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Argumentative Styles as Cultural Identity Traits in Legal Studies

Questo articolo analizza l'espressione di tratti identitari in testi accademici di argomento legale attraverso la comparazione delle strategie argomentative impiegate da parlanti nativi (NS) e non-nativi dell'inglese (NNS). L'analisi si basa su un sub-corpus del CADIS (Corpus di Discorso Accademico, compilato dall'Università di Bergamo, cf. Gotti 2006) di 80 articoli – 40 scritti da NS e 40 da NNS – apparsi su autorevoli pubblicazioni d'argomento legale (*European Journal of International Law*, *Yale Law Journal, Harvard Law Review*, *Harvard International Law Journal*, *European Law Journal*, *International Review of Law and Economics*) tra il 2000 e il 2007. Queste pagine sono il luogo dove gli autori usano l'inglese come *lingua franca* per discutere di diritto, di leggi e di giurisprudenza da prospettive differenti e con conoscenze, abilità ed esperienze giuridiche e linguistiche diverse, rappresentando quindi un'interessante fonte di investigazione.

L'indagine si concentra principalmente sul livello epistemico e interattivo del discorso. Per misurare i veri livelli di personalizzazione, solidarietà e inclusione usati da scrittori NS e NNS verranno analizzati i pronomi personali di prima persona, le forme interrogative e imperative, e varie strategie metadiscorsive (Nichols 1988, Swales *et al*. 1998, Hyland 2002, Fløttum 2006). Il grado di assertività attraverso il quale gli autori bilanciano informazione oggettiva e valutazione soggettiva nella costruzione del proprio specifico ethos autoriale sarà invece dato dall'esame dei differenti modi d'argomentazione e organizzazione dei dati (ad esempio, attraverso costruzioni negative e/o concessive) e dall'uso di forme mitigative (Duszak 1994, Milton / Hyland 1996, Hyland 1998, 2001).

1. Introduction

The present paper investigates the expression of identity in legal studies, focussing on the persuasive strategies used by native (henceforth NS) and non-native speakers of English (NNS) to present their claims. This is the final stage of a research project tracing domain- and profession-specific discoursal differences primarily in relation to

the juridical system at the basis of the author's legal expertise. As scarce attention has been paid so far to such textual and linguistic aspects as argumentation styles (cf. Sala forthcoming a, forthcoming b), this analysis is aimed to fill the gap by discussing whether and to what extent the level of proficiency and, especially, the exposure to and experience of discursive practices in languages different from English differentiate NS and NNS argumentation when authors use English as a *lingua franca*.

Before examining the different persuasive strategies found in legal argumentation, some aspects of the NS/NNS classification used in this paper need to be clarified. As has been noted, especially in recent times[1], a differentiation based on the native language of authors is far from being unproblematic and its validity as a criterion for analysing discoursal variation has been repeatedly questioned. The main objections are two. The first concerns the fact that, due to the dominance of English as a lingua franca in higher education and research (Swales 1997; Hyland 2006) the NS/NNS distinction is not clear cut: in fact, the academic world includes monolingual native English speakers and a broad group usually referred to as 'non-native speakers of English', which includes also bi- or multi-lingual speakers, with a comparable level of linguistic proficiency both in English and other languages, who can hardly be classified as NNS in the strictly operative sense of the word. Another objection concerns the fact that NNS writing is often revised by NS peers before publication (in some cases, academic journals' Instructions to Authors explicitly require this stage of revision before a paper submission when English is not the native language of the author). This is likely to produce spurious instances rather than authentic examples of NNS discourse in English.

To overcome these objections and provide sound categories for the analysis, two sets of criteria for the classification of NS/NNS authors are here introduced. The first set can usually be verified from the text of the papers and concerns:

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[1] I am referring here to Prof. Vijay Bhatia's comment during the closing ceremony at the international conference *Issues of Identity in and Across Cultures and Professional Worlds* (Rome, 25-27 October 2007), where he raised questions about whether texts either by bilingual writers or authored by NNS and subsequently revised by NS should be classified as instances of NNS discourse.

