the rules established by traditional advertising for promotional purposes. This sheds interesting light on current commercial practices, and also provides useful points of comparison with other chapters in the present volume.

After this, CARMEN SANCHO GUINDA's chapter looks at the persuasive strategies adopted in the area of risk communication, where technical writers attempt to mould people's concepts of danger with a view to preventing unsafe behaviours. She analyses the aviation accident dockets (summaries) issued by the transportation safety authorities in the USA, which are intended to make information about accidents accessible to the public at large. These texts deviate significantly from conventional formats for accident reporting, as they include hyperlinks, animations, eye-witness accounts and multimodal information. Such artefacts combine a wide range of strategies to convey their message, and Sancho argues that this approach is underpinned by the principles of autonomy (offering readers a choice), completeness (manifested in a panoply of different genres) and flexibility (adaptation to different levels of expertise and interest). By combining disparate modes and registers – objectivity and subjectivity, orality and literacy, prescription and performativity, and scientific and personal narrative – the dockets retain the primary social communicative purpose of the accident report,

which is to identify errors and prevent future incidents, but also play a more complex role in disseminating information to the public at large, thereby meeting the democratic demand for greater accountability.

Finally, in the last chapter in this volume, we return to the area of judicial discourse, which forms the subject of the chapter by HOLLY VASS on Supreme Court majority and dissenting opinions. The Supreme Court opinion has a wide potential readership including other judges, policy makers, academics and the media, since it is recognized as one of the key law-making genres in the US Common Law system. She examines how Supreme Court judges use hedging devices to balance the expression of authority with the need to convince. By careful discursive manoeuvring, judges can cast epistemic doubt on others' arguments, while providing suitable nuances within their own argumentation. This is particularly true in the case of dissenting opinions, since judges who disagree with their peers have to balance respect for the legal system and for their colleagues against clear expression of what they perceive to be an erroneous decision. For this reason, unlike ordinary judgments which tend to be authoritative in tone (see Monzó-Nebot this volume), such decisions are likely to contain a considerable amount of hedging, as the writer attempts to negotiate the hazardous territory of dissent by tempering criticism with persuasion.

Regarding methodology, the chapters in this book exhibit a wide range of strategies for the analysis of discourse in professional contexts. Various chapters make use of corpus linguistics, with analysis of keywords and clusters (Bocanegra-Valle) or analysis of metadiscursive markers (Palmer-Silveira, Vass, Carter-Thomas and Rowley-Jolivet). Particularly innovative in this sense is the analysis of key parts of speech offered by Pérez-Paredes, which opens up interesting perspectives for future work. Other authors undertake multimodal analyses on a fascinating range of data (Garzone, Sancho Guinda, Bhatia and Bhatia). On the other hand, some authors adopt strictly qualitative discourse analytical techniques in order to conduct a detailed exploration of particular texts or genres (Fage-Butler, Monzó-Nebot, Gotti). These complementary approaches enable readers to come to their own conclusions as to the usefulness of each method for exploring aspects such as interpersonality and interdiscursivity, and for dealing appropriately with larger and smaller volumes of text.

5. Towards a ‘new power’ in specialized discourse?

Finally, we would like to leave a door open to hint at the changes brought about by what we conceive as a historical shift in power which is taking place with globalization and the advent of the Internet era. In recent years, a particular perspective has also emerged in genre studies, a product of Bhatia’s own evolution in the way to contemplate genre theory (Bhatia 2004, 2008, 2012): Critical Genre Analysis (CGA), resulting from the fusion of two fields, Genre Analysis and Critical Discourse Analysis. Without specifically denouncing manipulative practices, Bhatia advocates a critical approach to the study of genre language as critical discourse, language as social control, and language in and as social interaction (Bhatia 2004), to later focus on a multiperspective and multidimensional methodological framework where interdiscursivity and asymmetrical power relations (Bhatia 2008) are seen as ways of ‘demystifying’ professional practice through the medium of genres (Bhatia 2012, 2016; Fage-Butler this volume).

Schubert (2012: 19) affirms that “scholarly disciplines emerge, develop, shift and expand”, and specialized communication studies are not an exception. Interesting changes are coming for professions, in a world where media publishers are losing their power to social media users and bloggers, consumers of products are taking the lead and power shifts occur from shareholders to consumers and from multinationals to start-ups. Even in the legal field this power shift is evident, as underlined by Salmi-Tolonen (2011b: 1):

The trend today is towards a more pluralistic view of law that includes not only rules made by state legislatures but also a new body of rules, practices and processes by private actors, firms, NGOs, and independent experts like technical standard setters and epistemic communities, either exercising autonomous regulatory power or implementing delegated power conferred by international law or national legislation.

We are experiencing what Anesa/Fage-Butler (2015) call a process of ‘co-construction of knowledge’ with multi-source networks of exchanges and new communicative dynamisms where an incipient heterogeneity through social platforms and popularization through forums is

evident in the voices of professional discourse. Whether, and to what extent, this shift to a ‘new power’ will translate into a more egalitarian and communal approach to authority in specialized discourse, and, hence, into less authoritarian, less ideologized genres, giving way to ‘heterogloss dialogicality’ (Sancho Guinda *et al.* 2014: 29), is still a conundrum to be solved in the (rapidly) coming years.

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Power through Manipulation

Interdiscursive Manipulation in Media Reporting: The Case of the Panama Papers in India

1. Introduction

Manipulation and mystification of information in professional contexts are a well-known phenomenon, of which some of the prime examples are courtroom examination, insurance policy disclaimers, corporate disclosure documents, advertisements and advertorials, public policy documents, small print in credit card policies, and even media reports, to some extent. News media often manipulate unverified claims, hearsay, or unconfirmed half-truths to influence public opinion in an attempt to sensationalize media representations, often circumventing ethical and sometimes even legal constraints. This kind of manipulation of information is particularly seen operating in the contexts of what is popularly known as investigative journalism.

This chapter is based on a corpus of media reports in India in the context of information recently made public in the Panama Papers through which more than eleven million documents disclose inside information from Mossack Fonseca, a law firm based in Panama. It focuses on some of the communicative devices and rhetorical strategies employed in the exploitation of their media power to create new hybrid genres, which creatively combine speculative information within the scope of factual reports in an attempt to attract a wider readership.

2. Background

Mossack Fonseca, a Panama-based law firm in the business of making it possible for international clients to park their assets in offshore shelters, created an uproar in the financial world when more than eleven million documents, dating from 1977 to 2015, were leaked through an anonymous source and reported by the German newspaper *Süddeutsche Zeitung*, which, in turn, collaborated with the International Consortium of Investigative Journalists (ICIJ) to organize a global reporting unit to analyse the data. These documents, popularly known as the ‘Panama Papers’, provided extensive information about cash transfers, company formations, links between companies and individuals, etc., all of which, even if taken as factual, have limitations of various kinds, some of which we shall discuss later in the chapter. It is true that the Panama Papers controversy highlights the unethical and often illegal aspects of financial transactions made possible by the offshore system created and supported by companies like Mossack Fonseca. The system, in principle, allows potential culprits to hide their often dubiously earned wealth in secret destinations in order to avoid taxation in their own jurisdictions. The company’s corporate slogan itself is very telling of its mission to help the rich stay rich: “Wealth management as you deserve it.”¹

It is not, of course, illegal in most jurisdictions to set up an offshore firm, with many elite individuals using company structures for legitimate reasons. According to Mossack Fonseca’s brochure, the law firm specializes in “trust services, investor advisory, offshore/onshore structures, commercial law and asset protection.”² Its main role is that of an incorporation agent fully licensed by various tax havens, such as the Bahamas, Seychelles, and British Virgin Islands, to register companies in such locations. If a client wishes to set up an offshore firm or trust, Mossack Fonseca makes it possible for them to do so by managing the required paperwork for a fee and an annual service charge. It can even set up bank accounts and provide nominee office bearers for

1 <<http://www.madebychameleon.com/2016/04/15/mossack-fonseca-wealth-management-comms-deserve/>>. All the websites mentioned in this chapter were last visited on 3 January 2017, unless stated otherwise.

2 <<http://www.mossfon.com/>>.

clients. It is fair to claim that much of this can be legitimately clean and legal, especially as the company claims to comply with international protocols to ensure that its clients' assets are not used for money laundering, tax dodging or other illicit purposes. However, the leaked documents, in a number of cases, do seem to bring into focus a hidden world that seems to facilitate criminal intents, money laundering and a system of tax evasion.

This aspect has also been emphasized by several political leaders, including former US President Barack Obama, who highlighted a need to have not only stringent measures to curb tax avoidance, but also stricter implementation. However, it is also true that these documents simply seem to give some information about the people, both famous and infamous, celebrities and politicians, socialites and business magnates, international arms smugglers, and drug dealers, outcast states, such as North Korea and Syria, as well as institutions, organisations, and corporations investing in off-shore companies to hide their wealth in order to minimize their tax burden or even avoid it completely, which in many cases may be a legitimate legally permissible investment activity. The documents do not claim in any way, except by speculation, that the invested resources necessarily involve money laundering or tax avoidance.

In the context of this large-scale leakage of the Panama Papers, it is quite legitimate for interested people to expect the media to report factually relevant and evidence-based information and not misinform or mislead interested audiences. Any kind of speculative stance, particularly in a case like this one, is beyond the scope of factual reporting; however, as is frequently seen in the news media in various countries, most newspapers tend to go beyond their calling to incorporate speculative indications, and in some cases, statements to implicate individuals, organizations, corporations, and other institutions in an attempt to attract audience attention. Based on a corpus of media reports in India in the aftermath of the Panama Papers controversy, this chapter will focus on some of the communicative devices and strategies, in particular the use of linguistic, rhetorical as well as other text-external resources employed in the exploitation of their media power to create new hybrid genres, which creatively combine speculative information within the scope of factual genres in an attempt to manipulate or even sensationalize news reporting to attract wider readership.

3. Theoretical considerations

We integrate Bhatia's (2015) framework for the construction of discursive illusions and Critical Genre Analysis (Bhatia 2008, 2010, 2017) to analyse genre as interdiscursive performance in professional, institutional, and other new media genres. We would like to emphasize that 'interdiscursivity', as appropriation of text-external generic resources, plays a key role in the construction, interpretation, use and exploitation of media genres to attract and influence wider audiences. Candlin and Maley (1997: 203) echo a similar view when they claim that discourses can be:

made internally viable by the incorporation of such *intertextual* and *interdiscursive* elements [...] Evolving discourses are thus intertextual in that they manifest a plurality of text sources [...] but] as any characteristic text evokes a particular discursive value, in that it is associated with some institutional and social meaning, such evolving discourses are at the same time interdiscursive.

As a result of such appropriations, many of these novel and creative responses, Bhatia (2017) points out, are hybrids of various kinds, which may include mixing, embedding and even bending of genres. Interdiscursivity is, thus, seen as a key resource used in various forms of professional settings, subsequently leading to several other creative hybrids such as advertorials, infomercials, sponsored features.

Bhatia (2017) further considers 'management of interdiscursive space' as an important aspect of appropriation of text-external semiotic resources, which also leads to the formation of hybrids simultaneously serving at least two communicative purposes. We would like to extend this phenomenon of interdiscursive appropriation of discursive and generic resources to argue that it also plays a significant role in the reporting of news on specific issues in order to serve more than one communicative purpose; firstly, to objectively report events, or more appropriately, to create an illusion of objectivity, and often to mix this kind of so-called factual reporting with an attempt to sell it to a wider readership by manipulating the anticipated response from audiences.

4. Manipulation in news reporting

Manipulation, as Cialdini (2001: x) points out is “the ability to produce a distinct kind of automatic, mindless compliance from people, that is, a willingness to say yes without thinking first”. Discursive manipulation in mass media is generally seen as a function of editorial bias, which makes use of a number of different strategies for different effects. The most prominent of these is sensationalism, primarily seen in tabloids, but often selectively used in broadsheets as well, depending upon the nature, timing, and newsworthiness of the news item. Closely related to this kind of editorial bias is market-driven yellow journalism, which rarely presents well-researched evidence-based news reports, and often goes for entertaining and seducing a wider readership, thus discursively constructing a hybrid genre which mixes the information-giving function with the entertainment function. Such hybridity in news and entertainment reporting has been established over the years as ‘infotainment’, which has its own distinct style and use of strategies such as exaggeration and speculation. In sensationalism, every-day happenings reported in the news are exaggerated to present a biased impression, and can be seen as manipulation of the truth of the story in focus. The main motivation for sensationalizing news reports is to increase readership in order to collect higher revenues in advertising, which sometimes leads to less objective reporting (Zaller 1999). In more recent times, traditional news reporting, in particular, the print newspapers, have come up against severe competition from advertising in new media, necessitating a more aggressive editorial approach in the pursuit of advertising dollars, possible only with increased readership. Till recently, this hybridity was exclusively seen in tabloids; today, however, this aspect of manipulation is widely viewed in some of the most respected broadsheets and national dailies globally. Some of the most glaring examples are provided by political and film celebrity scandals, especially as regards their personal misdemeanours. The private lives of famous individuals are increasingly being brought into focus in the public space, thus creating interesting opportunities for genre-mixing and embedding (Bhatia 2010, 2017). The media representations of the Bill Clinton and Monica Lewinsky in the US, and also globally, are a case in point. In

more recent times, the divorce of Brad Pitt and Angelina Jolie, a purely private matter, became the object of intense media attention, as in the following report from *The Sun* (November 10, 2016):

CUSTODY BATTLE BOMBSHELL

Brad Pitt and Angelina Jolie's divorce takes a dramatic turn after rumours emerge Brad has 'dynamite' tapes that could embarrass actress³

It is interesting to note that every word used in the headline, such as BATTLE BOMBSHELL, written in capitals for emphasis, and then “a dramatic turn” based on “rumours” that Brad has “dynamite” tapes that “could embarrass actress”, heightens the impact of the actual event to manipulate audiences’ reactions by making it more interesting rather than objectively informative. One may legitimately ask whether it is not the duty of the newspaper to investigate and report news events as objectively as they unfold, using first-hand primary sources, rather than giving a biased spin on the story. Although newspapers have all the freedom to select and focus on stories concerning politicians, film celebrities, sports stars, and other public figures – which could cause potential embarrassment or even defamation –, they still, it could be argued, have some ethical commitment to research through reliable sources before presenting news stories as objective fact, not to mention legal issues. In practice, however, newspapers do not hesitate to relax the requirements of factual accuracy to re-conceptualize a story in a manner that will attract a wider readership. The Panama Papers controversy offered most news agencies and media houses all over the world an opportunity to mix the conventional seriousness of financial reporting with emotional spin on celebrity stories to manipulate objectivity in their reporting.

3 <<https://www.thesun.co.uk/tvandshowbiz/2161344/brad-pitt-and-angelina-jolies-divorce-takes-a-dramatic-turn-after-rumours-emerge-brad-has-dynamite-tapes-that-could-embarrass-actress/>>.

5. Analysis of the Panama Papers

We would like to take specific instances of interdiscursive performance from a range of newspapers published in India to investigate the nature and extent to which appropriation of lexico-grammatical and other rhetorical and semiotic resources takes effect within the margins of discursive space available for news reporting. As already pointed out earlier, the context for the study is the recent release of what are popularly known as ‘the Panama Papers’. Let us begin with a report in *The Guardian* published on 8 April 2016⁴. It makes use of several pictures, including the one which symbolizes the effect of the massive leakage:

PANAMA PAPERS: A SPECIAL INVESTIGATION

Mossack Fonseca: inside the firm that helps the super-rich hide their money



Lightning in Panama City. The Panama Papers leak has rocked the world of offshore secrecy.

Photograph: Marcos Delgado/EPA

The effect of this massive “leakage” is being compared to “lightning”, “rocking the world of offshore secrecy”, each word loaded with implications of negativity, wrongdoing, scandalous actions of the “super rich”, none of which has been factually claimed in the leakage. And this was not an isolated phenomenon confined to just one newspaper. The International Consortium of Investigating Journalists (ICIJ)⁵ itself reports the leakage in the following words:

4 <<https://www.theguardian.com/news/2016/apr/08/mossack-fonseca-law-firm-hide-money-panama-papers#img-10>>.

5 <<https://panamapapers.icij.org/20160403-panama-papers-global-overview.html>>.

GIANT LEAK OF OFFSHORE FINANCIAL RECORDS EXPOSES
GLOBAL ARRAY OF CRIME AND CORRUPTION

Millions of documents show heads of state, criminals and celebrities using secret hideaways in tax havens

In this example, consider the negative representation of the participants involved in the controversy, and the implied criminality and corruption on their part through expressions such as “exposes”, “global array of crime and corruption”, “secret hideaways” and “tax havens”. It must be noted that ICIJ seems to be somewhat more careful in its claims when it mentions an anonymous whistle-blower, emphasizing that the real motivation for this leakage was what it referred to as “the most compelling questions of our time”, thus raising the level of reporting to much higher social issues:

THE PANAMA PAPERS

Politicians, Criminals, and the Rogue Industry That Hides Their Cash

Full text of Panama Papers’ whistleblower’s manifesto: Income inequality one of defining issues of our time

*Panama Papers’ whistleblower is still anonymous. However, he’s written a manifesto, explaining why he leaked the documents and how Panama Papers answers some of the most compelling questions of our time.*⁶

It is also interesting to note the clever use of interdiscursivity in the report above. ICIJ does seem to make an unequivocally strong claim about the kinds of people it identifies: politicians, criminals, the rogue industry, all involved in the illegal activities of hiding their cash in order to evade income tax. However, it also makes an effort to balance it out by using the voice of an anonymous whistle-blower, whose motive seems to be more ethical and social, i.e., income inequality, which it is claimed is one of the defining issues of our time and affects all of us. The leak also prompts expert voices from the field of economics and finance to raise concerns about this kind of large-scale investment irregularity. ICIJ brings in an economist from University of California, Berkeley:

6 <<http://www.dnaindia.com/money/report-full-text-of-panama-papers-whistleblower-s-manifesto-income-inequality-one-of-defining-issues-of-our-time-2210085>>.

“These findings show how deeply ingrained harmful practices and criminality are in the offshore world,” said Gabriel Zucman, an economist at the University of California, Berkeley and author of *The Hidden Wealth of Nations: The Scourge of Tax Havens*. Zucman, who was briefed on the media partners’ investigation, said the release of the leaked documents should prompt governments to seek “concrete sanctions” against jurisdictions and institutions that peddle offshore secrecy⁷.

However, in a typical corporate interdiscursive style (see Bhatia 2008), ICIJ also issued the following disclaimer: “We do not intend to suggest or imply that any persons, companies or other entities included in the ICIJ Offshore Leaks Database have broken the law or otherwise acted improperly”, the body said on its web portal as part of the disclaimer on the release of the offshore leaks database⁸.

On the other hand, Raghuram Rajan, the Reserve Bank of India Governor, argues for the use of caution in assigning any blame or wrongdoing, when he says:

Panama Papers: Not all accounts are illegitimate, says Raghuram Rajan.⁹

Panama Papers leak: It is extremely important to sustain legitimacy of wealth, says Raghuram Rajan.¹⁰

It is interesting to note that newspapers, often through interdiscursive attributions, bring in expert voices to emphasize a sense of authenticity and seeming factuality in their reporting acts. Other similar headlines from a number of newspapers in India reflected similar trends, some of which included an overwhelming focus on naming and shaming individuals, bringing into focus the rich and famous, in particular Bollywood celebrities, big industrialists, and corrupt politicians. Let us look at some of the typical examples:

7 <<https://panamapapers.icij.org/20160403-panama-papers-global-overview.html>>.

8 <<https://offshoreleaks.icij.org/>>.

9 <http://economictimes.indiatimes.com/news/politics-and-nation/panama-papers-not-all-accounts-are-illegitimate-says-raghuram-rajjan/articleshow/51695801.cms?utm_source=contentofinter>.

10 <<http://economictimes.indiatimes.com/news/politics-and-nation/panama-papers-not-all-accounts-are-illegitimate-says-raghuram-rajjan/articleshow/51695801.cms>>.

- Indians in #PanamaPapers list: Aishwarya Rai, Amitabh Bachchan, KP Singh, Iqbal Mirchi, Adani elder brother.¹¹
- #PanamaPapersIndia Part 3: Bellary baron, tank tycoon, top industrialist.¹²
- Bollywood Actor Ajay Devgan's Name Surfaces in Panama Papers.¹³

One may legitimately ask why newspapers highlight film stars, and not others mentioned in the papers. This requires an understanding of the extent of fascination that Indian audiences have with the Bollywood film personalities, some of whom are regarded almost as gods, and naming and shaming them is considered supremely sensational.

As soon as the names of celebrities started appearing in news reports, many immediately started responding to them by offering explanations, clarifications, and justifications to clear their names, while at the same time, however implicitly, recognizing the validity of such claims and disclosures. Some of the typical explanations include “Offshore firm has no assets”, “NRIs (Non Resident Indians) don't need to inform RBI (Reserve Bank of India)”, “know of no such company”, “wondering how name figured in Mossack Fonseca list”, etc. Let us look at some of these clarifications.

- Amitabh Bachchan Responds to Amar Singh's Panama Papers Comment.¹⁴
- Panama papers: investments legal, say Indian investors.¹⁵
- Panama Papers: Ajay Devgan owned offshore company; says it was legal.¹⁶

The mention of film celebrities was so effective that most of these film stars lost no time in offering such clarificatory responses in order to offset any damage to their reputation and public image. On the other

11 <<http://indianexpress.com/article/india/india-news-india/panama-papers-list-amar-singh-responds-to-panama-papers-comment/>>.

12 <<http://indianexpress.com/article/india/india-news-india/panama-papers-india-list-part-5-satya-prakash-gupta-gargi-barooah-ankita-sehgal-nimitt-rai-tiwari/>>.

13 <<http://www.huffingtonpost.in/2016/05/04/bollywood-actor-ajay-devgans-name-surfaces-in-panama-papers/>>.

14 <http://businessofcinema.com/bollywood_news/amitabh-bachchan-responds-amar-singhs-panama-papers-comment/310538>.

15 <<http://www.thehindu.com/news/national/panama-papers-investments-legal-say-indian-investors/article8434255.ece>>.

16 <<http://www.ibtimes.co.in/panama-papers-ajay-devgn-owned-offshore-company-says-it-was-legal-677357>>.

hand, uptakes by concerned authorities also took the turn towards giving verdicts, judgments, and demands for further actions.

- Panama Papers: Why don't we show the same irreverence to dishonest celebrities as crooked netas?¹⁷

It is interesting to see someone raising the issue of treating Bollywood celebrities the way we often treat corrupt “netas”, i.e., political leaders, implying that newspapers must be impartial when it comes to shaming the corrupt, whoever they may be.

As we discussed above, headlines play a major role in reader attraction, and that is one of the main reasons why headlines are often made increasingly sensational. In the present corpus, we now look at some of the reports in more detail in order to understand how investigative reports are manipulated to sensationalize the effect on readers. In particular, we examine the extent to which expressions of negativity, speculation about involvement in financial scandals, money laundering, tax evasion, etc., are exploited to manipulate insinuations based on leakage of the Panama Papers.

- (1) PANAMA PAPERS:
MOSSACK FONSECA LEAK REVEALS ELITE'S TAX HAVENS



Eleven million documents were leaked from one of the world's most secretive companies, Panamanian law firm Mossack Fonseca. They show how Mossack Fonseca has helped clients launder money, dodge sanctions and avoid tax. The company says it has operated beyond reproach for 40 years and has never been charged with criminal wrong-doing. (BBC News, 4/4/16)

17 <<https://www.google.com.hk/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#safe=active&q=%E2%80%A2%09RBI+asks+banks+for+de+tails+of+money+sent+abroad+by+those+named+in+Panama+papers:+Indian+Express>>.

The above extract negatively represents the actions of the company by amplifying them in a number of ways: firstly, by drawing on a string of phrases and words that fall into a semantic category depicting wrong-doing ('launder', 'dodge', 'avoid', 'beyond reproach'); secondly, by using legal terminology ('sanctions', 'criminal'), which offers an implied correlation between the company's unethical practices and illegal actions; and thirdly, through quantification by using numerical forms, such as the reporting of 'eleven' million documents and a history of 40 years, both of which emphasize the prolonged nature of the undesirable practices. In this case, by making "accountable connections between something in the present and something in the past, uniting the two in a figure-ground relationship" (Leudar/Nekvapil 2011: 72), the report serves the purpose of tainting and raising doubts on the company's reputation of having "never been charged with criminal wrong-doing".

It is interesting to note that in the media reports in some of the most prominent English newspapers published in India – in particular the first report that appeared in *Indian Express* (on 5th April 2016), which has been collaborating with the International Consortium of Investigating Journalists (ICIJ) as one of its partners – we find several newsworthy public figures highlighted. They are not mentioned necessarily because their names appear in the Panama Papers, but more so because of their celebrity status and considerable media presence in India. The headlines highlighting such public figures run as follows:

- (2) Indians in [#PanamaPapers](#) list: [Aishwarya Rai](#), [Amitabh Bachchan](#), KP Singh, Iqbal Mirchi, Adani elder brother
- (3) [#PanamaPapersIndia](#) Part 1: Clients who knocked on a Panama door (*Indian Express*, 5/4/16)
- (4) [#PanamaPapersIndia](#) Part 3: Bellary baron, tank tycoon, top industrialist (*Indian Express* 7/4/16)

In the above extracts, use of a hashtag ([#PanamaPapers](#), [#PanamaPapersIndia](#)) when referencing the issue implies the sensational, viral nature of the news topic, but more importantly, through the indication of its viral nature, the collective consent that the particular perspective on the issue of the Panama Papers has achieved, namely the illegal

nature of the actions, and the unethical behaviour of the elites involved. The use of hashtags in this instance can be seen as very telling of a collective belief which has the potential over time to naturalize into social consciousness. The proliferation of such a hashtag, the attempt to make a topic popular, not only demonstrates the powerful hegemonic nature of news media particularly, but also shows that more specific proliferated representations of reality can go on to be recognized as the dominant framework within which understanding of a particular topic operates (Bhatia 2015).

- (5) Biggest leak of over 11 million documents of Panama law firm features over 500 Indians linked to offshore firms, finds 8-month investigation by a team of The Indian Express led by Ritu Sarin, Executive Editor (News & Investigations).



More than 11 million documents from the secret files of Mossack Fonseca, a law firm headquartered in tax haven Panama, known for its factory-like production of offshore companies for its worldwide clientele of the well-heeled. These records reveal a list of individuals who have paid the firm – and bought the benefits of the secretive, lax regulatory system in which it operates – to set up offshore entities in tax havens around the world [...]. (*Indian Express*, 5/4/16)

We also see again here the use of quantification whereby an “8-month investigation” revealed the presence of “500 Indians” in “11 million documents”, the use of numerals here drawing on the traditional use of the Aristotelian notion of logos, i.e., logic or reasoning to persuade readers of the objectivity of the report. This can be juxtaposed with the relatively metaphorical language which precedes, whereby the “well-heeled” Indians (visually associated with the image of four well-heeled

Indian elites) knowingly “paid the firm”, which is “known for its factory-like production” of offshore companies, in order to enjoy the “benefits of the secretive, lax regulatory system”. Metaphorical rhetoric in the news report here introduces the paradoxical combination of clarity and ambiguity necessary to present a subjective representation of the event as impartial and objective. Metaphor in news discourse can often be seen to play an important part “in negotiating and popularizing an understanding of poorly known phenomena” (Zinken 2003: 507). It is not simply about renaming (cf. Cameron 1999) but rather about reconceptualizing an experience/event, thus proving a useful tool in persuasive discourse since it negotiates between cognition (conscious) and emotion (unconscious) creating “a moral perspective on life” (Charteris-Black 2005: 13).

- (6) But Panama also makes its income by offering safe harbour to the shell companies of the world's rich. Because its laws are relatively lax and the taxes are close to zero, the super-rich can park their cash here for a tax holiday, assured that they'll be offered discretion and privacy. An official of the notorious and now defunct Bank for Credit and Commerce International (BCCI) once said that you could walk in with ten million dollars in cash to their Panamanian branch and they would accept it... and open an account for you. No questions asked. (Bangalore Mirror, 13/5/16)

The above, like Extract 5, negatively represents Panama by reconceptualizing the leaked papers scandal into an elaborate metaphor which implies no regret on the part of the wrong-doers for their actions. Panama is personified as an accomplice to the “super-rich” to whom it offers “safe harbour” so that they can “park their cash” for a “tax holiday”. The relaxed holiday metaphor implies lack of guilt on the part of Panama and the “world's rich” who partner with “notorious” companies. The metaphor here is a useful tool in persuasive discourse as it tends to negotiate between cognition and emotion, thus triggering emotional connotations. It is not necessary that during the process one is consciously aware of this trigger or transference, since often these connotations have an emotional basis, and it is this characteristic of metaphor that tends to establish the evolution and growth of our understanding of social, cultural and political realities. Furthermore, by connecting the present event with practices from the past of “defunct” intuitions (“BCCI once said... no questions asked”) the news report begins to

situate current activities in history through reference to the past, even if in an ambiguous manner. These historical details layer “the descriptions of people and activities – providing them with meanings they would not have had otherwise” (Leudar/Nekvapil (2011: 80).

- (7) Panama is a tax haven par excellence and routinely figures in corruption scandals worldwide whether they are linked to armaments, petro-dollars, commodities or black money evading tax. The Bofors payoffs were made via a Panama-based company and the current exposé led in India by the Indian Express has many prominent names all of whom have denied any wrong-doing and all are cooperating with the law. As we wait with bated breath for law to takes its course [...]. (The News Minute, 12/4/16)

Extract 7 goes further in its depiction of, again, a personified Panama using hyperbole and metaphor to characterize a country that is a “tax haven par excellence”, the adjective insinuating expertise on the part of Panama in “offering safe harbour to the shell companies” (Extract 6). Once again, Panama’s ‘guilt’ is established through the linking of its past involvement in “corruption scandals” with the “current exposé”. In this case, the intentions and actions of the different groups involved are interpreted through the re-contextualization of other “scandals”, including “armaments, petro-dollars, commodities or black money” and the “Bofors payoffs”. Such re-contextualization illustrates how the news reports can creatively render the meaning of events through highlighting or suppressing connections between the past and present in order to justify and reinforce assumptions. This has the repercussion of transforming history into an apparatus or tool of sorts, through which discourse clans (Bhatia 2015), to whatever socio-political end, can – knowingly and unknowingly – associate or disassociate the here-and-now with the past. In doing so, the article thus casts doubt on the many “prominent names all of whom have denied any wrong-doing” and are “cooperating with the law”. Here the use of “bated breath” in the wait for the “law to take its course” insinuates that Panama has “routinely” gotten away with such scandals in the past. This is what Laclau (2005) refers to as the ‘representative matrix’, that is, “a certain particularity which assumes a function of universal representation; the distortion of the identity of this particularity through the constitution of equivalential

chains; the popular camp resulting from these substitutions presenting itself as representing society as a whole” (Laclau, 2005: 48)

While some news reports played up the role that Panama played in the corruption scandal, others put more specific faces to the ‘super-rich’ (Extract 6).

- (8) The Panama Papers scandal appears to have weakened Bollywood superstar Amitabh Bachchan’s chances of becoming the face of Incredible India, the tourism industry’s main publicity campaign that targets global audiences. A source in the ministry said the government has put Bachchan’s name on hold and is now looking at other celebrities. (Hindustan Times, 19/4/16)
- (9) If you didn’t know the name of the Prime Minister of Iceland now is your chance to top up your GK. The name of Sigmundur David Gunnlaugsson, the Iceland PM, figures prominently in the seemingly endless list of luminaries who have used the good offices of the Panama-based law firm Mossack Fonseca to hide their wealth, or at least some of it, from the prying eyes of taxmen and other interested parties. Thereby doing their bit to live up to the epitaph “filthy rich” that we the less fortunate like to grant them. (Firstpost, 5/4/16)

The extracts above put specific faces to the “world’s rich” (Extract 6), namely “Bollywood superstar Amitabh Bachchan” (Extract 8) and “Sigmundur David Gunnlaugsson” (Extract 9). In both extracts the fall of these “luminaries” (Extract 9) is demonstrated through their stated credentials (“superstar”, “face of Incredible India”, “Prime Minister of Iceland”), and the assumed subsequent loss of them (“weakened chances”, “name on hold”, “Iceland PM figures prominently [...] used good offices of the Panama-based law firm”). The writer of the article positions himself and, through the use of the inclusive pronoun *we*, the readers as being on the opposite end of the category pair of the “filthy rich” and the “less fortunate”, with the latter being in a position to pass judgement through words implying corruption (“used”, “hide”, “prying”, “filthy rich”). The implementation here of such a delineating *us* vs. *them* category-pair is a fairly common feature of media discourse, whereby through such a “standardized relational pair [...] one part of the pair in interaction invokes the other [...] in terms of typical expectations that incumbents of one category have of incumbents of the other” (Leudar *et al.* 2004: 245). Categorization in this case lays ground for future action (“wait with bated breath for law to take its course”,

Extract 7; “government has put Bachchan’s name on hold”, Extract 8), amplifies the scale of an event (“#PanamaPapers”, Extracts 2–4; “corruption scandal”, “current exposé”, Extract 7; “Panama Papers scandal”, Extract 8), provides grounds for assessment (“doing their bit to live up to the epitaph ‘filthy rich’ that we the less fortunate like to grant them”, Extract 9), and helps gain moral superiority and retain legitimate power over others. Here we see that “public moral order is built up normatively vis-à-vis the articulation of the aberrant ‘other’” (Lazar/Lazar 2004: 227).

6. Discussion and conclusion

It is interesting to note some of the significant text-external as well as text-internal lexico-grammatical and rhetorical resources (Bhatia 2004, 2010, 2017) and strategies used in the reports based on the Panama Papers to make them attractive to a much wider audience.

6.1. Text-external resources

The most important strategy exploited in these reports, both in the headlines as well as in the reports, is the strategic use of interdiscursive space, one of which is the strategic interdiscursive placement of pictures of film personalities, such as Amitabh Bachchan, and Aishwarya Rai Bachchan, big businessmen, such as K.P. Singh, one of the top property developers in India, and Gautam Adani, who, on his own, may not be so well-known, but is likely to acquire notoriety as the elder brother of a very prominent businessman, known to be close to Prime Minister Narendra Modi. As is evident from this, even if famous personalities have no direct involvement, by implication they are invariably brought in to sensationalize news reports.

Equally important is the use of what in journalism is known as the ‘principle of recency’, which is also popularly known as ‘breaking news’. Yet another strategy popularly used to attract readers is the

use of numbers, as in “Biggest leak” of “11 million documents”. Yet another factor that adds to audience attraction is the choice of main players, such as film and media personalities, famous as well as infamous politicians, corrupt corporate players and the like, who are likely to attract sensational reactions from readers.

Another very important interdiscursive resource that is often exploited to establish the credibility of factual reports is the interdiscursive appropriation from other discourses and voices known to be factual. In this case, the constant reference to the Panama Papers shows how Mossack Fonseca has helped clients: “These records reveal a list of individuals who have paid the firm – and bought the benefits of the secretive, lax regulatory system”.¹⁸ Notice, in particular, the use of the dramatic/historic present tense to establish the truth of the report. In addition, the negative representations of social actions raise concerns about inappropriate financial or business deals, implying that super-rich or wealthy individuals with ‘undeclared’ offshore bank accounts are afraid they might get into undue trouble with tax authorities, and hence might become victims, in that they can be unfairly identified and persecuted.

6.2. Text-internal resources (Lexico-grammatical and rhetorical)

The most significant lexical resources visible in these reports are negatively charged adjectives, such as ‘biggest leak, secret bank accounts’, ‘black money parked overseas’, ‘the secret files’, ‘tax haven’, ‘factory-like production of offshore companies’, ‘worldwide clientele of the well-heeled’, ‘benefits of the secretive, lax regulatory system’, ‘mask real ownership’ etc. Reference to quantifiers to establish objectivity and credibility, such as ‘11 million documents’, ‘500 Indians’, ‘8-month investigation’ etc. is equally important, as they bring in the effect of factuality.

18 <<http://indianexpress.com/article/india/india-news-india/panama-papers-list-amanitabh-bachchan-kp-singh-aishwarya-rai-iqbal-mirchi-adani-brother/>>.

Yet another very effective strategy used is the arousal of curiosity by speculating on involvement in criminal intents, such as, (in example 1 above) “one of the world’s most secretive companies, helped clients launder money, dodge sanctions and avoid tax, factory-like production of offshore companies”. Also speculation on moral values, and criminal intents, with minimal attribution or time specification, such as “leak reveals elite’s tax havens”, is seen as very effective. Similarly, discursive strategies that present information as appearing more important than it really may be (through rhetorical acts, such as exposing, speculating, overgeneralizing, distorting, etc.) can be a sure winner in this game of manipulating of so-called factual reports.

7. Concluding remarks

To conclude, the leaked database for India mentions more than 2,000 individuals, with more than 800 addresses within the country located in some of the biggest metropolitan cities like Delhi, Mumbai, Kolkata and Chennai, including some of the minor locations in various states. As mentioned earlier, the ICIJ qualified the leaked database by mentioning that the information about a particular country may have duplicates as it reiterated that there are legitimate uses for offshore companies and trusts. It also added a disclaimer on the release of the offshore leaks database on their website, which makes clear that there was no explicit intention to claim that the persons, companies, or other entities mentioned in the leaked database were actually involved in or guilty of illegal investments, money laundering, or tax evasion. However, the general impression from the earlier days of reporting in India seems to suggest that there is massive involvement of film and media celebrities, political leaders as well as companies, drug mafia as well as terrorist organisations in clandestine and illegal activities of hiding wealth in offshore accounts, resulting in huge amounts of tax evasion. This is decisively visible in the media reactions in the immediate aftermath of the first leakage. As the euphoria over speculative intent subsided in the last few months, we rarely see any significant media attention to these disclosures, and the uptake

has also become minimal, either due to the large amounts of speculative implication reflected initially in the reports, or because the government executive or judiciary seems to have successfully imposed a sense of rationality onto the whole disclosure activity. Whatever the reason, it seems more or less conclusive that such manipulative and sensational reporting appears to have a relatively brief impact.

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Empowering the Discourse of Globalization in International Organizations: The International Maritime Organization as a Case in Point

1. Introduction

This chapter examines language in public discourse and, more precisely, the way in which the discourse of globalization is constructed by the International Maritime Organization (IMO), an international organization of utmost relevance to the shipping industry. First, I review the literature on institutional discourse and, particularly, on globalization as a key process that nurtures the discourse of power (Fairclough 2001, 2006) and reproduces stances of institutional dominance (Mayr 2008; Simpson/Mayr 2010). Then, I outline the functions and work of the organization under study, IMO. After this, I explain the research procedure and the data set (i.e. fifteen speeches delivered by the IMO's Secretary-General on the occasion of the World Maritime Day). Next, findings are presented and discussed according to four main themes that have emerged from the qualitative analysis of the data set: globalization, leadership, hegemony and legitimation. Finally, some concluding remarks are presented.

2. Background

This study aims to dig into “how dominant groups discursively construct and reproduce their own positions of institutional dominance” (Mayr 2008: 3; Simpson/Mayr 2010: 8) in this time of globalization. IMO

holds a privileged position in the global shipping industry; therefore, it can be argued that, as an international organization or institution,¹ it is “inextricably linked to power” (Simpson/Mayr, 2010: 8). Based on these assumptions, the next two subsections explore the discourse of power and globalization from the perspective of international institutions and organizations, and present IMO as a case in point.

2.1. *The discourse of globalization*

The term and concept of *globalization* emerged in the early 1970s, prominently associated with the expansion of world economies. Since then, and thanks to innovations in information and communication technologies, it has attained widespread acceptance, encompassing a range of social, political and economic changes, and also generating increasingly complex debates (e.g. the internationalization of business activities, the rise of world inequality and poverty, or the globalization of politics, culture, the media, and the law).² In this ‘global age’ (Albrow 1997) language and discourse have important roles to play and the discursive analysis of globalization is today a multidimensional new subject in the debate on globalization (Moghri 2012). As Fairclough (2006: 163) claims, “we cannot adequately understand or analyse globalization as a reality without taking language – discourse – into account” mainly because “both the contents and the forms of globalization have a partly discursive character”. Thus, the “discursive condition” (Franklin/Lury/

1 The study of discourse in organizations has developed as a field of inquiry over the past thirty years (Sharma/Grant 2013) and, along this time, the terms *institution* and *organization* have overlapped and been used interchangeably in the related literature (Mayr 2008; Simpson/Mayr 2010) – the former, however, may be more often associated with the public organs of the state and the latter with commercial corporations. Given its name, IMO is an international organization; nevertheless, it cannot be considered a commercial corporation but rather an institution with an international reach which deals with technical, legal and educational issues. Therefore, the terms *institution* and *institutional* will also be used in this study to refer to IMO.

2 For an outline of the vast scholarly debate pertaining to globalization, see Fiss/Hirsch (2005). For the types of discourse generated by globalization debates, see Robertson/Khondker (1998). For a detailed review of the academic literature on discourse as an element of globalization, see Fairclough (2006).

Stacey 2000: 4) of globalization implies that language is used to extend the benefits of the concept or resist its impact.

In his influential work, Fairclough (2001) claimed that globalization encompassed ‘a new world order’ and that the relations of language and power were most significant in this context. In particular, this scholar coined two differing but complementary expressions: *globalization of discourse* and *discourse of globalization*. The globalization of discourse places language use against a global horizon so that there are international tendencies that affect and shape discourse, and international relations of power frame the discursive practices of particular countries. Together with this, the discourse of globalization works ideologically and is defined as ‘a discourse of power’, that is to say, “a discourse which is used in conjunction with other potent resources [...] by those in power to enhance their power” and also “to globalize the discourse of globalization” (Fairclough 2001: 207). This scholar describes ‘globalization’ as:

[...] a real but incomplete process which benefits some people and hurts others. Those who benefit from it seek to extend it, and one of the resources which they use is a discourse of globalization which represents globalization as not only more complete than it is, but as a simple fact of life which we cannot (if we are sound of mind) dream of questioning or challenging. (Fairclough 2001: 207)

Regardless of individual positions in favour of or against globalization, most people today see the world from a rather international perspective and the term *global* permeates many facets of ordinary life anywhere in the world. Language and discourse have, indeed, contributed to nurturing the globalizing tendencies of societies, and this is being achieved mainly through their media, their politicians and their institutions. In this same vein, Simpson and Mayr (2010) argue that print and broadcast media, legal and advertising discourse, and political and institutional rhetoric all contribute to disseminating power through language.

Particularly at the institutional level, “discourse becomes a powerful tool for influencing and controlling social dynamics, for redefining the *status quo* and for shaping power relations” (Magistro 2010: 157). This occurs, so Magistro (2010) claims, because in many institutions nowadays there are fuzzy boundaries between the private and the public,

and institutional discourse is becoming more marketing-oriented and displaying more promotional practices – hence, this scholar talks about the ‘marketization’ or instrumentalization of discourse in institutional settings. Institutions exercise control (and hence build their power – cf. Fairclough 2001, 2006; Thornborrow 2002; van Dijk 2008a, 2008b; Wodak 2012) “through the discourse of their members” (Simpson/Mayr 2010: 7) and power relations emerge alongside the interactions that take place in institutional settings (Thornborrow 2002). Moreover, they exist “only in so far as their members create them through discourse” (Mumby/Clair 1997: 181). The discourse of globalization in institutional contexts thus assists in constructing, maintaining and reinforcing the power relations of the stakeholders concerned.

2.2. The International Maritime Organization

The International Maritime Organization (IMO) is a specialized agency of the United Nations based in London, which is responsible for the safety and security of shipping as well as the prevention of marine pollution from ships. Other related matters like education and training in maritime professions, the facilitation of international maritime traffic or sustainable maritime development are also of concern to IMO.

Today, the transport of goods by sea accounts for 80 per cent of global trade, making all kinds of supplies available to peoples and communities all over the world. According to IMO (2016), there are more than 50,000 merchant ships trading internationally and dealing with every kind of cargo; the world fleet is registered in over 150 nations and manned by more than a million seafarers of virtually every nationality. These figures attest that shipping is “a truly international industry” (IMO 2016) and, therefore has a major role to play in a globalized context.

IMO was originally established in 1948. To date (November 2016), it is made up of 171 Member States and three Associate Members. Also, 77 international non-governmental and 65 intergovernmental organizations collaborate with IMO in a consultative role or with observer status. IMO’s governing body is the Assembly. It consists of all Member States and elects the Council, which is the executive organ. Five specialist committees and seven sub-committees composed of

representatives of Member States support the work of the Organization.³ The Secretary-General is the head of the Secretariat and is assisted by six Divisional Directors and a staff of around 300 international civil servants. The Secretary-General represents IMO's ideals before the world but, most importantly, is the spokesperson for the interests of the Organization.

IMO has six official languages (Arabic, Chinese, English, French, Russian and Spanish) and three of them also function as 'working languages' (English, French and Spanish). But despite this initially multi-lingual policy, the use of English prevails, both in written and spoken discourse (McEntee-Atalianis 2015).

3. The study

The following subsections present details regarding the origin of the data set, the main features of the target corpus and the way it has been collected and analysed.

3.1. *The World Maritime Day*

Every year around the end of September, IMO celebrates the World Maritime Day (WMD) in an attempt to focus world-wide attention on the importance of shipping, its safety, the marine environment and other maritime-related issues. IMO's natural audience is made up of individual maritime experts and professionals, but also of a variety of governmental bodies, organizations, institutions and related businesses with some role (educational, legal, commercial) in the shipping industry. Thus, the WMD is a good opportunity to address the general public (i.e. non-experts), highlight the Organization's contribution to a global shipping industry and lay particular emphasis on its work and achievements.

3 To know more about the functions and responsibilities of these organs, committees and sub-committees, see IMO (2016).

The WMD features a special message from the Secretary-General addressed to the general public. This speech is delivered in English, it is filmed, and its text and video are usually uploaded on the IMO's home page. A 'background paper' or technical report is also made available on line for a more specialized public (i.e. maritime professionals). Together with the WMD itself, and within the WMD celebrations, a Parallel Event is hosted by a Member State, and other activities and events based on the focus theme are organized throughout the year.⁴

3.2. Data set

The data set under analysis (see Table 1) comprises the full texts of the fifteen WMD speech messages delivered between 2002 and 2016 by four different IMO Secretaries-General: William A. O'Neil from Canada (the longest in office, from 1990 to 2003), Efthimios E. Mitropoulos from Greece (2015–2011), Koji Sekimizu from Japan (2012–2015) and the recently appointed Kitack Lim from the Republic of Korea (2016–present). Although fifteen different themes are addressed, the titles of the messages are themselves a good example of the aims pursued by IMO through the WMD events and the Organization's current priorities: IMO plays a vital role in a rapidly-changing global industry; it is the facilitator and protector of the carriage of goods and people by sea; and the safety and security of maritime transportation, the marine environment and the professionals of the maritime trade are its major priorities.

Table 1. World Maritime Day corpus.

<i>WMD Id</i>	<i>Year</i>	<i>Theme</i>	<i>No. of words</i>
WMD02	2002	IMO – Safer shipping demands a safety culture	1,923
WMD03	2003	IMO: Committed people working for safe, secure and clean seas	2,041
WMD04	2004	IMO 2004: Focus on maritime security	2,108

4 The last WMD to date was held at the IMO headquarters in London on 29 September 2016, and Turkey was the host country of the 2016 Parallel Event held in Istanbul, 4–6 November.

<i>WMD Id</i>	<i>Year</i>	<i>Theme</i>	<i>No. of words</i>
WMD05	2005	International shipping – Carrier of world trade	2,270
WMD06	2006	Technical cooperation: IMO's response to the 2005 World Summit	2,524
WMD07	2007	IMO's response to current environmental challenges	2,617
WMD08	2008	IMO: 60 years in the service of shipping	1,390
WMD09	2009	Climate change: A challenge for IMO too!	1,889
WMD10	2010	2010: Year of the seafarer	1,824
WMD11	2011	Piracy: Orchestrating the response	987
WMD12	2012	IMO: One hundred years after the Titanic	616
WMD13	2013	Sustainable development: IMO's contribution beyond Rio +20	585
WMD14	2014	IMO conventions: Effective implementation	658
WMD15	2015	Maritime education and training	552
WMD16	2016	Shipping: Indispensable to the world	572
		Total no. of words	22,556

As shown in Table 1, the whole corpus amounts to a total of 22,556 words, from the longest message delivered in 2007 (2,617 words) to the shortest in 2015 (552 words). This set of WMD messages begins with the speech delivered in 2002. This year was a turning point in IMO (and many other international organizations) in the light of the terrorist attacks of September 11, 2001. The threat of terrorist acts against ships and maritime transport infrastructures became a serious concern and IMO increased its action to enhance maritime security, protect ships, passengers and crew, and prevent unlawful acts against shipping. Since then, IMO has redoubled efforts to develop a regulatory framework that ensures that “the world relies on a safe, secure and efficient international shipping industry” (IMO 2016). Against this background, I feel that selecting this set of 15 WMD messages might provide a good example of the role played by IMO in the international context to secure ‘a global order’ and, therefore, of its discourse of globalization.

3.3. Data collection and analysis

This qualitative study was conducted in two stages. The first stage was aimed at gathering the target texts and making them technically fit for a closer analysis. By searching the web for WMD messages I could freely access and download the fifteen texts, from IMO's and other maritime-related organizations' websites. Once gathered, I converted the pdf format WMD messages into plain text documents so as to make them ready for software analysis.

The second stage focused on the study of the corpus. I read the texts closely and identified the statements that apparently embodied features of the discourse of globalization (Fairclough 2001, 2006). Then, I used the freeware corpus analysis toolkit *AntConc* (Anthony 2016) to generate a list of all the words and word clusters in the corpus (word list and clusters/n-grams tools) and also check their use in the texts (concordance tool). Thanks to this I could identify a number of words and expressions which appeared recurrently or highlighted key topics in the texts. Both my close reading of the texts and the use of *AntConc* helped me to organize the statements into themes and sub-themes for further scrutiny that concurred with key topics already identified in the existing literature (e.g. Simpson/Mayr 2010). Finally, I examined the initial pool of statements and narrowed down the list to come up with a selection of four main themes (i.e. globalization, leadership, hegemony and legitimation) and their corresponding discourse excerpts.

4. Findings and discussion

The following subsections provide an overview of the findings relating to the discourse of globalization contained in the target WMD messages and discuss these according to the major themes that have emerged from the analysis of the corresponding texts. The examples extracted from the corpus help to illustrate the findings discussed.

4.1. Globalization

Globalization is IMO's backbone. Ships move between countries and navigate lakes, rivers, seas and oceans all over the world. Also, ships are owned, managed and manned by people from many different nationalities. The shipping industry is multinational by nature and, very probably, the most international of all the world's global industries (Bocanegra-Valle 2010, 2013); therefore, IMO was established to cover a global demand, pursues global purposes and exerts a global influence.

The use of the term *global* and its derivatives (e.g. *globalization*, *globe* or *globally*) recurrently appears in the WMD messages. Together with this, the noun *world* and the adjective *international* also occur frequently as alternative options to *global*.⁵ This frequent use of global-related terms is one of the most outstanding features of the discourse of globalization; they are pervasively employed in these messages and, thus, what the IMO's Secretary-General is seeking to do in his speeches is, in Fairclough's (2001) terms, to globalize the discourse of globalization. IMO has a global reach and this is often stressed by the Organization, certain of the fact that the influence of its detailed workings "reaches every corner of the transport industry" (WMD03). As shown in Excerpt 1, IMO is certain of its role in the process of globalization and, moreover, is proud of contributing to extend its influence:

- (1) *Globalization* has transformed *international* commerce, new powers have emerged in shipping and the plethora and thoroughness of measures established by IMO during its 60 years in the service of shipping has provided the bedrock from which a safer and cleaner industry has emerged, one that can continue to develop and flourish. Furthermore, IMO's work has demonstrated, beyond doubt, that *international* standards – developed, agreed, implemented and enforced universally – are the only effective way to regulate such a diverse and truly *international* industry as shipping. (WMD08) [italics added]

IMO takes part in the debates of globalization not only from the perspective of its most immediate contribution to the facilitation and expansion of world economy but also by adopting a socially responsible role (i.e. social utility). Thus, WMD messages contain economy/

5 In particular, the use of *AntConc* shows 78 occurrences for *global*, 82 occurrences for *international* and 136 occurrences for *world*.

trade-related collocates like *global economy*, *global markets*, *global workforce*, *global trade*, *global supply chain*, *global marketplace* or *global transportation* together with others that portray the main concerns of the Organization and that at the same time stress its social utility – e.g. *global society*, *global community*, *global living standards*, *global involvement*, *global unity*, *global prosperity*, *global interdependence*, *global partnership* or *global cooperation*.

Globalization has prompted the work of IMO and, in return, IMO's achievements contribute to a better world (see Excerpt 2):

- (2) The part played by the maritime sector as an enabler of global trade and thereby global prosperity, as well as its direct, beneficial input to many developing economies, has made and continues to make a substantial contribution towards the goal of halving poverty by the year 2015. (WMD06)

The idea that surfaces here and in other speeches (see Excerpt 3) is that there is some kind of 'institutional profit' (Magistro 2010) that arises from globalization; that is, the shipping industry takes advantage of a global context and, in return, the shipping industry represented by the IMO contributes to extending the reach of globalization.⁶ This concurs with Fairclough's (2006: 3) view that in the process of globalization language is "globalizing and globalized".

- (3) We live in a global society which is supported by a global economy – and that economy simply could not function if it were not for ships and the shipping industry. (WMD05)

4.2. Leadership

IMO has the power and ability to lead all shipping industry stakeholders, and this is shown in the discourse employed to address an audience. In this corpus of WMD speeches IMO overtly recognizes itself as a 'leader' (see Excerpt 4) and ostensibly stresses its leading role in the shipping industry and against a global background (see Excerpts 5–6):

6 The potential benefits of a global shipping industry are listed and discussed in the WMD speech delivered in 2005.

- (4) [...] the shipping industry looks to IMO as *the leader* in creating and raising standards. (WMD03) [italics added]
- (5) [...] the Organization intends to maintain *its leading position*, co-operating closely with international shipping and with other relevant UN bodies [...]. (WMD07) [italics added]
- (6) IMO will continue to *take the lead* in supporting it with the appropriate global standards [...]. (WMD13) [italics added]

Together with this, an important discursive strategy to convey this leading power is the personalization of the speech and, particularly, the ways the Secretary-General makes use of his institutional voice: (i) to instil enthusiasm (Excerpt 7); (ii) to display a coordinating role and show support (Excerpt 8); (iii) to communicate the Organization's work and achievements (Excerpt 9); and (iv) to display its power and influence (Excerpt 10).

- (7) *We must generate a new impetus* in shipping to go beyond compliance with regulations *and explore* industry-wide mechanisms to ensure the safety culture is embedded throughout the entire industry. (WMD12) [italics added]
- (8) After all, it was thanks to the *strenuous and concerted efforts* of the same Governments, *working together* under the aegis of the Organization, over long periods of time, that these Conventions were developed and adopted in the first place. (WMD07) [italics added]
- (9) To this end, *IMO has participated* in UN-organized activities such as the Special Meeting of the Counter-Terrorism Committee in March 2003 and the meeting of the Counter-Terrorism Action Group in February this year. (WMD04) [italics added]
- (10) *I ask the IMO Members and industry organizations to endorse* the belief that the interests *we share as citizens of this planet* are far more powerful than the forces that drive us apart. (WMD09) [italics added]

Note in these excerpts above the uses of *IMO* (Excerpt 9), *Organization* (Excerpt 8), *I* (Excerpt 10) and *we* (Excerpt 7) to voice the institution.⁷ A closer examination of the uses of these four words in the whole

⁷ The use of *AntConc* shows 192 occurrences for *IMO*, 143 occurrences for *we*, 57 occurrences for *Organization* and 53 occurrences for *I*.

corpus reveals that the Secretary-General positions himself differently in each case by adopting:

- an intermediary and representative stance when using *IMO* and *Organization*. By reporting the activities of the Organization, the Secretary-General displays a unified voice on behalf of an international organization and, therefore, acts as an intermediary between the Organization and the general public – e.g. “IMO ensures”, “IMO has established”. “IMO has been working”, “the Organization intends”, “the Organization has chosen”, “the Organization will ensure”;
- a prominent leading role by showing authority and personal involvement when using *I*. Phrases like “I decided”, “I will certainly be doing my best”, “I welcomed and embraced”, “I am particularly pleased” or “I am confident that”, among others, enhances the strength of the statement and at the same time shows personal determination and well-founded judgement;
- a more open stance with the use of an inclusive *we*. This pronoun is often used neutrally (and very frequently followed by *all*) to mean people, human beings in general (e.g. “as we all know”, “we all have a responsibility”, “on which we all depend”, “whether we like it or not”). However, *we* can also be restrictive at times to include individual parties. In these cases the participants are clearly identified in the speeches – e.g. “we (Governments, organizations, industry and all other stakeholders)” (WMD05) or “we (Member States, international shipping and Secretariat)” (WMD09).

But leaders cannot lead if there is not a group to be led. To promote participation, the audience is invited to take part in the speeches under the use of the pronoun *you*. Consider Excerpt 11:

- (11) For shipping affects us all. No matter where you may be in the world, if you look around you it is almost certain that you will see something that either has been or will be transported by sea, whether in the form of raw materials, components or the finished article. (WMD05)

As pointed out by previous studies regarding institutional discourse, the use of *you* implies a conversation-like language which, together with

the use of *I* or *we* (check the use of *us* in Excerpt 11 to differentiate the two parties involved), “simulates a dialogic exchange”, “establishes a peer-to-peer relationship between the parties” and “confers a ‘human’ component of the social actors involved in the discourse event” (Magistro 2010: 160). By using *you*, the Secretary-General is directly addressing and involving the audience at the same time he is enhancing an institutional leading role.

Last, IMO uses its leadership and the power of its discourse to show concern and solidarity on behalf of the whole society (see Excerpt 12). Again, this contributes to humanizing the institution as well as to reinforcing its leading role:

- (12) The challenges they present are too massive to be tackled by a single entity or a single agency or even by a single strategy. It, therefore, falls to the international community as a whole to take action to address them. We should all be aware of the unsustainability and unacceptability of the current situation. The knowledge that hundreds of millions of people are, for example, left defenceless against hunger, disease and environmental degradation, even though the means to rescue them are there, must galvanize us all. Within its sphere of responsibility, IMO – and the maritime community as a whole – has to make its own contribution. (WMD06)

4.3. Hegemony

IMO holds a hegemonic position in the maritime context, and the discourse of WMD speeches contributes to bolstering the Organization’s *status quo*. Expressions that point at IMO as ‘the epicentre’ or highlight the ‘major role’ it plays make clear the institutional authority and preponderant influence that IMO exerts over every stakeholder in the shipping industry. A clear example that illustrates IMO’s hegemony is shown in the last part of the WMD speech delivered in 2010. The Secretary-General wishes to take the opportunity of the Day “to communicate with a few segments of the community” and, therefore, addresses seven target groups⁸ with a list of recommendations (in the

8 These are: “members of the shipping industry”, “politicians”, “legislators and law enforcers”, “educators”, “port and immigration authorities”, “newspaper and TV journalists” and “the 1.5 million seafarers of the world”.

form of orders and instructions) for future work. Excerpt 13 shows an extract of his address to the media:

- (13) [...] to those in a position to shape and influence public opinion, particularly newspaper and TV journalists: take the time and trouble to seek out both sides of the story next time you report on an accident involving a ship; place the accident in its proper context, that of millions upon millions of tonnes of cargo safely delivered over billions of miles to all four corners of the earth by a talented, highly trained, highly specialized and highly dedicated workforce; (WMD10)

Note the incisive (even belligerent) tone of the discourse and the way IMO's hegemonic position is reasserted. The Secretary-General complains about the way pieces of news on marine pollution have been broadcast – apparently misleading the audience, casting doubts on sea transport and bearing ill will against the shipping industry. The use of the imperative, the intentional use of raw data and the repetitive use of *highly* followed by adjectives that stress the professionalism of seafarers in charge are discursive traits employed by the speaker to present opposing views to those that appeared in the news and, at the same time, denounce the work of “those in a position to shape and influence public opinion” – as is also his own case. The recommendations (often orders) in WMD10 indicate that hidden power relations have been established over time that result in the existence of a dominant group (IMO in this case) trying to control dominated groups (like the media and six others).

