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Title

Evaluative Patterns in Judicial Discourse: A Corpus-based Phraseological Perspective on American and Italian Criminal Judgments[1]

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Abstract

The present paper aims at exploring the pivotal role of evaluative phraseology in judges' discourse, typified in the legal genre of the judgment. This contrastive cross-language study involves a bottom-up approach to evaluation based on the investigation of judgments dealing with criminal cases delivered

[1] This paper stems from the ideas of both authors on the subject matter. Sections 1 and 4 were written by Stanisław Goźdź-Roszkowski, whereas sections 2 and 3 by Gianluca Pontrandolfo.

by the courts of last resort in the United States and Italy: the *Supreme Court of the United States* and the Italian *Corte Suprema di Cassazione*. The bilingual comparable corpus for the analysis is made up by two sub-corpora, the American and the Italian ones, of approximately 1,000,000 tokens respectively. From a methodological point of view, Hunston's semantic sequences (2008) – in particular the *Noun + that*-clause ('*N che*') – are used as probes to discover evaluation patterns in judicial reasoning and as a means to explore differences and similarities between US and Italian judicial reasoning. The preliminary findings provided in this contribution point to a striking similarity in the way both Italian and American judges carry out evaluative meanings.

***Keywords*:**

Evaluative language, phraseological patterns, legal language, corpus, criminal judgments

What is it that I do when I decide a case? […] *I take judge-made law as one of the existing realities of life.*

Cardozo (1921: 10-11)

1. Introduction

This paper centres around specialised meanings and how they are expressed and encoded by recurrent phraseological items in the domain of law. The study adopts the Corpus Linguistics analytical framework whereby priority is given to examining how and in what ways "select strings of words serve specific discoursal purposes or how interactants perform implicit or explicit verbal actions in different and specialised contexts of situations" (Schulze & Römer 2008: 266). Austin's famous statement (1975) that speakers and writers do things with words could be extended to argue that speakers and writers do things, to a large extent, by relying on patterns of phraseological items. Phraseological items can be broadly understood as "strings of words that are highly structured, well-organised and firmly entrenched in the human being's mind"[2] (Schulze & Römer 2008: 266). This contribution starts from the premise that such sequences of words give shape to commonly held beliefs and values, as well as social and cultural structures (Robinson 2006: 8); and legal culture, its institutions and discourse are no

[2] The concept of 'phraseological item' or 'phraseological unit', as well as 'phraseology' in general, is discussed in greater detail in the next section.

exception. We begin to explore the relationship between the special uses of language and the domain of law by looking at the role of selected phraseological patterns in creating evaluative meanings in judicial discourse belonging to two different legal systems and cultures, i.e. the Anglo-American common law system and the Italian civil law system. Two concepts require some further introduction: evaluation and the institutional frameworks in which the judicial discourse is embedded.

For the past several years, many different linguists have attempted to study the linguistic mechanisms employed by speakers and writers to convey their personal feelings and assessments. Such investigations have been carried out to examine different linguistic areas using a wide range of conceptual and theoretical approaches, including appraisal (Martin and White 2005), stance (e.g. Biber 2006), metadiscourse (e.g. Hyland and Tse 2004), modality (e.g. Palmer 1987), sentiment (e.g. Tabouada and Grieve 2004), evaluative, attitudinal or affective language (e.g. Ochs 1989), evidentiality (e.g. Chafe and Nichols 1986) and evaluation (e.g. Hunston 1994; 2011). While any systematic and comprehensive overview of this phenomenon is obviously beyond the scope of this paper (interested readers are encouraged to refer to Hunston 2011 for what is probably the most recent and highly informative treatment on this subject), it is possible to signal a few fundamental aspects that

seem to pervade all the above-mentioned approaches. First, evaluation is essentially subjective in that evaluative utterances convey personal opinions, which tend to be positive or negative (Thompson and Hunston 2000: 1) and necessarily elude the true-false distinction. At the same time, evaluation may be intersubjective because it usually involves some social interaction[3]. Second, evaluation occurs within a specific social and institutional framework. For example, legal interactants create and construe evaluative statements within the constraints of values valid for a particular legal system and legal culture. Third, there is a sense that evaluative language is extremely context-dependent and many lexical items studied out of context are unlikely to provide a reliable indication of evaluative meaning. For the purpose of this study, we adopt Hunston's (1994: 210) term 'evaluative language' as referring to language "which indexes the act of evaluation or the act of stance-taking. It expresses an attitude towards a person, situation or other entity and is both subjective and located within a societal value system". The concept of evaluative language is then operationalised as a set of

[3] It should be noted that Hunston (2011: 51) distinguishes – under the heading of 'evaluative language' – between 'evaluation' (the ascription of a value to an entity, whether inside or outside the text) and the interactive 'stance' (indications in the text that a human being, the writer, is communicating with another human being, the reader).

words and phrases which express evaluative, attitudinal meaning. If conceptualised in terms of textual indications, evaluative language appears to be particularly amenable to the use of the Corpus Linguistics analytical framework for two main reasons. First, advanced computer tools in conjunction with large balanced and representative corpora make it possible to investigate the distribution of phraseological items across different registers or genres within one language corpus or across different language corpora (see, for example Biber 1988, 1995), especially when aided by tests of statistical significance. Second, qualitative corpus research uses corpus data to scrutinise individual word forms and sequences of words in context. The examination of relevant concordance lines enables one to identify implicit evaluative meanings. At the same time, corpus techniques are particularly suitable for discovering recurring patterns of lexical items, which are often difficult to intuit or observe in the course of one's daily professional activities based on a limited number of texts. This problem was noticed by Sinclair and Coulthard when they refer to "latent patterning" (1975). The combined quantitative and qualitative research techniques have been used in this study to examine comparable corpora of American and Italian judgments.

