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a España: estudio contrastivo de la estructura textual**
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Discursive Analysis of Judicial Decisions in Spanish and
English**
María Ángeles Orts Llopis

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La asimetría documental policial-penal en Emiratos Árabes Unidos, Catar, India, Pakistán y Bangladesh frente a España: estudio contrastivo de la estructura textual

Esther Vázquez y del Árbol

Abstract In the last decades, the number of English-speaking immigrants in the Iberian Peninsula has substantially risen. This makes the English–Spanish (legal and sworn) translation of police documents in general, and police character certificates in particular of utmost relevance. Nevertheless, we have noticed that this topic has never been researched to date. That is the reason why we analyzed and compared 60 police character certificates, real translation briefs from 2012 and 2013: 10 documents written in Spanish, issued in Spain, and 50 instruments written in English, issued in United Arab Emirates (10), Qatar (10), India (10), Pakistan (10), and Bangladesh (10). Our aim was to identify several divergences and facilitate the translation task; both direct (English–Spanish) and reverse (Spanish–English), of this hybrid text typology (Crime Law and Police Documentation). Our findings show striking differences after an interlinguistic and an intralinguistic analysis.

Keywords Comparative Law, Crime Law, police character certificate, legal translation and sworn translation

1 Introducción

Toda traducción jurídica exige conocimientos de dos tipos: lingüístico-traductológicos y jurídicos. Por un lado, es necesario conocer en profundidad las lenguas de trabajo y las herramientas y estrategias traductológicas necesarias para poder abordar la traducción entre ellas. Por otro lado, el traductor debe estar plenamente familiarizado con la realidad jurídico-judicial tanto del país que ha emitido el documento como del país receptor del mismo. Esto es, la labor del traductor jurídico es, sin duda, la de un mediador intercultural.

La importancia de la traducción jurídica es indudable en un contexto socio-cultural de gran movilidad internacional e intensas relaciones jurídicas, económicas y comerciales. La necesidad de traducir los documentos derivados de estas dos situaciones genera numerosos encargos de traducción profesionales. Un ejemplo claro de esta situación es la multiplicidad documental (con las consecuentes traducciones derivadas de la expedición de dichos documentos) característica de organismos internacionales que persiguen la armonización jurídica, como es el caso de la Unión Europea (y los países que la conforman), que precisa la traducción de este tipo de documentación policial.

Se entiende por documentación policial toda aquella que emana de los servicios de policía, ya sea ésta nacional o local. Así, el certificado de antecedentes penales representa el documento policial por antonomasia. En una sociedad como la actual, caracterizada por la elevada migración poblacional, los documentos policiales están a la orden del día y su expedición puede ir aparejada de la traducción oficial (jurada) de los mismos. Una de las formas de intentar controlar la legalidad de las migraciones es la emisión de un certificado de anteceden-

tes penales. Como podremos observar, su función es variada y heterogénea, ya que se trata de un documento que se expide al solicitante por encontrarse éste en una situación de necesidad. En él se expone la ausencia o presencia de antecedentes penales del solicitante (*applicant*), que puede precisar el certificado para fines muy diversos. Este certificado representa una de las modalidades textuales con mayor demanda en el sector de la traducción en los servicios sociales, como ocurre en el contexto del Ministerio del Interior o en el de las comisarías de policía, especialmente en su versión oficial, la traducción jurada. Representa el documento fundamental para poder regularizar la situación de los extranjeros ante la Administración española. Veamos algunos de los ejemplos de situaciones en las que se demanda esta modalidad documental: publicación de antecedentes, cancelación de antecedentes, cancelación de notas desfavorables, obtención de licencia de armas y explosivos, acceso a diversos cuerpos profesionales (Guardia Civil, Ministerio de Defensa, Ministerio del Interior, Administración de Justicia), obtención de recompensas militares, concesión/renovación de permisos de residencia y trabajo en España para extranjeros, por citar algunos.

En los países sometidos a estudio, el certificado de antecedentes penales es uno de los documentos requeridos para poder emigrar a los mismos o acompañar a un menor que emigra, obtener un visado, desarrollar una actividad laboral, llevar a cabo voluntariado en un país o comparecer en un juicio. Asimismo, también se puede solicitar para realizar una adopción nacional o internacional. Incluso no es extraño que sea una empresa la que solicite este modelo documental sobre un “potencial” empleado de la misma.

Como hemos comentado anteriormente, un traductor debe conocer no sólo la cultura y la lengua origen y meta, sino también ha de estar familiarizado con la estructura meta de cada documento origen que va a traducir, y los documentos penales policiales no suponen una excepción, sobre todo si tenemos en cuenta las dificultades traductológicas que suelen entrañar. A pesar de la importancia de los certificados de antecedentes penales, no existen investigaciones centradas en esta modalidad textual y menos desde una panorámica tan amplia, abordando la situación de países tan heterogéneos. Tanto es así que para poder recabar información relacionada con cada sistema policial, hemos recurrido a las páginas web oficiales de cada país, ya que no existen libros ni artículos sobre este tema interdisciplinar. Por estas razones, seleccionamos un corpus bilingüe (inglés-español), constituido por 60 certificados de antecedentes penales, procedentes de encargos reales de traducción de 2012 y 2013: 10 documentos emitidos en España frente a 50 documentos redactados en lengua inglesa procedentes de Emiratos Árabes Unidos (10), Catar (10), India (10), Pakistán (10) y Bangladesh (10). El principal objetivo de nuestro estudio ha sido detectar divergencias inter e intralingüísticas de esta modalidad textual híbrida (derecho penal y documentación policial). Mediante el presente estudio hemos pretendido, asimismo, abordar contrastivamente las cuestiones del certificado de antecedentes penales con la intención de facilitar la identificación del género textual y profundizar en el conocimiento de sus rasgos, así como favorecer la tarea traductora con direccionalidad directa (inglés-español) e inversa (español-inglés).

Aspectos administrativos del certificado de antecedentes penales

Dependiendo del país que lo expida, encontramos un abanico terminológico nada desdeñable para el equivalente a nuestro “certificado de antecedentes penales”, que pasamos a exponer con objeto de ilustrar la falta de homogeneidad denominativa en lengua inglesa, frente a la uniformidad en castellana:

- “Certificate of Good Conduct” (Catar)
- “Character Certificate” (Pakistán)
- “Character Clearance Certificate” (Pakistán)
- “Criminal Clearance Certificate” (Emiratos Árabes Unidos)
- “Criminal Status Certificate” (Emiratos Árabes Unidos)
- “Police Certificate” (Pakistán)
- “Police Character Certificate” (Bangladesh)
- “Police Character Certificate” (Pakistán)
- “Police Clearance Certificate” (India)
- “Police Clearance Certificate” (Pakistán)
- “Police Clearance Certificate” (Emiratos Árabes Unidos)
- “Police Clearance Certificate” (Bangladesh)
- “Police Clearance Certificate” (Catar)

Con objeto de poder recopilar los datos penales de un sujeto, es necesario que éste indique su nombre o aporte sus huellas dactilares (*digital fingerprints*), ya sean debido a detenciones policiales (*arrest*), condenas (*convictions*), etc. El contexto documental de cada país varía en función de la legislación del mismo, pero el periodo de residencia mínimo exigido por estos países no supera los 12 meses. Veamos el caso concreto de los países objeto de nuestro estudio.

En **España** el Registro Central de Penados y Rebeldes pone a disposición del usuario un formulario de solicitud (el modelo 790) y realiza labores de intermediación gestora (informando y documentando a ciudadanos) las gerencias territoriales del Ministerio de Justicia, los Registros Civiles y la Oficina de Atención al Ciudadano (en el caso de Madrid). En España un individuo puede actuar en calidad de representante del solicitante y pedir un certificado de antecedentes penales. Sin embargo, también se puede tramitar mediante el Ministerio del Interior español. Cuando el interesado posea nacionalidad de un país de la Unión Europea distinto de España, podrá solicitar que se incluya en este certificado la información que pudiera existir en el Registro del Estado de su nacionalidad, indicándolo expresamente en el modelo antedicho.

Los residentes acudirán en persona a uno de los dos Ministerios anteriormente mencionados, mientras que a los no residentes se les recomienda acudir a las embajadas o consulados. Ambos deberán aportar el DNI o el pasaporte; agilizándose el proceso mediante el empleo de la firma electrónica en la “sede electrónica” creada a tales efectos.

En **Emiratos Árabes Unidos**, como indica el gobierno del país en su web oficial, las comisarías de policía están a cargo de la emisión de estos certificados. Dado el poder medio adquisitivo de esta federación de Oriente Medio, la agilidad en la burocracia es la principal característica, puesto que el documento se puede emitir el mismo día en que se formaliza la solicitud del mismo, aunque se proceda de forma independiente por sexos: por un lado, los certificados expedidos a varones y por otro a mujeres. Tal es la celeridad pretendida, que se ha impuesto la modalidad digital de toma y recogida de huellas dactilares del solicitante, quien recibirá una llamada cuando su certificado esté disponible para su retirada.

La primera cuestión reseñable es la multiplicidad léxica para hacer referencia al mismo documento. En Abu Dabi, capital del país, se encuentra la única sede que expide estos documentos, a cargo del Ministerio del Interior (concretamente la sección *Directorate General for Criminal Security*). Esta división ministerial insta a los residentes a acudir en persona a Dubai, Ministry of Interior, Criminal Investigation Affairs, Dubai Police General Headquarters o

a Abu Dhabi Ministry of Interior, General Police Directorate Criminal Investigation Section, Sharjah, Sharjah Police. Los no residentes podrán acudir a cualquier embajada de Emiratos Árabes Unidos. Los solicitantes deberán aportar dos fotocopias tamaño pasaporte, un formulario cumplimentado en persona, otro formulario con huellas dactilares y abonar las tasas oficiales.

El gobierno de **Catar** exige la solicitud del certificado de antecedentes penales para poder tramitar el permiso de residencia. El gobierno distingue en su web tres grupos situacionales en los que el documento es obligatorio: a) actividad laboral, b) educación y migración, c) matrimonio o actividad comercial; resultando gratuita la expedición para los cataríes, mientras que los extranjeros deben abonar tasas en concepto de expedición del certificado de penales. En el primer grupo mencionado (a), los nacionales deben aportar certificados académicos de los estudios cursados, mientras que los extranjeros (*expatriates*) no. En el segundo grupo (b) los extranjeros deben aportar 2 fotografías tamaño pasaporte; en el tercer grupo (el c) todos los solicitantes, nacionales o no, deberán aportar una carta argumentando el tipo de actividad que desean desarrollar en Catar.

Otro aspecto curioso es que en este país se distinga entre el documento expedido a los residentes (denominado *Police Clearance Certificate*), frente al extendido a los no residentes (*Certificate of Good Conduct*). Los residentes lo solicitarán en persona o mediante correo al Ministerio del Interior; mientras que los no residentes se personarán en la embajada de Catar más cercana. La documentación requerida, a grandes rasgos, es la siguiente: huellas dactilares recogidas por un funcionario policial y certificadas por el Ministerio de Asuntos Exteriores en el país de la residencia actual del solicitante, 4 fotografías tamaño pasaporte, fotocopia del pasaporte (en vigor) del solicitante junto con copia del pasaporte con el que se tramitó el último permiso de residencia, carta dirigida al embajador de Catar argumentando las razones por las que el solicitante pide el certificado de penales y justificación del pago de las tasas en concepto de expedición del documento.

Por su parte, el Ministerio de Asuntos Exteriores de **India** es el máximo organismo encargado de tramitar el certificado PCC (*Police Clearance Certificate*), a través del Consulado (*Consulate*). Según el gobierno indio, es situación recurrente que el certificado se expida para obtener el visado para la India. Puesto que la ley sobre la nacionalidad india (*The Indian Citizenship Act, 1955*) y la del pasaporte indio (*The Indian Passport Act, 1967*) no permiten la doble nacionalidad (*dual citizenship*), un individuo que haya nacido en India tendrá la obligación de renunciar a su nacionalidad de origen en cuanto adquiriera la nueva nacionalidad. Este trámite se materializa mediante la solicitud del "Surrender Certificate" (denominado "Renunciation Declaration" para las nacionalidades adquiridas a partir del primer día de junio de 2010), documento mediante el que se solicita formalmente la renuncia a la nacionalidad india.

La documentación necesaria es el pasaporte:

- Sólo nacionales: presentado en persona en la oficina destinada a tales efectos.
- Sólo residentes: mostrado personalmente en el Ministerio de Asuntos Exteriores del país de origen.
- No residentes (pero nacionales): exhibido personalmente en la embajada o consulado del país de origen.
- Resto de no residentes: además del pasaporte, se aportará una solicitud por escrito (indicando las razones de la expedición del documento) a la Sección de Extranjería (*Foreigners' Division*) del Ministerio del Interior o bien en la oficina del *Senior Superintendent of Police*, que está a cargo de la jefatura de policía a nivel de distrito.

La burocracia de **Pakistán** varía ostensiblemente en función de la residencia del solicitante. Si el solicitante se encuentra en ciudades importantes, puede obtener el documento en las comisarías de policía (*police office*); en caso de residir en zonas urbanas (de menor tamaño) o rurales, entonces deberá acudir a la comisaría del *Senior Superintendent of Police* más cercana. Por su parte, los residentes de las zonas FATA (*Federally Administered Tribal Area*), regiones tribales semiautónomas ubicadas al noroeste de Pakistán compuestas por 7 distritos y seis regiones fronterizas, o en zonas sin presencia policial, deberán dirigirse a una de las 7 agencias FATA de los mencionados distritos, alargando cronológicamente el tiempo de expedición documental. Con respecto a los trámites de expedición (que se pueden realizar en persona o por correo), varían en función de los rasgos del solicitante, quien obtendrá el formulario en la comisaría de policía local; en caso contrario, podrá redactar una carta que lo supla:

- Nacionales y residentes no nacionales: ambos lo solicitarán ante el funcionario policial. Los primeros aportarán el documento de identidad, mientras que los segundos exhibirán su permiso de residencia.
- No residentes no nacionales: acudirán a la misión (consular) pakistaní más cercana correspondiente a su lugar de residencia actual, indicando la duración de sus diversas residencias y los periodos de tiempo transcurridos en cada una de ellas.

En **Bangladesh** el solicitante del certificado (*PCC-seeker*) deberá acudir al funcionario del cuerpo de policía metropolitano (*Superintendent of Police*, o a un *Police Commissioner*, funcionario a las órdenes del anterior con rango de comandante [*major*] en la escala militar). Es curioso el caso de este país, ya que en su web indica la documentación precisa (3 fotografías tipo pasaporte) para un certificado de antecedentes penales destinado a España: "Those who will seek PCC for Spain will have to submit three passport size photos in addition to aforesaid documents to immigration section-3 of the Home Ministry, addressing the Secretary to the Ministry." Los certificados se pueden solicitar en lengua inglesa o en bengalí, aunque todos ellos se emitan en lengua inglesa, acompañados de la certificación de los funcionarios.

A continuación mencionaremos los requisitos de cada solicitante:

- Residentes nacionales: se dirigirán a la comisaría de policía más cercana.
- Residentes no nacionales: acudirán al Ministerio de Asuntos Exteriores en Dhaka.
- Nacionales no residentes: contactarán con una comisaría de policía local mediante un familiar/amigo o a través de la misión consular bangladeshí más cercana.
- No nacionales no residentes: escribirán al Ministerio de Asuntos Exteriores o solicitarán el certificado mediante la misión consular más cercana, la cual se encargará de reenviar la solicitud al mencionado Ministerio.

Exceptuando el último grupo mencionado (que aportará dos fotos y una relación de los detalles personales del solicitante, incluyendo los relativos a las residencias previas), el resto de solicitantes estarán a la espera de que el propio Ministerio les solicite la información y documentación que estime necesarias.

Finalmente, cuando el modelo de certificado necesita ser reconocido en otro país diferente al destinatario inicial, deberá ser validado, para lo que se suele estampar la Apostilla de la Haya. Esto es de aplicación en todos los países de los que emana la documentación sometida al presente estudio. Así, cuando un documento público se expide en el extranjero, se requiere la legalización de su firma y sello; para ello existen dos vías: el proceso de apostillado y el proceso de legalización. En ambos casos se certifica la autenticidad de la firma del funcionario que

firma el documento, así como del sello que va estampado en el mismo, sin entrar en ningún caso en la validez de los contenidos del documento. La diferencia entre ambos procedimientos consiste en que únicamente se estampará Apostilla en los documentos que se emiten en los países firmantes del Convenio de la Haya de 5 de octubre de 1961. Los países que no lo suscribieron procederán a la legalización de los documentos públicos que precisen reconocimiento en un país extranjero.

2 Marco investigador: antecedentes

Como hemos señalado con anterioridad, a pesar de la importancia documental (y traductológica) de los documentos policiales en general y de los certificados de antecedentes penales en particular, las investigaciones en torno a este tipo de documento son prácticamente inexistentes, por esta razón nos hemos centrado en obras sobre el discurso jurídico procesal o penal, el derecho comparado y la traducción de documentos que emanan del mismo.

Ya en la década de los ochenta Gémard (1982) entablaba la relación entre el derecho y la traducción profesional, binomio imprescindible para llevar a cabo una investigación de este tipo, como advertían Kredens y Gozdz-Rozkowski (2007), Vázquez y del Árbol (2007, 2008, 2009, 2013) o Simonnaes (2013). Nuestro corpus aborda documentos procedentes, entre otros, de India; cuyos conceptos ya habían sido investigados previamente por Dell'Aquila (1994), aunque desde un punto de vista jurista, en lugar de lingüístico o traductológico (como el ofrecido por Mayoral 1995, 1999). El análisis de un corpus jurídico de más de una lengua siempre reporta beneficios adicionales, como ocurre en las investigaciones de Engberg (1994a, 1994b), con documentación penal alemana y danesa, Cao (2007), con un corpus bilingüe alemán-inglés, Tłumaczenia (2009), interesada por las divergencias polaco-británicas, o Holl (2011), centrada en el binomio alemán-español. El derecho comparado no deja de ser el vector fundamental en nuestro análisis, cuya importancia ha sido recalcada por investigadores tales como Schena y Snel (2000), Fiorito (2005), Cunillera (2011) o Jacobs y Larrauri (2011). La presente investigación gira en torno al ámbito penal, previamente analizado por Gibbons (2005) o Navarro (2007), abordado mediante un corpus constituido por documentos jurídicos en lengua inglesa y en lengua española. Este par lingüístico ha estado presente en diversas investigaciones, ya sea desde el punto de vista lingüístico (Alcaraz 1994, Alcaraz et al. 2001, Alcaraz/Hugues 2002, Lara 2012, Borja 2013), sociolingüístico (Tomás 2005) o incluso postestructuralista (Vidal Claramonte 2013).

La investigación que presentamos en este artículo aborda desde un punto de vista macroestructural certificados de antecedentes penales, emitidos simultáneamente en marcos jurídicos de derecho oriental y derecho civil, empleando una perspectiva interdisciplinar. En ella partimos de los rasgos del derecho comparado, combinada con la perspectiva profesional de la traducción jurídica. A pesar de la importancia indudable de las investigaciones enumeradas, no existen estudios contrastivos macroestructurales publicados sobre los certificados de antecedentes penales emitidos en los países que conforman nuestro estudio.

Como hemos podido observar, el discurso jurídico-judicial se ha abordado desde el punto de vista de la traductología, la sociolingüística, la lingüística aplicada, la lingüística aplicada a la traducción, el análisis del género, el derecho comparado, etc. Por nuestra parte, hemos seleccionado el marco teórico del análisis macroestructural del discurso, cuyo pionero fue Van Dijk (1978, 1980, 1997). Mediante la estructura discursiva podemos esbozar el contenido de cualquier modalidad textual. Así, se observa la coexistencia de dos tipos fundamentales de es-

estructuras: la superestructura y la macroestructura; mientras que la superestructura articula la organización informativa y global del texto (estructura formal del mismo), la macroestructura organiza el esqueleto semántico y prototípico del texto de forma global. Asimismo, existe una tercera modalidad estructural denominada microestructura, que va ligada directamente a las cuestiones léxicas y morfosintácticas (relaciones semánticas y conectores que las entrelazan) del texto en cuestión. Así, entendemos la macroestructura textual como el camino existente para tramar las relaciones discursivas en un texto, ya fueren de tipo cognitivo o semántico, como indica Van Dijk, quien profundiza en la necesidad de conocer estas estructuras para poder dibujar y, a la vez, facilitar la de por sí compleja información contenida en un documento. Estos modelos estructurales han llegado a desempeñar un papel fundamental en áreas tan diversas como las Ciencias, las Humanidades, las Ciencias Jurídicas o las Ciencias Sociales. Ejemplos de las estructuras más generales (superestructuras) que resultan reflejo de las relaciones jerárquicas serían los enunciados de una noticia periodística (*headlines, lead, context, and event*), como bien apuntan MacArthur et al. (2006: 387). De hecho, acciones habituales, como salir a realizar unas compras o almorzar en un local, engloban, según Van Dijk (1980: 8), una secuencia de actividades; del mismo modo que la macroestructura textual representa una secuenciación de actos en el tiempo y espacio discursivos. Por todo lo expuesto anteriormente, en cualquier discurso especializado resulta relevante no sólo conocer la superestructura, sino la estructura que subyace bajo la anterior (macroestructura). Por esta razón consideramos imprescindible, en el ámbito profesional de la traducción jurídica, el manejo de tres conocimientos: por un lado, el conocimiento lingüístico-traductológico (de la lengua origen, de la lengua meta y de las herramientas y estrategias traductológicas de las que dispone un traductor); en segundo lugar, el conocimiento temático aplicado (el derecho comparado) de elementos convergentes y especialmente de los divergentes; en tercer lugar añadimos un conocimiento relevante y eminentemente pragmático, que resulta de manejar la super y macroestructura de documentos oficiales (de la lengua origen y de la meta), sin los cuales la traducción quedaría forzada y encorsetada estructural y fraseológicamente. Para esto resulta imprescindible el manejo de textos paralelos, que servirán de guía constante en el proceso de la traducción.

Teniendo en cuenta la heterogeneidad denominativa y estructural del documento objeto de nuestro estudio, pensamos que el análisis macroestructural comparado proporciona el marco teórico idóneo para un estudio que pretende plantear implicaciones traductológicas. A un traductor le interesa el “esqueleto” (superestructura) de un texto, aunque sea probablemente con lo que esté más familiarizado. Sin embargo, la macroestructura, que define la estructura semántica del texto, con sus ideas y relaciones, le puede resultar desconocida (a menos que haya traducido esa modalidad textual en varias ocasiones). De este modo, la superestructura puede identificarse más fácilmente mediante la búsqueda de elementos ortotipográficos que ayuden a demarcar ese esqueleto que mencionamos (como el empleo de la letra de mayor tamaño, cursiva, negrita o mayúscula), hecho que no ocurre con la macroestructura, que es más profunda, pero igual o incluso más relevante. Estas son las razones fundamentales por las que nos hemos decantado por este nivel textual para investigarlo en nuestro corpus bilingüe.

El derecho penal comparado

El derecho comparado es una rama del derecho que no ha suscitado el suficiente interés en España, a diferencia del reconocimiento que tiene en países como Argentina, Chile, Colombia, México o Perú, por citar algunos ejemplos. Su principal objetivo es cotejar sistemas de derecho

tangencialmente diversos, que se caracterizan por plantear cuestiones legislativas de modo heterogéneo. Así, en los países sometidos a estudio existen tres sistemas jurídicos principales (derecho continental, derecho consuetudinario y derecho *Fiqh*) y un cuarto sistema, híbrido del consuetudinario y del continental (denominado en lengua inglesa “Bi-juridical” o “Civil-Common Law”).

El continental o civil rige diversas zonas del globo, resultando el ordenamiento jurídico más extendido geográficamente. España pertenece a este sistema, junto a unos 150 países (gran parte de Sudamérica, la mayor de Europa, las zonas francoparlantes de África o gran parte de Asia).

El derecho consuetudinario es el que rige en la zona de Inglaterra, Gales e Irlanda, y en las antiguas colonias británicas (Estados Unidos [exceptuando Luisiana], Australia, Nueva Zelanda, Canadá [exceptuando Quebec], India, Pakistán, etc.). De hecho, se presupone que un tercio de la población mundial está sujeta al orden consuetudinario.

El derecho *Fiqh* (conocimiento profundo o entendimiento) o derecho islámico es de carácter religioso, ya que basa sus principios en el conjunto de las normas recogidas en el Corán y en la Sunna; este derecho islámico (*Sharia*) está eminentemente centrado en el aspecto secular, existiendo un total de 6 escuelas predominantes dentro del *Fiqh*: 4 suníes (*Sunni*) y 2 chiitas (*Shi'a*), representando los suníes el grupo musulmán mayoritario en la comunidad islámica mundial (Bangladesh, Emiratos Árabes Unidos o Catar son ejemplos de este sistema de derecho). El *Fiqh* clasifica en tres grupos fundamentales las cuestiones jurídicas objeto de estudio: a) la adoración, como la oración y el ayuno, b) las transacciones, como la compra-venta, c) las relaciones sociales, como el matrimonio y el divorcio.

El derecho continental presenta un poso importante de derecho romano (concretamente del emperador Justiniano) y se caracteriza por una casuística de legislación codificada (en ocasiones abstracta, debido a su carácter prescriptivo (prevé delitos y asigna penas a los mismos). Extendido por Europa Continental (entre otras zonas geográficas), parte de una fuerte base de relaciones entre ciudadanos (de ahí su otra denominación de derecho civil) y se articula de forma escrita, considerando los precedentes, aunque estos no sean imprescindibles.

Por su parte, el derecho consuetudinario es más de índole descriptiva (más tangible que el civil), partiendo de resoluciones y decisiones previas (el precedente y la jurisprudencia de los tribunales de justicia, ya sean estos tradicionales: “common-law courts” o modernos “equity courts”), y procurando actuar conforme a éstas. Esto es debido a que los jueces y magistrados constituyen un pilar fundamental de este sistema de derecho. Su normativa no está recogida por escrito en su totalidad, ya que su idiosincrasia es más práctica que teórica.