Also in connection with this dominant position is the issue of power use (although not necessarily abuse) through actions of control – in particular, control of information. It should be noted that the IMO Council selects the issues that are going to be centre stage in a particular year. This practice, according to van Dijk (2008a), appears crucial in the enactment of power: IMO controls the topics to be and not be dealt with and therefore controls the issues that are open to the audience and put on the international agenda. Moreover, a closer look at Table 1 (see Subsection 3.2) shows a diversity of themes (e.g. technical cooperation, climate change, maritime education and training, piracy) but most of the WMD messages (10 out of 15) contain the word IMO in their title. This strategy helps to immediately place the focus on the Organization's work and achievements.

Another effective strategy employed by IMO to enhance hegemony is to deal with highlighting negative predictions so that, indirectly, a positive self-presentation is generated and the benefits of IMO's work surface. IMO empowers its actions by highlighting an imaginary world without it; that is to say, by stressing its potential non-existence (and, particularly, that of the whole shipping industry it represents), IMO generates a necessity for its existence. As the analysis of the target WMD messages reveals, IMO's discourse often creates a counterpoint that helps to enhance its prominent role. Let us consider Excerpt 14:

- (14) Statistics reveal that, of all modes of transport, shipping is the least environmentally damaging when its productive value is taken into consideration. The vast quantity of grain required to make the world's daily bread, for example, could not be transported any other way than by ship. Both the economic and environmental costs of using, say, airfreight, would be exorbitantly high. Moreover, set against land-based industry, shipping is a comparatively minor contributor, overall, to marine pollution from human activities. (WMD07)

World Maritime Day 2007 focused on the IMO's response to environmental challenges. In his speech, the IMO Secretary-General shows concern for the environment and recognizes the damaging impact of the transport industry in this regard and its effects on climate change and global warming. But immediately after this, he explains what would happen if sea transport did not exist: we could not get our daily bread (and implicitly the world would be facing a starving population or even famine). By balancing a negative issue (shipping harms the environment) with a positive one (shipping safeguards basic foodstuff), the speaker reduces the impact of this negative point and, most importantly, creates a positive feeling towards IMO that empowers its existence and work. Also, by showing the contrast with other means of transportation and industries immediately after this, the possibility of ships being conspicuous contributors to environmental pollution is alleviated.

4.4. Legitimation

Given that international organizations cannot exercise coercive power and must act in accordance with international laws, "[t]heir only source of power is their capacity to mobilize support on the basis of legitimacy"

(Simpson/Mayr 2010: 46). A close exploration of these WMD speeches reveals that there are different discursive traits that help to mobilize such support. One of them is the use of discourse to attain a sense of commitment “to achieve goals and values that are beneficial for the common good” (Magistro 2007: 66). This is shown in Excerpt 15:

- (15) High safety and security standards and a strong environmental consciousness are now expected by the majority rather than just wished for by the few. I strongly believe that the proportion of people in shipping who share a genuine commitment to strive to embrace these values is greater than ever before. It is part of our challenge to do all we can to make sure that proportion continues to grow, and to see to it that shipping is able to attract and retain people of the highest calibre: committed people working for safe, secure and clean seas. (WMD03)

In its endeavour to build confidence and appear trustworthy – that is, to legitimate its actions –, IMO employs a number of discursive strategies. The most immediate one is to show institutional transparency and accountability. The fact that WMD speeches are transferred to the public domain through online publication forces the provision of updated, accurate and complete information and makes IMO answerable for its promised actions (Excerpt 16) or for the details of its working procedures (Excerpt 17):

- (16) My colleagues and I in the IMO Secretariat are working with industry partners and others on a concept of a sustainable Maritime Transportation System. On World Maritime Day, I will invite interested Member States and organizations to discuss the concept at a symposium. (WMD13)
- (17) Another reason why IMO’s measures have such widespread acceptance is that decisions within the Organization are generally taken by consensus. There is, of course, a voting procedure, but it is very rarely called upon in the normal course of IMO business. In this way, the natural reluctance one might feel at being asked to implement measures that one may not have espoused fully in the first place, is circumvented. Agreement by consensus means that all countries have a stake in those measures and a genuine desire to exercise the responsibility that comes with a sense of ownership. (WMD08)

Also, with a view to appearing reliable, fair and reasonable, IMO shows a close and collaborative stance. Closeness is attained by adopting a moralistic (even merciful) attitude (Excerpt 18), showing emotional

concern (Excerpt 19) and getting involved (usually by using *we*) as a part of both the problem and the solution (Excerpt 20):

- (18) Nor, when we sit at the table to eat our daily bread, do we pause to think of who brought the grain that enabled our local baker to bake it. Nor when, faced with a severe winter, do we pause to think of who carried, from its sources afar, the oil that heats our homes or fuels the energy on which we all so much depend these days. Well, perhaps we should; and we certainly should not use that as an excuse to continue to allow the seafarer, who helps these happen, to be ignored at best, and poorly treated at worst. (WMD10)
- (19) In the meantime, our thoughts and prayers are with those seafarers, who, at present, are in the hands of pirates. May they all be released unharmed and returned to their families soon. (WMD11)
- (20) But, even more than this, I do not wish to see the maritime community stand accused of failing in its duty towards the protection and preservation of this beautiful planet, which, it seems to me, we have neglected for too long. (WMD07)

Cooperation is shown as the joint effort carried out to implement measures and improve actions in pursuance of a common goal. By commenting on the work that has been done (or remains to be done) and naming IMO's partners, it becomes clear that the Organization has a proactive role in the global shipping industry and is open to collaborations so that "[p]artnership development continues to be the main thrust of the Organization's strategic approach for technical cooperation" (WMD06).

Other strategies used by IMO to appear legitimate and at the same time build empowerment are: (i) by informing against the wrong practices adopted in the business and downplaying others' work (see Excerpt 21); (ii) by showing dissatisfaction (see Excerpt 22); or (iii) by self-criticism (see Excerpt 23).

By stressing poor action by some parties, IMO exonerates itself to its audience; the Organization has met its obligations and responsibilities but measures are not successful because others have failed in meeting theirs. In Excerpt 21, for instance, IMO's Secretary-General claims that some new international conventions are not in force yet because of the inaction of industry and Member States and despite IMO's efforts and assistance to change this:

- (21) Implementation of IMO measures is, ultimately, the responsibility of the Member States and the industry [...] A slow pace of ratification, a prolonged state of non-fulfilment of entry-into-force conditions, a lack of compliance oversight and of enforcement mechanisms all add up to ineffective implementation, which in turn prevents the benefits enshrined in IMO measures from being fully felt. (WMD14)

In Excerpt 22, IMO's Secretary-General is dissatisfied with a particular situation and takes the opportunity to bring into focus his proposed measures to remove piracy and safeguard human life at sea:

- (22) So long as pirates continue harassing shipping, hijacking ships and seafarers, we are neither proud of, nor content with, the results achieved so far. More needs to be done, including the capture, prosecution and punishment of all those involved in piracy; the tracing of ransom money; and the confiscation of proceeds of crime derived from hijacked ships, if the ultimate goal of consigning piracy to the realms of history is to be achieved. (WMD11)

Last, self-criticism here appears as a positive trait for legitimation (Excerpt 23). By adopting a self-critical stance, IMO seems to be learning from its actions and seeking improvement, while at the same time it is rendering institutional responsibility:

- (23) To conclude: even though the new international maritime security measures are now in force, we must not make the mistake of resting on our laurels and assuming the work has been completed. (WMD04)

5. Concluding remarks

The language and discourse of IMO run through a variety of legal documents (conventions, resolutions, recommendations, guidelines, etc.) and public statements and speeches. The WMD messages which have been the object of this investigation are, thus, a snapshot of IMO's language and discursive practices.

Even though quantitative research tools have been employed (i.e. *AntConc* v3.4.4) at some stages of the study, this is a qualitative piece of research. Findings reveal that the discourse of globalization emerges as a

dynamic strategy in the public realm to further institutional interests, to strengthen the institution's leadership, to exert control, to make claims or show contention, self-criticism or dissatisfaction. At the same time issues of accountability, transparency, commitment, involvement, consensus, cooperation or solidarity are called upon against an inclusive global background. This study has attempted to show how public leaders (like IMO's Secretary-General) employ institutional discourse as an effective strategy to: (i) spread the discourse of globalization; (ii) reassert leadership and institutional power; and (iii) build a positive frame that legitimates the Organization's role and actions at the same time as it portrays a prosperous industry and a better world against a global background.

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Maintaining a Dominant Voice: A Syntactic Analysis of the Way Power is Wielded in Medical Editorials

1. Introduction

The medical profession is a powerful specialized community in western societies, with highly selective access and elite status, extensive social relevance, a strong corporate identity, and its own internal regulatory bodies. Its opinions therefore carry considerable weight, but need to be couched in such a way as to elicit agreement (from the general public, from the authorities, etc.) in order to maintain this dominant position. As pointed out by Orts (2016: 2):

Power – mainly in democratic societies – cannot be administered without consent [...] Dominant groups have to work at staying dominant by generating consent among the population, and consent is achieved through the dissemination through language of the beliefs, practices and discourses of the ruling group.

Among the written discourse genres whose recognized role is to express opinion, the editorial features in pride of place. This is not its only function, however: an editorial may also offer critique and advice to specific (often elite) groups or institutions in society, and hence involves power relations between the media and these other groups (van Dijk 1998: 62). To explore how power is deployed through discourse in the medical profession, a study of the editorials which feature in the major medical journals seemed the ideal place to start. Building on our previous research into how different variants of *if*-conditionals in medical editorials enabled editorialists to subtly exploit syntactic resources to direct opinion (Carter-Thomas/Rowley-Jolivet 2014), in the present study we

examine various other syntactic resources and formulations used to establish authority and convince the diverse readerships of the journal.

Our approach is genre-based for, as Kress (1986: 112) argues, “Each specific genre encodes different power relations between writer/speaker”. In order to bring out the specificities of the editorials (ED), we will therefore compare them with the medical research article (RA) genre, where the rhetoric is often covert (Swales 1990), whereas editorials are overtly persuasive texts (Salager-Mayer/Ariza 2011). In analysing editorialists’ voice and the power relation with their readers, three main aspects seem particularly relevant: who the writers are (their status within the profession); how they interact with their readers; and how at the same time they wield their authority and assert their directive role in order to defend and promote the profession’s interests.

The editorialists of medical journals are eminent members of the profession, often members of the editorial board of the journal (Magnet/Carnet 2007) or commissioned by the board to write their opinion pieces, a dominant position which authorizes them to take a stand. Yet in order to foster consent for their opinions, they need to set up a suitably interactional relationship with their multiple readerships if they are to achieve their persuasive intent. As shown by Salager-Mayer and Ariza (2011), however, among the six medical genres they studied, it is in editorials that the social distance between writer and reader is the greatest. This power asymmetry in writer-reader relations is a marked feature of the genre¹ and can even lead editorialists to engage in “confrontational impoliteness” (Giannoni 2011) as they seek to persuade their addressees of the validity of a certain opinion or the need to follow a particular course of action.

In order to investigate how this power relationship is manifested as the editorialists try to accommodate these different objectives, we have chosen to focus on four main syntactic features. The first feature we look at (Section 3) is deontic modality, as this is the most overt expression of power asymmetry between discourse interactants, and a highly forceful syntactic choice for giving advice, injunctions, and opinions. To balance the picture, we next consider (Section 4) how the

1 For a discussion of power asymmetry in legal and institutional texts, see Orts (2015, 2016).

interactant pronouns and particularly *we* are used by editorialists to temper the directive force of deontic modality, focusing on their dialogic role. This leads us to look at a third syntactic choice that can be simultaneously wielded to involve and to direct readers, namely questions, analysed in Section 5. In the final feature, extraposition (Section 6), we examine how the different values of this construction are distributed in editorials and research articles, and what this distribution tells us about the editorialists' voice.

2. Corpus description

The corpus collected for this study is relatively large, totalling over half a million words (see Table 1). While this necessarily precludes highly detailed qualitative analyses of certain features, it does provide a solid basis for determining the major trends and most significant features of power relations in medical editorials, and can therefore be used as a reference for more narrowly focused studies. The corpus comprises 400 editorials from two top-ranking general medical journals, one British (*The Lancet*) and one American (*The New England Journal of Medicine*, *NEJM*), both published weekly, over the 10-year period 2005–2014. As each issue of *The Lancet* comprises up to three editorials, only the first of the three from the first 24 issues in each year were collected. The editorials from *NEJM* were those that were freely available online. We excluded editorials that were not opinion pieces but were simply announcements of various kinds such as the presentation of new features in the journal, notices of retractions of articles, etc. This concerned 13 editorials in *NEJM* and two in *The Lancet*, bringing the respective totals to 162 (*NEJM*) and 238 (*The Lancet*) editorials, representing 369,895 words altogether. To better bring out the specificities of the editorials, we also collected 50 research articles published over the same period in the two journals (20 from *The Lancet*, 30 from *NEJM*), amounting to a total of 169,528 words once abstracts, tables and figure legends, references, acknowledgements, appendices and panels had

been removed. All the texts were converted to .txt format in order to use a concordancer (AntConc 3.4.4)² for certain analyses.

Table 1. Composition of the corpus.

	<i>Period</i>	<i>N° texts</i>	<i>Total word count (w.)</i>	<i>Average length (w.)</i>
Editorials	2005–2014	400	369,895 w.	925 w.
RAs	2005–2014	50	169,528 w.	3,390 w.
Total			539,423 w.	

In the following four sections, we analyse each of the four syntactic features selected – deontic modality, pronouns, questions, and extraposition – in this comparative corpus.

3. Deontic modality

A search for all the modals and semi-modals in the corpus (*must, shall, should, may, might, can, could, will, would, ought to, have to, need to*) revealed that modals overall are almost three times more frequent in the editorials than in the RAs, accounting for 143 vs. 49 per 10,000 words respectively (data not shown). Our particular interest here concerns those modals which can express a directive (Hyland 2002a; Orts 2016), namely *must, should, ought to, have to, and need to*. As these modals can express both deontic (obligation and recommendation) and epistemic functions (probability) as in (1) and (2) respectively, it was important to distinguish them:

- (1) Climate change preparations *must focus* on health disparities. (ED)
- (2) The plans to professionalise services [...] *should lead* to a marked improvement in service provision. (ED)

2 Anthony, Laurence 2014. *AntConc* (Version 3.4.4.) [Computer software]. Tokyo, Japan: Waseda University. Available from <<http://www.laurenceanthony.net/>>.

As shown in Table 2, a striking finding of our data is that deontic modals occur 38 times per 10,000 words in the editorials vs. only 5 times in the RAs. *Must* and *should* together account for over three-quarters (76.5%) of the total deontic modals, and their high frequencies of 10.5 and 18.5 per 10,000 words are in stark contrast to their frequencies in the RAs (1 and 2 per 10,000 words, respectively). These two modals are classified by Trosborg (1995) as direct and indirect directives respectively, with *must* indicating the highest power distance on the cline from Directives to Commissives, followed immediately by *should*, indicating average power distance. Indeed, deontic modality is one of the most overt expressions of a directive act. In terms of the pragmatic relations or power asymmetry between discourse participants, the extremely high figure for the editorials indicates a clear power imbalance between author and reader.

Table 2. Frequency of directive modals and semi-modals in editorials and research articles.

MODAL / SEMI-MODAL	Deontic function		Epistemic function	
	Editorials	RAs	Editorials	RAs
<i>must</i>	385	17	6	4
<i>should</i>	685	39	72	12
<i>ought to</i>	6	0	0	0
<i>have to</i>	52	15	0	2
<i>need to</i>	272	16	0	0
Total Occ.	1,400	87	78	18
As % of necessity modals	95%	83%	5%	17%
Per 10,000 words	38	5	2	1

These figures for the editorials can be compared to Hyland's (2002a) findings for the same sub-group of modals (*must*, *should*, *ought to*, *have to*, *need to*) in textbooks, RAs and student reports, where he found respectively 9.7, 5.6 and 5.9 per 10,000 words. While our results for the RAs tally with this, a significant difference is that the medical editorials are far more directive even than the didactic discourse of textbooks, in which an expert writer addresses a novice reader, with deontic modality

occurring four times more frequently in our editorials than in the textbooks analysed by Hyland (38 vs. 9.7 occurrences per 10,000 words).

Epistemic values of the five modals analysed account for a negligible proportion (5%) in the editorials, but a larger percentage (17%) in the RAs. This difference is coherent with the status of editorials and research articles with respect to knowledge: RA authors, as knowledge-builders, engage in claim-making, drawing conclusions from their findings and therefore have recourse to the epistemic values of modals to express their degree of (un)certainly, as in (3), whereas editorials do not present original research but are metacomments on the research of others:

- (3) This under-reporting could substantially distort relative risks comparing never-drinkers with reference drinkers, but *should have* less of an effect on the corrected dose-related excess, on which our main conclusions are based. (RA)

For the same reason, RA authors make much greater use of the probability values of the other modals (*could, can, may, might, would*) than editorialists, while the peer-to-peer relation between author and reader in the RA leads to the avoidance of directives, which would be perceived as overbearing or condescending. As pointed out by Gotti and Dossena (2001: 14), research article writers:

often choose not to use the type of modality commonly employed to place somebody under an obligation – that is, deontic modality – for this would produce the opposite effect. Their mastery, instead, is shown by the adoption of a more neutral tone.

Not only is the frequency of deontic modality very high in the editorials, but the scope of the targets addressed is extremely broad, encompassing prominent individuals (4), medical professionals (5), national and international health bodies (6), and entire countries and continents (7):

- (4) *Bush must decide* to work as an equal with others, respecting the views and expertise of international partners. (ED)
- (5) *doctors must not allow* their personal beliefs to compromise patient care. (ED)
- (6) *the FDA needs to improve* its record by ensuring that manufacturers complete post-marketing safety studies. (ED)

- (7) *EU member states should lead* by making the vaccinations mandatory for all adolescents. (ED)

In the great majority of cases (94%) the targets are directed outwards at third-parties but on occasion the editorialist explicitly includes himself in the directive as part of an inclusive *we* (8), thereby attenuating the imposition on the reader (see Section 4):

- (8) *Collectively, we must create* a better, more collaborative, and more favourable public environment for this important research to take place. (ED)

or, implicitly, by addressing the directive to fellow journal editors and authors (9):

- (9) *All editors, reviewers, and authors must be vigilant* in protecting and enhancing the integrity of the peer-review process. The public's trust in science depends upon it. (ED)

The content of the direct or indirect directive likewise covers a broad spectrum of issues, ranging from medical training, practice and ethics, decision-making and research publication, to public health policies, funding and global responses to epidemics or health inequalities. The issues addressed are topical ones, and the directive is generally geared towards action.

This broad sweep of targets and issues and the frequent recourse to directives indicate that the role of editorialist confers extensive authority on the writer, who does not hesitate to express categorical injunction using *must*, *have to*, *need to*, which account for half of the cases of deontic modality, and strong recommendation using *should* or *ought to*, addressed to all actors in society. Directives also place the editorialist in an uncontested position of opinion leader, who can voice advice, injunction, criticism and exhortation. As shown by Salager-Meyer and Ariza (2011), the frequency with which criticism is expressed in editorials is indeed high, reflecting the powerful position of editorialists as 'expert knowledge-holders'.

These forceful directives may, however, be perceived as face-threatening acts by the targeted readers, and therefore have a counter-persuasive role. The pragmatic need to respect the discourse participant's face has been extensively investigated in the research article, under the

umbrella term of ‘hedging’. As defined by Hyland (2001: 292), hedges are communicative strategies that serve to tone down a claim or assertion, either to express doubt or to convey deference and respect for the views of peers in order to minimize the degree of imposition. Their counterpart is boosters, which have the opposite role of expressing conviction and forcefully asserting an opinion or proposition. We explored whether hedges or boosters were used with deontic modals in our two sub-corpora in order to achieve a finer-grained characterization of the writer-reader relationship. Hedges include modal adverbs such as *perhaps* or *potentially*, verbs such as *suggest* and a range of lexical expressions indicative of restriction, uncertainty, or tentativeness (Giannoni 2001) as in (10):

- (10) *If successful over time, this strategy might conceivably limit the number of patients who eventually must resume dialysis and who need second transplants.* (RA)

Boosters include evaluative sentence adverbials such as *surely*, *certainly*, *most importantly*, and lexical items that stress the importance, urgency, priority or universality of the directive, as in (11):

- (11) *Clearly, an educational site such as MindEd is desperately needed and should be required reading for every parent, teacher, and health professional.* (ED)

Occurrences of deontic modals that contained neither hedges nor boosters and expressed an unmitigated directive were classified as unhedged (also referred to as ‘bald-on-record’, Brown/Levinson 1987), as in examples (4–7) above. Table 3 gives the number of occurrences of these three categories in the RAs and in the editorials, and the percentage of all deontic modals that each represents. The results clearly show that while hedging remains a prevalent feature in research articles even with deontic modals, accounting for almost half (47%) of the occurrences, it is almost non-existent in the editorials (2%).

Table 3. Hedged, boosted and unhedged deontic modals in medical editorials and RAs.

Deontic modals		Hedged	Boosted	Unhedged
<i>must, should, ought to, need to, have to</i>	Editorials	27 (2%)	166 (12%)	1207 (86%)
	RAs	41 (47%)	2 (3%)	44 (50%)

Directives in the editorials are overwhelmingly unhedged, with a sizeable proportion (12%) even boosting the forcefulness of the deontic modal. In addition to the boosters listed above, editorialists also use various stylistic and syntactic devices to ram their message home. Some of the recurrent devices used are reminiscent of the tropes of classical rhetoric: repetition (often in a ternary format) as in (12), paired modals of opposite polarity (13), paired dissimilar modals (14), assonance (15) and an appeal to pathos through the use of highly emotive or morally loaded lexis (16):

- (12) To combat any cancer successfully, tumours *must* be detected early, clinics *must* have access to effective treatments, and patients *must* be in a position to adhere to the necessary regimens. (ED)
- (13) Health services *should not be about* competition. They *should be about* equity. (ED)
- (14) their lives *can and must be saved*; strategies *can and should be* implemented immediately; Physicians *can and should be* a strong voice [...]. (ED)
- (15) The research machine must become *lean and mean*. (ED)
- (16) The medical community must denounce the *wholly unacceptable* actions of both sides of the conflict, who are *committing atrocities against innocent civilians* in their name. (ED)

The inherent forcefulness of deontic modality can be further increased by positioning the modal at certain strategic points in the text. When placed in the title, for example (17), the directive accrues maximum force, and the entire editorial can be seen as an extended directive:

- (17a) Choice policies *must focus* on reducing health inequalities. (Title, ED)
- (17b) Patient care *should come* before personal beliefs. (Title, ED)

Another highly strategic position which reinforces the directive is the closing paragraph and/or closing sentence of the editorial, as this is the argumentative goal of the text which the preceding paragraphs lead up to, and the final message left with the reader. Fully one-third (469 out of 1,416) of all the deontic modals and semi-modals occur in the final paragraph, as in (18):

(18a) The price of good mental health *must not be* a lifetime of physical illness. (Final sentence, ED)

(18b) Doctors *should not be* in the job of killing. (Final paragraph, ED)

The quasi-absence of hedging, together with the presence of boosted deontic modals, reveals that the power distance between author and reader is very great in editorials, and the relationship highly asymmetrical. This contrasts with the very low percentage (3%) of boosted deontic modals in the RAs and the greater caution expressed by research authors in addressing their readers.

4. Pronouns

As Table 4 indicates the only interactant pronoun to occur in the RA medical corpus is *we*. In the editorials corpus on the contrary, *I*, *you*, *one* and *we* can play a strategic role in establishing the editorialist's authority and generally convincing the addressees.

Table 4. Frequency of interactant personal pronouns in Editorials and RAs.

Pronoun	Editorials	RAs
<i>I</i>	26	0
<i>you</i>	36	0
<i>we</i>	661	850
<i>one</i>	57	0

In (19), for example, the directive and rather didactic nature of the modal *must* is softened through its association with *one*, suggesting a certain connivance and shared interest with readers:

(19) To understand South Africa today, *one must* appreciate its history. (ED)

The pronoun *you* (36 occurrences) can likewise be used to involve the reader. In (20) readers are being indirectly asked to imagine themselves in the position of a person sentenced to capital punishment and the

choice of *you* can be seen as a rhetorical device designed to shock the reader into agreeing with the editorialists:

- (20) Whether *you* receive the death penalty depends not on what *you* have done, but where *you* committed your crime, what colour your skin is, and how much money *you* have. (ED)

On two other occasions, the targeted reader is directly addressed in the second person (any member of the public in (21a), a doctor in (21b)), as if s/he were the conversational partner of the editorialist:

- (21a) When did *you* last have your blood pressure measured? (ED)
- (21b) *You* are asked to pay a house visit to a young boy whose medical history includes cerebral palsy, cystic fibrosis [...] and intolerance to sunlight. However, on examination, *you* can find nothing wrong with him. On returning to the surgery, *you* follow-up with the numerous consultants at the various hospitals where the boy attends. (ED)

Both these examples come at the very start of two editorials. This type of pseudo-dialogue allows the editorialist to successfully attract the reader's attention before going on to the main point of the editorial.

Although (as Table 4 shows) both first person singular and plural pronouns occur in the editorials, the 26 occurrences of *I* cluster in just two texts in our corpus of 400 editorials, showing that, although possible, it is very rare for editorialists to adopt a single voice:

- (22) watching from *my own* corner of medical science, *I have been troubled* by the slow pace at which testing [...]. (ED)

The plural pronoun *we* is, however, found in both the editorials and RAs, and is in fact used proportionally three times more in the RAs (50 per 10k words vs 18 per 10k words). This is linked to the very different purposes of the two genres and the consequently different uses that *we* is put to. When we compare the tenses and types of verbs occurring with *we* in the two genres, a very different pattern emerges (Table 5).

Table 5. Tenses used with *we* in the editorials and RAs.

	Editorials	RAs
N° occurrences of <i>we</i>	661	850
Future	44 (6.6%)	0
Past	64 (9.7%)	754 (88.7%)
Modal	153 (23%)	14 (1.6%)
Present	400 (60.6%)	82 (9.6%)

In the medical RAs the plural pronoun is mainly used for recounting method decisions taken by the authors or research team and is overwhelmingly accompanied by a verb in the past tense (88.7%), as in (23) and (24):

(23) *We then compared* these outcome data. (RA)

(24) *We excluded* pregnancies for which information on gestational age was missing. (RA)

Editorialists, however, are not relating their own work but are reporting and commenting other people's research. Only a small percentage of the occurrences in the editorials (9.7%) are accompanied by a past and in this case often relate to decisions taken by editorialists to do with the running of the journal or to the choice of topics in the editorials:

(25) *We published* this analysis because it indicated an increase of about 40% in the risk of myocardial infarction. (ED)

It is, on the contrary, present tenses that are the most frequent (60%), presenting an opinion or evaluating events as in (26) and (27); followed by various forms of modals (23%) providing recommendations as in (28):

(26) At The Lancet, *we believe* that one answer is better-designed and more transparent protocols. (ED)

(27) *We applaud* the arrival of the first World Hepatitis Day. (ED)

(28) *We should give* our researchers the fiscal and research resources they need. (ED)

In the three examples above the editorialists can be seen to adopt a very dominant posture, presenting themselves as someone clearly invested with the authority to give advice on a wide variety of issues. At the same time, the way the editorialists construct this relationship of authority with their readers is slightly different in the three cases. In (26) and (27) the *we* has an exclusive value, representing the actual writer(s) of the editorial as spokesperson(s) for the whole editorial board or journal. The readership is excluded from the reference, although it is presumably expected to agree with the opinions given. In (28) on the other hand, *we* has an inclusive reference and the reader is included in the injunction with *we should*.

An analysis of the use of *we* in our editorials enabled us to further identify two main sub-categories of inclusiveness: inclusive ‘medical *we*’ as in (28) above where the reader is included as a member of the medical community, and inclusive ‘societal *we*’ as in (29) below where the reader is viewed as a member of a wider socio-political community. An emotional appeal is made to the reader as an American citizen to support the claims of injured American army personnel:

- (29) But *we* owe more to the wounded men and women who have sacrificed on our behalf; as a nation, *we* should be using all available means to aid them. (ED)

As Table 6 shows, there are practically no examples of inclusive *we* in the medical RAs. In the editorials, however, the split between inclusive and exclusive *we* is fairly even. The different inclusive uses of *we* can often act as a rhetorical device (see for example Harwood 2005; Fløttum et al. 2006) in order to establish rapport with the readers and make them feel involved. This simulated involvement can in turn make the reader more receptive to the writer’s claims.

Table 6. Distribution of exclusive and inclusive *we* in the editorials and RAs.

	Editorials	RAs
N° occurrences of <i>we</i>	661	850
Exclusive <i>we</i>	298 (45%)	843 (99.2%)
Inclusive medical <i>we</i>	144 (22%)	7 (0.8%)
Inclusive societal <i>we</i>	216 (33%)	0
Other	3	0

The borderline between these three different categories is often very fine. However, as Harwood (2005) also underlines, the fuzzy limits between exclusive and inclusive personal attribution can also make it a powerful rhetorical resource for scientific editors. By alternating between the different values of *we*, opinions can be presented either as personal or as communal, or both:

- (30) We have known about regional variation for decades but have been slow to address it. (ED)
- (31) We now must also learn to act more effectively. (ED)

In (30) and (31) the criticism to the face of the readership is made more acceptable through the use of the inclusive pronoun. Instead of singling out any particular medical speciality for blame in the lack of progress, the use of the plural pronoun spreads responsibility for the lack of knowledge or action across the entire community.

5. Questions

Questions are naturally far more common in speech than in writing, occurring nearly 50 times more often in conversation than in written news and academic discourse (Biber et al. 1999: 211). They are, however, an extremely useful resource in writing to dialogically construe the ‘reader-in-the-text’ (Thompson/Thetela 1995; G. Thompson 2012), assigning him/her the role of potential interlocutor in the textual development. Questions are engagement markers that presuppose the existence of an addressee and are inherently interactional (Bakhtin 1981; Hyland 2002b; Rasti 2011). They are therefore likely to be more salient in persuasive texts such as editorials.

In addition to this role, questions can also exert a coercive force (Steensig/Drew 2008): it is the writer who chooses the questions to be asked, and who often answers them in the reader’s name; in addition, questions can be used as textual signals to organize the discourse, taking it in the direction planned by the writer. Questions in writing can

therefore display the author's control over both the textual material and the reader, evidencing a power asymmetry between discourse participants and potentially constituting face-threatening acts. Their frequency can therefore be expected to vary depending on the established writer-reader relations of the genre. In peer-to-peer genres such as the research article, and in asymmetrical novice-to-expert discourse, they tend to be sparingly used, whereas in expert-to-novice genres such as textbooks they are considerably more abundant (Webber 1994; Hyland 2002b).³

The type of question asked also impacts on whether the question is perceived as collaborative, authoritative, or neutral. A question can be an open-ended or 'real' question, i.e. one to which the writer does not have the answer, or on the contrary one to which the writer supplies a full or partial answer; or it may be a rhetorical question (Ilie 2015) in which the answer is assumed to be so obvious that no answer is necessary, and which in fact constitutes a strong writer assertion rather than a true interrogative. Questions also have different discourse functions depending on their position in the text (Hyland 2002b; Kim 2007), particularly with respect to their role of signalling or controlling textual organization.

These considerations guided our analysis of the questions found in the medical editorials and research articles. Our definition of questions was a simple one, based on syntactic form: we included interrogative clauses and sentence fragments that concluded with a question mark (direct questions) as in (32, 33), and excluded embedded or indirect questions (34):

- (32) What do these results mean for clinical practice? (ED)
- (33) A world fit for children? (ED)
- (34) The final crucial question is *how well these strategies work in reducing the transmission of HIV*. (ED)

3 Disciplinary (S. Thompson 1998; Hyland 2002b) and cultural (e.g. Kim 2007; Rasti 2011) factors have also been shown to play a non-negligible role in the use of questions. The latter two factors do not apply to our data, however, as all the editorials concern the medical field and all the editorialists are expert, native writers of English.

We first examine the frequency and types of questions, then their directive role.

5.1. Frequency and type

Table 7 gives the frequency and type of questions in the editorials and RAs, and shows that questions are a salient feature of these specialized editorials, occurring 12.5 times per 10,000 words versus only 0.5 in the research articles, a ratio of 25:1.

Table 7. Frequency and type of questions in medical editorials and research articles.

	Editorials	RAs
Number	462	8
Frequency/10k.words	12.5	0.5
Yes/No questions	40%	50%
Wh-Questions	50%	50%
Fragments	10%	0%

The frequency in the editorials can be compared with that reported by Hyland (2002b) in RAs and textbooks in hard sciences, where he found respectively 1.3 and 4.5 per 10,000 words. Several reasons for this very high frequency in editorials can be suggested. In common with editorials in the general press, medical editorials address controversial or ‘hot’ topics on which opinions are divided, or no definitive answer yet forthcoming, a context in which questions are a natural syntactic resource. More specifically, the three agendas of medical editorials (Carter-Thomas/Rowley-Jolivet 2014) – research-oriented, socio-political, and praxis-oriented agendas – place them at the interface between research and praxis and between research and the wider socio-political context, where they inquire into the applicability of medical research, as well as the wisdom of institutional decisions. The content of the questions asked in our data reflects these three agendas (examples 35):

- (35a) [research-oriented] Does the ENHANCE study prove that ezetimibe provides no benefit when added to statin therapy or, for that matter, as monotherapy? (ED)

(35b) [socio-political] What about the NHS medicines bill? Can it be cut? (ED)

(35c) [praxis] So what do doctors want from the information they use? They want quality and reliability. (ED)

Question-raising appears therefore to be a recognized function of medical editorials (Webber 1994) and is extensively used by editorialists to engage their targeted readerships in a dialogue.

The types of questions used in the editorials provide further support for this dialogic intention. Question fragments, a characteristic feature of conversation (Biber et al.1999), are found in a non-negligible proportion (10%) in the editorials, as in examples (36):

(36a) [Title] A world fit for children? (ED)

(36b) Basic science does not easily lend itself to linear assessments of impact. The result? Basic science becomes an unattractive option for research investment. (ED)

Does this more conversational tone imply that writer and reader are on an equal footing, or is this pseudo-dialogue set up by the editorialists through the use of questions in fact manipulated in order to assert authorial power? To answer this question, we will take a closer look at the various functions fulfilled by questions in the editorials.

5.2. Directive role of questions

As several analysts have pointed out (e.g. Hyland 2002b; Rasti 2011), questions can have the textual function of structuring the discourse. Placed at certain positions in the text, they can be used as topic-introducing, topic-shifting, and topic-closing devices, guiding the reader through the text and helping comprehension – but also steering the reader's interpretation in the direction chosen by the author. Certain textual positions appeared to be particularly strategic in the editorials: the title, the first and last sentences in the text, and the first and last sentences in a paragraph. Table 8 shows that almost 50% of questions are placed in these strategic positions, indicating that the textual role of discourse organization is a prominent one.

Table 8. Textual positions of questions in medical editorials.

<i>Position</i>	<i>Number (n = 462)</i>	<i>Percentage</i>
Title	48	10.4 %
1 st /last sentence in editorial	15	3.2 %
1 st sentence in paragraph	109	23.6 %
Last sentence in paragraph	56	12.1 %
TOTAL	228	49.3 %

The specific function of the question varies, however, according to its position. When placed in the title, *Yes/No* questions structure the whole editorial as an argument for and against a certain stance or position: after reviewing the issues in the controversy, the editorialist comes down firmly on one side of the debate in the concluding paragraph with a directive (the modals *must* and *should* in (37)):

(37a) [Title] Should HPV vaccines be mandatory for all adolescents?

(37b) [Final sentence] For effective and long-term eradication of HPV, *all adolescents must be immunised*. [...] *EU member states should lead by making the vaccinations mandatory*. (ED)

Similarly, *wh*-questions in the title create the framework for the entire editorial which discusses the possible options before concluding with a directive (38):

(38a) [Title] When to Start Antiretroviral Therapy – Ready When You Are?

(38b) [Final sentence] Today, [...] *we should be ready* and willing to prescribe therapy. (ED)

As shown by these typical examples, the wording of the title is echoed in the final take-home message. By formulating the issue as a question, the writer sets up the expectation that the editorial will provide an answer, and by formulating the conclusion as a directive, that the editorialist is legitimized to proffer the answer. This question-and-answer format is on occasion explicitly signalled metadiscoursally by the lexical items *question* and *answer*, as in (39):

- (39) [Final sentence] Is acute otitis media a treatable disease? The investigators [...] have provided the best data yet to *answer the question, and the answer is yes.* (ED)

Almost a quarter of questions (23.6%) are found in paragraph-initial position, where they play the same role of structuring and directing the debate. However, their scope in this case usually extends over a smaller portion of text, for example, the paragraph in (40):

- (40) [1st sentence in §] So why has the USA seen such an increase in the burden of chronic disease? An aging population is a major contributor [...]. (ED)

Some of these questions have a distinctly didactic flavour, placing the reader in the subordinate position of the learner and the writer as primary knower (41):

- (41) But what is asthma? The word comes from the Greek *ἄσθμα*, which translates as ‘to breathe with open mouth or to pant’. (ED)

When paragraph-initial questions come in series, each successive paragraph beginning with a new question, the writer takes full control, alternately acting as questioner and responder. In an editorial tellingly entitled ‘HPV Vaccination – More Answers, More Questions’, one finds the following succession (42):

- (42) [1st sentence in §5]: What can be inferred from these data about the potential effect of vaccination on populations that include sexually active women?
 [1st sentence in §6]: Why is vaccine efficacy modest in the entire cohort?
 [1st sentence in §7]: What can be inferred from these data about the potential effect of vaccination among girls 11 and 12 years of age?
 [1st sentence in §8]: What do these results mean for cervical-cancer screening?
 (ED)

In this pseudo-dialogue, the reader is left no room to diverge from the path marked out by the writer but is constrained to see the issue in the writer’s terms.

Paragraph-final questions are less common (12.1% of questions overall), but serve the same function of structuring the argument, acting as a launch-pad for the following text, which then develops the author’s answer (43):

- (43) Essentially the next government will have to work out how to achieve more while spending less. What are the options? (Last sentence in §1, ED)

The second important aspect of questions when looked at from the perspective of author control is whether the questions in editorials are open-ended or ‘real’ questions that express uncertainty or lack of information, or directive questions to which the writer knows the answer. Hyland (2002b: 18) argues that very few questions in academic writing originate in ignorance, and “are not motivated by the writer’s desire to gain information or to think aloud about some unresolved mystery”. While this is no doubt true of research articles whose main aim is to put forward a claim, it is less applicable to editorials which have the critical role of assessing the value of research claims and of querying the validity of socio-political decisions in the health sector. Hasty therapeutic decisions can have dramatic, undesired consequences if based on poor or partial data, and certainty is more difficult to achieve in medicine than in some harder sciences.

In our data, around 25% of the questions are true expressions of doubt or uncertainty: the jury is still out on the issue. Examples (44) illustrate this feature:

- (44a) the results do not provide clinicians with definitive findings to quantitate the benefit and to guide clinical management. Will the HSV-2 suppression delay the loss of CD4+ T cells? Will prolonged suppression of HSV-2 delay the emergence of resistant HIV strains? Trials of a longer duration of therapy [...] are needed. (ED)
- (44b) [...] a number of critical questions remain unanswered. [a series of 7 questions in a row on vaccination protocols follows]. (ED)

These open questions tend to occur in quick-fire series that leave no space for answers, as these are in any case not yet forthcoming. While these types of questions are not in themselves directive, the writer still exercises a considerable degree of control by framing the question with a metadiscoursal expression that acts as an advance label (Francis 1994) and presents it as being particularly significant: *a number of critical questions remain*. The adjectives found in these framing expressions in the data (*central, crucial, essential, important, key*, etc.) are often the same as those used in the extraposition construction (see Section 6).

In 5% of cases, the unanswered question is in fact a rhetorical question that projects no answer; the reader's assent is taken for granted:

- (45) Surely the way in which nations treat children is a better indicator of status and decency [than how we treat animals]? (ED)

As pointed out by Thompson (2012: 89–90), rhetorical questions exert *coercion* on the reader in that they are designed to simulate the interactional information-seeking nature of questions while at the same time imposing an 'answer'.

In the remaining 70% of cases the writer does provide an answer, either full or partial, to the question, thus retaining a firm hand over the direction taken by the discourse. This control is particularly obvious when the answer is given immediately (46):

- (46a) Where are doctors' leaders in this debate? *Mostly silent or out of touch.* (ED)

- (46b) But does traumatic brain injury deserve attention outside a military setting? *Absolutely.* (ED)

These question-and-answer pairs, in which the second member is often a sentence fragment, are strongly reminiscent of the adjacency pairs of conversational speech, contributing to the interactivity of editorials. In terms of authorial power, however, they are highly directive, leaving the reader no room to formulate his/her own answer as they simultaneously open and close the debate. When the answer is delayed, this creates space for the writer to develop the topic and review possible answers before answering. This question–discuss options–answer structure is frequently resorted to when the issue is complex (47a):

- (47a) So, in light of all these conflicting messages, what are professionals committed to protecting children supposed to do? [...] One group of paediatricians and child protection workers believes that [...]. A different view emerged from [...]. (ED)

After reviewing the arguments and evidence, however, the writer expresses a firm opinion at the end of the editorial, couched in directive terms:

- (47b) Paediatricians *need to* speak up loudly and take the lead [...]. The government *should* urgently set up a National Child Protection Commission [...]. (ED)

In such cases, which are frequent in the data, the question in fact appears to be asked in order to create the rhetorical space for the writer to express a directive or strong recommendation.

6. Extraposition

The grammatical pattern known as subject extraposition or introductory *it* (e.g. Quirk et al. 1985: 1391; Biber et al. 1999) comprises clauses with two subjects: the first is an introductory *it* which does not have an anaphoric reference and the second is a nominal clause (including *that*-clauses, *to*-infinitive clauses, *-ing* clauses). Two main formal variants can be identified:

1. it V that / it is V-ed that / it V adj that

(48) *it seems likely that* serial ECG alone is not sufficient. (RA)

2. it V ADJ + to inf/ing

(49) *it is difficult to* understand why more has not been achieved in the past year and a half. (ED)

As several previous studies have shown, extraposition can play an important role in academic writing (Hewings/Hewings 2002; Rowley-Jolivet/Carter-Thomas 2005), where it is often used as a hedging tactic. By placing the writer's point of view in the separate *it* clause, the construction makes the comment appear more objectivized. In (49), for example, the criticism contained in the extraposed clause is arguably more tempered and politer than it would have been if the writer(s) had baldly stated: "I/we do not understand why [...]".

We identified 39 cases of extraposition in the RAs (2.3 per 10k words) and 376 cases in the editorials corpus (10.1 per 10k words). The frequency in the editorials is therefore almost five times higher than that in the RAs, where our figures correspond fairly closely to those reported by others for academic writing (for example, Herriman 2000).

We then classified the types of extraposition into four main categories based loosely on the speech act categories proposed by Searle (1976):

1. Epistemic: i.e. the speaker gives his opinion of the truth of the content of the extraposed clause
2. Directive: i.e. the speaker tries to convince the reader of the importance or need of doing something
3. Evaluative: i.e. the speaker expresses a point of view (or value judgement) with the aim of persuading the reader to see the situation in the same way as himself
4. Declarative: i.e. the speaker reports a state of affairs.

Table 9 shows their distribution in our two sub-corpora.

Table 9. Classification of extraposition in medical editorials and RAs.

	Editorials	RAs
Total occurrences	376	39
Epistemic	105 (28%)	27 (69%)
Directive	104 (27.5%)	1 (2.5%)
Evaluative	135 (36%)	4 (10%)
Declarative	28 (7.4%)	6 (15%)
Other	4 (1%)	1 (205%)

The breakdown of values in our two sub-corpora is very different. Both sub-corpora contain a small number of cases of what we have termed declarative extraposition, where authors report a state of affairs in an apparently neutral manner:

(50) *It is thought that* the epidemic has not yet peaked. (RA)

(51) *It is widely accepted that* HPV causes cervical cancer. (ED)

However, the great majority of extraposition constructions in the RAs are of the epistemic type (69%). In the editorials, on the other hand, it is the evaluative functions of extraposition that are the most frequently called upon, with epistemic and directive values coming in second position. The pronounced difference in the distribution of values seems to

be related to the very different ways in which the editorialist's voice is expressed in the two genres.

In the RAs, caution and prudence are key concerns. The authors are at pains to weigh the evidence carefully and the epistemic extraposition construction enables them to make a comment on the likelihood or probability of something happening, whilst at the same time maintaining a respectable distance from that probability.

- (52) *It is also possible that* IQ assessment at 3 years of age is insensitive to the effects of maternal levothyroxine treatment. (RA)
- (53) On the basis of our data, *it seems reasonable that* ECGs showing marked repolarization abnormalities may be useful for identifying athletes at risk for the subsequent development of structural heart disease. (RA)

In the editorials, the directive and evaluative values of extraposition play a useful role. As discussed earlier (cf. pronouns), editorialists do not hesitate to forcefully admonish other researchers and particularly governmental or political bodies using exclusive *we*:

- (54) We believe that the president is making a serious mistake. (ED)

The impersonality afforded by extraposition constructions also, however, allows editorialists to criticize in an equally strong but slightly more subtle manner. A wide variety of directive adjectives (*it is imperative / essential / critically important / mandatory / necessary that*) enable the editorialist to very forcefully direct the reader's attention to certain issues and problems:

- (55a) To tackle these issues, *it is essential that* the next Secretary-General makes a priority of expanding the UN's development role. (ED)
- (55b) *It is crucial that* new HIV agents are used wisely. (ED)

By creating a shared context for the directives in (55a, 55b) and for the evaluation in (56) and (57), an indirect and wider display of power is created which is arguably more effective than if the opinion was only seen to be attributed to the editorialists through an exclusive *we*, as in (54):

- (56) *It is scandalous that* it took a seismic shift in tectonic plates for Haiti to earn its place in the international spotlight. (ED)
- (57) *It is therefore deeply worrying that* the evidence suggests communication between deaf patients and health professionals is so poor. (ED)

At the same time the distance created through the use of extraposition enables the editorialists to retain a modicum of politeness while being very critical and even scornful, as in (58):

- (58) *It is therefore a perplexing hypocrisy that* the selection process for a new Executive Director seems bereft of these values. (ED)

The evaluative extraposition constructions in the editorials corpus contain a number of rather vehement adjectives (for example, *disquieting, sobering, shocking, inappropriate, scandalous, unimaginable*), which are perhaps made more palatable through being couched in impersonal terms. Salager-Meyer and Ariza (2011) position editorials midway on their criticism scale, between highly critical book reviews and letters to the editor at one extreme, and low-criticism research papers and case reports at the other. The recourse to extraposition could be seen therefore as one way of achieving this rather difficult balance.

7. Conclusion

Medical editorials are overtly persuasive texts. As the comparison with the medical research articles has underlined, reader-writer relations in the two genres are completely different. The rhetorical function of editorials is explicit. Medical editorialists are not expected to sound 'objective' or to deceive the readers into thinking that there is no rhetoric as is the case in the research article (Swales 1990). The power and authority they have been invested with as editorialists allows them on the contrary to express their opinions on a wide range of concerns and direct readers' opinion in the way they see fit.

Our focus on the four syntactic features has enabled us to analyse some of the ways in which this dominant editorial voice is achieved and maintained through language. A heavy recourse to various forms of deontic modality and deontic boosters contributes to creating a substantial power distance between author and reader. This asymmetry is openly recognized by editorialists who do not hesitate to advise and make recommendations in very strong terms. Although the use of questions and interactant pronouns could be seen as a way of increasing engagement with readers, we have seen that these features are also exploited by editorialists in a directive way, manoeuvring readers towards particular positions or courses of action. Extraposition likewise, whilst allowing a polite distance, also enables the expression of very critical comments and strong recommendations.

Certain syntactic features are particularly well-suited to the expression of directives and, as our chapter has demonstrated, editorialists' frequent use of these forms allows them to directly assert and exploit the power asymmetry between themselves and their readers and maintain a dominant voice.

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Persuasive Strategies on Surrogacy Websites: A Discourse-Analytical and Rhetorical Study*

1. Introduction

Assisted Reproductive Technologies (ARTs) are by now quite commonplace and capable of treating millions of infertile couples the world over. Among them, surrogacy is still extremely controversial from the ethical and legal point of view, although it has been around for over 30 years. Usually a last-resort solution, with a tremendous emotional investment on the part of aspiring parents, it can only be practised with the assistance of highly specialized professionals able to connect such aspiring parents with potential surrogate mothers (and sperm/egg donors), perform the necessary medical procedures, offer psychological support and provide adequate legal counselling. Usually these specialists operate within the framework of specialized (commercial) surrogacy organizations, which in some cases are simply agencies partnering with the clinics and acting as brokers between couples and professionals, but more often they are Clinics or Centres providing facilities where surrogacy is actually practised in its different stages and taken care of in its various aspects – medical, legal, logistic, etc. Therefore, such organizations employ qualified professionals with a variety of specializations: doctors (mostly gynaecologists, in special

* The research in this chapter is part of a project, approved locally in 2015 and 2016 by the University of Milan, titled ‘The representation of bioethical issues in the contemporary world across media, genres and cultures: linguistic and discursive perspectives’. It also contributes to the national research programme (Programma di Rilevante Interesse Nazionale 2015) ‘Knowledge Dissemination across media in English: continuity and change in discourse strategies, ideologies, and epistemologies’, financed by the Italian Ministry for the University for 2017–2019 (nr.2015TJ8ZAS).

cases also geneticists), obstetricians, psychologists, attorneys, consultants who coordinate the procedures and match couples with surrogates; occasionally also experts in logistics, etc.

This study examines the websites of surrogacy organizations operating in various countries where commercial surrogacy is legal, and looks at how the profile of these organizations and of professionals working in them is represented, and what strategies are used to attract intending parents. The main focus is on the discursive practices and the rhetorical approach adopted by such organizations to construct for themselves an image of high-level professional expertise in surrogacy procedures.

The chapter is organized as follows. In §1.1 the discussion of surrogacy discourses is contextualized by providing information on problems connected with this practice and related communication issues, and in §2 study design, corpus and methodology are illustrated. Then, after a description of the websites and their overall structure (§3) and their homepages (§3.1 and §3.2), including the visual component, in sections 4 and 5 some fundamental lexical items are analysed in context, as well as the use of specialized language. In section 6 the results of the discourse analytical investigation are discussed under a rhetorical perspective. In §7 overall findings are summarized and conclusions drawn.

1.1. Background

Although surrogacy was introduced as far back as in the 1980s,¹ after three decades it is still very controversial, as is proved by the fact that in various jurisdictions where commercial surrogacy was allowed until recently (e.g. India, Thailand, Tabasco), more restrictive laws have now been introduced to prevent non-nationals from having access to this practice. The resulting picture is one where in an increasing number of countries this practice is either forbidden by law or is subject to heavy restrictions. Therefore, people desiring to make recourse to surrogacy, for whom the term *intended parents* or *intending parents* has been

1 Although the first third-party pregnancy agreements date back to the late 1970s, the first known case of surrogacy with IVF was recorded in 1985 (cf. Utian *et al.* 1985).

introduced, in many cases will have to seek assistance abroad and may find it problematic to identify and get in touch with suitable organizations. This is made even more difficult by the potentially illegal or, at least, morally dubious status of the services sought, which cannot be offered and/or advertised through ordinary commercial communication channels (TV, radio, print advertising, etc.). Therefore, for aspiring parents – as well as for women intending to act as surrogates or egg donors – surrogacy organizations' websites are of the utmost importance, being often the only point of contact, and a fundamental shopwindow for them to present and promote their professional services. They are the sites where organizations' credentials and services are presented, illustrating in detail their professional profile and that of their employees and collaborators. Furthermore, given the specific character of this type of activity, the websites are used for informative purposes, i.e. to inform potential parents of the services offered and describe the options available.

2. Study design, theoretical framework and method

This study has its starting point in the analysis of a corpus consisting of texts posted on the websites of ten surrogacy organizations based in the US, Mexico, Canada, Georgia, Ukraine and Greece, comprising about 100,000 tokens (98,315), with a Standardized Type Token Ratio of 39.37. Among the surrogacy organizations selected, some (Center for Surrogate Parenting, Extraordinary Conceptions, Sensible Surrogacy, Surrogacy beyond Borders, Physicians Surrogacy) are based in the US, mainly in California, but – with a view to cutting costs – also operate abroad in countries where surrogacy is legal; one (Care Surrogacy Center Mexico) has headquarters in Mexico, and facilities also in the US and in Georgia; four are part of the New Life global network, consisting of independent surrogacy centres operating in different countries (the centres whose websites are analysed here are located in Georgia, Mexico, Greece, Ukraine). Some of these organizations have their own clinics and/or donation centres, others function as agencies operating through affiliated clinics and partners, but these differences

have virtually no impact on the way they communicate on the Internet, as they all have the same addressees, deal with the same topics and deploy very similar strategies.

This study takes account of linguistic research on professional communication produced in the last few decades (e.g., among others, Goodwin 1994; Gunnarsson 2009; Sarangi/Candlin 2010; Kong 2014) and of the by now ample literature on surrogacy, mainly produced in sociology and in gender studies (e.g. Ragoné 1994; Markens 2007; Teman 2010; Pande 2011), and has its basic methodological framework in discourse analysis (cf. e.g. Brown/Yule 1983; Schiffrin/Tannen/Hamilton 2001; Blommaert 2005) and Critical Discourse Analysis (e.g. van Dijk 1993; Fairclough 1995, 2014; Stubbs 1996; Hunston/Thompson 2000; Wodak/Meyer 2001). Multimodal discourse analysis is used to integrate the textual analysis with observations on the role of the visual component which plays an important role on some of these websites (Kress/van Leuween 2001, 2006; Garzone 2007).

Corpus linguistics procedures are also relied on, making use of the integrated suite of software programs Wordsmith Tools 6.0 (Scott 2012), in order to identify salient aspects of the texts investigated and at the same time avoid the subjectivity and arbitrariness in discourse interpretation of which the eminently qualitative approach of CDA has been accused (Widdowson 1995, 1996; cf. Hardt-Mutner 1995; Fairclough 1996; Garzone/Santulli 2004).

In particular, this chapter is based on the assumption, shared by Critical Linguistics and Critical Discourse Analysis, that language is never neutral and even the most basic linguistic choices carry with them an element of bias or slant, if not of outright ideology (Kress/Hodge 1979; Fowler 1991, 1996; van Dijk 1998, 2000; Garzone/Sarangi 2007; Fairclough 2014). This view is endorsed also by scholars in the rhetorical and socio-constructivist traditions (cf. e.g. Fish 1989; Shotter 1993). As Fish (1989: 488) notes: “there is no other aperspectival way to see and no language other than situation-dependent language – an interested, rhetorical language – in which to report”. In particular, each professional group has its own ideology, given that, as van Dijk (1995: 139–140) makes clear, “[i]deologies are not limited to groups that are related by dominance, power or struggle”, and people involved in

professional groups share “professional values and norms, and opinions and attitudes about professional practices, as well as group specific knowledge” (van Dik 1998: 145).

In the case of surrogacy websites, the non-neutrality of language and discourse is a particularly important fact, given that the values underpinning ART organizations’ activities are not universally shared, being considered unlawful in some countries and ethically objectionable by many people, and therefore must be treated with some caution.

The results of the critical analysis are, then, evaluated under a rhetorical perspective, in consideration of the promotional and at the same time persuasive character of the texts examined, which by necessity entails the deployment of rhetorical strategies. Here ‘rhetoric’ is understood not so much in a formal sense, focusing on style and qualifying as “the study of tropes and figures” (de Man 1979: 6) and their incessant play in language practice, but rather as involving a broader conception comprising many more or less explicit practices essentially aimed at persuasion (Jasinski 2001: XXI). In particular, rhetoric is considered to be the persuasive dimension retrievable in a wide range of discourses (cf. e.g. Bryant 1973; Medhurst/Benson 1984; Brummet 1994), a conceptualization resulting from an evolution that Jasinski (2001) has defined ‘the dimensionalization of rhetoric’,² which admits its presence in many different genres and media:

The focus of rhetoricians’ attention is widening, however, from public to private spheres, from official to vernacular rhetoric, from oratory to written and multimedia discourse, from the carefully crafted to spontaneous discourse emerging from fleeting everyday rhetorical situations. (Johnstone/Eisenhart 2008: 4).

2 This view of rhetoric is not uncontroversial. If extended indiscriminately, the conception of rhetoric as a dimension that is present in all forms of discourse may lead to seeing it as ‘globalized’ or omnipresent, thus neutralizing the explanatory power of the notion itself (Jasinski 2001: XXII). Hence some scholars’ view that the scope of what is meant by rhetoric be restricted (as in traditional thought). For instance, Leff 1987 and Garver 1994 are – albeit for different reasons – in favour of a definition of rhetoric as restricted to public, political or civic discourse. The idea of rhetoric adopted here sees it as a dimension of discursive practices whose presence and function can be found in a variety of genres in the contemporary world, mainly public and pre-planned, but certainly not in all forms of discourse (cf. Jasinski 2001: XXII–XXIII).

If the new concerns and sites resulting from this evolution are to be addressed, the need arises to update and integrate analytical approaches and theoretical models. Hence the idea of combining existing rhetorical instruments with linguistic discourse analysis, which has been advocated by linguists and discourse analysts (Johnstone/Eisehart 2008), scholars in communication studies (Nothstine/Blair/Copeland 1994), in rhetoric and in composition studies (e.g. Barton/Stygall 2002; MacDonald 2002), suggesting that this may be particularly useful to identify “connections between texts and contexts, with a focus on the repeated use of linguistic features [...] and the associated conventions that establish their meaning and significance in context” (Barton 2002: 285). As Johnstone and Eisenhart (2008: 13) point out, linguistic discourse analysis can provide “a grounded, rigorous set of analytical methods for answering a variety of rhetorical questions”. So the first step could be interrogating texts to achieve a thick description, which involves “sorting out the structures of signification [...] and determining their social ground and import” (Geertz 1973: 9), and in the light of the findings go on to evaluate the rhetorical significance of the texts and discourses examined.