As already signaled, in this paper we intend to look at selected patterns of evaluation in the discourse of

judicial court opinions. The importance of evaluative language in judicial discourse cannot be overstated. Indicating an attitude towards a legal entity, process or interactant is inherent in the acts of persuasion and argumentation, which in turn appear to be an integral part of judicial discourse. For example, Cotterill (this issue) shows the extent to which overt evaluation is present in the judge's sentencing statements. A substantial part of judicial opinions involves expressing agreement or disagreement with decisions given by lower courts, opinions expressed by counsel representing the parties, as well as the opinions arrived at by fellow judges from the same bench. The literature on evaluation in judicial discourse tends to focus on the relationship between testimonial evidence and subjective judgements of witnesses providing such evidence. A case in point is Heffer (2007), who in his empirical study examines the linguistic construal of evaluating witnesses and defendants by trial lawyers and judges. By employing the semantic appraisal framework of judgement (Martin and White 2005) and a corpus of official court transcripts, Heffer showcases the tension between rational, legally-framed fact-finding and subjectively evaluative narrative construction (2007: 176). Less directly perhaps, evaluation and argumentation studies overlap in respect of issues related to the disciplinary epistemology, especially the assertion of facts and their interconnections in judicial argumentation. Mazzi (2007,

2010) represents a recent trend in using a genre-based, corpus linguistics approach to study key linguistic components employed by judges in different jurisdictions. Mazzi (2007) takes a comparative approach to the study of generic moves and the reporting verb 'hold' in European and English/Irish judgments. It turns out that the judgments differ in respect of the generic move "Arguing the case" but the verb 'hold' is overall one of the most frequent tools used in the discursive construction of argumentation in this move to signal "either an authoritative stance taken by the Court or an equally authoritative reported argumentation of another judge or court" (Mazzi 2007: 21). Mazzi (2010) is of event greater relevance to this study as his paper offers a linguistic analysis of judicial evaluation strategies in US Supreme Court judgments. Mazzi focuses on evaluative lexis and finds that judges employ a range of different strategies to express stance. The present study corroborates and extends Mazzi's findings which point to the central importance of the pattern '*this/these/that/those* + labeling noun. As will be demonstrated in Section 3, a similar pattern incorporating nouns followed by '*that'* appositive clauses turns out to be a widely-used linguistic resource both in American and Italian judgments.

The focus of the study is the language of a specific law professionals' community, namely judges. Judicial

discourse, traditionally typified in the legal genre of judgments, represent a fertile ground for the study of evaluation, since they illustrate the reasoning, i.e. the arguments, that led them to make a particular decision. We decided to focus on the highest courts' judgments because of their importance for the criminal judicial systems of both United States and Italy. The texts produced by the Supreme Court judges, being the product of a long historical tradition, represent a point of reference, not only for jurists, but also for lower-court judges (Taruffo 1988: 198). Moreover, their opinions are considered, by legal communities, as one of the most striking examples of 'living law' or *law in action* to refer to the 1910's pioneer paper by the distinguished legal scholar Roscoe Pound (cf. Garavelli 2010: 154, Cadoppi 1999: 253). Despite the differences between the Common Law and the Continental Civil Law, the Supreme Courts in both the US and Italy share some similarities with respect to their roles and functions. There are reasonable grounds to consider the United States Supreme Court and the Italy's *Corte Suprema di Cassazione* as directly comparable. According to Cappelletti et al. (1989: 142), the Supreme Court should be compared to the highest courts of appeal on the Continent.

As far as the US Supreme Court is concerned, it is the ultimate appellate court and consists of the Chief

Justice of the United States and eight associate justices. At its discretion, and within certain guidelines established by Congress, the Supreme Court each year hears a limited number of the cases it is asked to decide. Those cases may begin in the federal or state courts, and they usually involve important questions about the Constitution or federal law.

When it comes to the Italian counterpart, the *Corte Suprema di Cassazione* is the court of last instance (unless we consider the jurisdiction of Court of Justice of the European Communities). Among its major functions, there is the duty to ensure the correct application of the law and its uniform interpretation (cf. Scarselli 2010: 227-258, Pontrandolfo 2011: 212-213). It decides only on points of law, the *quaestio iuris*, and not on the *quaestio facti* (the merits of the facts), which are dealt with by the lower courts. The Court of Cassation is arranged into divisions (penal, civil, administrative and military) headed by one main president and a deputy. Most cases are heard by a panel of five judges, whereas in some circumstances the judges gather all together (the so-called 'united sections', cf. Scaparone 2012: 70). In addition, a public prosecutor must state his/her interpretation of the applicable law in every case submitted to the court to aid judges in reaching their decision. Albeit not binding for the decisions of other judges in analogous cases, the judgments of the

Cassazione have an authoritative and exemplary value for all courts in the system (Ondelli 2011: 17). Apart from the substantial similarities between these two institutions in terms of their role and function, we believe there are also some shared linguistic resources, i.e. specific phraseological patterns employed frequently in judgments to express evaluation. The remainder of this paper is concerned with the description of this linguistic construct and an attempt to illustrate how it fits within the discursive and generic practices.

The paper is divided into 4 sections. Section 2 introduces the key methodological concept of semantic sequence and describes the make-up of the corpora used. In Section 3 we provide and discuss the findings of our analysis and Section 4 brings conclusions and directions envisaged for future research.

2 Method

2.1 Key methodological concepts

A brief overview of the key concepts of our study is a fundamental step towards the understanding of the methodology we adopted to answer the research questions.

The study of evaluative patterns involved the preliminary decision on which kind of phraseological patterns had to be considered in the analysis.

First of all, phraseology is a complex field that has fuzzy borders with at least four major fields: semantics, morphology, syntax and discourse (Granger & Paquot 2008: 29). The complexity of this field is easily demonstrated by the broad range of near-synonymous terms used in literature to refer to its object of analysis: 'word combination' (Cowie 1981), 'unit or meaning' (Sinclair 1991), 'phraseme' (Mel'čuk 1998), 'phraseological unit' (Burger 1998), 'phraseologism'[4] (Gries 2008) to name a few.

For the purposes of our study, we favoured the 'distributional approach' to phraseology, that is the one which recognises that the boundaries between phraseology and syntax are not clearly distinguishable (ibid.: 34) and that even 'grammatical collocations' (Benson et al. 1997) or 'grammar patterns' (Francis et al 1996/1998 in Hunston 2008: 278) can and do play a role in the phraseological universe. In particular, we decided to add a further dimension, semantics, by trying to analyse the relationship between (grammatical) form, in particular phraseology, and meaning. We therefore resorted to Hunston's (2008: 271) concept of 'semantic

[4] "The co-occurrence of a form or a lemma of a lexical item and one more or additional linguistic elements of various kinds which functions as one semantic unit in a clause or sentence and whose frequency of occurrence is larger than expected on the basis of chance" (Gries 2008: 6).

sequences', namely "recurring sequences of words and phrases that may be very diverse in form and which are therefore more usually characterised as sequences of meaning elements rather than as formal sequences". The term 'meaning elements' refers basically to grammatical words (such as 'after', 'and', 'did', 'for', 'that', 'there', 'not', etc.) considered as 'salient items' (Gledhill 2000: 115) in the sequences they identify. Hunston (2008: 272) argues that such words are the best starting point for identifying semantic sequences in specialised corpora, and that such sequences identify "what is often said" in those corpora.We decided to use 'semantic sequences' as probes to discover evaluative patterns in judicial discourse in our corpus.