El derecho continental y el consuetudinario se caracterizan por presentar enfoques diversos, aunque también complementarios: por un lado el “Common Law”, “Case Law” o “Judge-made Law” (“derecho consuetudinario”, “derecho pretor”, o literalmente “derecho común inglés”), con la jurisprudencia como principio fundamental; frente al “Civil Law”, “Roman Law” o “Continental Law” (“derecho continental”, “derecho romano” o “derecho napoleónico”, por el Código de 1804 promulgado por Napoleón Bonaparte), con la ley como base del mismo. El derecho híbrido se encuentra extendido por Luisiana, Quebec, el sur de África (Namibia, Botsuana, Zimbabue y Sudáfrica) o Filipinas. Por su parte, Escocia es también el resultado de la mezcla del derecho civil con el consuetudinario.

3 Resultados de la investigación

Tras exponer el contexto de cada país objeto de estudio, a continuación presentamos el modelo de macroestructura de cada sistema analizado. Con el fin de obtener los resultados que deseábamos, hemos recopilado un total de 60 certificados de antecedentes penales: 10 de España, 10 de Emiratos Árabes Unidos, 10 de Catar, 10 de India, 10 de Bangladesh y 10 de Pakistán. Todos ellos datados en los años 2012 y 2013. En ellos hemos analizado toda la información relativa a elementos verbales y no verbales (sellos, firmas, escudos, fotografías, huellas dactilares, etc.) Esta información se presentará clasificada por orden de aparición en los documentos del corpus.

Mediante tablas representaremos los modelos macroestructurales (tablas 1 a 6). En cada elemento verbal/no verbal emplearemos la barra diagonal para indicar opciones de expresión/formulación/tratamiento y las dos barras cuando las opciones sean eminentemente divergentes. Asimismo, emplearemos el símbolo de más para indicar la información que acompaña a otra (o con la que se cumplimenta un apartado). Mediante el empleo de los corchetes añadiremos información relativa al apartado que estemos describiendo en ese momento. Durante la fase de análisis recogimos toda la información macroestructural del corpus, aunque nos centramos en los elementos que tendían a repetirse en el mismo.

Tabla 1: Macroestructura del certificado de antecedentes penales en España

Información No verbal	Información Verbal
1 – Escudo del gobierno de España	
	2 – Subdirección General de Información Administrativa e Inspección General de Servicios
	3 – Registro Central de Penados y Rebeldes
	4 – Don/Doña + Nombre + Funcionario del Ministerio de Justicia en + Ciudad CERTIFICA
	5 – Que, en el día de la fecha, consultada la Base de Datos del Registro Central de Penados y Rebeldes, NO CONSTAN/CONSTAN antecedentes penales relativos a:
	6 – D./D ^a + Nombre + con DNI n ^o : + N ^o
	7 – El presente certificado refleja la situación del titular interesado/a en la fecha de su expedición y se emite exclusivamente a efectos de [expediente eclesiástico/ permiso de residencia/licencia de armas ...]
	8 – V ^o B ^o El Jefe/La Jefa de Área/El Subdirector General
9 – Firma de El Jefe/La Jefa de Área/El Subdirector General	
	10 – Identificación de la Firma

11 – Sello de la Subsecretaría del Ministerio de Justicia, Subdirección General de Información Administrativa e Inspección General de Servicios	
	12 – El Funcionario + Ciudad + Fecha
13 – Firma del Funcionario + Sello oficial del funcionario (constando su pertenencia a la Subsecretaría del Ministerio de Justicia-Subdirección General de Información Administrativa e Inspección General de Servicios, la fecha de estampado del sello + el nombre del funcionario que sella y firma)	

Tabla 2: Macroestructura del certificado de antecedentes penales en Emiratos Árabes Unidos

Información No verbal	Información Verbal
	1 – United Arab Emirates Ministry of the Interior (City) Police GHQ + [Same information in Arabic]
2 – Coat of Arms of the Police Office issuing the document	
	3 – Ref: + Reference
	4 – Date: + Date
5 – Bearer’s Colour Picture	
	6 – Police Clearance Certificate
	7 – Full Name: + Name – Nationality: + Nationality – Profession: + Profession – Date of Birth: + Date of Birth – Place of Birth: + Place of Birth – Passport Number: + Number – Place of Issue: + Place – Date of Issue: + Date – Date of Expiry: + Date – Residence Number: + Number – Place of Issue: + Place – Date of Issue: + Date – Date of Expiry: + Date

	8 – To be submitted to: [Name of Embassy/Consulate]
	9 – This is to certify that the Bearer of this certificate, whose photo and description are shown above, has/has no previous convictions as to the date of issuance of this certificate
10 – Police’s Stamp + Officer’s Signature	Name of Police Officer + Post
	11 – <u>Remarks</u> : – Any scratch or change voids this certificate – This certificate is valid for 3 months only
12 – Police’s Stamp (Hologram)	

Tabla 3: Macroestructura del certificado de antecedentes penales en Catar

Información No verbal	Información Verbal
	1 – State of Qatar Ministry of Interior Public Security General Administration Criminal Evidence and Information Department
2 – Coat of Arms of Public Security General Administration Criminal Evidence and Information Department	
3 – Bearer’s Colour Picture	
	4 – Police Clearance Certificate/Certificate of Good Conduct
	5 – Purpose of Certificate: + Purpose – Destination Department: + Destination – Identification Number: + Number – Passport Number: + Number – Full Name: + Name [Bearer’s one] – Nationality: + Nationality – Place of Birth: + Place – Date of Birth: + Date
	6 – This is to certify that some/no previous criminal conviction has been reported against the above mentioned individual during his/her stay From: + Date To: + Date
	7 – This certificate is issued upon (his/her) request letter:

	8 – This certificate is valid 6 months from the date of issue:
9 – Stamp of Public Security General Administration Criminal Evidences and Information Department + Signature of Director of Criminal Evidence and Information Department	Name of Person Signing the Document + Title
	10 – Doha 2016

Tabla 4: Macroestructura del certificado de antecedentes penales en India

Información No verbal	Información Verbal
1 – Coat of Arms of Government of India, Ministry of External Affairs, Passport Office Coimbatore	
	2 – Government of India Ministry of External Affairs Passport Office Coimbatore
	3 – Telephone: + Telephone Fax: + Fax E-Mail: + E-Mail Coimbatore Address
	4 – File Number: (+ Number) Dated: (+ Date)
5 – Bearer’s black and white picture	
	6 – Police Clearance Certificate
	7 – There is/There is no adverse information against Shri/Smt/Kum (+ Name) S/o//D/o//W/o (+ Name) holder of Indian passport Number issued on (+ Date) at (+ Place) which would be <i>render</i> him/her ineligible for grant of travel facilities including Visa for (Country).
	8 – For Passport Office Coimbatore
9 – Signature of Passport Officer + Stamp of Passport Office, Coimbatore	

Tabla 5: Macroestructura del certificado de antecedentes penales en Pakistán

Información No verbal	Información Verbal
1 – Coat of Arms of District Police Office	Name of District Police Office
	2 – Police Character Certificate
	3 – This is to certify that there is/there is nothing adverse against (+ Name) Son of (+ Name) resident of (+ Address) having passport Number (+ Number) Issued on (+ Date) Nic Number (+ National Identification Number) issued on (+ Date) on Police Record during his/her stay at the given address in (+ Name of District) District from the period from (+ Date) to (+ Date) Number (+ Number) Dated (+ Date)
	4 – Note: This certificate will be used only for obtaining Visa/Immigration from (+ Country) Embassy/Consulate in Pakistan
5 – Bearer's colour picture	
6 – Signature of District Police Officer Stamp of District Police Office	Title

Tabla 6: Macroestructura del certificado de antecedentes penales en Bangladesh

Información No verbal	Información Verbal
1 – Coat of Arms of Bangladesh Government	
2 – Stamp with information on the following data: – Date of Issue – Reference Number – Date of Signature + Signature of Superintendent of Police	
	3 – Government of The People's Republic of Bangladesh
	4 – (Name of Police Station) + Police Station (Name of District) + District Number: + Number Dated: + Date
	5 – Police Clearance Certificate

	6 – The character and antecedents of Mr/Mrs/Miss (+ Name) son of/daughter of (+ Name) + Address, holder of Bangladesh International Passport Number (+ Number) issued at (+ Name) on (+ Date), have been verified and there is/there is no adverse information against him/her on record
	7 – This certificate is issued in pursuance of Ministry of Home Affairs (+ Address), dated the (+ Date)
8 – Signature of Police Officer in Charge + Stamp of Police Station	Name + Title of Officer in Charge

4 Conclusiones del análisis

A continuación procedemos a presentar los resultados de esta investigación contrastiva, centrándonos especialmente en las divergencias halladas en el corpus analizado, abordando aspectos tanto externos (forma y formato del documento) como internos (macroestructurales, léxicos, fraseológicos, etc.). Para ello, partiremos del certificado de antecedentes penales español, cuyos rasgos cotejaremos con los de los otros sistemas de derecho. Con objeto de lograr nuestro objetivo, abordaremos la comparación partiendo del orden de aparición de los elementos externos e internos en el corpus español, de esta forma estaremos proporcionando una herramienta léxica y fraseológica para la traducción inglés-español y español-inglés. Asimismo, indicaremos (entre paréntesis) la ratio de uso de cada rasgo analizado, tanto externo como interno. Cabe añadir que hemos procedido a traducir los cargos al castellano, para homogeneizar la terminología utilizada y facilitar el contraste interdocumental.

Tabla 7a: Contraste informativo de los 60 certificados de antecedentes penales del corpus analizado (España, Emiratos Árabes Unidos, Catar)

Rasgos Externos	España	Emiratos Árabes Unidos	Catar
Identificación gráfica de la entidad emisora	Del Gobierno de España (10/10 documentos)	De la Comisaría de Policía (escudo + holograma del sello) (10/10)	Del Departamento ministerial de antecedentes penales (10/10)
Fotografía del Solicitante	No	Sí, a color (10/10)	Sí, a color (10/10)
Firma del documento	Dos firmas: -El Jefe/Subdirector General -El Funcionario (10/10)	El Funcionario (10/10)	El Jefe del Departamento de antecedentes penales (10/10)

Obligación de estampar el sello oficial	Dos sellos: -el de la Subsecretaría del Ministerio -el del Funcionario (10/10)	Dos sellos de la Policía (10/10)	Del Departamento de antecedentes penales (10/10)
Rasgos Internos			
Mención explícita (al comienzo del documento) del organismo expedidor	Registro Central de Penados y Rebeldes (10/10)	Dirección General de Policía, Ministerio del Interior (10/10)	Ministerio del Interior, Departamento de antecedentes penales (10/10)
Título del Documento	No	Police Clearance Certificate (10/10)	Police Clearance Certificate (10/10)
Fraseología certificativa	“Don ... Certifica” (10/10)	“This is to certify that ...” (10/10)	“This is to certify that ...” (10/10)
Fórmula de Tratamiento del Sujeto	D/Dª (10/10)	No	No
Datos Personales sobre el Sujeto para el que se expide el certificado	– Nombre – DNI (10/10)	– Nombre – Nacionalidad – Profesión – Fecha de Nacimiento – Lugar de Nacimiento – Número de Pasaporte – Lugar de expedición del mismo – Fecha de expedición – Fecha de vencimiento – Número de residencia – Lugar de expedición – Fecha de emisión – Fecha de vencimiento (10/10)	– Número de Identificación – Número de pasaporte – Nombre – Nacionalidad – Lugar de nacimiento – Fecha de Nacimiento (10/10)

Fraseología sobre la existencia/ ausencia de antecedentes penales	“Que, en el día de la fecha, consultada la Base de Datos del Registro Central de Penados y Rebeldes, NO CONSTAN/ CONSTAN antecedentes penales relativos a ...” (10/10)	“The Bearer ... has/ has no previous convictions” (10/10)	“Some/no previous criminal conviction has been reported against the above mentioned individual” (10/10)
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Tabla 7b: Contraste informativo de los 60 certificados de antecedentes penales del corpus analizado (India, Pakistán, Bangladesh)

Rasgos Externos	India	Pakistán	Bangladesh
Identificación gráfica de la entidad emisora	Del Ministerio de Asuntos Exteriores, Sección de pasaportes (8/10)	De la Comisaría de Distrito (8/10)	Del Gobierno de Bangladesh (8/10)
Fotografía del Solicitante	Sí, en blanco y negro (10/10)	Sí, a color (9/10)	No
Firma del documento	El Funcionario de la Sección de pasaportes (10/10)	El Policía (10/10)	Dos firmas: -El Jefe de Policía -El Funcionario de Policía (10/10)
Obligación de estampar el sello oficial	De la Sección de pasaportes (10/10)	De la Comisaría de Policía (10/10)	Sí, dos sellos: -Con los datos de la expedición del documento -de la Comisaría de Policía (10/10)
Rasgos Internos			
Mención explícita (al comienzo del documento) del organismo expedidor	Gobierno de India, Ministerio de Asuntos Exteriores, Sección de Pasaportes (9/10)	Comisaría de Policía de Distrito (9/10)	Gobierno de la República Popular de Bangladesh + Nombre de la Comisaría de Policía + Distrito (9/10)
Título del Documento	Police Clearance Certificate (9/10)	Police Character Certificate (9/10)	Police Clearance Certificate (9/10)
Fraseología certificativa	No	“This is to certify that ...” (10/10)	No
Fórmula de Tratamiento del Sujeto	Shri/Smt/Kum (10/10)	No	Mr/Mrs/Miss (10/10)

Datos Personales sobre el Sujeto para el que se expide el certificado	<ul style="list-style-type: none"> - Nombre - Nombre de los padres/esposo - Número de pasaporte - Fecha de emisión del mismo - Lugar de emisión (9/10) 	<ul style="list-style-type: none"> - Nombre - Nombre de los padres - Dirección - Número de pasaporte - Fecha de emisión del mismo - NIC (Número de Identificación Nacional) - Periodo de tiempo de residencia del Solicitante en la Residencia facilitada (9/10) 	<ul style="list-style-type: none"> - Nombre - Nombre de los padres - Dirección - Número de pasaporte - Lugar de emisión del mismo - Fecha de emisión (9/10)
Fraseología sobre la existencia/ausencia de antecedentes penales	<p>“There is/is no adverse information against Shir/Smt/Kum + Name ... which would render him ineligible for grant of ...” (10/10)</p>	<p>“... there is/is nothing adverse against (+Name) during his/her stay at the given address ...” (10/10)</p>	<p>“the character and antecedents of Mr/Mrs/ Miss (+Name) ... have been verified and there is/there is no adverse information against him/her on record” (10/10)</p>

A continuación mostramos otra tabla (tabla 8) partiendo en esta ocasión de la información que aportan los documentos de los países anglófonos que, a tenor del corpus analizado, no suele figurar en los certificados de antecedentes penales de España. En este caso emplearemos un aspa para indicar el país que presenta esa unidad informativa de la que el documento de España suele carecer.

Tabla 8: Elementos documentales en los certificados en lengua inglesa ausentes en los de lengua castellana

Rasgos	Emiratos Árabes Unidos	Catar	India	Pakistán	Bangladesh
Variedad en la denominación del documento	X	X	No	X	X
Referencia a las razones/destinatarios del documento	Nombre de la Embajada que solicita la información	Indicación del Propósito	Nombre del País: “travel facilities including Visa for (+ País)”	Nombre de la Embajada o Consulado que solicita la información	No
Fotografía del Solicitante	X	X	X	X	No
Referencia a la existencia de una fotografía	X	No	No	No	No
Indicación de los nombres de los familiares	No	No	Sí (Nombre de los padres/esposo)	X (Nombre de los padres)	X (Nombre de los padres)

Anuncio de que el documento se ha expedido tras una carta de solicitud	No	X	No	No	No
Validez del Certificado	3 meses	6 meses	No	No	No
Advertencia sobre la invalidez de documentos manipulados	X	No	No	No	No
Publicidad	No	Sobre la entonces candidatura de Doha a las olimpiadas de 2016	No	No	No

5 Interpretación de los resultados del análisis

Desde el punto de vista léxico, observamos contrastes significativos en cada país. Así, en España existe una única forma de denominar al documento (“Certificado de Antecedentes Penales”), como ocurre en India (“Police Clearance Certificate”). A partir de aquí la multiplicidad denominativa va in crescendo: Bangladesh cuenta con dos alternativas, al igual que Catar; Emiratos Árabes Unidos presenta 3 y Pakistán presenta 5 modalidades de forma simultánea. La denominación más reiterada es la de “Police Clearance Certificate”, empleada de forma simultánea en India, Pakistán, Emiratos Árabes Unidos, Bangladesh y Catar, aunque en Pakistán también se observe “Police Character Certificate”, por aportar otro ejemplo.

Desde el punto de vista macroestructural, lo primero que llama la atención es la diversidad organizativa y las divergentes extensiones de los documentos analizados. Si cotejamos los diferentes modelos documentales entre sí, observamos que existen divergencias considerables con España en todos ellos. El modelo de Bangladesh es el que menor número de elementos adicionales (2 en total) añade al certificado de España, lo que contrasta con los 6 elementos de Emiratos Árabes Unidos o con los 5 que Catar suma a los del documento español.

En lo referente a los rasgos documentales externos, la totalidad de documentos analizados comienza por facilitar gráficamente la identidad del organismo expedidor del documento, aunque este dato, junto con el hecho de que todos los documentos figuran firmados y sellados (en una o dos ocasiones) por las autoridades pertinentes, lo que presentan en común todos los certificados entre sí; a partir de aquí encontramos diversas divergencias. Por un lado, la lingüística, la mayoría de los certificados se expiden en una sola lengua, exceptuando el caso de Catar, que lo emite totalmente bilingüe, dato que se observa parcialmente en el documento de Emiratos Árabes Unidos: únicamente en los datos relativos a la entidad emisora del mismo. El tema de la fotografía del solicitante, que no se incluye en el documento español, se ha observado en la mayoría de los documentos extranjeros analizados, exceptuando el caso de Bangladesh.

Si atendemos a los rasgos internos, España no encabeza el documento con el título del mismo, mientras que el 100% de los documentos en lengua inglesa sí lo hace. Otro aspecto divergente es la fraseología certificativa, ya que España la emplea en todos sus documentos,

al igual que Emiratos Árabes Unidos, Catar o Pakistán, mientras que India y Bangladesh no la utilizan en sus instrumentos. La fórmula de tratamiento del solicitante la utiliza España, India y Bangladesh, pero se observa su ausencia en Emiratos Árabes Unidos, Catar y Pakistán, quienes marcan menor distancia con el solicitante (a su vez protagonista) del certificado de penales. La casuística de datos personales del solicitante es común a todos los certificados de penales analizados, aunque se alarga considerablemente en Emiratos Árabes Unidos. De este apartado nos ha llamado la atención la inclusión de información familiar en India, Pakistán y Bangladesh. La fraseología sobre la existencia o ausencia de antecedentes penales se observa en todos los modelos, pero se puede agrupar geográficamente, ya que Emiratos Árabes Unidos y Catar emplean “previous conviction”, mientras que India, Pakistán y Bangladesh optan por “no adverse information/nothing adverse against”.

Es en el contraste intratextual donde encontramos otras diferencias. Por un lado, Bangladesh y Pakistán presentan formularios cumplimentados de forma “mixta” (unas secciones a máquina y otras de forma manuscrita), mientras que en el resto de países todas se cumplimentan a máquina. Todos los modelos documentales analizados presentan una extensión semejante, pero el de Emiratos Árabes Unidos se caracteriza por la presentación de la información especialmente clara y visual, en una sencilla tabla de dos columnas, lo que contrasta con la formulación india en un único párrafo, en el que incluso se observa algún error gramatical (señalado en la tabla macroestructural en cursiva). También nos ha llamado la atención que en el documento de Pakistán se presuponga al solicitante masculino (“son of”), pero no contemple la posibilidad de que el solicitante sea mujer, cuestión que se resolvería del siguiente modo: “son/daughter of”.

Asimismo, casi todos los documentos aportan la razón del certificado o indican los destinatarios del mismo, a excepción de Bangladesh, que tampoco aporta la fotografía del solicitante. Catar y Emiratos Árabes Unidos son más precisos en la información que presentan: Emiratos Árabes Unidos recuerda la existencia de una fotografía y Catar constata que el documento se expide previa solicitud del mismo. Tanto en Emiratos Árabes Unidos como en Catar se indica el periodo de validez del certificado (3 y 6 meses, respectivamente), recordando Emiratos Árabes Unidos cómo se invalidará cualquier documento manipulado. En resumen, hemos sido testigos de los contrastes existentes en el poder adquisitivo de cada país, de forma que Emiratos Árabes Unidos y Catar presentan modelos documentales afines, mientras que Bangladesh, India y Pakistán optan por macroestructuras homogéneas entre sí, pero heterogéneas con las de los anteriores países. Es en estos dos últimos países, en India y Pakistán, donde encontramos especialmente viva la huella del derecho consuetudinario, manteniéndose, en cierto modo, ligados a Gran Bretaña como en los tiempos del colonialismo británico.

En lo que a homogeneidad macroestructural se refiere, encontramos dos bloques: por un lado España, Emiratos Árabes Unidos y Catar, frente a India, Pakistán o Bangladesh, por otro. En el primer bloque predomina la ratio de uso de elementos macroestructurales de 10/10, es decir, se constata una clara tendencia a emplear los mismos elementos en la totalidad de ocasiones. Este hecho contrasta con la ratio de frecuencia de los elementos de India, Pakistán o Bangladesh, que oscila entre el 8/10 y el 10/10, demostrando la necesidad de regularizar en mayor medida el contenido macroestructural de los documentos emanados en estos tres países. En cualquier caso, hemos constatado una mayor homogeneidad en el uso de elementos externos frente al de internos.

Por los resultados que ha arrojado nuestro estudio, podemos observar claras divergencias en los rasgos macroestructurales del mismo. Resumimos, a continuación, los rasgos más sig-

nificativos del corpus estudiado, centrándonos en aquéllos que dotan a los modelos documentales de un carácter de mayor independencia u originalidad. En el corpus bilingüe de Emiratos Árabes, Catar y España se tiende a emplear elementos macroestructurales con una incidencia del 100% de los casos, frente al 80% (mínimo) de tasa de frecuencia de los elementos macroestructurales de India, Bangladesh o Pakistán. Los elementos externos están más estereotipados que los internos, facilitando al lector la identificación del género textual que tiene delante. India sólo presenta una forma de denominar el documento, al igual que España, pero en el resto de países se observa una heterogeneidad denominativa. Ni España ni Bangladesh incorporan la foto del solicitante en ninguno de los certificados, al contrario que sucede en el resto de países, aunque no se mencione explícitamente en Catar, India o Pakistán. La importancia de los familiares del sujeto es tal en India, Pakistán o Bangladesh que hasta se mencionan en todos los documentos penales que hemos analizado. En Catar se recuerda que el certificado de penales se está emitiendo tras la solicitud formal del mismo. En Emiratos Árabes y en Catar se menciona el periodo de validez del certificado (3 y 6 meses, respectivamente), pero no en el resto de países. Por su parte, Emiratos Árabes es el único país que recuerda la ilegalidad de manipular documentos oficiales. Finalmente, Catar es el país que ha destacado por ofrecer publicidad dentro de un documento de tal importancia.

Considerando que la traducción debe cumplir las mismas funciones en la cultura origen que en la meta, se torna por ello imprescindible conocer la macroestructura, fraseología, y léxico de cada modelo documental para poder traducir desde o hacia él. Como hemos podido comprobar, no es lo mismo traducir un certificado de antecedentes penales español que vaya destinado a Emiratos Árabes Unidos, Catar, India, Pakistán o Bangladesh (y viceversa), ya que cada modelo documental suele ser reflejo de la organización policial-penal de los países emisores del mismo. Si tenemos en cuenta las coincidencias y las divergencias de forma y contenido, podremos proporcionar modelos de traducción funcionales y dinámicos, por lo que no provocarán extrañeza al ser recibidos en la cultura de destino. Esperemos que la presente investigación, de carácter inédito, contribuya a mejorar la comprensión, análisis y traducción de esta modalidad textual tan demandada en el sector de la traducción institucional.

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On the Discursive Construction of the Equity Story in PowerPoint Presentations

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Abstract It is the aim of this paper to contribute to a communication perspective on the study of the equity story seen as a strategic management tool within Investor Relations (IR). To be more specific, a first step is offered towards developing characteristics of how the equity story is discursively constructed. An international small-scale study of selected PowerPoint presentations serves as point of departure. The focus of the analysis is three main characteristics of the equity story when seen as an IR strategic management tool: the importance of both forward and backward looking parameters; the importance of both financial and non-financial information; and the two inherent, potentially conflicting communicative purposes: to give a true and a fair view of the state of the company's affairs and to provide a positive image of the company. In order to account for the discursive construction of these characteristics, a method assemblage is applied and an analysis of temporal reference, a topic analysis and an analysis of visual means of communication have been conducted. The study reveals two main characteristics of the discursive construction of the equity story that point to the strategic use of the equity story not only as a means of making a company's share attractive, but also as a means of making it more attractive than comparable companies' share.

Keywords Investor Relations, discourse analysis, corporate communication, strategic communication, financial communication

1 Introduction

Investor Relations (IR) is widely accepted as a relatively new field, but nevertheless a field that is seen as increasingly important (e. g. Dolphin 2004, Goodman/Hirsch 2010, Kelly et al. 2010). In a wider perspective, this is due to companies' increasingly important quest for licenses to operate, which forms the basis of all corporate communication (cf. Christensen et al. 2008, Goodman/Hirsch 2010, Powell/DiMaggio 2000, Suchman 1995). IR is widely recognized as "a strategic management responsibility that integrates finance, communication, marketing, and securities law compliance to enable the most effective two-way communication between a company, the financial community and other constituencies, which ultimately contributes to a company's securities achieving fair valuations" (cf. the definition of IR offered by the professional organization of IR officers in the US, the National Investor Relations Institute (NIRI) 2011 [2003]).

