

# Socio-cognitive aspects of hedging in two legal discourse genres

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## Abstract

While there are many studies on hedging in a wide variety of disciplinary discourses, the field of Law, to date, has been largely overlooked. Moreover, most research on hedging approaches the phenomenon from either a textual or pragmatic perspective, and tends to compare the same genre across disciplines. By contrast, the objective of this study was to analyse hedging in two legal written discourse genres, namely U.S. Supreme Court opinions and American law review articles, from a comprehensive, socio-cognitive, intra-disciplinary perspective. Due to the essential roles of intuition and hedging competence in the identification of hedges, qualitative data gathering and interpretation techniques were used. Results indicate that differences between the two genres can be linked to certain prototypical features of the genres themselves, particularly context and communicative purposes. Therefore, it is possible to postulate that hedging is in fact genre-specific, at least insofar as legal genres are concerned. Further comparative research must be done to determine if the same is true in other fields as well.

**Key Words:** hedging, genre analysis, legal discourse, cognitive approach, English for Academic Legal Purposes (EALP)

## Resumen

Mientras que se han llevado a cabo muchas investigaciones sobre *hedging* en una amplia variedad de disciplinas, el campo de Derecho, hasta la fecha, ha recibido menos atención. Además, la mayoría de los estudios analizan el fenómeno desde una perspectiva textual, o pragmática, y tienden a hacer una comparación interdisciplinaria del mismo género. El objetivo de este estudio fue el de comparar las manifestaciones de *hedging*, desde una perspectiva cognitiva e intra-disciplinaria, en dos géneros del discurso jurídico escrito: las sentencias del Tribunal Supremo de Estados Unidos y los artículos de investigación publicados en revistas de derecho estadounidenses. Debido al papel imprescindible de la intuición y la competencia lingüística en el reconocimiento y procesamiento de un *hedge*, se empleó un método cualitativo. Los resultados indican que la diferencia en las manifestaciones y funciones de *hedging* en los dos géneros se debe a dos características prototípicas de los géneros mismos: contexto y propósitos comunicativos. Por lo tanto, es posible postular que *hedging* depende de los rasgos específicas de cada género, por lo menos en lo que a los géneros jurídicos se refiere.

Se requieren más análisis comparativos, sin embargo, para determinar si se puede extrapolar esta hipótesis a otros campos.

**Palabras Claves:** matizadores del discurso, análisis del género, inglés jurídico, lingüística cognitiva, inglés académico y profesional

## Introduction

In recent years, research on hedging has proliferated in a wide variety of disciplinary fields. Law, however, to date, has been largely overlooked. This paper aims to add to the general body of knowledge on hedging in specific discourses by analysing the phenomenon in two written legal genres, and to do so from a cognitive, intra-disciplinary perspective. This would imply three contributions with respect to many previous studies on hedging.

Firstly, much of the research on hedging has traditionally approached the phenomenon from mainly textual and pragmatic dimensions, which has often meant separating out elements of communication for their analysis. Thus, studies have had three main foci: variety of lexico-grammatical items which can signal a hedge (Grabe & Kaplan, 1997; Varttala, 2001), textual and rhetorical strategies used in hedging (Meyer, 1997; Minna-Riitta & Markkanen, 1997; Namsaraev, 1997), and functions hedges can fulfil (Mauranen, 1997; Namsaraev, 1997).

By contrast, many researchers advocate adapting a cognitive approach to such phenomena as hedging (Roldán, 1999). Accordingly, this paper proposes viewing hedging from a holistic perspective, concurrently integrating textual, pragmatic, cognitive and social factors which simultaneously work together in communication. Thus, variety of hedges, hedging strategies, and hedging functions are considered together as mutually interactive components of discourse.

Secondly, previous studies centring on hedging strategies have listed, among others, the three following which were found in the corpus examined: indetermination (Namsaraev, 1997), depersonalisation (or impersonalisation) (Meyer, 1997; Minna-Riitta & Markkanen, 1997) and subjectivisation (Namsaraev, 1997). In addition, the analysis of the corpus suggests that, at least in some legal genres, a fourth strategy may exist which has not previously been described, and which will be referred to as limitation.