The correlation between phraseology and judicial evaluation becomes even more evident if we consider that one of the approaches to investigating 'evaluation' in a text consists in the analysis of the broad range of lexical indicators of evaluative meaning (Hunston 2011: 13). Evaluation is contextual: the evaluative meaning of any word cannot be identified reliably if the word is encountered in isolation. This is the reason why the corpus approach proves to be particularly suitable for the study of evaluative patterns.

Among the broad range of lexical items, the one with a likelihood of being evaluative in context are nouns, verbs, adjectives and adverbs (Hunston 2011: 13).

Following this author (2008: 278-284), the starting point of our study was indeed a 'grammar pattern', namely the 'N *that*' pattern, where a noun is followed by an appositive *that*-clause (e.g. 'the observation that', 'the suggestion that', 'the idea that', etc.). It is widely acknowledged (e.g. Halliday & Matthiessen 2004: 637) that the noun in this pattern indicates the epistemic status of the proposition expressed in the *that*-clause and that projected *that*-clauses of this kind are important to disciplinary epistemology. Moreover, 'that' as conjunction plays an important role in reformulating the claim as a cognitive research process (Gledhill 2000: 149). A close attention to the co-text of a set of nouns with evaluative significance can show both similarities and differences in the ways they are used, which in turn throws some light on the role of language and of ideas in our corpus (cf. Hunston 2011: 99).

It has been amply demonstrated (Hunston 2008, 2011, Gledhill 2000, Charles 2004, Groom 2007) that semantic sequences – of which our 'N that' pattern is an example – are most usefully investigated in the area of specific, specialised discourses, where grammatical words play a pivotal role. We therefore decided to investigate the use of this pattern in judicial setting, aware of the fact that, as already mentioned in the Introduction, judges have to motivate their opinions in their judgments and, to do so, they are forced to use

status nouns shedding light on the reasoning leading them to reach a specific decision. Indeed, as pointed out by Mazzi (2010: 374), although judges are expected to draft linear lines where the formulation of the decision merely reflects the application of the relevant legal norms to the facts of the case, the articulation of the judges' argumentation presupposes a certain degree of subjectivity. Judges are no more considered as mere *bouche de la loi* (literally mouth of law), as simple translator into practice of the legal norms (cf. Garavelli 2010: 97): their 'presence' in the texts they produce is becoming more and more evident.

One of the easiest and most immediate ways of studying the semantics of evaluative patterns could be that of looking at neutral, positive or negative polarity[5] of a given word in a given context, an observation that can be carried out by focusing on a co-text no longer

[5] In the literature we find different terms to refer to the way in which certain seemingly neutral words can be perceived with positive or negative associations through frequent occurrences with particular collocations. Louw (1993) was the first to use the term 'semantic prosody' – inspired by Firth's (1957) concept of phonological prosody – although it was attributed to Sinclair (1991) who developed the concept in later work (e.g. Sinclair 2004). Stubbs (2001: 64) also used the term 'semantic preference'. Throughout our paper, we are going to refer to the term *semantic polarity* as a general term to indicate the semantic attraction that a word has towards the negative or positive/neutral semantic pole.

than a concordance line of something between 80 and 500 characters long (Hunston 2011: 15). From a methodological point of view, we decided not to consider 'neutral polarity', since we conceive of evaluation as essentially a dualistic, highly polarised phenomenon. We found that, in most of the cases analysed in our corpus, the distinction between neutral and positive polarity becomes blurred, thus misleading the focus of the study.

2.2 Corpus description

This paper is a contrastive cross-linguistic study involving a bottom-up approach to evaluation based on the investigation of judgments delivered by the highest courts in the US and the Italian criminal justice systems, namely the *Supreme Court of the United States* and the *Corte Suprema di Cassazione*.

As already mentioned in the Introduction of this paper, the focus of the study is the language of a specific law professionals' community, namely judges (Solan 1993, Philips 1998, Heffer 2007).

The bilingual comparable corpus[6] for the analysis is an 'ad hoc' corpus (Aston 1999), meaning that is has

[6] A comparable corpus can be defined as a corpus containing components that are collected using the same sampling frame and similar balance and representativeness (cf. McEnery 2003: 450), e.g.

been compiled precisely to investigate evaluative phraseology, and is made up by two subcorpora: the American and the Italian ones, of approximately 500,000 tokens[7] respectively. Both of them deal with criminal cases for two main reasons: first of all, narrowing down the huge normative subjects the two courts are asked to rule on has allowed us to focus on a coherent and consistent share of case-law. Secondly, this would provide us with the opportunity, in the near future, to test empirically the hypothesis of a correlation between a specific field of law (e.g. civil, anti-tort, labour law, etc.) and the type of evaluative patterns involved in these texts.

Turning to the composition of the corpus, the American data set includes 122 opinions totaling over 1,000,000 tokens and it comes from the American Law

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the *same proportions* of the texts of the *same genres* in the *same domains* in a range of *different languages* in the *same sampling period*. […] the subcorpora of a comparable corpus are not translations of each other. Rather, their comparability lies in their same sampling frame and similar balance (McEnery & Xiao 2007: 3).

[7] A single linguistic unit, most often a word, although depending on the encoding system being used, a single

word can be split into more than one token, for example *he's* (*he* + *'s*). (Baker et al. 2006: 159).

Corpus (Goźdź-Roszkowski 2011). For the purpose of this study, only opinions dealing with criminal law were chosen. The selection offers a synchronic glimpse into the judicial practice of the US Supreme Court during the period 1999-2006. The opinions were accessed via FindLaw.com, a well-known legal information web portal. While the collection represents only a fraction of the Court's enormous output, it should still capture the lexico-syntactic trends in patterning evaluation representative for the collective end product of the nine judges. In fact, an opinion is usually written by one judge (usually referred to as 'justice') after winning the approval of the majority[8]. However, the process of opinion writing can be a difficult and time-consuming task. It seems that, in most cases, an opinion is the collective product involving a long process of persuasion, or even bargaining. It is clear that all of the judges, at one time or another, are constrained by group and institutional concerns. The Supreme Court's opinions, although ostensibly the work of one person, are really the product of many minds, in the sense that the judge who writes the opinion often has to add to, delete, or modify the original draft in order to retain the support of his or her colleagues (Abraham 1998: 143).