- the author's affiliation (usually linked to his/her name): the indication that the author is affiliated to an institution located in countries or territories where English is a/the national language;
- the references: the fact that the author cites or mentions texts written in a language different from English. These are possible indicators of the author's exposure or access to a non-Anglophone culture.

The second set of conditions, which was verified through web searches, regards the author directly. It is indicative of the author's experience of other languages, although not necessarily as a member of the academic community.

- biographical information: the indication that the author was born and/or educated in non-English speaking countries, or that the author works/has worked for institutions (i.e. law schools, legal offices, legal centres, etc.) operating in non-Anglophone contexts and using languages other than English;
- bibliographical information: the indication that the author has published in a language different from English.

For the purpose of this paper, NNSs are those authors who meet at least one of such criteria, i.e. active users of a language other than English. The assumption at the basis of such a distinction is that NNSs, as producers of (spoken or written) texts which are acceptable and effective in other languages, cultures and contexts, are likely to be influenced by discourses and persuasive practices which are different from those typical of Anglophone cultures (Canagarajah 2002, Mauranen 2005, Hyland 2006). On this basis, the present analysis investigates discoursal differences by focussing on the interpersonal level of discourse, that is, by examining strategies of personalization, modalization and evaluation which affect the construction of meaning at a deep level, and, as such, are hardly filtered out even after NS revision.

For a comprehensive discussion of argumentation in legal studies, another introductory remark needs to be made about the role of persuasion in this type of academic discourse. Unlike the hard sciences, whose validity depends on empirically demonstrable truths, and unlike most soft sciences, whose effectiveness is measured by the correspondence between speculative aspects and quantifiable data tested through corpus analysis, frequency counts, mathematical calculations, percentages, figures, etc., legal research is mostly based on abstract

reasoning, or, more specifically, on the discussion of legal principles and their possible relevance to practical cases. As in forensic argumentation (i.e. opening and closing monologues at trials), also in legal articles persuasion does not benefit from quantitative measurements but is attained by exploiting purely linguistic, interpersonal strategies. Several texts aimed at forming legal experts (Frederick 1996, Perrin *et al*. 2003) list as a successful persuasive resource the presentation of a clear theme, with a sharp topical focus presented in a well-organized, confident manner. In consideration of this, the present paper examines whether NSs and NNSs respond to these rhetorical requirements when producing academic texts, and how differently they create and convey the sense of textual coherence, reliability and confidence when discussing their claims.

2. *Material and methodology*

The analysis presented here is based on a sub-corpus of CADIS, a corpus of written academic texts compiled at the University of Bergamo (cf. Gotti 2006; Gotti / D'Angelo forthcoming). The criteria introduced above allowed us to identify a corpus of 80 articles, 40 of which authored by NSs (totalling over 850,000 words) and 40 by NNSs (totalling over 580,000 words), published between the years 2003 and 2007 in leading specialized journals, namely the *European Law Journal* (henceforth ELJ)*,* the *European Journal of International Law* (EJIL)*,* the *Harvard Law Review* (HLR)*,* the *Yale Law Journal* (YLJ)*,* the *Stanford Law Review* (SLR)*,* the *Harvard International Law Journal* (HILJ)*,* and the *International Review of Law and Economics* (IRLE).

Quantitative searches were based on both automatic and manual investigation. Wordsmith Tools 4.0 (Scott 2004) and Portable Document Format (PdF) were used for word counts. The results were then filtered by manual correction to rule out non-relevant occurrences in quotations, appendices, references, tables or webpage addresses. Searches were not solely designed to discover the frequency of a linguistic item, but also its distribution throughout the corpus, so as to exclude from the analysis instances of variation due merely to personal style. The statistical significance of the various occurrences was fixed at a minimum of 20%

texts in one of the sub-corpora. Therefore linguistic items which were fairly common on the whole, but concentrated only in a limited number of texts, were not considered relevant for the purpose of this research.