Finally, the majority of studies focus on one genre, for example the scientific research article, which is often compared across disciplines to reach the conclusion that there seems to be little uniformity as to frequency and variety of hedging (Varttala, 2001; Hyland, 1998). While we do not intend to dispute this finding, this work would rather look at hedging from an intra-, as opposed to inter-, disciplinary perspective, and compare two genres within the same field. This approach allows us not only to assert that frequency and variety of hedging varies across genre, but also to link these variations to three factors:

- The discourse community's macro-level expectations
- The addresser's specific, micro-level intentions
- The addresser's and the addressee's degree of shared background knowledge and understanding of context

This last factor is of particular importance as hedging is commonly viewed as an interactional phenomenon (Markkanen & Schröder, 1997). That is, it is not enough for the addresser to simply produce a hedge, but rather the addressee must also interpret the hedge as such. Intuition, therefore, plays a fundamental role in both the production and the interpretation of a hedge. However, intuition can only be effective if it is based on shared lexico-grammatical and pragmatic background knowledge, which in turn must arise from a complete understanding of a particular discourse community's expectations for a specific genre.

Therefore, in this paper, two written genres from the field of Law, U.S. Supreme Court opinions and American law review articles, are compared to determine lexical items signalling hedging, the strategies these lexical items are employed to carry out, and the functions the strategies help fulfil within each genre. Differences are explained by relating generic features of each genre, particularly context and communicative purposes, to macro- and micro-level expectations and motivations for hedging.

The first part of this paper, offers a comprehensive definition of hedging. To arrive at this definition, certain cognitive aspects of the phenomenon are addressed, including the relationship between derivation of meaning and shared linguistic and extra-linguistic knowledge. This entails relating production and interpretation of a hedge to commonly held views on human cognition, including the theory that categories are structured by prototype as well as schema (Taylor, 1995).

In addition, production and interpretation of a hedge is related to certain social factors such as desire for acceptance by a determined discourse community. Thus, the link between hedging and the fulfilment of both macro-level expectations and micro-level intentions are discussed.

The second part of the paper focuses on a recent comparative study of hedging in the two legal written discourse genres chosen for analysis. Firstly, methodology and corpus used in the study is explained. Secondly, results of the study are presented, followed by a discussion of their significance in light of the proposed comprehensive definition of hedging.

## **Semantic and pragmatic aspects of hedging**

Many definitions for ‘hedging’ have been formulated since first appearing as a linguistically oriented technical term in Lakoff’s landmark 1972 article in which he expressed his interest in the use of language “to make things fuzzier or less fuzzy” (1972: 213). Thus, the term ‘hedging’ was originally applied to a linguistic resource used to describe degree of category membership, define similarities of non-members to members, and re-define whole categories by re-weighting attributes. In other words, hedging helped define the ideational component of an utterance.

However, Halliday and Hasan (1985) have called attention to the fact that utterances not only have an ideational but also an interpersonal component. Consequently, the concept of hedging has been further developed in pragmatics and discourse analysis where it has been approached as a pragmatic, rather than a purely semantic, phenomenon.

In this context, some authors have proposed functional definitions for hedging (Namseraev, 1997; Mauranen, 1997). Nevertheless, though functional definitions are successful in capturing the pragmatic essence of the phenomenon, they are not without criticism. One problem with many functional definitions, in Salager-Meyer’s (2000: 177) opinion, is that they tend to be “reductionist” in the sense that they neglect the importance of the mental and psychological nature of the phenomenon of hedging, and deny “the fundamental role played by introspection and knowledge of the cultural context in the process of hedging identification.”

## Cognitive aspects of hedging

While there is no agreement as to the exact definition of hedging, what is clear at this point is that any definition must take into account semantic as well as pragmatic and cognitive aspects of the phenomenon. Consequently, any comprehensive definition of hedging must strive to integrate these three factors, as it is not easy to draw clear boundaries between them.