This is the procedure that will be followed in this chapter, where discourse analysis of the websites under investigation will be carried out before going on to examine their rhetorical dimension. This set of procedures will be guided by the traditional idea, dating back to Aristotle’s *Rhetoric* (ca. 350BC/1954), that the main aim of rhetoric is persuasion. And it is on the Aristotelian tradition that the main principles to conduct the rhetorical analysis will be drawn.

Before going on to examine the corpus in its discursive and rhetorical aspects, in the next section the main characteristics of communication on the homepage of the websites considered will be briefly discussed.

3. Organizations’ websites

In order to be credible and viable, professional organizations have to strike a balance between their commercial/promotional purpose and social-societal values (cf. Gunnarsson 2009: 222). This is especially

problematic in the case of surrogacy agencies given that, as already noted above, the services they offer for money are highly ‘sensitive’ and in many people’s view morally (and legally) objectionable. An analysis of the homepages of surrogacy organizations, and of the texts posted on them, provides interesting insights into the communicative approach they tend to adopt in presenting themselves.

3.1. The Homepage: layout and structure

Even a cursory examination of surrogacy websites’ homepages shows that all of them typically feature pictures as an important component obviously aimed at capturing the attention of anyone visiting them either accidentally or deliberately. The most salient of such images, aimed at setting the identity of the website, and at attracting and captivating visitors, is the header image, while in general other pictures, smaller and interspersed in text, are less prominent. The subjects represented mainly fall into two sometimes overlapping categories. The first category of image depicts little babies, in most cases tender newborns, either naked or swaddled in a small blanket, or beautiful tots just old enough to be sitting in a lovely stance with their innocent eyes wide-open (cf. e.g. CARE Mexico); in other cases, the picture simply shows one detail of a neonate’s body, for instance the little feet being held in an adult’s hand (Surrogacy Beyond Borders) or a tiny hand grasping an adult’s finger (Extraordinary Conception). The most touching of such pictures are those featuring a newborn lying on the abdomen or chest of an adult in the same position in which neonates are usually laid on the mother’s body just after birth, thus making symbolic reference to the status of parenthood to be acquired by intended parents. The other category includes photographs of happy families, in their various forms – traditional, single parent, same sex – with one or two handsome children of varying ages. These pictures are presented simply as large single images sitting atop the page (e.g. New Life Georgia) or, in smaller size in groups of four or five photos, e.g. white-bordered snapshots or cuttings (e.g. Sensible Surrogacy). In some cases, these images (in both formats) are presented in the rotating mode, thus offering the visitor a variety of different pictures, for a more intense perlocutionary effect.

In the corpus the only exception is Physicians Surrogacy's website, which dedicates the homepage to surrogates, featuring more than one photo of a pregnant woman with a close-up of her big belly; in this case, access to information for intending parents is available indirectly, through a dropdown menu.

Among all the websites analysed, one – that of the Center for Surrogate Parenting – stands out for featuring a number of other pictures in addition to those in the header of the homepage, illustrating the links themselves and the short texts introducing them. Among them, there is one that is larger and more prominent, taking up about half the width of the page, entitled 'Choosing the right surrogacy agency', and hosts pictures of celebrities who have taken advantage of the Center's services, photographed with their children, with the relevant captions: 'Elton John and David Furnish create their family', 'A Big Congratulations [*sic*] to Elizabeth Banks', 'Tagg and Jen Romney have Twins', etc. These celebrity cases are also dealt with, more diffusely, in the 'Success Stories' section of the website, mostly in the form of personal narratives. In a similar vein, all the websites have sections with testimonials and stories by parents who have had children by taking advantage of the organization's services, mostly narrated in the first person in highly emotional tones.

All homepages have links, arranged in menus usually positioned across the page just below the header or at the foot of the page, giving access to texts that provide various types of information posted in the inner layers of the site: 'How it [Surrogacy] Works', 'Surrogacy Guide', 'Step-by-Step', 'Same Sex Families', 'Legal Overview', 'Legislation Affordable', 'One-on-One Care', 'Services List', 'Surrogates now Available', 'Quality', etc. More rarely links mention the costs of surrogacy ('Affordable Surrogacy Beyond Borders'; 'Surrogacy Prices': Sensible Surrogacy; 'Surrogacy Costs': Center for Surrogate Parenting). In some cases, the links have an evident conative drive, e.g. 'Search Egg Donors', 'Search Surrogates', 'Become a Donor', 'Become a Surrogate', 'Parents Apply', 'Gay Parents Apply', 'Surrogates Apply'.

3.2. The Homepage: text

If then one turns attention to text, all websites provide general information about the organizations on their homepages, mainly by means of introductory welcome texts posted on the pages themselves, usually in a central position, or the ‘About us’ section (or both). Indeed, it is interesting that in these texts, and, in general, in the more readily accessible sections of the websites, the commercial character of the organizations is largely passed over in silence, as their activities tend to be described in terms of altruistic help to people in difficulty, rather than in terms of business for profit. See the following examples:

- (1) Our *mission* is to help couples create loving families. (Sensible Surrogacy)
- (2) Surrogacy Beyond Borders’s *mission* is to assist couples of any sexual orientation with their goals of family building. [...] Surrogacy Beyond Borders is equal opportunity and *is committed* to assisting couples of any make up. (Surrogacy Beyond Borders)

As can be seen from the examples, the organization’s activity is described in terms of mission and commitment. It is to be noted that here the word *mission* is not utilized in the way it is generally used in business communication today, to refer to “the organisation’s product, service, market, and technology in a way that reflects the values and priorities of the [company’s] decisionmakers” (Graham/Havlick 1994: vii–viii), as in the expression *mission statement*. Rather, it is used in its original meaning as “a task which a person is designed or destined to do; a duty or function imposed on or assumed by a person; a person’s vocation or work in life, a strongly felt aim or ambition in life” (‘mission’, n., *OED Online*, 29/10/2016), without even implying that the organization is doing business.

Only two of the organizations make some reference to the financial aspects of the process in the more readily accessible layers of the website, Sensible Surrogacy and Surrogacy Beyond Borders, who include in their mission the offer of much lower prices (about 50%) with respect to the US, making *sensible surrogacy* their catchword. In this way the issue of costs is dealt with openly, but emphasis is laid not so much on business aspects, but rather on the organizations’ capability

of offering intending parents the opportunity to make recourse to surrogacy even if their means are limited.

Overall, it can be stated that the business component and the profit-making character of the organizations are generally obfuscated, while the focus is on moral and professional values, constructing a specific, morally upright professional identity for surrogacy centres and operators.

As regards professional ideologies, there are reasons to believe that, as a function of their job profile and role, experts working in surrogacy centres do share the general ideologies of their professions with the broad professional groups they belong to (e.g. gynaecologists, nurses, geneticists, obstetricians, etc.), but, in addition, they also have beliefs and values that are specific to their field of activity and its peculiarities. Not all members of the superordinate professional group would find these acceptable, because they may be perceived as running counter to some widespread traditional beliefs about some of the fundamental facts of life.

According to Kong (2014), the assumptions underlying a professional group's discourses can be summarized in a list of fundamental propositions. In the case of surrogacy professionals that list of propositions can be expressed as follows: every individual has the right to have children, whatever his/her sexual orientation, his/her state of health, his/her age; Artificial Reproductive Techniques are legal and legitimate; it is ethically admissible that a woman carries a child in order to give it up to someone else; manipulative reproductive and genetic technologies like pre-implantation sex selection are ethically admissible, etc. These principles are more or less explicitly woven into discourses posted on surrogacy centres' websites. In some cases, the conviction that surrogacy is legitimate and good is asserted through positive statements mainly introduced by *believe*, with the steadfastness of the conviction underlined by the addition of the adverb *strongly*:

- (3) At our CARE Surrogacy Center, *we strongly believe* that everyone deserves the opportunity to become a parent, including those who are heterosexual, single, gay, or lesbian. (CARE Mexico)³

3 Unless otherwise stated, italics are added in examples.

- (4) CSP was established because *we strongly believe* that all couples who are ready and willing to take on the responsibility of parenthood deserve that opportunity. (Center for Surrogate Parenting)
- (5) *We also strongly believe* that desire for parenthood does not have to be necessarily dependent on a relationship with a partner. (New Life Georgia)

Quite frequently, rather than a simple belief, it is pride in one's professional activity that is expressed:

- (6) *We are proud of* what we do and are committed to helping would-be parents achieve their dream of parenthood. (Extraordinary Conceptions)
- (7) With our over 35 years of experience, *we are proud* to help a wide variety of intended parents. (Center for Surrogate Parenting)

This kind of open statements are obviously aimed at a sort of affirmative action, propounding the goodness and legitimacy of ART techniques and surrogacy, and implying that the professionals managing surrogacy centres and working in them do have a specific professional ideology of their own and high moral standards.

4. Professional quality of surrogacy services

After these general observations on the websites investigated in this study, attention will now be turned to the analysis of how some crucial lexical items are used in the texts posted on them. The purpose is not so much to account for the writers' choice of certain particular words as semiotic resources, as is often done in CDA, but rather to look at the utterances in which they are used and the value they acquire in those contexts, the semantic fields and discursive frameworks they activate in discourse and the overall meanings they contribute to generating in those specific sites. This will make it possible to determine how a given semiotic resource is used to realize surrogacy organizations' interests and convey a positive and professionally viable image of themselves,

also influencing the way readers perceive the values, beliefs and ethical convictions underlying the practice of surrogacy.

The analysis will start from a scrutiny of the occurrences of certain words within the relevant concordance lines. Given that in this chapter the focus is specifically on professional aspects and rhetoric, the first semiotic resource to be discussed is the word *professional* and its cognates, although it does not have a particularly high frequency in the corpus. This will be done by looking at concordance lines of *professional**⁴ (69 hits, 0.07%), trusting that this will provide us with indications on the idea of a professional's role and expertise prevalently constructed by these organizations on their websites.

Of course, surrogacy organizations depict themselves as consisting of, or partnering with, high-level professionals from various fields of knowledge and expertise, as can be seen in the following example, where this idea is presented as a deeply-rooted conviction (“we believe ...”):

- (8) We believe that surrogate parenting should be a collaboration of *professionals* who guide the entire process. The team should consist of doctors, psychologists or psychotherapists, attorneys and an agency that is the liaison between all the participants. (Center for Surrogate Parenting)

Here the fact that surrogacy should be practised by collaborating professionals is presented as an absolute conviction on the part of the organization and, therefore, as an unavoidable condition. It is interesting that the word *team* appearing at the beginning of the second sentence in example (8), is preceded by a definite article for anaphoric reference i.e. indicating that “the item in question [i.e. team] is specific and identifiable, that somewhere the information necessary for identifying it is recoverable” (Halliday/Hasan 1976: 71); here that ‘somewhere’ is to be found in the previous sentence, as it obviously refers to “a collaboration of professionals” mentioned there. This brings home the idea that high-level professional interventions in the domain of surrogacy can only be

4 An asterisk *, used as a ‘wildcard character’ added after a string of letters (i.e. the beginning of a word or a stem), represents zero or more characters, and enables to search for all possible words starting with that string. So, in the case of *professional**, the search yields a total frequency of 69 hits, which analytically includes the following occurrences: *professional* 37, *professionals* 21, *professionalism* 9, *professionally* 2.

multidisciplinary and collective, which is re-iterated by repeating the association between expertise and group collaboration in the following examples, where especially noteworthy is the expression *world-class professionals* (in example 10) for the emphasis it lays on the excellence of the organization's staff:

- (9) *Our team of professionals* will guide you through the entire journey. (Extraordinary Conceptions)
- (10) Our Asia-based *teams of experts* are *world-class professionals* with credentials from excellent European medical and educational institutions. (Sensible Surrogacy)

It is remarkable that on one of the websites (New Life Greece) the word *professional* is referred not only to doctors, nurses and psychologists, but also to surrogates, and to egg or sperm donors, e.g.:

- (11) This is a mutual arrangement between *a professional woman called the surrogate mother* and intending parents unable to give birth to a child. (New Life Greece)
- (12) However, the eggs do not belong to the surrogate mother. The eggs may belong to *a professional egg donor* or even the biological mother. The sperm may belong to the biological father or *a professional sperm donor*. (New Life Greece)

The representation of surrogates and gamete donors as professionals seems to be in sharp contrast with the idea of surrogacy as an altruistic mission. Its obvious aim is to emphasize the professional status of *all* subjects involved in the surrogacy process, in contrast with the picture, often relied on by detractors, of surrogates as poor women exploited by rich intending parents and ruthless organizations. Another possible aim is to dispel the fear that the parties involved may have any claim on the product of conception, something that has not occurred infrequently in the course of time, leading to bitter battles in court.

Among the hits of the search for *professional**, there are nine occurrences of *professionalism*, an abstract word that evaluatively compendiates professional skills. See the following examples:

- (13) [...] we appreciated and came to depend on the *professionalism* and personal integrity of CSP's staff. (Center for Surrogate Parenting)
- (14) We have both been very impressed with your *professionalism* and we're sure if anyone could pull it off [...] you guys can and do on a daily basis! (Extraordinary Conceptions)

It is interesting to note that among the occurrences of *professionalism*, seven are part of the clients' testimonials and narratives that all websites display, thus suggesting that the recognition of the high professional standards characterizing surrogacy agencies' staff comes directly from former clients.

For other lexical items contributing to constructing the professional image of people working in surrogacy agencies, it can be useful to consult the frequency list obtained with the Wordlist tool of WordSmith Tools 6.0, and identify the most frequent words that are meaningful in this respect. Table 1 shows the most frequent lexical items in the corpus, down to rank 130.

Table 1. Most frequent lexical items in the corpus (items discussed in text are highlighted in bold).

<i>rank</i>	<i>entry</i>	<i>freq.</i>	<i>%</i>	<i>rank</i>	<i>entry</i>	<i>freq.</i>	<i>%</i>
16	surrogacy	893	0,91	81	surrogates	170	0,17
17	surrogate	881	0,9	83	fertility	165	0,17
22	egg	663	0,67	91	mexico	149	0,15
23	parents	615	0,63	92	provide	149	0,15
26	donor	527	0,54	93	clinic	146	0,15
33	intended	434	0,44	95	success	143	0,15
36	process	390	0,4	98	make	140	0,14
37	mother	380	0,39	104	couple	132	0,13
41	medical	339	0,34	105	genetic	131	0,13
43	child	292	0,3	106	embryos	129	0,13
46	IVF	259	0,26	110	experience	124	0,13
48	care	250	0,25	112	extraordinary	122	0,12
50	donation	246	0,25	113	step	122	0,12
54	couples	238	0,24	114	agency	121	0,12

<i>rank</i>	<i>entry</i>	<i>freq.</i>	<i>%</i>	<i>rank</i>	<i>entry</i>	<i>freq.</i>	<i>%</i>
55	pregnancy	236	0,24	115	work	121	0,12
57	baby	227	0,23	117	services	120	0,12
60	sperm	217	0,22	119	embryo	117	0,12
61	eggs	216	0,22	120	take	116	0,12
63	family	211	0,21	123	team	114	0,12
64	donors	205	0,21	124	mothers	113	0,11
65	life	202	0,21	125	procedure	111	0,11
67	legal	198	0,2	126	conceptions	109	0,11
68	do	197	0,2	127	need	109	0,11
69	birth	195	0,2	128	sex	107	0,11
74	help	180	0,18	129	center	106	0,11
75	program	179	0,18	130	women	106	0,11
77	new	176	0,18				

As can be seen, all lexical words down to rank 130 are specific to the description of surrogacy procedures, the objects and agents involved in them, with very few exceptions. Among such exceptions, three are nouns which, interestingly, are all relevant to the description of professional performance – *success*, *experience* and *team* – the latter having already been commented upon above. Therefore, on account of their pertinence to the topic discussed here, i.e. the construction by surrogacy organizations of an image of high-level professional expertise for themselves, these nouns will be analysed more in depth, considering in particular the discursive use to which they are put in the specific contexts where they appear.

The word *success*, with its 144 hits (0.15%), is the most frequent noun after specific surrogacy vocabulary; but if one considers its cognates, retrievable by searching the corpus for *success**, the occurrences are as many as 209 (0.21%),⁵ being as frequent as words like *family* (211) and *sperm* (217). Insistence on success as an important professional qualification has the evident purpose of reassuring intended parents about the outcome of such a risky process and helping them cope

5 Analytically, hits are as follows: *success* 144, *successes* 4, *successful* 61.

with the stress and anxiety of the surrogacy journey thanks to the awareness of the organization's long-standing and solid past record of success:

- (15) Our *high success rates* also result from invaluable service provided by our non medical staff comprising of legal experts and administrative executives who take care of legal and social aspects that have a bearing on every birth in our clinic. (New Life Greece)
- (16) We offer many services designed to give the most flexible and transparent surrogacy journey possible while maintaining our exceptional standards and *high success rates*. (Surrogacy beyond Borders)

It is to be noted that in these examples surrogacy centres' impressive record of success is represented as being the result of the high standard of professional services offered. In example (16) the emphasis on success rates is accompanied by an insistence on transparency and flexibility, a choice obviously aimed at countering all shades tainting the reputation of this type of organizations. Similarly, in the case of Sensible Surrogacy the organization declares success in surrogacy to be its main aim, prioritizing it even over profit:

- (17) We are so committed to the success of your IVF program that we will waive ALL our agency fees until your surrogate is pregnant. (Sensible Surrogacy; capitals in the original)

The crucial importance of this notion is confirmed by the fact that some of the websites devote a separate section to success, with specific headlines: 'Pregnancy Success Rates with our Surrogacy Program' (Care Mexico), 'Success Rates' (New Life Greece, New Life Ukraine).

The other noun appearing in the top part of the frequency list is *experience*, which is the third most frequent noun in the corpus after surrogacy-process-related words. It yields 124 hits (0.13%), but with its cognates it reaches a frequency of 174 (0.18%). A look at the concordance lines of *experience** shows that this requisite is presented as being a *sine qua non* for a professional or an organization to be able to manage the surrogacy process adequately:

- (18) The art of surrogate parenting can only be mastered through vast *experience* in the field. Having been involved as the premier agency in the field of surrogacy for over 35 years, no other program has the hands-on *experience* that we have. (Center for Surrogate Parenting)

Example (18) illustrates very well the insistence on experience as the most essential of all qualifications, also in relative terms, given that in the corpus other semantically competing words are used much less frequently (e.g. *competence* appears only twice, and *expertise*, whose meaning ultimately includes an experiential component, occurs only nine times). And it is especially meaningful that among the hits there are 35 occurrences of *experienced*, always referred to professional staff: experienced staff, counsellor, consultant, physician, experienced IVF clinic, experienced surrogacy services, etc.

The importance of experience is not only commended as such, but also conveyed by means of narratives of the organization's history where experience is presented as the opportunity to accumulate knowledge and expertise, and, at the same time, as constituting a record of actual achievements that could dispel any possible doubt that potential clients might have, as in the following examples:

- (19) In our over 35 years of helping infertile couples become parents, we have celebrated the birth of over 2,000 babies. (Center for Surrogate Parenting)
- (20) Extraordinary Conceptions is a leading international agency that has been in business for over 10 years. (Extraordinary Conceptions)

This exertion to construct an image of an organization as having always surmounted all problems involved in surrogacy and delivered on the promise of giving intended parents a baby that is healthy and totally their own is evidently aimed at neutralizing the inherent stress and anxiety involved in fertility treatments. Couples start a process which is out of their realm of control, involving inherently risky procedures and a number of odds: selection of a surrogate, clearance to start the process, response during treatment, embryo fertilization, survival and transfer, long periods of wait, anxiety about the mother's willingness to really give up the child after birth, etc. In this context, for the organization offering surrogacy services, 'experience' is a very important requisite as a form of reassurance for potential clients.

Among the verb forms appearing on the list, most are semantically versatile lexemes like *do*, *provide*, *make*, *take*, *work*, so they need not be considered for the purposes of this analysis. The only really interesting word is *help*, with 180 hits, of which 139 are verb forms, while

the total frequency including cognates and conjugated forms totals 267 (0.27%), of which 221 are verb forms, 41 nouns and 5 adjectives (*helpful*). This word, as a verb or a noun, is utilized in recurring discursive frames, either referring to agencies' general assistance in the surrogacy process (as in examples 21 and 22 below), or to the performance of certain specific actions (as in examples 23 and 24), or sometimes to assistance on the part of surrogates or donors (as in 26 and 27):

- (21) First agency to *help* a gay couple (Center for Surrogate Parenting)
- (22) We are here to *help* you (CARE Mexico)
- (23) We will *help* set you up at any of the three partnering clinics and provide fast turn around time on appointments and clinic set-ups. (Surrogacy beyond Borders)
- (24) Here at CSP we *help* match intended parents so they can achieve their dream of parenthood through surrogacy. (Center for Surrogate Parenting)
- (25) Our goal is to *help* bring surrogates and intended parents together for a common goal. (Extraordinary Conceptions)
- (26) With the generous *help* of one of our egg donors. (CARE Mexico)
- (27) Having a child with *the help* of a surrogate can be an exciting and fulfilling way to meet that need. (Center for Surrogate Parenting)

In other cases, *help* is used as a noun, but its meaning and the semantic fields activated appear not to be very different, as in the following example:

- (28) Over 500 babies have been delivered through the *help* of New Life Global Network. (New Life Mexico)

To sum up, the analysis of some salient lexical items and the associated discursive frames found in texts presenting the professional status of surrogacy organizations and their staff provides evidence of an effort to construct an image of first-class professional expertise and reliability, supported by the benefits of collaboration and teamwork. This discursive strategy is also obviously aimed at reassuring intended parents that a smooth process and positive outcomes are guaranteed in a procedure

that inherently entails a degree of unpredictability and uncertainty of results. The insistence on the desire to help and assist others as a prominent characteristic of surrogacy organizations and of all the subjects involved is in line with the altruistic image of the organizations that is conveyed in the introductory sections of the websites and in mission statements.

In the next section, attention will shift to the use of specialized language as a vehicle for professional self-representation.

5. Recourse to specialized language

Recourse to specialized language is one of the distinctive features of professional communication. Discursive practices contribute to constructing and defining professionals' identities. They are used to shape events, practices and interactions in the professional domain, and in this way – as Goodwin (1994: 606) makes clear – they create “the objects of knowledge that become the insignia of a profession's craft: the theories, artefacts and bodies of expertise that are its special and distinctive domain of competence”, and contribute to “build[ing] and contest[ing] professional vision, socially organized ways of seeing and understanding events that are answerable to the distinctive interests of a particular social group.”

Within this context, the importance of specialized language in the construction of surrogacy centres' image and of surrogacy professionals' identity cannot be exaggerated: in communicating professionals' competence and expertise, the appropriate use of specialized language can play a fundamental role. All surrogacy websites provide information on the process and conditions of surrogacy, also occasionally using 'technical' words for specific referents (mainly medical – e.g. *cryopreservation*, *oocyte*, *blastocyst*, etc. – but also legal and administrative – *arraignment*, *escrow*, etc.). In some cases, the account of procedures is very detailed, as for instance in this description on Mexico Care's website:

- (29) The vaginal ultrasound is used to direct a needle through the vaginal wall into the ovary and inside the follicle; suction is employed to aspirate the fluid and egg into the IVF tube. The lead embryologist examines the fluid under a microscope for the presence of the mature eggs.

Here the first stage of IVF, the egg retrieval procedure, is described in strictly technical terms, possibly for the sake of accuracy, given the crucial importance of this operation within the whole process, but possibly also for a perlocutionary effect, to convey an impression of high technical competence.

But recourse to extremely technical discourse as such is not very frequent in the corpus, as in general the use of specialized terminology is accompanied by explanatory strategies, such as definition, which is used to explain unknown words, and denomination, which provides a specification of the name given to objects, events or terms, typically introduced by expressions like *called*, *known as*, *denominated*, etc. (cf. Calsamiglia/van Dijk 2004: 374, 379). Examples (30) and (31) provide instances of extensional and intensional definition respectively, while (32) exemplifies the strategy of denomination:

- (30) Gestational surrogacy: Egg and sperm of intended parents are used to create embryos that are implanted into the uterus of the surrogate mother. (Center for Surrogate Parenting)
- (31) Gestational surrogacy is a method of reproduction. It uses In Vitro Fertilization (IVF) to create an embryo using the eggs from the intended mother or donor and sperm from the intended father or donor that is then implanted in a surrogate mother. (New Life Mexico)
- (32) It is also possible to fertilize the embryo in the parent's home clinic and ship the frozen embryos to our clinics in Mumbai or Bangkok. This is called 'Frozen Embryo Transfer'. (Sensible Surrogacy)

On one of the websites (Extraordinary Conceptions) even online glossaries are made available: a Glossary of Insurance Terminology, to help clients understand their insurance coverage and benefits, and a Glossary of Egg Donation. Long explanations are reserved for 'special techniques' like baby gender selection and sperm washing (for HIV positive prospective fathers), e.g.:

(33) *Is 'Gender Selection' available?*

Yes Gender Selection is available at an additional charge. There are three types of Gender Selection available: Sperm sorting, 70% accuracy, PGD, 99% accuracy; Sperm sorting with PGD, 99% accuracy, that all the embryos will be the gender of your choice. (Surrogacy Beyond Borders)

It is interesting to note that on all websites specialized language is used prevalently in sections that describe more or less in detail all the different steps or stages of the surrogacy procedure, also specifying the timing of the steps. For the layman, IVF and surrogacy are complex and difficult to figure out, and the inability to fully understand a process where so much is at stake may be a source of frustration and diffidence.

Therefore, it can be hypothesized that the technical explanations given, accompanied as they are by explanatory strategies, are aimed at rationalizing intended parents' perception of the process. Thanks to the information gathered in this way, they can then overcome any hesitation in deciding in favour of surrogacy, preventing or dispelling the anxiety usually associated with the complex techniques and long waiting times involved in this reproductive practice.

6. The rhetorical perspective

In the previous sections, we have performed what Johnstone and Eisenhart (2008: 3ff.) call an 'analytical heuristic' of surrogacy websites, i.e. a preliminary discourse-based examination of semiotic resources deployed on them, looking at the language used and its relation to context and to the discursive construction of the relevant professionals' and organizations' identities. In light of the findings of the heuristic, we shall now move on to explore the rhetorical dimension of those same semiotic resources.

The texts are examined to verify how the three means of persuasion recognized in rhetorical discourse in the Aristotelian tradition are realized: *ethos*, which "depends on the personal character of the speaker"; *pathos*, which depends "on putting the audience into a certain frame of mind; and *logos*, depending "on the proof, or apparent proof,

provided by the words of the speech itself” (Aristotle 1954: 1356a). It is also important to ascertain the relative weight of each of these modes of persuasion, shedding light on the rhetorical use to which discursive resources are put in the texts under discussion.

The results of the discourse-based analysis of the websites carried out in sections 2, 3 and 4 clearly indicate that in their self-representation surrogacy organizations tend to rely prevalently on essentially ‘ethical’ arguments, which are typically deployed when discourse aims at accomplishing persuasion by character, and “the speech is held in such a way so as to render the speaker worthy of credence” (Rapp 2010), a fact that according to Rapp (2010) is especially important in cases where there is room for doubt as to the speaker’s integrity, as in the case at hand.

As we have seen, on the websites verbal communication is mainly aimed at reassuring potential clients of the credibility, and hence the reliability, of surrogacy organizations’ character. According to Aristotle, this objective can be achieved only thanks to three main requisites: “the ethical appeal is exerted when the speech itself impresses the audience that the speaker is a man of sound sense (*phrónēsis*), high moral character (*areté*), and benevolence (*eúnoia*)” (Corbett 1965: 80).

In actual fact, in the texts analysed all three requisites are met. The organizations are represented as displaying *phrónēsis*, i.e. practical intelligence and wisdom, when they are depicted as capable of offering high level services and managing all procedures involved in surrogacy (medical, legal, organizational) with savvy. They are also represented as being virtuous (*areté*), when emphasis is laid on the fact that surrogacy organizations are driven by solid values and strong convictions regarding the goodness and lawfulness of surrogacy, rather than by profit (a component that tends to be eclipsed in discourse). Finally, they are represented as being endowed with benevolence (*eúnoia*), i.e. as perceiving their professional activities as part of a mission and committing to such a mission unconditionally, in a totally altruistic manner, with no consideration for self-interest.

Therefore, it can be stated that the ethical construction of surrogacy organizations’ character is effected consistently, with all means available, while the other two modes of persuasion, obviously less prominent, are often also used in combination with ethical arguments.

The appeal to *pathos*, which is aimed at affecting the emotional disposition of the audience so that they are more permeable to persuasion (cf. Aristotle 1954: 1378a1ff.), is realized firstly through the visual component, which is prevalently displayed on the home page, as described in §3.1 above. The kind of pictures used are supposed to have the obvious effect of inducing, or reviving, intended parents' desire to have a family and their yearning for the parental experience. A similar effect is obtained by means of the website sections containing testimonials and narratives, where the account of a positive surrogate parenting experience in itself may have an emotional impact, arousing desire of emulation and envy. This effect is compounded by the tones used, which are often highly emotional, e.g.:

- (34) Our new baby boy was just born three weeks ago and there are not enough words to describe our happiness and all of you have got part in making it happen!!!
(New Life Greece)

Surrogates' and donors' narratives are also obviously aimed at having an emotional impact, inducing in prospective parents, surrogates and donors a disposition that leads them to see the whole process as a rewarding experience for all subjects involved, ignoring questionable aspects:

- (35) I just wanted to say thank you all so much for such an amazing experience. I have felt so well taken care of throughout this process. I would definitely be interested in helping other couples to grow their family! (Physicians Surrogacy)

Of the three modes of persuasion, it is certainly the appeal to *logos*, i.e. the rational appeal, which is most evidently kept in the background. It is deployed only in the more 'specialized' sections of the websites, where technical accounts of the processes involved are provided, illustrating the viability of the procedures and the organizations' competence and professional know-how, which however are obviously also exploited in the service of the establishment of the organization's authority (i.e. for ethical purposes).

Thus, the exploration of the rhetorical dimension of surrogacy organizations' websites carried out keeping account of the results of the discourse-based analysis of relevant texts shows that the discursive

practices deployed on them are more than obviously aimed at showing the trustworthiness of the relevant organizations in a context where there may be different reasons to doubt their honesty and dependability and the lawfulness of their services. Given the significance of the facts at stake, the critical issue for surrogacy organizations seems to be not only to attract clients by extolling quality of service and enhancing prospective parents' desire to have children by means of stories and pictures, but, above all, to win their trust. This point can be illustrated more accurately if reference is made to the scientific definition of trust given in sociology, as the willingness to undertake "a risky course of action on the confident expectation that all persons involved in the action will act competently and dutifully" (Lewis/Weigert 1985), or, more stringently, as "a bet about the future contingent actions of others" (Sztompka 2003: 25). This is the bet intended parents make when they start the surrogacy journey, and it is only natural that all discourses addressed to them should have the rhetorical intent to induce them to trust the organization assisting them in such a journey.

7. Conclusions

This chapter has examined the websites of some commercial surrogacy organizations, focusing on how they construct their professional image for the purpose of persuading potential clients to turn to them for assistance to become parents and create their own family. The main element emerging from the discourse-based and rhetorical analysis of the corpus is that in the choice of modes of persuasion there is a clear preference for the ethical appeal, i.e. for arguments that highlight the professional and moral authoritativeness of surrogacy organizations and professionals, while the pathetic component is left to visuals and to sections hosting previous clients' testimonials and narratives, and the logical component is limited to the most technical sections, reporting on the legal and medical process and the procedures to be enacted.

Right from the introductory texts and mission statements, the qualities exalted are mainly altruism, expertise, and the success record. The

commercial, profit-making character of the organizations is correspondingly downplayed. All this contributes to depicting the organizations as credible, morally sound and honest, enhancing their ethical dimension. In particular, the analysis of lexicon in context shows that emphasis is placed on traits that fall within the scope of the three main requisites that according to Aristotle constitute ethos, i.e. practical intelligence and wisdom, virtue, and altruism and goodwill. Special stress is laid on experience and on an impressive story of achievements, rather than on professional competence in itself, and high professional standards are touted mainly as guarantees that there exist all the pre-conditions to expect that surrogacy procedures will likely give successful outcomes.

These rhetorical strategies are obviously geared to the needs of organizations which are operating in a shady area of activity where the questionable legality of manipulative reproductive practices and the controversial moral status of the values underpinning them could cast doubts on their seriousness and honesty. Further doubts could be raised by the incontrovertible fact that surrogacy procedures are complex and their results to some extent unpredictable, so their outcome is not guaranteed, entailing a high degree of uncertainty. Hence the need to convince prospective clients of surrogacy organizations' professional seriousness, honesty and trustworthiness. This is why on their websites discourse is used not only to allure potential clients and convince them of the viability of the services offered, but also to persuade them, as well as any other net surfer who may visit the site, of the ethical acceptability and soundness of ART practices, and in particular of surrogacy, and of the excellent chances of success warranted by the professional expertise. Within this context, of the utmost importance is the notion of trust, which is the crucial attitude to be fostered in intended parents in order to convince them that the risks and uncertainties involved in surrogacy are worth taking, with reasonable confidence in a successful outcome. In this context, the ultimate aim of communication strategies on websites is to help prospective clients put all possible hesitations and perplexities aside by depicting surrogacy organizations as caring for values, and not as mean baby-trading businesses, and the professionals working in them as capable, passionate and altruistic. This is the key to accounting for the clear prevalence of the appeal to ethos in

the discursive and rhetoric strategies characterizing surrogacy organizations' communication on their websites.

The analysis conducted here has also provided an opportunity to put to test suggestions that have recently emerged that discourse analysis can contribute a fine-grained description of discursive processes which may serve as a basis to investigate overarching rhetorical strategies, thus avoiding the abstract top-down approach of rhetorical analysis. It is for future research to elaborate a model to systematize this synergic analytical approach.

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‘Silence will Break my Bones’: The Presentation and Representation of Victims and Perpetrators at the Service of Just-world Views in Judicial Discourse

1. Introduction

This chapter will explore how face-work strategies (Goffman 1967b: 12) can serve the purpose of rationalizing injustice in legal discourse. Due to its links to primal human cognitive biases, face-work can be used as an ideological instrument to influence behaviour. By minimizing the effects of injustice on the general public’s perception, face-work can go beyond social interactions to impact social relations, reverse the effects of a justice threat – that is, lenient or no punishment for criminal acts – and reinforce the social order, that is, the hierarchies of power between dominated and dominating social categories and the institutions organizing those hierarchies and regulating behaviour.

It will be argued that, to do so, the goals of criminal justice must be reinterpreted by those with the power to enforce legal rules – judges – for specific cases where the victim is a member of a disprivileged group and the perpetrator is a member of a dominant group. When the awareness of an innocent victim and of an unpunished criminal would challenge the belief that the world is a just place, where personal investments render personal benefits, face-work becomes a resource to restore and protect those beliefs by rationalizing a justice threat at the expense of the victim.

A particularly controversial judgment on a sexual assault case will be analysed to identify character presentation and representation strategies and to reveal the subtleties of ideological manipulation in legal

discourse. It will be argued that both voice and silence intertwine in discourse to reinterpret the empirical world and the social rules to protect the belief that the world is a fair place, where investments in one's own and society's futures and wellbeing yield stability and prosperity for all (what is known as the 'just-world hypothesis'). It is further argued that the presence and absence of signs and meanings are orchestrated specifically to positively (re)present the perpetrator and negatively (re)present the victim where the victim is a member of a disprivileged group – in the case under study, women – and the perpetrator is a member of a dominant social group. By analysing the sentence delivered in the case *People of the State of California v. Brock Allen Turner*, the intersections of discourse and power relations will be explored to shed further light on “the ways in which meaning is mobilized in the social world and serves thereby to bolster up individuals or groups who occupy positions of power” (Thompson 1990: 56).

2. Is the world a fair place?

Empirical studies have shown how human beings have a primal need to believe that the world is a fair place (Hafer 2000). To invest in long-term rewards and collective and individual prosperity – rather than spending time on immediately-rewarding activities –, individuals need to trust that delaying benefits will pay off and bring about positive results in the future (Lerner 1980). Research has also shown how individuals maintain their just-world beliefs even when facing ‘cognitive dissonance’, that is, exceptions that may disprove their theories – in this case, the existence of a universal justice (Lerner/ Simmons 1966) which distributes awards based on self-investment. As awareness of innocent victims threatens those views, injustice will be either denied or rationalized and grounds or ulterior motives will be provided (Olson/Hafer 2001). Indeed, individuals have been shown to feel less sorry for the victim of a crime when exposed to a narrative of the victim's deviant behaviour before or after knowing about the crime itself. When their beliefs are threatened, just-world believers may reach extremes to protect their

assumptions on the world, such as what is known as 'victim-blaming', that is, seeing in the victims' actions the cause of their misfortune, or 'victim derogation', that is, assigning the victims negative traits that are causally unrelated (Correia/Vala 2003; Aguiar *et al.* 2008; Vonderhaar/Carmody 2015).

The awareness of unpunished crimes has a similar effect on just-world believers. When they become aware of criminals receiving no punishment ('justice threat') or a lenient treatment for their wrongdoings, cognitive dissonance is triggered, and this activates mechanisms to protect their beliefs, including victim blaming and derogation and, when the victim is the member of a minority group, group discrimination (Sullivan *et al.* 2016). Indeed, the challenge to just-world beliefs posed by the justice threat has been shown to depend on social categorization. A person will be seen as clearly undeserving injustice if she/he is a member of the same social group as the perceiver. However, membership in a different group will increase her/his chances of being seen as deserving injustice. Further, when the victim's group is a disadvantaged social group, injustice is even less threatening to just-world beliefs. Groups and their perceived status impact judgements on what they have invested and what they deserve in exchange (Caprariello/Cuddy/Fiske 2009).

It is generally argued that social stability can be gained through just-world beliefs even at the cost of minority members, whose individual and collective well-being is undermined not only by fear of future crime (Carlsmith/Darley 2008), but also by victim blaming and derogation and group discrimination activated to protect just-world beliefs (Krieger/Sidney 1996; Foster 2000; Appel 2008; Iatridis/Fousiani 2009). 'Othering' disadvantaged identities is perceived as less burdensome to social stability than the threat to the existence of a just world, given that beliefs in a just world sustain the individual's investment in the future and the group's prosperity.

However pervasive this bias might be in our every-day reactions, the law is clear and crimes must be persecuted, prosecuted, and punished. In Western and international courts, (i) incapacitation, (ii) deterrence and affirmative prevention, (iii) rehabilitation, (iv) retribution and (v) restoration are the basic purposes of prosecution and sentencing.

Incapacitation of the criminal to commit future crimes (Gertner 2003) relies on the assumption that the wrong-doer's likelihood of committing future offences should be the primary factor in determining present punishment (Darley/Carlsmith/Robinson 2000). *Deterrence* refers to dissuading prospective criminals by increasing the cost of criminal actions in the form of undesired consequences (Nagin 1998). The link between publicity of punishment and deterrence of future criminal acts has been empirically proven (Carlsmith/Darley/Robinson 2002). *Rehabilitation* is aimed at enhancing the offender's prospects for law-abidingness in the future. Rehabilitation can be used as a technique either to prevent any negative event (offending) or to bring about a positive outcome (King 2009), which is sometimes referred to as 'reconciliation' of the offender and the offended community. In this interpretation, rehabilitation is distinguished from impunity as the harm is acknowledged and judges assist offenders to identify the problems that led them to breaking the law in the first place and solve them to achieve a fuller life for themselves and their communities. *Retribution* is also sometimes referred to as 'just desert' in signifying that punishment should be proportionate to both the gravity of the crime and the guilt of the accused (Darley 2002). Retribution stresses the moral balance that must be repaired after a crime (Carlsmith/Darley/Robinson 2002). The offence is seen as a question of status, requiring a degradation of the offender to restore society's moral balance (Wenzel/Thielmann 2006).

Other authors emphasize *restoration* as the final end of criminal systems and the strongest supported solution, both theoretically and empirically, as individuals' most pervasive understanding of justice (Wenzel/Thielmann 2006) and as the most effective solution in some cases (Okimoto/Wenzel 2009; McEvoy/Mallinder 2012). Restoration has an amendatory function as a reassurance for the victim and the community that a harm was committed, that the system recognizes that such harm is against group values (a symbolic labelling) and that some kind of reparation should be provided to restore the victim's and the community's rights (Binder/Weisberg 2015) but also to reinforce values vis-à-vis the offender (Okimoto/Wenzel 2009). Restoration focuses on healing relationships for the future (Braithwaite 2002) by clarifying norms and achieving a common understanding of the problem and a

consensus about how to repair the harm (Wenzel *et al.* 2010). It is also therefore instrumental to rehabilitation while at the same time providing for a place where the victim is heard and, when possible, healed (Früchtel/Halibrand 2016).

It has been argued that sentencing is strongly influenced by how judges understand the purposes of criminal law and the preference given to any of the above-mentioned criteria. Their understanding of those principles and the bearing of any possible biases on their practices are paramount for the public's understanding of social norms. This chapter will explore whether judgments serve the aforementioned purposes of sentencing, or whether the discretionary powers conferred to judges allow them to reinterpret the very goals of criminal law and serve the interests of just-world believers, rather than society as a whole. More specifically, it will be argued that judicial discourse is used to justify justice threats and sustain the social order by protecting just-world beliefs even at the expense of disprivileged groups. By analysing a particularly controversial sentence where the victim was a member of one such disprivileged group – women –, the strategies used by the judge to present and represent the different agents in the case, especially the victim and the perpetrator, will be examined.

3. Judge one, sentence many

The relationship between punishment, public opinion and public compliance with the norms has been empirically proven (Carlsmith *et al.* 2002). The combination of punishment with its communication to the public increases compliance more effectively than any of those two elements used separately (Galbiati/Vertova 2008; Janssen *et al.* 2010; Andrighetto *et al.* 2013). Punishment and sentencing play a crucial role in social order as they identify the norms approved by society as a whole, making them conspicuous and salient to individuals. This 'sanctioning' of the right behaviour and repression of violations signal, in the public's minds, the norms by which society lives (Ellickson 1994;

Heyman/Ariely 2004; Xiao/Houser/Smith 2005; Galbiati/Vertova 2008; Andrighetto *et al.* 2013).

Publicity is the aim of exemplary sentences when a problem is especially pervasive in a given society, such as the prosecution of celebrities in tax-evasion cases (such as Martha Stewart in the United States, Sophia Loren in Italy, Ingmar Bergman in Sweden, Boris Becker in Germany or Lola Flores in Spain). Such exemplary cases produce a common awareness as to the seriousness of the offence and the fact that neither the State nor society will tolerate such behaviour. Additionally, the intensity of the punishment has a bearing on the public's understanding of social coexistence. Indeed, perceived seriousness of an offence has been proven to bear a cause-effect relation to the harshness of penalties (Roberts/Gebotys 1989). Conversely, when sentencing is lenient, the offender and the offence are brought to the backstage, victim blaming ensues and, when the victim is a member of a disprivileged or minority group, as is the case with hate crimes, group derogation has also been reported to increase (Sullivan *et al.* 2016).

In this sense, grouping and outgrouping, as psychosocial mechanisms, become instrumental to the discussion in explaining how a whole group may be affected by the sentencing of an offence committed against one individual. Human beings tend to feel affinity with those with whom they can identify and to favour the group to which they identify to protect its integrity (Tajfel 1969, 1970; Tajfel *et al.* 1971; Tajfel/Turner 1979). On the contrary, when someone is identified as the member of an outgroup, derogation and hostility are aroused and individual characteristics are overlooked (even if information is presented) in favour of attributes previously assigned to the outgroup as a whole (Sporer 2001). Narratives of members of groups and of intergroup relations build the perception of the outgroup and impact further interactions, either positively (Yamagishi/Mifune 2009; White/Abu-Rayya/ Weitzel 2014; Shkurko 2015) or negatively, favouring essentialisms and stereotypes (Montiel/de Guzman 2011; Zourrig/Chebat/Toffoli 2015; Vala/Waldzus/Calheiros 2016) leading to prejudice, discrimination and hate.

Narratives have proven their impact on social identities and intergroup relations (Somers 1992) and, particularly, on just-world beliefs (Appel 2008). They have the capacity to generate empathy for ideas, a

domain where empiricism fails (Boden/Berenbaum/Gross 2016). While exploring the scientific roots of economic and social growth, we must realize that discourses generated in society, largely influenced by the political and legal systems, can enhance or frustrate the most noble social applications of scientific, social and legal developments, even legal principles as to justice in a particular society. How individuals are presented and represented in discourse impacts the perception of their groups and claims for justice.

Cognitive biases in adjudicating and sentencing are profusely reported in scientific papers (for a review, see Goodman-Delahunty/Sporer 2010). In- and out-grouping as cognitive biases have been shown to have an impact on the public (through victim blaming, derogation and discrimination) but also on those imparting the rules, such as judges or jurors (Kerr *et al.* 1995; Taylor/Harmon 2004), who decide differently and apply different sentences depending on how they perceive the social categorization of defendants. Studies have shown how softer punishments were preferred, from those solutions available within the judicial system, when the individuals taking the decision shared the social identity of the offender (Wenzel *et al.* 2010). Sentencing is a psychosocial process with psychosocial effects. As such, a complex approach is needed, which can create awareness as to the pervasive nature of cognitive biases, how they lead perceptions and interpretations and how they seep into and spread through discourse.

In this chapter, I will explore whether in- and out-grouping strategies can be identified in the discourse of the sentence under study. Following the results from previous studies on how repairing beliefs in a just world take priority over restoration of disprivileged communities after injustice (Krieger/Sidney 1996; Foster 2000; Appel 2008; Iatridis/Fousiani 2009), I will examine what approach to justice was adopted in a case where the victim was targeted because of her membership in a disprivileged group. The strategies implemented for character presentation and representation will be examined in relation to the victim, the offender and the judge, as the agent voicing the message which will signal norms to society. To do so, the study of face work (Goffman 1959, 1967a) will be combined with the modes of ideology (Thompson 1990) performed through different linguistic strategies, specifically

oriented to reveal how social identity and just-world views are conveyed in this sentence.

4. The justice threat

On June 2, 2016, Judge Aaron Persky pronounced judgment on the case *People of the State of California v. Brock Allen Turner*. Mr. Turner had been charged with three counts of felony sexual assault against an unconscious woman and the sentence – six-month county jail imprisonment, which was afterwards further reduced to three, and three-year probation – was considered as extremely lenient by public opinion, prosecutors and victims’ rights advocates (Dearden 2009; Stack 2016). Some months later, the same judge passed a harsher sentence on Raul Ramirez, an immigrant from El Salvador, who was sentenced to three years in prison under similar circumstances. A petition led by a Stanford law professor was launched to recall the judge based on gender and racial bias allegations (McLaughlin 2016). On December 19th of the same year, however, the Commission on Judicial Performance found that the judge had proceeded according to the law (Commission on Judicial Performance 2016).

The case had attracted media attention due to the epidemic of sexual assault in university campuses in the United States. The media published the victim impact statement that described the suffering of a rape survivor due to both the aggression and the offender’s first denying his implication and then providing an excuse based on self-inflicted intoxication, good character arguments and attempts to defame the survivor’s character (Doe 2016), that is, focusing on remedying a threat to his face through an ‘account’ that erases the offensive character of his own action (Goffman 1967b, 1971). The victim was a member of a disadvantaged group (Dalbert/Fisch/Montada 1992), a woman in a misogynistic society,¹ where the pervasiveness of gender-based crimes

1 Whereas empirical studies keep showing how society groups women as ‘women’ (Fields 2013) and the generalized biases, abuses and discrimination stemming

is sometimes referred to as *rape culture*.² Such attacks are rarely treated as hate crimes even though women are targeted because of their membership of a gender (Campo-Engelstein 2016).³

In the documents of the process, the sexual-assault survivor is named 'Jane Doe' to protect her identity, underscoring her embodiment of a community problem. The media and victim's rights advocates found in her an epitome, a conduit for countless voices in desperate need of representation. In order to analyse how that representation was addressed and operated by the judicial system, I will focus on the combination of punishment and communication as the means by which criminal law can signal the norms accepted in a society (Ellickson 1994; Carlsmith *et al.* 2002; Heyman/Ariely 2004; Xiao *et al.* 2005; Galbiati/ Vertova 2008; Janssen *et al.* 2010; Andrighetto *et al.* 2013). Therefore, although the sentence and ancillary documents will be considered in their entirety, only the discourse pronounced by the judge upon delivery of the decision (Levin 2016) will be examined in order to determine how the judge selected the material on which to build the

from perceived membership to such a group in social relations (Davies *et al.* 2002), education (Rioux/Pinto 2010), healthcare (Govender/ Penn-Kekana 2007; Tunney 2014), policy development (Burri/Schiek 2009) or the workplace (Sinclair/Kunda 2000; Cadinu *et al.* 2005; Cheryan/Drury/ Vichayapai 2013), voices opposing the treatment of 'rape' and related violence as hate crimes are far from rare and located in contemporary 'neosexism' (Tougas *et al.* 1995), where individuals acknowledge systematic inequality but deny disadvantage or the basis for any special protection (Barreto *et al.* 2010).

2 See, e.g. (Boswell/Spade 1996; Klaw *et al.* 2005; Kahlor/Eastin 2011; Thompson/Gunne 2012; Canto/Perles/Martin 2014; Henry/Powell 2014; Himmelheber 2014; Rao 2014)

3 Several reasons have been identified for such generalized opposition and the exclusion of gender as a protected category in most legal systems – an exclusion which is especially conspicuous as regards the granting of refugee status: a systemic justification of men as violent beings that cannot control their instincts and the representation of women as the 'weak' and passive ingredients of species based on biological determinism (Macia/Maharaj/Gresha 2011), the normalization of gender bias and gender-based violence, which desensitizes the public (Wellman 2006), the workload for the courts and counselors (MacNamara 2003) and the impact on society that would ensue by prosecuting such a great proportion of the population (Mason-Bish 2012) and the confusing interpretations of rape as something other than violence (Willis 1992).

message which was being conveyed to the public. In that message, first made known to those present in the court and then, through the media, to the national and international community, the strategies used by the judge to present himself, the victim, the perpetrator, the offended group and the group he serves (purportedly society) will be examined.

A content analysis (Neuendorf 2002; Mayring 2014) was conducted. Categories were based on the theory of social identity and the just-world hypothesis. Discourse analysis was then used to reveal the strategies used to exert power through discourse (see van Dijk 1987) in representing just-world beliefs and identities. These strategies were further related to the modes of operation of ideology (Thompson 1990) to gain a deeper understanding of how the text exerts power through a variety of linguistic resources. Thompson's general modes (legitimation, dissimulation, unification, fragmentation and reification) relate to linguistic strategies but also to argumentative strategies that are further itemized in works by other authors (see, for instance, Brasier 2002).

Firstly, all instances where the judge referred to any agent, animate or inanimate, including himself, were identified and coded.⁴ Relevant agents who were absent from the discourse (e.g. 'women') were included in the codification even though no instances were found. The resulting list of agents is as follows:

- Judge (including instances where 'the court' referred only to himself);
- Survivor (mostly referred to as 'victim' or 'Jane Doe');
- Perpetrator (mostly referred to as 'the defendant');
- Counsel;
- The court (further subcoded as 'the Judicial System', 'the Judicial Process', 'the Jury', 'the Probation Department', 'the Prosecution' and 'Legal Rules');
- Victims (in a general sense, mostly appearing when quoting legal norms);
- Defendants (in a general sense);
- Media;
- The public;
- Women.

4 This analysis was conducted using TAMSAlyser (Weinstein 2002–2012) for Macintosh OS X to manually code all references.

Agents directly related to these, such as family and friends, were subcoded (e.g. Perpetrator>Family) as its sole appearance impacted representation. Other categories included social categorization, qualifications and past investment, future prospects, feelings, morals, intellect, verbal actions, physical actions and character proofs.

These categories were then related to face-work by classifying character presentation and representation as 'defensive' (referring to positive representation of the self) or 'protective' (positive representation of others) (Goffman 1967a), 'self-threatening' (negative representation of self) or 'threatening' (negative representation of others). When relevant, 'supportive' (organizing interactions) and 'remedial' (reestablishment of the social order after infractions or threats) actions were also coded (Goffman 1971), and in the latter case 'accounts' (justification of actions), 'apologies' (division of the subject into a guilty part and a part that offers remorse, penance or restitution) or 'requests' (demands to break rules in advance) were further detailed.⁵

Using Thompson's modes of ideology (1990), linking face-work with just-world views was made possible. For instance, when an account was achieved throughout the text by narrating the offender's past and omitting the offensive action, the code would be:

Perpetrator -> feelings -> protective -> narration

The linguistic strategies (such as the use of modalization or passive voice) were instrumental in determining the presence of the mode of ideology. Nonetheless, a caveat must be noted: silence or omissions are not considered in this model to operate ideology. In this analysis, however, these revealed themselves as a usual strategy to operate the purposes of face-work and character presentation and representation in relation to 'dissimulation'. Consider, for instance, the following excerpt:

I understand that – as I read – that [Jane's] life has been devastated by these events, by the – not only the incidents that happened, but the – the criminal process has had such a debilitating impact on people's lives, most notably [Jane] and her sister.

5 Such categories have been extensively used in both linguistic and translation studies to provide insights into the order of discourse in court settings.

The omission of the very offense and the offender as a cause of devastation for the survivor was tagged as follows:

Perpetrator -> actions -> protective -> dissimulation

The following section will discuss the results from the content analysis conducted.

5. Repairing injustice or restoring just-world beliefs? Analysis and discussion

The judge's discourse (Levin 2016), his selection of arguments and strategies, his presentation and representation of both the victim and the perpetrator provide insights into his understanding of justice, of his own function and of the principles of criminal sentencing. Beyond that information, as Luhmann (1993) claims, his discourse also reveals everything that lies behind, that is, his perception and interpretation of society, of the factors at stake in the case under examination, of the hierarchies of discourses within the social order which the offender broke and he, as the judge, is in charge to repair. With no society to mend, a judge would not be necessary. By examining his discourse, his very conception of the society he serves can be revealed.

5.1. *The judge's self*

The first subject to be presented is the judge himself and the strategies regarding face are mainly defensive. He is first represented through his own feelings about the discourse to come, presenting a human self. A series of modalizing expressions (Downing/Locke 1992; Goddard 2001; Palmer [1979] 1990) by which the judge seeks to qualify his moral certainty are present not only at the beginning but abundantly throughout the text when referring to himself and the decision he is taking. His sentence's epistemic value is premodified as 'tentative' on

three occasions and then he orders the discourse by announcing that counsel, recognized in the delivery, will be allowed to respond to it (deontic modality) thereby sharing responsibility while supporting the institutionalized order of the interaction. The following are his words (Levin 2016):

As I indicated, I will announce a tentative, or indicated, sentence and then give counsel a chance to respond. And as I'm sure everyone in the court can appreciate and as was stated several times today, it is a difficult decision.

The decision is also qualified as 'difficult' and the judge's self is safeguarded by making explicit that 'everyone in the court' can appreciate the difficulty. That epistemic value is not supported by any argument or data nor is it instrumental to further action, but the statement allows the judge to identify his own voice as that of the court and, in so doing, to universalize his own views (legitimizing them) and to conceal himself and dilute his own agency. As a strategy of self-presentation, the play with authority, moral and intellectual, signals the awareness of both his social role and his authority but also, due to its remedial character, hints at the awareness of a future offence. Modalization continues throughout the judgment as the judge profusely uses *I think* (n=19), *just* (in *I just*, *I'm just* and the like, n=7, not considering one *just* which bears a temporal meaning), *I believe* (n=2), *I'm not sure* (n=1) and *I don't think* (n=1)) to qualify his statements. The resulting presentation of the judge's self, the agent legitimized to exercise power in this situation, is hesitant and reconciliatory, thereby not authoritarian. By adopting a defensive stance, the chances to lose face by the decision are minimized.⁶

However, he gives himself credit and authority by providing (otherwise apparently irrelevant) information on his professional experience (he was a prosecutor and he has long been a judge). He is not hesitant when presenting data, either legal rules or facts, and neither does he present himself as tentative when interpreting those. In those instances, he uses legal sources (n=41) to gather and deflect authority: "The role of the Court at sentencing is to essentially follow the roadmap that our system of criminal justice sets out for the Court in sentencing

6 This seems to be usual in judicial discourse, especially in legal systems with jury trials (see Heffer 2006).

decisions” (Judicial Branch of California 2007: Title 4). He presents himself here as ‘the Court’ (which unifies a set of symbols with social authority) and, further, chooses verbs in introducing interpretations and decisions which are vested with the authority of the judgment as an institutionalized judicial genre, that is, *find* (“I don’t – on balance, I don’t find that enough to negate the absence”) and *consider* (“so I have considered all the factors related in that rule”). Contrary to his feeling and moral self, his rational dimension is diverted and vested in inanimate sources of law (especially the Rules of Court).⁷

The judge’s self-presentation allows him to identify his self-awareness and to locate his perception of himself as a member of the court, of the law and the legal profession, a class allowed to decide on people’s lives, but also to understand how and when his apparent insecurities are voiced. He places himself in the discourse by referring to his own mental and verbal acts, finds solace in the legal texts but feels challenged by the public and the media. Throughout his judgment, he remarks that he is very much aware of and displeased by the attention that the *media* (n=4) has given to that case and he therefore knows he is talking to an international public. He does not comment on the impact of the case for society, women (n=0) or women’s rights, and he does not refer to the ‘rape culture’ on US campuses or the gender-based nature of the assault.

The fact that some external reality is placed in the discourse while other realities are filtered out reveals a will to focus while hiding. Further, the stress on the damage done by the public discourse on the case, where selection and dissemination does not reproduce the institution’s order of discourse reveals a will to protect power structures. The media challenges the structural domination, and in so doing introduces a disruption in the order of discourse which seems to be very much felt by Persky. In his discourse, the media is othered and portrayed as a threat to his own face and that of others (especially the perpetrator), thereby operating an expurgation of the harm. By finding a common

7 This strategy has been extensively explored. Indeed, Bourdieu (1986) considers this to be part of the most important strategies in the legal field to establish and preserve power.

enemy for both the victim and the perpetrator, the latter's responsibility in the offence is distributed and diluted. For instance:

With respect to the media attention that's been given to the case, it has not only impacted the victim in this case, but also Mr. Turner.

In the judge's discourse, the effects of the crime on the disprivileged group are silenced and concealed, and so is the fact that the victim was targeted for her membership in the group. This information, a threat to the social relations he is depicting, was made clear in several documentary exhibits of the case, including the victim impact statement.⁸ Jane Doe's declaration did portray the offender as acting on women as a group, not on her personally (which would have been difficult as he claimed not to recall the victim). When rationalizing the sentence to be passed, however, such information is not factored in, not even when briefly considering the vulnerability of the victim. This vulnerability is mentioned but left unexplored. The harm done to the group is not even acknowledged and, as a consequence, no restoration can ensue. Rule 4.427 (Judicial Branch of California 2007) establishes restoration for immediate victims of hate crimes and their social groups as a goal for sentencing (and does not include rehabilitation for offenders). The negotiation whether to consider this rule for the crime under study is arbitrarily silenced.