The analysis of persuasive strategies in legal research is based on parameters drawn from different approaches, such as stance theory (Biber / Finegan 1989; Hyland 1999a, 1999b), appraisal theory (Martin 2000, 2003; White 2003), studies on metadiscourse (Thompson 2001; Hyland / Tse 2004; Tse / Hyland 2006) and on concessive modes in argumentation (Fløttum 2006). By synthesizing these resources into a coherent framework, persuasion will be measured according to three different strategies whereby authors seek to enhance their credibility, reinforce the reliability of their claims and align the readers to their stance. Each strategy is characterized by a specific kind of orientation, namely:

- knowledge-orientation, in which the truth is presented as self-evident and necessarily resulting from the dynamics between different parts of the text;
- reader-orientation, in which the truth is presented as a result of negotiation with the reader, on the basis of the participants' shared knowledge;
- writer-orientation, in which the value of a claim emerges from the judgement and attitudinal evaluation expressed by the author.

Such strategies are not mutually-exclusive, but can combine within the same sentence. The present classification is a means for examining persuasion at different levels. Consider for instance the different illocutionary force of the two examples below (emphasis added):

> (1) But even if the Charter's collective security mechanism is a viable option for meeting the new security threats, this tells us only that the oft-made contention that the existing international security architecture is obsolete *is wrong*. WEI SLR 59(2)06

> (2) Even though it is my firm belief that Srebrenica is a case of genocide, it must be noted that even the ICTY struggled to reach such a conclusion, and that Srebrenica is in many ways an exceptional case in the mass of ethnic cleansing perpetrated in Bosnia, chiefly by the Bosnian Serbs. If the ICJ decides not to adopt rigid evidentiary standards to prove genocide, or to apply a less strict definition of genocide, it is possible that it might find

> other grave crimes committed in Bosnia, such as those in the Prijedor prison camps, to amount to genocide. It *would*, *however*, *be wrong* for the ICJ to treat the totality of crimes committed in Bosnia as one, single crime of genocide. MIL EJIL 17(3)06

The distinction between the three types of orientation presented above allows us to explain differences in the excerpts in analytical terms: in fact, while (1) exploits only writer-orientation, expressing the author's personal judgement, (12) combines all three orientations, emphasizing respectively logical coherence (*even though*), evidentiality (*it must be noted*) and judgement (*X is wrong*), thus sounding less threatening and possibly more persuasive.

Within each type of orientation it is possible to further distinguish three different degrees of commitment represented by:

- positive strategies, explicitly emphasizing the truth of a claim;
- negative strategies, presenting the truth of a claim in a critical perspective, that is, against alternative views;
- neutral strategies: strengthening and foregrounding the pragmatic and rhetorical mechanisms on which persuasion is based.

These strategies, in terms of orientation and degree, are discussed in detail in the next section.

3. Discussion

3.1. Knowledge-orientation

Knowledge-oriented strategies are aimed at persuasion and are expressed by transition markers signalling a direct cognitive interdependence between different parts of the same text, thus making the truth of a claim dependent on the content expressed in a previous or subsequent stretch of text within the same paper. They "[reflect] the writer's effort in helping reader to recover their reasoning unambiguously, and in presenting any praise and condemnation as a result of a logical interpretation but not unsubstantiated personal reaction" (Tse / Hyland 2006: 184). Within this category it is possible to distinguish between:

- positive strategies, signalling consequential transition, expressing logical necessity or expectedness, realised by connectors such as *therefore, consequently, thus, for this reason, as a result, so, due to, because,* etc. (see 3-4);
- negative strategies, pointing to negative or contrastive relations, expressing unexpectedness or concession, through connectors like *nevertheless, even so, although, in spite of, despite,* etc. (5-6);
- neutral strategies, metadiscursively pointing to or linking different parts of the text so as to help the reader navigate it through the use of frame and endophoric markers (cf. Tse / Hyland 2006) or textual mapping devices (Bhatia 1987), e.g. expressions such as *the next paragraph, the previous section, the following example, above, below,* etc. (7).