In fact, Channell (1994) proposes that Semantics + Pragmatics = Meaning. She defines ‘meaning’ as any of a number of propositions which an addressee can derive from an utterance, taking into account two very important factors: context and background knowledge. As a result, in order for the equation to work, essentially cognitive factors must be integrated into it.

In other words, it is not enough for the addresser to produce an utterance which is hedged. In addition, the addressee must process the hedge as such. To derive meaning from an utterance, the addressee must draw not only on lexico-grammatical background knowledge, but also on pragmatic background knowledge about language and its relationship with context. This background knowledge would have to be common to both addresser and addressee, so that the latter could “go beyond the information given [and] use principles of categorisation which have been observed as a fundamental aspect of human cognition” (Channell, 1994: 199).

Interpretation of a hedge, therefore, requires the ability to categorise. One commonly held view is that humans structure categories by first prototype and then schema (Taylor, 1995). To categorise a hedge, then, the addressee must draw on the same concepts of prototypicality (i.e. the same cognitive reference points) as the addresser, and engage a shared schema comprising extra-linguistic factors such as perception and encyclopaedic knowledge.

## Social aspects of hedging

However, not only semantic, pragmatic and cognitive, but also social aspects must be considered in a comprehensive definition of hedging. Salager-Meyer (2000) postulates that hedging is socially constructed and is thus a learned linguistic resource which makes linguistic behaviour more socially acceptable in accordance with certain social

norms established by a given culture at a given moment, time or epoch. If a discourse community can be regarded as a given (professional or academic) culture which establishes its own social norms, then hedging can be said to shape and guide linguistic behaviour among members of the discourse community in order to meet certain conventionalised expectations established by those communities. Indeed, conventionalism is regarded as a key factor in genre construction (Durán, 2000). Moreover, hedging competence, which entails knowledge and understanding of these conventionalisms, is often considered an integral part of general linguistic competence which allows us to assume our place in a community (Wilss, 1997).

Hedging is used not only to meet discourse community expectations, but also to achieve certain specific intentions, within certain limitations, as well. As Bhatia (1993: 14) points out, “it is possible for a specialist to exploit the rules and conventions of a genre in order to achieve special effects or private intentions, as it were, but s/he cannot break away from such constraints completely without being noticeably odd.”

Thus, hedging can operate on different levels of communication at the same time. In the opinion of Mauranen (1997), there are both macro-level and micro-level motivations for hedging. The fact that hedging is deemed appropriate for some discourse genres leads to it being expected by certain discourse communities. Because it is expected, it becomes part of a ritual and thus there is a macro-level motivation for hedging. In addition, there is often a more personal, micro-level motivation for hedging such as desire to save face, show tact or appear modest.

In fact, hedging can be considered genre-specific. Depending on the genre, hedging is used to meet certain macro-level expectations, or accomplish certain micro-level intentions, but always attending to particular norms and limitations. Fundamentally, those norms and constraints vary from genre to genre and dictate:

- lexical items which can be used to signal hedging
- types of hedging strategies which can be employed
- functions hedging can fulfil.

In summary, hedging can be broadly defined as a genre-specific, interactional, multi-functional phenomenon which integrates semantic, pragmatic, social and cognitive factors. Semantically, hedging helps define the ideational component of an utterance.

It is often signalled by characteristic linguistic items which serve to carry out specific discourse strategies. Pragmatically, these strategies work to fulfil certain macro- and micro-level functions, often fulfilling several functions simultaneously. Socially, discourse community expectations dictate when, how and why a hedge can be produced.

Cognitively, interpretation of a hedge ultimately depends on the addressee's intuition, ability to understand the context in which the hedge is produced, and invocation of linguistic and pragmatic background knowledge which must be shared with the addressee.

## Methodology

In order to account for the similarities and differences in hedging between the two chosen legal written discourse genres, two levels of linguistic analysis were necessary. The first level of analysis aimed at describing the broad context the two written legal genres pertain to, including discourse community and communicative purpose(s). The second level of linguistic analysis involved studying the text pattern of each genre in order not only to determine differences and similarities in hedging incidence, strategies and functions, but also to explain those similarities and differences in light of the genre's context.