5.2. 'Jane Doe', the survivor

Regarding the presentation of the victim, Jane Doe, the judge portrays her as active and utterly competent. This is achieved through adjectives such as *eloquent* and placing her as the subject of verbal expressions referring to intellectual actions such as *made a good point* or *wrote*. When she is portrayed as a victim, she is in an object position ("impacted the victim",

8 Jane Doe writes: "He admitted to kissing other girls at that party, one of whom was my own sister who pushed him away. He admitted to wanting to hook up with someone. I was the wounded antelope of the herd, completely alone and vulnerable, physically unable to fend for myself, and he chose me. Sometimes I think, if I hadn't gone, then this never would've happened. But then I realized, it would have happened, just to somebody else."

“injury inflicted on the victim”) or as the possessor of what was affected (“her life”) with one exception: “the victim in this case was extremely vulnerable”, a point which is only briefly made. The fact that a past tense is used on this occasion is also significant, as no projection of the victim’s future is made in the judgment. No further comment on character is given about the victim, or her investment in the future and the prosperity of society, and no exploration of the causes and effects of the crime is conducted. In addition, when referring to character letters, the discourse on Jane Doe and her investment in a prosperous future by family, friends, professors and women’s rights advocates is conspicuously silenced. The face work on her is thus mainly concealing her as a character in the narrative and placing her in very specific moves of that narrative.

The representation of Jane Doe as a rational being is furthered by quoting her words from the victim impact statement. Persky selected three excerpts, two of which were not further commented on by the judge. Four words from the last excerpt were used in rationalizing the decision. In so doing, the judge showed another biased selection in his discourse, and this one was particularly manipulative, silencing and damaging for the victim and her social group. This last excerpt quoted from the victim impact statement reads (in the quote, *you* refers to the offender):

You should have never done this to me. Secondly, you should never have made me fight so long to tell you you should never have done this to me. But here we are. The damage is done. No one can undo it.

Jane Doe went on to encourage the offender to accept the punishment and do something extraordinary for the society he had damaged, and to tell herself to accept the pain and move on. Aaron Persky reframed Doe’s discourse, decontextualized the words *The damage is done* and reduced an impact statement to an impossibility for restoration, thereby focusing on the only solution left, rehabilitation. Conversely and paradoxically, although the fact that the defendant protracted the pain of the victim by denying responsibility was present in the discourse of the judge through the victim’s words, it was conspicuously omitted when considering remorse as a mitigating factor (this will be discussed further on). Aaron Persky’s discourse goes on to find a diversity of sources for the devastation of the victim, specifically the criminal process and

the media. In so doing, he dissimulates and conceals, again, the uncomfortable discourse about an innocent victim (whose face is diluted) and the responsibility of the offender, a member of the dominant group, whose suffering caused especially by the media is actually highlighted (“the media attention [...] has not only impacted the victim in this case, but also Mr. Turner”).

By reframing Doe’s discourse, by selecting some parts and leaving others out of the picture in his public delivery, the judge misrepresented the victim and her will about the sentence as expressed in her statement (“The seriousness of rape has to be communicated clearly”). By silencing, concealing and smothering the victim’s message, by screening her discourse and decontextualizing her words from the emotions and her investment in the future, the victim is first presented, then misrepresented and concealed. Persky colonizes her space for meaning rendering her powerless, once again. He does not engage in victim blaming, but he does distribute and dilute responsibility for her devastation making authorship of the damage difficult to address and further fosters her out-grouping by making her absent, by not categorizing her as a member of the group. Instead, he does so when presenting the offender.

5.3. *Brock Turner, the perpetrator*

The presentation of the defendant by Persky shows a change in style. From presenting the victim as active and rational, decontextualizing her from her past, Aaron Persky chooses to represent the offender by narrating (Thompson 1990) his story, mainly through the testimonies of others. In locating his character, the judge also chooses not to mention how the defendant acted during the aggression and after being caught or his lack of interest for the problem of the ‘rape culture’. He does not even mention him when talking about the victim’s devastation. The first mention to him is to communicate his own decision to select mitigated terms for all counts. The second is to question how punishing him could do any good to the victim. The third is to attest to his good character, a point he will repeat on eight different occasions. The fourth mention is to refer that he was ‘intoxicated’ during the aggression, although this being self-inflicted is concealed and even institutionalized further on in

“he was legally intoxicated at the time of the incident”. The use of *intoxication* for the offender is matched with the use of *drunk* for the victim in a fabricated excuse the victim would like to hear as per the judge. By using such a socially marked term, the presentation of the survivor’s face threatens her social correctness.

Another conspicuous difference in the treatment of the victim and the offender is observed when Judge Persky discusses both their views on Mr. Turner being or not being remorseful, as this is a mitigating factor under the Rules of Court. When representing Mr. Turner’s testimony, Persky uses *genuine* five times to tell his audience what he thinks of the offender’s statement about his remorse. Conversely, he does not use positively-charged modalizers when representing Ms. Doe’s words on the issue. Instead, he portrays her not believing in the offender’s remorse as subjective (she does not *see* his statement “as a genuine expression of remorse”). In so doing, Jane Doe’s face in front of others is treated with patronizing contempt and threatened. The judge’s justification of his believing the offender’s remorse involves no facts about the offender’s conduct after the offence. Rather, it is far-fetched and based on hypothesizing what other people would do in his place using no data nor arguments: “I’m sure defendants do [lie] all the time”. When using the word *defendants* to differentiate Mr. Turner’s behaviour from what other people charged with offences would do, Persky outgroups this particular offender from those other common offenders and provides him with a special place in his mind and discourse. “I take him at his word” is the conclusion to that dispute on beliefs. In this case, silence is not the strategy chosen. This is an instance of face work entailing positive presentation of the offender and negative presentation of the victim, that is, derogation.

The special place the offender occupies in the judge’s categorization of social groups is clearly revealed further on: “he complied with social and legal norms sort of above and beyond what normal law-abiding people do.” Of course, rule compliance is a good basis on which to decide whether a person’s future actions will also be rule compliant. The wording of this argument, however, reveals some interesting issues: first, the categories by which the judge orders society (those who abide by the law and those who do not); second, his preference for one of those two categories, the ‘normal’ members of society who abide

by the law (at the end of the day, that is how his own role is defined, to protect the law); third, narrativization of the character, which triggers legitimization and empathy; and, last but not least, those words testify to his bias for the defendant, who went “above and beyond” a dichotomous category. By introducing an irrational aspect in the discourse, Judge Persky made his subjectivity visible in the judgment.

5.4. The notion of justice

As regards the approach to criminal justice, Judge Aaron Persky's decision, as publicly pronounced on June 2, 2016, shows a clear focus on rehabilitating the offender. An analysis of the judgment, nevertheless, reveals how the criminal's rehabilitation is achieved at the expense of the victim and her disprivileged group. The cognitive dissonance caused by the awareness of an innocent victim resulting from the actions of an offender presented as a just-world investor (a 'normal' member of society) is mitigated through several strategies of character presentation, protecting the perpetrator's face and threatening the survivor's. Most salient is how the perpetrator's investment in his future and in an ordered society is narrated, while the victim's is obliterated. This shows a clear opposition between presence (through narration) and absence (omission). Also, the selection of court rules to apply in deciding a sentence shows face work in favour of the defendant as a just-world believer, as potentially aggravating circumstances for the crime and alternatives to the sentencing principles are silenced or only summarily mentioned. Neither social restoration nor moral or status-based reparation of a member of a disprivileged group is voiced in the publicly pronounced speech.

6. Conclusions

Discourses are publicly learned and publicly conveyed. Judicial discourses have the power of signalling the values accepted and not tolerated within a given society. By his selection of discourse material in his

rendering, Judge Persky smothered and silenced the voice of a victim targeted due to her membership in a group. By presenting himself as uncomfortable in deciding on a sentence in such a case and, at the same time, as the impersonal law, portraying the offender as a member of the socially accepted group and reframing and misrepresenting the victim, Persky rationalized a justice threat, a lenient sentence for a crime, by focusing on the defendant's individual investment in his future and concealing the victim's. The cognitive dissonance caused by an innocent victim was corrected and just-world believers were given a chance to keep on believing that othering the disprivileged was institutionally sanctioned and that dominant identities contribute to the collective prosperity and social stability. The harm done, however, was spread instead of repaired.

By embracing discursive analysis as the opportunity to reveal the relations among language, social norms, and political actions and ideologies, strategies focusing on character presentation and omission were discussed to find whether they were used to rationalize a justice threat. The analysis showed how the power to speak within the order of discourse equally impacts what is voiced and what is silenced, an aspect which needs more attention in critical discourse analyses. Indeed, the fabricated absences were seen to be equally relevant to character presentation (both positive and negative) as the strategies resulting in presence. Based on the analysis, I argue that the discourse of Aaron Persky was biased. This does not refer to the sentencing decision, which is far beyond the scope of this chapter, but to the argumentation thereof. The purposes of sentencing and the meaning of restoration were reinterpreted – within the institutional powers of a judge – to support just-world beliefs at the expense of the victim.

Given the impact of judicial narratives and their communication to the public on intergroup relations, the menace of hate crimes and hate narratives for the prosperity and continuance of our societies needs to be considered (Mason 2013; Chakraborti 2015; Breen *et al.* 2016). The need to fight against the harms caused by hate in order to provide a secure environment for continuous social and economic growth for all individuals, including women, should be uncontested. In that sense, the impact of sentences on the perception of the seriousness of an offence

should be factored in when discussing the goal and the means of restorative justice for disprivileged groups.

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A Keyword Analysis of the 2015 UK Higher Education Green Paper and the Twitter Debate

1. Introduction

The UK ‘Higher education (HE): teaching excellence, social mobility and student choice’ Green Paper (henceforth HEGP) was released in November 2015. One of the flagships of this initiative is the implementation of the teaching excellence framework (TEF), which will allegedly give power to the UK government to monitor and assess the quality of teaching in English universities. According to *Times Higher Education*,¹ the new TEF seeks to ensure that students receive an “excellent” teaching experience that encourages “original thinking, drives up engagement and prepares them for the world of work, build a culture where teaching has equal status with research, provide students with the information they need to judge teaching quality and recognize institutions that do the most to welcome students and include a clear set of outcome-focused criteria and metrics”. HEGP consultation ended on 15 January 2016².

The UK Parliament³ defines green papers as consultation documents produced by the government whose aim is to allow people inside and outside parliament to give feedback on policy or legislative proposals. The *Oxford English Dictionary* defines Green Papers as a preliminary report of government proposals published to stimulate discussion. In a way, green papers streamline the response and the reaction of

1 *Times Higher Education*. URL: <<https://www.timeshighereducation.com/news/teaching-excellence-framework-tef-everything-you-need-to-know>>

2 URL: <<https://www.gov.uk/government/consultations/higher-education-teaching-excellence-social-mobility-and-student-choice>>

3 URL: <<http://www.parliament.uk/site-information/glossary/green-papers/>>

different stakeholders to the questions and issues therein. Unsurprisingly, green papers give the Government a unique opportunity to manipulate those questions and issues to their advantage.

The use of social media is opening up new ways to voice criticism and express opinions in ways that were simply not possible a decade ago. Academia is not oblivious to this trend. The number of scholars using social media, and, in particular, Twitter, is on the up. Although the implications for researchers and scholars are largely under-researched, an estimate in 2011⁴ claimed that 1 in 40 scholars used Twitter, and a more recent survey in Kashmir (Nazir *et al.* 2016) found that 30% of researchers in the social sciences in one single University used social networking tools, and 90% of them considered it important in their careers.

Using corpus-aided discourse analysis methods (Baker *et al.* 2008, 2013; Pérez-Paredes *et al.* 2017), together with social data mining techniques (Teh *et al.* 2015), this chapter sets out to examine how the analysis of keywords can help us understand how language use contributes to building the underlying discourses (Baker 2011) in the HEGP and the Twitter debate on the new TEF. Specifically, I will look at how keywords can reveal underlying discourse in both the Green Paper and social media at two different points in time: March and November 2016. Two research questions will be addressed in this paper:

1. What can Part of Speech (POS) keyword analysis reveal about power discourse in the HEGP?
2. How can keywords help us understand the Twitter debate on the TEF?

While Section 2 presents the POS keyword analysis of HEGP, Section 3 will discuss the method and the results of the keyword analysis of two Twitter datasets where the HEGP was debated. Section 4 offers a discussion of the results and Section 5 some conclusions, limitations and future research avenues.

4 URL: <<https://www.timeshighereducation.com/blog/weird-and-wonderful-world-academic-twitter>>

2. POS keyword analysis of the Green Paper

2.1. *Corpus linguistics, keyword analysis and discourse analysis*

The use of keywords to investigate discourse has gained momentum over the last decade. Among other topics, researchers have examined the representation of Muslims in the UK press (Baker *et al.* 2013), the differences in the UK press during the Major and Blair governments (Jeffries/Walker 2012), the representation of immigrants in UK legal and administrative texts (Pérez-Paredes *et al.* 2017), or the representation of migrants, asylum seekers and refugees in the UK and Italian press (Taylor 2014). In this chapter, I will examine keywords as a way to investigate language use and gain further understanding of how the HEGP and the Twitter debates shape and reflect discourse (Stubbs 2007; Taylor in press) and how keyword analysis can be instrumental in gaining further understanding of how power and manipulation are constructed in the area of HE policy by different stakeholders. As I will explain later, two different approaches to keyword analyses will be used to research discourse in the context of this paper: POS keyword analysis and frequency-led keyword mining. I will get back to them in the following paragraphs.

O'Halloran (2010) and Taylor (in press) have suggested that two keyword conceptualization traditions have co-existed in the past. One is influenced by cultural studies traditions, and sees these words as the body of meanings of the practices that are central to our societies and institutions. The second tradition is embodied by corpus linguistics research methodology, one of its empirical principles being that "repeated events are significant" (Stubbs 2007: 130). In this light, the clustering of lexical items reveals different co-textual environments that are built upon co-collocation and colligation (Pace-Sigge 2013). Frequency in a corpus or in a text is, in this way, observable evidence of probability in the system, therefore "unique events can be described only against the background of what is normal and expected" (Stubbs 2007: 130). Keywords, and, particularly, keyness (Scott/Tribble 2006), identify the lexical items that characterize a text or a whole corpus. In turn, Part of Speech (POS) keywords identify those POS tags that

characterize a text or a POS-annotated corpus, which provides avenues for an interpretation of keywords that integrate both lexical as well as morphological layers of language.

The role of frequency, however, has been somewhat neglected in other research traditions. Fairclough's (2001) work on power and language integrated the analysis of vocabulary and semantics at the lowest levels of study and interpretation of a text. In his framework, these two levels are predominantly ignored in favour of higher levels of analysis involving, among others, the role of situation of context in discourse interpretation. The assumption in this model is that words are used by speakers across the board non-contentiously as if word realization was not conditioned and constrained by all previous textual uses and cotexts. Sinclair (2004: 120) criticized Fairclough (1999) on the grounds that one cannot take on board some of the collocations of a given term, that is, its behaviour in the texts produced by a community of users, and discard the ones which are not relevant to our interpretation of the text. Sinclair went on to say that the "citation of 'used language' proves nothing in itself about language unless the process of selectivity that is inevitable in such circumstances is controlled". Corpus linguistics can provide such control, and corpus-driven evidence can help to show the "ideological trappings of a word or phrase". This is precisely where keyword analysis may contribute to reveal the ideology of a given text or group of texts.

2.2. *Part of speech keyword analysis of the HEGP*

2.2.1. *Method*

By looking at the vocabulary used in a text or in a corpus through keyword analysis we accept the notion that repeated patterns of use are "widely shared in a discourse community" (Baker 2011: 13). POS keyword analysis reveals the central role played by some word categories in a text, providing an automatic profile of the part of speech (POS) tags that are significantly more frequent in text A when compared with reference corpus B. In the context of this research, we used the British National Corpus written sampler (BNCWS) as the contrast basis for

our analysis. BNCWS is a collection of written material of 1,002,821 words, originally compiled to mirror the composition of the full written BNC (90 M)⁵. The HEGP consists of 33,099 words. The figures in brackets in this chapter represent the Log-likelihood (LL) value of the POS keyword analysis or alternatively the LogDice measure of the collocation strength between two lexical items. Items with a LL value over 6.63 are statistically significant as this is the cut-off for 99% confidence of significance. Wmatrix (Rayson 2008) was used for the POS keyword analysis and Sketch Engine (Kilgarriff *et al.* 2014) for the exploration of the collocational profiles of some of the lexical items. As for the tagset, Wmatrix is a web interface to the USAS and CLAWS corpus annotation tools and makes use of the UCREL CLAWS7 tagset⁶.

2.2.2. Results

Table 1 offers the most statistically significant POS tags in HEGP. Some of these (LL => 6.63) can be attributed to the repetitive nature of the terminology used in the HEGP. In fact, some of these features are so frequent that their presence is bordering 100% confidence interval. Comparative adjectives (687.99) such as *Higher* in *Higher Education*, proper nouns (210.55) such as the *DAPs* acronym in *Degree Awarding Powers*, textual numeric reference (171.04) such as *2* in *Chapter 2*, textual alphabetical intra-reference (83.91) such as *B* in *Part B*, dates and academic years (72.76) such as *2017/2018*, emerge as some of the most distinctive features in the HEGP when compared with BNCWS. I will not discuss these uses as they reflect some of the expected conventions of the genre of green papers (Fairclough 2003).

Table 1. POS keyword analysis.

	POS tag	Freq HEGP	Freq BNCWS	LL		POS tag	Freq HEGP	Freq BNCWS	LL
1	JJR	402	2061	687.99	17	BCL21	32	158	56.56
2	NN2	2945	55665	469.45	18	FU	41	277	53.76
3	VVI	1378	24649	273.7	19	REX21	38	277	45.79

5 For more information visit <<http://ucrel.lancs.ac.uk/bnc2sampler/sampler.htm>>

6 URL: <<http://stig.lancs.ac.uk/wmatrix3/claws7tags.html>>

	POS tag	Freq HEGP	Freq BNCWS	LL		POS tag	Freq HEGP	Freq BNCWS	LL
4	IF	609	8765	234.73	20	JK	36	265	42.9
5	NP2	81	231	210.55	21	VD0	86	1262	31.55
6	TO	826	14041	196.58	22	CST	307	6409	30.17
7	MC	761	13154	171.04	23	VBR	267	5435	30.06
8	VV0	661	11012	168.12	24	CC	1291	32450	27.29
9	VM	795	14301	154.59	25	FO	114	2050	22.2
10	NN1	5955	147395	151.91	26	CSW	30	325	20.78
11	PPIS2	263	3307	137.74	27	RRQ	106	2048	15.35
12	ZZ1	143	1698	83.91	28	II31	54	878	14.83
13	VVG	669	13564	76.88	29	RRT	13	111	12.89
14	MF	32	113	72.76	30	DD1	321	7677	11.76
15	DD2	153	2124	64.39	31	RRQV	9	69	10.22
16	VBI	378	7062	63.27	32	DAR	48	875	8.87

Three groups of POS tags are prominently significant in our discussion of how power manifests itself in the HEGP: common nouns, the expression of purpose, and modality. Below I offer a discussion of these uses together with, when convenient, collocational and colligational profiles of some of the most frequent realizations of these POS tags. These profiles expose the co-occurrence of the keywords within longer syntagmatic units, both at the phrase and the clausal levels. I used the Word Sketch functionality of Sketch Engine to calculate the LL and the LogDice measures.

2.2.2.1. Nouns

The first group of tags comprise NN2 (469.45) and NN1 (151.91). Plural nouns (NN2) are significantly more frequent in HEGP than in the BNCWS. These nouns include in decreasing frequency (>25 occurrences) *students, providers, institutions, reasons, groups, proposals, powers, outcomes, backgrounds, employers, metrics, skills, benefits, universities, courses, incentives, bodies, views, changes, levels, costs*

and fees. The plural *students* alone accounts for 0.93% of all the words in the HEGP, while the singular form accounts for 0.44%.

The lemma *student* is the most significant item of this group. It is modified by *prospective* (11.36), *disadvantaged* (11.09), *BME* (Black and minority ethnic) (10.82) or *full-time* (10.52). “White students” (10.08) does occur in the paper, always in the context of BME students. *Students* tend to premodify *support* (11.51) or *protection* (11.18) as in

1. if accompanied by some form of guarantee of **[student]** protection as a condition of designation, both financial and [...].

and are the objects of verbs such as *help* (10.89), *protect* (10.87) or *support* (10.82) such as in

2. This forms a key part of our aim that TEF supports **[students]** from disadvantaged backgrounds.

Students in the HEGP *receive* (11.03):

3. All **[students]** receive effective support in order to achieve their educational and professional goals and potential.

or *study* (11.03) such as in

4. [...] where the majority of full-time **[students]** are studying for qualifications validated by organisations with UK DAPs will be offered the choice to [...].

Students appear in coordinated phrases with *employers* (12.28),

5. We want to see greater assurance for **[students]** and employers that the class of degree awarded by higher education providers is consistent across the sector.

taxpayers (11.78):

6. the OfS would protect the interest of **[students]** and taxpayers by using compliance powers.

and *stakeholders* (10.19):

7. The next levels up will allow differentiation to help **[students]** and others stakeholders compare courses.

A tendency is observed to portray *students* in binomial structures where they lie side by side with *employers*, *stakeholders* and *taxpayers*, arguably the type of lexis which is more likely to be found in business contexts. The second most prominent lemma in this category is *provider* (382), premodified by *alternative* (12.19), *new* (11.60), *education* (11.15), *quality* (10.37) and *publicly-funded* (9.63):

8. 77% of students receive the full maintenance grant (payable to those with a residual household income of up to £ 25,000), compared to 39% at publicly-funded **[providers]**.

In all the instances where the expression *publicly-funded providers* is used, a comparison is established with *alternative providers*. In particular, it is notable that HEGP includes reports from the Student Loans Company that show that “the profile of the student population at the group of alternative providers currently designated for student support is different to that at publicly-funded providers”. These students tend to be older, male, from low-income households and from a non-white ethnic group. Providers are the objects of *allow* (11.74):

9. It also sets out how we propose to deliver on the commitment, announced in the Productivity Plan, to allow **[providers]** with high quality teaching to increase their fees in line with inflation from the 2017/18 academic year.

and *require* (11.42):

10. A duty to operate a single-entry route into the higher education system, with powers to require **[providers]** to meet conditions attached to the model of entry chosen [...].

They are subjects of *deliver* (10.57):

11. We therefore propose some specific incentives for alternative **[providers]** delivering HE provision at level 6 under the TEF.

and appear juxtaposed with *disciplines* (10.97) as in one of the consultation questions:

12. Do you agree that the ambition for TEF should be that it is open to all HE **[providers]**, all disciplines, all modes of delivery and all levels?

Given the collocation profile of providers in the HEGP, it is hardly surprising that the answer expected will be affirmative. This consultation question is an example of how previous cotext can frame the answer in ways that favour the policy in a green paper. *Institutions* occurs with *administrative* (10.791), mostly in the questions section of the HEGP:

13. How can we minimise any administrative burdens on **[institutions]**? Please provide any evidence relating to the potential administrative costs and benefits to Institutions of the proposals set out in this document.

and with *burdens* (10.232) in the same context. *Outcomes* collocates with *gain* (11.439) in the string *student outcomes and learning gain*, with *environment* in *learning environment*, and with *employment* (10.631) as in:

14. A key focus of TEF should be the educational and employment **[outcomes]** of higher education, and the gains made by students from different backgrounds.

2.2.2.2. *The expression of purpose*

The second group of tags comprise IF (234.73), TO (196.58) and BCL21 (56.56). The latter identifies *in order to* and it occurs 31 times in the document. It collocates with *maintain* (11.608), *achieve* (11.159), *make* (10.376) and *level* (9.857). The IF tag identifies uses of the preposition *for*, which appears after *reasons* mainly in the consultation questions (“please give *reasons* for your answers”), an overarching genre feature of green papers. *Students* (10.71) is significant as prepositional complement such as in:

15. The regulation of higher education must evolve to champion value for money **[for]** students making big lifetime investments,

as well as in the expression *value* (10.873) *for money* (10.834). The *Office* (10.778) *for students* is also a prominent occurrence in the text together with *education*, both at clausal level:

16. Widening participation in higher education is a priority **[for]** this Government and will help to drive social mobility.

and at phrasal level:

17. Degree inflation carries significant reputational risks **[for]** UK higher education: employers face a challenge distinguishing between graduates.

The TO tag identifies uses of the infinitive marker. Most of the verbs used after the tag are found in the context of a very restricted set of subjects in the infinitive construction such as *providers* (11.674) or objects such as *students*:

18. in order **[to]** protect students, ensure value for money for the public purse, and focus oversight where it is needed most.

Figure 1 shows a selection of concordance lines where, in most of them, the expression of purpose is found together with verbs that convey the idea of giving, helping and providing avenues for students' participation.

<p>risk-based approach to regulation, in order propose to transform the regulatory landscape and where possible stimulate the sector recognise those institutions that do the most employers and the taxpayer. The aim is recognise those institutions that do the most , but robust in its judgements in order as to which TEF level to award. In order next levels up will allow differentiation gain 9. Excellent teaching has the ability students participating in the fund being used increases choice for students , and can help introduced by the last Government in order can apply for specific course designation course designation to enable its students higher education providers, making it harder the highest quality alternative providers value proposition to students will be able safeguard the ability for all students providers to have contingency arrangements interests of students , employers and taxpayers conditions can easily enter the sector the onus on, and progress of, providers study . Ensuring the rights of students the rights of students to hold providers following statutory duties and powers: . A duty to complete access agreements in order of the Director of Fair Access. . A duty students. . A power to require providers to require providers to meet conditions providers to have contingency arrangements Excellence Framework 4. The aim of the TEF is their teaching and grow their capacity withdraw. 19. The overall effect will be providers to have contingency arrangements</p>	<p><to > protect students , ensure value for money <to > put students at its heart and create a <to > help students meet their aspirations by <to > welcome students from a range of disadvantaged <to > improve the teaching that students receive <to > welcome and support students from a range <to > maintain the confidence of students , the <to > provide useful information to students <to > help students and others stakeholders compare <to > transform the lives of students . A key <to > provide finance to future students who <to > deliver better value for money. Our aspiration <to > maintain quality, protect students and <to > enable its students to access student support <to > access student support. Academic performance <to > recruit the best students . . Monetary <to > recruit more students by introducing a <to > increase their share of total students <to > benefit higher education, maintaining a <to > support students in the event that their <to > ensure value for their investment in education <to > give students more choice, while safeguarding <to > widen access for disadvantaged students <to > hold providers to account and get value <to > account and get value for money for their <to > promote the interests of students to ensure <to > charge students fees above the basic amount <to > provide students with accessible information <to > meet conditions to protect students in <to > protect students in the event of course <to > support students in the event that their <to > help all students understand the quality <to > teach more students ;.Changes in provider <to > benefit all students of all backgrounds <to > support students in the event that their</p>
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Figure 1. Concordance lines showing the expression of purpose and students' participation.

These meanings contrast with those associated with *providers* in Figure 2, which are related to rules and norms, obligations and government supervision. This POS keyword analysis shows evidence that

the occurrences of *students* and *providers* in the HEGP are distinctively primed to construct a view of the Government as guarantor of the rights of citizens and students. The Administration in the HEGP will *ensure* (9.12) *value* (11.04) for money for taxpayers and will *allow* (11.74) providers to achieve (9.91) quality standards for expansion and, among others, fee increase to take place. The Administration will similarly *require* (11.42) these providers to meet conditions and base levels of quality and will monitor (9.91) them. However, there is room for the recognition that “the income of nearly all of these providers is no longer principally from direct grant”, which makes the case for *treating* (9.87) “nearly all” HE providers as non-public bodies:

19. Alternative providers are not [treated] as public bodies.

<p>job. 9. Higher education providers need employers as to which providers they can trust commitment, announced in the Productivity Plan, allow providers with high quality teaching at the moment new providers find it hard reforms gave providers the opportunity for improvement. More needs to be done quality of teaching and allow providers level of skills and harder for providers skills and harder for providers to know how backgrounds, 21. In allowing providers successful in TEF and providers will be entitled are sufficiently robust and can be used be pre-conditions. In particular we want there are incentives for all providers mean all eligible providers would be able transparent and fair way across all providers across all providers to give information additional evidence providers might want increased responsibility placed on providers Agreements for 2016/17 with plans for providers recognise the efforts that providers make new Office for Students to have the power set targets where providers are failing through which all providers are equally able clearer and faster trajectory for providers example by allowing small and new providers elements of application processes, in order degree level providers would also be able This has led to many providers needing all predominantly degree-level providers placed on them, for example not being able university title and HEFCE designation, in order into the sector, providers will be able first time, and for the best providers will be some new providers that started quality assurance, allowing providers Governance and Management (FSMG) checks is 31. For alternative providers, in order education providers, making it harder little incentive for new providers that wish clear route available for these providers highest quality alternative providers performing providers were also eligible significant numbers of alternative providers unnecessary barriers to exit. 8. The proposal is to do so, for struggling providers so as</p>	<p><to > provide degrees with lasting value to their <to > produce highly skilled graduates. 22. Part <to > allow providers with high quality teaching <to > increase their fees in line with inflation <to > engage on a level playing field with the <to > grow and there have been signs that students <to > ensure that providers offering the highest <to > expand so that they can teach more students <to > know how to develop and improve their courses <to > develop and improve their courses. For <to > raise fees in line with inflation, we must <to > raise their fees in line with inflation <to > compare providers . Degree classification <to > ensure that providers applying for TEF <to > drive up standards. In our current regulatory <to > access the fee loan cap uplift and this <to > give information to inform assessments. <to > inform assessments. But we recognise that <to > offer and will consult further in the technical <to > widen access. As part of this framework <to > spend more than 745 million on measures <to > improve the access and experience of students <to > set targets for providers that are failing <to > set targets where providers are failing <to > make progress? Please give reasons for <to > select an operating model which works for <to > award their own degrees, and to secure <to > enter the sector with an annual student <to > simplify the framework for providers 7. <to > choose between which of the following approaches <to > demonstrate no fewer than four years experience <to > make a case for DAPs, and the Office for <to > validate degrees at other providers, continued <to > allow those providers who are ready to <to > apply for university title as part of their <to > grow, whilst establishing how best we might <to > deliver courses in September 2014 that <to > apply for HER after having applied for <to > ensure that providers with specifically <to > be able to demonstrate sufficient track <to > recruit the best students. . Monetary and <to > enter the sector for the first time, as <to > grow their student numbers over time. We <to > recruit more students by introducing a <to > receive an increase of a further 10% (in <to > expand their student cohort and compete <to > introduce a requirement for providers to <to > ensure that England has a world class higher</p>
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Figure 2. Concordance lines showing the expression of purpose and HE providers.

2.2.2.3. Modality

The third group of tags comprises modal verbs (VM, 154.59). VM are significantly more frequent in HEGP (2.4% of all words in the text) than in the BNCWS (1.4% of all verbs in the corpus). The decreasing order of normalized frequency of these verbs is as follows: *would* (6.76/1000 words), *will* (6.34/1000 words), *should* (2.96/1000 words), *can* (2.77/1000 words), *might* (1.17/1000 words), *may* (1.02/1000 words) and *must* (0.84/1000 words). *Would* is the most significant modal verb in the list and is “extremely common in conversation and fiction” (Biber *et al.* 1999: 488). Figure 3 shows the most significant collocates for *would* in HEGP. We can appreciate how four words collocate significantly with this modal verb: *we*, the *Office for Student (OFS)*, *providers* and *change*. LogDice measures are provided in brackets clockwise in decreasing order of significance.

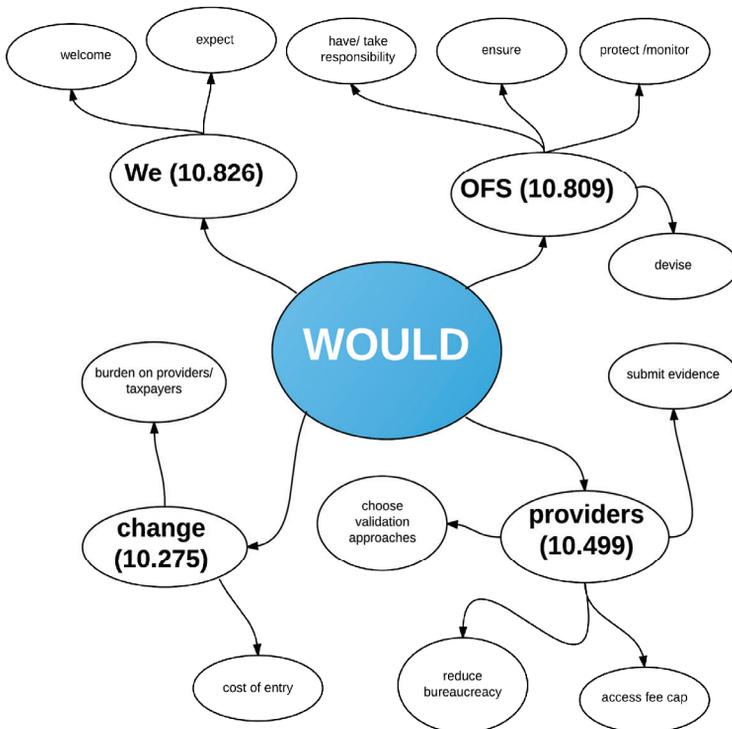


Figure 3. Significant collocates of *would*.

According to Biber *et al.* (1999) *would* and *will* are used to express prediction and volition. In conversation, these uses become blurred. However, in academic prose *would* is widely used for the prediction of events that do not involve any personal agency. In HPGP the use of *we* (PPIS2 tag) seems to be indeed very tightly connected with the expression of volition: *we will establish a regulator, we will reward excellent teaching, we want to maintain and even improve, we propose to transform the regulatory landscape*, etc. This use of *we*, however, is interspersed with uses where a more assertive voice emerges: *we must do more to ensure they (students) can make well-informed choices, we recognise that HE is not the only option for young people, we have the best universities, we believe that anyone with the talent and potential should be able to benefit from higher education*, etc. The combination of *we* + *would* + verb occurs 29 times in the text, typically to invite stakeholders to provide their views and opinions:

20. we **[would]** be interested in views as to whether the OfS should be able to contract out some or all of these functions in the way that HEFCE currently does.
21. But we **[would]** welcome your views on the broad principles outlined in this chapter.
22. We **[would]** welcome additional evidence from respondents to develop the evidence base further.

This invitation to participation is evidently inherent in the nature of green papers. What is required by the government here is views on the broad principles and additional *evidence*. This request is interesting as it positions the HEGP itself as evidence. One may wonder whether these principles, framed by the lexical choice discussed in 2.2.2.1 and, in particular, by the business drive identified as salient in the POS keyword analysis, will be perceived by the citizens differently. Similarly, asking for and receiving further evidence can most likely result in endorsing the policies advocated in the HEGP. When *would* is not used in this fashion, it is the Government voice that emerges more distinctively:

23. If there were separate bodies we **[would]** expect much closer strategic and operational co-operation between them.

24. We **[would]** expect the financial incentives to apply at the institutional level from the academic year 2018/19 and be differentiated according to the TEF level awarded;
25. Over the longer term we **[would]** like to be more ambitious. When the apprenticeship levy is introduced we **[would]** expect more employers to take advantage of excellent apprenticeship training offered by higher education providers.

We will occurs slightly more often in the HEGP, 35 times, and collocates with *consult* (11.964), *consider* (11.439), *look* (11.093) and *approach* (10.318). The Government here combines institutional agency and openness to further opinions and improvements in the TEF. The OFS is commissioned extraordinary supervision powers and is seen as the administration's driving force behind the intended changes. When these changes are made explicit, it is to note that taxpayers and providers should be relieved from further *burdens*. Providers are expected to reduce *bureaucracy*, submit *evidence* and, should they receive the go-ahead from the OFS, access the *fee cap* which may secure appropriate funding.

Should is the third most significant modal verb in the list and is "extremely common in conversation and fiction" (Biber *et al.* 1999: 488). Figure 4 shows the most significant collocates for *should* in HEGP. We can appreciate how six words collocate significantly with this modal verb: *TEF*, *open*, the *Office for Student* (OFS), *measures*, *incentives* and *ambition*. LogDice measures are provided in brackets clockwise in decreasing order of significance. The uses of *should* in the HEGG reveal that, for the Government, the TEF is an opportunity to influence HE providers and either reward or refocus the performance of universities and similar bodies. Although it is not stated plainly and explicitly, the UK Government guarantees itself the power to streamline university funding. Contrarily, the OFS, the *measures* and the *incentives* in Figure 4 are only found in the question sections of the document and are part of the consultation element in the HEGP.

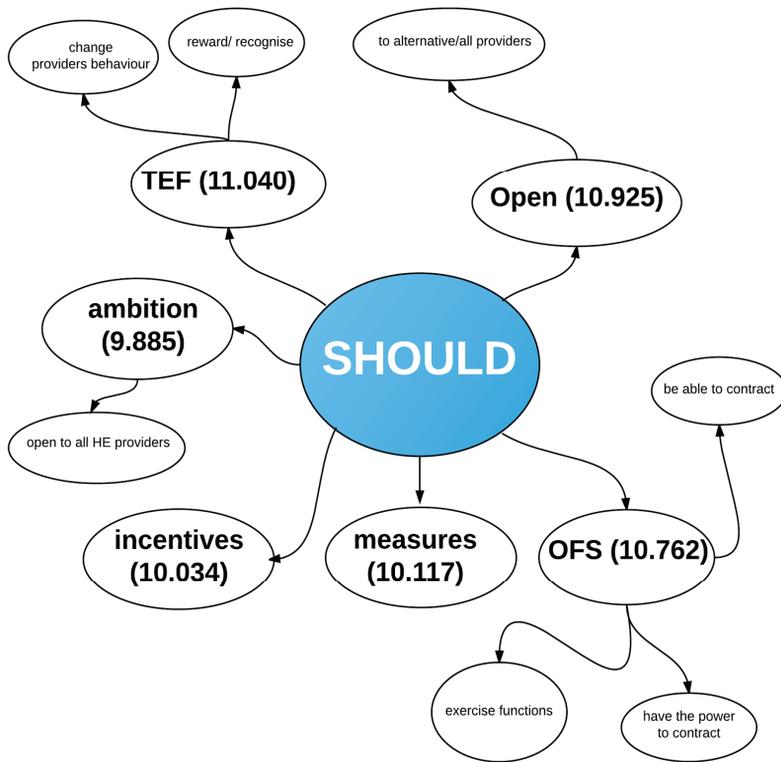


Figure 4. Significant collocates of *should*.

3. The Twitter debate on HEGP

3.1. Method

Zubiaga *et al.* (2011) used 7-day periods to monitor Twitter activity. In my research, two Twitter datasets were collected at two different points in time: between 20 and 31 March, and between 17 and 28 November 2016. The first dataset was collected once the consultation period of HEGP had finished in January, while the second was collected well into

the new 2016/2017 academic year and it featured the 19/11 United for Education demo in London called by the National Union of Students (NUS) of the UK. In this demonstration, the NUS voiced their criticism against rising tuition fees and, according to the organizers⁷, against a government that is forcing universities to run like businesses. The organizers encouraged the use of the #Nov19 hashtag on social media. Figure 5 captures a frame of an embedded video on a tweet that self-explains the reasons behind the protest:



Figure 5. Tweet reporting the 19 November 2016 demo against the TEF.

Netlytic⁸ was used for the collection and preliminary analysis of these datasets for a variety of reasons. First, it offers automatic *keyword* extraction and network metrics; second, it lets users visualize the use of these words over time, and, thirdly, the service is provided free of charge and no programming skills are necessary to make sense of the data. After linking my own twitter account, I created a search query that contained the following terms: #TEF teaching excellence framework. #Nov19 was

7 URL: <<https://www.nus.org.uk/en/take-action/education/united-for-education>>

8 URL: <<http://www.netlytic.org>>

not included in the search to avoid bias. Netlytic scanned the dataset to find the most frequently used words and tallied them up. As most social media scanners, Netlytic ignores function words such as articles and prepositions. What the Netlytic developers labelled here as *keywords* is completely different from the analysis in the previous section. While Netlytic looks at the raw frequency of words, the POS keyword analysis in Section 2 adopted a more complex approach to lexico-grammatical saliency which involved the comparison against a reference corpus of British written English. When relevant, linked media will be discussed along with the keywords in the tweets.

3.2. Keywords in the analysed tweets

Table 2 shows the ten most frequent lexical items in the two Twitter datasets:

Table 2. Most frequent lexical items in the two Twitter datasets.

Dataset 1: March 2016		Dataset 2: November 2016	
Item	Instances	Item	Instances
Learning	148	#tef	42
Analytics	144	Teaching	18
National	132	@lseimpactblog	13
Service	130	#highered	12
Feed	103	Mock	11
@timeshighered	90	Results	11
Students	25	Hierarchy	10
Compare	23	Revealed	10
@chavergalthe	22	excellence	9
progress	22	@timeshighered	9

The lexical items in both datasets were totally different except for @timeshighered, the official Twitter account of Times Higher Education (THE) World University Rankings⁹. In the first dataset, 86 unique

9 URL: <<http://www.timeshighereducation.com>>

users retweeted an article published by Chris Havergal from THE on March 24: ‘National learning analytics service: could it feed into the TEF?’. In this article, the author explained how the UK would become the first country in the world to get a national learning analytics service to identify students who may be struggling and understand which teaching methods work best. The title of this article explains alone the lexical impact of the most frequent words in the March dataset. Other 21 users retweeted the same article, but, this time, these tweets put emphasis on an app that may allow students to compare their progress.

In the March dataset, the top ten most frequent words failed to convey any opinion whatsoever on the HEGP. The use of *view* is of interest. It was used eleven times to retweet the opinion of Professor Frank Coton, Vice-Principal (Academic and Educational Innovation), University of Glasgow. Essentially, he expressed concern over the compatibility of the TEF with the Scottish Quality Enhancement Framework (QEF), and stressed that, given the visibility of the UK universities in the new rankings, the universities in Scotland are committed to “engaging actively and constructively in the development of the TEF to secure a route to accreditation at all levels that is different but equivalent and builds on our existing, distinctive quality arrangements”. *Interesting* was used six times to introduce the retweet of the already mentioned THE article, while *insightful* is used three times to highlight the opinion by Bart Rienties, The Open University Reader in learning analytics, who said he would be sceptical of using the data in the TEF: “You have to wonder about the potential risks, because you have to understand the context that the students are working in.”

The range of frequent words that was generated by Netlytic and similar services needs to be taken cautiously and carefully examined against their co-texts. *Minors* is a good example. In our dataset, *minors* occurred four times and it was always a surname, not a common name. Kingston University Dr. Julia Minor’s participation in a roundtable discussion at the University of Bangor was retweeted four times. During her contribution, she was critical of the aims of the TEF although this aspect was not highlighted in any of the four tweets. Once one visits the transcript of her speech, her critical positioning emerges: “[the Government’s] trying to add to their leverage over how universities function, particularly how the teaching of our students is going to occur, and how

that is valued, and what form of teaching or even assessment is going to be seen as acceptable”. Similarly, it is necessary to highlight how some of the most frequent lexical items in the March dataset are used to introduce minimal modifications to previous tweets or to introduce contents from other sources. *View*, *interesting* and *insightful* are used in this way.

The November Twitter dataset presents broader views on HEGP. *TEF* was used after a hashtag in 42 tweets. Many of those retweeted or reacted to an article (Figure 6) of the London School of Economics Impact of Social Sciences blog written by Martyn Chamberlain, University of Southampton, where he discussed the role of peer observation of teaching in higher education in the context of the Teaching Excellence Framework (TEF).



Figure 6. RT of a LSE blog article.

The author remained sceptical of the benefits of peer reviewing of teaching in the current framework of UK universities:

We know that a significant amount of teaching is undertaken by staff on temporary and zero-hours contracts and promotions to senior posts are typically linked to research and funding capture, not recognition of teaching excellence. Will the TEF change this state of affairs? I doubt it. For me, a key question [...] is just how will the TEF change the way universities recognise and reward the range of talent and abilities their full-time and part-time staff possess, instead of continuing to reward just one part of the job – research – above all others?¹⁰

The author believed that the primary focus of TEF reviewing must be departmental and institutional performance, not individual performance and stated that the introduction of the TEF was arguably yet another example of the global trend towards neo-liberalization and marketization in HE. An article written by Anna Fazackerley for *The Guardian* – ‘Universities and NUS plan boycott of flagship teaching rankings’ – was very popular among the Twitter community in our dataset. The word *boycott* sparked some interest and thus tweets like these were found:

26. Tough out #TEF? Unis and students may boycott ‘teaching quality’ ranking that doesn’t include teaching.#TEFOff <https://t.co/DyjucNwH5X>
27. @NUSUK against #TEF & link to fee increase so may boycott the revamped #NSS.Performance tracking could be tricky!<https://t.co/7rh1TEwXix>
28. #Universities and #NUS plan to boycott new Teaching Excellence Framework rankings. <https://t.co/yIHub4M5Sp> #education #highered #TEF
29. Trouble with #TEF - #highered boycott on rankings possible: <https://t.co/UHSGKNZ91w>

The above show some form of debate beyond retweeting as the users reshuffled words and concepts in an effort to accentuate their opposition to the TEF. Besides, there is a clear effort to build on hashtags that can provide the Twitter community with further visibility and greater potential impact. The NUS are specifically active in this area. Figure 7 shows a tweet where, both in terms of the language and the embedded graphics, straightforward opposition to TEF is visible.

10 URL:<<http://blogs.lse.ac.uk/impactofsocialsciences/2015/11/23/peer-review-of-teaching-and-the-teaching-excellence-framework/>>

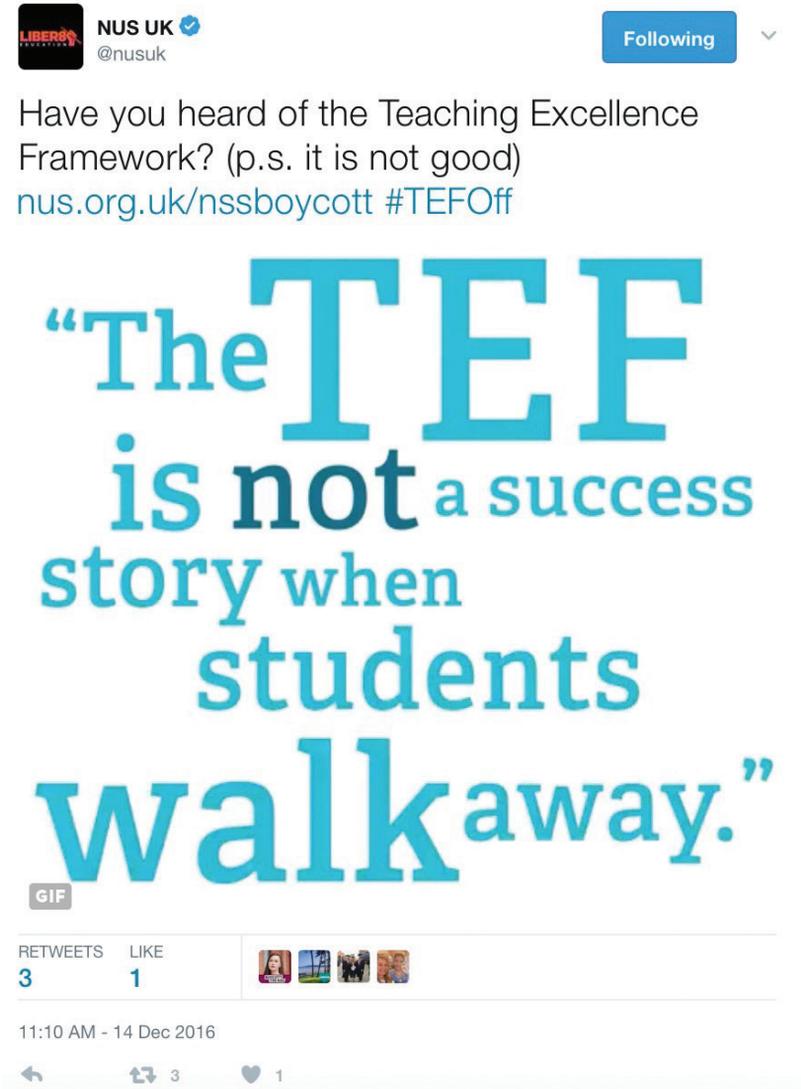


Figure 7. NUS tweet on the TEF.

As with the March Twitter dataset, the most frequent words are not particularly useful to gauge the personal views and opinions of the tweeters. *Teaching*, for example, is frequent in the November dataset but it

is typically linked to media such as Jessica Patterson's article¹¹ 'Five reasons the Teaching Excellence Framework is bad news for higher education', published in the London School of Economics Impact of Social Sciences blog. In her article, the author stated that the TEF meant moving more quickly towards the marketization of higher education and a 'value for money' approach to education. However, the tweets which contained the term *teaching* were mostly neutral and showed very limited involvement. An exception is a tweet where a well-known UK lecturer posted a picture of an apparently exhausted dog together with the tags #TEF #academia #phdchat #highered #AcademicsWithDogs to show her reaction to the TEF. *TEF* was mainly used in retweets of a THE article which included findings from mock TEF results that offered a totally different picture from the usual University Rankings, and which disfavoured Russell Groups Universities that no longer topped the new ranking. Words like *protest* and *students*, used six times in the November dataset, were always found together in the same retweet. *Government* and *system* were used five times each in exactly the same way. An example is #TEFinitelyNot, a hashtag widely used by the University of Manchester Student Union to voice the lack of suitability of the TEF for measuring excellent teaching. Even after considering hapax legomena, no traces of debate or discussion other than the ones presented above were found in the November dataset.

The two datasets are dissimilar in other ways. Netlytic also provides measures that capture how networks are organized. I looked at the networks in both datasets separately and examined centralization and modularity in both datasets. Centralization (Scott 2012) is a measure of the average degree of centrality of all nodes (the Twitter user accounts) within a network of users. Centralization describes the extent to which network graph cohesion is organized around some focal points. The March database yielded a centralization measure of 0.28 while the November dataset showed a centralization measure of 0.12, which suggests that information flowed more freely between more participants in the latter as high centralization values closer to 1 imply the existence of a few central participants who control the flow of information in

11 URL: <<http://blogs.lse.ac.uk/impactofsocialsciences/2015/09/10/five-reasons-the-teaching-excellence-framework-is-bad-news-for-higher-education>>

the network. The November dataset yielded a modularity index of 0.73 while the March dataset yielded 0.6. Higher values of modularity indicate clear divisions between communities as represented by clusters in Netlytic, which confirms that the tweets tended to overlap more significantly in the March dataset.

4. Discussion

4.1. The Higher Education Green Paper

In this chapter, I adopted a macroscopic Type III research approach in the tradition of corpus linguistics (Rayson 2008: 520) by looking at variation within the HEGP and examining “how certain features or groups of features characterise a text” in systematic comparison with a reference corpus. The POS keyword analysis in this study revealed that the HEGP is structured around three distinct language features that contribute to the endorsement of a conservative, neoliberal policy that presents a view of HE that puts economy before other concerns. The first is the use of nouns, both singular and plural, statistically more frequent in the HEGP than in the average written text as represented by the BNCWS. A set of nouns is specifically salient: *students*, *providers* and *institutions*. Those students depicted in the document reflect an explicit interest in minorities and disadvantaged learners. They are described as groups that require both *support* and *protection*. *Providers* are represented as *new* and *alternative*, and very often a contrast is established in the HEGP between *publicly funded* and *alternative* providers. Finally, *institutions* in the HEGP tend to be providers associated with *burdens*, in particular, *administrative* ones.

These results show that, grammatically, the HEGP favours a phrasal over a clausal style. This is a typical feature of academic writing (Biber/Gray 2015) where information is packaged to present a more static rendering of the people and the institutions involved in the HEGP. While plural common nouns in the BNCWS are 5.75 % of the total tokens, in the HEGP plural nouns represent 8.9 %. Singular common

nouns represent 15.2 % of the tokens in the BNCWS and 18 % in the HEGP. This preference for common nouns contributes to a representation of experience and reality in terms of the ideational function (Trappes-Lomax 2004), which organizes the readers' understanding of the intended aims of the HEGP. Beard (2000) has argued that all political argument is ideological and that the naming labels given to the participants in discourse is part of how arguments are shaped. In this context, HEGP readers are presented with a referential specification mean higher than the average mean in British English written texts. Our study shows that common nouns alone accounted for almost 27% of every word in the HEGP, whereas both common and proper nouns are responsible on average for 33% of all words in English news (Biber *et al.* 1999), that is, the register with the highest density of nouns in the English language. The fact that specification is constructed around a small number of significant nouns reinforces the notion that the HEGP *aboutness* is restricted to both *students* and HE *institutions*, which somehow tucks away the agent role of the Administration in shaping important changes in UK HE. This role is partially subsumed by the use of the pronoun *we* together with the use of the modal *would*, and the introduction of a new regulator, the *OFS*, which again collocates significantly with *would*. Meaning specification in the HEGP is built around a very limited set of nouns that set the scene for a construction of subjects and relations (Fairclough 2001) which prime the economic benefit and a market orientation in HE.

The second distinctive language feature revealed by the POS keyword analysis was the expression of purpose, in particular to convey the idea of supporting *students'* participation. Ironically, this effort was, apparently, poignantly ignored in the Twitter debate discussed in the previous section. When purpose is expressed in the context of *providers*, the Administration adopted here a supervisor role that, among other actions, would enable HE institutions to increase academic fees, the most controversial measure in the whole green paper. In the new HE and Research Bill, the government plans to rate universities gold or silver in the TEF. These universities will be able to raise their fees in line with inflation from 2019 onwards. Bronze-scoring institutions, however, will be eligible for *only* half of that rise. The House of Lords rejected these

plans in early March 2017¹², but the HE and Research Bill has a long way to go before it is passed. In any case, assessments of providers based on their performance on student satisfaction, retention and graduate employment, as well as further submissions, are under way.

Modality is the third linguistic feature that surfaced after the POS keyword analysis. It is somewhat unusual that modals, and principally central modals like the ones discussed here, are so frequent in written registers. In fact, modality is only present in 12.5% of verb phrases across major registers (Biber *et al.* 1999: 456). These authors found that modals and semi-modals are much more frequent in conversation than in written registers, which turns our text into an interesting piece of discourse where modality stands out as one of its most defining features or ‘language form’ (Fairclough 2001). In fact, the use of modals in the HEGP served different roles in the HEGP. They were used to hide personal agency and to project an open attitude towards dialogue and agreement. In this sense, modal verbs contributed to the expression of different levels of authority (Baker 2011). When *should* is examined, one finds that there is an unconcealed desire to open up to new providers and this is the manifest ambition of the new HE policy as specified in the HEGP. Similarly, the Government wants to provide the new OFS with enough power so as to exercise control over the entire HE system. Paradoxically, by using the modal *should*, the Government indicates its superior status over the *OFS*, which, in turn, is a mere instrument of the Government to regulate and supervise the new HE domain. The modal verbs in the HEGP are thus determined by the power structure of the speech act situation (Winter/Gärdenfors 1995) but, simultaneously, operate epistemically by shifting the agency for some of the proposed avenues for action in the HEGP. While the uses of *should* are more deontic, we cannot forget that the *OFS* is a new regulator introduced by the Government in the HEGP to secure supervision and executive powers over HE institutions. Deontic modality is, in this context, directed towards the activities of the Government while epistemic modality is used to present the Administration as an open and understanding interlocutor that will listen to what society has to say about HE.

12 URL:<<https://www.timeshighereducation.com/news/house-lords-rejects-plans-link-tef-results-tuition-fees>>

The results of this study support both Fairclough's (2003) claim that Green Papers contribute to legitimizing policy and emphasizing consensus through generalizing away, and McGettigan's (2013: 185) view that UK HE is being constructed as a market:

Education is being re-engineered by stealth through a directed process of market construction, each move designed to protect the elite and expose the majority. [...] Existing quality assurance, which has its faults, is supplanted by 'value for money', a 'risk-based' system, and a regulator tasked with promoting competition.

4.2. *The Twitter debate*

The analysis of both datasets revealed that Twitter users did not seem to rely chiefly on this social network to convey their own personal opinions and attitudes to HEGP. First, the number of tweets on both datasets was low. Second, most of the tweets analysed were retweets of media contents. This was certainly the case for all of the tweets in the March dataset, which showed a 0.28 centralization measure suggesting that very few tweeters controlled most of the exchange of information. In the March dataset, Twitter was mainly used to redistribute media and more specifically content generated by THE. In the November dataset, both the centralization and the modularity measures suggest that more tweeters took part in the debate and that the information distributed was both more diverse and depended less on one single source.

The results in this chapter suggest that the use of keywords based on raw frequency proved of little use for our research purposes. Manifestly, numerous retweets of a few tweets may create the false impression that those taking part in the debate are using a set of lexical items to convey their own opinions. Words like *learning* or *national* were found to be very frequent in the March dataset but they actually were just part of the same string that was retweeted over and over. This finding confirms the problems identified by Teh *et al.* (2015) that suggested that words alone are not enough to assess automatically sentiment in commercial websites. Similarly, I may suggest that higher modularity values may be a good indication that keywords may represent more personal language choices, as opposed to mere retweets. This will, however, need

further analysis and empirical confirmation. These results suggest that it is in the very infrequent words or hashtags where opinions on the TEF could be found and, no doubt, all of them voice their concern over the mercantilist turn in UK HE. Admittedly, this criticism was found in the links provided in the tweet rather than in the tweets themselves. Nazir *et al.*'s (2016) suggested that 30% of academic staff use social networking sites as part of their everyday academic life. If this is the case, certainly UK scholars refrained from expressing their opinions on Twitter at least in the two time frames when the datasets were collected.

5. Conclusion

The findings in this chapter are to be taken cautiously. First, the control corpus in the POS keyword analysis was a representative corpus of written British English. A control corpus of green papers would have most likely yielded different results. Future research efforts should consider gathering such a resource. Second, despite following the recommendations in Zubiaga *et al.* (2011), the Twitter datasets were collected during two relatively short time frames for a non-trending topic such as the TEF or the HEGP. Longer time frames would possibly have enriched this discussion. Thirdly, the methods described in this paper are complementary rather than excluding others widely used in discourse analysis. These results could be thus complemented and enriched by means of other research methods.

The reduced group of nominals in the HEGP was integrated by nouns with no technical connotations and, in this sense, it may prove hard to describe the HEGP as an 'opaque text' (Orts 2015). However, I would argue that some sort of opaqueness is present in the way in which some core ideas are delivered through a dense process of domination through language (Trappes-Lomax 2004). Power distance was not achieved by the use of specialized language. Rather, it was achieved by way of repetition of some very strong collocates (LogDice measures provided in brackets) such as *alternative* (11.9) providers, *high quality* (10.63) providers or *open* (9.85) to all HE providers. In other words,

the representation of providers is biased to present an idealized business model that delivers quality and excellence. This is assumed by the HEGP authors who placed great emphasis on removing barriers to completion in the best interest of students. This positive, neoliberal role of competition was contested by media and HE experts that, judging from the range of media sources in the Twitter datasets, rejected these claims. However, the use of purpose and the role of modality contributed to the manipulation of the readership of the HEGP by constructing discourse (van Dijk 2006) in ways which, apparently, gave the Government the agency to control HE providers while, in reality, they created the conditions for further marketization of UK universities (van Dijk 2006).