> (3) *Due to* the fact that ECAs handle confidential business information, it is impossible to measure compliance on a transaction-by-transaction basis. LEV HILJ 45(1)04

> (4) It is *thus* unsurprising that courts have developed a variety of methods for limiting the disruptive effects of legal change. HEY YLJ 115(5)06

> (5) *In spite* of the initially very limited aim of a 'technical reform', several decades of drafting *nevertheless* led to many substantive innovations. HES ELJ 12(3)06

> (6) *Even though* this approach sounds logical, in practice it poses a high risk of jurisdictional conflict in cases such as this one. ANG HILJ 45(1)04

> (7) *The following sections* look at state interests, the Arrangement itself, and the broader international legal context to construct a compliance story. *Section A* begins where much international compliance scholarship begins — with the simple proposition that states will comply with international rules. LEV HILJ 45(1)04

The positive transition markers in (3) and (4) (*due to, thus*) establish a cause-effect relation between the informative parts constituting the claim, thus strengthening its propositional value. On the other hand, the

negative connectors in (5-6) (*in spite of, nevertheless, even though*) function as polemically comparative strategies (cf. Sala forthcoming b), in that they accommodate for alternative viewpoints which are discursively introduced in critical terms, as negatively connoted, in order to undermine or discard them. This way the statement sounds more substantiated and its validity is emphasized. Finally, the neutral markers in (7) (*the following sections, Section A*) are meant to signal where to find relevant items of information for correctly processing the text.

The table below lists the various occurrences of positive, negative and neutral markers of knowledge-orientation in absolute and normalized terms (per 10,000 words), with their percentage distribution in the NS and NNS sub-corpora.

	NS			NNS		
	Abs.	Distr.	Norm.	Abs.	Distr.	Norm.
Positive						
as a consequence / result	127	93%	1.49	106	85%	1.82
because	1,387	95%	16.3	370	43%	6.51
consequently	42	40%	0.5	61	27%	1.05
due to	88	61%	1.03	82	69%	1.41
for this/these reason/s	40	70%	0.47	10	18%	0.17
hence	82	61%	0.96	123	55%	2.12
in fact	225	97%	2.64	126	78%	2.17
so	1,236	97%	14.5	532	49%	9.17
thereby	139	34%	1.65	65	57%	1.12
thus	724	93%	8.5	381	44%	6.51
TOTAL	4,090		48.04	1,856		32.05
Negative						
although	742	95%	8.72	226	87%	3.89
but	2,897	100%	34.08	1009	100%	17.39
despite	220	91%	2.58	70	48%	1.20
even (if, though, so)	1,285	100%	15.11	557	95%	9.60
in spite of	13	18%	0.15	25	24%	0.43
instead	303	85%	3.56	95	77%	1.63

none- / nevertheless	318	77%	3.73	140	73%	2.40
unless	180	83%	2.11	73	25%	1.25
TOTAL	5,958		70.04	2,195		37.79
Neutral						
* section (this, next, following, etc.)	72	79%	0.84	62	69%	1.06
* paper	21	31%	0.24	116	85%	2.00
* article	299	77%	3.51	127	65%	2.01
above	115	81%	1.35	110	89%	1.89
below	66	50%	0.77	33	40%	0.56
here	147	61%	1.72	80	59%	1.37
	720		8.43	528		8.89
ALL STRATEGIES	10,768		126.51	4,579		78.73

Table 1. Frequency and distribution of knowledge-oriented strategies (markers of coherence).

As illustrated by the data in this table, negative transition markers are more frequently used than positive strategies both by NSs and NNSs. The most marked difference between the two sub-groups concerns the way NS and NNS authors balance positive and negative transitions. In fact, NSs are more confident in supporting their statements through negative comparison, putting their claims into perspective in relation to other points of view (70.04). NNSs, on the other hand, tend to balance consequential and contrastive relations between meanings (32.05 vs. 37.79). Apparently, no difference is found in the use of neutral resources, but as we shall see this is the only case where NNSs use persuasive markers more frequently than NSs, so that this finding is indeed significant and will be accounted for in Section 4.

3.2. Reader-orientation

Reader-oriented strategies are aimed at persuasion and stress evidentiality and inclusion. They are primarily expressed by markers of epistemic modality, signalling both the degree of confidence of the author towards a claim and his/her consideration of the audience's views. Such resources can be grouped according to their degree of commitment into:

- positive markers, expressing certainty (i.e. boosters), e.g. certainty adverbials such as *indeed, of course, necessarily, certainly, definitely,* etc., or verbs like *must, will, cannot* (see 8);
- negative markers, conveying uncertainty and possibility (i.e. hedges), e.g. expressions such as *likely, unlikely, possibly, probably,* etc., and verbal forms like *can, may, might,* could, etc. (9).