Being a strategic management responsibility, IR becomes more than an operational function in a company, a function that "deserves *a seat at the table*" as Guimard (2013: xii) states – an aspect that serves as point of departure for this study and will be dealt with in more detail below. According to the above definition, it is the overall objective of IR to achieve a "fair valuation" – and not to drive up the equity value (cf. Nielsen/Bukh 2010) – in order to prevent volatility of a company's shares (cf. above and Guimard 2013). IR is further characterized by the integration of a wide range of functions and disciplines, including communication and marketing, in order to enable "the most effective two-way communication" between different

stakeholders. In other words, IR is interdisciplinary by nature and concerned with entering into dialogue with a company's stakeholders about financial issues. This highlights the importance of communication within IR in general, and explains the call for a strong relationship between IR and corporate communication (Guimard 2013, Ryan/Jacobs 2005), or even a convergence of IR and strategic communication like corporate communication or public relations (cf. Laskin 2009, Silver 2005). However, despite the fact that communication plays a pivotal role for IR in general, IR is still one of the least researched areas of corporate communication (e. g. Laskin 2009). To further illustrate the importance of communication within IR, it is worth noting that potentially it has a considerable effect on a company's equity value; what, how and when communication takes place sometimes affects the equity value more than the actual data (Nielsen/Bukh 2011). Ryan and Jacobs even believe that "the art portion of evaluation [how the financial performance is communicated (how, when, what, to whom, and by whom) relative to expectations] can make up anywhere from 20 to 40 percent of the total evaluation at any given time" (Ryan/Jacobs 2005: 85).

As a strategic management responsibility, IR becomes a matter of top level management, is integrated into the top management decisions process (cf. Laskin 2010) and turns into a critical part of corporate strategy (e. g. Dolphin 2004, Ryan/Jacobs 2005). Consequently, every company is recommended to develop an IR strategy that is closely related to the overall corporate strategy (cf. the Danish Investor Relations Association (DIRF) 2011, Ryan/Jacobs 2005). One of the cornerstones of a company's IR strategy is the so-called equity story, i. e. the story of a company's accomplishments and the investment potential of its shares, which is communicated in order to give an impression of its ability to succeed in future, thus making a company's share attractive to actual and potential investors (cf. DIRF 2011, Guimard 2013, Lykkesfeldt 2006). The equity story is sometimes referred to as "investment case" (e. g. Guimard 2013), "investment story", "investment thesis", "value story" (e. g. Ryan/Jacobs 2005), or "value creation story" (e. g. PRNewswire 2011). However, even though the importance of the equity story is widely recognized in IR (related) literature (e. g. DIRF 2011, Guimard 2013, Nielsen/Bukh 2011, PRNewswire 2011, Ramirez 2011, Ryan/Jacobs 2005), so far it has been treated poorly as an object of study in its own right.

It is the aim of this paper to contribute to the study of the equity story from a communication perspective by offering a first step towards developing characteristics of how the equity story, seen as an IR strategic management tool, is discursively constructed. The first step is the result of an international small-scale study of the equity story of five large cap companies awarded the 2012/2013 IR Magazine grand prix for best overall IR (IR Magazine 2012, 2013a, b, c, d). A discourse analysis serves as point of departure for developing characteristics of how the equity story is discursively constructed. The notion of discursive construction reflects the fact that the present analysis adheres to a constructivist view (Berger/Luckmann 1996 [1966]), according to which discourse is constitutive of the social world – "not a route to it" (Phillips/Hardy 2002: 6) – and texts can be considered a material manifestation of discourse (Chalaby 1996).

In the following section 2 the equity story is introduced as a cornerstone of an IR strategy, and three distinct characteristics of the equity story will serve as point of departure for the reported study. This is followed by a presentation of the research design in section 3, including the data and method of analysis. On the basis of the findings of the study presented in section 4, the characteristics of the discursive construction of the equity story, seen as an IR strategic management tool, are discussed in section 5. The final section 6 contains concluding remarks.

2 The equity story – a cornerstone of an IR strategy

As the story of a company's accomplishments and the investment potential of its shares, the equity story emphasizes the main selling points of the company in order to centre investor focus. Further, it communicates the company's main strategic business lines, identifies the company strengths and sector appeal, identifies problematic areas for competitors in the past, prepares preventive responses, and finally stresses the company's financial strategy (Ramirez 2011: 75).

Because IR is widely accepted today as a strategic management responsibility with the overall objective to achieve fair valuation of a company's shares (cf. NIRI 2011 [2003]), the equity story constitutes an important cornerstone of an IR strategy (cf. DIRF 2011, Ryan/Jacobs 2005). Further, working strategically with IR implies developing an IR strategy that is closely related to the overall corporate strategy. In this context, the equity story can be seen as an IR strategic management tool that ensures alignment with the overall corporate strategy, supporting the mission of the company (Ryan/Jacobs 2005). It serves as more than "the company's face to Wall Street" (Ryan/Jacobs 2005: 88). It is the core narrative of the company as an investment case and should be reflected in all (IR) communication. From a management perspective, the equity story can be seen as the business case of IR (cf. Nielsen/Bukh 2011).

As is clear from the above, developing and communicating the equity story is critical. It is thus not surprising that IR practitioners see it as a major challenge, which appears from an IR survey from 2013 among European Investor Relations Officers conducted by Citigate Dewe Rogerson. The survey revealed that "conveying a clear investment case in a new economic reality" was considered the key IR issue by 39 % of the respondents (Citigate Dewe Rogerson 2013: 5). There is no doubt that contextual factors like "the economic reality" have contributed to this. However, it might be argued that factors linked to significant characteristics of the equity story as an important strategic IR management tool in general also give rise to challenges. Three general characteristics will be described below.

The first characteristic relates to the fundamental idea of investing. Investments are in the nature of things made with the expectation of future additional profit. For that reason, valuation of a company's investment potential is based on expected future earnings (Draho 2004). The future might even be seen as more important than the past and the present: "The future is, after all, what analysts are concerned with. They know what the present is and what the past was", as Marcus (2005: 156) points out. The future perspective of investing is thus the first characteristic of the equity story as an important strategic IR management tool.

Due to the inherently unpredictable nature of the future, the immediate implications of the future perspective are at least threefold: 1. IR is all about trust and credibility (e. g. Allen 2002, Argenti 1998, cf. Minow 2002; on trust and the importance of communication, cf. for instance Ditlevsen 2014); 2. the main goal of IR activities is to educate stakeholders in order to enable them to understand the company (cf. Arvidsson 2012, Laskin 2010, Lauria 2008) and thus the investment potential of the company; 3. non-financial information plays a decisive role in IR (e. g. Guimard 2013, Laskin 2010, Ryan/Jacobs 2005).

The latter also constitutes the second characteristic of the equity story as it is generally agreed upon that the valuation of a company is increasingly based on other factors than financial (e. g. Draho 2004, Eccles/Krzus 2010, Laskin 2010). Between one third and possibly more than half of a company's value is thus at present linked to non-financial information (e. g. Guimard 2013). The importance of non-financial information in IR and corporate communi-

cation in general is further reflected by the massive attention being paid to issues of corporate social responsibility and sustainability (for an overview, cf. for instance Andersen et al. 2013), including socially responsible investing (e. g. Blodget 2007, Sandberg et al. 2009). It is further reflected by changes in corporate reporting practices and guidelines (e. g. the sustainability reporting guidelines by the Global Reporting Initiative [GRI 2013] and the integrated reporting guide by The Prince's Accounting for Sustainability Project [A4S 2009]).

The final characteristic of the equity story as an important strategic IR management tool relates to inherent communicative challenges. On the one hand, the equity story contributes to the overall objective of IR, i. e. for a company to achieve fair valuation by educating its stakeholders in a trustworthy and credible way and thus enabling them to make informed decisions about the investment potential of the company. On the other hand, companies are increasingly competing for capital due to factors including globalization and technology. For that reason, the equity story also strives to make a company's share attractive to actual and potential investors. Consequently, the equity story "must simultaneously convey a 'true message' of the company and make that image attractive to its investors" (Ramirez 2011: 75). In other words, creating and communicating an equity story is a balance between making a company's share more attractive and remaining credible and trustworthy. This balance constitutes the third characteristic of the equity story.

3 Research Design

The characteristics of the equity story serve as point of departure for a small-scale discourse analysis of the equity story of five large cap companies. The five companies in question are BASE, Covidien, KROTON, SingTel and TD Bank Group, which have all been awarded the 2012 and/or 2013 IR Magazine grand prix for best overall IR in their respective regions, South East Asia (SingTel, Singapore), Brazil (KROTON), Europe (BASE, Germany), and North America (Covidien, United States of America; TD Bank Group, Canada) (IR Magazine 2012, 2013a, b, c, d). The IR awards are based on surveys among analysts and investors, so the awarded companies represent what is regarded best practice internationally within IR.

3.1 Data

The data set for the discourse analysis comprises archived PowerPoint presentations of the companies available on their IR websites. Within an IR context, presentations in general count as one of the basic activities (Laskin 2009) that have the potential to influence the investment community's perception and understanding of a company, and thus their valuation of it (Guimard 2013). Due to the status of a presentation as an "in-person-event" (Ryan/Jacobs 2005: 205), it can be a strong vehicle for building valuable, mutually beneficial relationships with the financial community. Consequently, presentations should be part of a company's basic IR programme, together with the IR website, guidance and Q&A material, according to the IR excellence model by Lykkesfeldt (2006). Given that PowerPoint presentations can be seen as an integral part of presentations, they too should be a part of a company's basic IR programme. The UK organization of IR professionals, the Investor Relations Society (IRS), recommends archiving PowerPoint presentations and other information relevant to a presentation on the corporate IR website (IRS 2013). In this way, a company can ensure equal access for all investors, "whether they are at the event or accessing information via the website" (IRS 2013: 1).

In the present study, the focus has been on archived PowerPoint presentations. However, only those presentations that aim at presenting the company as an investment case in general have been considered for the study, excluding presentations of financial results for specific quarters and presentations of more specific news and events. More precisely, the final data set consists of the most recent PowerPoint presentation for each of the above companies that were available on their IR websites by October 1st, 2013, and that complied with the above criteria (cf. table 1).

Table 1: Data set

Company	Title of presentation	Date	No. of slides
BASF	We add value as <i>one</i> company. Capital Market Story	August, 2013	40
Covidien	Covidien 2013 Investor Day	12 September, 2013	96
Kroton	Institutional Presentation	May, 2013	55
SingTel	SingTel: Asia's leading communications group. CLSA Investors' Forum 2013	23 September, 2013	10
TD Bank	TD Bank Group. Investor Presentation. Q3 2013 ¹	29 August, 2013	35

A few comments need to be added to the suitability and use of PowerPoint presentations in this study. Firstly, a PowerPoint presentation usually functions to support, clarify and/or illustrate an oral presentation. It is thus usually part of a multimodal context. However, when archived on the IR website, the PowerPoint presentation is potentially used isolated as a media in its own right, by means of which a company can communicate its equity story to its stakeholders and thus educate the investors to understand the company. For that reason, archived PowerPoint presentations are suitable for the purpose of the reported study. A final comment relates to one of the main characteristics of a PowerPoint presentation: the fact that it consists of a series of slides, each offering limited space for communication. Consequently, meanings are split into chunks and discursively constructed by means of a strong use of ellipses, nominalizations, and visual elements to name a few. These characteristics have an impact on the method of analysis.

3.2 Method of analysis

The discourse analysis is based on a semiotic perspective on language (cf. e.g. de Saussure 1993, Peirce 1958–1965) and has been performed manually using Nvivo10 software on the basis of predefined categories presented below. It focuses on the three characteristics of the equity story presented above. Generally adhering to a mixed methods approach (Johnson et al. 2007), the fundamental point of departure is neither theory, nor method, nor praxis but the research agenda itself. In order to account in the best possible way for the three characteristics in the analysis, a method assemblage has been developed and applied (Law 2004: 14).

The first characteristic of the equity story addressed in the discourse analysis is the fact that a company's investment potential is dependent on its ability to succeed in future and that

¹ Despite the focus on the financial results for the third quarter of 2013 in the title, the presentation is concerned with a more general presentation of TD Bank as an investment case.

the equity value thus is a result of both backward and forward looking parameters. Consequently, from a communicative perspective the equity story is expected to include the past, the present and the future. An analysis of temporal reference documents to what extent the equity story points to:

- the past, i. e. when the companies present past performances like long-term financial results 2009–2013 (Covidien, slide no. 60) or adjusted earnings 2007 to 2013 (TD Bank, no. 11);
- the present, i. e. when the companies present current information like present product portfolio (BASF, no. 5) or current global business operations (SingTel, no. 3); and
- the future, i. e. when the companies present forward looking information like an outlook of what the company expects, focuses on and aims for in the year to come (BASF, no. 11) or the product innovation plan for the following three years (Covidien, no. 26).

Due to the characteristics of IR presentation slides presented above, the decision was made to define the slide as the unit of analysis. As a result, each category can only be assigned once per slide.

Secondly, as the equity value is a result of both financial and non-financial performance, the equity story is expected to include both financial and non-financial information. A topic analysis (Li/Yamanishi 2000, Ditlevsen et al. 2007) documents whether and to what extent both financial and non-financial information is present in the presentation slides.

Even though it is generally agreed upon that the valuation of a company is increasingly based on non-financial factors, there does not seem to be a generally accepted understanding of what counts as non-financial information (Eccles/Krzus 2010). It is often used synonymously with intangibles (Laskin 2010) or refers to environmental, social and governance information (sustainability) and key performance indicators (Eccles/Krzus 2010). However, there does seem to be a general understanding that the boundaries between financial and different kinds of non-financial factors and information are blurred (cf. Eccles/Krzus 2010, Guimard 2013, Laskin 2010), which indicates that financial and non-financial information are intrinsically linked. In their book on integrated reporting, Eccles and Krzus define for their purposes non-financial information as

a broad term that applies to all information reported to shareholders and other stakeholders that is not defined by an accounting standard or a calculation of a measure based on an accounting standard, such as revenue growth, which we [i. e. Eccles and Krzus] will refer to as ‘financial information’ (2010: 83).

Inspired by this definition, the present analysis will distinguish between financial information that is prototypically based on accounting standards, directly or indirectly, and non-financial information that is prototypically not, and which to a larger extent than the financial information reflects a management and business perspective. When, for instance, Kroton’s PowerPoint presentation (no. 3) displays the growth of EBITDA, i. e. earnings before interest, taxes, depreciation and amortization (Taparia 2004: 88), and net revenues, financial information is present in that particular slide; on the other hand, when Kroton’s slides nos. 6–17 provide an overview of Brazil’s education sector, e. g. the level of graduation in the postsecondary (e. g. the number of students who hold a secondary degree and graduate in postsecondary) or the enrolment rate (e. g. students between 18 to 24 years old in postsecondary education in relation to the total population of that age group), non-financial information is present in those slides.

A further and more detailed topic analysis focuses on the different types of non-financial information in the presentation slides. A wide range of very diverse categories of non-financial information can be found in literature dealing with financial and non-financial information. For example, Eccles and Krzus (2010) suggest three – overlapping and intersecting – subcategories of non-financial information within integrated corporate reporting: intangible assets, key performance indicators, and economic, social and governance metrics. And in more specific IR literature, Marcus (2005) stresses the importance of the intangible factors of management and plans. Laskin (2010) presents in his focus on non-financial information Lev's (2005) categories of intangible assets, i. e. products/services, customer relations, human resources, organizational capital; Kaplan and Norton's (1992) balanced score card with its four main groups of performance indicators, i. e. the financial, the internal business, the customer, and the innovation and learning perspective; and finally Ernst & Young's (1997) alternative balanced score card with a total of eight categories of non-financial measures, i. e. quality of management, effectiveness of executive compensation policies, strength of corporate culture, level of customer satisfaction, strength of market position, quality of products and services, effectiveness of new product development, and quality of investor communications. Draho (2004: 165 f.) suggests that potential investors should pay special attention to non-financial information such as share retention, reputation, risks and corporate governance. His advice relates specifically to the valuation of a company in an initial public offering process, but it seems applicable for valuation in general. Finally, Guimard (2013) seems to respond to the consequences of the blurred boundaries between financial and different kinds of non-financial information (cf. above), by not distinguishing clearly between them in her advice on which important IR topics should be dealt with by a company in order to facilitate the valuation process. According to Guimard (2013), the most important IR topics are the overall vision of the company, the good and bad news, the company's competitive advantages, and its performances, as measured by the indicators that are used internally and by the financial market's preferred metrics. In the same vein, albeit in a more general context, Bruce W. Marcus (2005) introduces essential elements of a business plan developed by Lucy P. Marcus with the aim to give "the best and most accurate picture of a company" (Marcus 2005: 113). Of the eight main categories, the following five are relevant for the categorization of non-financial information: business description; the market; research and development; sales, marketing and business development and partners; and management. The suggested elements of the business plan differ significantly from the other categories of information presented above as they represent suggested topics of actual text segments, which makes them more applicable for the present study. For that reason, the list of essential elements of a business plan was taken as point of departure in the coding process, with a view to the other perspectives on and categories of non-financial information presented above. Further applied was the overall management and business perspective on non-financial information. This resulted in the categories:

- business description, i. e. the market position of the company's portfolio (Covidien, no. 14);
- management, i. e. when it is concluded that a company is led by a proven management team (Covidien, no. 36);
- market, industry and economic environment, i. e. demographic challenges (BASE, no. 13) or market characterizations (TD Bank, no. 5);
- strategic issues with the two sub-categories 1. investments and acquisitions, i. e. major investment projects (BASE, no. 26) and 2. research and development, i. e. new

products like the Daimler & BASF concept car “*Smartforvision*” (BASF, no. 20) or transformational progress highlights like restructured sales and distribution channels (SingTel, no. 7).

Here too, and for the same reasons as above, the unit of analysis is the slide; consequently, each category can only be assigned once to a slide.

The third and final characteristic dealt with in the discourse analysis relates to the dual communicative purpose of the equity story that balances between making a company’s share more attractive and remaining credible and trustworthy. From a communication perspective, the equity story serves two potentially conflicting purposes (cf. for instance Ditlevsen 2002): a) giving a true and a fair view of the state of the company’s affairs, serving mainly informative purposes, and b) providing a positive image of the company, serving mainly appellative and expressive purposes. For that reason, the equity story is expected to feature both informative and appellative/expressive means of communication (hereafter appellative means).

The focus of this part of the analysis is on the visual means of communication used in the presentation slides (on the use of visual means of communication within IR, cf. Ditlevsen 2012a, 2012b). It draws on works by Jakobson (1992 [1965]), de Saussure (1993) and Peirce (1958–1965) and is concerned with the use of icons, where the relation between the form and the concept of the sign is that of imitation (e. g. a portrait), and the symbol, where the relation between the form and the concept of the sign is that of convention (e. g. a logo). Generally speaking, the icon can imitate the concept that it represents in two ways. When it possesses concrete iconicity and thus represents relevant, recognizable characteristics (in a portrait, for instance), the icon will have a so-called representational format. Alternatively, when it possesses abstract iconicity and thus represents the concept in a metaphorical way (in a bar chart, for instance), the icon will have a so-called analytical format. In this context, the group of icons with representational format include photos, like photos of a family dinner, a child washing its hands at a sink, or a construction worker standing in front of wind turbines (BASF, no. 3), as well as product related photos (BASF, no. 4) and stylized representations like the drawing of a world map (Covidien, no. 23) or the human body (Covidien, no. 30). Icons with analytical format include tables, organizational charts, graphics (i. e. bar/column, pie/doughnut or a combination) (for examples, see appendix 1). Finally, the group of symbols includes logos, which in the present study mainly means the company logos of BASF, Covidien, Kroton, Sing-Tel and TD Bank.

Following Bühler’s instrumental Organon model (1982 [1934]) with its three main functions of language, i. e. representation, expression and appeal, in principle each visual element serves both communicative purposes of the equity story simultaneously. However, the salience of these purposes may vary, as Bühler points out. Based on this, the claim of the present paper is that the symbol mainly supports the communicative purpose of providing “a positive image of the company” and thus mainly serves appellative/expressive purposes. The same applies *ceteris paribus* to the icons with a representational format, which (compared to the icons with an analytical format) seem to have the ability to be more expressive and appellative (cf. Simpson 2000). Following this, the claim is that the icons with an analytical format mainly support the other communicative purpose of giving “a true and fair view of the state of the company’s affairs” and thus primarily serve informative purposes (for a critical perspective on the (mis-) use of graphics in IR communication, cf. Courtis 1997 and Frowfelter-Lohrke/Fulkerson 2001). The analysis of visual means of communication differs from the two other analyses in that a

category has not been restricted to one per slide but has been assigned to every visual element in the presentation.

4 Findings

4.1 Analysis of temporal reference

The analysis of temporal reference (cf. table 2) reveals that all presentations include the past, the present and the future. In the presentations overall, the present and future perspectives are almost equally represented, while the past perspective is mentioned more often: for every one time the present perspective is found, the past perspective is present 1.4 times. However, the extent to which the individual presentations point to the past, present and future differs significantly. The BASF and Covidien presentations refer to a far larger extent to the past and future than to the present. The same tendency appears from the result of the analysis of temporal reference in the SingTel presentation. Due to the very limited number of slides in the SingTel presentation (10, cf. table 1), however, the significance of the result is limited. This is a reservation that applies to all findings in the SingTel presentation. At the other end of the spectrum can be found the Kroton and TD presentations, which primarily refer to the present, less to the past and relatively infrequently to the future.

Table 2: Temporal reference

	Past	Present	Future
BASF	20 (50 % ²)	6 (15 %)	17 (43 %)
Covidien	38 (40 %)	14 (15 %)	32 (33 %)
Kroton	18 (33 %)	25 (45 %)	10 (18 %)
SingTel	4 (40 %)	1 (10 %)	2 (20 %)
TD	15 (43 %)	20 (57 %)	9 (26 %)
Total	95 (40 %)	66 (30 %)	70 (30 %)

4.2 Topic analysis

As expected, both financial and non-financial information is included in all presentations (cf. table 3). There are generally more slides containing non-financial information than slides containing financial; for each slide containing financial information there are nearly 1.5 slides containing non-financial information. Nearly the same ratio is found in the BASF and Covidien presentation slides, with 1.4 and 1.3 slides containing non-financial information for every slide containing financial information, respectively. The Kroton and SingTel presentations include far more slides containing non-financial information than slides containing financial information: 2.6 and 2.5, respectively, per slide containing financial information. Finally, the TD presentation contains less: 0.9.

² The percentages presented in the tables indicate how many percentages of the slides in question include the analyzed features.

Table 3: Topic analysis³

	Financial	Non-financial				
		Total	Business description	Management	Market, industry and economic environment	Strategic issues
BASF	14 (35 %)	19 (48 %)	2 (5 %)	0 (0 %)	4 (10 %)	14 (35 %)
Covidien	32 (33 %)	43 (45 %)	5 (5 %)	1 (1 %)	6 (6 %)	36 (38 %)
Kroton	13 (24 %)	34 (62 %)	9 (16 %)	0 (0 %)	15 (27 %)	10 (18 %)
SingTel	2 (20 %)	5 (50 %)	1 (10 %)	0 (0 %)	0 (0 %)	4 (40 %)
TD	22 (63 %)	19 (54 %)	16 (46 %)	0 (0 %)	2 (6 %)	2 (6 %)
Total	83 (35 %)	120 (51 %)	33 (14 %)	1 (4 %)	27 (11 %)	66 (28 %)

The most common type of non-financial information in the presentations overall is strategic issues. For each slide containing information on strategic issues there is 0.5 slide containing information on business description and slightly less, 0.4, on market, industry and economic environment. Only one slide contains specific information on the management team and is found in the Covidien presentation. Strategic issues also cover the most common type of non-financial information in the individual presentations of BASF, Covidien and SingTel: 74–84 % of these companies’ presentation slides containing non-financial information pertain to information on strategic issues, 14 of 19, 36 of 43, and 4 of 5, respectively. On the other hand, 84 % of all slides containing non-financial information in the TD presentation pertain to information on business description (16 of 19), and only to a very limited extent other non-financial information. Finally, the Kroton presentation is characterized by a relatively large proportion of non-financial information on market, industry and economic environment (44 % of all slides containing non-financial information, 15 of 34) as well as strategic issues (29 %, 10 of 34) and business description (26 %, 9 of 34).

4.3 Analysis of visual means of communication

The presentations generally feature visual means of communication that support both communicative purposes of giving a true and fair view of the state of the company’s affairs and providing a positive image of the company (cf. table 4). The appellative means of visual communication are overall more than twice as frequent as the informative means of visual communication. In this context the symbols, more specifically company logos, account overall for 77 % of all appellative means (272 of 355). However, with a few exceptions the symbol is primarily an integrated part of the PowerPoint templates and does not in that sense contribute

³ Due to the coding principles described in section 3.2, the total numbers pertaining to financial and non-financial information, respectively, express the number of slides in which (non-)financial information is present. Similarly, the numbers pertaining to types of non-financial information express the number of slides in which each type is present. Consequently, the total number pertaining to the category “non-financial information” as displayed above horizontally is not the result of a simple addition of the displayed numbers pertaining to types of non-financial information. This explains apparent inconsistencies.

immediately to the content of the slides. For that reason it seems reasonable to look at the use of visual means of communication excluding the symbols. In that case, appellative means of communication, i. e. icons with representational format, display a ratio of one for every second informative means and are thus used to a far more modest degree overall.

Table 4: Analysis of visual means, overall results

	Informative visual means	Appellative visual means		
	<i>Icons, analytical format</i>	<i>Total</i>	<i>Icons, representational format</i>	<i>Symbols</i>
BASF	35 (88 %)	68 (170 %)	33 (83 %)	35 (88 %)
Covidien	39 (41 %)	141 (147 %)	40 (42 %)	101 (105 %)
Kroton	59 (107 %)	75 (136 %)	4 (7 %)	71 (129 %)
SingTel	4 (40 %)	6 (60 %)	4 (40 %)	2 (20 %)
TD	26 (74 %)	65 (186 %)	2 (6 %)	63 (180 %)
Total	163 (69 %)	355 (150 %)	83 (35 %)	272 (115 %)

A similar observation can be made when looking at the individual presentations. Here too, the symbols make up a significant part of the appellative means, in fact in some cases more than 95 % (Kroton [71 of 75] and TD [63 of 65]). Without the symbols, the individual presentations of BASF, Covidien and SingTel feature an almost equal number of appellative means on the one hand, and informative means on the other. The Kroton and TD presentations again differ as informative means are much more frequent in these presentations than appellative means. For every icon with representational format supporting the appellative communicative purpose can be found 15 and 13 icons with analytical format, respectively, supporting the informative communicative purpose.