The methods in this chapter constitute a lexical approach to discourse analysis. I presumed for the POS keyword analysis that meaning is constituted, revealed, and constrained by the collocation environment (Schroeter/Veniard 2016) and previous uses of language (Baker 2011). As Sinclair (1965:76) put it in one of his early works: “Any stretch of language has meaning only as a sample of an enormously large body of text; it represents the results of a complicated selection process, and each selection has meaning by virtue of all the other selections which might have been made, but have been rejected.” POS keyword analysis offers researchers a look into what was rejected by examining patterns of use in terms of frequency and distribution across linguistic registers. In doing so, we are better prepared to analyse what we have in front of us. As for the Twitter database, our results seem to confirm that the UK academic staff was either largely uninterested in taking part in it or refrained from doing so. The tweets examined all reject the implementation of the TEF and the industrialization of HE in the UK. This rejection has had no effect. In 2017, year two of the implementation of the TEF, HE institutions will be rated Gold, Silver, or Bronze based on different metrics that will look at graduate employment, student retention, and student satisfaction as determined by the National Student Survey, as well as on a narrative. Outcomes in Year Two will not be associated with differential fee uplifts for providers in England – rather, all those achieving a rating of Bronze, Silver and Gold will receive the full inflationary uplift. However, these awards will be used from Year Three

onwards to inform differentiated fees¹³. The *not-so-obvious* marketization discourse in the HEGP revealed through the use of POS keyword analysis in this Chapter is consistent with market-making strategies that require direct government intervention (McGettigan 2013). The situation is creating a general feeling of confusion that Collini (2012) has framed as a misleading analogy between a university and a commercial company, where terms such as *brand recognition*, *output*, *efficiency* and *reduced costs* coexist with more traditional HE values.

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Power through Persuasion

Persuading against Gender Violence: An Interdiscursive Genre Analysis

1. Introduction

According to Bhatia (1993), professional genres are often used to promote the strategic aims of the sender. Using campaign materials that tackle the problem of violence against women (VAW) as its object of analysis, this chapter explores how two genres advance health-promoting, ethical changes. VAW constitutes a significant global problem, affecting an estimated 35% of women worldwide (WHO 2013). It is recognised as an infringement of human rights (Heise/Pitanguy/Germain 1994; European Parliament 2012; Ellsberg *et al.* 2015; WHO 2015), and has many potentially serious and long-term consequences for women's health and well-being (WHO 2012).

Most of the public health interventions in the area of VAW have focused on prevention (Krug *et al.* 2002), with particular emphasis on addressing gender stereotyping, as gender norms have been associated with legitimizing men's abuse of women (Heise/Pitanguy/Germain 1994; Krug *et al.* 2002; WHO 2015). An EU policy paper (European Parliament 2012) identifies the media and education as two important contexts for challenging existing gender roles. This is in line with previous research that indicates that media coverage of VAW may perpetuate and even exacerbate the problem of VAW (Thapar-Björkert/Morgan 2010). Summarizing this position, Gill (2007: 135) states:

Studies from across the globe have highlighted the ways in which news reports of rape and sexual assaults sensationalize sexual violence, give a distorted view of its incidence and nature (for example, focusing disproportionately on attacks by strangers, on unusual or bizarre assaults, and on those perpetrated against

young women), trivialize women's experience of the attack, and report rapes in a manner that is designed to be titillating or arousing.

Education is another important intervention setting for countering VAW (European Parliament 2012), as emphasizing equality and respect from "a very young age" (European Parliament 2012: 5) can help to combat discrimination and violence.

The present chapter focuses on the Scottish context for campaigning against VAW. Over the years, VAW has constituted an important political focus in Scotland (Scottish Government 2009, 2014, 2016). Similar to the European position (European Parliament 2012), the Scottish Government (2016) underlined the importance of generating attitudinal change in the contexts of the media and education. Given the importance of the media and education in preventing VAW, in this chapter, I explore how the Scottish charity, Zero Tolerance, addresses the problem of VAW in materials produced for journalists and for primary school teachers. As such, this chapter explores the written professional communication of Zero Tolerance for two professions where communication is central: journalism and primary school teaching. A genre approach is very relevant for analysing campaign materials, as professional genres are associated with purposeful, strategic action (Bazerman 1994; Miller 1984), and a primary purpose of public health campaign materials is to effect change (Guttman 2000). I perform the analysis using the methodology of critical genre analysis (CGA), drawing on an interdiscursive approach (Bhatia 2010; Fage-Butler 2015). This involves analysing the discourses embedded in genres. In this chapter, the focus is on the inclusion of discourses that are used to promote changes in attitudes towards women and VAW with the aim of reducing the number of instances of VAW. Analytically, then, this chapter investigates how persuasion is achieved by analysing the discourses integrated in professional genres that are aimed at promoting and provoking sociocultural change. There will be a discussion of similarities and differences between the discourses that are integrated in two genres produced by the same sender whose overarching aims are "promoting gender equality and [...] challenging attitudes which normalize violence and abuse" (Zero Tolerance 2016a). Analysing the two genres will thus help to identify similarities and differences in tackling VAW for

different audiences and settings, providing valuable findings for campaign developers.

2. VAW – relevant theoretical perspectives

In this chapter, a discursive approach is not only relevant methodologically, it is also relevant theoretically. This is because gender is discursively constructed; gender is defined as the “cultural meanings that the sexed body assumes” (Butler 1990: 9). Barker/Jane (2016: 360) explain the Foucauldian perspective on this as follows:

To be a man or a woman is not the outcome of biological determinism or universal cognitive structure and cultural patterns. Gender is historically and culturally specific [...]. This does not mean that one can simply pick and choose genders or that gender is a matter of random chance. Rather, we are gendered through the power of regulated and regulatory discourses.

The fact that gender roles differ over time and across space (Barker/Jane 2016) reveals its discursive quality. Taking a genealogical (historical) approach, Foucault (1978: 104), for example, notes that in the eighteenth century, women’s bodies were “hystericized”, that is, constructed as sexually saturated and biomedically pathologized, and women were deemed to have “biologico-moral responsibility” for family and children. More generally, various fields and professions (such as the church, medicine and psychoanalysis) have prescribed women’s gender roles at various times and in various cultures (Barker/Jane 2016). In relation to the construction of women in the media, Barker/Jane (2016: 379), drawing on Gallagher (1983), note a “consistent global depiction of women as commodified and stereotyped into the binary images of ‘good’ and ‘bad’.” Similar critical leverage is provided by Gilbert (2002) who associates VAW with the prevalent cultural belief in the virgin-whore duality.

Although representations of women may be narrow and unhelpful, the fact that gender is discursively constructed means that gender can be challenged (Connell 2005). Barker/Jane (2016) describe this as the

potential malleability of gender. However, challenging gender is easier said than done, for two main reasons. First, gender is normalized, so any interventions to counter gender norms need to consider how to tackle the ‘taken-for-given’. One way of doing this is to disrupt the binary polarities of ‘male’ and ‘female’ (Butler 1990). Another possibility suggested by poststructuralist feminists involves reconfiguring gender to produce “multiple modes of femininity (and masculinity) which are enacted not only by different women, but also, potentially, by the same women under different circumstances” (Barker/Jane 2016: 359).

The second reason why gender is difficult to address is that gender reflects one of society’s most entrenched power fault lines. Simpson/Mayr (2010) emphasized the power element of the gendering of women in discourse; on this, see also Wodak (1997). Connell (2005: 77) has described masculinity as hegemonic, by which she means that masculinity “guarantees (or is taken to guarantee) the dominant position of men and the subordination of women”. Challenging gender representations of women can thus be considered a political activity that seeks to address a power imbalance between the sexes and concerns itself with “questions of social justice” (Connell 2005: 83); as such, it may also be met with resistance from those who have interests in upholding the status quo.

The current chapter contributes to research into countering VAW, where the changes that take place are discursively generated. As such, besides gender theory, other relevant theoretical input is derived from studies where VAW is discursively challenged. A number of discourses have been identified as challenging VAW, four of which are mentioned here. The first of these is *feminism* (Johnson 1997; Lazar 2007). The meanings of ‘feminism’ have changed over time, but “for all its ambiguity and limitations, the term nonetheless signals an emancipatory politics on behalf of women” (McCann/Kim 2013: 1). This is similar to the association of gender equality with the *empowerment* discourse (WHO 2015). A third discourse is the *equal rights* discourse (Heise/Pitanguy/Germain 1994; Ellsberg *et al.* 2015; WHO 2015), which underlines the importance of tackling gender violence as a human rights issue. A fourth discourse takes a more explicitly *moral* stance, underlining that VAW is morally wrong (Francis 2009; Scottish Government 2014) and that it is everybody’s responsibility, and a matter for individual, collective and political intervention.

3. Data

Since the 1990s, the Scottish charity, Zero Tolerance, has attempted to tackle the problem of VAW in Scotland. In this chapter, two sets of materials produced by Zero Tolerance are analysed. The first set consists of a handbook called *Handle with Care* produced for Scottish journalists (Zero Tolerance 2015a); it highlights how media coverage of VAW may generate unhelpful gender stereotyping that legitimizes VAW. The second set is the seven lesson plans of the RESPECT programme (Zero Tolerance 2016b) for teachers of pupils in their final year of primary school (aged 10–12 years). It should be noted that the teaching materials that presented the tasks themselves were not included in the analysis. This was for four main reasons: first, lesson plans and teaching materials represent different genres, with different audiences and purposes; second, only some of the activities outlined in the lesson plans had associated teaching materials; third, discourses are more apparent in lesson plans than in teaching materials which often approach topics creatively and obliquely; fourth, the greater explicitness of the teaching aims in the lesson plans makes the lesson plans very relevant to analyse given CGA's concern with strategic intention. Zero Tolerance (2015b: 3) explains its aims with the RESPECT programme as follows:

The RESPECT programme aims to contribute to the prevention of violence and abuse by challenging root causes of gender based abuse; empowering young people with useful knowledge, skills and understanding, in order to promote positive non-violent relationships based on equality and respect.

Significantly for this chapter with its focus on genres' role in promoting sociocultural change, there is evidence that the primary school programme was effective, as a follow-up randomized control trial of the programme subsequently found that pupils who had been taught using the campaign materials "reported improvements in their behaviour and that of others" (NHS Health Scotland 2010: 44). They were also critical of their teachers' gendering behaviours (NHS Health Scotland 2010: 52), which suggests that they had been sensitized to gendering and had acquired critical skills from participating in the course. In other words,

the sender's aim of changing school pupils' attitudes to gender had at least to some extent been fulfilled.

Both of these data sets warrant a CGA approach, as both are examples of genres. Regarding the genre-status of *Handle with Care*, the material characterizes itself as follows:

This *guide* is an attempt to lay down some common sense standards and procedures for reporting on men's violence against women, in all its forms. The proposals for best practice go further than the legal requirements on journalists. They form a *handbook* of moral guidance. (Zero Tolerance 2015a: 3, italics added)

Two genres are mentioned in this quotation: "guide" and "handbook". Regarding the first, according to Hansen (2007: 361):

Guides are generally written in a collegial and empathetic tone from the perspective of someone who has 'been there' before. It is meant to present material in an organized way, starting with the basics and moving on to more advanced topics. Guides can be long. They generally include a mixture of background information, resources (with descriptions about why they are good or not complete), suggestions, and personal experiences.

The loosely defined handbook genre (Segal 1995), on the other hand, assumes existing knowledge on the part of the reader and thus is used to "provide answers to specialist queries" (Henry 2011: 163). Boellstorff *et al.* (2012: 8) explain that the "handbook genre" or "manual" existed three centuries BC in Greece, and has evolved considerably since then:

The enduring thread uniting these notions of 'handbook' across the centuries is the goal of capturing knowledge and making it accessible for practical use. In this sense, a *handbook* is a *guide* to tools and procedures, a blueprint to things of the hand as much as the head [...] [I]t belongs as much in the field as in the library. (Italics added)

As can be seen in this quotation, the distinction between the guide and the handbook is conflated, just as it was in *Handle with Care*. For the purposes of this chapter, I will rely mainly on its characterization of itself as a handbook, whilst acknowledging that the distinction between guide and handbook is not always clear-cut, as is evident in the above. The main difference seems to reside in guides being more general and

assuming less background knowledge in their target audience, while handbooks are for practitioners aiming to increase their knowledge of a specialized area. It is, however, important to acknowledge that both the guide and the handbook have primarily informative purposes – the dissemination of expert knowledge. This seems at odds with the more overtly persuasive and challenging purposes of *Handle with Care*.

Regarding the genre-status of the second data set, the lesson plan has been described as an established genre (Crowston/Kwasnik 2004; Hyland 2004, 2007), associated with the use of templates (Branson 2005) that include headings such as ‘Aims of the lesson’ and ‘Materials required’. Specialized classroom genres such as the lesson plan help teachers to “plan, sequence, support, and assess learning” (Hyland 2007: 149), thereby increasing teacher efficiency. As these genres tend to be structured and schematic, they also ease information transfer between teachers (Hyland 2007). Hyland (2007: 150) argues that classroom genres shape teachers’ sense of professional identity: they are “integral to our individual identity, social relationships, and group membership.” Lesson plans are usually used to help teachers plan the delivery of the standard school curriculum. However, the aim of the Zero Tolerance campaign has more overtly radical overtones.

In the current data set, Zero Tolerance therefore deviates somewhat from the standard purposes of the handbook genre and the lesson plan genre. This is not necessarily a problem for their ‘genre’-status, however, as genres have a degree of malleability and modifiability (Berkenkotter/Huckin 1993; Bhatia 2010) that can accommodate such changes.

4. Methodology – critical genre analysis

There are many different definitions of ‘genre’ and explanations of genres’ purposes (Askehave/Swales 2001). Bhatia’s (1993: 13) definition of genre, which emphasizes the strategic intentions of the sender, is chosen for this chapter:

[Genre] is a recognizable communicative event characterized by a set of communicative purpose(s) identified and understood by the members of the professional or academic community in which it regularly occurs. More often it is highly structured and conventionalized with constraints on allowable contributions in terms of their intent, positioning, form and functional value. These constraints, however, are often exploited by the expert members of the discourse community to achieve private intentions within the framework of socially recognized purposes(s).

As noted in the Introduction to this chapter, *Zero Tolerance* (2016a) describes its “intentions” as being to promote gender equality and challenge gender norms that normalize VAW. As such, this chapter explores the discursive resources that are incorporated in two genres to achieve the sender’s strategic intentions. Integrating discourses to support the sender’s strategic intentions is a creative enterprise (Bhatia 2012a). The overarching methodology adopted to examine the two data sets is critical genre analysis (Bhatia 2010, 2012b), and within that methodology, the element of interdiscursivity, which Bhatia (2010: 35) defines as follows:

Interdiscursivity [...] refers to more innovative attempts to create various forms of hybrid and relatively novel constructs by appropriating or exploiting established conventions or resources associated with other genres and practices [...]. [I]nterdiscursivity can be viewed as appropriation of semiotic resources (which may include textual, semantic, socio-pragmatic, generic, and professional) across any two or more of these different levels, especially those of genre, professional practice and professional culture.

Bhatia (2010) explains that one way of more fully comprehending senders’ motives and intentions is by analysing the multiple discourses that are integrated in genres using interdiscursive analysis, and the appropriation and exploitation of discourses in genres is thus the analytical focus of this chapter. Ontologically, critical genre analysis conceptualizes genres as being situated in and reflecting the “socio-pragmatic space” (Bhatia 2010: 39) in which they are produced and used. As Fage-Butler (2015: 37) explains:

socio-pragmatics relates to *a priori* understandings which affect how objects can be imagined, limiting the abundance of meanings that objects otherwise might have, and the actions that are seen to be legitimate in relation to those meanings.

Such *a priori* understandings are generated by discourses which may be defined as “larger systems of knowledge, values and social relationships that grow up within societies and cultures” (Jones 2012: 15). Examples of discourses include biomedicine, alternative medicine, Darwinism and creationism. A multiplicity of discourses exists at any one time in relation to specific fields, with the consequence that discourses are strategically *selected* for inclusion in genres. As such, analysing the discourses that are integrated in genres helps to indicate how the senders achieve their underlying aims, as well as provide insights into a text’s broader organizational and cultural context (Bhatia 2010; Fage-Butler 2015). In this way, critical genre analysis makes critique possible as “it aims to demystify, understand, explain, and account for the kinds of professional practices in which we are engaged in our everyday life” (Bhatia 2015: 12).

In this chapter, the method used to unpack interdiscursivity by identifying the discourses evident in the genres, thereby exposing how examples of two different genres challenge existing gender norms, is Foucauldian discourse analysis (Foucault 1972; Willig 2013). For a fuller account of this methodology applied to critical genre analysis, see Fage-Butler (2015). According to Foucault (1972), the statement is the unit of discourse analysis. As Andersen (2003) explains, a statement is the smallest unit of discourse (or stretch of text) that constructs a specific object of discourse. As such, a statement is not necessarily equivalent to a grammatical sentence, but it can be, and often is. In *The Archaeology of Knowledge*, Foucault (1972) provides a theory of discourse rather than a set of discourse analytical methods, so others, such as Willig (2013), have operationalized his analytically oriented theories. The first three stages of Willig’s (2013) analytical strategies which derive from Foucauldian discourse theory involve the following:

- identifying statements that construct the object in question;
- identifying the discourses that these statements reflect;
- considering what is achieved by the discursive constructions identified in Stage 1; what is achieved often has a legitimizing function.

To exemplify these three stages, “God bless America” is a statement. It constructs America as being worthy of blessing and as associated with goodness (Stage 1). The statement is associated with the discourses of religion (Christianity) and patriotism (Stage 2). Amongst other things, this statement can be used to appeal to nationalistic fervor, and to construct America as divine and exceptional (Stage 3).

5. Findings

In what follows, I will perform an interdiscursive critical genre analysis of two data sets produced by Zero Tolerance that represent the genres of handbook and lesson plan to examine how VAW is discursively challenged in these genres. The focus will therefore be on the discourses that are integrated as resources in these genres to promote sociocultural change. The analysis that follows is structured such that Stage 1 and Stage 2 of Willig (2013) are taken together; Stage 3 is subsequently addressed.

5.1. *Handle with Care: Identification of discourses*

An interdiscursive analysis of the *Handle with Care* (Zero Tolerance 2015a) handbook for journalists using FDA reveals seven main discourses.

5.1.1. *Discourse 1: VAW as a gender issue*

The *Handle with Care* materials underline the gendered basis of VAW throughout the materials, as the following statement exemplifies:

- (1) All forms of VAW are rooted in gender inequality – the unequal distribution of wealth, power and opportunity between men and women. (Zero Tolerance 2015a: 22)

This leads to the recommendation that journalists attend to the root causes of gender violence:

- (2) Journalists should highlight the gendered nature and root causes of violence against women in all reporting. (Zero Tolerance 2015a: 22)

The remaining discourses evident in *Handle with Care* have in common that they challenge gendering discourses, and as such are examples of counter-discourses. Hegemonic discourses that may include sexist attitudes to women and do not condemn VAW are challenged by these counter-discourses.

5.1.2. Discourse 2: De-trivializing gendered violence

Statements are provided from sex workers which challenge their trivializing association with entertainment:

- (3) When I see all over the media the message that sex work is fun and ok, it hurts me. Being a prostitute is being hurt and hurt and hurt again and being told you like it, you deserve it, and you should lighten up and enjoy it. (Zero Tolerance 2015a: 13)

Zero Tolerance (2015a: 9) also directly criticizes poor gender reporting, such as articles that include “jokey or ‘funny’ headlines”, which “trivialises the subject matter”.

5.1.3. Discourse 3: De-glamorizing the sex industry

Zero Tolerance also integrates a counter-discourse regarding the media’s tendency to glamorize the sex industry. The following statement in the *Handle with Care* materials was made by a prostitute:

- (4) It’s not easy and it’s not glamorous. It’s hard. It’s horrible. It’s degrading. I wouldn’t recommend it to anybody. I hate it. I made the biggest mistake of my life getting into it. (Zero Tolerance 2015a: 13)

Zero Tolerance underlines the importance of reconsidering the language used to describe prostitutes:

- (5) Women who sell sex are not vice-girls or tarts or hookers. They are prostituted women, almost always controlled by a pimp or a drug habit, almost always vulnerable and at the margins of society. (Zero Tolerance 2015a: 17)

5.1.4. *Discourse 4: De-sensationalizing VAW*

Another counter-discourse evident in the *Handle with Care* text de-sensationalizes VAW by challenging the construct of the rapist as a lonely, psychopathic predator:

- (6) Men who rape or commit sexual violence or domestic abuse are not beasts, monsters, perverts or fiends. They are ordinary men, usually someone's dad, brother, uncle or friend, who have behaved in ways that we find abhorrent. (Zero Tolerance 2015a: 17)

Zero Tolerance identifies that the problem with this construction of the rapist is that it creates blind spots that render critique of the more everyday quality of rape difficult:

- (7) Describing men who perpetrate violence against women and children as monsters and beasts dehumanises them, sets them apart from 'normal' men, and diverts the reader's attention away from big questions about why some men think it is acceptable to behave in this way. (Zero Tolerance 2015a: 11)

5.1.5. *Discourse 5: Re-allocating responsibility*

Another counter-discourse evident in the *Handle with Care* materials involves blame redistribution. Too often, it seems that women who experience violence are blamed (implicitly) for their clothes or drinking, or for not taking due care. However, Zero Tolerance underlines:

- (8) The survivor or victim is not to blame. (Zero Tolerance 2015a: 17)

Zero Tolerance also points out that constructing the perpetrator of gender violence as acting out of character diminishes their responsibility:

- (9) [t]he perpetrator or suspected perpetrator of abuse [was described] as a 'lovely man' or similar, using phrases like 'a quiet man', 'a lovely guy', 'wouldn't hurt a fly'. These types of phrases serve to mitigate their crimes and explain them as a momentary lapse or out of character, rather than part of a persistent but unrecognised pattern of behaviour. (Zero Tolerance 2015a: 11)

Similarly, the media should not rely on popular psychological theories that may exonerate perpetrators of VAW:

- (10) Journalists should be mindful of the lack of convincing evidence for a ‘cycle of violence’ and avoid making simplistic connections between men’s violence against women and their childhood experiences of violence. (Zero Tolerance 2015a: 23)

5.1.6. Discourse 6: Factual evidence

As another means of challenging VAW, Zero Tolerance suggests that journalists use statistics to underline the systematic rather than sporadic nature of VAW:

- (11) Statistics help to mitigate the possibility of giving the impression that individual incidences of violence against women are an inexplicable tragedy with no solution, rather than a systemic feature of an unequal society. (Zero Tolerance 2015a: 15).

5.1.7. Discourse 7 – Ethics

The final discourse dismantles hegemonic discourses regarding VAW using ethical arguments, emphasizing the media’s responsibility to report fairly on it and in ways that can help change attitudes for the better:

- (12) Media coverage can influence individuals’ behaviours as well as their attitudes (Zero Tolerance 2015a: 4).

Statements are included that underline that women who have experienced VAW need to be treated with due respect by the media, for example:

- (13) Journalists should conduct all contact with survivors of abuse or violence with respect for their experience, dignity and safety. (Zero Tolerance 2015a: 21)

There are many potential advantages to communicating in appropriate ways about VAW – some of which can benefit the media themselves:

- (14) It is vitally important that the media get their reporting about violence against women right. Those who do so will reap the rewards, in terms of engagement with key agencies, engagement with case studies and ultimately more and better stories. Society also stands to benefit. (Zero Tolerance 2015a: 5)

5.2. *Handle with Care: What is achieved by the discourses*

Discursive analysis helps to highlight two main concerns in the *Handle with Care* handbook: VAW, and the media's role in constructing gendered roles for women. Most of the discursive work in *Handle with Care* relates to challenging hegemonic gender norms that are taken as truisms. Challenging existing gender norms is achieved by including counter-discourses that oppose hegemonic discourses regarding women's sexuality and VAW. The discourses explicitly construct VAW as being associated with systemic power inequalities, reflecting a feminist perspective. The ethical discourse regarding VAW being morally indefensible is also present.

As Bhatia (2010) explains, interdiscursivity is a feature of genres that reflects the sender's strategic intentions. The discourses that are integrated in *Handle with Care* (Zero Tolerance 2015a) are very much in accordance with the literature. This is not surprising, as discourses that are integrated in genres tend to be selected from the larger palette of discourses that are currently available in any one field. However, from a critical genre analytical point of view, the choice of discourses not only reflects cultural tendencies, but also helps to indicate the intentions of the sender: here, disturbing unchecked truisms that may underpin journalistic practices in their coverage of women and VAW. As a "handbook of moral guidance", *Handle with Care* provides case-studies, facts and moral arguments as to why Scottish journalists *ought to* reconsider their gendering practices, reflecting the 'practitioner' focus of the handbook genre described earlier. There is particular concern with addressing how the media may unwittingly be creating an environment that endangers women. The persuasive purchase of the included discourses is perhaps most evident in the depiction of the implications of VAW on the lives of women subjected to violence, and in underlining the moral responsibility of the Scottish media to represent women and gender violence with greater sensitivity, seriousness and accuracy.

5.3. RESPECT Primary lessons: Identification of discourses

Interdiscursive critical genre analysis was also used to analyse the second data set, the RESPECT primary school lesson plans (Zero Tolerance 2016b), and revealed the following discourses.

5.3.1. Discourse 1: Ethics

A recurrent discourse in the lesson plans is the discourse of moral responsibility towards others, for example:

- (15) The lesson encourages the participants to consider and discuss the concept of respect, the right we have to respect in all aspects of our lives and the responsibility we have to respect others (Zero Tolerance 2016b: 4)

The moral responsibility individuals have towards others can trigger empathy, thereby preventing discriminatory practices:

The lesson also aims to develop empathy, to promote identification with different groups who are treated unfairly as the result of difference and to question whether it is ever acceptable to discriminate against others on the ground of difference. (Zero Tolerance 2016b: 11)

5.3.2. Discourse 2: Equal rights

Another discourse constructs ‘the other’ as having rights and as being deserving of respect in ways that can promote equality. This is evident in the following lesson aims:

- (16) Aims of the lesson [...]:
- To consider how we show respect in the group so that everyone feels safe and comfortable enough to join in
 - To establish a safe, supportive environment for discussion and activities
 - To encourage equal participation of all members of the group
 - To agree on rights and responsibilities of group members (Zero Tolerance 2016b: 4)

5.3.3. Discourse 3: Gender discrimination

The gender discrimination discourse is included as a specific instance of discrimination, as the following statement indicates:

- (17) This lesson looks at gender stereotypes and how these are used to influence young people's perceptions of themselves and others. The lesson also aims to explore how these stereotypes affect how we make judgements about others. (Zero Tolerance 2016b: 7)

5.3.4. *Discourse 4: 'Power over'*

The discourse of power, where power means 'power over', is also evident in the lesson plans:

- (18) The lesson aims to give students an understanding of different forms of power and the ways in which power is used, misused and abused. It explores examples of bullying and physical violence and bullying as well as the ways in which it is damaging and destructive. It uses bullying and racial, sexual and other forms of harassment as examples of the misuse of power that everyone will be familiar with. (Zero Tolerance 2016b: 15)

Particular attention is afforded to gender violence in relationships as an example of the 'power over' discourse:

- (19) This lesson deals with violence and abuse within relationships. It builds on previous lessons by making the links between different forms of violence and abuse in the context of all abuse involving the misuse of power, and controlling behaviour. (Zero Tolerance 2016b: 24)

5.3.5. *Discourse 5: Factual evidence*

In the lesson plans, there is emphasis on providing pupils with information that can help them contest discourses that may support VAW:

- (20) It provides young people with the opportunity to have accurate information and some understanding of the range, impact and consequences of abusive and violent behaviour. (Zero Tolerance 2016b: 24)

5.3.6. *Discourse 6: Empowerment*

Statements in the RESPECT lesson plans also reflect the discourse of empowerment, where empowerment is described as the antithesis of 'power over' (see Discourse 4 in this section):

- (21) This lesson also explores the meaning of 'power with' as an alternative to 'power over' and how people can come together to make change happen and redress

injustice or inequality through highlighting various struggles in the 20th century. (Zero Tolerance 2016b: 29)

Gender empowerment is constructed as achievable, as gender roles evolve over time, and existing gender roles can be transformed when people work together:

- (22) Aims of the lesson:
- To look at the historical context of power and privilege in relation to gender
 - To show that current gender roles are not rigid; that they have changed over time and that making change is possible
 - To consider collective power and how power can be used positively to challenged misuses of power. (Zero Tolerance 2016b: 29)

5.4. RESPECT Primary Lesson Plans: What is achieved by the discourses?

Interdiscursive analysis of the RESPECT primary school lesson plans indicates two main strategic intentions. First, to provide teachers – and thereby pupils – with discourses (such as equal rights, ethics, ‘power over’ and empowerment) that sensitize pupils to gender-related meanings and practices. Second, to enable pupils to take a critical stance on discriminatory practices (in general, as well as in relation to gender, more specifically). The persuasiveness of the teaching associated with the lesson plans is likely to be enhanced by the setting in which the lessons are delivered (the classroom with the teacher-pupil power asymmetry), as well as the moral weight of discourses such as ethics, equal rights, empowerment and gender discrimination.

6. Discussion and Conclusion

This chapter has identified discourses that are integrated in two genres for different audiences that are produced by the same sender to address the problem of VAW. As such, it sheds light on the discourses that are used to challenge gender violence, and illustrates interdiscursive

differences in the genres themselves, thus contributing with its contrastive approach to the growing field of critical genre analysis.

This chapter illustrates how to identify the discourses that have been integrated to support the strategic intentions of the sender in professional genres. Interdiscursive analysis reveals different strategic intentions with the two genres. The *Handle with Care* media campaign aims to challenge and dismantle existing assumptions about gender and VAW in order to make journalists reconsider their practices, using counter-discourses that de-trivialize, de-sensationalize and de-glamorize existing gender norms, and point out the media's moral obligation to act as catalysts for positive change in the area. On the other hand, interdiscursive analysis reveals that the RESPECT lesson plans aim at sensitizing pupils to ethical aspects of gender and gender-related issues rather than focusing much on VAW itself. The bolder, more confrontational approach in the *Handle with Care* handbook reflects its adult, practitioner audience, who have a direct and leading role to play in transforming representations of women and VAW. Children, on the other hand, are less influential in society at large, but they can play a role in securing better gender relations in their local environment, as well as in repudiating the gender representations they may encounter. The analysis conducted in this chapter hints that interdiscursive analysis may help genre analysts identify the purposes of genres inductively, as it illustrates a bottom-up approach to identifying the discursive resources that promote the strategic intentions of the sender, using the 'statement' (Foucault 1972) as the object of analysis. This is all the more relevant as the purposes of genres are often elusive (Askehave/Swales 2001). However, 'strategic intentions of the sender' and 'purposes of a genre' are not synonymous, and further research is needed to establish the usefulness of an interdiscursive approach for identifying a genre's purpose.

Despite the differences in the strategic intentions evident in the genres analysed in this chapter, there are overlaps in the discourses in both data sets: for example, the discourses of factual evidence and ethics are evident in both genres. The discourse of empowerment, which is only evident in the lesson plans, has its place in the classroom setting (Freire 1972), in health promotion campaigns (Wallerstein/Bernstein 1988), and in public health initiatives against VAW (WHO 2015). Its versatility in various professional genres and contexts is explained by

Bhatia's (2010: 35) definition of interdiscursivity as "appropriating or exploiting established conventions or resources associated with other genres and practices".

Discourse analysis has characteristically been used to expose power abuse, where discourse is often considered to be 'part of the problem', as it perpetuates oppressive roles and identities. Much of the research within critical discourse analysis is conducted in this light, with the goal of emancipation (Jørgensen/Phillips 2002). In this chapter, discourse analysis is used to analyse how discourse may instead be 'part of the solution', as it investigates discourses that reflect the sender's commitment to addressing the problems of VAW and gendering. Professional genres have been described as "resources for getting things done using language" (Hyland 2004: 1); this chapter has explored how they can help society 'do things better'.

In relation to feminist theories, the simple gender binarism of male and female remains relatively intact in both sets of materials, and there is a lack of attention to developing alternative subject positions to restrictive gender norms. Although this absence is likely to reflect Zero Tolerance's primary concern with tackling the discursive practices that may lead to cultures ignoring or condoning VAW, it could be useful to include greater complexity in the representation of gender norms in these and similar materials, as it may help ensure a greater degree of choice for girls and women.

In conclusion, the methodology of CGA, particularly an interdiscursive approach, is clearly relevant when investigating the discourses that professional communicators strategically embed in genres to produce sociocultural change. It is also very relevant for a comparative study such as the present that explores the 'socio-pragmatic' resources that are appropriated in two different genres. With its focus on gender, this chapter reaffirms the point that representation is both an ethical and political issue, and underlines the importance of a discursive approach to public health. Given the obvious fruitfulness of combining discourse analysis and genre analysis – as discourses create ways of doing and seeing in the world, and professional genres are conventionalized textual classifications for getting things done – further research into the strategic use of discourses for persuasive purposes in genres would be very valuable.

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DANIEL GALLEGO-HERNÁNDEZ

Persuasion in Promotional Banking Products: A Comparative Corpus-based Study

1. Introduction

A company may be considered an open system through which information flows, analysing different inputs and transforming them into outputs according to the objectives pursued. The steering system, thus, needs economic information as a basis for taking management decisions based on business goals, and has several features and origins: business information coming from the market, commercial communication keeping potential customers informed about the products, business correspondence helping commercial transactions to succeed, etc. Within these information flows, the company produces diverse kinds of documents related to commercial transactions (payment documents, transport documents, invoices, insurance documents, contracts, etc.) or marketing process stages (study of demand and customer characteristics, cost calculation and fixing prices, distribution of goods and services, customer information, etc.).

The present chapter deals with texts related to the marketing process, and particularly with promotional banking products as genres. From the point of view of their communicative situation, and according to the functional approach of Hatim/Mason (1990), the field of such texts is banking, and the subfield covers various products (deposits, accounts, cards, loans, insurance products, etc.). As for the mode, which involves the channel and the nature of the participation, the way in which these products are promoted is also varied: written (websites, emails or printed brochures) or audio-visual modes (TV ads or promotional videos). With regard to their tenor (the interpersonal component covering communicative functions related to participants), banks – the

issuers of these documents, responsible for raising funds through deposits, loans and other financial services – aim to promote their products through advertising. Such texts may also be considered as examples of specialized discourse, although they have a lesser degree of abstraction, since they are addressed by specialists to lay persons (consumers). Therefore, promotional banking products as genres are ultimately aimed at manipulating, persuading and convincing potential clients or consumers (readers) to make purchase decisions and buy the products.

Against this backdrop, this chapter will analyse the textual genre of the promotion of banking products on websites, by focusing precisely on their persuasive devices and how they are envisioned from the point of view of translation (French and Spanish). Persuasive devices are here understood as those rhetorical strategies or mechanisms deployed to drive consumer behaviour (imperative verbs, qualifying adjectives, specific attitudes towards the products, etc.). There are three main questions to be answered: the kinds of devices that are deployed in French and Spanish in order to keep the position of influence in such texts; whether these languages use similar or different rhetorical resources to attempt to influence potential customers; and, finally, if the way that these languages manipulate readers has an impact on translation. Before answering these questions, we shall review some studies that analyse different aspects of texts on promotional products and services related to persuasion.

2. Previous studies

Most of the studies on promotional products and services (banking products and others) as genres state that such texts not only have an informative intention, but also seek to make the clients take purchasing decisions in a more or less precise direction. These studies approach persuasion in various ways – contrastive, translation or corpus-based studies – and analyse various aspects: specific terms, phraseology and metadiscourse, among others.

For example, Dubroca (2005), who analyses the translation into French of terms related to the *cerdo ibérico* [Iberian ham], notes that French texts reveal a lack of terminological cohesion, and advocates fixing subject-related terminology so that the product can be sold well. As for the analysis of phraseology, Dubroca and Flores (2003: 104–105) examine texts on banking services, specifically French promotional brochures sent by banks to their customers by mail. The authors distinguish four kinds of strategies helping banks reformulate specialized concepts, adapt the language to lay clients and persuade them to subscribe to the services:

- “*La vérité restreinte. Dire mais pas trop* [Limited truth: don’t say too much]”. This strategy is represented by expressions such as *profitez des avantages* [take advantage of], *à des conditions exceptionnelles* [exceptional conditions], *fiscalité avantageuse* [favorable tax treatment].
- “*Nous vous facilitons la vie* [We make your life easier]”. The strategy’s hard core are verbs such as *bénéficier* or *profiter* which offer customer services: *profitez des performances* [enjoy performance], *pour simplifier la gestion de votre compte* [simplify your account management].
- “*Le client-roi, l’adaptation* [The customer is the king: adaptation]”. The bank rolls out the red carpet for the customer despite the antagonistic seller-buyer situation. Examples of expressions are *répondant à vos besoins* [meet your needs] or *formule adaptée à votre situation* [a formula that suits your situation].
- “*L’invitation* [Invitation]”. Here clients are impelled to weaken their resistance to consumption through expressions trying to force them to make decisions as soon as possible: *n’attendez pas de* [do not wait], *adressez-vous à* [contact your], *en tout moment* [at any time], *en tout lieu* [anywhere], etc.

In another study related to the promotion of olive oil, Dubroca (2008) identifies several phraseological groups involving different stereotypes (health, beauty, youth, tradition, nobility, history, sun, among others) which can constitute specific persuasive devices for use with this product. Some examples are:

History: *présent depuis des millénaires, l’olivier a...* [the olive tree has existed for millennia...], *el origen del olivo se pierde en la noche de los tiempos* [the origin of olive trees is lost in the mists of time]

Health: *ralentir le vieillissement cellulaire* [slow down cellular ageing], *el aceite que da vida* [the life-giving oil]

Diet: *l'alimentation de type méditerranéen* [Mediterranean diet], *la dieta mediterránea es sinónimo de alimentación saludable* [Mediterranean diet is synonymous with healthy eating]

She suggests that comparative studies should make it possible to improve translations and, at the same time, to serve the entrepreneurial interests of those who use these phraseological units as a marketing tool.

We also find other studies that examine texts on promotional opportunities from the point of view of metadiscourse, which plays a key role in textual genres. Initially introduced by Vande Kopple (1985) and Crismore *et al.* (1993), metadiscourse may be defined as “the cover term for the self-reflective expressions used to negotiate interactional meanings in a text, assisting the writer (or speaker) to express a viewpoint and engage with readers as members of a particular community” (Hyland, 2005: 37). On a functional level, metadiscourse helps the author of a text establish links with the audience (e.g. via persuasion, entertainment, dissuasion, etc.) without really adding new information. On a social level, metadiscourse may differ according to the objectives that different communities pursue when communicating.

Hyland (2005: 48–54) distinguishes two main categories: interactive metadiscourse, which is used “to organize propositional information in ways that a projected target audience is likely to find coherent and convincing”, and interactional metadiscourse, which “involves readers and opens opportunities for them to contribute to the discourse by alerting them to the author’s perspective towards both propositional information and readers themselves”. He distinguishes five categories in both types as shown in Table 1:

Table 1. Metadiscourse according to Hyland (2005).

TYPE	MARKER	DEFINITION	EXAMPLE
interactive	transition markers	logical connectors such as conjunctions and adverbial phrases used to help readers interpret pragmatic connections between propositions (addition, comparison, consequence)	furthermore, in conclusion...
	frame markers	signal text boundaries and elements of schematic text structure	first, then, in sum...
	endophoric markers	refer to other parts of the text	see figure, as noted above...
	evidentials	refer to ideas from another source	according to X, Z states...
	code glosses	help the author rephrase, explain or elaborate what has been said and be sure the reader understand what the author means	that is, for example...
interactional	hedges	help the writer to emphasize the subjectivity of a position by allowing information to be presented as an opinion rather than a fact	possible, might, perhaps, broadly...
	boosters	unlike hedges allow the author to close down alternatives or head off conflicting views	definitely, clearly demonstrate...
	attitude markers	convey the author's affective attitude to propositions, such as surprise, agreement, obligation, frustration, etc.	agree, prefer, unfortunately, appropriate, remarkable...
	self mention	can be measured by the frequency of first-person pronouns and possessive adjectives	I, me, our...
	engagement markers	help the author to directly address readers to focus their attention, or to include them as discourse participants	you, your, consider...

The author studies the phenomenon of metadiscourse and all its markers from an academic viewpoint. However, this viewpoint has proved

insufficient for other specialized areas like business or tourism. The interactional dimension seems, thus, to be more deeply researched than the interactive one, especially in non-academic texts.

In relation to the study of persuasion in promotional texts from the point of view of metadiscourse, we find some corpus-based translation studies related to English, Spanish and German (Suau 2006; Labarta/Suau 2006; Suau/Dolon 2008). After comparing different corpora (texts originally written in English and translated from Spanish into English, and texts originally written in German and translated from Spanish into German), they show that there are differences in the corpora. While texts in original English use more self-mention and engagement markers, Spanish original texts favour boosters, as do German original texts, which, however, show this trend even more dramatically than Spanish ones. As for translation, the authors highlight the differences between original and translated English and German, and state that the quality of such translations may not achieve the goal of the texts, which is to persuade potential customers, since these translations are using a foreign metadiscursive pattern. Metadiscourse, thus, becomes a very important element when translating texts aiming at convincing or persuading clients.

Overall, there are few comparative studies on persuasion in French and Spanish promotional texts. The brief review presented above shows that the approaches in these studies involve translation in different ways: teaching, terminology, phraseology and metadiscourse. In any case, it is clear that the vocabulary of the everyday language plays a key role in urging potential customers to make decisions about the products offered by companies. Persuasion is always present when selling all types of products, and it concerns not only specific terms, but also general language. General terms and phrases structure the author's argumentation in advertising campaigns. Therefore, professional translators, for example, should carefully treat these kinds of units in order to preserve their proper functioning.

As for metadiscourse, it is a key element in persuading customers to purchase products and is constantly present in advertising and marketing campaigns. However, to our knowledge, few French and Spanish comparative corpus-based studies are focused on metadiscourse

in promotional banking products as genres. The lines that follow are intended to partially address this lack of research.

3. Case study

In this section, we first describe the corpus employed and explain the methodology used to extract metadiscursive elements. Then we present the results obtained, and discuss them. Finally, we propose an application to the translation of persuasion in business contexts.

3.1. *COMENEGO pilot corpus*

The acronym COMENEGO stands for ‘Corpus Multilingüe de Economía y Negocios’. It is a pilot comparable corpus of business and economics texts in French, Spanish and English, which may be used for specialized language research or as a teaching tool for translator trainers. The Spanish and French texts of the corpus were collected according to different external criteria (Gallego-Hernández/Krishnamurthy 2013), but also, especially the English ones, to empirical criteria from a survey (Rodríguez-Inés 2014). The texts are classified as follows:

Table 2. Text types and categories in COMENEGO.

TEXT TYPES	CATEGORIES
bank products, financial products and insurance; corporate webpages (commercial websites)	COMMERCIAL
on line courses; guides for consumers, investors and bank clients (webpages of teachers, universities, institutions)	DIDACTIC
laws, codes, decrees and legal advices (websites of ministries and agencies)	LEGAL
articles of associations, regulations, annual meetings, rules (corporate and informational websites)	ORGANIZATIONAL
press releases, news, newsletters (corporate websites and newspapers)	PRESS

TEXT TYPES	CATEGORIES
academic papers (informational websites: specialized journals)	SCIENTIFIC
financial prospectuses, annual accounts, annual reports, financial results, corporate responsibilities, management reports, analysis, country-specific, sector-specific reports, marketing plans (corporate and informational websites)	TECHNICAL

The next table contains some details (number of files and tokens) related to the texts and to the different categories:

Table 3. files and tokens in COMENEGO.

Lan	ITEM	COM	DID	ORG	TEC	SCI	LEG	PRS
FR	Files	3909	1121	634	133	203	21	2859
	Tokens	1325544	1304585	1365468	1187806	1301102	1293704	1308418
ES	Files	5255	1491	429	351	99	211	2214
	Tokens	1329915	1276089	1337822	1188068	1311731	1342698	1329029
EN	Files	247	253	172	308	67	12	535
	Tokens	614112	622749	633381	646585	632644	668350	666194

3.2. Object of study

The analysis was carried out on the French and Spanish commercial category of the COMENEGO pilot corpus, which was compiled from webpages in which banking products (accounts, credit cards, insurance, loans, etc.) are sold and websites where companies are presented (in the so-called ‘*about us*’ sections). We hypothesize that the language of these texts is ultimately aimed at persuading readers to make purchase decisions. The analysis deals with interactional resources, which is one of the two basic types of metadiscursive elements and involves the use of persuasive devices.

3.3. Methodology

A range of software is available in corpus linguistics. These tools enable the user to obtain various analytical outputs from corpora: word frequency lists, concordances, collocations, and n-grams. In this chapter, we use AntConc to identify the markers involved in the above-mentioned interactional metadiscourse devices as used in French and Spanish, allowing us to compare and contrast them in either language.

The methodology has already been explained in Gallego-Hernández (2013). To extract the metadiscursive scheme from each subcorpus, we generated concordance lines from previously prepared lists of keywords potentially representative of each of the interactional categories (hedges, boosters, attitude markers, self-mentions and engagement markers). By way of example, the following expressions were used to generate concordance lines potentially containing boosters in French and Spanish:

- Spanish: *muy/totalmente/dem++str*/sobre todo/por supuesto/sin lugar a dudas / sin duda altamente / perfectamente / completamente / plenamente / plen++ / verdader* / claramente / sin lugar a dudas / sin duda / efectivamente / significativamente / absolutamente / extremadamente / notablemente / de manera notable / evidentemente / más que nunca / de forma notable*
- French: *très / entièrement / véritable+ / vrai++ / parfaitement / bien sûr / effectivement / pleinement / clairement / démonstr* / plus que / surtout / jamais / évidemment / extrêmement / véritablement / totalement / sans aucun doute / bel et bien / incontestablement*

Once the concordance lines were generated, we read each one with two purposes: (1) to verify that the keyword actually was a metadiscursive item and not a noise element, that is, a keyword which did not turn out to be a metadiscursive item because of its context, its polysemic nature, etc., and (2) to count the number of occurrences of each device and each category, and draw the schemata for each language.

3.4. Results and discussion

Figure 1 represents the interactional schemata of the commercial category of the corpus in Spanish and French. The vertical axis shows the markers-words ratio. At first glance, the schemata are similar, although French barely contains hedges and has a very large number of engagement markers.

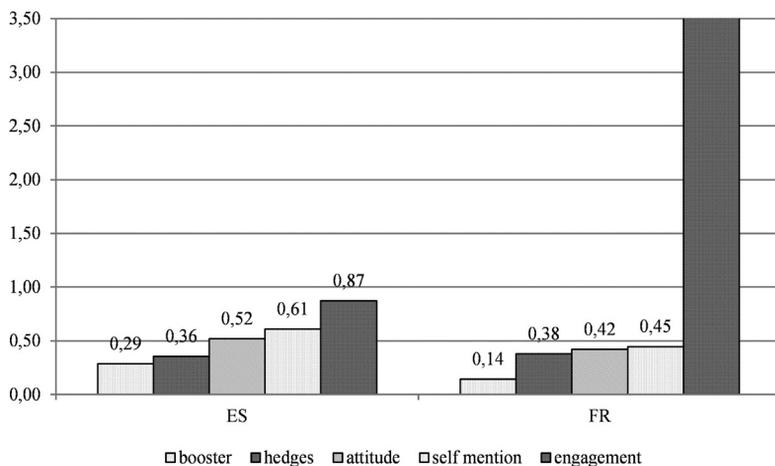


Figure 1. Interactional schemata of the commercial category in Spanish and French.

As shown in Figure 1, engagement markers are the most commonly used category in both subcorpora (in French the number triggers to more than 44,000 cases, which is a ratio of 3.37). These markers help the author address readers and focus their attention by including them as discourse participants. Questions, imperatives and second person pronouns are the most used, as displayed in Figure 2:

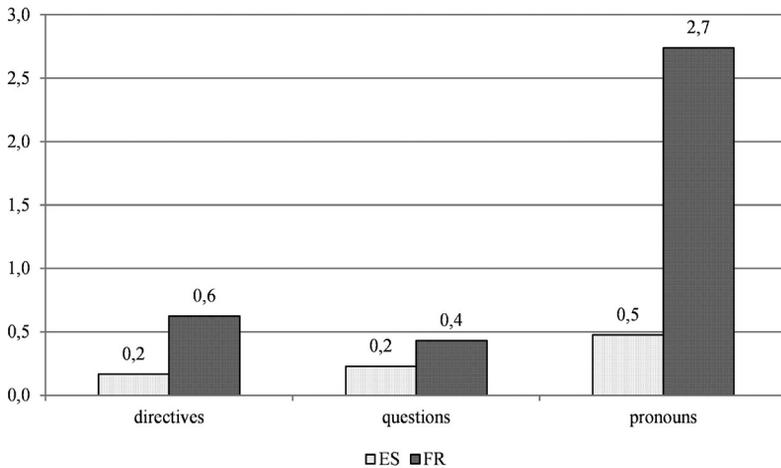


Figure 2. Engagement markers.

In French, the pronoun *vous* [formal *you*] is mostly used and is usually combined with present verb forms and the possessive *votre* [formal *your*]:

- (1) *Si vous souhaitez des informations liées à votre activité, vous pouvez accéder au...* [For further information related to your business, please access...]
- (2) *Avec votre assurance moto, vous êtes protégé.* [With your motorcycle insurance, you are protected]
- (3) *Pour vous permettre de profiter de votre épargne retraite* [To allow you to enjoy your retirement savings]

Imperatives in French are also very frequent:

- (4) *Accédez dès maintenant au...* [Access now the...]
- (5) *Bénéficiez régulièrement de conseils d'experts.* [Get regular expert advice]
- Présentez à votre conseiller le...* [Introduce your advisor the...]

The pronoun *vous* is also combined with questions:

- (6) *Vous cherchez à développer votre activité?* [Looking to grow your business?]
- (7) *Vos biens ont été endommagés?* [Was your property damaged?]
- (8) *Vous souhaitez alléger votre fiscalité?* [Do you want to lighten your tax?]

Meanwhile, Spanish addresses readers to a much lesser extent, and uses both informal forms (*tú*) and formal forms (*usted*):

- (9) *Contar con la mejor ayuda para usted y los suyos* [Have the best help for you and yours]
- (10) *Para ti y para quien tú quieras* [For you and anyone you want]
- (11) *Tú eliges lo que pagas* [You decide how much you pay]

Such forms are also combined with interrogative sentences, as well as various imperatives and future forms:

- (12) *Benefíciate de sus ventajas y disfrutarás más de tus compras* [Take advantage of its benefits and enjoy more of your purchases]
- (13) *Suscríbete y estarás siempre informado* [Subscribe and you will always be up to date] *¿Quieres ver crecer el interés de tus ahorros? No esperes más.* [Do you want to see your savings interests grow? Do not wait any more]

According to Figure 1, self-mention is the second type of marker that is most widely used in the subcorpora. Its main forms are first person plural verbal forms and pronouns in both languages:

- (14) *Aportamos nuestra experiencia* [We bring our experience]
- (15) *Ajustamos nuestros precios al perfil de cada...* [We adjust our prices to each profile...]
- (16) *Nos ganamos la confianza de nuestros clientes* [We earn the trust of our customers]
- (17) *Nous considérons qu'il est de notre responsabilité* [We consider it our responsibility]
- (18) *Nous mettons à votre disposition notre réseau* [We offer you our network]
- (19) *Nous vous apportons notre assistance* [We bring you our support]

As shown in the examples above, both the first and the second person are frequently used, which seems to be a constant trait: the author (the seller) explicitly addresses the reader (the client) with the intention of convincing him/her to buy a product or subscribe to a service. That said, as shown in Figure 1, this genre is not only characterized by the use of self-mention and engagement markers. Customer persuasion is also manifested through attitude markers, which convey the author's affective feelings toward propositions. French employs adjectives and exclamations such as *grand*, *bon*, *simple*, *mieux* or *important*, as well as the locution *grâce à*. In Spanish, we particularly find adjectives and

adverbs with positive nuances such as *mejor*, *principal*, *gran*, *especial*, *importante* or *bueno*. Table 4 includes the most frequent forms identified in the corpus:

Table 4. Attitude markers.

SPANISH	FRENCH
mejor (0.13)	! (0.16)
principal (0.07)	grand (0.06)
gran (0.07)	bon (0.06)
especial (0.05)	grâce à (0.05)
importante (0.05)	simple (0.05)
bueno (0.03)	mieux. meilleur (0.05)
! (0.03)	important (0.04)
rápido (0.03)	essential (0.03)
excelente (0.02)	rapide (0.02)
adecuado (0.02)	il faut (0.01)
simple (0.02)	efficace (0.01)
confiar (0.01)	confiance (0.01)
preocupar (0.01)	exceptionnel (0.01)
grave (0.01)	de qualité (0.01)
gracias a (0.01)	grave (0.01)

According to their senses, these markers can be classified into several categories expressing various attitudes such as positivity, importance, exclamation, simplicity or confidence. Figure 3 represents their frequency ratio in both languages:

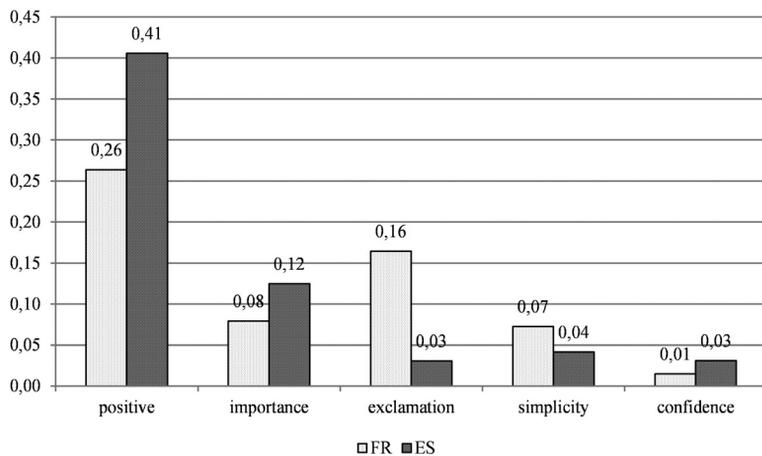


Figure 3. Attitude categories.

Spanish clearly projects the idea of positivity and importance onto the products for sale. It uses markers such as *mejor, gran, especial, buen, excelente, adecuado, extraordinario, atractivo, excepcional, óptimo, de calidad, eficaz, eficazmente, fantástico* or *gracias a*, for positive attitudes, and adjectives and adverbs such as *principal, principalmente, importante, esencial, sustancial* or *considerable* for attitudes reflecting the importance of things:

- (20) *Protección especial en caso de fallecimiento* [Special protection in case of death]
- (21) *Facilita un adecuado control de costes* [It brings proper cost control]
- (22) *Excelente relación calidad-precio* [Excellent price-performance relation]
- (23) *Le asesorarán sobre el producto que mejor se adapte a sus necesidades* [You will be advised on the product that best suits your needs]
- (24) *Ya somos el banco principal de más de 500.000 clientes* [We are already the main bank of more than 500,000 customers]
- (25) *Una forma esencial de anticiparse a la evolución diaria de los mercados* [An essential way to anticipate market trends daily]

In French, positive aspects are also highlighted, although to a lesser extent (*bon, mieux, meilleur, efficace, exceptionnel, de qualité, excellent, approprié, optimal, raisonnable, beau, attrayant, grâce à*). In addition, French uses more exclamations than Spanish does.

- (26) *Vous aider à faire le bon choix* [Help you make the right choice]
- (27) *Profitez d'offres exceptionnelles* [Enjoy special offers]
- (28) *Vous ne vous occupez de rien !* [You don't have to do anything]

Simplicity is more frequent in French (*simple, rapide*) than in Spanish (*rápido, simple, simplemente*):

- (29) *Operativa rápida y sencilla* [Quick and easy operation]
- (30) *Obtener una financiación rápida* [Get a rapid financing]
- (31) *Instrumento de pago internacional más rápido y seguro, gracias al sistema SWIFT* [A faster and more secure international payment instrument, thanks to SWIFT]
- (32) *Remboursements rapides* [Rapid refunds]
- (33) *Simple et rapide* [Simple and fast]
- (34) *C'est simple, il vous suffit de...* [It's simple, you simply have to...]

Confidence is another attitude that is also frequently conveyed by both languages. Spanish expresses it mainly through the nouns *confianza*, *preocupaciones* or *convicción*, and their verbal forms *confiar* or *preocupar*:

- (35) *Le damos motivos para confiar su salud en nosotros* [We give you reasons to entrust your health to us]
- (36) *Realice operaciones con total seguridad y confianza* [Operate with complete security and confidence]
- (37) *Tus viajes sin preocupaciones* [Travel without any worries]

Although to a lesser extent, French also expresses confidence with the forms *soucier* and *souci*:

- (38) *Vous n'avez pas de souci à vous faire* [You do not have to worry about anything]
- (39) *Évitez à vos proches tout souci financier au moment de votre décès* [Ensure that your loved ones do not have to worry at the time of your death]
- (40) *Vous êtes libéré de tout souci de gestion* [No need to worry about management]

Other attitude markers are conveyed in the subcorpora. For example, Spanish expresses the idea of novelty with the adjective *innovador*.

- (41) *Es un seguro innovador y adaptado a las necesidades de hoy en día* [This innovative insurance is adapted to your needs]
- (42) *Disfrute del innovador Servicio de Alertas* [Benefit from the innovative alert service]

Both languages also manifest interest. The most common Spanish verbs that express interest are *esperar*, *desear* or *querer*. French uses the verb *souhaiter*:

- (43) *Es para nosotros el inicio de una relación que deseamos fructífera y duradera* [It is for us the beginning of a fruitful and lasting relationship]
 (44) *Esperamos que os sea de utilidad* [We hope you find it useful]
 (45) *Queremos estar cerca de ti siempre que nos necesites* [We want to be close to you whenever you need us]
 (46) *Nous souhaitons vous apporter un éclairage sur la situation* [We want to shed light on the situation]

Hedges are the fourth most widely used device in both languages. These markers help the writer emphasise the subjectivity of a position. Table 5 shows the most common markers identified in the corpora.

Table 5. Hedges.

SPANISH	FRENCH
poder (0.29)	pouvoir (0.302)
posible (0.03)	possible (0.046)
podría (0.009)	environ (0.009)
sería (0.004)	pourrait (0.009)
quizá (0.004)	devrait (0.004)
parecer (0.003)	serait (0.004)
en torno a (0.002)	sembler (0.004)
debería (0.002)	aurait (0.003)
tendría (0.001)	peut-être (0.002)
habría (0.001)	paraître (0.001)

Both languages often use the modal verb *poder*, *pouvoir* and the adjective *veritable*, *possible*, which show to the potential client not only the features and services that the products for sale may include, but also the different circumstances involved when purchasing them:

- (47) *Si lo desea, puede solicitar financiación de sus cobros, anticipando su importe* [If you wish, you can also request advances on your invoices]
 (48) *Se puede financiar hasta el 100% del valor del inmueble* [You can finance up to 100% of the property value]

- (49) *Es posible que el otro banco le cobre alguna comisión* [Another bank may charge you a commission]
 (50) *Il est possible, dans certains cas, de souscrire...* [It is possible, in some cases, to subscribe...]
 (51) *Nous pouvons utiliser vos données pour vous proposer des offres* [We can use your data to provide you with offers]
 (52) *Vous pouvez accorder des délais de paiement* [You can grant terms of payment]

Boosters allow the author to close down alternatives or head off conflicting views. According to Figure 1, boosters are used less. Table 6 shows the markers identified in the corpora.