[8] Detailed description of how opinions are drafted can be found, for example, in Abraham (1998) and Rogowski & Gawron (2002).

As far as the Italian subcorpus is concerned, it is a part of the subcorpus of the Corpus of Criminal Judgments (COSPE, Pontrandolfo 2013), named COSPE-Sup. It comprises 230 judgments, all of them delivered by the criminal division of the Italian Supreme Court in the period 2005-2011. It amounts to over 1,000,000 tokens, and it was designed according to two basic criteria: first of all, the subject matter, since all the select judgments deal with criminal cases; secondly, the time span, since it only includes judgments issued between 2005 and 2011. All the judgments were collected from the large case-law section of the online De-Jure database[9]. When it comes to the drafting of the judgments, although they are the joint result of the opinions of the five or nine judges composing the Court, they were actually drafted by a single judge, the so-called 'reporting judge' (*giudice relatore/estensore*), whose function is to explain the main points of the case, most of the times by using a rather standardised template (cf. Zaza 2012).

As far as methodology is concerned, first of all, we checked to what extent Hunston's methodology (2008, 2011) – developed for the English language – was compatible with the Italian language. The replicability of

[9] http://www.dejure.giuffre.it [accessed on July 2012]

Hunston's corpus analysis with the Italian subcorpus guaranteed the soundness of the methodology.

We queried our corpus for the 'N *that*' pattern (pattern '*N che*') and we looked at the frequency of individual nouns found in this pattern and their functions in co-texts. To do so, we relied on two concordance tools[10]: WordSmith Tools (version 5.0), developed by Mike Scott and AntConc (version 3.2.4), created by Laurence Anthony. After converting the judgments into .txt format in order to be read by such tools, we obtained our findings by combining a quantitative and a qualitative procedure.

First of all, we used the CONCORD(ANCE) function provided by both tools. By typing in the desired pattern, the function provides the analyst with an all-inclusive list of corpus occurrences of that pattern in context. We used the *wildcard* asterisk (*) instead of the noun, in order to get a comprehensive list of the 'N *that*' pattern, with the aim of highlighting any evaluatively significant collocational environments. In the case of the

[10] A concordancer is a software tool that searches through a corpus for each instance of a given word, phrase or other element and the immediate context in which each instance occurs, to create a concordance (a list of all of the occurrences of a particular search term in a corpus, presented within the context in which they occur – usually a few words to the left and right of the search term) (Baker et al. 2006: 42-44).

American subcorpus, for example, we typed 'the * that' to obtain a long list of 'N *that*' patterns ('the fact that', 'the argument that', 'the conclusion that', etc.) that were later on scrutinised qualitatively to ensure that they were the right pattern we were searching for. As for the Italian, the query took longer, because of the feminine and masculine gender of the article ('il/la' instead of 'the'). We therefore typed 'il * che' and 'la * che' to obtain a parallel list ('il fatto che'/the fact that, 'la circostanza che'/the circumstance that, 'il rilievo che'/the objection that, etc.).

Secondly, after having the full list of both subcorpora at our disposal, we analysed each single item in its collocational environment to get a clearer picture of the contextual patterns they occur within. This proved to be crucial for the identification of evaluation on text surface, providing us with the possibility to study the prevalence of positive or negative semantic polarity.

To retain methodological rigour, we fixed a cut-off point at 5 occurrences per 1,000,000 words and we additionally applied the multiple-text requirement whereby a given noun in this pattern had to appear in at least 5 different judgments to guard against judges' idiosyncrasies (cf. Goźdź-Roszkowski 2011: 110).

Comparability across the two languages – meaning the discovery of patterns serving the same evaluative

function – was assured by the repetition of the same procedure for the two datasets, and by the final comparison of the semantic function of the phraseologisms in the two languages/judicial cultures.

In the next section, we shall discuss findings on the 'N *that*' patterns identified in our corpus.

3. Corpus findings

Table 1[11] contains the list of the most frequent status nouns[12] followed by *that*-clauses in both subcorpora:

US SC subcorpus	**IT CSC subcorpus**
1. *fact* (316)	1. *fatto* (fact) (539)
2. *evidence* (190)[13]	2*circostanza* (circumstance) (202)
3. *argument* (171)	3. *rilievo* (objection) (83)
4. *conclusion* (168)	4. *motivazione* (grounds) (32)
5. *view* (93)	5. *considerazione* (consideration) (36)

[11] The number in brackets indicates the raw frequency, that is single occurrences in each subcorpus (per 1,000,000 tokens).

[12] Following Huston (2011: 27), "one of the basic tenets of the concept of status is that all propositions in texts are evaluated in terms of how they are aligned with the world". Status is marked linguistically by a variety of lexico-grammatical features. One set of such resources are 'status nouns', "a subset of the nouns that may be followed by appositive that-clauses. Evaluation of status reifies propositions, and status nouns are the resource by which this is most obviously done" (2011: 116).

[13]The 190 instances of this word include both technical and non-technical (evaluative) senses.

6. *proposition* (73)	6. *presupposto* (assumption) (38)
7. *contention* (54)	7 *possibilità* (possibility) (38)
8. *assumption* (53)	8. *affermazione* (34) statment
9. *suggestion* (52	9. *ipotesi* (20) hypothesis
10. *possibility* (49)	10. *valutazione* (evaluation) (18)
11. *assertion* (46)	11. *assunto* (assumption) (18)
12. *belief* (35)	12. *dichiarazione* (declaration/statement) (16)
13. *notion* (32)	13. *consapevolezza* (awareness) (13)
14. *presumption* (30)	14. *agomentazione* (argument) (12)
15. *theory* (19)	15 . *dichiarazione* (statement) (11)
16. *impression* (18)	16.*interpretazione* (interpretation) (12)
17. *allegation* (16)	17. *convinzione* (belief) (11)
18. *certainty* (5)	18. *profilo* (point of view) (11)

19. *interpretation* (5)	19. *tesi* (thesis) (10)
	20. *conclusione* (conclusion) (9)
	21. *deduzione* (deduction) (8)
	22. *certezza* (certainty) (5)