This second level of linguistic analysis was organised around three parameters. The first parameter, lexical items signalling hedging, was divided into verbal and non-verbal items. The second parameter, hedging strategies, focused on three strategies identified by Namsaraev (1997), along with a fourth strategy which was detected upon examination of the corpus:

1. Indetermination: To add a certain amount of fuzziness or uncertainty to a single word or a part of a text.
2. Depersonalisation: To avoid direct reference by using 'we' or 'the authors' or some other impersonal subject such as 'evidence'.
3. Subjectivisation: To use 'I' + 'think', 'suppose', 'assume' and other verbs of thinking and meaning to signal that what is being said is personal and subjective, and therefore not necessarily the truth.

4. Limitation: To remove fuzziness or vagueness from a part of a text by limiting category membership.

The third parameter comprised four functions which integrate both ideational and interpersonal components. It should be noted that this is by no means a complete list of functions which have been mentioned in the literature (see Markkanen & Schröder, 1997; Mauranen, 1997; Namsaraev, 1997), but rather has been deemed the most convenient for this study.

1. To respond to the macro-level expectations of the discourse community concerning the nature and uncertainty of knowledge.
2. To prevent or temper possible conflict and negative reaction.
3. To soften the illocutionary force:
  - a. of one's own utterance.
  - b. of a counterargument. The latter can alternately be regarded as a booster (Hyland, 2000).
4. To create a particular impression on the addressee.

These functions can operate at both the macro- and the micro-level, and as hedging is often multi-functional, two or more of the functions can be fulfilled simultaneously. The functions can also be achieved in a variety of ways, including through the mitigation of commitment to, or responsibility for, the truth value of a proposition, or the modification of an addresser's attitude towards the information given.

Nevertheless, as seen previously, hedging can only be interpreted by application of cognitive principles of categorisation based on the addresser's and the addressee's shared background knowledge and understanding of context. Thus, due to the roles intuition and hedging competence play in the identification of a hedge, and to the fact that true meaning cannot be reliably derived from a decontextualised utterance, qualitative, rather than quantitative, data gathering and interpretation techniques were used. Accordingly, following Salager-Meyer (2000), first the randomly-chosen texts comprising the corpus were examined for lexical items which could signal the presence of a hedge. Subsequent simultaneous introspection and contextual analysis led to acceptance or rejection of a hedge based on the rhetorical strategy the lexical items were employed to fulfil, and their function within the text. This was made feasible by using a small, but representative corpus.

The corpus for the study comprised examples exclusively from the United States legal system for two main reasons. Firstly, while the legal system in the U.K. and the U.S. are frequently jointly referred to as the 'Anglo-American legal system' due to similar origins and court hierarchies, there are, in fact, many differences between the two (Alcaraz, 1994). Secondly, there is evidence that hedging itself is culture-specific (Wilss, 1997; Kurzon, 2001).

The corpus of the two written discourse genres examined, namely American law review articles and U.S. Supreme Court opinions, was randomly selected, based on two determining factors: representativeness and availability. The corpus comprised five articles from five different American law reviews, published between 1999 and 2003, and totalling 30,045 words, on the one hand, and five majority opinions written by five different justices of the U.S. Supreme Court between 1998 and 2003, and totalling 19,578 words, on the other.

## Results

The first level of linguist analysis indicated that both U.S. Supreme Court opinions and American law review articles come from the same parent discourse community, namely judges, practising lawyers, law students, legal press reporters, public officials, legal scholars, or members of other discourse communities from fields which may relate to a particular legal matter such as economics or sociology. The context which the two written genres belong to, as well as their communicative purposes, was very different, however.