Table 6. Boosters.

SPANISH	FRENCH
muy (0.063)	très (0.053)
totalmente (0.022)	totalement (0.019)
demostrar (0.009)	entièrement (0.015)
sobre todo (0.004)	véritable (0.008)
por supuesto (0.003)	vrai (0.006)
pleno (0.003)	parfaitement (0.005)
altamente (0.003)	surtout (0.005)
perfectamente (0.003)	bien sûr (0.005)
completamente (0.002)	effectivement (0.005)
sin lugar a dudas. sin duda (0.002)	pleinement (0.004)
plenamente (0.002)	clairement (0.002)
verdadero (0.002)	évidemment (0.002)
claramente (0.001)	démontrer (0.001)
efectivamente (0.001)	extrêmement (0.001)
significativamente (0.001)	plus que jamais (0.001)

These devices, especially the adverbs *très*, *entièrement* or *totalement* in French, and *muy* or *totalmente* in Spanish, are usually combined with other attitude markers expressing positivity, importance or simplicity:

- (53) *Servicios asociados muy atractivos y con total liquidez* [Very attractive services and total liquidity]
- (54) *Cambios muy favorables en sus operaciones con moneda extranjera* [Very favourable exchange rates to your operations with foreign currency]
- (55) *Estas claves son totalmente personalizables* [These keys are fully customizable]
- (56) *Le choix du ou des bénéficiaires est totalement libre* [You are free to decide who the beneficiary is]
- (57) *Profitez du crédit auto à un taux très attractif* [Benefit from the loan for your vehicle at a very attractive rate] *Une tarification simple et très avantageuse* [A simple and very attractive pricing]

To sum up, the metadiscursive schemata displayed in each subcorpus show the differences and similarities between French and Spanish. As for differences, French has a very large number of engagement markers. Regarding similarities, both languages are mainly characterized by the use of self-mention and engagement markers (while French uses the formal pronoun *vous*, Spanish uses both the formal pronoun *usted* and the informal pronoun *tú*). This shows, not only the direct contact established between the author (the seller) and the reader (the client), but also imposition, which is transmitted using directives (especially in French). In addition, indirect imposition can be transmitted by the use of attitude markers (in particular, qualifying adjectives expressing positivity, importance, confidence or simplicity) and boosters (in particular, the adverbs *muy* and *totalmente* in Spanish, and *très* and *totalement* in French). Meanwhile, suggestion can be conveyed through hedges (especially with the use of the modal verb *poder* and *pouvoir*).

These schemata show that the writers of texts promoting banking products in French and Spanish have a high level of rhetorical sophistication. This can turn into psychological pressure that disorients lay users and consumers regarding the real features of the products or services that they acquire, which are normally specified in detail not in promotional texts but in the contracts they sign when acquiring them. Persuasion or manipulation is achieved by saying very much but not everything, which makes the readers take purchase decisions that do not always meet their needs.

3.5. Application to the translation of persuasion in business translation

The analysis presented above is not only aimed at revealing the metadiscursive schemata in each subcorpus and the rhetorical resources used by banks to persuade potential customers, but also at showing the importance of metadiscourse when translating business texts, especially persuasive texts. Its application to business translation may be as follows: once translators know the metadiscursive schema of the target language, which implies a kind of analysis as carried out in the previous sections, they will be able to reproduce its persuasive devices when writing the target text. This is particularly important when the metadiscursive schemata of the source and target languages have considerable differences.

As for the differences identified between French and Spanish texts in promotional banking products, we have discovered that French employs a very high number of engagement markers, which means that imposition seems to be transmitted directly using imperatives and other markers. Let us suppose that we have to translate the following text, which is a segment of a Spanish commercial website selling a credit card:

Además contarás con las siguientes ventajas:

1. *Línea de atención exclusiva llamando al...*
2. *Tus viajes, sin preocupaciones*
3. *Tus Compras: Totalmente Protegidas*
4. *Pago Aplazado. 3 Meses sin Intereses incluido*

As seen in the source text, there are only three engagement markers (the verb *contarás*, which means *you will have*, and the possessive *tus* [your] twice). There is also only one main sentence and four segments related to the advantages [*ventajas*] of the credit card for sale. Of course, it is possible to translate the text into French literally, but then we would not be reproducing the French metadiscursive schema, which has more engagement markers, and persuasive devices could not be deployed completely: translating *contarás* by *vous aurez* [you will have] misses the opportunity to include a word with a positive meaning such as *bénéficier*. In addition, copying the original syntax would also lead

to a French text essentially without any main verb, and consequently without any directives that could provide the possibility of transmitting imposition.

A translation adapted to the French metadiscourse should add many more of this kind of marker as shown in the next translation:

Bénéficiez des avantages suivants:

1. *Pour tout renseignement, contactez notre plateforme d'accueil au...*
2. *Voyagez l'esprit tranquille*
3. *Une protection complète de vos achats*
4. *Achetez et payez dans 3 mois sans intérêts.*

As seen in the target text, the nouns *viaje* [voyages] and *compra* [courses] have been transposed by using the imperatives *voyagez* and *achetez*, and the verb *bénéficiez* has been introduced to transmit the idea of *avantages*. Note also that the French text cannot reproduce the informal pronoun *tú*, since this language uses the formal form *vous* much more frequently. The result is a translation that matches the target language's metadiscursive schema and consequently deploys persuasive devices more naturally than the literal translation.

Adapting the metadiscursive schema and its persuasive devices to the target language not only involves adding the pertinent markers or using different translation procedures, but also changing some devices. For example, let us suppose that we have to translate the next segment, which also comes from a website selling a current account:

Te permite domiciliar tus pagos sin gastos de comisión.

Recibes extractos de cuenta periódicamente.

Puedes tener una tarjeta vinculada a la cuenta para disponer de ella en cualquier momento.

Dispondrás de cheques

Además:

Sólo por ser titular podrás optar a sorteos y campañas de promoción exclusivas.

También podrás disponer de dinero en cualquier momento en la amplia red de Oficinas y Cajeros automáticos

Podrás gestionar tu cuenta a cualquier hora y desde cualquier lugar a través de Internet.

The source text above contains a large number of hedges, particularly the modal verb *poder* (four cases, three of them in future forms) and the verb *permitir* (one case). It seems to be a clear example of the Spanish metadiscourse schema, where persuasion is deployed by the use of both modals (suggestion) and directives (direct imposition). In the previous analyses, we also discovered that French employs many more engagement markers (especially imperatives), which means that direct imposition is transmitted much more often than indirect imposition or suggestion (normally manifested by the use of modal verbs) than in Spanish. In this sense, when translating the segment into French, translators can replace the hedges (the modal verbs) by directives (imperative verbs), as shown in the next example:

Effectuez vos paiements par virement sans frais de commission
Recevez régulièrement vos relevés de compte
Disposez d'une carte rattachée à votre compte et utilisez-la à tout moment
Vous pouvez disposer d'un chéquier
Et un plus
Bénéficiez d'offres exclusives et gagnez des cadeaux
Retirez votre argent à tout moment dans nos agences et distributeurs automatiques
Accédez à votre compte par internet 24h/24 et 7j/7 où que vous soyez

As we have seen in this section, the main application to translation is the analysis of the target language. A corpus analysis of both the target and source language would, then, be useful for translation purposes. One could argue that compiling a corpus and analysing it would imply a waste of time that could, for example, be better spent in translating. Of course, the analysis would not be carried out as precisely and accurately as was done in the present piece of research. The goal of such analysis when practising translation would be to have an idea about the main similarities and differences between the source and target languages with the ultimate purpose of imitating the real interactional scheme of the target language. In addition, translators can build their own DIY corpora very quickly today, as stated in, among others, Baroni/Bernardini (2004).

4. Conclusion: in the marketing specialists' shoes

In the present chapter, we have carried out a corpus-based analysis comparing the textual genre of promotional banking products in French and Spanish. Its results have shown the metadiscursive schemata regarding interactional devices in both languages, and has demonstrated how persuasive messages engage the reader with a high number of self-mention and engagement markers, and with hedges and attitude markers. Such an analysis can be applied to other kinds of corpora containing other textual genres or languages.

Having shown the importance of metadiscourse, we presented an application to business translation that involves the analysis of interactional devices in both target and source language. Identifying their similarities and differences related to their metadiscursive schema could help translators reproduce it when dealing with the target text without any interference from the source text. This is particularly interesting when translating persuasion in commercial texts, since translators are not always marketing specialists. If they then manage to discover which devices are used in the target language to exercise persuasion, they will be able to produce natural-sounding translations, which is a key element needed for promotional banking texts to be convincing.

This has also a direct implication for teaching business translation. Translation trainers can put their translator trainees in the marketing specialists' shoes by focusing the activities they design not only for terminology or specialised phraseology, which is generally the case in translation teaching, but also to teach metadiscourse markers and the way they influence discourse. Hence, these activities could be designed to make them understand how the target language uses metadiscourse markers and to insist on the fact that literal translation, especially when dealing with persuasive devices in promotional banking texts, is not always the best solution.

Of course, knowing which kind of translation is better suited in the target language is not simple. Is the translation that literally reproduces the metadiscursive scheme of the source language better than the one that adapts it to the target language, or vice-versa? This is a

discussion that goes beyond the scope of the present chapter and which could be researched in further studies.

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DIANA GINER

Rhetorical Strategies of Persuasion in the Reasoning of International Investment Arbitral Awards

1. Introduction

Over the last few decades, arbitration has gained increasing popularity as an alternative dispute resolution method (ADR) with many advantages over litigation. Among the benefits lie the ability to solve disputes swiftly, the confidentiality offered by arbitration practices and the binding nature of arbitral awards. Another advantage over litigation is that, whilst an arbitration process starts once the arbitrator has been selected, the litigation process depends on the court's availability, which can lead to considerable delays. Arbitration is also a private process between two parties, while litigation is usually conducted in a public courtroom. Other advantages of using arbitration instead of litigation include, for example, the choice of arbitral court, which will play a part in the plaintiffs' tactics in approaching a dispute.

Together with arbitration, globalization has also witnessed a rapid spread in the last decades. It has affected the flow of international trade, finance and investment resulting into a progressive change in the legal panorama. The enormous volume of international business transactions seems to have pushed corporations to choose faster alternative methods for dispute resolution that can also provide companies with confidentiality, which is often necessary to maintain a good corporate image. The multiplied conflicts arising from these business transactions between corporations on the one hand, and between corporations and states on the other, has made Alternative Dispute Resolution (ADR) play a key role in our society and adapt to a globalized context.

Against this background, the status of arbitrators is especially worthy of attention. Although their decision is autonomous and binding, the power of arbitrators does not derive from the authority of the state (as would be the case with judges in national courts) but from the parties and the commercial agreement they have previously entered into, and from the parties' consent to arbitration. The parties have the power to choose the arbitrator or panel of arbitrators, the applicable law, the arbitration venue and even the language. The arbitrators, on the other hand, have the authority to solve the dispute – but also the duty to justify their decisions explicitly, and the need to demonstrate to both parties that they have taken their different positions into account. Power and persuasion thus combine in arbitral awards, where the arbitrators endeavour to convince the readership of the suitability of the final decision made by the arbitrator or panel of arbitrators in a case. Unlike judges, arbitrators often hope that the parties concerned will engage them again in future disputes. In consequence, the entire arbitration process shifts from being dependent on national law to being a customisable process that originates in the will of the parties involved in the dispute.

2. Power and persuasion in legal discourse

In theory, power in arbitration practices originates not only from the regulations governing them, but also from the different choices made by the parties that have opted for arbitration as their preferred alternative dispute resolution (ADR) method. Power to resolve disputes is delegated to the arbitral tribunal. However, because arbitration is based on consensus, the arbitrator's role is different from that of the judge. This phenomenon has attracted the attention of linguists and discourse analysts, who have explored, among other aspects, the way in which arbitral discourses differ from the more authoritative discourses employed by judges. The work by Bhatia (1993, 2004, 2012, 2015), Bhatia et al. (2003, 2011), Bhatia and Gotti (2006) strongly contribute to the development of critical genre analyses of arbitration practice and the

influence of litigation on arbitration. Something all these scholars seem to agree on is the fact that persuasion appears to be more relevant for discourse construction in arbitral awards than in judgments.

Persuasion can be defined as “all linguistic behaviour that attempts either to change the thinking or behaviour of an audience or to strengthen its beliefs should the audience already agree” (Salmi-Tolonen 2005: 61). Salmi-Tolonen makes an incursion into legal discourse and adds that, in legal genres in particular, “persuasion is found implicitly in the manifestation of legal expertise and efficient methods of deduction. It is found explicitly in modalised expressions” (2005: 61). Perelman (1979) considers the concept of persuasion as a part of argumentation; that is, discourse, according to him, aims at persuasion and conviction regardless of its topic and audience. He also states that argumentation covers the whole range of discourse that aims at persuasion and conviction.

In consequence, persuasion is regarded as the main tool for the construction of argumentation (Foucault 1972; Dafouz 2003; Halmari/Virtanen 2005). Indeed, the main purpose of both arbitration and litigation is that of presenting a solution built from argued evidence (Breeze 2016). Persuasion obviously seeks a goal, which here is to solve the conflict at hand in a way that is satisfactory, within the constraints of the situation, to both parties. Persuasion, then, should be reflected in the resources used by the authors of arbitral awards in order to achieve their goals. Arbitral awards respond to the generic obligation of describing a decision taken by the authoritative figure of an arbitrator or a panel of arbitrators. It is desirable that the audience (and particularly the parties) should at least be able to follow the argumentation and perceive that the decision has been reached according to appropriate criteria, even if they are not content with the outcome. The arbitrator’s reputation will be enhanced if he/she can demonstrate that his/her decision is convincing, that is, if it is well founded and takes the appropriate issues and facts into consideration. Arbitrators therefore need to construct the argumentation leading to their final decision carefully. They use different rhetorical strategies seeking to persuade the audience. Persuasion is thus present within the argumentation of the award, through the dialogic interaction with other texts and other discourses.

3. Method

This chapter explores rhetorical strategies of persuasion with mitigating and intensifying purposes following the notion of strategy as defined by Anna Cros (2001). She states that argumentative strategies “consist of the use of the procedures which the speaker feels the most appropriate to convince the addressee in a given communicative situation” (2001: 193). These strategies, then, are instantiated through tracks or markers that are related to the dialogistic function they perform in the discursive practices in question. The strategies employed by authors of investment arbitral awards will aim at fulfilling the functions demanded by their communicative purposes. In order to explore how discourse is socially constructed, one must pay attention to interactions with the audience made within a particular situational and socio-institutional context. In line with this idea, this study explores specific language instantiations showing how authors of awards interact with their audience.

According to Vázquez and Giner (2012), the generic structure of international investment arbitral awards contains the following moves: relevant facts, issues to be resolved, reasoning, conclusions and decision. The present researcher examined all the documents manually in order to find representative samples of texts that convey similar rhetorical strategies of persuasion within the reasoning move of investment arbitral awards. The ‘reasoning’ move shapes a solid argumentation that will give way to the ‘decision’ or final move in the award. The backgrounds and decisions of all awards have been taken into account when exploring the construction of each reasoning move. According to van Dijk (2005, 2008), a text should be seen in relation to the world reality in which it was created. For this, qualitative research is a useful tool to analyse specific cases “in their temporal and local particularity” (Toulmin 2007 [1958], 1990). Following this frame of thought, it is most coherent to employ an analytical approach that respects these text-external variables. A corpus of fifteen arbitral awards spanning the years from 1987 to 2010 has been used for the analysis (see Appendix). This time period witnessed a rapid process of globalization and, in particular, a progressive expansion of international investment arbitration

practices. The selection was carried out randomly with the only condition that the awards were originally written in English and, therefore, within the context of globalization where English is the *lingua franca*. At the same time, the use of documents written in the original language enabled us to avoid translations, which might lead to misinterpretations of the various events occurring in each dispute, or of the author's intention.

Following the principle of interpersonality, language choices are made in order to establish and maintain personal relations. In addition to this, this enquiry also employs a multi-perspective approach to discourse analysis (Bhatia 2004). Bhatia's (2004) redefinition of genre as a configuration of text-internal and text-external resources states that the socio-institutional and situational contexts must be taken into consideration in genre analysis. In this line, sample texts are not only explored from a textual perspective but also from other dimensions such as generic structure, patterns of language in relation with power and the interaction between discourse and the social dimension (Fairclough 2010, 2014). The approach will fundamentally comprise genre-analytic, interpersonal and rhetorical principles. All these frameworks can complement each other in the exploration of persuasion in international investment arbitral awards, through a qualitative analysis.

4. Mitigating and intensifying strategies in legal genres

Maley (1995) analyses the speech contained within the process of resolution in adjudication and mediation, and the degree of intervention of third parties. In particular, she focuses a large part of her work on the presence of modality. She concludes that the mediator's ability to control the process and, as a result, to successfully administer the outcome, derives from "the use of heavily mitigated and modalized language that never confronts the parties but by suggestion and reframing moves the process and the topic in the desired direction. As third parties, they do have considerable power, [...] but it is informal and inexplicit"

(1995: 107). She employs Halliday's (1985) distinction between modalities and, thus, classifies items under the labels of modalization and modulation depending on whether they express degrees of uncertainty as probability and usuality (modalization) or degrees of obligation and inclination (modulation). She concludes that mediators employ a wider range of modalization items for the requirements of mediation as institution. That is to say, high occurrence in modalization is due to the fact that the goals and ideology of the institutional setting of mediation require these third parties to be able to control the tension between the two parties in dispute, guiding them towards a solution and presenting this solution as chosen and desired by the parties at issue.

Arbitration operates under different premises from mediation, but some evidence suggests that arbitrators do have a preference for modalized assertions. With regard to the discourse in arbitral awards, Breeze (2016), for instance, examines how authors of concurring and dissenting opinions attached to investment arbitral awards use modalization, among other strategies, to emphasise agreement and downplay disagreement with a twofold objective: to maintain a positive relationship with their fellow arbitrators, while showing commitment to the party that appointed them. Vázquez (2014) explores interpersonality in World Intellectual Property Organisation (WIPO) domain name arbitral awards. He focuses on the dialogic expansion and contraction in the generic moves that convey the argumentation of the awards ('Parties' Contentions', 'Discussion' and 'Finding and Decision'). He notes that these moves intend to persuade the audience and do so by mediating between the writer's text and other related texts and also between the writer's position and alternative positions. He concludes, among other aspects, that dialogue constitutes an authoritative approach to the discourse construction in domain name arbitral awards: in other words, "the way in which a phenomenon is framed for discussion impacts on how we understand it" (2014: 252).

5. The generic structure of international investment arbitral awards

The generic structure found in arbitral awards shows great similarity to Maley's (1985) exploration of judgments as linguistic genres. Based on the communicative purposes identified in these awards, it has been observed that investment arbitral samples present the following moves: issues to be resolved, reasoning, conclusions and decision (Vázquez/Giner 2012). Arbitrators do not apply legal regulations to the facts of the case routinely. Instead, they reason the events in relation to the applicable law and, thus, consider the multiple options available to resolve the case. The reasoning is, therefore, an important part of the legal process, as it will create different solutions for the case, giving prevalence to the one that will constitute the final decision.

Although persuasion and, hence, rhetorical strategies, do not appear in the reasoning of awards solely, it is true that this generic move is connected to a communicative sub-purpose concerning the defence and refutation of different arguments. In consequence, we could expect this move to constitute an environment rich in intensifying and mitigating strategies that fulfil those particular purposes. In addition, these strategies rarely appear in isolation. On the contrary, they are combined with one another, showing different degrees of hedging and intensification. Attitude also works in combination with hedging and intensification to create a new reality, as will be seen in the following section. All these strategies work together to achieve the persuasive communicative sub-purpose of the generic or rhetorical move while, in turn, displaying a justificatory function of language (Korner 2000).

From a pragma-dialectic perspective, van Eemeren et al. (2007) classified argumentative moves in argumentative discourse, offering an 'ideal model' for resolving differences of opinion, which they call 'critical discussion'. This model contains four different stages: the 'confrontation stage', the 'opening stage', the 'argumentation stage' and the 'concluding stage' (2007: 10). It is in the argumentation stage where the author shows the parties' arguments supporting previous standpoints. This is the stage on which the present analysis is based.

6. Rhetorical strategies of persuasion: intensification, hedging and attitude

Different classifications have been designed for the study of interpersonal meaning in written and oral interactions, which are related to the concept of modality. These include, for example, Martin's (2000) appraisal theory, the concept of stance by Conrad and Biber (2000) and Hunston and Thompson (2000), metadiscourse (Crismore 1983, Vande Kopple 1985, Crismore et al. 1993, Dafouz 2003, Hyland 2005), metalinguage (Ädel 2005) the positioning theory (Harre/van Langenhove 1999), the concept of point of view (Simpson 1993) or footing (Goffman 1981). However different they may be, all of them agree that evaluation or modality can be employed to persuade readers to see things in a particular way.

“Legal language is a product of the purpose it serves” (Orts 2015: 2). As a generic convention, arbitral awards intend to represent a construction of events that will lead to the binding ruling of the arbitrator. Therefore, authors of arbitral awards find the strategies of intensification and hedging profitable in constructing the line of argumentation that will support the final decisions. They allow them to give more or less strength to the arguments participating in the award. Hedging will facilitate lessening the confidence degree of the sentence propositional content while intensification enhances the certainty degree of those sentences using it. These strategies together will work towards a logical, coherent construction of the argumentation, supporting the final decision. Authors of arbitral awards also express their feelings, in this way revealing the use of attitude as a rhetorical strategy. This aspect will often appear in combination with intensification, enabling the authors of awards to incorporate their feelings and ways of thinking into the arguments that favour the final decision.

6.1. Intensification

In the argumentation of a case, it becomes essential to intensify the arguments that favour the final decision and to lessen the ones that contradict its logic. Even though other viewpoints or alternative interpretations of the facts could have been described earlier in a case, there needs to be a ‘dialogic contraction’, as Martin and White (2005) state. There needs to be an enhancement of certain supporting arguments through the use of intensifying devices, words, expressions or even clauses, which show the author’s strong commitment to the propositional content of the arguments or main ideas that are relevant to the case in question. As usually happens, the argumentation showing the most commitment on the part of authors is usually the one that ends up supporting the final conclusion. Otherwise, the final decision would appear incoherent and unfair. As Perelman (1979: 144) puts it, “to link an argumentation with premises that only show a slight commitment is as disastrous as hanging a heavy frame using a weak nail” [my translation]. Examples 1 to 4 below illustrate how this enhancement is done through expressions such as *by far*, *never*, *obviously* and *it cannot be disputed that*:

- (1) 104. The total damages award of \$500 million was *by far* the largest ever awarded in Mississippi. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)¹
- (2) 158. [T]he United States sought orders that Mondev pay the Tribunal’s costs and the legal expenses of the United States on the basis that its claim was unmeritorious and should *never* have been brought. (Mondev International Ltd. v. United States of America, ICSID Case No. ARB (AF)/99/2)
- (3) 124. The Arbitral Tribunal *obviously* disapproves of this attitude, and observes that it comforts the conclusion that the annulment of the Concession Contract did not violate the Government of Mexico’s obligations under NAFTA. (Robert Azinian, Kenneth Davitian & Ellen Baca v. The United Mexican States)
- (4) 164. *It cannot be disputed that* Thunderbird knew when it chose to invest in gaming activities in Mexico that gambling was an illegal activity under Mexican law. (International Thunderbird Gaming Corporation v. The United Mexican States)

1 All italics appearing in the examples are mine.

6.2. Hedging

In general terms, hedging has always been identified as a mitigating strategy used to weaken the author's commitment to the propositional content of his or her statements (Vande Kopple 1985, Crismore et al. 1993). Instantiations of hedging can be found in investment arbitral awards with a variety of context-dependent functions. In the present study, three different functions have been identified. The first one, hedging to open alternative viewpoints, is related to the inherent quality of hedging to express heteroglossia, or different voices. Hedging can be employed as a strategy to open alternative interpretations of the given facts of a case and, thus, provide a broader vision of events. As a consequence, the presence of a new pathway in the argumentation may have a different outcome to the one claimed by either of the parties of the case at issue. The second function of hedging in the discourse of arbitration is to delimit the boundaries where the propositional content of the statements is effective. In these cases, context-restricting hedging takes into place. A third function of hedging is related to its capability to weaken the degree of commitment expressed regarding the truth-value of the statements where it appears. Authors of arbitral awards may wish to convey a face-saving strategy that will allow them to retract themselves more easily in case of a future refutation of the argument.

6.2.1. Hedging to open alternative viewpoints

Hedging carries out some sense of openness in the vision of the author and the readership. It may suggest the possibility of adopting different interpretations of a given reality or fact to that readership. As Markkanen (1997) states:

[Hedges] convey a sense of suggesting one way of interpreting a state of affairs or one way of looking at it, or one possible truth, while at the same time leaving space for other possibilities. These other possibilities, like the statements on the chosen alternatives, may concern states of the actual world, or states in terms of theoretical models, or in the interpreter's mind. The point is that the world that is looked at is rendered as potentially containing other possibilities. (1997: 121–122)

Martin and White (2005) distinguish between dialogic contraction and dialogic expansion in heteroglossia. Dialogic expansion stands for those formulations that make allowances for dialogic alternative positions, whereas dialogic contraction refers to those that fend off alternative voices. They also identify the concept of ‘entertain’ as the “dialogic expansiveness of modality and evidentiality” (2005: 104). That is, the writer wishes to indicate that his or her position is one of a number of possible ones, thus raising awareness of the existence of alternative views. By making use of expressions such as modal auxiliaries or modal attributes among others (*perhaps, probably, it’s likely that, in my view, etc*), the writer is assessing the likelihood of the propositional content. Evidence or appearance-based postulations are also included within this category (e.g. *it appears, it seems*). However, the most defining condition to classify hedging according to its function is by paying attention to the line of argumentation of each particular case. For labeling purposes, this enquiry has used the term of ‘viewpoint-opening hedging’. Examples 5, 6 and 7 include expressions (*could possibly, might arguably, could, it appears likely that*) whose main function is to present the readers with an alternative interpretation of reality.

- (5) 70. In the present case the only conduct which *could possibly* constitute a breach of any provision of Chapter 11 is that comprised by the decisions of the SJC and the Supreme Court of the United States. [...] [T]he fact that they related to pre-conduct which *might arguably* have violated obligations under NAFTA. (Mondev International Ltd. v. United States of America, ICSID Case No. ARB (AF)/99/2)
- (6) 3. This clause *could*, in and of itself, give rise to a doubt inasmuch as it refers to the rules of conciliation and arbitration of the “International Chamber of Commerce, Zurich, Switzerland”: the International Chamber of Commerce has its seat in Paris and there is no International Chamber of Commerce in Zurich. (ICC Arbitration Case No 5294 of 1988)
- (7) 66. [...] and because *it appears likely* that the Combine is liable to indemnify Exporter. (ICC Arbitration Case No 5418 of 1987)

6.2.2. Hedging to restrict the context of commitment

Sometimes authors make a strong assertion and wish to restrict its applicability to a specific context through the use of softening strategies like ‘context-restricting hedges’. They help authors be very specific in

their utterances in order to avoid ambiguity or legal gaps, which can lead to future negation or refutation. Mauranen (1997) makes reference to this function of hedging as ‘limited applicability’ and gives examples such as *in some respects*, *at least*, etc. Accordingly, the expressions highlighted in italics in examples 8 to 12, seek to put a limit on the area where a certain condition may be valid:

- (8) 6. It is undoubtedly clear that, in the present case, the arbitration clause did not nominate the arbitrator directly but *only* provided for ICC arbitration, and that the arbitrator was pursuant to the ICC Rules nominated by the ICC. (ICC Arbitration Case No 5294 of 1988)
- (9) 78. This is a matter of fact for the Tribunal to assess *in the light of the circumstances of the case* (Compañía del Desarrollo de Santa Elena, S.A. v. The Republic of Costa Rica, Award, ICSID Case No. ARB/96/)
- (10) 95. *In the circumstances of this case*, making the assessment that we have been invited to make and having considered the evidence submitted by the parties (Compañía del Desarrollo de Santa Elena, S.A. v. The Republic of Costa Rica, Award, ICSID Case No. ARB/96/)
- (11) 92. For these reasons, the Tribunal decides that it has jurisdiction over the claim under Articles 116 and 1122 *to the extent (but only to the extent)* that it concerns allegations of breach of Article 1105(1) by the decision of the United States courts. To that extent *(but only to that extent)* the claim is admissible. (Mondev International Ltd. v. United States of America, ICSID Case ARB (AF)/99/2)
- (12) 68. They were *to that extent* “investments existing on the date of entry into force of this Agreement” (Mondev International Ltd. v. United States of America, ICSID Case No. ARB (AF)/99/2)

6.2.3. Hedging for face work

Hedging can also attenuate author commitment to the truth-value of a statement for face-saving purposes. Through hedging, authors can avoid possible confrontations with the readership by refraining from making straightforward assertions. In this sense, hedging constitutes an interpersonal strategy for personal protection. However, many times the use of hedging for face-saving does not imply that the author is uncertain about the propositional content affected. This strategy means that the author’s assertion should be understood as a suggestion or an

affirmation made tentatively, so that it is not considered as a statement of fact that is open to possible refutation (Markkanen 1997).

In the past decades, the motivation for the study of hedges has been very much influenced by the concept of ‘politeness’, as defined by Brown and Levinson (1987). They view the use of hedges as a prolific strategy for face-saving. Indeed, the use of hedges is very important for the writer, since they can reduce the risk of negation inherent in particular sentences. They contribute to making sentences more acceptable by mitigating one’s commitment to the truth-value of a proposition. Thanks to them, a writer, if proved wrong, can argue that the claim was only tentative or approximative, thus saving face. As Markkanen (1997) states:

In some situations, the desire to protect oneself from the potential denial of one’s claims may be greater than the desire to show deference to the addressee. The surer a speaker feels about his/her own position vis-a-vis the interlocutor, the less need there is for hedging for the purposes of self-protection. (Markkanen, 1997: 8).

In the discourse of international arbitral awards, the use of hedging for face-saving is definitely a necessary one, especially given the fact that arbitrators are appointed by the parties involved in the dispute who can easily object to a final outcome that is based on an extremely bold statement that leaves other realities behind. Hedging for face-saving is seen in examples 13 to 16 in italics:

- (13) 77. The *probable* explanation for the absence of objection to the classbased appeals to the jury is that Loewen’s counsel regarded the problem as inherent in the litigation. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)
- (14) 64. The jury *appears* not to have been concerned by O’Keefe’s advertising campaign. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)
- (15) 430. As a result, the decision of the Municipality of Vilnius to refuse the conclusion of a JAA or a Cooperation Agreement with BP *could* be justified by the difference. (Parkerings-Compagniet AS v. Republic of Lithuania, ICSID Case No. ARB/05/8)
- (16) III. The Merits [...] 147. The Respondent’s contentions *may* be summarized as follows: (Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17)

6.3. *Expressing attitude*

Attitude markers, following appraisal theory (Martin/White 2005), are used to express importance, frustration, agreement, consternation or astonishment, for example. Attitude markers, then, convey the writer's affective attitude to the propositional content of utterances. In arbitral awards, arbitrators sometimes find it necessary to express their feelings and personal opinions towards the relevant facts or the issues to be resolved in the case. These facts or issues are, of course, motivated by the behaviour of the parties involved in the case at hand. The main function of attitudinal markers in the argumentation of arbitral awards is to draw or to construct a particular profile of the situation or the relevant matters. This construction will serve as a basis to support future conclusions within the award and, in consequence, its use will also benefit the final decision. The examples below (17–19) convey the author's opinion about relevant matters for the resolution of the case.

- (17) 1. This is an *important and extremely difficult case*... (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)
- (18) 70. It is *artificial* to split the O'Keefe strategy into three segments of nationality-based, race and class-based strategies. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)
- (19) 4. [...] [T]he trial judge repeatedly allowed O'Keefe's attorneys to make *extensive irrelevant and highly prejudicial references*... (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)

6.4. *Gradability and combinability*

Both hedging and intensification can convey different degrees depending on the markers selected by authors as well as the context where these appear. Authors of arbitral awards take into consideration the audience approval of the theses stated in the argumentation. They are aware of the fact that approval or agreement is gradable and that not all of the individuals within a particular audience need to show the same degree of approval of the theses presented. In the same manner, authors might not confer the same degree of acceptability on all those theses

(van Eemeren 1987: 214). As a consequence, the arguments attached to certain theses may be more or less strong and the commitment the audience will show to them may also vary. Human beings have different values and, in addition, they may show more or less commitment to some or others (Perelman 1979). Illustrations like the ones in the following examples denote different degrees in the ‘dosage’ of intensification administered to the propositional content at issue. While the first two instantiations – examples 20 and 21 – provide the propositional content with a high degree of intensification, example 22 shows a moderate degree of intensification.

- (20) 116. [...] “The answer is *overwhelmingly affirmative*” (Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17)
- (21) 166. Such presidential interventions *undoubtedly* created incentive for the Claimant to continue. (Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17).
- (22) 49. Under international law, and for purposes of jurisdiction of this Tribunal, it is *well established that* actions of a political subdivision of federal state, such as the Province of Tucumán in the federal state of the Argentine Republic, are attributable to the central government. It is *equally clear* that the internal constitutional structure of a country cannot alter these obligations. (Compañía de Aguas del Aconquija S.A. & Compagnie Générale des Eaux v. Argentine Republic, ICSID Case No. ARB/97/3)

Another aspect to note is the fact that neither hedging nor intensification appears in isolation. In fact, they often appear as combos to construct a line of argumentation that accurately enhances the specific points in favour of the decision, or are used with other strategies giving as a result combinations that enhance the effect that attitude may cause in the readership. Hedging and intensification frequently appear in the samples together. This phenomenon seeks to present a certain viewpoint to either intensify it or abate it later on. As van Eemeren (1987) states, for an argumentation to take place it is necessary that a subject states an opinion concerning the fact that at least another individual can be or is in disagreement with it (see example 23 “the United States did not *really* contest...” and example 24: “*would or might* receive...”). Once it has been made clear that the interlocutor has a different opinion or point of view to the author or orator, is it, then, manifested that there

exists a dispute or controversy (see example 23: “*in the Tribunal’s view, it is certainly open...*” and example 24: “*is no answer*”). This dispute constitutes a basis for argumentation, which will aim at the justification or refutation of opinions. Argumentation is, thus, designed to ‘attack’ or to ‘defend’ a particular argument or premise. It is considered as a constellation of pro-arguments and counter-arguments that seeks the approval of the audience.

- (23) 82. [...] It may be noted that the United States did not *really* contest Mondev’s standing under Article 1116, subject to the question whether it had actually suffered loss or damage. *In the Tribunal’s view, it is certainly open to Mondev to show that it has suffered loss or damage by reason of the decisions it complains of...* (Mondev International Ltd. v. United States of America, ICSID Case No. ARB (AF)/99/2)
- (24) 70. [...] The fact that an investor from another state, say New York, *would or might* receive the same treatment in a Mississippi court as Loewen received *is no answer* to a claim that the O’Keefe case as presented invited the jury to discriminate against Loewen as an outsider. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)

Authors of arbitral awards may wish to express attitude with regard to the propositional content of a statement, adding intensification to it. Examples like *extensive moral damages, overwhelmingly affirmative* or *difficult if not impossible* (Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17) reveal that hybrid representations of these two rhetorical strategies – intensification and attitude – are not only possible but also effective in persuading the readership to share the author’s opinion or attitude on the issue at hand. The present work identifies this fruitful combined strategy as ‘intensified attitude’, which is illustrated through examples 25, 26 and 27 below.

- (25) 107. Likewise, the damages awarded in relation to the 1991 settlement agreement appear to be *grossly excessive*. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)
- (26) 105. Claimants had *a very strong case* for arguing that the damages awarded, both compensatory and punitive, were *excessive*. (The Loewen Group, Inc. and Raymond L. Loewen v. United States of America)

- (27) 119. [...] whereas a project involving *hundreds of millions* of dollars, *considerable* technical and indeed security risks, as well as the mobilization of *vast* resources from the very country which had co-signed the BIT, leading to *objectives of national strategic importance in terms of* commercial and social integration, security, and cross-border flows of goods and services... (Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17)

7. Discussion and conclusions

The reasoning construction in investment arbitral awards can be understood to be a complex process with *a priori* contradictory conditions that need to be fulfilled. Awards must be operative in the sense of creating obligations upon one of the parties, but also effective as a promotional genre for arbitrators. On the one hand, the conventions of legal writing stipulate that arbitral awards should use precise language that sets out the facts and arguments in the most aseptic manner. Precise language avoids possible double interpretations and shows independence of the arbitrator from the parties. Firm, precise language is also indispensable for the accomplishment of the ultimate communicative goal of arbitral awards: to provide a final resolution.

However, let us not forget that arbitrators are appointed by both of the parties, even if only one of them initiated the case, which means that arbitrators partly 'owe' them their power. This equation places authors in a difficult position, where they have to explicitly show careful consideration of both of the parties' positions and the circumstances of their case, while deciding only in favour of one. The process of argumentation in the award must appear impartial and, thus must, at least apparently, dedicate equal attention to the arguments of both parties. In consequence, persuasion becomes a necessary requirement, even if it is not so specified by arbitral courts, in order to develop a convincing outcome in the award. The role of the arbitrator and even that of the parties involved, then, shape the distinct characteristic of the discourse of awards in contrast to judgments. Unlike judges, who rely on the power the state grants them, arbitrators are third neutral parties that are hired

to obtain a resolution to a dispute. In consequence, the reasoning in awards does not only fulfil the option of justifying the final decision before the law. Arbitrators also need to write a convincing, persuasive discourse that satisfies both parties to the extent that authors are building a promotional discourse for future 'clients'. After all, a convinced audience will more likely deem it appropriate to resort to that arbitrator again in future disputes. The discourse needs to be constructed in a way that seems coherent and common-sensical, but above all, fair.

Persuasion can be found in the use of rhetorical strategies. In the argumentative stages of the document, the reality related to the confrontation must be modelled to create intensified and weakened arguments, while new interpretations of that reality can be raised. Additionally, it is advisable that authors do not commit themselves equally to every assertion in the document. Authors should also stay cautious and avoid possible confrontations that could jeopardize their professional image in case any statement could give rise to future refutations. Stance is present in the reasoning of awards as well, which shows the authors' positioning with regard to the parties to the dispute. Indeed, although equal or similar attention is paid to both parties' arguments, not all of them are given the same weight, in order to fulfil the socio-pragmatic requirements of the genre.

Unavoidably, drafters of arbitral awards construct their argumentation to attain their specific goal: persuade their audience. In accordance with this, authors seem to carry out a process of discursive appropriation (Bhatia 2004) by which they make use of a wide range of rhetorical strategies of persuasion. These will help them convince the parties of the suitability of the final decision. Rhetorical strategies of persuasion such as hedging, intensification or expressing attitude intervene in the construction of the reasoning and filter a wide range of argument interpretations providing a single outcome that is strongly supported by both common sense and legal grounds. The reasoning in an arbitral award will construct a new reality in the context of international investment arbitration, which will show how the facts develop towards a logical end. Rhetorical strategies, then, will model the information that is considered significant in the eyes of the authors, while convincing the readership of the suitability of the final decision.

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Appendix: International Investment Arbitral Awards

A.1. ICC Arbitral Awards

- ICC Arbitration Case No 3572 of 1982 in Collection of ICC Arbitral Awards 1986–1990: Recueil des Sentences Arbitrales de la CCI 1986–1990 (compiled by S. Jarvin, Y. Derains and J.J. Arnaldez) (Kluwer Academic Publishers Group, The Hague 1994)
- ICC Arbitration Case No 5418 of 1987 in Collection of ICC Arbitral Awards 1986–1990: Recueil des Sentences Arbitrales de la CCI 1986–1990 (compiled by S. Jarvin, Y. Derains and J.J. Arnaldez) (Kluwer Academic Publishers Group, The Hague 1994)
- ICC Arbitration Case No 5460 of 1987 in Collection of ICC Arbitral Awards 1986–1990: Recueil des Sentences Arbitrales de la CCI 1986–1990 (compiled by S. Jarvin, Y. Derains and J.J. Arnaldez) (Kluwer Academic Publishers Group, The Hague 1994)
- ICC Arbitration Case No 4975 of 1988 in Collection of ICC Arbitral Awards 1986–1990: Recueil des Sentences Arbitrales de la CCI 1986–1990 (compiled by S. Jarvin, Y. Derains and J.J. Arnaldez) (Kluwer Academic Publishers Group, The Hague 1994)

ICC Arbitration Case No 5294 of 1988 in Collection of ICC Arbitral Awards 1986–1990: Recueil des Sentences Arbitrales de la CCI 1986–1990 (compiled by S. Jarvin, Y. Derains and J.J. Arnaldez) (Kluwer Academic Publishers Group, The Hague 1994)

A.2. ICSID Arbitral Awards

Compañía de Aguas del Aconquija S.A. & Compagnie Générale des Eaux v. Argentine Republic, ICSID Case No. ARB/97/3
Compañía del Desarrollo de Santa Elena, S.A. v. The Republic of Costa Rica, Award, ICSID Case No. ARB/96/1 (United States/Costa Rica)
BG Group plc v Argentina, Ad hoc-UNCITRAL Arbitration Rules; Final Award, IIC 321, 2007
Parkerings-Compagniet AS v. Republic of Lithuania, ICSID Case No. ARB/05/8
Desert Line Projects LLC v The Republic of Yemen, ICSID Case No. ARB/05/17

A.3. NAFTA Arbitral Awards

Robert Azinian, Kenneth Davitian & Ellen Baca v. The United Mexican States, ICSID Case No. ARB(AF)/97/2
Metalclad Corporation v. The United Mexican States, ICSID Case No. ARB(AF)/97/1
Mondev International Ltd. v. United States of America, ICSID Case No. ARB(AF)/99/2
The Loewen Group, Inc. and Raymond L. Loewen v. United States of America ICSID Case No. ARB(AF)/98/3
International Thunderbird Gaming Corporation v. The United Mexican States, UNCI-TRAL Arbitral Award (Jan. 26, 2006)

Power and Persuasion in Arbitration: East vs West

1. Introduction

Dispute resolution is usually connected with the concept of litigation, i.e. the process of resolving a conflict by means of a trial in court. However, there are also other forms of resolving a conflict, avoiding an overt confrontation in a public space such as that of a court of justice. This procedure of Alternative Dispute Resolution (ADR) may take two main forms: arbitration on the one hand, and conciliation/mediation on the other. These two paths imply a very different role played by the professionals that are involved in these processes and determine a dissimilar degree and weight in terms of power and persuasion. While arbitrators play an autonomous and powerful role as the procedure results in an arbitration award, which is as binding as the decision of a judge of first instance, in conciliation/mediation, agreement is reached by the parties through the work of a neutral party, who helps them analyse the true interests involved in the dispute and uses his/her persuasive skills to lead the litigants towards a resolution of the dispute, without imposing any decision (Berger 2006).

The relationship between the different forms of ADR is not perceived in the same way in the various parts of the world. As regards mediation and conciliation there seems to be a global tendency to view them as similar processes, to the point that they are often described in analogous terms, as if they were two variants of the same procedure. In theory, mediation and conciliation should have their own fields of application deriving from the specific characteristics of these two instruments, the techniques and the tactics they employ, and the professional preparation of the experts working in each field. In practice, the terms 'mediation' and 'conciliation' are often used as synonyms for the

same concept; that is, an informal cooperation towards the solution of a controversy thanks to the neutral participation of a third party.

Very different is the situation concerning the relationship between arbitration on the one hand, and the other two forms of alternative dispute resolution on the other. In particular, there is a great discrepancy between the situation in Western countries and that in the East. These different perspectives are examined in the following sections, where the ADR forms are presented in the context of their legal tradition, with a particular focus on the Chinese case, which will show how typical traits of the local social culture have greatly influenced the characteristics of the arbitration process in this country. The comparison between the Western and the Eastern traditions will highlight a differing balance between the role played by power and persuasion in the arbitration principles and proceedings adopted in those areas. In particular, there seems to be a marked discrepancy in the use of persuasive and cooperative strategies on the one hand, and of more neutral and judgmental ones on the other that is likely to characterize this dispute resolution process quite differently in these two cultural and legal contexts.

2. Arbitration in the West

In Western legal culture the dispute resolution field is clearly divided into three well distinguished areas: litigation, arbitration and conciliation/mediation, with rare possibilities of mixture between these procedures. As Phillips (2005: 24) clearly states: “Some arbitrators and mediators believe that mixing mediation and arbitration is heretical and even unethical.” Western arbitration organizations have generally taken a very cautious position on mixing mediation and arbitration. For example, the American Arbitration Association (AAA) does not recommend recourse to this hybrid process “except in unusual circumstances because it could inhibit the candor which should characterize the mediation process and/or it could convey evidence, legal points or settlement positions *ex parte* improperly influencing the arbitrator” (Fullerton 2010: 80).

The complexity and the risks implicit in mixing these alternative dispute resolution procedures derive from the different codes of behaviour that conciliators/mediators and arbitrators follow:

The Mediator Standards allow private communication between mediator and the parties, relying on self-determination and confidentiality to ensure the parties' right to make important decisions without influence. The Arbitrator Code, by contrast, protects arbitrators from confidential information by allowing only plenary exchanges. These opposing principles cannot both be observed in med-arb. (Fullerton 2010: 56)

Although the combination of arbitration with conciliation/mediation also has some advantages – one of them being that it eliminates the need to start over with a new arbitrator who is wholly unfamiliar with the dispute (Fullerton 2010) – what particularly concerns Western legal experts about the combination of arbitration with conciliation/mediation is the problem raised if the conciliation/mediation should fail and conciliators/mediators were to return to acting as arbitrators. Probably, the information divulged by the parties in the conciliation/mediation process would never have been revealed in an arbitration proceeding. Indeed, how could the arbitrators realistically ignore the confidential information that they acquired when they were acting as conciliators/mediators? This is the reason why

[the] AAA does not promote hybrid proceedings involving the same neutral, but it nevertheless will consider a request from sophisticated commercial parties for an 'arb-med' (i.e., the arbitrator serves as the mediator) or 'med-arb' (the mediator switches to acting as arbitrator) process, provided there is disclosure of the ethical issues to the parties and an appropriate waiver is signed by the parties. [...] The type of contractual provision that can achieve this result (generally known as a 'step clause') might be along the lines that, in the event of a dispute, the parties will seek to reach an agreement through mediation. If the mediation fails – a time limit being specified – the dispute will proceed to arbitration under the rules of a named arbitral institution. The LCIA [The London Court of International Arbitration], the ICC [International Chamber of Commerce], and the World Intellectual Property Organization, a recognized agency of the United Nations, all have a model clause along similar lines. (Connerty 2012: 78)

This mixed form of dispute settlement has traditionally encountered strong opposition in several Western countries, although over the last decades there has been a change in this attitude:

Traditionally, it was an agreed doctrine within the world of arbitration that an arbitrator's duty shall not be mixed with any mediating activity or intent to reconcile. This was one of the greatest dangers widely highlighted in arbitration seminars as it was stated outright that an arbitrator who initiated conciliation or mediation was exposed to the risk of an eventual challenge. Again, the participation in international commercial arbitration of jurists with such different origins has, in practice, caused such inflexible positions to be questioned. In fact, even in continental Europe, procedural law in countries of Germanic origin included an obligation for the judge to facilitate conciliation between the parties throughout the proceedings. (Cremades 1998: 162)

However, on the whole, there seems to be a clear tendency in Western countries to interpret arbitration as an autonomous process of dispute resolution, quite different from that of mediation. This differentiation also implies a very distinct role assigned to the arbitrator compared to that of a mediator, the former resembling more that of a neutral adjudicator, the latter instead that of a facilitator. This different role entrusts the Western neutral party with a much more powerful position when deciding the outcome of the dispute.

3. Arbitration in the East

In the Asian context, conciliation often combines and interferes with the other two legal procedures, i.e. litigation and arbitration. This is connected to the fact that conciliation has a long tradition there, and for centuries it has been considered the best way to solve disputes. Indeed, the Western world is traditionally characterized, to varying degrees, by the litigation culture, while in Eastern countries the emphasis is on conciliation. The latter attitude is deeply embedded in Eastern traditions, mainly aiming at promoting the amicable settlement of disputes and suppressing litigation. Although radical political and economic changes

taking place in the last century have certainly affected this type of culture, it still persists in many noticeable forms (Wenyong 2005). Here is Taniguchi's comment on the Chinese situation:

In China, where this type of culture originated, a strong emphasis on conciliation was maintained even under the Maoist communist regime as the means to solve a so-called 'contradiction within the people'. The judge's primary obligation was said to be not to decide cases but to 'educate' the parties so that they would be willing to terminate their dispute. This is a good example of how a strong culture can survive even a very radical political, economic and social change. (Taniguchi 1998: 32)

This explains why one of the main features of the Chinese legal system is the integration between conciliation and arbitration. This concept of hybrid dispute processing is present in the Japanese legal culture too (Sato 2008). Also Section 30 of the Indian Arbitration and Conciliation Act 1996 expressly permits the arbitral tribunal to use mediation at any time during arbitral proceedings to encourage settlement (Nariman 2000), although the adoption of a common law legal system under British rule created 'conflicting identities' (Dhanania 2008) between the essentially amicable way of dealing with conflicts typical of the local culture and the adversarial mode characteristic of the Anglo-Saxon dispute resolution approach.

The possibility of integrating conciliation/mediation and arbitration in the same procedure has been criticized particularly by scholars living in Western countries. Others, however, who have a deeper knowledge of Eastern arbitral practices, are less critical. Here is Moser and Yuen's opinion:

Many have argued that it is not appropriate for a single person or a tribunal to wear the hats of both conciliator and arbitrator, the point here being that an arbitrator who fails to settle a dispute by conciliation and resumes the arbitration will run the grave risk of infringing the principles of natural justice. However, many have also argued the contrary: provided that certain safeguards are put in place during the conciliation process, the two procedures can work side-by-side. (Moser / Yuen 2005: 401)

In order to analyse the phenomenon of hybridization between the process of arbitration and that of mediation/conciliation in Eastern countries, this

section will focus on the Chinese legislation on arbitration, investigating in particular the texts of both the PRC Arbitration Law¹ and the Law on Mediation and Arbitration of Labor². Although the original texts were written in Standard Chinese (also known as Mandarin and Putonghua), here we will examine their English version.

3.1. The Chinese legislation on arbitration

China has had a long and successful tradition of using mediation to resolve disputes (McLaughlin 2010). Mediation can also be adopted in an arbitration process. Arbitration, in fact, is not an obstacle to the possibility of conciliation between the parties. Article 49 of the Arbitration Law of the People's Republic of China, promulgated on 31 October 1994, states that:

After the parties have applied for arbitration, they may reach conciliation on their own initiative. Whereas a conciliation agreement has been reached, a request may be made to the arbitration tribunal for an award based on the conciliation agreement or the application for arbitration may be withdrawn. (PRC Arbitration Law Art. 49)

The rule of law identifies the subjects to whom the power to find a conciliatory solution is delegated; more precisely, the arbitral tribunal is required to act only when an agreement is reached, by adopting a decision which will incorporate the terms of the agreement identified by the parties. In this case, unlike what commonly happens in arbitration proceedings, the role of the arbitral tribunal is 'passive', in the sense that there is a lack of interference between the arbitral tribunal – which manages the arbitration procedure – and the stage of conciliation, left to the parties, who are free to choose how to conduct the conciliation in the manner they consider most appropriate. This greatly reduces the degree of power that arbitrators have at this stage of the dispute resolution process.

1 Available at <http://www.wipo.int/wipolex/en/text.jsp?file_id=182634>, last accessed on 9 November 2016.

2 Available at <<http://www.en.acftu.org/28616/201405/13/140513090153992.shtml>>, last accessed on 9 November 2016.

The arbitral tribunal may also have an active role in the conciliation process, as stated in art. 51 of the PRC Arbitration Law:

The arbitration tribunal may carry out conciliation prior to giving an arbitration award. The arbitration tribunal shall conduct conciliation if both parties voluntarily seek conciliation. If conciliation is unsuccessful, an arbitration award shall be made promptly. (PRC Arbitration Law Art. 51)

As can be seen, there is no clear indication of an exact procedure to be followed in passing from conciliation to arbitration. Article 51 only specifies that conciliation should take place “prior to giving an arbitration award”. Usually, after the first phase in which the facts are established, the parties realize how grounded their claims are and, therefore, become aware of the real possibilities of winning the case. If they think that they are not absolutely sure of achieving a successful result, they may be more than willing to conciliate the case. However, Art. 51 assigns a less ‘passive’ role to arbitrators. In performing temporarily the function of conciliators, they are required to adopt a more persuasive approach in order to induce the disputing parties to cooperate.

When an agreement is reached through conciliation, the arbitration tribunal will compile the conciliation document or make an award based on the results of the agreement. The document of conciliation and the arbitral award are equally binding from a legal point of view. According to Article 52, the document of conciliation becomes legally binding immediately upon receipt by the parties concerned. If any party concerned has gone back on his/her word after receiving the document of conciliation, the arbitration tribunal will make a timely ruling.

The recourse to mediation is also highly recommended as regards the resolution of labour conflicts (Shen 2007, 2008). Labour disputes are a predominant social problem in China today. The consequences of Western-style economic development and the choice for a market oriented economic reform have produced an increase in the violations of workers’ rights (Széll 2010). To prevent labour disputes, China’s government has made concerted efforts to protect workers against abuse in the workplace and solve conflicts (Jing 2008). Since 1992 the authorities have promulgated a series of labour regulations to monitor labour relations and regulate labour dispute resolution. The result

is a system relying on multiple instruments for settling labour disputes. One of these is negotiation, which is explicitly mentioned in the text of the Regulations of the People's Republic of China on the Settlement of Labor Disputes in Enterprises of 1993 as a first step to be adopted in case of a labour conflict:

In case of a labor dispute, the parties shall first find a solution through negotiations. If the parties are unwilling to go for negotiations or negotiations fail, the case may be referred to the mediation committee of the enterprise in which the dispute has occurred; if mediation fails, the case may be referred to the labor dispute arbitration committee for arbitration. (Art. 6)

The recourse to the mediation process is also mentioned in Chapter X (Articles 77 to 80) of the Labour Act of 1994. On the basis of that text, various PRC state institutions at all levels have overwhelmingly pushed civil parties into mediation before going into arbitration. As Howson asserts,

This push into mediation results in a compromise settlement where employer (with significantly greater leverage) and employee both win a little and lose a little, and employees enjoy something much less than pure rights protection or adequate monitoring of oppressive employers. (Howson 2010: 323)

While mediation is completely voluntary, arbitration is often seen as a mandatory step before legal action is taken. This concept is often made explicit so as to keep such provocative disputes away from formal legal institutions. Indeed, if the text of the Labour Act of 1994 emphasizes the power of the parties to choose among the different procedures available, in the later text of the Law of the People's Republic of China on Labor Disputes Mediation and Arbitration of 2007, the lawmaker determined the almost obligatory passage between them providing for the transition to the next procedure only in the case of failure of the previous phase. As Esplugues and Barona specify,

Mediation is a mandatory proceeding preceding labor arbitration, which must in turn precede a trial before court. (Esplugues / Barona 2014: 93)

This insertion of mediation into the arbitration system explicitly mentioned in the law of 2007 was inspired by the principle 'one mediation,

one arbitration and two court cases [*tiao yi, yi cai, liang sheng*]' (Zou 2012). Under this approach, the management of labour disputes has been developed precisely in distinct phases: the first with mediation, the second with arbitration (if mediation has failed), and the third and final phase in court (with the two trials system), to be followed where arbitration has failed.

The confirmation of this cascading system – only when previous proceedings are concluded negatively do the parties move on to the next step – is confirmed by the fact that the process of arbitration is accessed prior to the process of litigation. In fact, in the wording of the rules devoted to arbitration one can detect a sort of ‘strong advice’ to refer the matter to arbitration before resorting to court action. Arbitration is thus considered a prerequisite for litigation (Brown 2010). Similarly, mediation is considered a prerequisite for arbitration and this is the reason why Art. 42 of the Law of the People’s Republic of China on Labor Disputes Mediation and Arbitration of 2007 encourages the arbitration panel to mediate before continuing with the arbitration process:

Before rendering an award, an arbitral tribunal shall conduct mediation first. Where an agreement is reached through mediation, an arbitral tribunal shall make a mediation record. A mediation record shall expressly state the arbitral claims and results of agreement by the parties. A mediation record shall be signed by the arbitrators, on which the seal of the labor dispute arbitration commission shall be affixed, and served on both parties. A mediation record shall take effect after being signed by both parties. Where mediation fails or one party regrets before a mediation record is served, an arbitral tribunal shall timely render an award. (PRC Law on Labor Disputes Mediation and Arbitration Art. 42)

In case of a positive outcome of the mediation, the arbitrators will issue a *statement of mediation*, declaring that an agreement has been reached. This declaration of mediation will become effective after both parties have signed it. The documents issued within a mediation or within a mediation in arbitration have different efficacy. Indeed, the agreement reached by mediation is not binding for any party concerned, and parties eventually can still file a claim for arbitration. Instead, the mediation agreement achieved through the arbitration procedure is binding and enforceable in court (Lu 2008). Moreover, while the arbitral decision

may be challenged before the court within fifteen days, the document resulting from mediation cannot be contested (Section 2, Art. 27 to 30, Law 2007). This greater degree of efficacy explains why a large percentage of disputes are settled by mediation conducted by arbitrators (Yang 2015).

4. The influence of legal tradition

The integration between conciliation/mediation and arbitration in Asia is due to the fact that the use of conciliation to settle disputes in Eastern countries is part of their legal tradition. In particular in China, in the past a good judge was not supposed to give a judgment but to try to bring about a good conciliation. Indeed, for the Chinese, litigation is seen as a harmful way of dispute resolution as it may result in a loss of face and friendship. Although China established a judicial system very early in its history, the Chinese emphasis on morality encouraged individuals or groups in conflict to resolve their differences by means of discussion or compromise rather than adjudication (Jemielniak 2015). Even the radical political and economic changes taking place in China in the past eighty years have not completely affected this tradition and a strong emphasis on conciliation has been maintained. The judge's primary obligation is said to be not to decide cases but to educate the parties so as to induce them to terminate their dispute (Liao 2012).