Table 1 'N *that*' pattern in the American and Italian subcorpora

Both lists contain similar semantically-related status nouns. In particular, they all deal with the act of thinking or forming an opinion about a subject (e.g., 'argument', 'view', 'assumption', 'notion', 'opinion', etc.), so they are particularly relevant for the purposes of evaluation. As mentioned in the Introduction, it is interesting to note that these findings are in line with Mazzi's (2010: 379-383) results, although phraseology was not his main focus and he carried out the analysis on a slightly different pattern, namely 'this/these/that/those + labelling noun'. Francis (1986) identifies a category of nouns to which she refers as 'anaphoric nouns' or 'A-nouns'. These are nouns phrases which serve the purpose of 'encapsulating' the concepts and argumentation contained in a preceding stretch of text. Encapsulation can be very useful because it allows the writer to develop the argument by adding new information or providing an

interpersonal ‘value judgement’ (cf. Partington 1998: 97). Virtually all the nouns listed in Table 1 belong to the category. This seems to suggest that judicial discourse might favour the use of encapsulation for the purpose of labeling propositions. Evaluation could be effected either by the choice of a particular noun (consider *fact* as opposed to *belief* or *impression*) or by qualifying the noun, as in *an illogical notion*.

The nouns in the table do play a pivotal role in our corpus, as they are used by judges to motivate their opinions on the case and, more generally, they contribute to the construction of judicial discourse. As a matter of fact, nouns such as ‘fact’, ‘argument’, ‘ground’, lead to deductions, which ultimately lead to decisions. From a semantic point of view, indeed, they all belong to the large set of elements that signal the argumentative nature of judgments. From a phraseological point of view, many of them collocate with a variety of elements that confer them either a positive or a negative polarity. This is what makes the occurrences evaluative and therefore indicative as to the expression of the judges’ stance (Mazzi 2010: 381).

If we compare the English and the Italian lists, we realise that items retrieved in the two datasets are similar in their form. As a matter of fact, almost every single item in the US list has its corresponding one in the IT list (ex. ‘statement’/‘allegation’/‘assertion that’ might well

correspond to the Italian 'dichiarazione che'; 'possibility that' might correspond to the Italian 'possibilità che'; 'theory' to 'tesi'; etc.). However, we decided not to focus exclusively on the strict comparative (formal) analysis, based on the prima facie translation equivalents, thus avoiding the risk of missing important features of evaluative language in the two datasets. We preferred taking the quantitative approach, by focusing on very frequent, as well as interesting patterns in both languages.

Turning to the single items, 'fact' is by far the most frequent status noun in both subcorpora, a result which is in line with the high occurrences of 'fact that' reported by Hunston (2008, 2011) not only in Law, but also in other discourses (Politics, Education, Humanities, Social Science, etc.). The widespread use of 'fact' with *that*-clauses to express epistemic stance in other disciplines is also documented in Biber's corpus-based study of spoken and written university registers (2006: 112). Indeed, Biber identifies other nouns controlling *That*-clauses which "label the status of the information presented in the *that*-clause", such as *argument, assumption, case, claim, idea, knowledge, notion, possibility, reason,* and s*ense.* (Biber 2006: 112). As can be seen, half of the nouns provided by Biber is also listed in Table 1 suggesting that there is perhaps a wider, cross-disciplinary use of *That*-clauses controlled by nouns or N + *that* pattern (to use the terminology

adopted in this paper). When viewed as single word forms, the nouns listed in Table 1 do not represent any disciplinary specificity. None of these nouns is inherently 'legal'. It is rather the cumulative, quantitative effect of having so many such nouns in judgments suggesting that there might well be some degree of generic specificity. Obviously, any such claim would need to be supported by large-scale, multi-genre and multi-disciplinary research.

Through the analysis of the co-texts of these nouns – that is, through the computer-assisted tool Concordance that allowed us to retrieve concordance lines of these key nouns (methodology known in corpus linguistics literature as KWIC, key words in context) – we managed to isolate interesting evaluative patterns in both subcorpora.

Similar trends can be outlined: first of all, as already mentioned, the evaluative patterns identified are similar in the American and in the Italian subcorpora; secondly, we discovered that these status nouns tend to co-occur with semantically charged propositions (positively or negatively); finally, there seems to be a consistency in the way negative or positive polarity co-occurs with the syntactic position, that is to say negativity and positivity are associated with the syntactic position of the status noun (e.g. subject or object of the sentence).

Our corpus findings revealed that there are status nouns in both subcorpora that are used rather exclusively with one polarity. For example, certain nouns tend to have negative polarity (e.g. in the American subcorpus: *notion* that, *suggestion* that, *argument* that; in the Italian subcorpus: *rilievo* che (objection that), *tesi* che (thesis that), while others are used primarily with a neutral or positive polarity (e.g. in the American subcorpus: *view* that, *belief* that; in the Italian subcorpus: *valutazione* che (evaluation that), *conclusione* che (conlusion that)).

In the following sections, we shall analyse the negative (3.1) and positive (3.2) polarity associated with a select number of status nouns and we shall hint at the correlation between polarity and syntactic position (3.3).

3.1 Negative polarity

The detailed analysis of the status nouns' co-texts in our corpus revealed interesting phraseological behaviours in the American subcorpus as well as in the Italian one.

Dominant negative polarity characterises status nouns, such as *suggestion*, *notion* or *argument* in the American subcorpus. In particular, 'suggestion that' is used 85% of the time[14] in negative contexts, with the

[14] As pointed out also by Mazzi (2010: 382), percentage frequencies of evaluative occurrences for each lemma hardly ever amount to 100%, if added to each other. This needs not be surprising, because

negative polarity expressed chiefly through the use of contextual elements such as the co-occurring verb 'reject', as in [1]:

> [1] *These courts have rejected* **the suggestion that** due process imposes such limits because they have understood the difference between a man accused and a man convicted.

Negativity is also phrased in the following ways:

> [2] *We are unpersuaded by* **the suggestion that**, because a defendant may be able to waive his right to appeal entirely, […]

> [3] *Nor does the Court find compelling* **the suggestion that**, if states are not the exclusive judicial arbiters […]

A similar behaviour characterises the pattern 'notion that'. Over 70% of all instances when 'the notion that' appears in the US subcorpus are linked to evaluative language, that is to say, the pattern is mainly adopted by the judges to express either disagreement

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not all pattern occurrences are evaluative. Indeed, there are patterns that are explanatory statements in which the judge does not express any evaluation at all.