The type of icon with representational format that is used most frequently overall is the photo. It is mainly used in the BASF and Covidien presentations (cf. table 5). In fact, almost 93 % of all photos, i. e. 64 of 69, are found in these presentations, making up 94 % and 83 %, respectively, of the total number of icons with representational format (31 of 33 and 33 of 40), and 46 % and 42 %, respectively, of the total number of visual elements, excluding symbols (i. e. 31 of 68 and 33 of 79). Finally, the type of icon with analytical format that is used most frequently is graphics, like a bar/column chart or a pie/doughnut chart, which overall is used more than twice as much as tables. In the individual presentations, graphics generally seem to be of great importance as well – compared with the total use of informative visual means. However, if compared with the total of visual means in the individual presentations, excluding symbols, the use of graphics is particularly characteristic of the Kroton and TD presentations in which they account for 76 % (48 of 63) and 61 % (17 of 28).

Table 5: Analysis of visual means; types of visual means

	Informative visual means			Appellative visual means		
	<i>Icons, analytical format</i>			<i>Icons, representational format</i>		<i>Symbols</i>
	<i>Tables</i>	<i>Graphics</i>	<i>Organizational charts</i>	<i>Photo</i>	<i>Stylized representations</i>	
BASF	10 (25 %)	25 (63 %)	0 (0 %)	31 (78 %)	2 (5 %)	35 (88 %)
Covidien	20 (21 %)	19 (20 %)	0 (0 %)	33 (34 %)	7 (7 %)	101 (105 %)
Kroton	10 (18 %)	48 (87 %)	1 (2 %)	1 (2 %)	3 (5 %)	71 (129 %)
SingTel	2 (20 %)	2 (20 %)	0 (0 %)	3 (30 %)	1 (10 %)	2 (20 %)
TD	9 (26 %)	17 (49 %)	0 (0 %)	1 (3 %)	1 (3 %)	63 (180 %)
Total	51 (22 %)	111 (47 %)	1 (4 %)	69 (29 %)	14 (6 %)	272 (115 %)

5 The discursive construction of the equity story

The main conclusion that can be drawn from the above analyses is the fact that the general characteristics of the equity story (cf. section 2) are all discursively constructed in the analyzed presentations. They all refer to the past, present and future, however primarily to the past. They include both financial and non-financial information, albeit primarily non-financial information overall. Finally, they all feature visual means of communication that support both the communicative purpose to give a true and a fair view of the state of the company’s affairs and the communicative purpose to provide a positive image of the company. In this way, the visual means of communication contribute to balancing between making a company’s share more attractive and remaining credible and trustworthy.

However, the analyses also revealed a relatively high degree of variation amongst the five individual presentations, which calls for defining three groups of presentations. The BASF and Covidien presentations form the first group. They both refer far more to the past and future than to the present; they both include slightly more non-financial information, especially on strategic issues, than financial; they both feature an almost equal number of informative and appellative means of visual communication, excluding symbols; and specifically they are both characterized by the use of photos. The second group comprised of the Kroton and TD presentations shares other similarities. They both refer to the present, less to the past and relatively little to the future; they both feature a far greater number informative means of visual communication, especially graphics, compared with appellative, excluding symbols; and finally they both differ from the BASF and Covidien presentations with respect to the inclusion of (non-) financial information, however they do so in different ways. Whereas the Kroton presentation, compared with the BASF and Covidien presentations, includes far more non-financial information than financial information, especially on market, industry and economic environment, the TD presentation includes slightly less non-financial information than financial. The final group is formed by the SingTel presentation, which refers primarily to the past and less to the future and present, and which features equally appellative and informative means of visual communication. In this sense, it shows some similarities with the BASF and Covidien presentations. On the other hand, non-financial information seems to a larger extent to be favoured

over financial information in a way that is similar to the Kroton presentation. However, as the SingTel presentation is relatively short, the significance of the results is limited.

The observed variation is seen as the second main characteristic of telling the equity story that can be drawn from the above analyses, as the variation seems to reflect other more general characteristics of the equity story used as a strategic IR management tool with the overall aim to contribute to achieving a fair valuation. Emphasizing the main selling points of the company as an investment case by displaying the value (creation) story, the equity story makes a case for investing in one company rather than another. In other words, like in any kind of strategic communication, a company needs to differentiate itself from other comparable companies within IR to make its share attractive. The equity story can thus also be seen as the competitive edge of IR. It was therefore to be expected that the struggle for differentiation would be reflected in the analyzed equity stories. The fact that the investment potential of a company is also valued against factors like global and national economy, sector, business, industry and size makes variation amongst the analyzed equity stories even more expected. In the following, this will be illustrated by means of the characteristics of the two main groups of presentations.

Firstly, both BASE, a worldwide chemical company, and Covidien, a global player in the field of development, manufacture and trade in healthcare products for use in clinical and home settings, seem to be concerned with products and services as the critical business element, as the focus of their equity stories is on future-related strategic issues, mainly research and development, accompanied by photos of products and product-related investments. Kroton, a group of private educational organizations operating in the primary, secondary and postsecondary education sector, mainly in Brazil, seems to be concerned with the sector in which it operates as its critical business issue. Here, the focus is on the present market situation, illustrated to a large extent by means of graphics. Finally, TD, a financial group offering banking and insurance services, primarily in Canada and the US, seems to be concerned with financial issues as its critical business issue, which may be explained by a focus on solvency and solidity within the financial sector in general. Its equity story is thus characterized by non-financial information on business aspects and financial information by means of graphics pointing to the present and the past.

To conclude, the discursive construction of the equity story features all the main characteristics of the equity story seen as an IR strategic management tool, while at the same time entailing creation of unique equity stories that enable companies to differentiate themselves from other comparable companies with the overall aim to make their share attractive to the investment community.

6 Concluding remarks

It has been the aim of this paper to contribute to the study of the equity story from a communication perspective by offering a first step towards developing characteristics of how the equity story, seen as an IR strategic management tool, is discursively constructed. An international small-scale study of the equity stories of five large cap companies awarded the 2012/2013 IR Magazine grand prix for best overall IR served as point of departure for a discourse analysis of an archived IR presentation of each of the above companies. The focus of the analysis was on three main characteristics of the equity story seen as an IR strategic management tool: the importance of both forward and backward looking parameters; the importance of both financial and non-financial information; and the two inherent, potentially conflicting communicative

purposes, firstly to give a true and a fair view of the state of the company's affairs, and secondly to provide a positive image of the company. In order to account for these characteristics, a method assemblage was applied, and an analysis of temporal reference, a topic analysis and an analysis of visual means of communication were conducted. The analyses revealed that the three characteristics of the equity story are all discursively constructed in the analyzed presentations. This observation constitutes the first main characteristic of the discursive construction of the equity story. However, they also revealed a relatively high degree of variation. This observation is seen as a second main characteristic, as it contributes to making the companies' equity stories unique.

Due to the limited scope of the present study, further studies should be conducted in order to gain further empirical insight into the equity story as an IR strategic management tool and, more importantly, into the discursive construction of the equity story. However, the study presented here does offer a) a theoretical framework and b) empirically based assumptions about the discursive construction of the equity story that might serve as a basis for future research projects and a knowledge base for practitioners. Finally, the study is likely to have implications for the teaching of IR and related fields, as it contributes to shedding light on the complexity of the equity story as an IR strategic management tool in particular and the complexity of IR communication in general.

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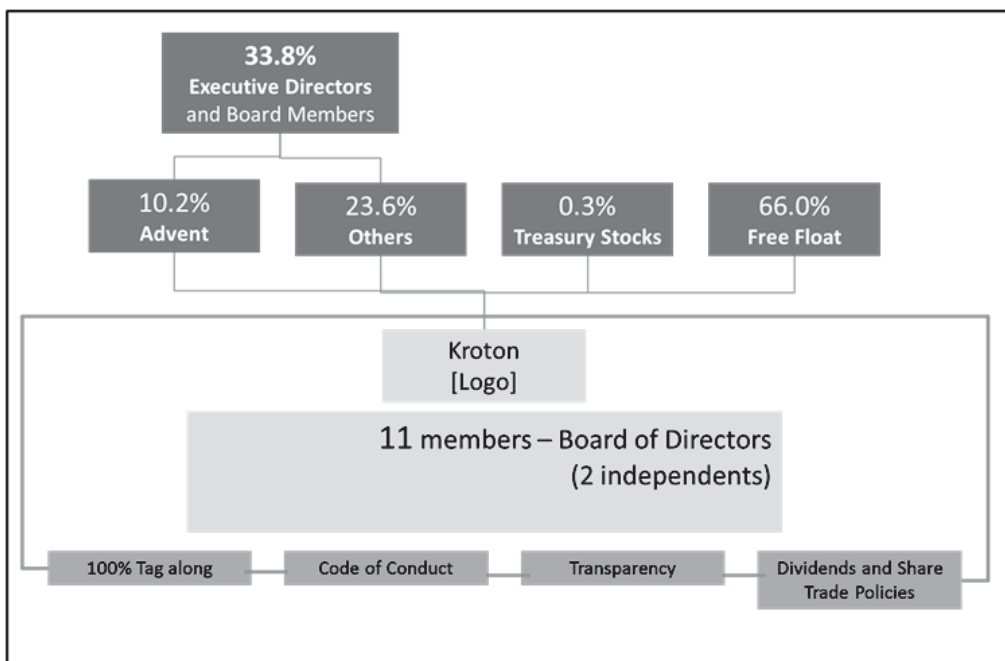
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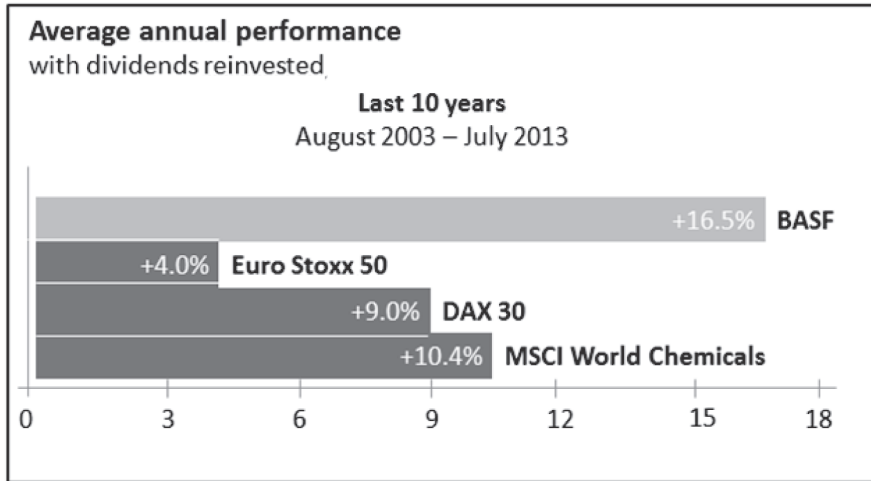
Appendix: Icons with analytical format; examples

Q3 2013 (C\$)	CAD P&C	U.S. P&C
Total Deposits	\$224B	\$193B
Total Loans	\$308B	\$106B
Rpt. Earnings	\$3.5B	\$1.5B
Adj. Earnings	\$3.6B	\$1.6
Customers	13MM	8MM
Employees	28,345	24,811

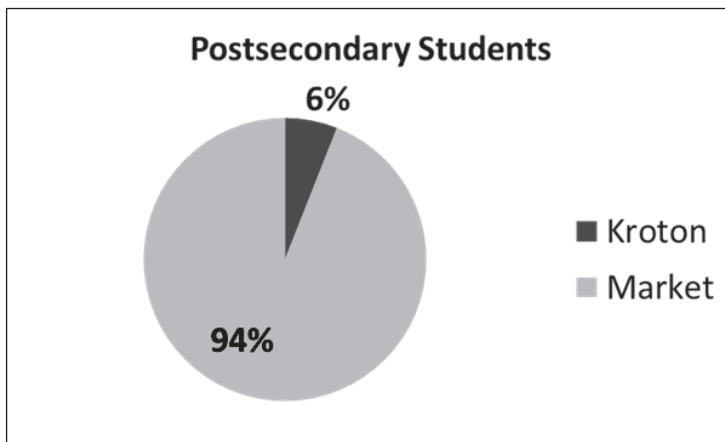
Example; table (cf. TD Bank, no. 3)



Example; organizational chart (cf. Kroton, no. 40)



Example; graphics – column (cf. BASF, no. 10)



Example; graphics – pie (cf. Kroton, no. 5)

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A Practice-Based Enquiry into the Academic Disciplines

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Abstract The present study sets out to investigate the meanings associated with the term *practice* across specialised domains and, particularly, the patterns of language use and aspects of semantic variation that distinguish the academic disciplines. A corpus of English research articles in various domains was investigated qualitatively and quantitatively, paying attention to lexical patterns and collocates of *practice*, with a focus on adjectives and verbal processes. The analysis of the collocational patterns with a prominently linking nature has highlighted the relational and highly context-bound meaning of *practice*, also reinforced by the adjectives modifying *practice* (e. g. *cultural, social, etc.*) that contribute to the semantic opacity of this word because of their shifting framework-related meanings. Moreover, a tension between a mainly concrete meaning and a conceptual one has been identified within the disciplines as each practice is characterised by the combination and overlapping of mechanical procedures and cognitive aspects. The main findings suggest that in academic discourse *practice*, far from being removed from theory, actually integrates it, pointing to a constant interplay between action and discipline-based knowledge. In line with the foundations of scientific enquiry, the main focus of all kinds of academic practice appears to be placed on the epistemological dimension, i. e., on the research, theory, method, interpretation and evaluation coming into play in any scientific study. The pedagogical implications are considered and it is suggested that a context-based lexical analysis of high-frequency words can yield significant insights into the epistemological frameworks of the disciplines.

Keywords academic writing, research articles, specialised domains, epistemology, lexical networks, corpus-assisted discourse analysis

1 General framework

Practice is one of those widely used, common currency words that can be found in daily conversation and in specialised contexts of use, in most cases referring to a general concept nuanced across domains. According to the *Oxford Dictionary of English* (2003: 1382), its core meaning of action as opposed to *theory* includes the exercise of a profession (e. g., *medical practice*), customary procedures (e. g., *child-rearing practices*), and repeated activities (e. g., *language practice*). Additionally, the online lexical database WordNet identifies two more meanings that highlight an interesting dialectics between action and knowledge, the operational and the cognitive plane: translating an idea into action (e. g., *a hard theory to put into practice*); knowledge of how something is usually done (e. g., *it is not the local practice to wear shorts to dinner*).

With regard to specialised knowledge, *practice* performs an ideational function that provides details of the scholarly processes, such as analysis, interpretation and assessment, constitutive of academic research (Hirsch 2010: 47). Despite its singular form, *practice* represents then a plurality of conventional and well-consolidated activities within the academy. Even more significantly, *practice* defines different activities across the academic disciplines insofar as different epistemological frameworks and procedures are associated with each discipline; as pointed out by Kreber: “Disciplines provide particular lenses or frameworks through which to

explore, understand and act upon the world. They can be conceived as ‘tools of learning’ [...], each characterized by certain ways of thinking, procedures and practices that are characteristic of its community.” (Kreber 2009: 15, see also Hyland 2002: 389).

The concept of community is at the very heart of disciplinary differences because of the social construction of any kind of knowledge (Hyland 2009: 12), as academic literacies, rather than existing in a purely abstract epistemic realm, are “closely bound to the social activities, cognitive styles and epistemological beliefs of particular disciplinary communities” (Hyland 2009: 13). The “common rhetorical space” shared by the community members is, however, fraught with open disagreement given the individual nature of research, the pluralities of practice and the increasing fragmentation of the new knowledges (Hyland 2006: 19–20). As disciplines tend to be increasingly regarded as “fluid and permeable entities impossible to pin down with precision” (Hyland 2009: 60), it may be more convenient to refer to “knowledge domains” as they represent “broad categorizations of knowledge which remain relatively untroubled by the vertical struggles over recognition and the horizontal struggles over resources which we find among disciplines and specialisms” (Hyland 2009: 64).

Drawing on recent developments in corpus-assisted discourse analysis (Baker 2006, Hoey et al. 2007, Partington et al. 2004), this study examines the use of *practice* in research articles across a wide range of disciplinary domains and seeks to identify the lexical patterns that may distinguish the branches of knowledge, with a view to exploring its discipline-specific or trans-disciplinary meanings. In a broader pragmatic perspective focused on the textualisation of social values (Giannoni 2010: 46), the analysis of *practice* and of its lexical networks in research articles can serve to shed light on the academic value attributed to ‘doing’ across disciplines.

“Practice” in academic English

According to the Academic Word List (Coxhead 2000, 2002, 2011), which until very recently was regarded as the most accredited database of core academic vocabulary (Hyland/Tse 2007: 238), the frequency of *practice* and of its derived words appears to be one of the lowest, while theory is recorded as one of the most frequent word families. However, according to the online Corpus of Contemporary American English (Davies 2012) based on a more extensive corpus of academic disciplines and genres, *practice* ranks among the top 50 words in general academic English (Davies/Gardner 2012, Gardner/Davies 2013). The discrepancy between the frequencies of *practice* in these two corpora may be explained by the different criteria used to build them up¹, bearing in mind that “whatever discoveries are made about the behaviour of linguistic items in a corpus hold true only for the portion of language contained in that corpus” (Partington 1998: 146).

Furthermore, the very idea of general academic English may be misleading considering the fact that attempts to describe a core academic vocabulary clash with the way each discipline shapes words for its own uses (Hyland/Tse 2007: 240), and scholars operating in increasingly outreaching and interdisciplinary areas of study have to negotiate word meanings in order to explore issues and advance knowledge in their own areas of expertise (Engberg et al. 2007, Rex et al. 1998). Even as the scientific paradigm holds true for the whole of the academic commu-

¹ See Gardner/Davies (2013) for a detailed overview of the various attempts at building a corpus of academic English and, more specifically, for a critical review of the rationale behind the Academic Word List database.

nity (Bennett 2009: 52, Martin 1993: 220), and the quest for novelty is increasingly likening the academic arena to a marketing business (Harwood 2005, Widdowson 2011), different epistemological values and rhetorical conventions have been associated with different domains: for example, objectivity and impersonality in the hard sciences vs. readers' engagement in the soft-knowledge domains (Bazerman 2000, Hyland 2004).

General or discipline-specific values are subtly encoded in the rhetorical organisation and stylistics of academic texts, and can be retrieved through a semantically-related lexical analysis, as exemplified by Giannoni (2009, 2010). Following the principle that discourse analysis provides textual evidence of the values endorsed by a given community, Giannoni (2010) examines leading scholarly journals in ten disciplinary areas and, on the basis of a joint quantitative and qualitative analysis of lexical occurrences, defines the potential value-marking words and identifies four values largely shared across the disciplines: goodness, size, novelty and relevance. Although in his study *practice* is not regarded as a candidate value-marking item, it is nevertheless a highly loaded term whose occurrence can be interpreted as a textual marker of empiricism and related to the scientific paradigm endorsed by the disciplines.

Corpus-based epistemological enquiry is also carried out by Groom (2010) who demonstrates that, contrary to the mainstream trend for analysing lexical keywords, also closed-class keywords offer interesting insights into the semantic properties of specialised discourses. In his analysis of history articles he focuses on a grammar word, the preposition *of*, and shows how recurrent phrasal patterns in which processes or phenomena are either defined or described (e. g. *a rejection of democratic values; the spread of 'Western civilization'*) are typically associated with history writing and knowledge-making. Although *practice* is a polysemous content word, its recurrent collocational patterns can also be considered 'semantic sequences' illustrative of the values upheld by academic discourse communities.

2 The corpus of Jstor research articles

This research is based on a corpus of 311 research articles published from January 2001 to October 2010 in a wide range of specialised English-medium journals and totalling 2,231,328 words. The articles were collected through Jstor (www.jstor.org), an international digital research archive including a vast number of leading academic journals across all disciplines. The selection criterion adopted for building the corpus of research articles was the occurrence of the term *practice* in the title of the article. This explicit reference to *practice* in the titles was considered to point to a leading research theme in the articles, as confirmed by the subsequent reading. Other search queries based on keywords or the occurrence of *practice* in the abstract could not apply to Jstor's entire digital archive, given the highly variable format of the journals, some of which (especially in the Arts and Humanities) dispense with the abstract and keyword list. The focus of the analysis was placed on the noun because of its wider range of structural combinations; the relatively few occurrences of the verb *practice* (according to the American spelling adopted in most journals) were not taken into account, except in the article titles as in those cases they were considered indicators of the main theme of the article. Also the word form *practices* was excluded from the present research because of the semantic connotations of the plural, which conveys a sense of overwhelming multiplicity in contrast to a particular specificity (Hodge/Kress 1993: 89): for example, *educational practice* may refer to the procedural knowledge associated with teaching, while *educational practices* would include the various, often divergent methods and techniques used in the classroom.

The quantitative corpus was checked against a more recent selection of Jstor research articles published in September/October 2013 across the disciplines featuring the term *practice* in their full text. Given the limited number of these research articles², the varying prominence of *practice* in the text and especially my attempt at applying a more fine-grained method of analysis in order to explore the wider issues tackled in the articles, this material was only analysed from a qualitative point of view.

Jstor journals are grouped into broad geographical-cultural areas (African American Studies, Jewish Studies, Middle East Studies), areas of research not yet fully institutionalised (Feminist & Women's Studies, Film Studies), besides traditional disciplinary domains (Economics, Philosophy, Religion). It was necessary to group the articles according to tighter categories that could be used as indicators of their discipline and subject matter. This reclassifying proved rather demanding for two main reasons: the strong inter- or transdisciplinary approach characterising most contemporary research, and the development of new areas of specialisation often advocating autonomous status, for example, philanthropic studies or ecology. Disciplines are in fact as much the outcome of the 'natural' organisation of human knowledge as an ideological construction affected by issues of power and prestige within the academic community (Giannoni 2010: 21, Hyland 2000: 159, Massey 1999, Mauranen 2006: 275).

I have as much as possible followed the original Jstor classification and only reclassified the journals assigned to broad categories such as Asian Studies or African American Studies on the basis of the insights gained from my corpus, distributing them across the disciplines (e. g., politics, sociology, etc). As shown in table 1, the number of Jstor journals varies across the disciplines between the well-supplied 'soft sciences' and the under-represented 'hard sciences'³, consisting of four broad categories: Mathematics, Medicine, Natural Sciences, Science/Technology, for a total of 64 journals versus the remaining two hundred approximately. This uneven coverage may seem to affect the representativeness of the subcorpora, but only apparently. When comparing the number of journals per category (table 1) with the number of articles containing reference to *practice* in their titles per each discipline (table 2), it can be noticed that an underrepresented discipline such as Psychology (7 journals) has a higher *practice* frequency than better-supplied ones, for example History (43 journals) and Language/Literature (60 journals), where the only two articles displaying *practice* in their titles were considered too few for statistics and were consequently excluded from the present study.⁴ The mismatch between the number of journals per discipline and the size of the subcorpora seems to suggest that the frequency of *practice* may be reflective of the disciplines' epistemological

² As my access to Jstor journal archives has undergone severe restrictions after October 2010, I could only access thirty research articles out of one hundred approximately.

³ Although the hard/soft sciences divide may appear disappointingly generic as it fails to address disciplinary specificities, it proves a more manageable distinction than others, as argued by Mauranen (2006: 275): "We tend to get few hybrid disciplines across the main dividing lines into the 'hard' and 'soft' sciences. It may thus be a good point of departure for exploring disciplinary variation along the traditional dividing line for centuries in the history of science and scholarship: natural sciences and technology vs. arts and social sciences". See also Hyland (2009: 62–63) on "disciplinary domains" and the continuum of academic knowledge.

⁴ In addition to Language/Literature, also Geography and Science/Technology were excluded from this analysis, considering that less than five research articles (around 15,000 words) could hardly be considered representative samples of a discipline.

frameworks either foregrounding or disregarding practice as a scholarly process. However, this finding would need to be validated across a wider corpus of research articles, and, possibly, an ethnographic survey of the academic practitioners' insights into their own fields of research, following Kreber (2009) and Berkenkotter/Huckin (2009).⁵

Table 1: Distribution of Jstor journals across the disciplines from 2001 to 2010

Discipline	No. of journals	Percentage
Anthropology/Archaeology ⁵	31	5.32
Arts	49	8.41
Economics	45	7.73
Education	46	7.90
Geography	8	1.37
History	43	7.38
Language/Literature	60	10.30
Law	35	6.01
Management	18	3.09
Mathematics	37	6.35
Medicine	15	2.57
Music	27	4.63
Natural Sciences	6	1.03
Philosophy	19	3.26
Politics	69	11.85
Psychology	7	1.18
Religion	20	3.43
Science/Technology	6	1.03
Sociology	41	7.04

Table 2: The Jstor RAs corpus

Discipline	No. of articles	No. of words	Practice %
Anthropology/Archaeology	16	135,902	0.14
Arts	15	101,749	0.26
Economics	10	45,674	0.10
Education	62	510,980	0.30
History	10	102,132	0.09
Law	16	136,515	0.22
Management	38	274,677	0.45
Mathematics	6	27,659	0.18
Medicine	27	133,862	0.41
Music	16	84,820	0.88
Natural Sciences	5	24,349	0.09
Philosophy	14	98,075	0.26

⁵ These two disciplines were united because of the dual classification of many journals and of the highly interdisciplinary character of their research articles.

Politics	13	93,877	0.15
Psychology	6	30,050	0.17
Religion	17	105,846	0.40
Sociology	40	325,161	0.17

The highest frequencies of *practice* in the Jstor RA corpus refer to Music (0.88 %), Management (0.45 %), and Medicine (0.41 %). This can be explained by the practical orientation of these disciplines, in accordance with their declared aims and procedural principles emphasising action and concrete results, as shown by the high frequency of collocations such as *practice techniques/practice routines* in Music, *communities of practice* in Management and *general/medical/clinical practice* in Medicine. Also Religion scores high on *practice* (0.40 %), given its focus on the performative aspects of faith and spirituality.

By contrast, the almost null score for *practice* in the hard sciences in the Jstor research articles may appear surprising given their concern with ‘objectification’ (Wright 2008) and, more specifically, “the analysis of observable experience to establish empirical uniformities” (Hyland 1999: 114). Precisely this fundamental reliance on demonstration and evidence or, in other words, “the empirical basis of the scientific gameboard” (Bazerman 2000: 47), may contribute to conceal or marginalise practice as the ‘given’ information that is already part of the community’s shared knowledge. Conversely, the low frequency of *practice* found in the humanities subcorpus may be explained by the emphasis on the aesthetic experience and its independence of empirical argumentation (Bazerman 2000: 44).