The traditional Chinese preference for mediation and conciliation over formal methods of dispute resolution has its origins in Confucian philosophy, which views social conflicts as a shameful aberration of morality and as a form of disruption of the natural order of social life. Instead, conciliation and compromise are considered virtues to be used in conflict resolution. This legal dichotomy actually reflects a conceptual dichotomy of *li* (礼) and *fa* (法) which has traditionally characterized the spirit of traditional Chinese law (Ch'ü 1980). *Li* is a key Confucian term with a wide range of meanings. In its broad sense, *li* refers to the rules of behaviour that regulate human needs and conduct in social and political institutions (Cao 2004). It thus refers to ethics

and moral rules pertaining to correct conduct and good manners, in line with the teaching of Confucius, according to which broad moral principles are rooted in innate human feelings about what people would in general instinctively feel to be right. *Fa* is a very important word in the Chinese legal vocabulary as it indicates positive or written law, deriving its meaning from the notion of a model or standard imposed by superior authority, to which people must conform (Liao 2010). In case of a conflict between *li* and *fa*, traditional Chinese society has commonly preferred *li*, as the use of persuasion and the appeal to reason and common sense was considered the exemplification of good conduct and behaviour (Lee / Lai 1978).

Although this legal dichotomy has sometimes aroused an open conflict between the two schools – Confucianism and Legalism –, the purpose of both schools has always been the maintenance of social order. The difference between them lay mainly in what constituted an ideal social order and by what means such an order could be attained (Ch'ü 1980). The Confucian school mainly emphasized teaching and moral guidance rather than penal law as instruments for the government of the people, as only through teaching could a proper sense of virtuous conduct be inculcated in the people. Although necessary, penal laws should principally be used to supplement and reinforce the lessons to be obtained from the teachings and guidance furnished by the ruler and his officials. The Confucian school believed that a government based on law creates contention because its people, knowing in advance what the written law is, can find means to circumvent it, and will rest their sophisticated arguments on the letter rather than the spirit of the law (Liao 2010). Moreover, in case of conflict, the Confucian school recommended finding a compromise between the parties rather than having recourse to punishments or litigation, as this was considered the most appropriate way to attain the country's social aims. This was in line with the Confucian belief in the cosmic or immanent order of the world; a disturbance of the social order meant a violation of the total cosmic order because the sphere of man and nature is inextricably interwoven to form an unbroken continuum (McKnight 1992).

5. The influence of social culture

The preference for conciliation/mediation in Asia is also dependent on social factors. An important cultural element that has to be taken into consideration when dealing with business relations and disputes in Eastern countries is the concept of ‘face’ (Goffman 1955) – that is, “the public self-image that every member of a society wants to claim for himself/herself” (Brown / Levinson 1978: 66). According to Goffman, facework can either be positive or negative. Positive facework refers to the need a person feels for appreciation and approval, inclusion, and respect, which is expressed in interactions by means of such speech acts as compliments and promises. Negative facework reflects the degree to which a person protects his/her own freedom and privacy from interference. People are very careful in identifying and meeting the different face needs of their interlocutors and adopt appropriate strategies to address them to their advantage. As Brown and Levinson (1978) have shown, linguistic expressions may be more or less face-threatening. Face is an important issue in the field of arbitration as the use of language has relevant consequences for the outcome of a business transaction or a dispute resolution process; indeed, when the parties’ faces are threatened, there is a greater tendency not to cooperate or to withhold important information.

The terms *mian*³ (面) and *lian* (臉) are commonly used in Chinese business communication to refer to the figurative use of English ‘face’. Chinese *mian* and *lian*, as salient sociological constructs of Chinese society, are inextricably linked to almost all business transactions involving Chinese people (Lee-Wong 2000). Indeed, the importance of *mian* and *lian* to Chinese business discourse is well established (Chu 1996, Irwin 1996, Blackman 1997, Backman 1999). In her seminal paper, Hu (1944: 45) distinguishes the meanings of the two words for

3 In modern Chinese, out of preference for disyllable words, *mianzi* is often used instead of *mian*. The orthographic representation of the word *mianzi* is composed of two characters, *mian* and *zi*. *Mian* is the part from which the word derives its meaning. *Zi* is a polysemous morpheme. Its most common meaning is ‘son’ but when compounded with *mian* (as *mianzi*) it is a nominalizing suffix (Hinze 2005).

‘face’ as follows: *mian* pertains to the reputation achieved “through getting on in life, through success and ostentation”. This is the type of face that is non-moral. In contrast, *lian* is the “respect of the group for a man with a good moral reputation”. Moreover, *lian* is often used in situations predominantly concerning successful social performance. Indeed, the loss of *mian* and *lian*, although clearly separable, can be seen as constituting a certain progression in terms of seriousness of the particular event that has damaged one’s face: the loss of *mian* would generally represent damage to social image that is less serious, and the loss of *lian* would be perceived as damage to social image that is more serious (Hinze 2005). Ho (1974: 242–243) provides the following example:

[A] professor who reveals his ignorance in a subject in which he professes expert knowledge ‘loses *mianzi*’, but if in addition to being ignorant he is caught plagiarizing, then he loses not only his *mianzi* in his role as a professor, but also his *lian* as a respectable person.

The importance of the two concepts of *mian* and *lian* in contemporary Chinese society is great, as clearly highlighted by Hinze (2005: 186):

Given the fact that, in Chinese society, a person’s identity is inextricably linked to those with whom he or she is closely associated, the importance of *mian* and *lian* in Chinese social relationships cannot be overstated. One can quite easily imagine that, in a society where concepts like *lian* and *mian* are collective properties that are experienced vicariously, such concepts would inevitably feature prominently in the daily flow of social relationships.

This explains why *mian* and *lian* lie at the core of business transactions in China. Indeed, face is a crucial factor in business there (Gu 1990, Yeung 1997). In Chinese social life and in the business context, human relationships play a pivotal role:

There are no separate rules that divide the conduct of business from that of personal affairs, in which the key factor is proper human relations. And of course, proper human relations in Chinese terms means personal relations primarily based on Confucianism. (De Mente 1996: 196)

For a Chinese businessman, to maintain face is very important, because a loss of *mian* would result in a loss of authoritativeness, while a loss

of *lian* would result in a loss of trust and credibility within the business community. Moreover, business relations too should tend towards the achievement of harmony and avoidance of conflict, in line with the Confucian teachings and tradition. Every effort to find a possible solution to a dispute is thus seen as the preferred way to avoid the loss of face of the parties involved in the dispute. This explains the importance of mediation in the Chinese system as an alternative method of resolution of disputes (Harpole 2007).

6. Conclusion

The analysis of Eastern legislative texts has shown a clear confirmation of the possibility of combining the process of conciliation/mediation with that of arbitration. While in Western legal culture this mixed form of dispute settlement has traditionally encountered strong opposition, in the Asian context this possibility is not only not contrasted but it is explicitly admitted. This depends on the fact that conciliation and mediation have had a long tradition there, as it finds its origins in Confucian philosophy, which views social conflicts as a shameful aberration of morality and as a form of disruption of the natural order of social life. In that geographical area, mediation and conciliation are seen as the preferred amicable ways of dealing with disputes, in contrast with the adversarial mode, which is instead more typical of Western legal culture.

Another cultural element that has clearly influenced the adoption of this mixed form of dispute resolution in the East is the great importance of the concept of 'face' in business relations. Indeed, this concept has great relevance in the field of arbitration, since when the parties' faces are threatened, there is a strong tendency not to cooperate or to withhold important information. Therefore, in line with the Confucian teachings and tradition, every effort is made to avoid the loss of face of the parties involved in the dispute.

This varying perspective between the East and the West also puts a different interpretation on the role played by the arbitrator and the weight given to power and persuasion in the arbitration proceedings

adopted in those areas. In order to favour negotiation between the parties, Eastern arbitrators will mainly recur to persuasive and cooperative strategies. On the other hand, interpreting a more judgmental role, their Western counterparts will adopt a more autonomous and neutral approach making use of all the power that their position allows them.

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JUAN C. PALMER-SILVEIRA

Showing Power and Persuasion in Business Communication: The Corporate News Section in Websites and Social Media

1. Introduction

The turn of the century modified the way people understood the world and, among many other developments, this implied a major change in how firms undertake commercial relations internationally. As a result, the concept of business has changed enormously. It is now almost impossible to think of a corporation that only sells products or endorses services in its own country of origin. While in the past many companies used to deal only in their national markets, the new millennium has brought in a new concept: a market without borders, without limits, where any firm can implement its customers in a globalized market (Bhatia/Bremner 2012). In fact, globalization allows companies to open new doors to many possibilities and has been greeted with considerable enthusiasm by the business community (Fischer 2003; Crane/Matten 2007).

Thus, companies are eager to offer a new image, implementing an international status, a more global corporate appearance, in an attempt to increase the volume of prospective customers worldwide. Great multinational corporations probably forecast this situation several years ago, but it also affected small and medium-sized companies (SMEs), according to Raymond (2003: 260), who pointed out:

Globalization, the internationalization of markets, the liberalization of trade, deregulation, the knowledge economy, e-business, and new forms of organization (network enterprises, virtual enterprises), all of these interrelated phenomena pose new challenges to small and medium-sized enterprises.

In short, these new times imply new rules, and it will be up to firms to adapt themselves to the changing environment. Things have changed in recent years, and cultural differences have modified the way firms understand international relations. Gesteland (2012) defends such a change of attitude in many firms, and points out a new focus on business communication: whereas some years ago international experts just wanted to negotiate with overseas partners, now they are more interested in working further in that communication environment: new international partnerships, strategic alliances and overseas subsidiaries force them to devote greater efforts in understanding cultural differences. This changing scenario defies those culture patterns that are often presented as stabilized concepts (as originally introduced by Hofstede 1984), as business communication must adapt itself to new evolving environments. Thus,

If business people want to gain understanding of and allegiance to their corporate goals, policies, products, or services, wherever they are doing business, they must understand what those and other aspects of management mean in different cultures. (Trompenaars/Hampden-Turner 2011: 3)

As a result, businesspeople interested in internationalizing their corporations must assume that some efforts have to be made. Nevertheless, not everything is positive when dealing with globalized markets. For instance, a firm can have many more customers, but similarly, it may also have many more competitors, fighting for those same buyers and users. Competition stimulates new markets and production modes, and new international entrepreneurs find themselves struggling in a new arena, in a place they are still unfamiliar with. There are different degrees of impact in some areas, such as investment, employment and cultural problems (Spence 2011; Peng 2016). They have to establish their own space, to find their niche in order to grow strong in that new environment. In fact, most companies will fight hard to become visible, and it is that need to stay competitive which forces many firms to advertise and promote their corporate image. Apart from traditional marketing structures, this ever-changing approach to business implies the use of new information technologies (ITs) to offer a clear view of companies to prospective customers (Laanti *et al.* 2007), or to facilitate internal or external business communication (Darics 2015).

2. IT in the promotion process: corporate web pages and social media

Firms need the public to know about their products or services, creating an image that can help them to differentiate themselves from possible competitors. Such a difference is key to persuade everyone that the best choice is the one promoted by a particular company: this has been the milestone of brand advertising (Petty/Cacioppo 1983). Whereas traditional advertising media have been widely used to spread corporate images of household names, new emerging companies have opted for the use of new platforms in order to introduce their products or services into the market (Luna *et al.* 2003; Luna/Peracchio 2005). As Enginkaya and Yilmaz (2014: 219) point out, “in today’s competitive environment, interaction and attainable knowledge resources are more vital than ever for brands”. Whereas initially corporate web pages offered a would-be innovative image (Esrock/Leichty 1999), the growing use of social media has forced companies to diversify the messages that they send to those prospective customers, creating new targets and adapting themselves to these new platforms (Hanna *et al.* 2011; Kietzmann *et al.* 2011; Dijkmans *et al.* 2015). Social media can be defined as “a group of Internet-based applications that build on the ideological and technological foundations of Web 2.0 and that allow the creation and exchange of User Generated Content” (Kaplan/Haenlein 2010: 61). The possibility offered by the Internet to interact is used in the companies’ own benefit. The interactive nature of social media “has excited practitioners with its potential to better serve customers and satisfy their needs” (Sashi 2012: 254) and has even allowed firms to forecast commercial possibilities (Kalampokis *et al.* 2013).

Regardless of the size, origin or nature of the company’s business, most firms have decided to use social media to offer a clear-cut corporate image to Internet users, and have devoted some money and efforts in order to achieve this goal (Ray *et al.* 2013). These media even allow users and consumers to share views and images of the company’s products and services, offering an updated image of the firm, something that tends to be appreciated by prospective customers (Hennig-Thurau *et al.* 2010). Some scholars have even wondered whether social

media-based relationships “lead to desired outcomes such as positive word of mouth” (Hudson *et al.* 2015: 68). Computer-based communication is used to reach people, and many companies develop corporate image throughout the use of websites, social media and other types of digital business discourse, in an attempt to develop customer loyalty. Additionally, and due to the large amount of media communication available these days, firms constantly look for exposure, with the aim of keeping the public aware of their products or services. In short, if a firm is not present online, it does not exist for many possible customers.

As a result, most companies know that it is important to be sure that users will appreciate their products or services; in some way, the company’s main aim while contacting possible customers is to exert their will to purchase a product (Finkelstein 1992). Using the Internet appropriately allows any corporation to increase its visibility internationally and to improve its reputation (Sallot *et al.* 2004; Diga/Kelleher 2009). In turn, good corporate reputation allows firms to charge a premium for products and services “impacting customer preference when competitive services and products of similar cost and quality are available” (Floreddu *et al.* 2014: 738). It is a new tool, an economical device that can be used in order to help customers to make decisions, to persuade them to buy or use any firm’s output, even generating stakeholder support in times of economic crisis and distress (Cretu/Brodie 2009). Considering the panorama described above, firms are bound to use the Internet as a tool for customer persuasion.

3. Decision-making power: the language of persuasion

As Perloff (2010: 226) suggested, the goal of communication is based on using the right type of persuasion for each possible person, as “personality influences persuasibility”, though the use of mass media nowadays seems to apply to large heterogeneous groups of people. Therefore, companies understand the need to pay attention to persuasion

when communicating internationally in today's IT settings (see Bielenia-Grajewska 2014 on CSR online communication for food industries, or Jensen/Jepsen 2008 on persuasion devices on online marketing communication). In any case, most firms make great efforts to introduce themselves internationally throughout websites, designing texts in which they also try to persuade the reader into using their products or services.

Nowadays, companies promote themselves by using self-explanatory texts in different media (Casañ-Pitarch 2015). The traditional 'About Us' section that tends to appear in most corporate websites is also used in many other social media, and companies try to persuade users to see them as leaders, as important members of the business community. Pragmatics is often used to enhance a specific image of a corporation, implying a level of power that will attract consumers and investors (Harris 1995): apart from the structural and linguistic knowledge, the people creating these sections also pay attention to context, as well as to the pre-existing knowledge that readers may have, adapting their message to those conditions. Both types of promotional texts (in traditional websites and in social media) have been devised to offer a specific image of the company, involving a message: companies try to persuade readers into using products and services by offering an image of power. That image is based on a multimodal structure of the message, combining positive pictures with texts carefully designed to attract the reader. That multimodal combination of image and emotion implies that brands can increase their chances to communicate information effectively for prospective customers. As Lynch and de Chernatony (2004: 403) point out, "brands based on intangible, emotive characteristics such as trust, reassurance, reputation, image and responsiveness are seen as more durable and less likely to suffer from competitive erosion." As a result, firms that can offer a powerful image to their customers have more chances to survive in the business world than other weaker counterparts.

From a pragmatic perspective, these texts can be defined as highly stratified pieces of discourse that can be read by anyone, something that makes these genres different from those others written specifically for a very concrete readership, such as insurance policies, arbitration rules, or even accounting sections in annual reports (Bhatia 2010; Palmer-Silveira/Ruiz-Garrido 2014; Orts 2015, 2016; Ruiz-Garrido/

Palmer-Silveira 2015). Considering this, it is important to analyse corporate communication accurately, understanding that technology has triggered the appearance of new, emerging genres, in some cases formed by the mixing of some previous traditional ones (Skulstad 2006).

The purpose of this chapter will be to analyse, from the stance of genre theory, how companies use the Corporate News/About Us section in websites and social media. As Simpson and Mayr (2010) suggest, a key aspect to understand the way a firm is promoted is throughout the use of language to create a powerful image. Language implies power, when used appropriately, and professionals know it, deploying it to keep their position of leadership and influence. We will analyse all the linguistic features that allow firms to offer a positive and professional image, introducing the way discourse helps the writer to have an influence in the customers' understanding of the corporate image (Marschan-Piekkari *et al.* 1999; Vaara *et al.* 2005). Persuasion and power tend to be subtly introduced in this type of texts, and critical discourse analysis has proved to be instrumental to reveal how writers play with language to reach their objectives (Fairclough 1989; 1995). In the world of business, many multinational companies have paid attention to the importance of language when communicating worldwide, being aware that linguistic competence and communication skills can help any company to reinforce its image of power in front of its customers (Marschan-Piekkari *et al.* 1999). Texts will be examined in terms of language power, a construct "that associates the presence of certain speech markers with the perceived social power of speakers" (Sparks/Areni 2008: 37). In this specific case, power will be observed in written pieces of discourse through language.

An additional area of interest is that, in many cases, most companies are established in countries where English is not the first language. In order to increase their chances of finding new market gaps, they have to present information in a foreign language (Chew 2005; Louhiala-Salminen *et al.* 2005; Nickerson 2005; van Meurs *et al.* 2006; MacKenzie 2013). In those cases, English is the language to be shared by the international business community, and an image of power and persuasion has to be offered in the language in question, trying to overcome any linguistic problem traditionally observed in actual business

transactions (Harzing *et al.* 2011; Steyaert *et al.* 2011), often based on intercultural communication misunderstandings. In fact, “economic developments on a global scale, new communications technologies, the explosion in international marketing and advertising, and mass entertainment have also promoted the continued expansion of English as a global *lingua franca*” (Briguglio 2016: 81).

4. The study

The purpose of this study will be to analyse whether there are significant differences in the way companies promote themselves in their corporate pages (where there is not a real limit to do so) and in their LinkedIn corporate profiles, where there is a real constraint, with promotional texts not exceeding 10/12 lines. The LinkedIn texts compiled for this study are considerably shorter (an average of 149.55 words per text) than the same type of texts uploaded in corporate websites (343.58 words per text). There was not a pre-established limit of words in those texts.

Additionally, we also aim to find out whether European companies using English to promote themselves do so accurately, persuading the audience as much as the texts created by companies for which English is their main language do. This analysis pays attention to a total of 60 corporations and 120 different promotional texts.

The research analyses the texts presented by 20 Spanish companies (all of them published in English), 20 European firms (also published in English), and 20 North American corporations. All the firms analysed share some aspects: they have been working internationally in at least two different continents, they have got over 500 (direct and indirect) workers, and their LinkedIn profiles have been available for at least two years. Regarding the sector of operations, very different types of companies were observed, including banks, airlines, food and beverage, sportswear, or communication, to name just a few. All the web pages and LinkedIn profiles analysed were downloaded and retrieved on the same date (9 September 2016). All the companies studied in this piece of research appear in the Appendix at the end of the chapter.

We search for would-be differences in the way firms show power and persuasion when introducing themselves in their own corporate websites or while developing that kind of text for a specific social medium (LinkedIn). The reason for choosing LinkedIn is that it is the way used by many people to find out the possibilities of working for a specific company, and firms tend to attract young talented graduates through appealing messages. The persuasive image offered by companies often implies a high degree of power within their industrial sectors, always developing a positive effect on the readers and making it even more appealing for any interested candidate.

Attention will focus on several aspects that are often used to increase the persuasive nature of language in traditional promotional texts, considering previous studies on the persuasive nature of language and its psychological implications (Hosman 2002; Hosman/Siltanen 2006). It is our understanding that most of these aspects should appear in the 'About Us' sections of both short LinkedIn company profiles and longer web pages at a similar level. Based on the literature mentioned above, the aspects that are going to be considered in this analysis, focused on the persuasive features of a promotional text, are:

- a) Self-references: ways the company has to introduce its presence to the reader. We include here personal pronouns, used to increase the relation between buyer and seller in an attempt to develop some sort of intimacy between both parts.
- b) Boosters: words used to increase the emotional impact of any chosen statement.
- c) Power words: terms which stress images and offer a special meaning to sentences.
- d) Sensory language, evoking feelings and emotions.
- e) Clear orders (imperative verbs) and hidden commands (not so obvious calls for action implied within a sentence).
- f) Short sentences, such as rhetorical questions.

As an initial hypothesis, we think that the use of these aspects will be proportionally higher in the short LinkedIn texts than those in the companies' websites, as developers have to condense all the information in highly persuasive texts where they have to deploy all these

empowering linguistic devices in an effort to attract the reader in fewer words. In any case, we assume that the six aspects analysed will appear at similar levels, regardless of the country of origin of the companies studied, since these features tend to be used to promote products or services in many traditional media (press, radio, TV).

5. Results

To start, we analysed the LinkedIn pages developed by US companies, observing if there are differences between these and their European counterparts' texts. The twenty LinkedIn pages compiled are very short (average 133.95 words per text), ranging from the mere 29 words used by the Walt Disney company to the 238 words used by Warner Bros. Compared to these texts, those written by European companies in English (none of them from countries where it is the main language) are almost 30 words longer (average 163.1 words per text), ranging from the 77 words used by Tieto to the 296 words used by RCS Mediagroup. In contrast, analysing the texts created by Spanish companies in detail, we see that these are slightly shorter than those of their other European counterparts (average 151.6 words per text), ranging from the 40 words used by Camper to the 239 words used by Loewe. The average length of these texts is quite close to the 150-word target (149.55).

The texts promoting the company in the corporate websites, are, in contrast, considerably longer. For instance, US companies average 335.85 words per section, being 201.9 words longer than the texts they publish in their LinkedIn profiles. Such an increase is quite similar to the one observed in European companies' web pages, with texts averaging 326.1 words, exactly twice as long as those used by the same firms in order to present themselves in LinkedIn pages. Finally, and dealing with Spanish companies, the texts introducing themselves to the readers are even longer, averaging 368.8 words (217.2 words more than their social media entries). The average length of the texts included in the corpus of corporate web pages analysed is 343.58 words, close to a 130% increase compared to LinkedIn descriptions.

5.1. Self-referencing

The first aspect analysed, self-referencing (personal pronouns and possessive adjectives used to increase the relation between buyer and seller to develop some sort of intimacy between both parts) offers a surprising result. When analysing the texts presented in LinkedIn, US companies use this device less often than their European counterparts (3.05 times per text, vs. 4.45, respectively). Meanwhile, those texts uploaded by Spanish corporations do so less often than other European corporations (3.3 vs. 4.45 times per text). Nevertheless, the use of personal pronouns and other expressions that can be deployed to substitute the name of the company would deserve a further study. In fact, Spanish companies are the ones that use more varied expressions in order not to repeat the name of the firm too often. Apart from personal pronouns and adjectives implying possession, Spanish authors opted for expressions such as *the company*, *the brand*, *a company*, *the group*, *our company*, *this*, *Barcelona's hub* and *the Fluxà's family business group*, all of them trying to avoid repetition. The authors of the European companies' texts only used two of these expressions (*the group* and *the company*), whereas US authors opted for just three concepts (*the company*, *the league* and *our family of companies*). It seems that Spanish authors are more worried about not repeating self-references (19 cases altogether) than their European (13) or US (11) counterparts.

Results are quite similar when observing the texts used in corporate websites. US companies also use self-referencing slightly less often than their European counterparts (15.1 times per text, while European firms do it 15.35 times and Spanish corporations, 16.15). Nevertheless, the most important aspect is that, despite being twice as long, the volume of direct self-referencing does not increase at the same level, but much more dramatically. The increase is directly based on the use of personal pronouns and other expressions to substitute the name of the companies endorsed. Thus, companies rarely use their own brand names, choosing to personalize the message through the use of first and third person personal pronouns and possessive adjectives.

A thorough analysis of personal pronouns and possessive adjectives (PP/PA) in both types of texts reveals that this is a trait that can be seen more often among European/Spanish authors. Whereas North American authors used a total of 58 PP/PAs in their social media texts, this quantity is considerably higher in our corpus of European texts (86 PP/PAs) and even more so when dealing specifically with Spanish texts (94 PP/PAs). In all cases there is a predominance of the first person PP/PAs (*we/our/us*), whereas the impersonal third person pronoun/adjective (*it/its*) is less often used (Table 1).

Table 1. Total use of PP/PAs in the promotional LinkedIn texts.

	US texts	European texts	Spanish texts	Global results
We	20	20	37	77
Our	26	46	23	95
Us	4	3	4	11
	50 (86.21%)	69 (80.23%)	64 (68.08%)	183 (76.89%)
It	1	4	10	15
Its	7	13	18	38
Itself	–	–	2	2
	8 (13.79%)	17 (19.77%)	30 (31.92%)	55 (23.11%)

Nevertheless, when analysing the texts taken from corporate websites, we see that North American authors used more PP/PAs in their texts than their European counterparts (230 vs. 141, respectively, cf. Table 2). In any case, Spanish authors opted for showing an important number of third person pronouns substituting the company's name, which means a higher level of impersonal style in this type of texts, something that corroborates the results already depicted when analysing LinkedIn entries. Thus, it seems that US texts are based on a closer relationship between the company and the readers (*we* vs. the reader), whereas European texts (and mainly Spanish ones) use an impersonal style more often.

Table 2. Total use of PP/PAs in the corporate websites texts.

	US texts	European texts	Spanish texts	Global results
We	97	41	64	202
Our	92	58	79	229
Us	8	2	13	23
	197 (85.65%)	101 (71.63%)	156 (65.65%)	454 (74.43%)
It	19	11	20	50
Its	14	28	61	103
Itself	–	1	2	3
	33 (14.35%)	40 (28.37%)	83 (34.35%)	156 (25.57%)

Nevertheless, when we observe how many social media texts favoured the substitution of the company's name by first or third person PP/PAs, the results are slightly different (Table 3). Data show us that there is an important number of texts (18.33%) that combine personalized and depersonalized references to the company, whereas some other authors seem not to have even considered the possibility of using these devices to develop their texts (21.67%).

Table 3. Compared use of PP/PAs in the promotional LinkedIn texts.

	US texts	European texts	Spanish texts	Global results
Use of 1st person PP/PAs	7	6	7	20 (33.33%)
Use of 3rd person PP/PAs	4	4	8	16 (26.67%)
Combined use of 1st and 3rd person PP/PAs	2	5	4	11 (18.33%)
No use of PP/PAs	7	5	1	13 (21.67%)

Similarly, when comparing these results with those observed in corporate web pages, the number of texts favouring the substitution of the company's name for first or third person PP/PAs is lower, as the fact of creating longer pieces of discourse implies that, in many instances, writers use both possibilities (cf. Table 4). Data show us that there is a large number of texts, higher than in the LinkedIn pages (45%), with a combination of personalized and depersonalized references to the company.

Table 4. Compared use of PP/PAs in the corporate websites texts.

	US texts	European texts	Spanish texts	Global results
Use of 1st person PP/PAs	5	5	3	13 (21.67%)
Use of 3rd person PP/PAs	6	4	8	18 (30%)
Combined use of 1st and 3rd person PP/PAs	8	11	8	27 (45%)
No use of PP/PAs	1	0	1	2 (3.33%)

5.2. Boosters

A second important element analysed was the use of boosters, these being adverbs or adverbial phrases used to thoroughly strengthen the meaning of other expressions, emphasizing the persuasive nature of a piece of discourse (Hyland 1998). We were only able to find ten instances in the sixty texts compiled from LinkedIn (5 cases in the Spanish corpus, 2 in the European texts and 3 in the US ones). The results, therefore, show us that the authors of the texts did not intensify the persuasive aspect of the message implied throughout the use of this type of resource. *Highly* (4 instances) and *very* (3) are the only boosters used in more than one case, the others being *extremely*, *completely* and *rather*.

When comparing these results with the ones observed in longer website texts, the data show us that there are no major differences. Whereas US and European texts have 8 examples of boosters, there are 12 cases in the Spanish websites. Both *very* (7 cases) and *highly* (11 cases) are the two most often used boosters, the others being *so* (4 cases), *completely* (1 case), *at all* (in negative expressions, 1 case) and *ever* (in *wh*-questions, 4 cases). Once again, and despite being one of the typical promotional resources used by advertising companies to endorse a company's services, the data compiled in this study seem to suggest that boosters are not very common in this type of discourse. Terms like *highly-experienced firm*, or *very inspirational results* have been used to emphasize the discourse.

5.3. 'Power' words

'Power' words, the third element of our analysis, define those terms that are specifically used to attain clarity, poise and impact, conveying positivity to a message (Griffin 1998). Even though they tend to be adjectives, there are some other possibilities, including some expressions used by the authors of the texts compiled. Terms like *committed*, *fundamental*, *prestigious*, *sophisticated* or *revolutionary* are used to add an aura of uniqueness to the message conveyed. Starting with LinkedIn pages, there are no significant differences between the three corpora studied, although European companies use this type of word slightly more often than their US counterparts. In fact, there are 77 different power words in North American texts, and a total of 114 entries, which represents a high use of this resource. Nevertheless, the results are even higher in European companies' texts, and also quite high among the specific corpus of Spanish firms. Table 5 shows this extensive use of power words as a way to enhance persuasion in these promotional texts.

Table 5. Use of power words in the promotional LinkedIn texts.

	US texts	European texts	Spanish texts	Global results
Total amount of power words	114	134	108	356
Different power words used	77	88	82	
Percentage of use of power words / Number of words used	(4.255%) 114/2679	(4.107%) 134/3262	(3.536%) 108/3032	(3.967%) 356/8973

When comparing these results to the ones observed after analysing the corpus of corporate websites texts, the percentage of use of power words is lower. This happens in all three corpora compiled. In any case, although there are no relevant differences in the total number of power words used, there is an important difference in the variety of terms. Spanish authors used many more power words (51) than their US counterparts (an average of 2.55 per text), and more than other European authors (33, an average of 1.65 power words more per text). Results displayed in Table 6 show the relevant increase in the use of different power words in the texts compiled.

Table 6. Use of power words in the corporate websites texts.

	US texts	European texts	Spanish texts	Global results
Total amount of power words	212	247	269	356
Different power words used	125	143	176	
Percentage of use of power words / Number of words used	(3.156%) 212/6717	(3.787%) 247/6522	(3.646%) 269/7376	(3.531%) 728/20615

5.4. Sensory language

We also investigated if the texts presented by companies in their LinkedIn pages had an important level of use of sensory language, words and phrases used to catch the readers' attention by evoking feelings and emotions, or what Martin and White (2005) define as expressions of affect in systemic functional linguistics. Although promotional language tends to use this feature (Ogilvy 1963), the texts analysed cannot be defined as clear examples of sensory language usage. In fact, we only found 24 texts showing traits of this type of linguistic device (10 in the US texts corpus, whereas there are 8 and 6 texts in the European and Spanish corpora, respectively), and, in any case, it seems to be something that US companies use more often (31 specific cases in 10 LinkedIn pages) than their European (17 cases in 8 pages) and Spanish (14 cases in 6 pages) counterparts. It seems that US social media developers use this possibility in a much more natural way, with expressions especially created to touch the heart of the reader. Concepts such as *special bond*, *passionate*, *caring for the world*, *improve lives*, *bringing people together* or *making you better* are not so often found in European/Spanish texts. In any case, we cannot take for granted that this feature of promotional language is really used in social media as in other types of advertising texts.

When comparing those results with the numbers observed in the corporate websites analysed, the figures are similar. There are 39 texts showing examples of this type of linguistic device (14 in the US texts corpus, whereas there are 13 and 12 texts in the European and Spanish corpora, respectively), which is an important increase compared with

the LinkedIn pages, but not so relevant if we observe that these texts are 130% longer. Maintaining the trend observed above, US companies use sensory language more often (69 specific cases in 14 websites) than their European (41 cases in 13 pages) and Spanish (40 cases in 12 pages) counterparts. Once again, North American firms use sensory language more often, in a much more natural way. It seems that these authors are keen on trying to get as close to the reader as possible through the use of this linguistic element.

5.5. *Commands / Requests for action*

Related to commands (imperative verbs used to call for action), the data collected show that this resource is not often used in LinkedIn pages. Results reveal that, out of the 60 pages in the corpus, the use of commands and direct orders is found on 16 LinkedIn pages, with a total of 27 imperative sentences. In any case, this tends to appear much more often in US pages (8 pages, with a total of 16 direct commands) than in European (5 pages, with 7 direct orders) or Spanish pages (3 pages, 4 imperative sentences). Additionally, we also paid attention to the kind of requests implied in these imperative sentences. In every single case, these sentences help the reader to find more information by getting access to web pages and social media (*for further information, please visit..., follow us on Twitter..., you can also follow us on..., visit our website...*).

Quite similar are the results observed when analysing imperative sentences in corporate websites. Out of the 60 sites selected to make up the corpus, the use of commands and direct orders appears in 25 sites, with a total of 45 imperative sentences. Getting into the detail, this still tends to appear more often in US pages (10 pages, with a total of 18 imperative sentences) than in European (7 pages, with 13 orders) or Spanish ones (8 pages, 14 direct commands too). Once again, the number of imperative sentences observed is low, but the general aim is similar to the one observed in the LinkedIn entries: to help the reader to find more information about the company by getting access to other web pages or other social media.

5.6. Short sentences

Finally, the study also focused on the use of short sentences to direct the reader's attention towards the information stated. Imperative sentences were not observed in this part of the study, as they already form part of the previous category analysed as commands or requests for action. No major differences were observed in the three corpora compiled from LinkedIn pages, though we noticed that, while US companies just use this possibility as a figure of speech, European and, especially, Spanish companies use it as a direct way to remind the reader about the importance of the company advertised (*Who is innogy SE?*, *What is Inditex?*, *We're Santander*) or the relevance of the products or services endorsed (*Clothes are a language*). In any case, the small number of instances observed in the corpus collected (3 examples in US texts, 3 more in European pages and 6 among Spanish entries) does not allow us to draw further conclusions.

Nevertheless, the situation is quite different when analysing corporate websites, due to the use of hyperlinks in this type of text. In our corpus, these tend to be introduced by names, but in some cases, web developers opt for short sentences to catch the readers' attention. This is the reason why the number of short sentences in these web pages is much higher than those observed in the corpus of LinkedIn entries. In fact, and within the US corpus, 10 companies used this possibility, and there is a total of 45 cases. The corpus of European websites also reveals that 10 firms opted to use these short sentences, offering 22 examples. Within the Spanish sites, there are 19 cases in 9 of the twenty pages forming this corpus. These results seem to suggest that American developers use this possibility more often than their European counterparts, although the number of companies is quite similar in all three corpora analysed.

6. Discussion and conclusions

The data collected in this study seem to suggest that social media and web page developers follow most of the rules that traditional advertising has created to offer a promotional tinge to presentation texts.

Companies use basic elements such as self-references, power words, and intensifiers to offer their best possible image. Nevertheless, this study has also offered some clues about differences between companies established in English-speaking countries and international firms in European countries.

Regarding self-references, a common way companies use to introduce themselves to the reader, the results suggest that they often try to avoid repeating their brand names inside the texts and personalize the message using first and third person personal pronouns and possessive adjectives. This happens in both types of texts (LinkedIn presentations and corporate websites), though it is in these second examples where we can find a notable difference. While US developers try to stress a closer relationship between the company and its readers (mainly throughout the use of *we/our/us*), European firms (and mainly Spanish ones) use an impersonal style more often. As a result, the data suggest a higher level of intimacy between firm and customers among US corporations.

Intensifiers are often used to increase the emotional impact of any chosen statement. They are often used in business presentations. Nevertheless, written promotional texts offer rather different results: intensifiers are not frequent, either in LinkedIn promotional texts or in corporate web pages. In both cases, the use of intensifiers is quite low, and they cannot be defined as a trademark of this type of discourse. No major differences were observed in texts written by native and non-native speakers of English. Power words, on the other hand, are very frequent among all the companies analysed, stressing the descriptive power of some terms and concepts. If that is the case when dealing with US corporations, the number and variety of power words is even greater among European firms in general, and even more so when we observe the results from Spanish companies' corporate websites. These results seem to suggest that the volume of power words is much higher than that of intensifiers, and that these are a basic tool to promote a company, both on social media platforms and in traditional corporate websites.

Sensory language, a traditional tool used by companies to promote products, is not often used in our corpus. Instead of evoking feelings and emotions with that device, social media developers and web page creators opt for a more pragmatic approach, and they also include

direct orders and hidden commands to force the reader to take action. Additionally, and especially among US authors, the use of short sentences (including rhetorical questions) should be considered, mainly when dealing with corporate websites.

One of the aims of this study was to observe the level of use of some linguistic devices employed traditionally to enhance the persuasive/powerful nature of a promotional text in innovative platforms. Our results suggest that firms are devoting time and efforts to offer a new, updated image, in an attempt to implement a global corporate appearance. Corporations have noticed that there is a new, globalized market that is willing to receive innovative products and services, and firms use the Internet to increase the volume of prospective customers worldwide. Their effort to design promotional texts, accompanied by a nice visual design, is necessary to compete in a globalized market, where the number of commercial possibilities increase day after day, as well as the amount of possible competitors.

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Appendix: List of companies used in this analysis

Spanish firms

Adolfo Domínguez (clothes)
Banco Santander (banking)
Camper (shoes)
Cortefiel (clothes)
eDreams (travel)
F.Iniciativas (consulting)
Ficosa (car parts)
Gamesa (energy)
Iberdrola (energy)
Iberostar (travel)
Idneo (engineering)
Inditex (clothes)
Loewe (jewels)
Meliá Hoteles (hotels)
Onix Recruitment (workforce recruitment)
Porcelanosa (ceramics)
Sellbytel Spain (outsourcing)
Sener (engineering & technology)
Técnicas Reunidas (oil & energy)
Telefónica (communication)

European firms

ABB (technology)
Atos Consulting (consulting)
Audi (cars)
BNP Paribas (banking)
DeepOcean (oil & energy)
Henkel (healthcare)
Innogy (energy)
Maersk (oil & energy)
Magnetit Marelli (car components)
ManDiesel & Turbo (industrial engineering)
MediaMarkt (stores & shopping centres)
Michelin (tires)
Nestlé (food & beverages)

Piaggio (motorbikes)
Puratos (food & beverages)
RCS Mediagroup (editors)
Scania (trucks)
Telenor (telecommunication)
Tieto (Internet)
Volvo Trucks (trucks)

USA Firms

Amazon (Internet)
American Airlines (aviation)
Bloomberg (financial services)
CBS (entertainment)
General Motors (cars)
Google (Internet)
Johnson & Johnson (healthcare)
Kellogg's (food & beverages)
Marriott (hotels)
McDonald's (food & beverages)
NBA (sport)
Nike (sportswear)
Pfizer (pharmaceuticals)
Procter & Gamble (healthcare)
Starbucks (food & beverages)
Target (stores & shopping centres)
The Coca-Cola Company (food & beverages)
The Walt Disney Company (entertainment)
Under Armour (sportswear)
Warner Bros. (entertainment)

Transmitting Authority in Risk Communication: An Exploration of U.S. Air-Accident Dockets Online

1. Power in risk communication

Power is usually defined as an asymmetric relationship among social actors with different social positions or roles (Reisigl/Wodak 2009), as an opportunity to achieve personal or corporate goals out of vested interests or for the common good. We may conceive this asymmetry in a myriad of forms (van Leeuwen 2008; Wodak/Meyer 2009; Hougaard 2015; Pishwa/Schulze 2015), such as coercive action by physical force and violence, financial status, social distance, and authority or control based on knowledge. Some authors explicitly state that power and knowledge directly imply each other (Foucault 1977; van Dijk 2016) or that power is embedded in knowledge and any knowledge system constitutes a system of power (Hardy/Phillips 2004). Knowledge, moreover, is conveyed by discourse, which in turn (and this is a basic tenet of Critical Discourse Analysis) is an integral aspect of power and control. In other words, power relations are discursive: through discourse, power is transmitted and exercised (Bloor/Bloor 2007; Machin/Myer 2012; Martin 2014). Discourse, in sum, is not only the product of power relations but also an agent, as it shapes those very relations that regulate and institutionalize ways of thinking, acting and talking (Grant *et al.* 2004).

In this chapter I explore the strategies adopted by a specific type of institutional discourse grounded in the authority of expertise: risk communication, whose objective is to mould people's conceptions of hazard and danger in order to ultimately prevent unsafe behaviours. Risk communication is considered a textual epistemic category based both on rationality and emotion, essential to making sound decisions that concern public and private safety, and ruled by a tacit social contract

that involves credibility, trust, and procedural fairness (Boholm/Corvellec 2014; Neeley 2014) to influence mentalities and behaviours. Like persuasion, influence involves the presence of some authority (Woodward/Denton 2014) and may be understood as a kind of power (Zimmerling 2005), since power itself may consist in an ability to affect notions and actions. Both persuasion and influence may sway the opinion or attitude of others or make them believe certain information. Customarily, in fact, we tend to use the verbs *to persuade* and *to influence* interchangeably, but there are subtle differences between them (Kuhnke 2012): whereas persuasion is always deliberate and brings about change through words and actions, influence is not necessarily intentional and in general motivates through personality, character or reputation – it is far less laborious than persuasion since one can be influential despite lacking persuasive skills. It seems, then, that persuasion has more to do with direct action in a specific situation, while influence deals with overall guidance and directions. To persuade we choose words and organize the message rhetorically, steer communicative interactions, and orchestrate their environmental conditions. To influence (consciously or not) we socialise ideas, listen to others' motivations and concerns, connect interlocutors and give them voice, and assist them without expecting any reciprocity (De Falco 2009).

All this leads us to think that risk communicators should combine persuasion and influence for the sake of efficiency, which means that the information they present must be transparent as to its quality and quantity, competent, and believable. It must also arouse positive expectations about the intentions of the text's authors; that is to say, that their engagement in communication comes from a goodwill to contribute to the common welfare, as well as from a confidence that certain future events will occur as they should (e.g. safe behaviours and preventive measures are to prevail) and, finally, that participation is ensured (Besley/McComas 2014).

Because of their rhetorical and pragmatic unconventionality in the exercise of their expert authority, the risk communication texts chosen for this study have been the aviation accident dockets (also known as 'synopses' or 'summaries') issued yearly online by the National Transportation Safety Board of the United States of America

(NTSB for short). To meet the needs and requirements of the NTSB's broad and diverse virtual audience, procedural or participatory fairness must consist in making information accessible, clear and respectful, and the decision-making processes are assumed to be democratic and inclusive. In this last regard, NTSB website users can raise any issue of concern through the 'contact' button, and the inclusion of testimonies of witnesses, victims and crew in the docket texts creates a sense of 'extended membership' with a say in the verdict and the subsequent making of decisions.

1.1. Discursive singularities of the NTSB's air-accident dockets

Today the essential purpose of risk communication, and especially of any accident or incident report, is prevention, not sanction, and to that end they reveal the causes of the accident or incident, call attention to deficiencies in the safety system, and recommend measures for the future within a circle of experts. NTSB dockets, however, address a broad mixed audience that comprises aviation authorities worldwide, the ICAO (International Civil Aviation Organization), boards investigating accidents, national aviation associations, aviation professionals (crews and aviation personnel in aircraft maintenance), aircraft and engine manufacturers, insurance companies, legal staff (judges, prosecutors, lawyers), victims and their families, scholars, universities, aeronautical schools, and the press.

Due to this mixed audience, the most salient trait of NTSB dockets is their 'interdiscourse' or 'discursive hybridization' (Fairclough 2006; Berkenkotter/Bhathia/Gotti 2012): the text is at the same time retrospective and prospective as it contains an analysis of past events and recommendations for the future, exhibits features of oral (i.e. direct speech testimonies) and written language (i.e. technical passages), joins objective and subjective information (i.e. technical data and their interpretation, sometimes emotionally toned), and informative, prescriptive and performative functions (the latter through formulaic language: "The National Transportation Safety Board determines the probable cause(s) of this accident as follows: ..."). Rhetorically, NTSB dockets merge the four-move structure (Swales 1990) of scientific narrative (Introduction

> Method > Results > Discussion) with the Labovian (Labov/Waletzky 1967) move sequence of personal narratives (Abstract > Orientation > Complicating action > Resolution > Coda) and occasionally with elements from drama and storytelling, such as dialogues and climactic build-ups that may start with *in medias res* openings.

The authors of these synopses are the NTSB field researchers and their team of colleagues and proofreaders, who report on the facts, dialogues and noises in the accident scene and disclose witnesses' testimonies and the experts' discoveries and views, all of them conducive to the institution's final verdict. The accounts so originated, therefore, are co-constructed and involve several rounds of editing and proofreading. In addition to being collectively written and edited, they build and eventually sift a 'narrative network' (Bearman *et al.* 1999, 2000) across the personal, technical and legal realms that agglutinates CVRs (cabin voice recordings), *verbatim* testimonies from witnesses and passengers obtained in conversations and field interviews, evidence-based expert opinions derived from the analysis of photographs, 3D-simulations, terrains and wreck remains, and consultation of normative literature (e.g. rules and regulations, procedures, standards and protocols). New norms might even arise from the whole process.

The docket format resembles that of the prototypical scientific abstract, with a variable extension that on average ranges from around 100 to 400 words (see example 1). According to their content, dockets are classified into six types, depending on the severity of the accident aftermath and the stage of the investigation. They may summarise fatal accidents (those causing deaths), non-fatal accidents (causing injuries) and incidents (mishaps with just technical consequences), and be simultaneously factual, of probable cause, or preliminary. Factual synopses report on accidents abroad whose investigation pertains to another government. They facilitate data but do not speculate about causes. Probable cause synopses, by contrast, do hypothesize about accident factors and provide two types of evaluation: one epistemic (i.e. they speak about causal probabilities) and the other subtly moral (i.e. related to the ethics and behaviour of characters). Last, preliminary synopses are always provisional because they are written at early investigation stages and may still lack accuracy.

As shown in (1), NTSB dockets are divided into two distinct parts: a series of headings synthetically introducing the accident's basic facts, and the body of text, whose informative backbone is formed by attribution – by reporting structures (my italics) embedded in the testimonies of witnesses and actors, the descriptions of wreckage evidence, and the outcome of expert investigations leading to the final verdict.

(1) **NTSB Identification:** WPR15FA227

14 CFR Part 91: General Aviation

Accident occurred Saturday, August 01, 2015 in Santa Paula, CA

Probable Cause Approval Date: 11/29/2016

Aircraft: CESSNAP337G, registration: N4CU

Injuries: 1 Fatal.

NTSB investigators either traveled in support of this investigation or conducted a significant amount of investigative work without any travel, and used data obtained from various sources to prepare this aircraft accident report.

The noninstrument-rated commercial pilot departed for the cross-country flight over mountainous terrain in instrument meteorological conditions. *A witness observed* the airplane take off from runway 22, disappear into an overcast layer at 300 ft above ground level (about 550 ft mean sea level [msl]), and then reappear heading in the opposite direction. *The witness reported that* the airplane departed the traffic pattern heading northeast. The wreckage was located in mountainous terrain at an elevation of 1,223 ft msl, 2.8 mi east of the departure airport. *Meteorological data indicated that*, at the time of the accident, a cloud layer extended over the accident site from about 550 ft msl to about 2,100 ft msl, and, at the elevation of the accident site, the terrain would have been obscured by clouds. *Examination of the wreckage did not reveal evidence of* any pre-impact mechanical malfunctions or anomalies that would have precluded normal operation of the airframe or engine. *The orientation of the wreckage indicated that*, at impact, the airplane was heading south and traveling at a ground speed consistent with normal traffic pattern speeds. *The damage to the airplane was consistent with* controlled flight into the terrain, and the airplane's impact heading was consistent with the pilot attempting to return to the airport when the airplane collided with the rising terrain.

The National Transportation Safety Board determines the probable cause(s) of this accident as follows:

The noninstrument-rated pilot's decision to conduct a visual flight in instrument meteorological conditions, which resulted in controlled flight into mountainous terrain.

Full narrative available

(Index for August 2015)

A quick look at the summaries of the United Kingdom's AAIB (Air Accidents Investigation Branch), for example, corroborates the NTSB's distinctiveness just mentioned: AAIB synopses are also composed of recapitulative headers preceding the main text, but this is limited to the exposition of the flight history and the results derived from the investigation, and due to the enunciation of the verdict in the simple past tense (e.g. "The investigation identified the following causal/contributory factors"), it lacks any performative character whatsoever. Yet apart from their rhetorical structure based on a vivid amalgam of narratives, there is one more reason why NTSB dockets stand out among the synopses issued by other transportation agencies round the world, invariably monomodal (i.e. verbal), monological (i.e. with no witness or victim stories but the account of a single omniscient narrator from the Board), and expert-oriented (that is, with little lay reader-considerateness in the form of glosses and inferential markers). The additional difference is made by the NTSB's semiotic choice in terms of genres and channels of communication, not only verbal but visual and even multimodal. The Board has recently incorporated a constellation of narrative genres with different degrees of vividness, level of disclosure and reader engagement (i.e. with specialised technical and bureaucratic jargon, glossed or not, and more or less argumental guidance along the main lines of technical reasoning) to inform its website users of a single accident or incident.

Several of these genres inform and bank on one another: abstracts and the executive summaries within full reports, for instance, draw on dockets, which most frequently offer the first informative contact with the general public and always contain a clickable hypertextual legend at the end ("Full narrative available") through which the other constellated genres can be accessed. Full reports serve to design animations reproducing the accident and/or its circumstances and may yield a cluster of existing associated legal texts or inspire the creation of new ones. Presentation slideshows, for their part, may also inform animations and press releases and complement full reports. In previous work (Sancho Guinda 2015) I have noted that some NTSB genres are more oriented towards laypeople than others: we could trace a continuum (Figure 1) at whose two poles the genres fully understandable by non-experts (e.g. press releases and dockets) and those requiring a high

expertise (e.g. legal texts and full reports) would be positioned. In the middle region between them there would be intermediate genres such as the animation simulation and the presentation slideshow. Furthermore, genres that are bimodal (e.g. full reports, both verbal and visual) and multimodal (e.g. animations and slideshows) do not necessarily present the most vivid narratives.



Figure 1. Genre constellation continuum in the NTSB website.

The cline of narrative vividness, surprisingly, reaches its peak in the docket, which are solely verbal but may introduce direct speech testimonies, the aforementioned *in medias res* openings (1) to capture attention and achieve a climactic effect, and changes of pace for the same purpose and by means of tense and perspective shifts that may confer the telling a filmic or cinematic quality (2).

- (2) The video equipment that was carried by the cinematographer captured the collision. The cinematographer jumps with the last tandem jumpers. The tandem chute deploys at 3 minutes and 7 seconds into the video, 13 seconds later the chute deploys. (NTSB MIA05LA096)

1.2. The study: Corpus and methodology

In this study, essentially qualitative, I scrutinized an electronic corpus of 1,708 NTSB docket samples online, both manually and with the aid of the freeware concordancer program *AntConc 3.2.1.w* (Anthony 2007). The samples span the investigation period 2005–2015 and total 555,277 tokens (words and figures). All of them are retrievable from the website <www.nts.gov/_layouts/ntsb.aviation/month.aspx>. My motivation for choosing dockets of fatal probable-cause accidents has been the assumption that they will exhibit a wider repertoire of persuasive/influential strategies than the other docket types, owing to their completeness, speculation and dramatic nature.

Many of these strategies were detected by searching electronically key metadiscourse items with the *AntConc* program: glosses and connectives of deduction to evaluate the level of deference towards lay readers, quotation marks to spot direct speech passages and with them storytelling fragments and hedged criticism (for example, of the crew's behaviour) in the voices of witnesses and characters, and signalling nouns denoting expert actions and figures (e.g. *analysis*, *surgeon*) to find out how much self-mention and self-praise are present and how they are accomplished – whether directly or in a subtle and depersonalized way. To conclude, speech representation was closely looked at through a search of different types of reporting verbs drawn from the inventories of Thompson (1994) and Machin/Mayr (2012). They give us an idea of the degree of interpretive interventionism from the NTSB.

I will analyse all of these stylistic and persuasive traits in the light of a blended framework that fuses Clifford's (1988) reflexive anthropological outlook on culture with studies on organizational discourse (Hardy/Phillips 2004; Mumby 2004), persuasion (Cockroft *et al.* 2014; Pishwa 2015; van Dijk 2016), and norm transgression and genre innovation (Cook 1994; Tardy 2016). The rest of the chapter will be structured around Clifford's four forms of textual authority (i.e. hegemonic, dialogical, experiential and polyphonic) and my major point will be that genre bending (Bhatia 2004), that is, the appropriation of generic resources leading to genre mixing and modification/manipulation, can become a compelling device for.

2. Types of influence-aimed textual authority in NTSB dockets

Clifford's (1988) self-critical view is part of the so-called 'reflexive turn' (Bachmann-Medick 2016) in the anthropological description of culture, which has been studying forms of cultural representation over the last two decades, whether through writing (scholarly, literary or of any other kind across disciplines) or alternative sorts of rendition. It turns its gaze

towards the specific narrative and rhetorical traditions of the writer's own background and the power implications they carry. According to Bachmann-Medick (2016: 109), in the reflexive turn "power becomes a category of cultural anthropology and the study of culture as a whole", and the critique of representation through discourse systems is given "a political focus". The four Cliffordian categorizations of authority we are going to examine next will unveil the NTSB's hidden agenda of claims to power in its institutional and concurrently professional discourse.

2.1. Hegemonic authority

Dictionary entries define *hegemony* as the predominance of one state or social group over others, as the social, cultural, ideological, or economic influence exerted by a dominant collectivity. In this sense, I venture to say that the NTSB's discourse in its aircraft-accident dockets online functions as a tool for institutional branding by means of two intertwined strategies: maximum reach and coverage, and popularization, which are mutually dependent and in the service of the Freedom of Information Act (FOIA), one of the political pillars of U.S. democracy. Enacted in 1966 and in force since 1967, the FOIA prescribes a policy of transparency in every administrative account from the federal government. The NTSB highlights its crucial role in the 'About Us' button of its website when specifying its mission statement (3, italics mine):

- (3) Staff in the NTSB's Freedom of Information Act (FOIA) office process hundreds of FOIA requests every year. Their work is their passion and they take great pride in ensuring that the agency is *open* and *transparent* to the American public.

Elsewhere (Sancho Guinda 2013: 408), and because of this shared political value, I qualified NTSB synopses as 'all-American stories' symbolically owned by the citizens and not only by their makers (i.e. survivors, witnesses and NTSB writers, researchers and proofreaders). But what does 'transparency' really mean? It intends a maximum reach of audiences and topic coverage, and results from the interaction of two communicative components: accessibility and informativeness. Accessibility requires a wide dissemination as much as a minimal intelligibility

of texts, which presupposes the message to be explicit and memorable. These premises have impelled the NTSB to opt for the proactive publication online of docket¹ information since July 1, 2009, and for the periodic introduction of upgrades to facilitate searches within its docket databases, given that over 130 entries are on average posted monthly to its website. Explicitness and memorability are achieved through the variety of networked or constellated genres already commented upon, a transgressive storytelling format that employs drama features and emotional language via direct speech testimonies, and with hyperlinks and metadiscursive glosses, which improve comprehension in the midst of a continuous ‘code switching’ (Sancho Guinda 2015: 195) between technical (e.g. aviation, engineering, medical and legal jargons) and conversational registers, standing in stark contrast with the ‘quasi-telegraphic’ online synopses issued by other transportation agencies.

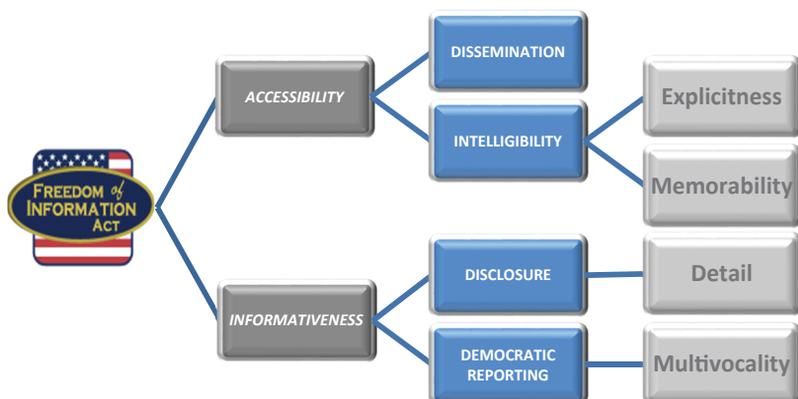


Figure 2. Components of the FOIA's transparency policy in NTSB dockets.

Informativeness embraces two additional subcomponents: the level of disclosure and democratic reporting. The former has to do with the sphere (public or private) where the events happen and with the amount of detail or ‘granularity’ (van Dijk 2016: 363–364), often an indicator of importance and a resource for clarification: the more details, the more clarity (van Dijk 2016: 363). The latter, democratic reporting, prevents

1 Unless the information is protected from public disclosure (e.g. gagged by judges if used as evidence at court).

bias and ensures public participation by approaching the same facts from different angles – with multivocality. The combination of semi-otic modes and communicative channels operates as a bridge between accessibility and informativeness, keeping their relationship balanced; that is to say, avoiding the flouting of any of the Cooperative Principles (of quantity, quality, manner and relation). Let us think that the NTSB's use of CVRs and simulation animations normally increases expository clarity, helps retain facts and concepts, reinforces plural reporting, and displays more details, some of which may be otherwise inaccessible to the target readership – for example, cockpit conversations that would have never seen the light and recreated flight trajectories that were invisible to crew and passengers.

The intention to reach large audiences and cover the most content leans fundamentally on the principles of autonomy (readers themselves choose their reading and viewing paths), completeness (the constellation of genres offers a vast multidisciplinary approach), and flexibility (the information presented is, depending on the genre, adapted to different degrees of expertise and styles of learning). Thus, the audience is empowered and in condition to partake of the NTSB's ideology while becoming influenced on risk matters, and the institution brands itself as competent and democratic. With that goal, the NTSB meets the requisites for dialectical power set by Walton (2006); a series of questions relative to the expertise, trustworthiness, backup evidence and consistency of the addresser's statements and his/her role: How credible is the NTSB as an expert source? Is it socially reliable? Are its claims based on empirical evidence? Are they consistent with what other experts assert? With its conjunction of testimonies and deliberations, its vividness and multivocality (including the connections among texts: previous dockets reporting on similar accidents, pilot's logbooks, rules and regulations, legal cases, technical manuals, etc.), the NTSB strongly contributes to answering all of these queries positively.

As will be corroborated by further examples later on, the persuasive strategies deployed by the NTSB are deeply enmeshed: the inclusion of first-person testimonies in direct speech (the histories of victims, crews and witnesses) brands the institution as democratic, instils *pathos* to move the audience and stir the desired emotions of anger and fear towards danger, and popularizes contents through a casual,

conversational tone. Detail disclosure suggests precision (expertise) and creates an atmosphere of closeness to the audience, bringing nearer the risk, both deictically (i.e. spatially and temporally, as a ‘here and now’) and socially (i.e. thanks to the intimacy built through detail, emotion and the conversational register), in what Cap (2013) terms as ‘proximisation’. Likewise, storytelling gives rise to emotion, popularizes contents and impinges on intelligibility and memorability, and the three chief types of multimodally animated simulations (i.e. of flight routes, weather reports and 3D reconstructions) shown in Figure 3 add motivational and decorative functions to the clarifying and mnemonic effects they work.



Figure 3. Chief types of air-accident animations in the NTSB website.