The U.S. Supreme Court settles judicial disputes, influences public policy, and teaches the nation what is constitutionally permissible and impermissible. Supreme Court opinions, which are the written record of a case appearing before the Court, thus belong to the juridical context. They serve operative, as well as interpersonal and educational purposes. As operative documents, they provide an authentic public record of decisions which must be followed by lower courts in subsequent cases. On an interpersonal level, they provide a guide for future courts deciding in similar cases, and influence public policy. Finally, they educate the nation as to what is constitutionally permissible, and, as the foundation for most law school classes, aid law students in developing skills of legal analysis and reasoning.

By contrast, American law review articles, which belong to the pedagogical and academic contexts, consider the likely impact of a court decision on future courts and on public policy. They serve only interpersonal and educational purposes as they inform about issues of import as well as provide an efficient means of communication and a forum for discussion on those issues. In addition, they are used in law schools to supplement legal text books and case books.

The second level of linguistic analysis, which focussed on hedging patterns, also showed several important differences between the two written legal discourse genres. Firstly, there were two main differences related to lexical items signalling hedging. On the one hand, there is a higher incidence, in general, of hedging in American law review articles than in U.S. Supreme Court opinions. On the other, verbal hedging, especially the use of modal verbs, is more common to American law review articles, while non-verbal hedging, especially the use of dependent circumstantials indicating concession and prepositional groups functioning as disjuncts, is more common to U.S. Supreme Court opinions.

Secondly, there are many differences related to hedging strategies which these lexical items are used to fulfil. While four main strategies are used in U.S. Supreme Court opinions, namely indetermination, depersonalisation, subjectivisation, and limitation, only two of these, indetermination and depersonalisation, are also common to American law review articles.

Finally, differences in hedging functions also abound on both the macro- and the micro-level. On the macro-level, hedging is most often used in U.S. Supreme Court opinions to create an impression of objectivity and prevent future conflict, especially regarding future application of the decision. In American law review articles it serves to respond to accepted views on the nature of knowledge, as well as help create an impression of humble subjectivity reflecting the fact that no one can be 100% sure of a proposed hypothesis.

On the micro-level, in U.S. Supreme Court opinions hedging softens the illocutionary force of a counter-argument to reinforce the justices' line of argumentation. It also aims to prevent negative reaction to what could be seen as the justices' imposing their own will. In American law review articles, however, it is employed to prevent a negative reaction in case the author's predictions turn out to be erroneous.

Figure 1 below presents the most significant results.

LEXICAL ITEMS	STRATEGIES	FUNCTIONS
Adverbs Prepositional groups	Indetermination	
Impersonal subjects	Depersonalisation	
Dependent circumstantials	Subjectivisation	
Prepositional groups	Li	

Figure 1: Summary of key results

## Discussion

A comparison of hedging in these two legal written discourse genres has indicated five key differences:

1. There is generally a higher incidence of hedging in American law review articles than in U.S. Supreme Court opinions.
2. Nevertheless, U.S. Supreme Court opinions, despite being operative documents, are not devoid of hedging. Non-verbal hedging, especially the use of dependent circumstantials and prepositional groups functioning as disjuncts, is more common to U.S. Supreme Court opinions.
3. Verbal hedging, especially the use of modal verbs, is more common to American law review articles.
4. Both U.S. Supreme Court opinions and American law review articles make use of indetermination and depersonalisation, but only the former makes common use of subjectivisation and limitation as well.
5. Hedging fulfils very different macro-level and micro-level functions in the different genres analysed.

Data obtained from both levels of linguistic analysis suggest that there is a correlation between prototypical generic features, such as context and communicative purposes, on the one hand, and hedging incidence, strategies and functions on the other. Thus, hedging appears to be genre-specific, at least insofar as legal written discourse genres are concerned. In particular hedging seems to depend on three factors related to genre which is explained below using examples from the corpus.

## The discourse community's macro-level expectations for a particular genre

Firstly, hedging appears to depend on the discourse community's macro-level expectations for a particular genre. In effect, the same parent discourse community has very different macro-level expectations for the two genres in this study. In particular, the discourse community expects U.S. Supreme Court opinions, which are operative documents, to be both objective and authoritative. According to Traugott and Dasher (2002), one characteristic of objectivity is that it is indicated through the use of declarative sentences which are minimally marked with regard to modality, hence the lack of modality in a Supreme Court opinion.