3 Linguistic analysis

3.1 Methodology

The research articles, stripped of tables, references and notes, were investigated with the aid of a software application, Wordsmith Tools 5.0 (Scott 2010), showing word frequency and key lexical patterns across texts. Besides a wordlist ranking each word according to its number of occurrences, this software application provides the contexts of occurrence for a given search word, and identifies its collocates, i. e. the words which most commonly co-occur with it. Collocates provide interesting structural and stylistic information about lexical patterns which can help novice researchers gain more confidence with the conventions of academic discourse and familiarise themselves with some of the most recurrent phrases, such as *address the issue* or *show that* (Durrant 2009). The collocates associated with the word *practice* have been analysed first in the small-scale sample represented by the titles of the Jstor research articles, then they were cross-checked against the whole corpus.

The quantitative analysis of the research articles was complemented by a qualitative approach, based on an inquisitive reading meant to identify the meanings attached to the word *practice* in the whole Jstor corpus, as well as to explore the conceptual frameworks underlying a few selected practices in the collection of articles dating back to 2013, as briefly discussed in the final section.

3.2 Collocational patterns

Language encoding does not simply provide content information, but also conveys a vision of the world: use of tense and modality, the choice of the active or passive voice, the distribution of adjectives and adverbs all contribute to shape the representation of situations and events as well as to subtly orientate the addressees' response; these apparently simple language choices are laden with subtle ideological implications (Hodge/Kress 1993), and also reflect the academic discourse conventions shaping complex information into smooth, persuasive arguments (Hyland 2009: 13).

3.2.1 "Practice" collocates in the research articles titles

As titles condense the main thrust of an essay, a closer look at the titles of the research articles in each subcorpus has highlighted interesting lexical patterns pointing to the practice-based aspects in academic research.

Table 3: "Practice" pairs in the Jstor RAs titles

Practice Pairs	Occurrences	%
<i>theory/practice</i>	38	12.14
<i>research/practice</i>	21	6.70
<i>policy/practice</i>	20	6.38
<i>knowledge/practice</i>	8	2.55
<i>community/ies of practice</i>	8	2.55

Table 3 outlines the recurrent *practice* patterns found in the article titles across the sub-corpora. The most frequent collocation/phraseological combination revolves around the theory/practice dichotomy, a crucial one in academic research, and presents the following variants: *theory and practice of*; *from theory to practice*; *practice in search of theory*; *of practice and in theory*; *theory into practice*; *the practice of theory*; *theories and practice*; *theory in practice*.

Two more pairs are also significantly recurrent across the RAs titles, *research/practice* and *policy/practice*. Especially the former presents interesting variants pointing to the ways in which research, practice and – occasionally – theory fruitfully integrate in any academic project: *theory and research into practice*; *research, practice and theory*; *practice-based research*; *practice and research*; *research practice*; *research and practice*. The variants *policies and practice*; *policy and practice*; *from policy to practice* indicate how any given practice in a university setting has to take into account well-established social or academic policies.

As regards the other phrases, centered on *knowledge* and *community/ies*, they point to aspects common to the disciplines and specific to academic enquiry, namely the tension between background knowledge and groundbreaking research, and the dominant role played by the scientific community in promoting the advancement of learning.

The adjectives modifying *practice* across the RAs titles in each subcorpus are largely related to the discipline (table 4): e. g. *artistic* in the Arts, *musical* in Music, *political* in Politics; some of them, apparently out of tune with the discipline, appear to point to the interdisciplinary or multidisciplinary connections characterising academic research: e. g. *economic* and *military* in History, *academic* and *medical* in Management, *somatic* in Philosophy. Quite in-

terestingly, adjectives such as *cultural, reflective, social*, recurrent across the disciplines, acquire slightly different meanings depending on the methodological approach and disciplinary procedure adopted for research (see section 3.3 below).

Table 4: Adjectives modifying “practice” in the Jstor RAs titles

Discipline	Adjectives
Anthropology/Archaeology	<i>cultural, daily, depositional, interpretive, local, social</i>
Arts	<i>appreciative, artistic, observational, reflective</i>
Economics	<i>best, financial, good</i>
Education	<i>collaborative, critical, democratic, educational, instructional, paced, pedagogical, professional, reflective, situated</i>
History	<i>economic, martial, military</i>
Law	<i>democratic, legal, legislative</i>
Management	<i>academic, medical, organisational, professional, social</i>
Mathematics	<i>empirical, statistical</i>
Medicine	<i>clinical, contemporary, contraceptive, general, homeopathic, private</i>
Music	<i>appropriate, authentic, musical</i>
Natural Sciences	No adjectives
Philosophy	<i>educational, intellectual, social, somatic</i>
Politics	<i>incremental, political</i>
Psychology	<i>innovative, psychological</i>
Religion	<i>Buddhist, Christian, contemporary, monastic, pastoral, religious</i>
Sociology	<i>activist, contraceptive, cultural, hegemonic, homophile, interpretive, methodological, missionary, reproductive, scientific, social</i>

3.2.2 “Practice” collocates in the research articles

The quantitative analysis of all the research articles has shown that *research, theory, community/ies, knowledge, policy* also rank highly as some of the most frequent lexical collocates for *practice* (table 5). These recurrent words reflect the dialectics between the theoretical foundation of academic research and the socially-bound process by which most academic knowledge is advanced and legitimated by the academic community.

Table 5: Lexical collocates for “practice”: rank and frequency

Lexical Collocates	Rank	%
<i>research</i>	15	0.017
<i>theory</i>	17	0.014
<i>community</i>	30	0.009
<i>knowledge</i>	48	0.006
<i>communities</i>	51	0.005
<i>policy</i>	55	0.005

However, the highest frequency collocates for *practice* in absolute terms are grammatical words (table 6). Although they can be found in a five-word span both to the left and to the right of *practice*, a sample of the *practice* collocational patterns in the appendix shows that they are commonly found to the immediate right of *practice*, which acts as the head of the noun phrase. The prominently linking nature of these collocates – *of*, *and*, *in* – shows *practice*'s strong tendency to occur in word combinations and acquire its meaning by its postmodifying phrase.

Table 6: Top collocates for “practice”: rank and frequency

Top collocates	Rank	%
<i>of</i>	1	0.15
<i>the</i>	2	0.13
<i>and</i>	3	0.11
<i>in</i>	4	0.09

The sample of word combinations for *practice of*, *practice in* and *practice and* across the disciplines provides an overall picture of the kinds of practice referred to in specialised literature and of some of their distinguishing features, from ritual to educational, from organisational to somatic, including legal, clinical, scientific, social and religious aspects (see appendix). What clearly emerges from this sample is the huge variety of practices within and across the disciplines, each one characterised by different settings and procedures: excavation and assessment, housing and conservation, health care and liturgy, just to mention a few. However, multiplicity of meaning also entails semantic vagueness, as many forms of practice beg for a clarification which is either delayed, or denied. Remote practices such as Unani Tibb (i. e. South Asian system of medicine), reflexive archaeology (i. e. excavation grounded on historical knowledge), or metta (i. e. loving kindness in Buddhism) are extensively explained, whereas many others, apparently couched in more familiar terminology, remain hazy as if there were hardly any need to specify their long ingrained procedural patterns; for example, phrases like *practice of art*, *practice of science*, *practice of politics*, which may denote a myriad of wide-ranging dynamics, are neither defined or delimited in the articles.⁶

⁶ See Rex et al. (1998: 407) on a similarly open-ended word, *context*, and its varying conceptual frames: “When we tried to examine what was meant by context, we found that the authors left the term undefined theoretically, electing to use modifiers as a means to defining this term (e. g., democratic context, textual context, or surrounding context).”

The combination *practice of* largely refers to content, i. e. the activities and routines, but occasionally also to actors or practitioners; *practice in* sets the spatial and temporal scene in addition to identifying the kind of action; *practice and* defines the network of relations among converging ideas or applications. As coordination connects closely related or symmetrical items and also establishes bonds of equivalence and cohesion (Fairclough 1989: 186–188, Halliday 1994: 221, Hodge/Kress 1988: 111), the prominence of abstract nouns or nominalisations besides *practice* – i. e., *disciplinary practice and communication, appreciative practice and ontology, professional practice and ethics, practice and social memory*, etc. – seems to some extent to downplay the practical element in favour of a more abstract or conceptual aspect.

3.3 Epithets and classifiers

Adjectives, carrying an experiential and attitudinal value, can be distinguished into two categories, *epithets*, indicating objective properties of or subjective attitudes towards the practice in focus, and *classifiers*, indicating a particular subclass (Halliday 1994: 184–185). This distinction is often ambiguous and needs to be checked against the wider co-text (Bloor/Bloor 1995: 138). For example, when *evidence-based* refers to a cross-disciplinary method that consists in collecting quantitative data, it qualifies an approach according to an experiential category; by contrast, within the field of medicine it refers to a specific subclass as opposed to research-based, and consequently functions as a classifier. Likewise, *critical* denotes a self-questioning mode and attitude that can be adopted across the disciplines; however, in educational practice it indicates a kind of ‘empowering pedagogy’ that should demystify relations of power and control. *Good* and *best* are two further examples of shifting categories: even though they are legitimately regarded as interpersonal epithets according to functional-systemic grammar and even as the quintessence of evaluational stance (Giannoni 2010), in combination with *practice*, they form frozen phrases with a predominantly classifying meaning, i. e., the good or optimum standard according to general principles and guidelines. For example, according to the *Oxford Dictionary Online*, *best practice* refers to “commercial or professional procedures that are accepted or prescribed as being correct or most effective”. Its fundamentally evaluational core does no longer lie with the subjectivity of the researcher, but is entrusted to seemingly objective criteria. As the wider context is taken into account, the classification of the practice-related adjectives may oscillate allowing for some adjectives’ shift between classifier and epithet (table 7).

Table 7: Adjectives referring to “practice” in the Jstor RAs corpus

Classifiers	<i>activist; aesthetic; appreciative; artistic; ascetic; best; biomedical; Buddhist; Christian; collaborative; Congressional; critical; Democratic; depositional; diplomatic; economic; educational; evidence-based; experimental; financial; general; good; instructional; interpretive; legislative; liturgical; managerial; martial; medical; mimetic; monastic; musical; observational; ornamental; physical; private; reflective; reflexive; religious; ritual; statistical</i>
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Experiential epithets	<i>bureaucratic; common; colonial; comparative; contextual; contraceptive; cultural; current; daily; empirical; international; intellectual; legal; local; modern; operational; professional; public; repetitive; social; standard</i>
Interpersonal epithets	<i>acceptable; appropriate; consistent; cost-effective; creative; deliberate; desirable; discredited; effective; effortful; ideal; important; innovative; purposeful; repressive; resilience-oriented; skillful</i>

The large majority of the adjectives classify *practice* according to disciplinary categories: e. g., *agricultural; artistic; clinical; economic; legislative; managerial; musical; pedagogical; political; psychological; statistical*, etc. In addition to the discipline-related adjectives, adjectives carrying an epistemic function – e. g. *aesthetic, appreciative, critical, experimental, interpretive, liturgical, observational, reflective*, etc. – also function as classifiers in that they define specifically performed practices within each discipline. For example, *reflective practice* in Arts is seen as “the necessary interrelationship of (pre-existing) materiality and subjectivity as they interact in a dynamic and motivated context”, i. e. the artists’ “ability to construct a critical and creative (multimodal) account of their work for a general audience” (Doloughan 2002: 6), while in Education it refers to “the ability to examine subject knowledge, skills, interpersonal relationships, the research/teaching nexus and personality” (Kane et al. 2004: 301).

The dominance of classifiers and experiential epithets is a clue to the academic nature of the practices mentioned; one of the characteristics of academic discourse is precisely its descriptive or classifying function, as it seeks to order a mass of raw material into neat categories. However, adjectives may cover complex or still fuzzy areas of academic research and thus contribute to semantic opacity because of their shifting framework-related meanings negotiated by each academic community. For example, depending on the focus, and methodological approach of the study, *social practice* may refer, among others, to a) learning mediated by classroom organisation in education, b) action carried out by members of a community in management, c) the funding policies and initiatives affecting a cultural project:

- a) *We then present two case study examples of biliteracy, [...] as a **social practice**, that is, as a practice mediated by the social organization of classrooms, including broader social and ideological factors* (Moll et al. 2001: 436; bold added here and in the following examples).
- b) *The unit of analysis in these considerations was **social practice**, defined as recurrent, materially bounded, and situated social action engaged in by members of a community* (Orlikowski 2002: 256).
- c) *To understand the relationship between science and archaeology, we should first separate the aim of archaeology from its **social practice**. As a standard definition, most archaeologists would probably agree that our over-arching aim is something like the following: to expand and improve our knowledge of the human past left in material culture residues. Practice, on the other hand, includes all the social aspects affecting the discipline, for example, a government’s willingness to fund some topics of research and not others, the public presentation of archaeology, the political views of individual archaeologists and their willingness to confront funding agencies or otherwise engage in social action* (Huffman 2004: 66).

Interpersonal epithets occur more sparsely in the whole corpus and tend to concentrate in the humanities where the interpretive paradigm and the persuasive aim are more deeply rooted (Bazerman 2000: 44 f.); they qualify *practice* according to the assessment categories most favoured by the Academy, creativity and effectiveness, among others.

3.4 Verbal processes

The noun *practice* is a nominalisation by which agency is blurred (who is actually practising?): the grammatical shift from a clause either in the active voice (*somebody is practising something*) or in the passive (*something is practised*) into a noun involves a range of meanings, namely a) a process is turned into a state; b) an activity is turned into an object; c) the specific is diluted in the general and d) the concrete is blurred into the abstract (Hodge/Kress 1993: 26). For instance, whatever the exact meaning attached to the phrase *social practice*, the agents responsible for the action are not specified and neither are the ways in which that practice is actually carried out. Complex relationships are then collapsed into single lexical entities resulting in implicitness and multiple interpretive meanings (Biber/Gray 2010).

The large majority of predicates referring to *practice* are of a relational nature and/or specify the qualifying features of practices across the disciplines in an assertive or tentative fashion:

- *practice is an instrumental means of achieving something we don't think we have [...];*
- *practice creates epistemic barriers among the different communities [...];*
- *democratic practice has implications in almost every area of pedagogy [...];*
- *practice is considered to be an essential factor in many areas of human performance [...];*
- *racist ideology and practice can exist side by side with cultural borrowing [...];*
- *practice can serve to inform future science [...];*
- *efficient practice may be a function of musicians' cognitive understanding.*

While the simple tense presents a situation as a matter of fact, modals, frequent in academic discourse, convey some degree of cautiousness; in both cases, however, the relational processes assert existence, identity, attribution and serve to define the nature of the practice (Hodge/Kress 1993: 130). By contrast, the paucity of material processes linked to *practice* as subject downplays the dynamic and volitional aspects characterising *practice* according to the very definitions provided at the start of the article.

Because of the prominence of relational processes, *practice* is consistently presented as a “carrier” or “identified” (Halliday 1994: 120–122) rather than as a doer or agent. The attempt at assessing each practice in turn is clear throughout the articles, and in full accordance with the goal of academic enquiry. What may be worth pointing out, however, beside the manifest variety of meanings associated with each practice and conveyed by the variety of attributes and predicates, is the parallel opacity of the many discipline-specific practices for which no definition is provided.

4 Text insights

Throughout the articles, a synthesis of theory and practice is strongly advocated in accordance with an epistemological paradigm founded on constructionism (Raelin 2007). A close reading of the Jstor research articles shows that the connection between theory and practice – also evidenced by the collocational patterns examined above – is systematically foregrounded:

Knowledgeability or knowing-in-practice is continually enacted through people's everyday activity; it does not exist 'out there' (incorporated in external objects, routines, or systems) or 'in here' (inscribed in human brains, bodies, or communities). Rather, knowing is an ongoing social accomplishment, constituted and reconstituted in everyday practice. (Orlikowski 2002: 252)

The relation between principle and practice ceases to be sequential and becomes mutually informing: principles shape practice but at the same time only become alive through everyday practice where they are interpreted and reshaped. (Hilhorst/Schmiemann 2002: 493)

Moreover, a tension between a mainly concrete meaning and a conceptual one can be identified within each practice: from the rituals studied by anthropologists to the creation of works of art, from the financial manoeuvres to the routines of medical practitioners, from the legal interpretive procedures to liturgical services, each and every practice within the disciplines is characterised by the combination and overlapping of concrete and abstract aspects, the mechanical procedures and the cognitive aspects; the divide between practical experience and scientific knowledge is in fact reconciled in academic investigation and research. What is said of Field Archaeology is, *mutatis mutandis*, also true of the other disciplines:

The divide between practical and academic skill may be bridged in archaeological field-work. Increased experience of the practical work leads to increased skill and understanding of how to use previously acquired knowledge in the process of interpretation. This way our frame of reference is created and constantly added to. This process involves a silent component, an embodied knowledge that stems from practical experience. (Berggren/Hodder 2003: 426)

Two case studies

In order to carry out in-depth analysis of the *practice* network of meanings across the disciplines, two sample articles representative of the hard sciences and the social sciences have been analysed with regard to the pivotal role played by *practice*: “Realizing Potential in Translational Medicine: The Uncanny Emergence of Care as Science” (Friese 2013) and “The Organizational Implementation of Corporate Citizenship: An Assessment Tool and Its Application at UN Global Compact Participants” (Baumann-Pauly/Scherer 2013). The methodological framework of the research articles and the extended context of *practice* were closely examined with a view to exploring the situational context and epistemological framework embedded in that practice: i. e. the actors, time, place, procedural sequence, methodological assumptions and general or specific purpose identifying that particular practice.

4.1 Care as a potentialising practice

The article by Friese (2013) reports on an experimental system that connects care for the animal models used for laboratory research to medical care for humans and argues that better and more nurturing husbandry is not just a procedural matter resting with the technician's emotionality and manual ability, but is part and parcel of the whole scientific experimentation. The survey of various experiments where the animal models were differently treated (either

relieving or ignoring their pain) shows that better animal care also results in far more reliable scientific findings. Consequently, against the standardised handling of animals as if they were “frozen chicken breasts”, the author advocates the constitutive role of care within scientific research as a practice that develops the potential of all living beings.

The lexical occurrences of *practice* refer to various interrelated concepts:

- a) scientific practice, i. e. the combination of the “experimental system” and “translating resulting findings into a clinical context” (Friese 2013: S129); in turn, “‘experimental systems’ denote not only the thing being studied [...] but also the methods, instruments, and other practices involved in characterising the model organism” (Friese 2013: S131);
- b) clinical practice, i. e. “clinical care for humans” (Friese 2013: S129); used in the plural, it relates to “treatments” as “a way to increase the potential of improving human bodies” (Friese 2013: S130);
- c) laboratory practice, i. e. “caring or uncaring interactions that are embodied by technical apparatuses and experimental set-ups” (Friese 2013: S134);
- d) the practices of care/care practices, which “shape the biology of animals within scientific experiments” (Friese 2013: S132) allowing “animals to live better lives within the scientific experiment”;
- e) husbandry practices, i. e. “standardized practices in caring for research animals, which is largely considered to be the working concern of animal technicians and veterinarians”, (Friese 2013: S132) and “is routinely ignored in science as these practices are not generally included in scientific and medical journal articles” (Friese 2013: S135);
- f) handling practices, i. e. “picking the mouse up by the tail, cupping the mouse in one’s hand, and picking the mouse up using a plastic tunnel” (Friese 2013: S134).

Regardless of the variety of practices, the focus of the article lies with a practice in particular, care, which is further qualified throughout the article as “a potentializing practice”, i. e. a way of “enhancing animal bodies and improving human bodies” (Friese 2013: S130) when laboratory practice and clinical practice agree on a common protocol safeguarding animals models, or else as “uncanny” if they fail to find a common experimental ground and actually end up “dividing animal welfare from research and ethics from science” (Friese 2013: S134).

Throughout the article the controversial positioning of the practice of care is made manifest as the interface between pain-relieving laboratory techniques performed on animals and research-based scientific findings bearing on future human patients. Furthermore, the tension between the cognitive and the operational, the concrete and the abstract is highlighted and reinforced in the very conclusions: “Care is a neglected and yet highly constitutive world-making practice in terms of both the material world and the ways we come to know it.” (Friese 2013: S137).

4.2 Corporate Citizenship as ‘Good Practice’

The article by Baumann-Pauly and Scherer (2013) surveys the corporate citizenship concept stemming from the corporate social responsibility ethos developed in recent literature and puts forward an empirical assessment tool based on the policies and agendas of five multinational corporations participating in the UN Global Compact, which asks companies to embrace universal principles and to engage with ‘enlightened’ global business. Quite interestingly, Corporate Citizenship is first and foremost identified as a concept whose “definitions in academia and practice vary” (Baumann-Pauly/Scherer 2013: 1–2). More specifically, given the

absence both of “empirical studies on the implementation of CC [...] and a systematic review of ‘good practice’ examples” (Baumann-Pauly/Scherer 2013: 4), the authors set out to “build a concept that is operational” (Baumann-Pauly/Scherer 2013: 4), and assess “CC ‘embeddedness’ in organizational structures and procedures [...] to advance CC in theory and practice” (Baumann-Pauly/Scherer 2013: 5). On the basis of the sampled companies’ mission statements, policies and procedures, and interviews with the CEOs and other executives, an assessment tool was sketched out developing around five stages: from the defensive stage of denying any responsibility to “the final civil stage, [when] the corporation then starts collaborating with stakeholders (e.g., NGOs and peers) and shares good practices” (Baumann-Pauly/Scherer 2013: 7). By the end of the article, considering “both theoretical and practical implications”, Corporate Citizenship is defined “as an organizational learning process along several stages” (Baumann-Pauly/Scherer 2013: 11) by which a company aligns their business procedures with key requirements in human rights, labour, and environment.

The word *practice* is used much more sparingly in this article than in the previous one and mostly refers to two concepts:

- a) management practice, i. e. “organizational structures and procedures” (Baumann-Pauly/Scherer 2013: 2);
- b) good practice, i. e. engagement in “collective rule-making processes on a global level [...] contributing to the provision of global public goods, such as health care, human rights and the protection of the environment” (Baumann-Pauly/Scherer 2013: 7).

Both management practice and good practice entail a variety of actors within and outside an organisation; moreover, as the body of the argumentation makes clear, the actual procedural sequence, methodological assumptions and purpose widely vary across organisation executives, stakeholders and management experts. However, regardless of the numerous variables underlying management practice and its particular ‘good practice’ subcategory, they both rely on close interaction between principle and practice, ‘commitment’ and ‘implementation’, as shown by the case study on the five corporations where their varying endorsement of the corporate citizenship ethos translates into different procedures and outcomes: “While all companies made a formal commitment to CC, its implementation on a structural and procedural level varies extensively among the companies” (Baumann-Pauly/Scherer 2013: 11).

Both articles, despite their different disciplinary domains, conceptualise *practice* as the combination of the cognitive and the operational, the concrete and the abstract. In line with the scientific paradigm of evidence and argumentation (Phelan/Reynolds 1996, Swales 1990: 175), the main focus of these forms of academic practice is placed on the epistemological dimension, i. e., on the method, reflection, and evaluation that come into play in any scientific study.

5 Overview of the findings

As the survey of the Jstor multidisciplinary corpus has shown, *practice* denotes a different set of procedures across the disciplines and even within the same discipline. The collocational patterns with a prominently linking nature highlight the relational and highly context-bound meaning of *practice*: depending on the post-modifier, the whole phrase can dramatically change meaning: e.g. the repressive *practice of segregation* vs. the empowering *practice of critical pedagogy*. In either case, the complex grammatical structure of nominalisation obscures

the nature of the practice, that is the agents involved, the setting and mode of the practice: who is practising, where, how, and for what purpose.

Also the adjectives modifying *practice* (e. g. *social, cultural, reflective*) contribute to the semantic opacity of this word because of their shifting framework-related meanings. Although they perform a descriptive function, they both reflect and convey an interpretive and evaluative view of the practice in question. The predicates associated with *practice* are largely relational, clearly encapsulating the classifying or descriptive function of academic discourse: *practice is/has/can be considered etc.*

The recurrent lexical patterns, i. e., the frequent combination of *practice* with *theory, research, knowledge*, as well as with other abstract nouns, i. e., *ontology, belief etc.* point to a constant interplay between action and discipline-based procedural knowledge. In line with the conventions and discursive constructions of academic research, in fact, each discipline is founded on practical skills as well as theoretical/interpretive understanding. The intertwining of these aspects, the operational and the cognitive, the concrete and the abstract, are to a greater or lesser extent explicitly acknowledged throughout the corpus of research. More specifically, the extensive reading of the research articles has shown that *practice* in academic discourse, far from being removed from theory, actually integrates it:

Theory gives the practitioner's ship a plethora of navigational courses, frameworks in which new methodology can be applied and tested. Practice is theory-in-place. Theory is practice-to-be, waiting to be enacted. (Englehart 2001: 372)

As in general language use, also in specialised domains, *practice* is an 'open' concept modified by the related adjective, phrase or clause; however, in the research articles, the collocates and extended co-text of this polysemous word point to the interaction between practice and cognition as a value shared by the scientific community across the disciplines. Throughout the corpus, and whatever the discipline involved, the overarching idea linking academic research, knowledge and practice is that: "In principle, theory and practice are different. But, in practice, they never are." (Pringle 2001: 373)

Conclusions

Many studies have emphasised the relevance of corpus-assisted discourse analysis in language learning, as a "rich experience of the language with insights into collocations and contextualized grammatical structures linked to opportunities to develop students' analytical abilities" (Thurstun/Candlin 1998: 277). Not only do corpora provide examples of language items in context, but also they yield insights into the signifying process itself and the way meanings attached to words are nuanced across discourses (Kaist-Aigner 2009). Besides phraseology, which so far seems to be a privileged area for corpus analysis within an EAP context (Bowles 2012: 45, Simpson-Vlach/Ellis 2010), epistemology may also prove to benefit from corpus-assisted discourse analysis.

An understanding of the conceptual frames through which the disciplines constitute themselves as a network of distinct domains is the key to academic expertise and success, and it can only be mediated by the close investigation of research language and terminology (Resche 2013). As high-frequency words may be revealing of the epistemological frameworks of the disciplines (Giannoni 2010, Groom 2010), a context-based lexical analysis can prove a

valuable tool for novice researchers to familiarise themselves with the underlying principles and cognitive frameworks of their target discipline.