(*We discounted* the notion that […], *we rejected* the notion that […], etc.) or appreciation[15] (The notion that […] *is absurd*, the notion that […] *is dubious*, etc.). Negativity is found in 60% of the hits, the rest being positive or neutral, with the pattern being used to express support (the notion that […] *supports*, the notion that […] *dovetails*), cause (The notion that […] *is based on*, the notion that […] *is premised on*, etc.) or consistency with other data (The notion that […] *is reflected in* our cases).

Like 'suggestion', the negative polarity is expressed explicitly through the use of the lemma 'reject' (24%):

> [4] *We have firmly rejected* **the notion that** an official action is protected by qualified immunity unless the vey action in question has previously been held unlawful.

The negativity is also found in the co-occurring items of discount/undermine 'the notion that' and a few

[15] "With appreciation we turn to meanings construing our evaluations of 'things', especially things we make and performances we give, but also including natural phenomena – what such things are worth (how we value them). In general terms appreciations can be divided into our 'reactions' to things (do they catch our attention; do they please us?), their 'composition' (balance and complexity), and their 'value' (how innovative, authentic, timely, etc.)" (Martin & White 2005: 56).

cases in which 'the notion that' is the subject of the clause:

> [5] **The notion that** the application of a 'coercion' principle would lead to a more consistent jurisprudence is *dubious*
>
> [6] **The notion that** California law has surgically excised a discrete activity that hermetically sealed off from the larger interstate marijuana market is *a dubious proposition*.
>
> [7] **The notion that** media corporations have constitutional entitlement accelerated judicial review of the denial of zoning variances *is absurd*.

This pattern shows a trait which will be further analysed in section 3.3: when used as initial-clause (in subject position), it tends to carry negative polarity explicitly through the co-occurrence between the nouns and value-laden lexis, i.e. *dubious* [Ex.5], *dubious proposition* [Ex. 6] and *absurd* [Ex. 7].

Also 'the argument that' shows clear negative polarity, with a strong co-occurrence of the verb *reject* (24%) and *court* as subject of the clause (examples [8] and [9] respectively). When used in subject position, 'the argument that' is used evaluatively, often with negative polarity:

[8] **The argument that** virtual child pornography whets pedophiles' appetites and encourages them to engage in illegal conduct *is unavailing* because (…).

[9] *The Court also rejected* **the argument that** it failed to consider the significance of advances in computer technology; […]

The status noun 'argument' plays a pivotal role in the US subcorpus, since it is used by the Supreme Court judges to refer to the reasons that lead them to reach a particular decision. The occurrences reveal that, in the context of the opinion drafting, 'argument' can be referred to two possible 'interlocutors': the colleagues sitting on the same bench with whom the judge who is writing the opinion disagrees (as in the first example) or the arguments, adduced by the lower-court judges, that the judge is evaluating to reach the decision of allowing or dismissing the appeal (as in the second example). Such distinction is crucial given the 'polyphony' of different judicial voices in US opinions. Thus, there may be a plurality opinion occurring when the final outcome is agreed by majority but for differing reasons. For example, in a 6:3 decision (there are nine members of the US Supreme Court), two judges could write one concurring opinion, three judges could write another concurring opinion, one judge could write his or her

opinion and three judges could dissent. Concurring opinions are those which agree with the majority decision for different reasons, while dissenting opinions are given by judges who disagree with the majority . The identity of a particular voice is often marked by surface linguistic items such as the word 'Court' in [9] or the personal pronoun 'we' used to express the opinion of the Court:

[10] *We rejected* the petitioner's argument that […]

Example [10] marks both the argumentative stance adopted in the plurality opinion, as well as the identity of the 'interlocutor', i.e. the petitioner.

It is interesting to note that our observation of 'argument' negative polarity is in line with Mazzi's (2010: 382) findings. The overwhelming majority of occurrences of argument in his corpus shows negative semantic polarity provided by contextual elements such as: *is unavailing*, *irrelevant*, *contradicted by*, *misses the point*, *not convincing*, *unpersuasive*, *bewildering*, *wrong*, etc.

As far as the Italian subcorpus is concerned, we detected similar patterns as in the case of the status nouns *rilievo* (objection) and *tesi* (thesis that).

With regard to the former, the noun 'rilievo' in Italian legal language can be used in two different

meanings: as synonym of 'objection' (critical observation on a particular issue) or as a synonym of 'observation' (in its neutral meaning). The corpus findings revealed that in our criminal judgments it is most commonly used in the former meaning (87%) than in its neutral one (13%). It tends to appear in a distinct negative context and it is mainly used to criticise a specific behaviour: something that somebody should have done, but did not do, that is to say an act of negligence or omission that invalidates the truthfulness of the thesis[16]. It is generally referred to the grounds of the judicial decision, as in the following examples:

> [11] Il Tribunale, invece, dichiarava di *non condividere* le anzidette argomentazioni sui **rilievi che**: a)…
>
> [The Court stated that it *disapproved* the above mentioned arguments based on **the objections that**: a)…]
>
> [12] Quello che più importa è che la "ratio decidendi", che ha fondato l'annullamento, consiste proprio nel **rilievo che** il giudice di merito della

[16] Indeed, from a syntactic point of view it generally follows the 'past conditional' in Italian, whose function is similar to the III type conditional – unreal condition – in English.

decisione annullata ha *illegittimamente ed erroneamente* inserito anche l'autonoma condotta illecita del dichiarante […].

[The most important aspect is that the 'ratio decidendi' upon which the overruling has been based consists in **the objection that** the lower-court judge of the overruled decision has also added, *illegitimately and erroneously*, the autonomous illicit behaviour of the person releasing the declaration […]]

In [12], the judge is listing the objections that lead him/her to 'disapprove' with the arguments adduced by the lower-court judges ('il Tribunale'/'the Court') and that will guide him/her, ultimately, to formulate the decision. In [12], we find another example of the articulation of the judge's argumentation process. The key noun 'rilievo' is used as linchpin of the sentence: the appeal has been overruled because of a specific objection, namely the fact that the lower-court judge resorted to an illegitimate and erroneous argument.