Whether more or less unobtrusive, intertextuality, in short, not only substantiates the Bakhtinian thesis (Bakhtin 1981) that every text is polyphonic because it results from previous and simultaneous communicative interactions, but also contributes significantly to the *logos* and *ethos* of the message. True, the technical and normative literature mentioned, the former institutional records of similar accidents, and the witness and victim stories present in the NTSB dockets of fatal aircraft-accidents underline corporate virtues such as credibility and reliability, coherence, deference, thoroughness, and democratic spirit. Thanks to its complex intertext, the authority wielded by the Board is less vertical and dependent on an omniscient narrative that might turn accounts overbearing and absolutely unquestionable for NTSB outsiders and the general public. On the contrary, such authority is flexible and expansive, as it makes room for a host of alternative co-narrating voices and the viewpoints they communicate in gradual convergence towards the final and unanimous institutional verdict. Further functions of multivocality/intertextuality will be duly explained in subsection 2.4, on polyphonic authority.

Animated simulations are co-constructed by field researchers, expert analysts, board members and animation artists. Their format may include tridimensional figures, diagrams (still or in motion), photographs, video clips from surveillance cameras or the witnesses', CVRs, and voiceovers. Their didactic efficacy is determined by their compliance with the two basic animation principles, namely the 'congruence principle' and the 'apprehension principle' (Tversky *et al.* 2002). This design constraint is perhaps the reason why the NTSB has taken a long time to put animations at the public's disposal (it posted them as late as in 2013) and the number of samples is still small (only 28 for more than 2,000 dockets). While the congruence principle demands that format and content be somehow similar,² the apprehension principle posits the need for metadiscourse (frames and vectors) due to the complexity inherent in any animation. The NTSB practises seven more simplifications to prevent the cognitive overload (Chandler/Sweller 1991) that might be generated by the numerous stimuli: short duration, slow-pace trajectories and single-scale displacements in flight paths (e.g. the aerial photos and satellite maps do not vary their sizes with the aircraft's changes of altitude and distance), a selection of relevant CVR snippets and simulated flight instruments at sight, transcripts of CVRs, and a 'realistic schematism' of graphics (either diagrammatic visuals that pursue functional rather than physical fidelity, or the coexistence of vectors with realistic images).

As animations are brief and their focus is too partial and narrow, they cannot be considered a second way to tell a story, but rather 'emotional mediators' (Sancho Guinda 2015: 208) kindling sentiments before the risk can be consciously evaluated. Experiments on risk perception (Xie *et al.* 2009) have proved that images sharpen the cognition of danger, and it is more than likely that the NTSB is exploiting this fact. Actually, 56% of the animations posted recreate fatal accidents and include CVRs and 3D reconstructions, two affordances that might be taken by survivors and victims' families as face-threatening acts

2 For instance, flight paths follow a linear itinerary in synchrony with CVRs and the passing above geographical points on a satellite map or aerial photograph, and in the case of 3D simulations, the viewer faces a cockpit window and a dashboard with a selection of flight instruments that govern the aircraft's movements.

(FTAs) for playing the voices of late crew members and trivializing the catastrophe as a flight simulation videogame, although no ‘pragmatic censorship’ has been heard of as yet.

2.2. *Dialogical authority*

This form of textual authority consists in the ability to acknowledge addressees as interlocutors and co-negotiators of meaning, and broadly corresponds with Hyland’s (2005) metadiscursive approach to texts, especially in what regards his categories of ‘interactional metadiscourse’ and ‘engagement’ to mitigate the gap between experts and lay-people. Earlier I have touched on the communicative repercussions of ‘granularity’ and ‘proximization’: that is to say, the revelation of details and the nearness and intimacy established between addresser and audience serve both didactic and branding ends. Dialogue, be it actual or metaphorical (as in writing) becomes the ideal frame for intimacy and hence for disclosure.

In the ‘dialogue’ between the NTSB and the general public, we may find two popularization strategies of a linguistic kind. On the one hand, informal comparisons such as similes, analogies and metaphors based on everyday artefacts, actions and situations, and on the other, conventional metadiscourse items for glossing and hedging. Informal comparisons are direct speech testimonies that may even contain onomatopoeias (4) or inaccuracies and colloquialisms (5) in an effort to categorise and accommodate the accident experience into pre-existing mental schemata (4):

- (4) Another witness, located in his residence, heard the airplane and a few minutes later heard a “pop”. (NTSB DEN05LA060)
- (5) One witness reported hearing “at least one engine running”, and another witness reported hearing the airplane’s “throttle, and then no throttle, and throttle again” prior to the impact. (NTSB NYC05FA053)

As for the metadiscourse items, the inverted commas marking the informal comparison in direct speech deftly segregate the community of experts from the lay audience. In this way, the knowledge superiority of

the addresser, who instead would have used a specialized jargon term, becomes manifest. Quotes act as didactic devices simplifying a concept or a perception difficult to describe, but also as hedges by which the addresser shakes off responsibility for an excessive subjectivity or an inaccuracy. Metadiscourse devices, however, are in their majority used for guidance, in particular glosses (6) and inferential markers signalling deduction (7), such as *thus*, *therefore*, *since*, *consequently*, or *because of*, which would indeed appear superfluous to expert readers. Italics are mine in all cases:

- (6) At the time of the accident, the pilot was regularly filling prescriptions for fentanyl (*an impairing narcotic*) patches and carisoprodol (*a sedative muscle relaxant*) at least every four weeks. She was also taking gabapentin (*an anti-seizure medication, also used to treat chronic pain*), and fluconazole (*a prescription antifungal medication prescribed 8 days prior to the accident, which had the potential to substantially interfere with the metabolism of fentanyl*). (NTSB NYC06LA144)
- (7) During inspection of this fitting it was noted that the o-ring seal was very brittle, and the locking mechanism could not lock the fuel line into the engine fuel line fitting. This would have caused a restriction of fuel to the engine *therefore* causing fuel starvation, and a subsequent loss of engine power. After the accident, fuel was supplied to the engine and a test-run was successfully completed. (NTSB ATL07LA054)

The two remaining dialogical strategies for exerting influence through popularization are storytelling and detail disclosure (i.e. granularity), respectively rhetorical and content-based. Storytelling is dialogical per se: characters engage in conversation as do, metaphorically, the narrator with the audience, witnesses and victims, and the whole aviation community. As I have already held some pages back, storytelling raises *pathos* and allows for climactic structures with occasional *in medias res* beginnings (8) instead of a proper framing and orientation of the accident circumstances.

- (8) The pilot/owner and his pilot/rated passenger were on final approach to runway 27 when the wind increased and became gusty. (NTSB NYC07FA 100)

I may also say that storytelling fulfils a glossing function as a ‘complex metadiscoursal device’ and plays an emphatic role thanks to its

dialogical vividness because, as Tannen (1989: 29) contends in her own words, dialogue is “liminal between repetition and image”. Finally, the abundance of detail adds credibility to the account, while tinging it with a gossip tone that borders on flouting the maxims of quantity and relation (9, *my italics*).

- (9) Around the time of the accident the owner and his spouse *were in their front yard with their coffee and newspaper* walking towards the back of the house when they saw the accident airplane. (NTSB LAX05FA062)

Is so much private information – apparently trifling – really important, being absent in the synopses of other national agencies? Could it just be a rapport device or an intimacy builder, or an attention catcher to set the scene prior to the accident and make it more memorable? Or does it aim to boost institutional *ethos* by emulating the thoroughness and earnest credibility of legal statements?

2.3. *Experiential and interpretive authority*

Intimately related to the establishment of a professional *ethos*, this third type of textual authority rests on self-reference and reporting strategies. Explicit *ethos* is scarce because institutional self-praise is made indirectly through ‘abstract rhetors’ (Thompson/Thetela 1995), signalling nouns that depersonalize and mitigate agency (10, *my emphasis*). Most of them (86.4%) denote expert actions (e.g. *investigation, study, analyses, examination, autopsy, tests*, etc.), whereas expert figures (e.g. *specialist(s), research team, investigator(s), surgeon, psychiatrist, forensic toxicology*, etc.) barely amount to 13.6% of all references (11, *again emphasis mine*). Both abstract rhetors and expert figure mentions suggest competence, accuracy, professionalism, credibility and trustworthiness.

- (10) *Toxicological testing* performed on the pilot revealed levels of volatiles consistent with post-mortem ethanol production. *Examination* of the recovered wreckage revealed no evidence of any pre-impact mechanical malfunctions. (NTSB IAD05FA146)
- (11) According to *investigators* from Ballistic Recovery Systems (BRS), following the examination of the ballistic parachute system, they determined the system

was deployed outside of the operating envelope of the system, which is 133 knots indicated airspeed. (NTSB LAX05FA088)

Self-mention is reduced to the delimitation of responsibilities (12) and to ritual language (13), and unfailingly made in the third person singular. It is worthy of note that for the first purpose the acronym NTSB is always preferred (12), while for the second the full extended form is maintained (13). Emphasis is mine in every sample.

- (12) On January 23, 2009, *the NTSB indicated* that the continuing delays in development of a final rule to require H-TAWS were not acceptable. [...] On November 13, 2009, *the NTSB reiterated* Safety Recommendation A-06-15 in its report regarding the September 27, 2008, accident involving an Aerospatiale SA365N1, N92MD, operated by the Maryland State Police, which crashed during approach to landing near District Heights, Maryland. Safety Recommendation A-06-15 is on the NTSB's Most Wanted List of Transportation Safety Improvements. [...] *While the NTSB recognizes* that it was the pilot's responsibility to "see and avoid" the radio tower, the controller also had a responsibility to issue an alert as required by FAA directives. Review of recorded communications showed that no warnings were issued to the pilot before the accident. (NTSB CEN09MA019)
- (13) *The National Transportation Safety Board determines the probable cause(s) of this accident as follows:*
The pilot's incapacitation due to fatigue resulting in an in-flight collision with terrain. (NTSB DEN08FA162)

Ritual discourse underscores the importance of organizational life and enacts expertise and, in consequence, authority (Mumby 2004). The performative character of the verb *determines* bestows the verdict with official recognition and strengthens the institution's *ethos*, which conditions the audience's judgement of whether the addresser has the right to bend a genre, and bent genres in turn call attention toward the addresser's authority (Tardy 2016).

Reporting by the NTSB tends to be discreet and non-interventionist (Figure 4): the addressee is given freedom to interpret direct speech testimonies and few quotative verbs interpret perlocutionary effects (e.g. *persuade, encourage*, etc.). The overwhelming majority are 'neutral' reporting structures framing an utterance with minimal nuances for distinguishing locutionary speech acts (e.g. interrogative requests from mere informative disclosure in affirmative form).

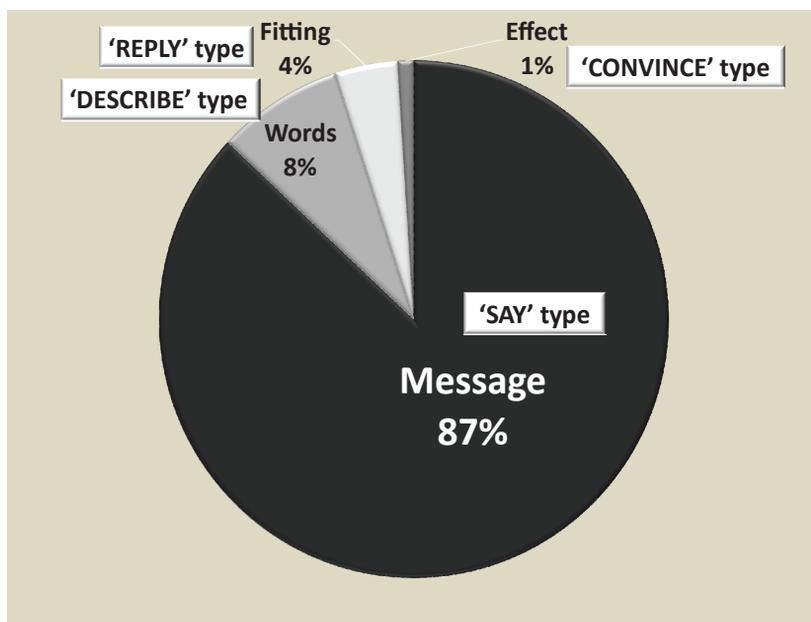


Figure 4. Distribution of reporting verbs in the NTSB docket corpus.

Table 1 labels each category of reporting verbs: those of the *say* type, strictly focused on the message, more specific ones pointing at the informative intention of the speaker with moderate subjectivity and through meta-linguistic words (verbs of the *describe* type), then those indicating how the reported message fits in the course of the interaction between characters in the story (*reply* type of verbs), and those interpreting the speaker's intention and its effect with overt subjectivity (*convince* type).

Table 1. Taxonomy of reporting verbs (adapted from Thompson 1994 and Machin/Mayr 2012).

<i>SAY</i> TYPE	<i>DESCRIBE</i> TYPE	<i>REPLY</i> TYPE	<i>CONVINCE</i> TYPE
Ask	Advise	Accept	Alert
Comment	Announce	Acknowledge	Caution
Communicate	Assure	Add	Convince

<i>SAY</i> TYPE	<i>DESCRIBE</i> TYPE	<i>REPLY</i> TYPE	<i>CONVINCE</i> TYPE
Disclose	Claim	Agree	Encourage
Indicate	Complain	Confirm	Persuade
Inform	Declare	Concur	Warn
Inquire	Depict	Decline	
Mention	Describe	Deny	
Note	Explain	Refuse	
Observe	Instruct	Reiterate	
Query	List	Reject	
Recall	Offer	Remind	
Recount	Order	Reply	
Relate	Outline	Respond	
Remember	Predict		
Report	Propose		
Request	Quote		
Reveal	Recommend		
Say	Suggest		
State			
Tell			

NTSB reporting, we may summarize, undergoes a tension between a predominance of indirect speech coexisting with direct speech testimonies interspersed in the text. Nevertheless, the NTSB’s reported speech does not incur excessive subjectivity, so that interpretive impositions (and with them potential FTAs) are avoided. This contrasts with the solemnity of the performative verdict formulas, which exert full authority without providing readers with any margin of freedom and doubt.

All in all, the NTSB’s experiential and interpretive authority is double-sided: inconspicuous self-mentions go hand in hand with a somewhat loose verbal reporting of narrative voices and events and strong ritual imposition of judgement closing every text.

2.4. Polyphonic authority

So far I have argued that multivocality performs multiple functions: first, didactic (as a complex metadiscourse item – an extended gloss or explanation – and a popularization of technical issues); second, ideological, because it embodies the institutional transparency of the FOIA, one of tenets of American democracy, by introducing a plurality of voices in the narrative and increasing institutional credibility through detail; and third, interpersonal (as a proximization device, intimacy and rapport builder, and a cohesive tie for intertexts and discourses). The didactic and interpersonal sides of multivocality are clearly engagement-oriented, but its stance dimension deserves yet more careful exploration as it may go unnoticed.

Polyphony, in effect, may be turned into a hedge of narrative agency and opinion. I have mentioned how direct speech between quotes isolates *sui generis* perceptions and inaccuracies within informal comparisons made by witnesses. Through punctuation, the NTSB distances itself from non-expert accounts while saving face as a co-narrator in a plural account instead of undertaking the role of omniscient and monological narrator, which could constitute a FTA and diminish objectivity. Nonetheless, through multivocality the NTSB covertly judges the behaviour of accident actors. This may be done through direct speech testimonies (14) or references to normative literature (15).

- (14) The witnesses said that the passenger told them that he and the other pilot were “going to show you guys what flying is about.” (NTSB LAX06LA110)
- (15) According to FAA regulations, “no pilot may continue below the authorized MDA unless the airplane is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, the flight visibility is not less than the visibility prescribed for the instrument approach procedure, and the runway environment is distinctly visible and identifiable to the pilot.” (NTSB CHI06FA232)

In (14) the pilot is indirectly portrayed as foolhardy and guilty, and (15) also accuses him/her of irresponsibility in a detached manner, via normative texts. Two other intriguing aspects of the stance expressed by polyphonic authority are the drama connatural to multivocal storytelling (16) and the complex proximization conveyed by reporting embeddings (17).

- (16) While on the mission a radio distress call, “Mayday, Mayday, Mayday, we are going down,” was heard on the mission operating frequency. (NTSB DFW05 FA086)
- (17) A witness stated, “I looked out of my window right in front of my desk after a co-worker said “Oh my God”. (NTSB CHI07FA140B)

These two examples vividly bring the risk closer to the audience and, precisely because of that very vividness, they would have seldom been believed to be part of a technical synopsis. At the most, one would have expected summarized reports in indirect speech (of the type “The crew’s desperate radio call was heard on the mission operating frequency”, or “Then the witness, alerted by a co-worker, looked out of the window”). They also evince the intricacy of plural accounts, with several narrative layers and unusual spatiotemporal and vocal shifts.

Polyphonic authority, all the same, does not confine itself to a *mélange* of voices and stories, but configures a hybrid or interdiscursive register, a sort of ‘pastiche’ (Sancho Guinda 2015: 195) between technical and clinical jargon, conversational direct speech excerpts, literary fiction and vivid journalism (e.g. because of its climactic rhetoric and frequent questions and inclusions of private detail – exchanges among the crew in CVRs, medical histories, or even brief sentimental brushstrokes to depict the psychology and drives of certain characters in the narrative), and occasional legalese (e.g. in the quotes of aviation rules and regulations). What is more, all of these features superpose over the pairs of fused discursive singularities of the accident docket genre I defined as ‘hybrid’ at the outset of this chapter, as they separately belong to disparate registers: objectivity and subjectivity, orality and literacy, prescription and performativity, and scientific and personal narrative.

3. Concluding thoughts

This analysis of NTSB aviation-accident dockets has shown us how a governmental agency can exert (and build) authority to change mindsets and behaviours with a view to improving accident prevention. Most

often the NTSB resorts to persuasive strategies based on its discourse on technical and professional issues, in which instructional, branding and ideological pursuits converge. We have seen that the texts under study deviate significantly from the habitual schematic expectations for dockets, and consequently may be regarded as instances of a bent genre whose multiple 'discourse disruptions' (Cook 1994), synergize to chisel the institution's *ethos*. These disruptions mainly consist of hyperlinks, literary features introducing *pathos* at the rhetorical, sentence and word levels, and the combination of direct speech insertions with averral and varying degrees of attribution. The corporate identity, reputation or institutional *ethos* so modelled, that of a trustworthy and empowered body in the service of the U.S. democracy, feeds on discursive persuasion but also practises influence silently by predisposing the audience to assimilate the information, and entitles the organism to continue bending the docket genre and others in order to attain its didactic and political aims. It is not easy to elucidate, though, whether the NTSB's institutional intentions leading to strategic manipulation are really 'private' or simply 'a bit less communal' than just informing about an accident and preventing its recurrence. After all, in the government's eyes the act of instilling the principles of American democracy in the citizenship may be as oriented to the common welfare as is revealing details about aviation mishaps. Since Bhatia (1993, 2004) holds that the mixing of private goals with socially accepted communicative purposes may result not only in genre mixing, embedding and bending, but also occasionally create genres in conflict, it seems obvious that the notions of 'private' and 'conflict' should be brought into clearer focus. NTSB dockets certainly appear more deviant than conflictive, and their deviation has, up to now, been confined to rhetorical structure (e.g. the aforementioned *in medias res* openings and direct speech testimonies), the disclosure of subject-matter content (e.g. private information) and pioneering practices such as the proactive creation of online databases and recourse to multimodality.

We might then understand that the NTSB docket genre has been 'repurposed', to use Askehave and Swales' (2001) term, but it is questionable whether we can call 'repurposed' a genre traditionally occluded and out of the general public's reach, just because it has been proactively disseminated in a digital medium: a broader audience and technological

achievements may not suffice to trigger re- or multi-purposing. Let us say, at the most, that it is now more multifunctional than it used to be, since it has maintained its original *telos* (Martin 1992) or primary social communicative purpose intact, but has incorporated others – not in vain, twenty years ago Johns (1997) warned against attributing single objectives to genres. Time will tell whether the institution will expand its changes and modify textual formats, chances for interaction with the public, and investigation procedures, and whether what today is seen as genre bending will be defined as ‘genre innovation’ in the near future.

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HOLLY VASS

The Role of Hedging in Balancing Power and Persuasion in the Judicial Context: The Case of Majority and Dissenting Opinions

1. Introduction

As an institution, the United States Supreme Court carries out three duties (van Geel 2001). Firstly, it settles disputes between parties. As the highest appellate court in the federal judicial system, it reviews the decisions of inferior federal courts for errors of law, and it also reviews constitutional issues raised in both federal and state courts. Secondly, by ruling on what is constitutionally permissible, the Supreme Court affects public policy. Lastly, by offering an explanation as to why a specific conduct has been considered constitutionally permissible or impermissible, the Court educates the general public on acceptable and unacceptable behaviour. In fact, Supreme Court decisions are often used as an educational tool in the law classroom to illustrate certain points of law and to aid students in developing skills of legal reasoning.

The visible result of a Supreme Court decision, the Supreme Court opinion, can take the form of a majority opinion or a dissenting opinion, each of which represents a different, but related genre belonging to what Bhatia (1987) categorizes as the judicial context. Of the 4000 to 5000 cases whose decisions the U.S. Supreme Court is petitioned to review annually, only 150 of the most significant are chosen (Renquist 1987). Undoubtedly, then, Supreme Court opinions fulfil several very important purposes which reflect the remit of the Court. Firstly, they serve as authentic records of:

all the facts of the case, the arguments of the judge, his reasoning, the judgment he arrives at and the way he does it, the kind of authority and evidence he uses

and the way he distinguishes the present case from others cited as evidence either by him or by opposing lawyers. (Bhatia 1993: 119)

In addition, Supreme Court majority opinions are binding on all lower courts. In other words, they actually become law, albeit unenacted, through what is known as the principle of *stare decisis* [let the decision stand]. This principle, which arose from a need to achieve consistency and efficiency in the application of the law, states that lower courts within the jurisdiction of a higher court of appeals are bound by decisions set forth in these courts (Friedrichs 2001).

Nevertheless, while the balance of power rests with majority opinions, which are binding by law, dissenting opinions are no less important in informing future generations of law practitioners and courts involved in related cases. The Supreme Court is comprised of nine members in total, eight Justices presided over by the most senior member known as the Chief Justice. The process to become a Supreme Court justice entails first being nominated by the President upon the death or retirement of a former member, and then being confirmed by the U.S. Senate. Presidents generally favour those who share their political leanings and support their policies. Thus, given that the appointment of a new member to the Court upon the death or retirement of a former member is “a political process from beginning to end” (Kahn 1995: 25), it is perhaps foreseeable that the Justices often hold quite different ideological views resulting in relatively few unanimous decisions. As Cohen (2011) explains, “As you would expect from any group of nine brilliant people who have wildly different views of history and the law, the Court is often divided”.

It is not uncommon for at least one or two justices to disagree with the majority, and while they are not required to give their reasons, most do, in fact, prepare a dissent to support their opposing interpretation of the law. These dissents often revolve around “case-internal issues such as flawed legal reasoning, inadequate explanations or evidence, misunderstandings of fact” (Breeze 2016: 364), and case-external features such as the purpose of a particular law, or the intention of particular law makers, be they the ‘founding fathers’ or Congress. Rather than attempting to change the mind of the majority, dissenters aim:

to arouse public opinion against the majority opinion. Ultimately, the dissenting judge hopes that the court will reconsider the majority opinion and overrule it and that his opinion will someday become the basis for a majority opinion in a similar case. (Patrick et al 2001: 192).

An example of this involves the notorious *Plessy v Ferguson* (1896) in which the Court upheld a Louisiana law requiring trains to provide ‘separate but equal’ facilities for black and white passengers, effectively segregating the races. In his dissent, Justice John Marshall Harlan wrote: “the Constitution is color-blind, and neither knows nor tolerates classes among citizens.” This was cited a century later by Justice Thurgood Marshall in *Brown v. Board of Education* which effectively reversed the *Plessy* decision.

While this case is perhaps unusual as the Court “does not readily admit errors and overrule past decisions” (Patrick et al 2001: 192), preferring instead to honour the principle of *stare decisis*, the reasoning put forward in dissenting opinions is often central to cases which are similar, but not identical. Thus, as Chief Justice Charles Evans Hughes explained,

A dissent in a court of last resort is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed. (1928: 68)

It is unsurprising, then, that both majority and dissenting opinions are often highly persuasive documents (Tiersma 1999) aiming to convince readers of the robustness of their reasoning particularly since readers can include not only those directly involved in the case, such as litigants, fellow judges on the same bench, judges at a lower appeal level, the judge of the trial court where the case was first heard before being appealed, and the counsel appearing before the judge, but also those who were not directly involved including policy makers, lawyers, law students, legal press reporters and academics at large (Kurzon 2001). Hedging can play a key role in striking a balance between rhetorical persuasion and power relations in this context.

Hedges include such words as *may*, *might*, *possibly* or *probably*, and show doubt or lack of conviction or commitment to the truth of a

proposition. Thus, they tend to weaken claims. As will be seen, while both majority and dissenting opinions employ hedges to nuance their language, these are far more common in dissents. This chapter will focus on the role hedges play in this important, yet often overlooked genre.

Hedging first became an object of linguistic interest when Lakoff, in his landmark article ‘Hedges: a study in meaning criteria and the logic of fuzzy concepts’, explored how language can be used “to make things fuzzier or less fuzzy” (1973: 471). An early focus was on how lexico-grammatical forms can be used to nuance an utterance in order to better convey human perception of reality. As the concept of hedging was extended and developed, several attempts at classifying realizations of hedges were made (Salager-Meyer 1994, 1997; Crompton 1997; Grabe/Kaplan 1997; Hyland 1996a, 1998b).

Perhaps one of the most popular classifications is Hyland’s (1996a, 1998b) which divides hedges into two categories: ‘lexical’ and ‘strategic’. Lexical hedges include: modal verbs (*would, may, could*); epistemic lexical verbs (*indicate, suggest, appear, propose*); epistemic adjectives (*likely, possible, apparent*); epistemic adverbs (*apparently, probably, relatively, generally*); and epistemic nouns (*possibility*). In addition to these lexical hedges, Hyland (1996a) suggests that there are other means of nuancing language which do not fit in the category of lexical hedges, and which can be realized in a wide variety of ways including the use of questions, conditional clauses and contrast markers, as well as a limited range of formulaic phrases. However he cautions that these other means of hedging, due to their wide variety, are not easily quantifiable.

Instead of dwelling on lexical representations of hedging, however, many researchers have realized the importance of the functional properties hedges demonstrate as well. Salager-Meyer, for example, advocated a hedging classification that is based on both formal and functional criteria. As she explains,

I believe that in spite of their undeniable contribution to the field, most studies which have been carried out so far on the topic of hedges have not made enough emphasis upon the fact that hedges are first and foremost the product of a mental attitude which looks for prototypical linguistic forms (such as modals, epistemic verbs, approximators, etc.) for its realization, but these linguistic

forms do not always carry a hedging nuance. Such an ambiguity – one linguistic form may serve many functions and the same function may be expressed using different forms – leads to the difficulty of identifying which of these linguistic forms are hedges and which are not. (1994: 153)

Hedging can serve epistemic, interpersonal and social functions. For example, hedging can be used to express the epistemic nature of knowledge (Mauranen 1997; Salager-Meyer 1997). While some researchers have suggested that hedging can be used when the writer/speaker wishes to disguise the fact that they do not know the precise details (Fraser 2010), Salager-Meyer argues that hedges are not always used in evasive tactics, but rather may be useful in allowing an author “to be more precise when reporting findings” (1997: 107). She explains that often hedges express the true level of knowledge and understanding an author has in relation to the results found, and therefore stronger statements would not be justified. Hyland contends that some hedges are used to “achieve precision; either by a) marking a departure from an ideal or b) indicating that a proposition is based on plausible reasoning or logical deduction in the absence of full knowledge” (1998b: 163).

Hedging can serve interpersonal purposes by shielding the writer from, or creating, a particular impression in the audience (Mauranen 1997; Namsaraev 1997; Salager-Meyer 1997; Hyland 2005). Toning down the language used to express commitment to the truth value of a claim can afford the writer some protection from those with divergent views and helps “to minimize the ‘threat-to-face’ lurking behind every act of communication” (Salager-Meyer 1997: 106). Alternatively, hedges can be seen as subtle rhetorical devices aimed at persuasion (Finegan 2010). For example, Meyer (1997) concludes that they can mitigate a counter argument in order to strengthen one’s own.

Finally, hedges may fulfil certain social purposes as well. Hyland (2009) contends that, in academic discourse at least, stance is most often conveyed through hedges. Stance, he explains, entails “judgements, feelings or viewpoint about something” (2005: 174) and expressing stance involves positioning, or adopting a point of view in relation to both the issues being discussed and to others who hold similar or different points of view. White (2003) agrees that when a speaker or writer takes a stand, he is doing so as a way to engage with socially-determined

value positions. Hedges indicating stance “invite readers to participate in a dialogue” (Hyland 1996b: 446). By recognizing alternative viewpoints, they open a ‘discursive space’ in which these viewpoints can be put forth (Hyland 2005: 179; Hyland 2009: 75).

To date, while studies of hedging in scientific and academic discourse abound (see, for example, classic works such as Crompton 1997; Grabe/Kaplan 1997; Hyland 1996a, 1996b, 1998a, 1998b; Markkanen/Schröder 1997; Salager-Meyer 1997, and more recent works from Warchał 2010; Hu/Cao 2011; Salager-Meyer 2011; Yang 2013; Yagiz/Demir 2014; Rezanejad/Lari/Mosalli 2015) there appears to be far less research focusing on hedging in legal discourse specifically. These have often focused on the academic context. For example, Bhatia et al. (2004) explored the use of hedging in the legal problem question answer genre and concluded that both lexical surface hedges and non-lexical strategic hedges (based on Hyland’s 1996a taxonomy) are “crucial for deductive reasoning and legal argumentation” (2004: 218). Tessuto (2011) also touches on the use of lexical and non-lexical hedging in the legal problem question answer genre to mitigate full commitment to a claim. Abbuhl (2006: 152) found that the ability of non-native post-graduates to competently use and interpret hedges in legal writing can be “notoriously problematic” for even advanced-level speakers, although it is crucial to a system which relies so heavily on interpretation of precedents. Ardizzone/Pennisi (2012) and Pennisi (2013) studied epistemic modality in law journals and found that the modal markers used, as well as the functions these carried out, differed according to the subject of the journal.

In terms of hedging in the judicial context, Toska (2012) centred his study on the use of hedging to express epistemic attitude in Supreme Court judgments of the United Kingdom. He asserts that the modal verbs *may*, *might* and *could* are often used to convey a judge’s stance on a given issue. Hinkle et al. looked at judgments at the U.S. District Court level and found that “district court judges not ideologically aligned with the majority of the overseeing circuit judges use more hedging language in their legal reasoning in order to insulate these rulings from reversal” (2012: 407). Thus, the greater the ideological distance between the district court judge writing the judgment and the circuit court judge reviewing his decision, the greater the amount of

hedging used. More recently, Cheng and Cheng (2014) studied epistemic modality in court judgments from Hong Kong and Scotland and found that its use in both corpora indicate that there is a comparatively similar standard of the balance of probabilities in both contexts.

My study, however, explores majority and dissenting opinions from the U.S Supreme Court, which, despite their importance to a wide audience, from law students to law practitioners and policy makers, have received little attention from linguists. In particular, my study focuses on how hedging is used to balance power and persuasion in both genres.

2. Methodology

In terms of methodology, I followed an integrated mixed methods approach, using the corpus linguistic tool WordSmith Tools version 6.0 (Scott 2014) first to quantitatively analyse a specialized corpus of representative examples of each genre in order to determine occurrence and frequency of key lexico-grammatical items used as hedges. A total of 81 texts (39 majority opinions totalling 206,899 tokens, and 42 dissenting opinions totalling 179,622 tokens) were analysed. These came from 39 cases heard before the Supreme Court in 2012 (and published in 2013), a list of which can be found in Appendix 1. Narrowing the corpus down to a single year allowed for a snapshot of contemporary hedging use in both genres.

In particular, the WordList function was used to search the corpus for instances of potentially high-frequency lexical hedges, a full list of which can be found in Appendix 2 (Hyland 1996a; Salager-Meyer 1997; Bhatia et al. 2004). In addition, the context of potential hedges was checked to qualitatively verify if they were being used as such and explore the function they served. As Clemen explains, “no linguistic items are inherently hedgy but can acquire this quality on the communicative context or co-text” (1997: 6). For example the modal verb *may*, which is considered a key epistemic modal (Coates 1983), can display deontic value in legal genres belonging to the legislative and judicial contexts. Therefore, simply counting the instances of *may* in a

text could entail “the risk of misrepresenting the discourse” (Crompton 1997: 279) as not all instances of *may* share the same function. In particular, in legal language, *may* most often has deontic value referring to permission as opposed to epistemic value referring to possibility.

3. Results and discussion

Results indicated that hedging devices are used differently, but predictably, in the two genres in function of power relations and persuasive strategies. However, dissenting opinions make greater use of hedges, employing 126 hedges per 10,000 words as compared to majority opinions with 101 hedges per 10,000 words, a difference of nearly 25%. These hedges are mainly formed by modal and lexical verbs (see Figure 1 below).

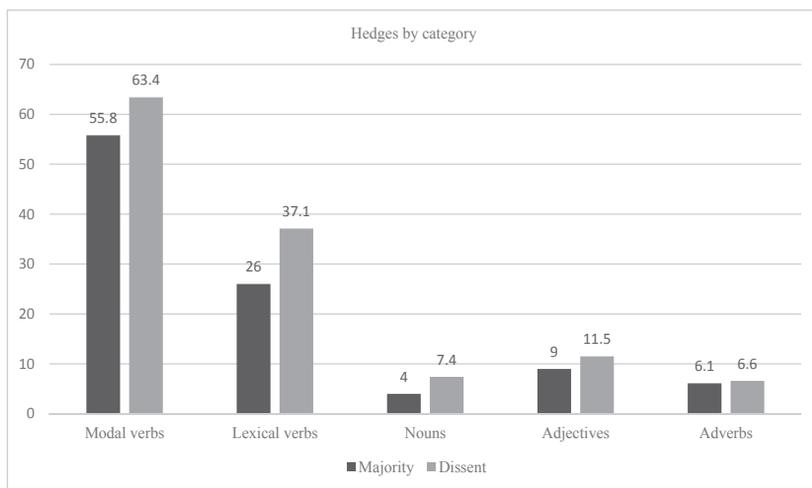


Figure 1. Frequency of hedges by category, per 10,000 words.

A complete list of hedges and their frequencies can be found in Appendices 3 and 4. These lists show not only the number of potential hedging items found in the corpus through the use of the concordancer

WordSmith 6.0 (Scott 2014), but also the number of true hedges which were confirmed after a contextual analysis using the Concord function.

The data in this study shows that there is 25% more hedging in dissenting opinions than in majority opinions, so the question, then, is why this is so. Hyland asserted that hedges carry both epistemic and affective meaning, transmitting “not only the writer’s degree of confidence in the truth of a proposition, but also an attitude to the audience” (1998a: 350). Hedges can mark a proposal as tentative so that it does not appear overly assertive and presume discourse community acceptance. In terms of academic genres, as Hyland (1998a) well noted, that could translate into a show of deference or humility and respect for collegiate views with the aim of gaining discourse community membership and approval. Equally, toning down a statement can shield the writer from exposure to criticism or loss of face. However, in terms of judicial genres, particularly dissenting opinions, hedging is less apt to signal epistemic doubt in claims made, and more inclined to indicate a value judgement towards the audience, especially the Majority.

In the Court’s more than 200 years of history there has been a clear move away from a focus on consensus, in which dissenting opinions were discouraged, to the modern focus on collegiality in which dissenting opinions proliferate. However, for the last 50 years, most dissents have been ‘respectful dissents’, making use of a variety of ‘respectful speech acts’ with a view to serving “the Court’s guiding institutional purpose of collegiality” (Harvard Law Review Association 2011: 1305). Use of such speech acts, one of the most common represented by the phrase *I respectfully dissent*, or a close variation, enables the Court to fulfil “collegiality’s dual aims of legitimacy and civility” (Harvard Law Review Association 2011: 1325).

Hedging in dissents, then, could enable the justices to fulfil the social purpose of mitigating language in order to encourage a good relationship with colleagues on the bench. Perhaps that is the motive for including hedged language as in the following example:

- (1) Perhaps the Court means in the future to curb the intrusion into local affairs that its holding will accomplish. (Justice Kagan dissenting in *Koontz v. St Johns River Water Management District* 570 U.S. 2013)

However, not everyone subscribes to the view that civility is paramount to US Supreme Court justices. Taking a close look at the example above, it is clear that the writer is pointing out the unintended consequences of a holding he disagrees with. In fact, it becomes clear in wider reading that the dissent is actually chiding the majority for its lack of clarity.

Indeed, Justice Ruth Bader Ginsberg explained in an interview with the American Constitution Society (2015) that the idea of a respectful dissent is “disingenuous”:

I think of my colleagues who have just criticized the court’s opinion as being ‘profoundly misguided’ – that’s one from [former Justice] John Paul Stevens – or from Scalia ‘this opinion is not to be taken seriously’ and then after saying that, then you end it [with ‘I respectfully dissent’ when] you’ve shown no respect at all.

In judicial genres, then, such as dissenting opinions, hedging items are most likely not included to show humility and deference. As members of the highest court in the land, and as powerful, strongminded law practitioners at the pinnacle of their career, Supreme Court justices have no need to gain access to some superior expert community and they seem little concerned by potentially face-threatening acts. While circumspect, the justices rarely “mute the expression of attitude or the intended emphasis” of their written opinions (Finegan 2010: 69). In fact, contrary to much public belief and considerable legal posturing, Supreme Court opinions can show strong, opinionated, even emotional language.

There seems to be little modulation of disagreement among American justices as Kurzon (2001) discovered. Both the majority and the dissenting justices refer to each other quite openly in their opinions, even by name as can be seen in the following examples:

- (2) The majority is dead wrong when it says that Mitsubishi reserved judgment on “whether the arbitration agreement’s potential deprivation of a claimant’s right to pursue federal remedies may render that agreement unenforceable.” (Justice Kagan dissenting in *American Express v. Italian Colors Restaurant*, 570 US 2013)
- (3) The purported rule is [dissenting] Justice Scalia’s invention. It cannot be attributed to anything the Court said... (Justice Ginsburg delivering the opinion of the Court in *Amgen v. Connecticut Retirement Plans*, 568 U.S. 2013)

Dissenting justices are often in a “lonely minority of one” (Ryder 2010) having lost the battle at hand, unable to convince their colleagues of their view on a particular case, but often hoping to ultimately ‘win the war’ by influencing readers outside the Court, public opinion, and future generations of lawyers and lawmakers. At the very least, they want it on the record that they disagreed with their colleagues’ reasoning. Nevertheless, they must accept that they are at a disadvantage, and that their views will not have immediate force.

To craft a persuasive document which may influence future generations, but, given their temporary inferior position of power, has very little real immediate effect, dissenting justices rely on a number of discourse strategies. Those involving hedging are used to cast epistemic doubt on the majority’s claims, to transmit a value judgment, and to provide a number of counter scenarios which contradict the majority’s rationale.

3.1. Casting epistemic doubt on the majority’s rationale

Meyer (1997) noted that hedging is often aimed at weakening a claim to the contrary, presenting it as unlikely or impossible. This certainly appears to be the case in the following examples. In each one, the majority’s view is presented first, but it is hedged, particularly through the use of the modal verbs *would* and *might* and, in the first example, the adjective *ideal*. Recognizing other viewpoints often has the effect of strengthening one’s claims when it is later presented in an assertive manner.

- (4) Moreover, the majority’s focus on ‘intact’ families begs the question of what Congress set out to accomplish with ICWA. In an ideal world, perhaps all parents *would* be perfect. They would live up to their parental responsibilities by providing the fullest possible financial and emotional support to their children. They *would* never suffer mental health problems, lose their jobs, struggle with substance dependency, or encounter any of the other multitudinous personal crises that can make it difficult to meet these responsibilities. In an ideal world parents *would* never become estranged and leave their children caught in the middle. But we do not live in such a world. (Justice Sotomayor dissenting in *Adoptive Couple v. Baby Girl*, 570 U.S. 2013)

- (5) Searching every lawfully stopped car, for example, *might* turn up information about unsolved crimes the driver had committed, but no one *would* say that such a search was aimed at ‘identifying’ him, and no court *would* hold such a search lawful. (Justice Scalia dissenting in *Maryland v. King*, 569 U.S. 2013)

May and *might*, which Coates (1983) considered epistemic modal verbs *par excellence*, are often used to weaken a claim. Although *may* often has a deontic value in legal genres, particularly those from the judicial and legislative contexts, there are many examples of its epistemic use in dissents.

Another way to cast doubt on a contrary argument is through the use of epistemic lexical verbs such as *contend* or *believe* or *suggest*. A writer’s choice of lexical verb is strategic, selected to adjust the strength of a claim as well as commitment to it in accordance with perceived limitations, lack of complete information, possible exceptions and alternative explanations. The lexical verbs below indicate that what is being claimed is an opinion, and not firm fact.

- (6) Because Congress expressly referred to manufacturing in this provision, the Court *contends*, the phrase ‘lawfully made under this title’ in §109(a) cannot mean ‘manufactured in the United States’. Ante, at 19. This argument is a non sequitur. (Justice Ginsburg dissenting in *Kirtsaeng v. John Wiley & Sons* 568 U.S. 2013)
- (7) For one thing, in applying this test the majority points to some characteristics of Lozman’s craft that have no relationship to maritime transport, such as the style of the craft’s rooms or that “those inside those rooms looked out upon the world, not through water-tight portholes, but through French doors or ordinary windows.” The majority never explains why it *believes* these particular esthetic elements are important for determining vessel status. In fact, they are not. (Justice Sotomayor dissenting in *Lozman v. Riviera Beach Florida* 568 U.S. 2013)
- (8) The Court *suggests* that the problem created by the second scenario is excusable because the plaintiffs will lose anyway on alternative merits grounds, and the case will be over... But nothing in logic or precedent justifies [this]. (Justice Thomas dissenting in *Amgen v. Connecticut Retirement Plans and Trust Funds*, 568 U.S. 2013)

3.2. Transmitting a value judgement

One impersonal construction that appears frequently in dissents is ‘existential *it* + adjective + *suggest*’. Interestingly, the adjective in this construction generally has a negative value as in the case of *odd*, *wrong* and *doubtful*. The justices who wrote the examples below use an explicit, unnuanced, direct statement (*it is odd/wrong/doubtful*) in conjunction with a weakening device (*to suggest*) in order to hedge their criticism of a given view, usually the majority view, ultimately strengthening their own argument by the very mention of an opposing viewpoint.

- (9) *It is also quite odd to suggest* that the problem with North Carolina’s law would go away if only the State provided some sort of study substantiating the idea that one-third was a good approximation in most cases. (Chief Justice Roberts dissenting in *Wos v. E. M. A.*, 568 U.S. 2013)
- (10) *But it is wrong to suggest* that this was uncontroversial at the time, or that this Court blessed universal fingerprinting for ‘generations’ before it was possible to use it effectively for identification. (Justice Scalia dissenting in *Maryland v. King*, 569 U.S. 2013)

Similarly, ‘*seem* + negative adjective’ can transmit a value judgment:

- (11) Sensing (correctly) that it needs more, the Court elaborates at length the ways that the search here served the special purpose of ‘identifying’ King. But that *seems to me quite wrong* – unless what one means by ‘identifying’ someone is “searching for evidence that he has committed crimes unrelated to the crime of his arrest.” (Justice Scalia dissenting in *Maryland v. King*, 569 U.S. 2013)

3.3. Speculation – presenting alternative scenarios

However, by far the most common hedge to appear in the dissents analyzed was the modal verb *would*. In fact, *would* appeared nearly 30% more frequently in dissents than in majority opinions. In conditional sentences, *would* is instrumental in presenting what would happen if the hypothetical situation mentioned in the ‘*if* clause’ were to be realized.

- (12) But *if*, as the Court suggests, there are a multitude of copyright owners championing at the bit to bring lawsuits against libraries, art museums, and consumers

in an effort to exercise perpetual control over the downstream distribution and public display of foreign-made copies, might one not expect that at least a handful of such lawsuits would have been filed over the past 30 years? The absence of such suits indicates that the “practical problems” hypothesized by the Court are greatly exaggerated. (Justice Ginsburg dissenting in *Kirtsaeng v. John Wiley & Sons* 568 U.S. 2013)

- (13) This is not to say that a structure capable of such feats is necessarily a vessel. A craft like Lozman’s *might* not be a vessel, for example, *if it could* only carry its owner’s clothes and personal effects, or *if* it is only capable of transporting itself and its appurtenances. But *if* such a craft *can* carry large appliances (like an oven or a refrigerator) and all of the other things we *might* find in a normal home in addition to the occupants of that home, as the existing records *suggests* Lozman’s craft *may* have done, then *it would seem to be* much more like a mobile home (and therefore a vessel) than a firmly rooted residence. (Justice Sotomayor dissenting in *Lozman v. Riviera Beach Florida* 568 U.S. 2013)

Nevertheless, as Parrott points out, “In fact we frequently use *would* without *if*. This is often to: speculate, express hypothetical meaning, describe what we are imagining” (2010: 159). “In this case, a condition is usually implied” (Parrott 2010: 279). As Carter and McCarthy explain, “*would* is frequently used to hedge assertions which someone might challenge” (2006: 281).

Perhaps Supreme Court justices are less motivated by the desire to deflect possible challenges than by the need to present a range of alternative scenarios. Hypothetical and counterfactual thinking are key for Supreme Court opinions which should not only settle the dispute at hand, but also they can have far-reaching consequences for future cases at all court levels. As the justices strive to provide a clear rationale for their decisions, consideration of a variety of scenarios, especially ones concerning different causes and effects of the act committed, help them to clarify their positions.

In addition, counterfactual conditionals are strongly related with causation, the relationship between a cause and effect, and defining this relationship is important in settling a legal dispute. By entertaining a variety of hypothetical situations the dissenting justice sheds doubt on the rationale for the majority’s holding as well as laying the ground for future trial lawyers who may find themselves involved in a case with similar circumstances.

3.4. Referring to 'The Court' explicitly

Dissents refer to the Court explicitly three times more often than majority opinions refer to The Dissent. This is done to increase distance from and decrease solidarity with the majority opinion and is often used in conjunction with an epistemic referring verb.

- (14) The Court *purports* to find support for its position in the House and Senate Committee Reports on the 1976 Copyright Act. It fails to come up with anything in the Act's legislative history, however, showing that Congress understood the words 'lawfully made under this title' in §109(a) to encompass foreign-made copies. (Justice Ginsburg dissenting in *Kirtsaeng v. John Wiley & Sons* 568 U.S. 2013)

3.5. Using first person I/me to mark independence of thinking

Use of the first person singular is commonplace in dissents, even when other Justices join the dissent (Harvard Law Review Association 2011).¹ While use of the first person can tone down a statement by clearly indicating that it is a personal, subjective opinion, and not necessarily the truth (Namsaraev 1997), in dissents it is most likely motivated by a desire to mark the dissenting justice's independence from the agreed rationale. In many instances, as in the examples following, the first person singular pronoun is used in the negative in conjunction with an epistemic lexical verb.

- (15) I do not contend that the phrases 'lawfully made under this title' and 'manufactured in the United States' are interchangeable. To repeat, I read the phrase 'lawfully made under this title' as referring to instances in which a copy's creation is governed by, and conducted in compliance with, Title 17 of the U.S. Code. (Justice Ginsburg dissenting in *Kirtsaeng v. John Wiley & Sons* 568 U.S. 2013)
- (16) I cannot imagine what principle could possibly justify this limitation, and the Court does not attempt to suggest any. (Justice Scalia dissenting in *Maryland v. King* 569 U.S. 2013)

1 In the corpus analysed, majority opinions overwhelmingly used 1st person plural *we* perhaps to signal consensus.

- (17) I do not mean to suggest disagreement with THE CHIEF JUSTICE's [dissenting] view that lower federal courts and state courts can distinguish today's case when the issue before them is state denial of marital status to same-sex couples – or even that this Court could theoretically do so. [...] In my opinion, however, the view that *this* Court will take of state prohibition of same-sex marriage is indicated beyond mistaking by today's opinion. As I have said, the real rationale of today's opinion, whatever disappearing trail of its legalistic argle-bargle one chooses to follow, is that DOMA is motivated by 'bare ... desire to harm' couples in same-sex marriages. (Justice Scalia dissenting in *United States v. Windsor* 570 U.S. 2013)

Justice Scalia contends that he does not disagree with the Chief Justice, but he does not say that he agrees either. 'I do not mean to suggest disagreement' serves to hedge and mitigate actual disagreement. This is not an attempt at deference or politeness. It is clear that politeness is not foremost in Justice Scalia's concerns. It is, rather, a way of saying that he joins Chief Justice Roberts in his rejection of the majority opinion, but for different reasons. He accepts full responsibility for this, as indicated by the use of *in my opinion*, which signals that what is being said is not necessarily a fact.

4. Conclusion

Ray concludes her article on judicial rhetoric and emotion by stating that "the challenge for strongminded judges, especially those assigned the extraordinary powers of Supreme Court Justices, is to harness personal identity in the service of judicial neutrality" (2002: 234). The need to balance power and persuasion requires a variety of discourse strategies among which hedging, as a means of nuancing language, is ideally placed.

Hedging can be the means by which dissenting justices cast epistemic doubt on the majority's arguments as well as express a value judgement on their reasoning. The objective is not to engage the majority in a dialogue over the merits of each sides' arguments. That debate has effectively already taken place. Rather, the intention is to

look beyond the opposing justices to reach the hearts and minds of the general public, and ultimately influence future policy makers and legal practitioners.

This study adds to the body of work on the use of hedging and related linguistic phenomena in the legal professional setting. Epistemicity in written genres from the judicial context, such as judicial opinions, has received little attention, and few studies address the generic features of majority and dissenting opinions. Nevertheless, there is evidence of key differences between the two not only in terms of communicative function, but also in rhetorical devices used as a result. This chapter has concentrated on hedging, particularly as marked by modal and lexical verbs, but a greater understanding of other discursive strategies would be beneficial to law students and law practitioners alike, as well as the general reading public, aiding them to better interpret the often very nuanced language of the judiciary.

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Appendix 1: Corpus

*United States Supreme Court Opinions*²

Adoptive Couple v. Baby Girl 570 U.S. (2013)

Agency for International Development v. Alliance for Open Society International 570 U.S. (2013)

Alleyne v. United States 570 U.S. (2013)

2 2013 opinions have not been assigned a page number yet.

American Express v. Italian Colors Restaurant 570 U.S. (2013)
Amgen v. Connecticut Retirement Plans 568 U.S. (2013)
Arizona v. Intertribal Council of Arizona 570 U.S. (2013)
Bailey v. United States 568 U.S. (2013)
Chaidez v. United States 560 U.S. (2013)
City of Arlington, Texas v. Federal Communications Commission 568 U.S. (2013)
Clapper v. Amnesty International USA 568 U.S. (2013)
Comcast v. Behrend 569 U.S. (2013)
Decker v. Northwest Environmental Defense Center 568 U.S. (2013)
Descamps v. United States 570 U.S. (2013)
Evans v. Michigan 568 U.S. (2013)
Federal Trade Commission v. Actavis 570 U.S. (2013)
Fisher v. University of Texas 570 U.S. (2013)
Florida v. Jardines 569 U.S. (2013)
Genesis Healthcare v. Symczyk 569 U.S. (2013)
Henderson v. United States 568 U.S. (2013)
Hollingsworth v. Perry 570 U.S. (2013)
Kirtsaeng v. John Wiley & Sons 568 U.S. (2013)
Koontz v. St John's River Water Management District 570 U.S. (2013)
Lozman v. Riviera Beach Florida 568 U.S. (2013)
Maracich v. Spears 570 U.S. (2013)
Maryland v. King 569 U.S. (2013)
Mcquiggin v. Perkins 569 U.S. (2013)
Moncrieffe v. Holder 569 U.S. (2013)
Mutual Pharmaceutical Company v. Bartlett 570 U.S. (2013)
Peugh v. United States 569 U.S. (2013)
Olivea Marx v. General Revenue Corporation 568 U.S. (2013)
Salinas v. Texas 570 U.S. (2013)
Shelby County v. Holder 570 U.S. (2013)
Trevino v. Thaler 596 U.S. (2013)
United States v. Kebodeaux 570 U.S. (2013)
United States v. Windsor 570 U.S. (2013)
University of Texas Southwestern Medical Center v. Nasser 570 U.S. (2013)
US Airways, Inc v. McCutchen 569 U.S. (2013)
Vance v. Ball State University 570 U.S. (2013)
Wos v. E. M. A. 568 U.S. (2013)

Appendix 2: List of 90 potential hedges

MODAL VERBS			
Could May Might Would			
LEXICAL VERBS	NOUNS	ADJECTIVES	ADVERBS
Appear	Assumption	Apparent	Almost
Argue	Belief	Arguable	Apparently
Assume	Claim	Assumed	Approximately
Believe	Doubt	Debatable	Arguably
Claim	Estimation	Doubtful	Essentially
Consider	Expectation	General	Generally
Depend	Hypothesis	Imaginable	Maybe
Doubt	Impossibility	Impossible	Partly
Estimate	Impression	Improbable	Perhaps
Expect	Indication	Indicative	Possibly
Imply	Inference	Likely	Potentially
Indicate	Likelihood	Possible	Presumably
Infer	Possibility	Potential	Presumptively
Question	Probability	Probable	Probably
Predict	Prediction	Questionable	Relatively
Presume	Presumption	Speculative	Roughly
Propose	Speculation	Uncertain	Somewhat
Seem	Suggestion	Unclear	Somehow
Speculate	Tendency	Unlikely	Theoretically
Suggest	Trend	Unreasonable	Typically
Tend	Thought	Virtual	Virtually
Think	Uncertainty		

Appendix 3: Key hedges in dissenting opinions

	Item	Occurrences	Hedge*	Per 10,000 words
1.	WOULD	669	669	37.2
2.	MAY	349	180	10
3.	COULD	209	178	9.9
4.	DETERMINE	145	114	6.3
5.	MIGHT	113	113	6.3
6.	SUGGEST	84	84	4.7
7.	NOTE	98	65	3.6
8.	ARGUE	63	63	3.5
9.	BELIEVE	63	62	3.5
10.	LIKELY	59	59	3.3
11.	GENERALLY	44	44	2.4
12.	THINK	56	39	2.2
13.	CLAIM	306	32	1.8
14.	ASSUME	38	31	1.7
15.	INDICATE	31	29	1.6
16.	POTENTIAL	29	29	1.6
17.	PERHAPS	27	27	1.5
18.	IMPOSSIBILITY	26	26	1.5
19.	APPEAR	40	26	1.4
20.	EXPECT	31	25	1.4
21.	SEEM	23	22	1.2
22.	HYPOTHETICAL	22	22	1.2
23.	POSSIBLE	22	22	1.2
24.	IMPOSSIBLE	21	21	1.2
25.	POSSIBILITY	21	21	1.2
26.	SUGGESTION	21	21	1.2
27.	ASSUMPTION	20	21	1.2
28.	CONSIDER	116	19	1.1
29.	IMPLY	20	20	1.1

	Item	Occurrences	Hedge*	Per 10,000 words
30.	LIKELIHOOD	15	15	0.9
31.	ALMOST	14	14	0.8
32.	APPARENTLY	14	14	0.8
33.	DOUBT	38	12	0.7
34.	PRESUME	22	12	0.7
35.	INFERENCE	12	12	0.7
36.	PROBABILITY	12	12	0.7
37.	DEPEND	27	17	0.6
38.	POSSIBLY	11	11	0.6
39.	PROBABLE	11	11	0.6
40.	UNCERTAIN	11	11	0.6
41.	APPARENT	10	10	0.6
42.	UNLIKELY	10	10	0.6
43.	UNREASONABLE	10	10	0.6
44.	VIRTUALLY	9	9	0.5

Appendix 4: Key hedges in majority opinions

	Item	Occurrences	Hedge*	Per 10,000 words
1.	WOULD	601	601	29
2.	COULD	284	241	11.6
3.	MAY	476	220	10.6
4.	ARGUE	119	115	5.6
5.	MIGHT	95	95	4.6
6.	SUGGEST	87	87	3.9
7.	LIKELY	62	62	3.0
8.	NOTE	114	59	2.9
9.	BELIEVE	50	39	1.9
10.	GENERALLY	39	39	1.9
11.	CLAIM	433	33	1.6

	Item	Occurrences	Hedge*	Per 10,000 words
12.	POTENTIAL	47	34	1.6
13.	INDICATE	42	31	1.5
14.	POSSIBLE	31	31	1.5
15.	THINK	37	26	1.3
16.	PERHAPS	26	26	1.3
17.	IMPOSSIBLE	25	25	1.2
18.	PROBABLE	25	25	1.2
19.	CONSIDER	175	23	1.1
20.	DEPEND	34	23	1.1
21.	APPEAR	33	22	1.1
22.	SEEM	22	21	1.0
23.	POSSIBILITY	20	20	1.0
24.	ASSUME	36	19	0.9
25.	PRESUME	25	16	0.8
26.	PROPOSE	47	14	0.7
27.	ASSUMPTION	15	15	0.7
28.	IMPOSSIBILITY	15	15	0.7
29.	VIRTUALLY	15	15	0.7
30.	DOUBT	54	12	0.6
31.	ALMOST	13	13	0.6
32.	SUGGESTION	13	13	0.6
33.	APPROXIMATELY	12	12	0.6
34.	INDICATION	11	11	0.5
35.	SPECULATIVE	11	11	0.5
36.	LIKELIHOOD	10	10	0.5
37.	PRESUMABLY	10	10	0.5
38.	TYPICALLY	10	10	0.5

* The number found to be true hedges after contextual analysis.

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This volume focuses on the study of linguistic manipulation, persuasion and power in the written texts of professional communication, to go further into the understanding of how they are constructed, interpreted, used and exploited in the achievement of specific goals. Such texts are here contemplated from the stance of genre theory, which starts from the premise that specialised communities have a high level of rhetorical sophistication, the keys to which are offered solely to their members. In particular, the book investigates the communicative devices that serve the need of such professions to exert power and manipulation, and to use persuasion. The perspective adopted in this work does not envisage power simply as a distant, alienated and alienating supremacy from above, but as an everyday, socialized and embodied phenomenon. To attain its goal, the volume brings forth studies on the language of several professions belonging to various specialised fields such as law and arbitration, engineering, economics, advertising, business, politics, medicine, social work, education and the media.

María Ángeles Orts (University of Murcia, Spain) teaches Professional English, especially in the areas of law, economy and business. She has published extensively on economic and legal lexicon, corruption crimes and gender violence, power and legitimation in legal texts, and the translation and interpretation of legal genres.

Ruth Breeze is senior lecturer in English at the University of Navarra, Spain. Her most recent books are *Corporate Discourse* (Bloomsbury Academic 2015) and the co-edited volumes *Essential Competencies for English-Medium University Teaching* (Springer 2016) and *Evaluation in Media Discourse: European Perspectives* (Peter Lang 2017).

Maurizio Gotti is Professor of English, Head of the Department of Foreign Languages, Literatures and Cultures, and Director of the Centre for LSP Research (CERLIS) at the University of Bergamo, Italy. His main areas of investigation are the features and origins of specialized discourse.