Besides such polarized markers of epistemic modality, implying and responding to the reader's face needs (need for inclusion in positive markers, need for respect and considerateness in negative markers, cf. Goffman 1967, 1974; Brown / Levinson 1987), there are neutral markers, meant to include the reader in the negotiation of meaning, represented by:

- interrogative forms (open or rhetorical questions) and imperatives (e.g. *imagine, suppose, consider*), requiring the reader to figure alternative scenarios so as to interpret the writer's meaning from a personal perspective (see 10);
- exemplifications, meant to offer the reader instantiations or alternative ways to make sense of the writer's meaning, introduced by expressions like *for instance, for example, i.e., e.g.* (11).

Instances of these strategies are found in the samples below:

(8) *Indeed,* the CFR *will* include and, in particular, define several abstract rules and concepts: "The common frame of reference should provide . . . common terminology and rules, i.e. the definition of fundamental concepts and abstract terms like 'contract' or 'damage' and of the rules that apply for example in the case of non-performance of contracts." The CFR *will certainly* be 'systematic'. *Indeed,* one of the principal aims of the Action Plan is a more coherent contract law. HES ELJ 12(3)06

(9) From this, it *can* be easily seen that *A may possibly* prefer not acquiring information regardless of the size of the survey cost and his belief under Rule 2. KIM IRLE 24(1)04

(10) For example, *take* this question: *Was the recent invasion of Iraq illegal?* BEC EJIL 16(2)05

(11) The effectiveness of transnational private law also depends on what is happening in other regimes of regulation and governance

at both the domestic and international level. The task for private law varies, *for instance,* depending on whether public regulation at the international or domestic level is working well. There are a number of ways to conceive of this task of private law. *For example,* transnational private law might be a kind of 'jurisdictional interface'. WAI HILJ 46(2)05

In (8) the content of the proposition is presented as certain, undisputable and acceptable (cf. *indeed, will, certainly*) in that it hinges on common or domain-specific knowledge. Strategies of this sort are meant to mark group membership and stress solidarity between the writer and readership (Coates 1987; Hyland 1999b). A completely different case is example (9); here the uncertainty markers (*can, may, possibly*) account for the possibility of a different interpretation, while on the other hand they are interpersonally used to persuade the readers and bring them to accept the propositional content of the writer's claim, without sounding too threatening, imposing or arrogant.

In the other two examples the neutral markers are meant to enhance the sense of reader-inclusion and cooperation by calling upon the readers' experience to strengthen the acceptability of a claim: in (10) the use of the interactive strategies such as the imperative (*take*) and the following question are meant to explicitly engage the readers into active reasoning, thus foregrounding their role as negotiators of meaning; in (11) exemplifications (introduced by *for instance, for example*) are meant to clarify or disambiguate the statement by linking abstract meanings to possible realizations and realistic scenarios.

The table below reports the absolute and normalized frequency counts for reader-oriented strategies.

	NS			NNS		
	Abs.	Distr.	Norm.	Abs.	Distr.	Norm.
Positive (boosters)						
certainly	103	79%	1.21	80	51%	1.37
clearly	258	79%	3.03	131	75%	2.25
indeed	383	95%	4.50	202	73%	3.48
necessarily	167	79%	1.96	225	85%	3.87
obviously	50	61%	0.58	44	53%	0.75