Another characteristic of objectivity is balance. By considering arguments presented by both parties, the Supreme Court gives an impression of fairness. This can add to the notion that the Court has reflected long and hard on the different points of view before coming to a well-contemplated conclusion as to the 'best' answer to the conflict, which is, in reality, the discourse community's macro-level expectation concerning the goal of the Court. U.S. Supreme Court opinions habitually preclude arguments counter to their main line of reasoning with indeterminate adverbs such as 'allegedly' and 'presumably', which signal indetermination as in the following: "Petitioner's minor daughter, LaShonda, was **allegedly** the victim of a prolonged pattern of sexual harassment..." (Opinion 5).

They also commonly preclude arguments with dependent circumstantials such as "While we do not dispute the common sense of this approach", which signal subjectivisation (and not indetermination as the pronoun 'we' only serves to reinforce the institutional nature of the Court). For example, "**While we do not dispute the common sense of this approach**, the words of the statute do not permit it" (Opinion 4).

Often these do not mark uncertainty at all, however, but rather fulfil a micro-level function of boosting the main argument. Hedging, it may be recalled, can be multifunctional. Therefore, it is often difficult to assign just one function to a specific hedge in a specific text. Thus, the majority of instances of hedging found in the corpus can simultaneously fulfil at least two functions as will be seen.

Furthermore, U.S. Supreme Court opinions should be both specific enough to resolve the case before the court, and general enough to be used as a basis by future courts when deciding a similar case. Thus, abundant example of limitation, achieved through the use of prepositional groups functioning as disjuncts (e.g. “for purposes of the appeal”) seem to restrict the scope of the utterance in an attempt to prevent conflict in the future application of a decision as in “The panel assumed, **for purposes of the appeal**, that respondent had not yet received a written order denying his 1995 motion...” (Opinion 1).

By contrast, the same discourse community expects law review articles to adhere to scientifically accepted views on the nature and uncertainty of knowledge. One way to do so is by adopting a more subjective tone, which, in the opinion of Traugott and Dasher (2002), implies explicitly marking one’s attitude to what is being said, including one’s epistemic attitude to the proposition, hence the abundance of epistemic modality in law review articles. For example, “These two standards **may** cause confusion among district courts...” (Article 1).

Another way to do so is by indicating a degree of humility with respect to the discourse community at large. Lexical verbs such as ‘suggest’, as in ‘...the following language is suggested’, are associated with the hedging strategy of depersonalisation, and are used in law review articles to soften the illocutionary force of an assertion. Such verbs would rarely be used in a Supreme Court opinion where the illocutionary force of a binding order need not be modulated. For instance, “**The following language is suggested** where the parties intend to renew the litigation...” (Article 1).

Another way in which law review article authors endeavour to meet the discourse community’s accepted view on knowledge is to use impersonal subjects such as ‘scholars’ or ‘evidence’. It is generally accepted that assertions made in academic writing should be supported by facts and statistics. By appealing to third parties, authors can create the impression that their articles are well researched and that their hypotheses are maintained by others as well as in “**Available data** suggest that there

are roughly as many secondary market transactions per year” (Article 5), or “**Scholars** have noted that, in light of judicial precedent, [section 10] could not support tuition grants at racially imbalance or segregated schools.” (Article 3).