If we move to the pattern 'tesi che' (thesis that), we realise that is used 80% of the times with negative polarity as well:

[13] L'articolata **tesi che** ora *si contesta* sembra poi *trascurare* l'argomento teleologico

[The complex **thesis that** here *we are questioning* seems to *overlook* the teleological argument]

[14] Quanto alla particolare menzione, contenuta nell'art. 495 c.p. nel testo ricordato dal giudice, è appena il caso di ricordare come si tratti di un inciso che reca un contributo assai opinabile alla **tesi che** qui *si esclude*

[As for the specific mention of Art. 495 CP, in the text mentioned by the judge, we have to remember that it is just an incidental note that gives an arguable contribution to **the thesis that** here we are *excluding*]

In both examples, 'thesis that' is used as synonym of the noun 'argument'. In [13], the negative semantic polarity of the noun is provided by the contextual verb 'contestare'/'to question', together with the verb 'trascurare'/'overlook'. The judge is demolishing the argument of the lower-court judges and is explaining the objective reasons why the thesis cannot be accepted. In [14], there are no uncertain terms: the Supreme Court judges are excluding the thesis. They also refer to Art. 495 of the Italian 'Codice Penale' (Criminal Code), substantiating the fact that their decision merely reflects the application of the relevant legal norms to the facts of

the case. The negativity is also present in the contextual adjective ‘opinabile’/‘arguable’.

3.2 Positive polarity

Negativity is not the only semantic polarity we found in our corpus. Some status nouns, indeed, show neutral or positive polarity.

The nouns *view* and *conclusion* are two notable examples in American judicial opinions. The former is predominantly (91% of the cases) used to provide support for a particular proposition:

> [15] Justice Breyer *takes* **the view that** the Attorney General may issue a Westfall Act certification if he contests the plaintiff’s account of the episode-in-suit.
>
> [16] Today’s opinion *takes* **the view that** because §30 of the National Bank Act, 12 U. S. C. §§85, 86, provides the exclusive cause of action for claims of usury against a national bank, all such claims--even if explicitly pleaded under state law--are to be construed as "aris[ing] under" federal law for purposes of our jurisdictional statutes. Ante, at 9. *This view finds scant support* in our precedents and *no support whatever* in the National Bank Act or any other Act of Congress. I respectfully dissent.

Both [15] and [16] illustrate what could be referred to as neutral polarity, or rather that 'grey area' between positive and negative polarity and the difficulty one may have when faced with the task of distinguishing between them. Example [16] conveys the neutral sense of supporting a particular viewpoint and it comes from a footnote to the plurality opinion in the *Pat Osborn, Petitioner v. Bary Haley et al.* case in which Justice Breyer's chose to be "concurring in part and dissenting in part". It is cited in support of the argumentation put forward by the Court and it thus leans more towards the positive end of the positive-negative cline. In contrast, [16] is an excerpt from a dissenting opinion written by Justice Scalia in *Beneficial National Bank et al., Petitions v. Marie Anderson et al.* The use of 'takes the view that' could be interpreted as neutral if we confine our analysis only to the first sentence. However, the second sentence reveals an unequivocally negative evaluation of the view concluded by *I respectfully dissent.* Fortunately, such cases of neutral polarity morphed into a highly negative polarity in less immediate co-text have turned out to be relatively infrequent.

Overall, the results which we obtained corroborate Mazzi (2010: 382) findings that the noun 'view' tends to be inserted in contexts where positive polarity prevails.

Examples [16] and [17] provide evidence that *the view that* can be combined with strong and overt markers of positive evaluation.

> [17] This is perfectly consistent with **the view that** the §9706(a) power to assign does not extend beyond October 1, 1993.
>
> [18] I find much to commend **the view that** the Establishment Clause […)].

In example [17], 'this' refers anaphorically to the preceding argument and marks its coherent ties with the proposition contained in the *that*-clause. Highly appreciative, albeit personal expression of evaluation, can also be found in [18], Justice Thomas' concurring opinion. If we relax the rigidity of our pattern and allow other preceding words, then we can notice a significant co-occurrence (23%) between the first person pronoun *I* and *view that* employed to stress the judge's personal opinion:

> [19] I *adhere* to my **view that** limiting a jury's discretion to consider all mitigating evidence *does not violate the Eighth Amendment*.
>
> [20] I write separately to *state* my **view that**, *even if* no finding were made concerning Martinez's belief that refusal to answer would delay his treatment, or Chavez's intent to create such an impression, the interrogation in

this case would remain a clear instance of the kind of compulsion no reasonable officer would have thought constitutionally permissible.

This use of *the view that* is obviously restricted to concurring and dissenting opinions. In [19] the polarity is neutral bordering on the positive due the positive propositional content of *does not violate the Eighth Amendment.* Limiting a jury's discretion, which might be otherwise viewed negatively, here receives a positive evaluation. In both [19] and [20] the choice of the collocating verbs, *adhere* and *state,* seems to make the expression of the judges' views more emphatic. It strengths their position in the face of potential counter-arguments, such as those related to limiting a jury's discretion in [19] or consider the hypothetical clause (*even* if) in [20].

The other example is the noun *conclusion* which is found with an overwhelmingly positive polarity in over 90% of the cases. Examples [21] and [22] illustrate a strong and statistically significant co-occurrence between the phrase *the conclusion that* and the lemma 'support':

> [21] The documents provide strong *support* for **the conclusion that** Thompson suffered from episodes of schizophrenia at the time of the offense.

[22] This proviso surely *supports* **the conclusion that** it was the only exception intended by Congress from the otherwise total prohibition of at-large elections.

In total, 'support' plus the conclusion that accounts for 37% of all instances where this phrase is found. It is interesting to note that neither court nor related interactants are salient in the co-texts where 'the conclusion that' is found. The two examples above already signal that support for the conclusion come from specific documents or legal instruments.

[23] Despite the fact that *these traditional tools of statutory interpretation* lead inexorably to **the conclusion that** respondents can state a claim for discrimination against the relatively young, the Court, apparently disappointed by this result, today adopts a different interpretation.

[24] *Two aspects of the Michigan Court of Appeals' process* following plea-based convictions compel **the conclusion that** Douglas, not Ross, controls here.

As [23] and [24] show, conclusions are derived from specific, well-defined sources. We can note also the choice of collocates. In [23], the combination of the verb *lead* with the adverb *inexorably* produce the effect of

inevitability. A similar effect is achieved in [24] through the use of the verb *compel.*

If we move to the Italian subcorpus, we find cases of positive polarity with the status nouns *valutazione* (evaluation) and *conclusione* (conclusion).