of course	262	93%	3.08	94	75%	1.62
surely	55	44%	0.64	16	22%	0.27
cannot	404	91%	4.7	345	91%	5.94
must	951	95%	11.1	517	91%	8.91
will	2095	100%	24.64	1129	100%	19.46
TOTAL	4,728		55.62	2,783		47.98
Negative (hedges)						
likely / unlikely	567	91%	6.66	145	75%	2.49
possible / possibly	412	97%	4.84	289	95%	4.97
Probable / probably	89	57%	1.04	68	40%	1.16
maybe	18	22%	0.21	4	8%	0.01
perhaps	312	89%	3.67	46	36%	0.79
can	1,636	100%	19.24	963	97%	16.60
could	1,385	95%	16.29	506	87%	8.72
may	1,932	100%	22.72	637	100%	10.98
might	1,053	100%	12.38	293	81%	4.12
TOTAL	7,404		87.10	2,951		50.87
Neutral						
questions	734	96%	8.63	433	83%	7.46
consider	94	60%	1.10	34	33%	0.58
imagine	83	59%	0.97	12	14%	0.20
suppose	54	26%	0.63	16	16%	0.27
for example	808	100%	9.50	144	71%	2.48
for instance	95	45%	1.11	121	47%	2.06
e.g.	1,106	96%	13.01	398	71%	6.86
i.e.	95	68%	1.11	222	71%	3.82
TOTAL	3,069		36.08	1,380		23.75
ALL STRATEGIES	15,201		178.70	7,114		122.60

Table 2. Frequency and distribution of reader-oriented strategies
(markers of evidentiality and inclusion).

These figures indicate that markers of negative evidentiality are the resources more frequently used in both sub-corpora (7,404 in NS vs. 2,951 in NNS). A significant quantitative finding is the fact that NSs use negative strategies almost twice as much as boosters (87.10 vs. 55.62), whereas NNSs tend to be more assertive, balancing positive and negative evidentiality (50.87 vs. 47.98). Finally, inclusive strategies are found in both sub-corpora but NNSs are less at ease than NSs in actively engaging the audience when discussing their claims (3,069 vs. 1,380).

3.3 Writer-orientation

Writer orientation is realized both through evaluative strategies and personalization. Evaluation is expressed by resources manifesting the author's stance, stating either personal value judgements along the right-wrong, god-bad, important-unimportant axes, or expressing psychological orientation and attitude towards the truth of a claim according to its degree of expectedness or unexpectedness. Since evaluation is highly context-dependent (cf. Shaw 2004; Swales 2004), the guiding criterion for the selection of these markers has been their semantic unambiguity. For this reason, evaluative markers employing negations that alter their semantic value (e.g. *there is nothing wrong*) and expressions that are semantically unstable or whose polarity is context-dependent (e.g. *remarkable, remarkably, surprisingly*, etc.) were ignored in the counts. For the sake of analytical precision, all other instances were individually analysed in their co-text to filter out spurious or ambiguous cases. Finally, for comparative purposes, both items in polarized pairs were considered (i.e. *correct => incorrect, unfortunately => fortunately,* etc.) even when one of them was found in less than 20% of the texts in either sub-corpus (occurrences below 20% are in italics in the table below). Among writer-oriented resources it is possible to distinguish between:

- positive markers, expressed by evaluative adjectives such as *correct, adequate, persuasive*, etc. and adverbs like *convincingly, correctly, fortunately,* etc. (see 12);
- negative markers, expressed by adjectives such as *wrong, misleading, erroneous*, etc. and adverbs like *erroneously, inadequately, unfortunately,* etc. (see 13-14);

• neutral markers, not expressing personal evaluation, but meant to foreground the author's textual persona as a textual organizer and a constructor of meaning; such strategies are represented by the use of the first person[2] in combination with: verbs of opinion (i.e. *argue, claim, think, believe, doubt, dispute, reject,* etc.), through which authors manifest themselves as 'arguers' or evaluators (cf. Fløttum *et al.* 2006); research verbs (i.e. *discuss, consider, observe, analyse, assume,* etc.) whereby authors textually play the role of 'researchers'; and discourse verbs (i.e. *describe, illustrate, present*, *begin by, focus on,* etc.) revealing the author as a 'writer' or textual organizer (see 15).