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APPENDIX. A sample of the *practice of/in/and* collocational patterns across the disciplines.

ARCHEOLOGY/ANTHROPOLOGY

- The **practice of** reflexivity can take many forms [...] One definition of reflexive archeology is that it is an approach that tries to provide systematic opportunities for field archaeologists to engage in narrative construction and to provide critique of those narratives in relation to data and social context.
- [...] the **practice of** excavation is seen as low skilled, capable of being carried out by low-paid workers, volunteers, prison inmates, or the unemployed.
- [...] it is likely that more than a single motivating factor accounts for the **practice in** antiquity.
- The subject of this paper is the archaeology of cult **practice in** Roviana Lagoon, in the Western Province of the Solomon Islands. The archaeology of Roviana is dominated by shrines and other monumental structures that are associated with an abundance and diversity of ritual artefactual assemblages.
- While it might be suggested that daily **practice and** social memory are distinct topics, we would argue that in this context they are inseparable in that regulation is not simply imposed at Catalhoyuk but is constructed through the habituation of practices.
- The anthropology of youth is characterized by its attention to the agency of young people, its concern to document not just highly visible youth cultures but the entirety of youth cultural **practice and** its interest in how identities emerge in new cultural formations.

ARTS

- The **practice of** conservation of installation art is an emerging field with many unanswered questions.
- The technical **practice of** building the artefact becomes one of exploring which architectures and techniques best serve as an inscription device within which the authors can express their message.
- The twentieth century **practice of** design grew out of an applied art tradition that encompassed architecture, furniture and interiors to fine book production and poster designs by commercial artists.
- Observations in nature create a common and familiar presence in the actual art or design work, features that seem culturally recognizable, honest, and correct [...]. The basis of any mimetic **practice in** observational drawing and making will be to work through different visual processes and thoughts, often in a simultaneous and arduous manner.
- This article describes the preservation challenges inherent to this medium, summarizes the current state of conservation **practice in** the field, and suggests broad guidelines and standards.
- What I am offering in conclusion about Baroque **practice and** theory is that not only are originality and repetition intimately bound in the **practice and** theory of a certain type of artwork, but also that repetition was a necessary condition for the aesthetic quality that would later come to be understood as “originality”.

ECONOMICS

- *However, through reductions in trade barriers, and the increased **practice of** parallel import and export, the opportunities for price discrimination between, for example, high and low income countries, have diminished.*
- *We define five distinct stages in the evolution of thinking and **practice of** food security, over the past thirty years.*
- *Other principles for **best practice in** housing, such as those promoted by the United Nations Centre for Human Settlements (UNCHS), especially those relating to social integration, bear comparison with the overriding concern for financial sustainability and accountability of the programme listed below [...].*

EDUCATION

- *Educational researchers might find the **practice of** noticing through note-taking to connect common frameworks to common perspectives on traditional educational themes.*
- *Popper's epistemology has had a significant influence on **practice in** the natural sciences, but precious little in the social sciences and education.*
- *This mutually informed link could help contribute to overcoming any real or perceived obstacles to **practice in** the classroom, and theory and dialogue within the university.*
- *In particular, educators might be better equipped to foster discipline-specific literacies by "enculturating" students into disciplinary **practice and** communication.*
- *Pushing students to reflect more explicitly on the relations of **practice and** theory should probably become an implicit if not explicit element of completing a particular Program Expectation.*
- *In educational research and practice we are working with human beings in all their ever-changing complexity. Incorporating the craft, **practice, and** possibility of poetry in our research enhances our ability to understand classroom life and support students' potential to add their voices to a more just and democratic society.*

HISTORY

- *The foundations for the theological tradition were laid by Augustine who sought to reconcile the fundamental conflict between the pacifism of the New Testament and **the practice of** warfare of the Christian Emperor.*
- *It is also assumed that there was no intention to adopt discredited **practice of** using air force as an alibi for lack of success on ground.*
- *Zheng alludes to the **practice of** martial arts in several other Buddhist centers, including the monastic complexes on Mount Wutai Shanxi, and Mount Funiu (Henan).*
- *[...] it is possible to open our conceptions of economic **practice in** post-socialist societies to all kinds of variant forms.*
- *This shared set of rules and rituals should explain a number of striking features in both the **practice and** representation – why battles were normally fought in remarkably regularized forms [...].*

LAW

- *At the same time, however, the provision affords judges an appropriate amount of discretion, thus addressing the concerns that the implementation of article 7(I) may needlessly entrench the **practice of** taking into account foreign interests.*
- *The simple truth is that there is no coherent bridge between legal education and the **practice of** law.*
- *Should the Supreme Court presume that Congress acts constitutionally? The role of the canon of avoidance and reliance on early legislative **practice in** constitutional interpretation.*

MANAGEMENT

- *The paper examines the contributions of two distinct areas of theory to the **practice of** facilitation in operational research [...].*
- *Knowledge is less about truth and reason and more about the **practice of** intervening knowledgeably and purposefully in the world.*
- *The **practice of** supporting participation ensures that a multiplicity of voices and ideas is represented in discussions, deliberations, and decision processes.*
- *Incorporation by charter is a form of government regulation, which allows the chartered organization to take on substantial power in the control of **practice in** that professional field.*
- *The notion of collaborative **practice in** our discipline remains a vague concept, with many assuming that it refers simply to consultation with local communities.*
- *The first part of this paper introduces humanitarian principles and the recent discussions that have evolved around them, followed by some theoretical notes on the meaning of principles in organizational **practice and** culture.*
- *Surveys often reveal wide variations in the type and frequency of **practice and** policy interventions [...].*

MATHEMATICS

- *The **practice of** basing scientific conclusions on single studies using arbitrary criteria, if widespread, could give NHST [Null Hypothesis Significance Testing] or any other method a bad name [...].*
- *We conclude with some recommendations for improving the **practice of** NHST [...].*
- *A common **practice in** school accountability research is to regress the outcome on X and W [...].*

MEDICINE

- *The present **practice of** concentrating all efforts at increasing **the practice of** family planning on women during antenatal and post-natal clinics cannot move family planning forward in Nigeria.*
- *A written survey was used to investigate knowledge and **practice of** infection control and attitudes toward government regulation.*
- *Other committees include medical, nursing and allied health practitioners who map out current **practice in** the hospital.*
- *The intervention program fits the model of quality improvement most commonly used in*

family **practice in** the Netherlands and Europe quite well.

- This study shows that there are still significant gaps in knowledge and **practice in** the management of patients with HIV/AIDS.
- The curriculum includes an overview of the law and the problem of unsafe abortion, professional **practice and** ethics, communication skills and counselling techniques [...].

MUSIC

- Wagner (1975) documented that **practice of** music is such a basic fundamental element of study that it is not even mentioned in music dictionaries, music education method books, or in applied method books.
- [...] teacher and researcher likewise confront theory and **practice in** dialectical relation
- A combination of mental **practice and** physical practice was more beneficial than was either mental or physical practice alone [...].
- [...] appreciative **practice and** ontology constrain one another. If practice has any priority, it consists only in the requirement that an ontology be grounded in some features of practice.

PHILOSOPHY

- The **practice of** model building is a creative act, and often independent of specific dictates of theory.
- Instead of an absolutely free discourse community, the best one can attain is a community in which one commands the requisite rules of procedure, as well as the 'ethics, the ethos, the **practice of self**' [...].
- There have been few attempts to generalize about intellectual **practice in** everyday life, issues of 'knowledge' and its definition [...].
- The theory-world relationship is a hierarchy, with theories as fixed entities, directing **practice in** a top-down fashion.
- What has been given above represents what seem to be two distinct approaches to somatic **practice and** suffering rooted in two different metaphysics.
- [...] a common epistemology seems to underpin both forms of knowledge **practice and** their respective conceptions of knowledge.
- [The article] discusses the baraza setting (daily meeting for male social peers) as a venue for intellectual **practice and** the appreciation of wisdom.

POLITICS

- Election Day – the communal culmination of the **practice of** politics – is the heart and soul of democratic self-government.
- They supported the American political system in the forties, fifties, sixties, and seventies despite its horrendous **practice of** segregation.
- It is the understanding of best **practice in** development that must underpin responses to the plight of war-torn countries.
- Clearly, with the ever increasing complexity of public administration practice and the desperate need to apply **practice in** a meaningful, innovative, progressive manner, it is time for theorists and practitioners to "kiss and make up".

- *The transition architecture since the adoption of Resolution 1483 has undergone further elaboration, in the form of both Security Council **practice and** events in Iraq.*
- *[...] this process, impelled by its own perverse ‘rationalities’ both at the level of state **practice and** of individual behaviour, expanded to such dysfunctional proportions that the centre once more intervened.*

PSYCHOLOGY

- *The extent to which assumptions about gender underpin theory and **practice in** relation to eating disorders has potential implications for the ways in which women come to understand and experience themselves.*
- *Applied psychologists often have difficulty in identifying personal resources and positive attributes due to the clear biases in our training and **practice in** the assessment of problematic behavior.*
- *Attention to these issues may be essential before a more positive psychology can emerge from theory to influence professional **practice and** policy.*

RELIGION

- *Although Buddhism in China evolved into different schools with methodological and hermeneutic variations, the **practice of** this same liturgy has become a consistent monastic code.*
- *Through the **practice of** meditation and mindfulness, people perform a certain number of techniques on the body, thought and ways of being.*
- *The present study has explored the relationship between Bradbury’s measure of psychological well-being and three indices of Christian belief and **practice in** a random sample of 997 Australian adults.*
- *We know very little about pastoral **practice in** the nineteenth and early twentieth centuries with regard to sex and marriage, not only for Catholics but other religious traditions as well.*
- *More important, this form of training creates an organic link between communal **practice and** religious philosophy.*
- *Buddhist tradition, Roman Catholic and Orthodox contemplative tradition, and mainline Protestant tradition agree: we have everything we are ever going to have, and there is nothing to gain – absolutely nothing – through practice, because **practice and** attainment are nondual.*

SOCIOLOGY

- *Practices – like the **practice of** journalism – are the outcome of an encounter between one’s professional habitus and a particular social field.*
- *We do this in order to highlight the way sociology can inform the terms and **practice of** research methodology.*
- *The **practice of** trying to locate cultural difference within individuals leads to commonplace but ludicrous statements such as referring to individuals as diverse.*
- *The number of scientists who consult on fictional media projects is steeply increasing as consulting becomes standard **practice in** the entertainment industry.*
- *[...] ethnic monitoring is a fairly standard **practice in** Britain, with people providing details of their ethnic group for the population census and employers monitoring their appointments and promotions procedures.*

- *The analysis of mission **practice and** discourse concerning marriage presents an opportunity to reflect on how formal organizational rules are contested and sometimes changed, on a continuous basis.*
- *A demonstration of the inseparability of **practice and** meaning is used to conduct a theoretical re-articulation of culture and economy.*

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An Approach to the Study of Public Law: A Pragmatic Discursive Analysis of Judicial Decisions in Spanish and English

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Abstract Despite the presence of some work on genres in the area of private law, less attention has been paid to the genres of public law (mainly case law and legislation) in comparative studies of legal discourse in English and in Spanish. The present study tries to prove that the analysis and description of judicial decisions in both languages depends on cultural factors underlying the asymmetry between the Spanish legal system, and that of England and Wales, where precedent has an unequal prominence as a source of law. Through a qualitative analysis of a limited corpus of judgments of the English and Spanish Supreme Courts, I will attempt to reveal how well they reflect the preponderance attributed to precedent in each of the legal cultures emanating from such texts.

Keywords legal cultures, legal genres, legal discourse, legal traditions, pragmatic-discursive analysis, genre studies

1 Introduction: The purpose of our study

In recent years, comparative studies of legal texts in English and Spanish have attracted the interest of scientific research, especially in the field of translation (Borja 2000 and 2007; Alcaraz/Hughes 2002; Monzó 2001) and in the teaching of languages for specific purposes (Orts 2006, 2009 and 2012; Engberg/Arinas 2011). However, while it is true that studies have mainly been carried out on the discourse of private law in both languages, such as wills and powers of attorney (Vázquez y del Árbol 2008 and 2009), insurance policies and contracts (Orts 2006, 2009 and 2014), and that other relevant analyses have been carried out on the language of public law in Spain (Alvarez 2008, Taranilla 2009 and 2012, Marin/Rizzo 2012, Polanco/Yúfera 2013) and in English (Bhatia 1993, 1995, 2004, 2008, 2010 and 2012; Bazerman 1994, Maley 1984, Bawarshi/Reiff 2010, Kähler 2013, just to name a few), hardly any of these studies focuses on the pragmatic-discursive differences between court decisions as genres, both in English and in Peninsular Spanish, and the cultural genesis that these differences have. With some notable exceptions (Ruiz Moneva/Ángeles 2013, Vázquez y del Árbol 2014), there is a scarcity of work accomplished in the area of comparative, contextual approaches, taking stock of the different structuring and textualization of judgments from the cultural perspective of the legal system in which they originate.

The argument in the present paper is that it is, precisely, in the wording of case law where ethnographic differences between the legal culture of Spain and that of England and Wales can be most dramatically perceived, since judicial decisions play an uneven role in these cultures, their pre-eminence in each system being entirely different (Cross/Harris 1991): the Spanish legal system is an instance of the Continental model, representative of the paradigm of written or coded legislation, whereas the main source of English law is “the unwritten law of England, administered by the King’s Courts, which purports to be derived from ancient and universal usage” (Alcaraz/Hughes 2002: 49 in Ruiz Moneva/Ángeles 2013).

The greatest challenge that comparative lawyers, but also LSP linguists and legal translators, face is that law systems – as culturally-bound sets of tacit constructs – are not uniform

and constant for each and every civilization, but different from one another (Gotti 2005). In Šarčević's (1997: 13) words: "Despite fundamental similarities among its constituent legal systems, a legal family does not correspond to a biological reality." Law, like language, is the product of local convention, and it develops and roots in a specific community throughout history, through the usage that its members make of it. Indeed, legal models also change from culture to culture, as culturally-bound sets of tacit constructs. Tetley (2000) defines legal cultures as influenced and marked by legal traditions and families. In his opinion, legal systems are not uniform and constant for each and every civilization, but different from one another and in tune with a whole array of conditions that make them evolve and that frame them as unique and peculiar to each legal tradition. Just as there is not one but numerous languages, legal models also change from culture to culture, through history, through political and economic changes; they are likely to be more static in some cultures, more pliable in others.

As a cognitive activity, legislative ruling acts through language, since it is not by chance that law has been defined as a profession of words (Mellinkoff 1963). Consequently, the sources of each system, their configuration and their rules of interpretation – in short, their legal cultures – have to be considered when inter-legal communication, or multilingual and multicultural interpretation and application of two, or more, legal traditions, is to take place. Legislating, interpreting the law, applying and translating it, are all linguistic activities, and the substance of legal practice is language. According to Alcaraz and Hughes (2002: 24), translators/linguists and lawyers have in common the pursuit of meaning in texts, and of particular words in particular texts.

In general terms, the basic traits of law in the English-speaking countries and in Spain are as dissimilar as might be expected from two systems springing from different legal traditions. Indeed, the Spanish and English legal cultures have their origin in different cultural and epistemological contexts developed through centuries. England and Wales, on the one hand, have their epistemological sources in an Anglo-empiricist context based on pragmatism, induction, and philosophical materialism (Bristow 2011). Spain, on the other hand, springs from a rationalist tradition based on abstract idealism, deductive practice, and spiritualism (Woolhouse 2002). Formal and hermeneutical differences between their two legal traditions are but the result of those two very different legal systems: one, the Common law of England and Wales, allows judges to reach their own decisions and that, being based on precedent (where judicial decisions bind later ones), gives little scope for vagueness and considers expressive certainty as the most precious quality in legislative drafting. On the other hand, the Continental system of Spain relies heavily on the judiciary to interpret and apply the meaning of the law and sacrifices certainty for simplicity of expression.

Indeed, the legal system of England and Wales is – like those that integrate the family of Common law – called that of *stare decisis*, or 'stand upon what has been decided'. In this system, respect for precedent is absolute and judgments occupy a central role as an unwritten¹ and unenacted, but, nevertheless, primary, legal source (Mellinkoff 1963, Russell/Locke 1992, Riley 1995, Tiersma 1999). The Common law doctrine of *stare decisis* implies that the

¹ According to Black's Dictionary, unwritten law is all that portion of the law, observed and administered in the courts, which has not been enacted or promulgated in the form of a statute or ordinance, including the unenacted portions of the Common law, general and particular customs having the force of law, and the rules, principles, and maxims established by judicial precedents or the successive like decisions of the courts. See Code Civ. Proc. Cal. 1903.

courts of the hierarchy as a whole are required to follow all decisions taken in courts superior to them, as well as their own. For operational reasons, and due to the volume of the previous decisions accumulated over the years, the instructive and argumentative force of English judgments is structured into two different sections, a binding part which later judges must take into account, and a section which complements this one, of a purely persuasive character. This reflects how *stare decisis* works, marking how judgments have to be properly applied and cited as precedent in subsequent cases. These sections, the *ratio decidendi* and the *obiter dicta* respectively, are to be replicated in subsequent cases, and such a structuring invests English decisions with timelessness and, consequently, an importance in the system that is much lesser in the Spanish law.²

In contrast, the Spanish system is heir to the Roman tradition of codes, and one of the members of the Civil law family. The result of the development from the times of Justinian is a compact body of rules made up of codes, where case law and custom have minor importance, comparatively. In the Spanish legal system, of Continental inspiration, court decisions constitute a secondary source of law, as provided by the Spanish Civil Code itself.³ *Stare decisis* is not usually a doctrine used in Civil law systems, because it violates the principle that only parliament may make law. Legal sources emanate from a single authority, the written code, and judges are relegated to the role of arbitrators, who must decide if the reality is inside or outside the norm through the deductive process.

Each system shows differences in legal interpretation and argumentation, these constituting the aftermath of the disparities in the pre-eminence that case law has in each system. Legal reasoning in Common law systems tends to be an ontological process, the norm being embedded in a whole network of specific cases. According to some experts, interpretive processes are analogic (Maley 1985; Ruiz Moneva 2013), since binding precedents play a major role in the judge's decision. In contrast, legal reasoning Spain is deductive and teleological, as the written law is the fundamental source of inspiration for the application of justice, and is to be applied to all individual cases (Iturralde Sesma 1989).

The present study is, precisely, aimed at addressing the matter of judgments as legal genres in the legal system of Spain and that of England and Wales. Through a comparative study of two subcorpora of legal decisions in English and Spanish that deploys some element of genre and discourse analysis, I will specifically attempt to distinguish how the cognitive mechanisms that operate in a discourse community can be glimpsed from their different textual and rhetorical organization, as the cultural and ethnographic context of the legal system which deploys them is accounted for. Ours is a qualitative test that analyses the discursive level of judicial decisions from the perspective of the communicative purpose that decisions have to fulfil in each system. This happens particularly with regard to the disposition of their macrostructure (Alcaraz 2000), conceived here as the product of the cognitive organization of the particular

² *Rationes decidendi* also exist in Spanish law, but they lack the preponderance they have in Common law (Batiza 1992).

³ Spanish Civil Code, Preliminary Title <http://www.boe.es/buscar/act.php?id=BOE-A-1889-4763>: "*La jurisprudencia complementará el ordenamiento jurídico con la doctrina que, de modo reiterado, establezca el Tribunal Supremo al interpretar y aplicar la ley, la costumbre y los principios generales del derecho*". "Case law shall complement the legal system with the jurisprudence repeatedly established by the Supreme Court when interpreting and applying the law, custom and the general principles of law" (Own translation).

legal tradition from which the texts emanate. Our hypothesis is that such an arrangement will indeed reflect the different role of case law in each of the systems. In order to illustrate this, both subcorpora shall be analyzed looking at the way in which decisions are paradigmatically organized in them. To complete our study, the judgments in the subcorpora will be considered in the light of textual and contextual factors such as their intertextuality, or their relationship with other legal texts, and their rhetorical function.

2 Analyzing judgments: corpus and methodology

Since our study has a purely qualitative nature, the corpus that it is made up of consists of ten judicial decisions in English and ten in Spanish, which collectively reach around half a million words. For the sake of symmetry in the collection of the material, our texts were chosen from those decisions made at the highest instance of each of the systems: the English and the Spanish Supreme Courts, which are the highest courts of appeal available in the hierarchy of each legal system. Additionally, since uniformity was of utmost importance, the judicial decisions were selected having in mind the same topic: in this case, corruption and its various criminal behaviours, such as bribery, influence peddling, embezzlement of public funds and money laundering. The searches to gather the Spanish corpus were conducted through the CENDOJ database (the Spanish *Centro de documentación judicial*, or Judiciary Document Centre), the technical arm of the General Council of the Judiciary that deals with the official publication of case law (art. 107.10 LOPJ), but which has other various competencies in the field of judicial documentation and knowledge management services. The collection of the English corpus was made through the BAILII (British and Irish Legal Information Institute) database, an on-line case law directory that gathers, apart from other legal sources such as doctrine and legislation, case law in the United Kingdom.

As to the content of both subcorpora, judgments in the Spanish corpus were sought, as noted above, taking into account the criminal nature of the cases (all of them referring to punishable behaviours under the Spanish Criminal Code) subsequently consisting of appeals tried in the Criminal Division of the Supreme Court. Specifically, the judgments collected here fall within the textual typology of *recursos de casación*, or “cassation appeals”: those are unlike other types of appeals which stand before the Supreme Court against final judgments of other courts, when essential procedural guarantees have supposedly been contravened.

The search was more difficult when gathering the English subcorpus, where judicial decisions were also collected under the common theme of corruption and the criminal behaviour that stems from them. Nevertheless, the results showed by the BAILII database are not entirely consistent with the Spanish corpus of judicial decisions, the generalist vocation of the English Supreme Court making homogeneity difficult to attain.

Details are shown in the tables describing the two subcorpora, cf. table 1 and table 2.

Table 1: *The Spanish corpus, Judgments of the Spanish Supreme Court*

Number	Ref Number	Topic	Year	Number of words
1	STS 5902/2013	Bribery	2013	7.846
2	STS 5767/2013	Bribery and extortion	2013	3.322
3	STS 5652/2013	Illegal detention and bribery	2013	16.414

4	STS 5074/2013 'Maquillaje' case	Influence peddling	2013	45.426
5	STS 4753/2013	Bribery (bis)	2013	19.623
6	STS 4108/2013	Administrative malfeasance	2013	10.857
7	STS 3864/2013 'Palma Arena' case	Influence peddling	2013	41.823
8	STS 5816/2013 'Minutas' case	Misappropriation of public funds	2013	96.287
9	STS 5811/2013	Tax crime	2013	15.028
10	STS 4318/2013	Breach of law	2013	5.175
TOTAL				206.813

Table 2: The English corpus, Judgments of the English Supreme Court

Number	Ref Name	Topic	Year	Number of words
1	Abela and others v Baadarani	Extradition offence	2013	9.305
2	Kapri (AP) v The Lord Advocate	Right to a fair hearing	2013	6.101
3	Assange (Appellant) v The Swedish Prosecution Authority	Competent judicial authority	2012	52.887
4	Flood (Respondent) v Times Newspapers Limited	Libel, bribery	2012	32.543
5	R v Forsyth R v Mabey	Mismanagement of funds	2011	3.831
6	R v Maxwell	Police misconduct	2010	18,752
7	R v Chaytor and others	False accounting	2010	19.877
8	Oceanbulk Shipping & Trading SA v TMT Asia Limited and others	Contracts	2010	7.672
9	R v Rollins	Money laundering	2010	5.333
10	Phillips v Mulcaire	Phone hacking	2010	7.556
TOTAL				163.761

Among the contents within the subcorpora are, in the English case, certain judgments of significant stature, such as the ruling of the Supreme Court against the extradition of Julian As-

sange, or the famous case of corruption concerning the trials of three former Members of Parliament for false accounting, in relation to the Parliamentary expenses scandal of 2009 (R v Chaytor & Ors). On the other hand, the Spanish corpus is made up of the judicial decisions of the usual – sadly common – type in the Spanish scenario of political and administrative corruption; as compared to the English subcorpus, the cases have been much more difficult to pin down, since the judgments contain anonymising and/or incomplete data about the identity of the actors (by virtue of the confidentiality requirements imposed by the CENDOJ database), all of them quite well-known in the Spanish scenario of corruption, through the publicity they receive through the press.

Also, as can be seen in tables 1 and 2, there is a noticeable difference between the length of the judgments in Spanish and those in English, with an average of 20,681.3 words per judgment in the first subcorpus and 16,376.1 in the second. The length of the Spanish subcorpus (21 % higher than the English corpus) obeys, as shall be seen, to a greater abundance of intertextual data: the literal transcription of other texts (proven facts from judgments of lower courts, among other legislative data and sources) that the Spanish judgments deploy. In the English subcorpus, the only exception in terms of extension is the length of the Assange judgment, which is due to the fact that the judgment includes the transcribed renderings of the Vienna Convention, and other sources of European law which are related to the line of argument and to the reasoning of the case.

As far as the methodology deployed is concerned, genre theory is a paradigm bearing fruitful results to the field of research, description and translation of specialized discourse. It lavishes special attention on the theoretical and applied aspects of the professional and academic varieties of language, and explains, according to the literature of recognized authorities on the subject (Swales 1990, Bawarshi/Reiff 2010, Bhatia 1995 and 2012, among others), how the communicative events produced by a specialized language community are structured. In Swales's (1990: 58) already classic definition of genre, there are two key concepts: that of discourse community, and that of communicative purpose. First, a discursive community is a group of members of a professional or academic community who have a greater knowledge of the conventional purposes, the construction and the use of texts deployed by the community, than those users who are not specialists. What Spack (1988: 36) calls "genre literacy" is the knowledge that the members of the discipline have of the relevant communicative conventions which operate in academic reading and writing practices, for those members to build their own identity and assert their stance in the professional world. Getting to know a genre amounts to gaining mastery of the communicative mechanisms that operate within the specialized community; therefore, the more generic knowledge one has about a specific profession, the greater knowledge one will have of the devices that articulate its communicative processes.