### The addresser’s specific intentions within a particular genre

Secondly, hedging would seem to depend on the addresser’s specific intentions within a particular genre. For example, it is important at this point to clarify that while U.S. Supreme Court opinions are primarily operative documents, they are also expository and persuasive pieces of writing. U.S. Supreme Court justices are expected to offer a reasoned and convincing defence of their position. Thus, as was seen in the previous section, justices often use hedging as a means to mitigate the illocutionary force of a counter argument in order to reinforce their own argument. Consequently, lexical items fulfilling this rhetorical function can also be seen as boosters in the sense that they actually strengthen the illocutionary force of the addresser’s own utterances (Hyland, 2000). Nevertheless, as Silver (2003) points out, it is not often easy to distinguish between hedges and boosters, as in the following example: “**Although we have no cause to doubt respondents’ assertion** that the Cameron Chapter of the Navajo Nation possesses an “overwhelming Indian character,”...we fail to see how petitioner’s operation of a hotel on non-Indian fee land “threatens...the economic security...” (Opinion 2). Another example of this is “**While we do not dispute the common sense of this approach,** the words of the statute do not permit it” (Opinion 4).

Authors of law review articles, on the other hand, often use hedging to modulate the illocutionary force of their own assertions, most notably through the use of modal verbs. This helps to create an impression of humble subjectivity, and thus prevent a possible negative reaction in case the predictions they make in their article do not actually prove true. For instance, “...but application of the Commonwealth’s constitutional requirements **could** warrant a different result” (Article 3).

Moreover, since law review articles are imminently predictive — they aim to analyse, evaluate and synthesise recent court decisions and to predict their likely impact on future court cases, on public policy, and on society in general — many authors strive to avoid negative reaction by shifting the responsibility of their affirmations to third parties. Thus, depersonalisation is commonly accomplished through the use of impersonal subjects such as “available data” or “evidence”. For example, ““**Available data suggest** that there are roughly as many secondary market transactions per year.. (Article 5).

Similarly, in order to prevent possible negative reaction for a decision taken, U.S. Supreme Court justices often appeal to the purpose of a statute, or the intent of legislators, or the intent of the original Framers of the Constitution when ruling in a case. They effectively shift responsibility for their decision to a third party through the use of such expressions as “in Congress’ view”. This also responds to the fact that the right to decide a case is vested in them on behalf of the people, and they should not impose their own desires and wills. This is clear in the following example: **“In Congress’ view**, existing state laws provide less than positive assurance that the person in question no longer poses an unacceptable risk...” (Opinion 4).

Nevertheless, whereas the Court is often concerned with saving its own face as an institution, particularly regarding future application of its decisions, it does not appear overly concerned with saving the face of either of the parties involved in the case, or of individual justices on the bench. In fact, both agreement and disagreement are expressed quite directly and are very seldom hedged.

## **The addresser’s and the addressee’s shared background knowledge**

Finally, since hedging is an interactional phenomenon, its production, as well as its interpretation, depend on both the addresser’s and the addressee’s shared linguistic and pragmatic background knowledge, and on the degree of their understanding of the particular genre’s context and communicative purposes. In the case of legal discourse, both the addresser and the addressee are generally products of law schools in which they have been steeped in the tradition of persuasive legal argumentation, and are thus familiar with the conventional discursive practices of their disciplinary community. As a result, they share certain pragmatic assumptions necessary for effective application of the cognitive principles required in textual construction and reception.

## **Conclusion**

According to Halliday and Hasan (1985) genre is defined by certain obligatory elements or stages in text structure; nevertheless, optional elements do not occur entirely randomly. Hedging appears to be one such optional element which does not occur completely by chance, but rather somewhat predictably depending on the

discourse genre in question. In particular, differences and similarities in hedging incidence, strategies and functions between U.S. Supreme Court opinions and American law review articles depend on:

- The discourse community's macro-level expectations
- The addresser's specific, micro-level intentions
- The addresser's and the addressee's degree of shared background knowledge and understanding of context

This last factor is of special importance because if the addresser and the addressee do not share the same basic assumptions as to prototypical members of a category or the same basic schema, hedging will be rendered ineffectual. For a hedge to be effective, it must be interpreted as such within the overall message. By the same token, the phenomenon of hedging is best approached through the application of a method which allows for the integration of semantic, pragmatic, social and cognitive aspects.

Therefore, hedging, at least insofar as legal genres are concerned, appears to be genre-specific. However, further studies using a comprehensive, cognitive, intra-disciplinary approach are necessary to determine if this is true in other fields as well.

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