Examples of these different strategies are found in the examples below:

(12) Hart was in fact strictly *correct* 'within his own methodology' to conclude that PIL was not a legal system. BEC EJIL 16(2)05

(13) The Directive as drafted is seriously *misleading* about the scope of the Member States' international legal obligations. GIL EJIL 15(5)04

(14) *Unfortunately*, as pointed out by the German Supreme Court in a recent decision, there is still potential for conflict, since domestic law generally defines "consumer sales" differently. FER IRLE 25(3)05

(15) For the most part, *I think* the structure that Tafara and Peterson propose for exemptive relief is sensible and well-conceived […]. *I do, however, have several modest suggestions* for refining their program. JAC HILJ 48(1)07

The truth value of the sentences (12) and (13) is neither substantiated nor instantiated by endophoric or endophoric references but is entirely dependent on authorial judgement, respectively expressed by the polarized evaluative adjectives *correct* and *misleading*. In (14) the evaluative disjunct *unfortunately* operates as a logical conjunct (i.e., a 'conjunct with attitude'; cf. Swales 2004), having the same pragmatic

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[2] Since all articles in our corpus are single-authored, only the first person singular will be considered here.

function as sentence connectors like *however* but foregrounding the author's "attitude of expectation denied, or with hopes dashed" (Swales 2004: 45). In (15) the personalization markers (which also function as mitigating devices) primarily aim to manifest the authorial persona within the text and to connect the propositional value of a claim to the author's judgement and commitment.

The table below contains the frequency counts and distribution of writer-oriented strategies.

	NS			NNS		
	Abs.	Distr.	Norm.	Abs.	Distr.	Norm.
Positive evaluation						
adequate	77	55%	0.90	27	18%	0.46
adequately	29	32%	0.34	9	14%	0.15
convincing	20	28%	0.23	26	30%	0.44
convincingly	10	14%	0.11	5	6%	0.08
correct	75	40%	0.88	15	17%	0.25
correctly	23	34%	0.27	13	24%	0.15
fortunately	8	12%	0.09	3	6%	0.05
helpful	30	20%	0.35	15	13%	0.25
importantly	51	48%	0.87	11	20%	0.18
persuasive	27	28%	0.31	10	10%	0.17
persuasively	11	16%	0.12	-	-	-
rightly	15	26%	0.17	18	24%	0.31
TOTAL	376		4.64	152		2.62
Negative evaluation						
erroneous	28	20%	0.32	5	8%	0.08
erroneously	8	14%	0.09	3	4%	0.05
inadequate	44	48%	0.51	8	14%	0.13
inadequately	4	8%	0.04	2	4%	0.03
incorrectly	5	10%	0.05	1	2%	0.01
misleading	30	32%	0.35	11	20%	0.18
poorly	14	14%	0.16	3	6%	0.05
unfortunately	21	22%	0.24	23	26%	0.39

unhelpful	6	8%	0.07	1	2%	0.01
weak	45	44%	0.52	15	13%	0.25
wrongly	21	10%	0.24	5	10%	0.08
TOTAL	226		2.59	77		1.32
Neutral (personalization)						
I + opinion verbs	293	59%	3.44	75	36%	1.29
I + research verbs	152	44%	1.78	54	33%	0.93
I + discourse verbs	131	47%	1.54	34	22%	0.58
TOTAL	576		6.77	163		2.81
ALL STRATEGIES	1,178		13.95	392		6.75

Table 3. Frequency and distribution of writer-oriented strategies
(italics for figures below 20% in either or both sub-corpora).

These data suggest that NSs use more writer-oriented strategies than NNSs. In both sub-corpora positive evaluation is more frequent and homogeneously distributed than negative evaluation (in line with the general trend observed in academic discourse, cf. Mauranen 2001, 2002; Hyland 2000; Swales 2004). As for personalization, the figures indicate that NSs are more at ease using the first person for presenting their claims, whereas NSs resort to personalization half as often (2.81 vs. 6.77). Particularly remarkable is the fact that NNSs use less negative evaluation (only two markers – *misleading* and *unfortunately* – occur in over 20% of texts in the NNS sub-corpus) and, even though they do manifest themselves in their texts as evaluators (or arguers, 1.29) they balance this with less evaluative role (i.e. as researchers, in 0.93 occurrences, and as writers, in 0.58). On the other hand, NSs favour their role as arguers over other less evaluative options (3.44 vs. 1.78 and 1.54, respectively).