On the other hand, the communicative purpose is the one that configures the genre from the point of view of its discursive and textual organization, or macrostructure, and of its rhetorical organization. Relevant changes in the communicative purpose of the event itself will give rise to different macrostructures and, therefore, to different types of genre. Thus, for example, within the professional discourse of law statutes and judicial decisions are conceived as different kinds of genre, because even if both are instances of written Public law, their communicative purposes are radically different, also differing, as shall be seen, from legal culture to legal culture. Less relevant changes will result in different subgenres; for example, within the category of judgments as genres there exist several subsets, including the judicial decree and the judicial decision. These form a subtype of genre, inasmuch as their communicative purposes

es somewhat vary in different proportions, depending on the scope of the case and the communicative goal that each of these judgments wishes to meet: the subset of judicial decisions aims at resolving the main issue of the case, but the subset of decrees is aimed, on the contrary, not at central issues, but at some residuary ones related to such litigation. The communicative purpose of the text is also concerned with the identification of the matter/subject/extra-textual reality that the text seeks to represent, change, or deploy. Such rhetorical devices have been termed the 'dominant' contextual focus of the text, and connects with the relationship between the issuer (in this case, the specialized community) and the receiver of the text (the audience) as well as the purpose of the text, in harmony with the relationship that such text has with the previous elements, issuer and receiver. Using Hatim's (2001: 215) distinction, judicial texts have three rhetorical foci, namely expositive, providing relevant information about legal facts and events, instructive or exhortative, where the binding force of law is found, and, finally, argumentative texts, which are to be found in the discussion through which judges justify their decisions within the judgment.

Finally, the phenomenon of intertextuality (Kristeva 1980) will be analyzed in our judgments. In the analysis of legal discourse, intertextuality refers to the construction of discourse from a combination of other sources, some of which come from other levels of the law, mainly legislation or codes. Therefore, it aims to identify the mixture of texts and linguistic traditions that specifically acts as the background of a particular genre, illustrating the existence of connections with previous cases, statutes or other texts, like treaties and conventions. As pointed out by Ferrán (2006), the letter of the law has an outstanding presence in legal texts and is always present, either explicitly or implicitly, even if it is often not referred to in the document itself. The rule of law in its various forms is always working as the implicit entity that inspires and gives life to the text. Regarding Spanish judgments, Tomás Ríos (2005) speaks of the constant references made to sections of the acts, and of different acts, in the legal grounds section of judgments, and distinguishes between the intertextuality that occurs as an overall reference, when the text is transcribed in its entirety, and as partial reference, when only the name of the act or of the section of the act appears without their being cited literally. Furthermore, with regard to intertextuality in English judgments, Borja (1998, in Ferrán 2006: 159) notes that, indeed, in this unique system, judges must make reference to previous judgments when writing their own, quoting part of them. To what extent intertextuality occurs in our texts, is something to be explained later on.

Our analysis of judgments of the superior courts of the English and Spanish system will, then, revolve around the concepts of communicative purpose and discourse community, embodied in a study of a pragmatic and discursive nature which will take into account the macro-structure, the intertextuality and the rhetorical function of our judgments. This analysis will help us to draw conclusions about the specialized communities that these texts belong to, combining the results obtained with the ethnographic features of the discourse community and how they affect each genre in turn.

3 A pragmatic-discursive analysis of genre: macrostructure, rhetorical function and intertextuality in Spanish judgments

The textual or discursive level relates to genres as instances of speech or written texts, created according to the basic rules of linguistic organization that make them work, and not just as mere strings of randomly arranged words. The textual elements of professional languages are visible in its supra-organization, or macrostructure (Alcaraz 2000: 135), which is a very visible

part in the text, and which frames the textual segment, helping the reader's overall understanding. The macrostructure represents the domain of the text at functional level, revealing how it is that the elements of a textual typology operate. Such a textual structure reflects, in turn, the socially conventionalized knowledge that is at the disposal of the professional community, as well as the strategies or tactical decisions generally deployed to make the discourse more effective from the perspective of the goals that the issuer wishes to accomplish.

Legal texts have peculiarly restrictive structures and a tendency to systematize the arrangement of information, such organization playing a key role as an aid to limit and confine the parts into which the text is structured. The macrostructural rigidity of legal genres, the prototypical lack of elasticity that characterizes them, greatly facilitates their comprehension, making them more visually and graphically accessible. Therefore, a textual analysis based upon the understanding of the structure and the arrangement of information in these genres – considered from the point of view of its macrostructure and their textual conventions, and including their ortho-typographical standards – may help to identify the different semantic elements in the genre, therefore helping the reader to grasp the text as a whole.

In regard to Spanish judicial decisions at large, the Spanish Law⁴ differentiates rulings, orders and judgments, and prescribes that Spanish judgments have a strict structure, where the different parts are explicit. They have to be formulated expressing the proven facts, i. e., the 'history of the case', and the legal grounds, both in separate numbered paragraphs after a heading. Finally, the pronouncement or ruling is signed by the magistrate, judge or judges who issue them.

The language is stereotypical and impersonal (it is the court, not the judge, who addresses the reader), as in: "*Esta Sala, compuesta como se hace constar, ha visto el recurso de casación interpuesto*" [This Chamber, whose members have been identified above, has examined the appeal before them]; "*La Sala (...) ha visto*" [The Chamber (...) has deemed that].⁵ Also, an impression of greater neutrality is conveyed through nominalizations: "*El indicio debe estar acreditado por prueba directa, y ello para evitar los riesgos inherentes*" [Evidence must be accredited *prima facie*, thus avoiding inherent risks]; "*Procede la estimación del recurso*" [It is proper to uphold the appeal]. Referring to facts in the most neutral and objective possible way also requires the usage of the passive voice, as in: "*El primer motivo se formula por infracción de precepto constitucional, al amparo del artículo*" [The first plea has been formulated in breach of a constitutional provision under Article]; "*Se declararon probados los siguientes hechos:*" [The following facts were declared to be proven]. Rituality in the doubling of verbs is also usual, as in: "*Debemos revocar y revocamos*" [We must overrule and so we overrule]; "*Debo declarar y declaro*" [I must declare and therefore declare].

Additionally, specialists in the judicial discourse of Spanish law denounce an intricate, complex and improper use of syntax, which is usually translated into protracted syntactic constructions, the result of which is often an unintelligible and often anti-normative discourse (Polanco/Yúfera 2013). Examples of these in our corpus are long, difficult sentences such as the following:

"La acusación popular, respecto de la cual se interesó por algunas defensas su expulsión del procedimiento a la vista de que en realidad actuaba como defensa de algunos acusados,

⁴ Organic Law 6/1985 of the Judiciary.

⁵ All the translations of the Spanish judgments into English are the author's.

fue sin embargo mantenida en la causa por el Tribunal, no sin hacer mención a la actitud de dicha parte procesal, que considera ‘irregular, si no espuria’ al no dar explicación de su retirada de acusaciones para algunas personas en el acto de la vista, concluyendo, en definitiva que su acusación solo podía ser ‘adhesive’, sin agregar nada, dada la extemporaneidad de su formulación” [The popular jury, whose dismissal was considered by some defence counsels in view of the fact that they actually operated as defence of some of the accused, was nevertheless kept within the trial by this Chamber, not without mentioning the attitude of such party to the procedure, which considered (such popular jury) “irregular, if not spurious” since (their members) did not explain their withdrawal of charges in relation to some of the accused during the hearing, ultimately concluding that their accusation could be biased, adding nothing to the process, given the lateness of their formulations].

Our corpus of judicial decisions follows this general, rigid configuration, as unbending as that set out by the system, and is also divided into heading, proven facts, points of law and ruling. Nevertheless, it is fair to say that, being appeals, they have some peculiarities differentiating them from other types of judgment. Appeals are not ordinary, but extraordinary remedies which are set to allege and demonstrate defects in form or substance in the judgment of a lower court. Cassation appeals in Spanish law may only be brought for strictly limited legal grounds, and they are not easily admitted by the courts. In these grounds for appeal, only violations of law, procedural defaults or constitutional breaches may be alleged, and they should be presented to the court, through the so-called “notice of appeal” (cf. table 3).

Table 3: Macrostructure of the Spanish judgment

<p>Administrative data identifying the judgment</p>	<p>a) Venue, date, names of parties, names of legal representatives or attorneys. b) Type of court and procedure. c) Names of judges. d) Grounding for the legal process. e) Name of the lower court in which the case was settled earlier.</p>
<p>Heading: Legal identification of the judgment</p>	<p>Formula that confers legal effect to the judgment, implicitly approving the appeal and explicitly acknowledging that a ruling was previously issued.</p>
<p>Facts as found: Narrative of the previous trial</p> <p>FIRST SECOND THIRD [...]</p>	<p>a) Presentation/contextualization of the appeal. b) Facts as found (listed in earlier judgment/s issued by the Provincial Court or the Superior Court, usually in italics). c) Numbered grounds for the appeal (according to the written version of the file initiating proceedings). Hefty legal reasoning supported by codes, enacted laws and other precedents. d) Written communication of repeal and rejection of pleas by the public prosecutor.</p>
<p>Legal Grounds</p> <p>FIRST SECOND THIRD [...]</p>	<p>a) Application of the rule of law and reasons alleged to estimate or dismiss the pleas. b) Grounds for appeal are listed, together with their approval or rejection.</p>

Ruling	a) Statement on the scope and intention of the conviction, if applicable. b) Statement on judicial costs.
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Texts of this nature show an apparently homogeneous organization similar to other judicial decisions, but their structure is actually organized in a more restricted way than in any other appeal. As may be seen, the steps to be followed in this type of text are fixed, and they are replicated in all judgments of the Spanish subcorpus. On the one hand, this is due to the measures imposed by the Law of Criminal Procedure; on the other hand, it is also due to the fact that a cassation appeal is an extraordinary kind of appeal coming from a lower court, the facts being tested are necessarily those examined in a previous court. It is worthwhile emphasizing that benefiting from a cassation appeal requires a fundamental limitation: accepting the facts declared as proven, since cassation is not the path to be chosen to report errors of fact, but those of law. This implies that the factual story as such does not emanate from the judicial decision itself, but requires the interference of other texts: codes, laws and, in a minor, lesser extent, the ruling of the lower court, such as: “*El artículo 234.2 LEC exige que*” [Article 234.2 of the Criminal Proceedings Law demands that]; “*Dice el artículo 16.8 del Código Civil*” [Article 16.8 of the Civil Code states that].

Regarding the rhetorical features of texts, Polanco and Yúfera (2013) say that judgments are the most complex of legal genres, since they depict the development of the legal process as a whole, constituting a compound argument that accommodates other small arguments. According to the examples analyzed in the subcorpus under study, cassation appeals are rulings that, at their very beginning, state the facts and reasons that led to the appeal itself, either explicitly (transcribed in italics) or implicitly. The findings, or account, of facts, constitute the expositive part of the judgment, consisting of the elaboration of descriptive or enumerative sequences in which proven facts and grounds of appeal are included, of the kind: “*PRIMERO. – Antes de dar inicio a las sesiones del juicio oral el Tribunal acordó (...); SEGUNDO. – Las partes se han pronunciado (...) TERCERO. – Notificado el auto a las partes, se preparó recurso de casación por el MINISTERIO FISCAL*” [FIRST. – Prior to starting the sessions of the trial the Court decided to (...); SECOND. – The parties have spoken (...); THIRD. – The parties having been informed about the ruling, the appeal was prepared by the PROSECUTION]. The argumentative part is entirely composed of a complex reasoning, by means of which the Judge-Rapporteur, in the first person plural, gives voice to the other judges in the panel – usually five to seven –, thus setting out the legal grounds substantiated for granting or rejecting each of the reasons provided in the appeal, in the light of the written norm. In this section of the judgement, the panel of judges refer to themselves in a formal way as *This Court/This Chamber*, as in: “*La Sala constata que no es la primera que vez que*” [This Court/this Chamber notes that it is not the first time that] or as in: “*Esta Sala ha admitido los recursos*” [This Court/this Chamber has admitted the appeals]. Finally, the ruling is the instructive or exhortative part of the text, where the actions to be followed by the appellants are prescribed, also in the ritualistic first person plural of the Judge-Rapporteur: “*FALLAMOS: Que debemos declarar y declaramos*” [WE RULE: That we must declare and so we declare]. The communicative purpose of this type of judgment is, thus, to collect all the factual and legal details of the case history, and to present the legal grounds for the case (expositive part), subsequently arguing the legal soundness of such reasons under the law (argumentative part), and imposing the decision of the court on the appellant/defendant (instructive part).

With regard to the intertextuality of the text, it is clear that cassation appeals are resorts offered by the law, and that such law is explicitly and implicitly present throughout the text. As was noted above, the account of facts marks the beginning of the judgment, and it does this by citing italicized parts of the previous decision, in the account of the history of the case, or in the provision of a partial reference to the evidence gathered in the court, or courts, of previous instance. As Ruiz Moneva (2013: 84) affirms, it is usually formulated in the third person singular of the preterit indicative [*formuló, suplicó* (lodged/stated, pleaded)], or else through impersonal constructions [*se personó, se admitió* (appeared in court, it was admitted that)]. Such intertextuality is still present, again partially or completely, in the preamble that heads this section, as it reports or transcribes entire portions of the facts as found. Finally, intertextuality appears again in the legal grounding of the case, which constitutes a constant argument where law sections, constitutions, treaties and other legal documents are quoted to back up the different reasonings. Examples are:

- “*conforme a los arts. 741 y 717 de la LECr*” [pursuant to pages 741 and 717 of the Criminal Procedure Act],
- “*El Tribunal Constitucional ha tenido ocasión de fijar la finalidad, alcance y límites de la motivación*” [The Constitutional Court has had occasion to set the purpose, scope and limits of the (legal) grounding]
- “*Al amparo de lo dispuesto en el art. 852 de la Ley de Enjuiciamiento Criminal, y art. 5.4. de la Ley orgánica del poder judicial*” [Under the provisions of section 852 of the Criminal Procedure Act, and section 5.4 of the Organic Law of the Judiciary]

Tomás Ríos (2006) states that all of these references to other legal instruments support the decision that appears in the ruling, as the last, and most consequential, part of the text.

4 Macro-structure, rhetorical function and intertextuality in English judgments

The primary role that judgments play in English law has already been remarked upon, together with their strongly normative character. What is more, the fundamental difference between the systems of Continental and Common law is that in the former, judges are not obliged to follow the dictates of previous judges, but in the latter they are. In this regard, it is also important to note that, when a judge decides about a case in Common law, he/she is also creating law (Cross/Harris 1991), and this is done through a critical statement which is called *ratio decidendi*, which will be adhered to in subsequent judgments. Therefore, it is the thesis of this paper that the cardinal hue that precedent has in the Common law system strongly influences how its genre – the judicial decision – is articulated in the legal system it belongs to, and it does so by means of the binding force of the *ratio*.

In giving voice to the person of the judge (or judges, in the case of the Supreme Court), the English judgment is much more personal a product than its Spanish equivalent. Like in the Spanish Supreme Court, five to seven judges act in this court of highest appeal. However, even if there is also a rapporteur or leading judge – who will make the most important statement on the decision, upon which the *ratio decidendi* will be interpreted – all the others have a voice in the process, taking turns to give consistency to the reasoning of the leading judge (concurring opinion) or to disagree with it (dissenting opinion). In this sense, the judgment is a highly individualistic genre, and its less stereotyped tone shows the greater involvement of the person of the judge-legislator, whose personality is somehow revealed in the text through flashes of

verbal wit, the use of irony, sarcasm, and that of rhetorical questions and metaphors. As Ruiz Moneva (2013: 87) states the first person singular is used by judges when they admit their limitations when it comes to deciding on some particular aspect, and also when they have to assume their own responsibility for the decision made: “I have reached the conclusion”, “In these circumstances, I see no reason why”, “I would not accept the submission that ...”, as examples.

For this very reason, and as far as structure is concerned, judges do not adhere to the strict conventions that guide the macrostructural requirements of the Spanish judgment, their decisions being much more individual in nature, the internal structure of the judgment often not being reflected by a division into different sections, as will be seen below.

Bhatia, in his seminal work on legal genres (1993: 113–118), described the parts of the English judgment such as that in table 4.

Table 4: Macrostructure of the English judgment, according to Bhatia (1993)

1. Identification of the case
2. Establishment of facts
3. Argumentation of the case. a. Presentation of case histories. b. List of arguments. c. Specifying the <i>ratio decidendi</i>, or principal legal basis
4. Pronouncement of judgment

However, Bhatia himself states that this division is cognitive in nature, and that the parts in which he structures the text follow a linguistic construct called “movement” or textual segment (1993: 129). Textual segments divide the text and are made up of a number of linguistic features that confer a uniform orientation on the text. Consequently, it is true that, although ostensibly the visual format of the English judgment is easier on the eye than its Spanish equivalent, it is no less true that the formal, graphical or ortho-typographical structuring is absent in some of its sections, and that the reader outside the system must carefully scrutinize the text to clearly identify its parts. The exception is the identification section, or heading, which has a formulaic materialization for the sake of which the parts of the process are listed and quoted explicitly, in addition to detailing the type of procedure involved, the date on which the trial took place and when the judgment was issued. As an example: “Oceanbulk Shipping & Trading SA (Respondent) v TMT Asia Limited and others (Appellants), before Lord Phillips, President, Lord Rodger, Lord Walker, Lord Brown, Lord Mance, Lord Clarke, Sir John Dyson SCJ. JUDGMENT GIVEN ON 27 October 2010. Heard on 14 and 15 July 2010”.

The explicitness in identifying the parties to the process is deployed to name the precedent itself, unlike in Spanish judgments, where the identification thereof is performed using a number preceded by the abbreviation STS (*Sentencia del Tribunal Supremo*, or Supreme Court Decision, cf. table 1) since, as has been asserted here, the reference to the case is much less important in a system where precedent has a minor role.

The text of the judgment begins with the name of the leading judge and those of the judges with the same opinion, as for example, in the case of Phillips v Mulcaire: “Whom LORD WALKER with Lord Hope, Lord Kerr, Lord Clarke and Lord Dyson agree”. What Bhatia (1993: 130) calls the establishment of facts, or account of the facts in the case, appears early in the

text of the judgment, and identifies the background of the case and the roles that the parties have in the process, together with the nature of the controversy and the decision reached in the court of previous instances (Fajans et al. 2004). This part has no fixed title, usually being labelled as ‘The issue/s’, ‘The facts’ or simply ‘Introduction’. Appeals to the English Supreme Court are, by definition, texts revising previous ones, and, hence, their factual part is reduced to the minimum – just enough to contextualize the subsequent argument – sometimes such a part having no title. The latter represents the main argument of the leading judge, whose opinion is followed by the reasoning of the rest of the judges in the panel. In the expression of opinions, it is worth noting the strongly personal stance shown by the leading judge towards the judgments of lower courts that are submitted for revision, or to the other parties in the dispute, as in: “Reliance was placed on the reference in subsection (4) to protection from legal liability for words spoken or things done. (...) I do not consider that these provisions advance the defendants’ case”; “I now turn to views expressed as to the ambit of article 9. Once again it is not always easy to differentiate between comments (...)”; “The concept is only of value in the present context where it describes an act which has no connection with the conduct of parliamentary business, as counsel rightly agreed.”

As regards the argumentation of the case, and despite Bhatia’s (1993) division, the legal rationale developed by the judges does not clearly distinguish the initial description of facts we have just discussed from the presentation of the background, which, according to Bhatia, is the initial part of such a rationale. The only concession made to the formal arrangement of the judgment is carried out in the division and numbering of paragraphs from the beginning of the text, which serves as an intratextual reference for judges to refer to, and name, their respective arguments in a peculiar dialogue of sorts in which they appear to engage. Thus, the main part of the judgment – much more complex in nature than the previous parts – consists of the analysis of legal issues, both those raised in the case in previous instances, and the new principles or legal issues with which the judges base their ultimate decision. Generally speaking, arguments take a personal dimension when the question under discussion seems to be controversial, and therefore, the judge feels it necessary to admit responsibility when uttering his/her opinion: “I am clearly of the opinion that we ought not to allow it to be doubted for a moment that the motives or intentions (...)”; “To my mind equality before the law is one of the pillars of freedom”; “That a Member of Parliament against whom there is a *prima facie* case of corruption should be immune from prosecution in the courts of law is to my mind an unacceptable proposition at the present time. I do not believe it to be the law.”

This legal argumentation, which is the longest part of the judgment, is split into different headings which together provide an indicative map of the different issues of the case. For example, the *Oceanbulk Shipping & Trading SA* decision is entirely structured into 48 numbered paragraphs with no title, with the exception of 15 (titled ‘Estoppel’), 17 (‘Remoteness’), 18 (‘Without prejudice – the legal principles’), 30 (‘The exceptions to the without prejudice rule’), 36 (‘Should the interpretation exception be recognized as an exception to the without prejudice rule?’) and 47 (‘Conclusion’). Sometimes judges themselves are the ones to make reference to the aspects that are being discussed as in “In para 18(1) (ia) of the re-re-amended defence and counterclaim TMT pleads”; “The first issue in these proceedings is as follows”; “Essentially the same issues arise under this head”.

In contrast with Bhatia’s (1993) remarks, the *ratio decidendi* of the judgment is a difficult part to distinguish in these appeals to the Supreme Court, since it does not appear, as he affirms, at the beginning of the text, or alongside the argument. As Cross and Harris (1991: 51)

suggest, this section is often identified in subsequent cases and it is not always made so clear; sometimes the judges who deal with the precedent in later cases are the ones who have to decide what the *ratio decidendi* was in the first place. Finally, the last section of the judgment is what Fajans et al. (2004: 348) identify as the disposition of the case, which in judgments issued at first instance consists of the pronouncement of the judge or judges and the conviction, if appropriate, but on appeal it is made up of a single judgment, in which the previous pronouncement is accepted or rejected. Regarding their rhetorical aspects, the descriptive and instructive parts of the English judgment in appeals to the Supreme Court are quite brief, compared to the argumentative part. The latter is the most extensive, essential part of the text overall, since it is where the judicial reasoning takes precedence. It discusses topics of a great importance, not only jurisprudentially, but also sociologically and institutionally, in the context of a system where what judges have to say is the law. Expressions of value are common, where the persona of the judge refuses to disappear, as in: “It is commonplace, and sensible, for a claim to Reynolds privilege to be determined as a preliminary issue” (Flood v Times Newspapers), or in: “It is a sad fact that, (...) there are still states where the judiciary as a whole is infected by corruption” (Kapri v Albania), or in: “But in view of the wide language of clause 3 (...), this argument is hopeless” (R. v Rolling).

As regards their intertextuality, these are texts where the legal grounding is key, and in the framework of a Common law system, this is going to materialize in the all-pervasiveness of case law above legislation. Cases are quoted fully – as extracts of previous decisions are transcribed by the letter – or partially, by just mentioning them, as in: “As Lord Mance noted in Jones v Whalley [2007]” (R. v Rolling), or in: “the reasoning of the Court of Appeal in Knauf UK GmbH v British Gypsum Ltd [2002] 1 WLR 907” (Abela & Ors 9 v Baadarani) among many others. However, we referred earlier to the fact that judgments of the English Supreme Court deal with legal issues of a precise and essential nature for the system, often international in scope; this is the case of the judgment having to do with Assange’s extradition, which contains extracts of the Vienna Convention, a framework decision of the Council of the European Union, and even the English Extradition Act 2003. To a greater or a lesser extent, the reference to laws and treaties also happens in other cases such as Kapri v the Lord Advocate, where the application of the European Convention on Human Rights is in question, or in R v R v Forsyth and Mabey, also dealing with human rights, where the applicability of certain UN resolutions is debated.

5 Conclusions

Our analysis of judgments in Spanish and English law has been aimed at revealing the importance of the discursive community in the configuration of judicial decisions as genres with a peculiar communicative purpose, somewhat dissimilar in accordance with the legal culture of each system. As demonstrated, both genres have very different hues, in tune with lack of symmetry in the communicative goal that inspires them. The English judgment is made to last, which is why it bears a memorable name, whilst its Spanish equivalent is designed to be more of an administrative product, with an impersonal name, but with extreme accuracy in the legal detail and completeness of data coming from other written legal sources.

Also, while the judgments of the Spanish Supreme Court have a perfectly identifiable, rigid macrostructure, this is completely absent (at least explicitly) in the appeals to English Supreme Court. This factor should ostensibly make the Spanish judicial genre a more understandable kind of text for lay readers, but this is not always the case. The verbal prolixity in the

judgments of this Continental system is largely originated by an imperious need to achieve intertextual precision, which is why previous statements and writings to the Court are as present in the judgments as the law itself. This factor, together with the distance created between the issuer (the court, the group of judges) and the receiver, produce an unfriendly text for the unspecialized reader, in contrast with the shorter, English judicial decision, of a more personal tone. However, it is also true that the absence of clear organizational format in the latter confers on the English judge the prerogative to precisely pinpoint, and interpret, the legal basis or *ratio* which is to be adhered to in subsequent judgments. Finally, the adversarial character of the English system is evident in the intertextual element of its texts: the ubiquity of the precedent in the legal reasoning processes of judges establishes a dialogue of the present decision with previous texts as well as with forthcoming ones.

The present paper has analyzed a selection of Spanish and British judgments with a view to characterizing them. As has been attempted to demonstrate, both these genres are the product of an extremely specialized discourse community belonging to different legal systems and cultures, and both LSP trainers and translators will need to delve fully into their ethnography for their comprehension. It is to be hoped that this study may shed some light on the discourse community that issues these texts, the communicative purposes and functions that they fulfil, and how the information is organized, structured and presented in them so as to attain those purposes. Only their close scrutiny, as accomplished by the pertinent discursive and pragmatic tools, will make sense of what is not explicit, but is embedded in the genre tradition that reveals the professional, everyday activity of the specialist community, in turn immersed in a distinctive, peculiar legal culture.

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Dissertation: „Wo kommt das blut HER?‘ Sprachliche Merkmale des fachlichen Inputs im Fachunterricht Biologie der Sekundarstufe I – eine Konzept-orientierte Analyse der Enkodierung von Bewegungsereignissen“¹

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1 Einleitung

In den letzten Jahren hat sich die Auseinandersetzung mit sprachlicher Bildung in allen Unterrichtsfächern (vgl. z. B. Becker-Mrotzek et al. 2013) – insbesondere unter den Stichworten Bildungssprache und Durchgängige Sprachbildung (vgl. z. B. Gogolin/Lange 2011) – intensiviert. Unter anderem interessiert, welche sprachlichen Anforderungen an Schüler/-innen im Unterricht herangetragen werden. Die hier vorgestellte Dissertation nimmt einen Teilaspekt dieser Frage in den Blick, indem insbesondere die Wechselwirkung von fach- bzw. themenspezifischen Aspekten und Sprache im Fokus steht. Zusammenfassend lässt sich das Erkenntnisinteresse folgendermaßen spezifizieren:

Welchen (fach-)sprachlichen Input erhalten Schüler/-innen mit Blick auf ein spezifisches Unterrichtsthema? Welche Gemeinsamkeiten und Unterschiede lassen sich hinsichtlich des schriftlichen fachlichen Inputs in Form des Schulbuchs und hinsichtlich des mündlichen fachlichen Inputs (MFI) in Form von Lehrer/-innen- und Schüler/-innenaussagen feststellen? Und lassen sich wiederum Rückschlüsse auf das fachliche Lernen sowie die Gestaltung von sprachsensiblen Fachunterricht gewinnen?

Untersucht wird der Input zum Unterrichtsthema Blut und Blutkreislauf im Fach Biologie. Den theoretischen Rahmen für die Untersuchung liefert der konzeptorientierte Ansatz. Dabei wird davon ausgegangen, dass bestimmte universelle Konzepte, wie etwa Zeit, übersprachlich existieren, sich jedoch mit Blick auf die konkrete Realisation in verschiedenen Sprachen unterscheiden (von Stutterheim/Carroll 2013, von Stutterheim/Klein 1987). Für die hier vorgestellte Dissertation wird ein Konzept – das von Raum und Bewegung – ausgewählt und fokussiert auf ein spezifisches Unterrichtsthema modelliert, wobei insbesondere die Überlegungen von Talmy (2000a, 2000b) als Grundlage dienen.

2 Forschungsdesign und Methode

Das Forschungsdesign wird nachfolgend stark verkürzt dargestellt. Umfassende Informationen zur Datenerhebung, -aufbereitung und -analyse sowie zur Stichprobe finden sich in Maak (2016, im Erscheinen).

¹ Die Arbeit wurde im September 2014 an der Friedrich-Schiller-Universität Jena eingereicht und erscheint voraussichtlich im Herbst 2016 bei de Gruyter.

2.1 Datenerhebung und -aufbereitung

Es wurden 8 Stunden Biologieunterricht in einer 8. Klasse (Gesamtschule) zum Thema „Blut und Blutkreislauf“ videographiert.² Während der Datenerhebung wurde auch die Verwendung des Schulbuchs dokumentiert. Alle Daten wurden transkribiert und die Transkriptionen korrigiert.

2.2 Datenanalyse

In den Daten wurden in einem ersten Schritt alle relevanten Bewegungsereignisse identifiziert. Bewegung wird im Sinne einer Veränderung der Position, Lage oder Stellung (Götz 1998: 162) von jemandem oder etwas, und nicht etwa im metaphorischen oder übertragenen Sinn wie in *Der Film hat mich bewegt*, verstanden. Als relevante Bewegungsereignisse wurden solche definiert, die entweder durch die Bewegung bzw. Lageveränderung eines Objekts bzw. einer Figur³ im Raum (im Folgenden MOVE) oder durch die Verortung eines Objekts bzw. einer Figur relativ zu einem anderen Objekt oder einer Figur (im Folgenden BE_{LOC} für be located) gekennzeichnet sind (Talmy 2000b: 25 f.). Da die Analyse themenspezifisch erfolgte, werden ferner nur solche Bewegungsereignisse, welche die Bewegung von Blut bzw. Blutbestandteilen im Sinne von MOVE oder BE_{LOC} beinhalten, berücksichtigt. Dieser Schritt ergab 188 Bewegungsereignisse im Schulbuch und 268 Ereignisse im MFI.

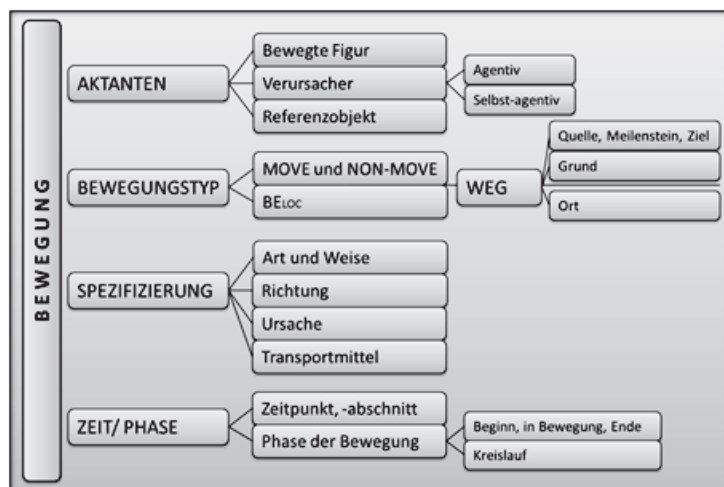


Abb. 1: Das Bewegungskonzept (Eigene Darstellung)

In einem zweiten Schritt wurde das in Abbildung 1 aufgeführte Modell zur Analyse von Bewegungen auf alle Bewegungsereignisse angewendet. Zum Beispiel bezieht sich die Kategorie „Aktanten“ auf die Figuren, welche im Rahmen der Bewegung eine Rolle spielen. Bewegte Figuren sind solche, die im Raum bewegt werden bzw. sich selbst bewegen (im Sinne von

² Für einführende Hinweise zur videographischen Datenerhebung vgl. Maak (2016).

³ „The Figure is a moving or conceptually movable entity whose site, path, or orientation is conceived as a variable the particular value of which is the relevant issue.“ (Talmy 2000b: 26).

MOVE), und solche, die im Raum verortet werden (BE_{LOC}). Verursacher von Bewegung sind dann selbstagentiv, wenn bewegte Figur und Verursacher identisch sind, wie im Satz *Ich gehe zur Bibliothek*. Im Fall von agentiven Verursachern wird die Bewegung von einem anderen Aktanten als der bewegten Figur selbst bewirkt, wie im Satz *Timo wird in die Ecke geschubst*. Die Kodierung erfolgte zunächst in MAXQDA und eine sich daran anschließende deskriptiv-statistische Auswertung in SPSS.

3 Ergebnisse und Diskussion

3.1 Stichprobe

Die Klasse wurde von 25 Schülerinnen und Schülern (15 männlich, 10 weiblich) von durchschnittlich 14 Jahren besucht. Die Lehrerin verfügte zum Zeitpunkt der Datenerhebung über mehr als 30 Jahre Berufserfahrung und unterrichtete die Klasse einmal pro Woche zwei Stunden (Doppelstunde) im Fach Biologie. Inhaltliche Schwerpunkte der videographierten Unterrichtsstunden sind die Vorwissensaktivierung zum Thema Blut mittels einer Mindmap, die Zusammensetzung und Funktionen des Blutes, die Blutgefäße, der Aufbau des Herzens sowie die Unterscheidung von Körper- und Lungenkreislauf.

3.2 Enkodierung von bewegten Figuren und Verursachern von Bewegung im Input

Im Schulbuch wird in etwa neun von zehn Fällen (87,8 %) und im MFI in etwa sieben von zehn Fällen (72,0 %) mindestens eine bewegte Figur enkodiert. Der Enkodierung der bewegten Figur kommt also eine wesentliche Bedeutung zu – wer oder was sich bewegt bzw. bewegt wird, ist zentral. Als bewegte Figur tritt erwartungsgemäß insbesondere *Blut* hervor – im MFI in 51,5 % und im Schulbuch in 65,1 % aller Bewegungsereignisse, wobei insbesondere das einfache Nomen mit 51,0 % im MFI und 36,0 % im Schulbuch frequent ist. Ferner tritt es als Teil eines Kompositums mit *Blut-/blut-* in beiden Inputtypen in vergleichbarem Umfang auf (34,4 % im MFI und 34,2 % im Schulbuch). Dies gilt auch für pronominale Verweise (10,4 % im MFI, 7,9 % im Schulbuch). Dass im Schulbuch *Blut* als bewegte Figur mit 13,2 % wesentlich häufiger Teil mehrgliedriger Nominalphrasen ist als im MFI (3,1 %), lässt sich ähnlich wie das häufigere Auftreten als einfaches Nomen im MFI vor allem auch auf die Charakteristika von Mündlichkeit zurückführen (vgl. z. B. Fiehler et al. 2004).

Neben *Blut* treten auch andere bewegte Figuren im Kontext des Themas „Blut und Blutkreislauf“ auf. Dies sind z. B. weitere Blutbestandteile wie *Blutplättchen* und *Leukozyten* sowie andererseits Stoffe, die im Blut transportiert werden, wie z. B. *Sauerstoff*, *Kohlenstoffdioxid* und *Abfallstoffe*. Hierbei sind einige Unterschiede zwischen Schulbuch und MFI bemerkenswert: Ganz grundlegend lässt sich für das Schulbuch eine größere Varianz feststellen. Das bedeutet, dass die lexikalische Dichte mit Blick auf bewegte Figuren im Schulbuch wesentlich größer ist als im MFI.

Fachlich ist hinsichtlich der bewegten Figuren zu unterscheiden, ob es sich um Blutbestandteile handelt, z. B. *Blutplättchen*, oder um Stoffe, z. B. *Sauerstoff*, die im Blut transportiert werden. Für die Blutbestandteile *Blutzellen*, *Blutplättchen*, *Erythrozyten* und *Leukozyten* gilt, dass sie zum Teil durch je eigene Bewegungsmuster und spezifische Funktionen charakterisiert sind. Es wäre m. E. zu diskutieren, worin das Lernziel besteht: Sollen Schüler/-innen Blutbestandteile entsprechend differenzieren können, oder reicht es aus, dass sie ganz übergeord-

net die Aufgaben „des Blutes“ kennen. Das Schulbuch beantwortet diese Frage ganz eindeutig, indem entsprechend differenziert wird. Die Zusammensetzung des Blutes wird indes erst nach der Behandlung der Themen *Blutgefäße*, *Blutkreislauf* und *Herz* vorgestellt. Auch im Unterricht erfolgt erst die Beschäftigung mit diesen Themen und im Anschluss daran die Auseinandersetzung mit Blutbestandteilen. Das bedeutet, dass Blut zunächst als „Masse“ bzw. „Einheit“ durch den Körper bewegt wird. Wenn Wege und Funktionsweise im Körper erarbeitet worden sind, wird diese „Masse“ noch einmal differenziert in diverse Bestandteile. Es wäre folglich in weiteren – bestenfalls interdisziplinär angelegten – Forschungsprojekten interessant zu untersuchen, inwiefern Schüler/-innen diese Ausdifferenzierung verstehen und die Veränderung von Einförmigkeit hin zu Vielgestaltigkeit der bewegten Figur auf die Bewegungsvorgänge im Blutkreislauf übertragen können.

Im Gegensatz zur bewegten Figur sind Verursacher weniger prominente Aktanten im Kontext der Blutbewegung. Sie werden im Schulbuch in 60,1 % und im MFI in 76,5 % aller Fälle nicht enkodiert. Im Schulbuch tritt mit 34,0 % in etwa ein Drittel aller untersuchten Bewegungsereignisse ein agentiver Verursacher auf, im MFI betrifft dies mit 13,1 % nur etwas mehr als ein Zehntel. Selbst-agentive Verursacher hingegen sind seltener, wurden im MFI mit 10,4 % jedoch fast doppelt so häufig wie im Schulbuch (hier 5,9 %) kodiert.

Zwar tritt am häufigsten in beiden Inputtypen das *werden*-Passiv als agentiver Verursacher auf – im Schulbuch mit 45,3 % jedoch wesentlich öfter als im MFI mit 31,4 %. Im Aktiv besetzt die Größe „Handelnder“ (Agens) die Subjektstelle, im Passiv tritt diese als ein dem Prädikat zu- und untergeordnetes Glied zurück und stellt damit für Sprecher bzw. Schreiber eine „täterabgewandte“ Alternative zum „täterzugewandten“ Aktiv dar (Drosdowski 1995: 174). Die Agensangabe wird häufig unterlassen, weil der „Täter“ entweder nicht genannt werden kann oder soll (Drosdowski 1995: 176). Gleichzeitig weist die Verwendung des Passivs darauf hin, dass das eigentliche Subjekt nicht Verursacher der Bewegung ist. So zeigt das nachfolgende Beispiel, dass ein Verursacher nicht klar benannt wird, über das Passiv jedoch die Information vermittelt wird, dass das Blut sich nicht selbst-agentiv bewegt: *Aus der linken Herzkammer wird das Blut in die große Körperarterie oder Aorta gepresst.* (S_206_1_10⁴) Gleichzeitig liegt der Fokus in diesem Satz auf dem ‚Weg‘ bzw. den ‚Stationen‘ des Kreislaufs. Das Passiv ermöglicht also unter Beibehaltung der fachlichen Korrektheit eine Fokussierung auf andere inhaltliche Aspekte als den Verursacher und dient hier der Reduzierung sprachlicher und inhaltlicher Komplexität – vorstellbar wären z. B. umständliche Konstruktionen, in denen die wesentlichen Verursacher Herz, Blutgefäße u. a. jeweils alle explizit benannt werden, die für jedes Bewegungsereignis wiederholt werden müssten und damit redundant wären. Das Passiv dient hier aber nicht einem unpersönlichen Stil im Sinne von Wissenschaftlichkeit wie z. B. in Protokolltexten. Ziel eines sprach- und fachsensiblen Biologieunterrichts sollte es folglich sein, diesen Funktionsunterschied zu verstehen bzw. dessen Verständnis zu überprüfen.

Für selbst-agentive Verursacher ist sowohl im Schulbuch als auch im MFI die Enkodierung von *Blut* als solchem zu diskutieren. Fachlich gesehen stellen das Herz und die Blutgefäße maßgebliche ‚Verursacher‘ der Blutbewegung dar. Das Blut an sich bewegt sich nicht selbstständig. Sowohl im Schulbuch als auch im MFI – dort noch wesentlich häufiger als im Schulbuch – können entsprechende Vorkommen identifiziert werden. Im MFI ist dies wesentlich auf den Gebrauch der Verben *kommen* und *gehen* durch die Lehrkraft zurückzuführen, wie

⁴ Alle identifizierten Bewegungsereignisse haben solch eine eindeutige Kennung zugewiesen bekommen.

folgende Beispiele zeigen: <°aus° WELCHEM teil des HERzens kommt das blut !IN! DEN körper. ↑ <fragend>> (U_V04_L_59) und <wo geht das blut JETZ hin. ↑ <fragend>> (U_V04_L_89) Es ist denkbar, dass eine entsprechende Enkodierung die Erschließung der fachlichen Zusammenhänge für Schüler/-innen erschweren könnte und diese daher vermieden werden sollte. So können Riemeier et al. zeigen, dass Schüler/-innen, die noch keinen Unterricht zum Thema „Blut und Blutkreislauf“ erhalten haben, Blut personifizieren: „Gemeinsam ist den Konzepten zu den Blutbestandteilen und zur Funktion des Blutes, dass Schüler menschliche Eigenschaften, Emotionen, Fähigkeiten, Handlungen oder auch die menschliche Körpergestalt auf das Blut übertragen.“ (Riemeier et al. 2010: 85) Eine Enkodierung im Unterrichtsverlauf, die nahe legt, dass sich das Blut selbst bewegt, könnte diese Vorstellung demnach festigen.

4 Fazit und Ausblick

Die vorgenommene konzeptorientierte Analyse ermöglicht es, den Zusammenhang zwischen fachlichen Inhalten und deren Versprachlichung – auch in Abhängigkeit vom verwendeten Medium – aufzuzeigen sowie auch Hinweise darauf zu geben, wie dies im Unterricht genutzt werden könnte, um sprachsensiblen Fachunterricht durchzuführen. Eine Analyse, die ausschließlich auf sprachliche Mittel fokussiert ist (vgl. z. B. Ahrenholz/Maak 2012), kann dies nur bedingt leisten. Gleichzeitig werfen die Ergebnisse eine Reihe von Fragen bezüglich der Widersprüchlichkeit bzw. der Versprachlichung fachlicher Konzepte auf, die eingehender erforscht werden müssten, wobei nicht der Input, sondern vielmehr das Verständnis der Schüler/-innen im Vordergrund stehen sollte.

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Dissertation: “Metaphors for Knowledge in Knowledge Intensive Groups – An Inductive Study of How and Which Metaphors Emerge in Conversations”

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1 Introduction

It is widely agreed that knowledge is important in current society (e. g. Andriessen 2008, Klein 1996, Qvortrup 2006), however it seems paradoxical to emphasize the importance of knowledge without defining the concept of knowledge. The research project presented in the dissertation is framed in the emerging field of organizational knowledge communication (Kastberg 2014). The research project presents an investigation of how the concept of knowledge is conceptualized in group-conversations and which concepts emerge, thus addressing the complexity and diversity of knowledge in knowledge intensive groups.

This presentation discusses the data collection method developed in the dissertation as well as the implications for analysis and understanding of the role of metaphors in conversation in general and knowledge metaphors specifically.

2 Theoretical framework and aim of the study

The fundamental assumptions guiding the dissertation are based in three different disciplines: metaphor research, cognitive studies and knowledge management studies. Combining these three perspectives allows for a whole new method to be developed.

Contemporary metaphor research owes a great deal to the pioneering metaphor research done by Lakoff and Johnson (1980, 1999), but has moved past conceptualizing metaphors as cognitive mappings of one concept upon another. Rather, metaphors in conversations are regarded as temporarily stable conceptualizations emerging in the conversation as a co-construction and evident in multiple modalities (Cameron et al. 2009, Jensen/Cuffari 2014).

Regarding metaphors as an emerging phenomenon rather than an expression of pre-existing patterns also points to a certain approach to group conversation and cognition. The dissertation takes the standpoint of distributed cognition (Hutchins 1995) viewing the groups as cognitive systems potentially co-constructing a shared concept.

Last but not least the dissertation has a vantage point in management studies, more specifically in knowledge management. Knowledge in this field has been divided into dichotomies of static/dynamic (Klein 1996) or object/personal (Andriessen 2008). Other dominating approaches to knowledge are a converging phenomenon (Nonaka 1994, Nonaka/Takeuchi 1995) or a hierarchical one (Rowley 2007). However, this approach to knowledge seems to emphasize that knowledge is a question of either/or rather than a combination of different aspects. Metaphors have also played a role in managerial studies (Cornelissen 2005, Greve 2016b). In this field, however, the approach to metaphor seems to be as a tool for understanding thought rather than metaphor as an approach to understanding co-creation.

To sum up, the dissertation addresses the question of “what is knowledge and how is a concept co-created in groups” by looking at how temporarily stable metaphoricities emerge

in groups. This emergence points to co-creation and which conceptualizations of knowledge emerge from this process. The research question guiding the projects was: How do groups conceptualize knowledge metaphorically? In order to answer this question with respect to the above-mentioned approaches to metaphor, group dynamics and conceptualization knowledge a new method was developed.

3 A new method for metaphor detection

The traditional methods for investigating metaphors in language and in conversation did not seem to meet the needs of the research question. Looking only at language and analyzing metaphors in transcripts proved — in pilot studies — not to be sufficient to properly enlighten the problem posed. Thus an alternative approach to data collection was developed and refined through further pilot studies. To move past pure conversational data and gesture data a third mode was introduced: the usage of LEGO bricks for co-constructing a concept for knowledge.

The data collection method was inspired by the approach to joint epistemic action put forward by Bjørndahl et al. (2014). They developed a method consisting of three consecutive building sessions using LEGO Serious Play-bricks. Each building task lasted for five minutes and the task was to build an abstract phenomenon such as trust or justice. The findings in their setup was, that groups approach the building tasks in one of three ways:

- 1) Illustration – one person in the group dominated the building process and the concept was decided prior to the building.
- 2) Elaboration – the concept is decided upon prior to building but is elaborated by the group in the building process.
- 3) Exploration – the concept emerges from the bricks and there is no concept prior to the building process.

Approaches 2 and 3 indicate the potential of a concept being co-created in a group (Greve 2015).

The sample consists of six companies. Each company participating in the study built three models: 'Dream office', 'Experience' and 'Knowledge'. In addition to letting each group build three models, a conversation of the concept of knowledge was facilitated after the bricks were put away. This design was chosen to see if the concepts emerging in the joint epistemic action task involving the LEGO bricks would travel into the following conversation. Each conversation lasted to approximately one hour and consisted of three consecutive building tasks (20 minutes) and a conversation (40 minutes). All conversations were video recorded.

The advantage of this approach to data collection is that the group is provided with an additional mode besides language and gesture and that it is more evident to what degree concepts are mainly present in one participant and in one mode. Other materials than LEGO bricks could have been used, but they were chosen due the large amount of research using LEGO (Bjørndahl et al. 2014, Frick et al. 2013, Heracleous/Jacobs 2008, Jacobs/Heracleous 2006).

4 Analyzing Multimodal Data: How a Concept Emerges

The data from the conversations were analyzed by looking at how metaphoricalities emerge in different modes and across participants. This was done by coding for metaphors in language

and gesture the video data using Noldus Observer XT. From the coding different attractors of attention in the conversations emerged. In some conversations an abundance of attractors across modes and participants became evident. In others only very few and unimodal attractors emerged. The metaphorical attractors seem non-conventional and multimodal. In one of the cases a dominant attractor is “Knowledge is a Tower” (Greve 2016a).

The group consisted of five participants (p1–p5). The attractor is first introduced in the very beginning of the third building task (building ‘knowledge’). The utterances are presented below (author’s translation):

Time frame: 11.08–11.14:

P3: *Here I think we should we see how much we can build of the tower*

[Referring back to a tower being built in the prior building task]

P4: *Upwards?*

P3: *Just upwards*

P2: *Upwards, 100 %*

[during the last three utterances all three participants make the same gesture: palms facing each other at table level approximately 30 cm apart and moving upwards and inwards, hands converging in an upwards motion]

Following this utterance the participants work together on building a tower, using almost all the bricks. Towards the end of the building task the tower is almost overturned. This triggers the following utterances:

Time frame: 13.40–13.57

P2: *Knowledge is not that fragile*

[P2 stands up and tries to prevent the tower of bricks from overturning]

P1: *Yes, knowledge is fragile*

P2: *It is?*

P3: *Yes it is. That is why the knowledge worker cannot be replaced as easily as everyone else*

P1: *Knowledge also needs to develop ... otherwise it becomes outdated.*

From this example it is evident that the building becomes a shared point of reference as well as a topic of negotiation. The fragility of the tower is transferred to the fragility of knowledge and P3 and P1 make arguments about it.

Towards the end of the conversation, when the bricks have been removed for more than 20 minutes, the gesture from the beginning is re-introduced and used as a topic of negotiation again.

Time frame: 35.08–35.17

P5: *... one was rather flat* [palms downwards and moving from the middle and outwards] *and the other was incredibly tall* [repeating the upwards gesture made by P2, P3 and P4 in the beginning]

[Referring back to the model of experience being flat and the knowledge model being tall]

P5: *Knowledge. That’s because all these employees come* [holds left hand still in mid air in front of torso and pushes something upon the left hand with the right hand] *more employees come, we just build up* [repeats the gesture]

This example shows how a concept travels from mode to mode (from language to gesture to bricks and back to gesture and language) and from participant to participant (all five participants take part in the co-construction). Further, it shows how the shared concept is used to negotiate the nature of the concept in casu the fragility of knowledge.

5 Perspectives of Multimodal Analysis of Metaphors in Conversations

From the short example presented above as well as the data in the dissertation it is evident that metaphorical concepts are only shared and co-constructed when they travel from mode to mode and from participant to participant. Thus when investigating metaphors in conversations a focus on temporal stability is important. Only looking at language might not reveal the non-spoken metaphors and metaphoricities.

Returning to the question of metaphors for knowledge, it is concluded in the dissertation, that the concepts of knowledge co-created in groups cannot be categorized as one or the other of the dichotomies of static/dynamic or object/personal. Knowledge as a concept can hold both static elements like a foundation and dynamic elements like boundedness and network.

The concept of knowledge is complex and diverse in its metaphorical nature. When using and emphasizing knowledge in concepts like knowledge society, knowledge sharing, knowledge transfer, knowledge conversion etc., it becomes paramount not to reduce the concepts of knowledge but to embrace them all and use adequate strategies for the relevant conceptualizations. Knowledge transfer calls for meetings and emails whereas knowledge creation calls for joint epistemic action and co-creational strategies.

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Bibliography of Recent Publications on Specialized Communication

Ines-A. Busch-Lauer

62nd Installment

Seit der 48. Fortsetzung erscheint die „Kleine Bibliographie fachsprachlicher Untersuchungen“ auch online unter www.fachsprache.net (Link Bibliography) und trägt den Titel „Bibliography of Recent Publications on Specialized Communication“. Die Datenbankversion der Bibliographie bietet verbesserte Suchmöglichkeiten, wie beispielsweise eine Schlagwortsuche. Derzeit finden sich in der Datenbank alle Titel, die seit der 48. Fortsetzung in der Bibliographie enthalten sind.

From the 48th installment on, the “Kleine Bibliographie fachsprachlicher Untersuchungen” has appeared under the title “Bibliography of Recent Publications on Specialized Communication”. The references it contains can also be accessed online at www.fachsprache.net (Link Bibliography). The online version of the Bibliography offers additional search options, for example a keyword search. Currently, the database contains the titles included in this Bibliography since the 48th installment.

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List of Journal Abbreviations

ASp: ASp, la revue du GERAS. <www.geras.fr>

ESP J: ESP Journal. English for Specific Purposes. An International Journal. New York/Amsterdam: Elsevier B.V.

ESP Today J: ESP Today. Journal of English for Specific Purposes at Tertiary Level. <<http://www.esptodayjournal.org/>>

Fachsprache.IJSC: Fachsprache. International Journal of Specialized Communication. Wien: Facultas. <www.fachsprache.net>

JBTC: Journal of Business and Technical Communication. Sage Publishers

JEAP: Journal of English for Academic Purposes. Elsevier B.V.

JTESAP: Journal of Teaching English for Specific and Academic Purposes. University of Niš. <<http://espeap.junis.ni.ac.rs/index.php/espeap>>

TEwT: The Journal of Teaching English with Technology. <www.tewtjournal.org>

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