4. Final remarks

The analysis presented here reveals the existence of divergences between the NS and NNS sub-corpora that can be interpreted either in relation to the level of linguistic proficiency of academic authors or to

culture-specific factors. The NS sub-corpus covers a wider variety of
terms (over 37,000, corresponding to 435 new terms every 10,000
tokens) than the NNS sub-corpus (over 21,600, 373 new terms every
10,000 tokens), which is possibly related to the different degree of
linguistic proficiency of NS vs. NNS scholars writing in English. This
tendency to the use of a more restricted range of linguistic choices
emerges also from the observation of the data in Tables 1-3 above,
which indicate that knowledge-, reader- and writer-oriented strategies
are more varied and homogeneously distributed in the NS than in the
NNS sub-corpus. In the case of knowledge- and reader-oriented
strategies, almost half of the terms and expressions identified (23 out of
51) were contained in 90% of texts in the NS sub-corpus, whereas only
less than one sixth (8 out of 51) were distributed in the same percentage
of NNS texts. More significantly, the percentages indicate that non-
homogeneously distributed items – for instance those occurring in less
than 30% of texts – are relatively limited in the NS sub-corps (one
quarter of the total, 17 out of 73), whereas they are more numerous in
the NNS sub-corpus (30 out of 73), where more than one third of such
resources (20 out of 73) fall below 20% (the threshold level for
statistical significance chosen for the present analysis). For clarity, it is
useful to consider the frequency count for each of the various strategies
discussed above:

	NS	NNS
Knowledge-orientation		
Positive (consequential)	48.04	32.05
Negative (contrastive)	70.04	37.79
Neutral (metadiscourse)	8.45	8.89
	126.51	*78.73*
Reader-orientation		
Positive (boosters)	55.62	47.98
Negative (hedges)	87.10	50.87
Neutral (interactive)	36.08	23.75
	178.70	*122.60*

Writer-orientation		
Positive (factive)	4.64	2.62
Negative (counter-factive)	2.59	1.32
Neutral (first person)	6.77	2.81
	13.95	*6.75*

Table 4. Normalized figures for knowledge-, reader- and writer-oriented strategies.

NSs on the whole favour negative strategies (accounting for different views) and a more interactive, personalized style (stressing reader- and writer- orientation), whereas NNSs are more focused on textual coherence (stressing positive, neutral knowledge-orientation), which sounds more assertive and less personalized (due to the scarce use of writer orientation). This tendency might again be explained by the lower proficiency of NNSs, whose argumentation is made easier and more linear by following a consequential line of argumentation (that is, avoiding alternative viewpoints that could raise questions and doubts which would then need to be answered or clarified).

The difference in argumentative style may also be due to cultural factors. In fact, as noted in previous stages of the research (cf. Sala forthcoming a, forthcoming b), the NS vs. NNS distinction broadly overlaps with that between common law and civil law experts, who are influenced by different legal discourses and forensic practices. In fact, the inquisitorial approach of civil law is characterized by a primacy of the written norm and of principles established in the Civil Code (cf. Apple / Deyling 1995). Inquisitorial legal discourse is thus primarily used to highlight the relevance or applicability of a norm to a given state of affairs. This attitude seems to be reflected in the NNS sub-corpus, both in its positive knowledge-orientation (i.e. stressing necessity) and especially in its use of neutral markers of coherence (i.e. metadiscoursive cues) which, as remarked above, are the only strategy more frequent among NNSs scholars and, as such, distinctive of NNS discourse. On the other hand, the adversarial approach of common law is characterized by more interactive strategies, by the primacy of witness examination and the active role of juries in reaching a final decision.

For these reasons the two poles of the conversational framework (i.e. locutor and interlocutor) are emphasized, and strategies meant for personalization, inclusion and negotiation are favoured over the mere presentation and description of facts. This is reflected in the use of writer- and reader-oriented strategies in the NS sub-corpus. Accordingly there is a limited use of such resources by NNSs. In fact, from an inquisitorial viewpoint, the presentation of truth as negotiable or subjective would undermine the very notion of a self-evident, objective and immutable truth, upon which the civil law system is entirely based.

It is clear therefore that a balanced view of how identity influences the range of persuasive strategies used in law research can be gained by focusing on the linguistic evidence collected in this paper. Such findings, however, may be broadened to include other dimensions (i.e. cultural, professional and domain-related aspects) that shed further light on the expressions of collective identity and individuality that characterize the language of legal scholars.

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