The pattern 'valutazione che' is followed by a clear positive statement (58% of the times). Evaluation is, evidently, a key noun in our corpus. Positivity can be explicitly marked in the texts (as in [26] or [27]) or expressed through to circumlocutions, as in [25]:

[25] […] **valutazione che** *non presenta aspetti di manifesta illogicità*

[**evaluation that** *is not characterised by evident illogicality*]

[26] […] **valutazione che** è *logicamente accettabile*

[**evaluation that** is *logically acceptable*]

[27] […] **valutazione che** la Corte di merito ha *congruamente compiuto*

[**evaluation that** the merit Court has carried out *congruously*]

In all of these examples, the pattern 'valutazione che' is used by the judges of the *Corte di Cassazione* to express the fact that they agree with the grounds and conclusions expressed by the lower-court judges. It is interesting to note that, in [25], we find a typical feature of Italian legal language, that is the use of the double negative ('non' + 'illogica'). This syntactic shift is mainly used for politeness purposes, that is to say to express agreement with trial judges (Kurzon 2001: 69-70): instead of saying 'the evaluation is logical', judges prefer to say 'the evaluation is not illogical', thus relating to the positive face of the addressee (in this case, lower-court judges) and therefore resorting to a subtle strategy that mitigates the effect of their evaluation.

A similar pattern is 'conclusione che', chiefly characterised by positive evaluation (58%):

> [28] **La conclusione che** nel presente processo la perizia non era atto dovuto, *ha una perfetta dignità* in termini di rigore motivazionale, tanto che […]
>
> [**The conclusion that** in this trial the examination was not necessary *has a perfect dignity* in terms of rationale,…]

[29] Conclusivamente può dirsi che *correttamente* i Giudici di merito sono pervenuti alle **conclusioni che** il m.llo I., con le sue puntigliose indagini…

[Finally we can say that the judges of the lower courts *correctly* reached **the conclusions that** the warrant officer, with his punctilious investigations…]

[30] A fronte di questi segnali è *del tutto logica* **la conclusione che** era obbligo preciso del medico disporre per ulteriori e più approfonditi esami

[In view of these signals, it is *completely logical* **the conclusion that** it was the doctor's duty to carry out more detailed examinations]

The examples show three cases in which the judges endorse the arguments adduced by their lower-court colleagues. The pattern takes on a positive semantic polarity by virtue of its collocations with the adjectives 'logica' (logical), 'corretta' (correct), 'giusta' (right), 'legittima' (legitimate), etc.

In the next section, we shall focus on an interesting finding: the correlation between positive and negative polarity with the syntactic position of the status noun.

3.3 Semantic polarity and syntactic position

The corpus-based study of the concordances has revealed that there seems to be a consistency in the way evaluative meaning co-occurs with the syntactic positions of the status nouns identified in Table 1. In particular, as evident in examples [5], [6], [7] and [8], when the 'N that' pattern is the subject of the sentence, it is quite likely that the rest of the proposition contains negative evaluative patterns.

This trend is evident with the most frequent status noun of the corpus, namely 'fact'. 'The fact that' in subject position co-occurs with negative particles and negativity in general, in the US subcorpus as well as in the Italian one. The same does not necessarily apply when 'the fact that' is the object of the clause.

As far as the US subcorpus is concerned, 'the fact that' in subject and sentence-initial position accounts for 28% of the instances (of which 62% are examples of negative polarity). These figures are markedly higher than what Biber (1999: 676) reports for the four registers of conversation, fiction, news and academic (80 occurrences per million in the corpus of US judgments vs. 10-20 occurrences per million in Biber's data). The following examples show the distinctive negative correlation between this status noun and contextual negative elements:

[31] **The fact that** mental-illness evidence may be considered in deciding criminal responsibility *does not compensate* for its exclusion from consideration on the mens rea elements of the crime.

[32] **But the fact that**, for example, conspiracy to commit murder can at the same time violate ordinary criminal laws and the law of war, so that it is "a combination of the two species of offenses," Howland 1071, does *not establish* that a military commission would not have jurisdiction to try that crime solely on the basis that it was a violation of the law of war.

These two examples illustrate an interesting pattern of co-occurrence at the level of a clause. The occurrence of the phrase *the fact that* in subject position co-occurs with a negated verb phrase in the predicate position. The high frequency of occurrence of the phrase *the fact that* placed as subject of the main clause in judgments obviously results from a discursive strategy to mark the proposition in the *that*-clause as factual or generally accepted information. The co-occurring negation in the main verb phrase suggests that this construction is frequently employed by judges to advance counter arguments.

If we move to the Italian subcorpus, 'il fatto che' appears in subject position 30% of the times. As a matter

of fact, almost 70% of these occurrences carry negative evaluation, as can be seen in the following examples:

> [33] **Il fatto che** la donna sia stata colpita mortalmente in casa *stride* con le dichiarazioni degli imputati.
>
> [**The fact that** the woman was struck dead in her house *clashes* with the declarations of the defendants.
>
> [34] **Il fatto che** il F. abbia indicato la B. solo in sede dibattimentale, *prova poco* […]
>
> [**The fact that** Mr. F only indicated Ms. B. during the hearing stage *proves almost nothing*]
>
> [35] **Il fatto che** […] *è irrilevante/non ha rilievo/poco rileva/a nulla rileva/è privo di rilievo/non ha molto rilievo/ha scarso rilievo/…*
>
> [**The fact that**…*is unimportant/is not important/has little importance/nothing proves/lacks in importance/has no great importance/has little importance/*…]

As can be seen in the examples, the objective clause following our pattern tends to be characterised by negative elements, especially verbs. [35] shows a strong collocative pattern: 'fatto' + 'rilevare'/'rilievo' (to be important/importance).

In the next section, we will take stock of the analysis, while paving the way for future research.

4 Conclusions

The way judges report the reasons behind their decisions is influenced by two considerations: power and neutrality (Solan 1993: 3). There is pressure on judges to speak decisively. At the same time, the language of judges should be free of overt forms of evaluation. As Solan notes: "Opinions do not often rely on statements like "I think that those sentenced to death get too many appeals, so I routinely vote to affirm death sentences in order to increase the number of executions per year" (1993: 3).

This paper set out to investigate whether evaluation has a role to play in the language of judges by exploring the relation between phraseological patterns and the creation of evaluative meaning in judicial discourse. By applying the new concept of recurrent semantic sequences – in particular, the N+*that* pattern – to a large, genre-based cross-language corpus, we began to explore the linguistic construal of evaluation by judges. The semantic sequence is conceptualised in this study as a significant correlation between the frequent occurrence of nouns belonging to the semantically defined category of 'argumentation' as listed in Table 1, followed by appositive *that*-clauses and linguistically varied items

expressing evaluative meaning. Thus, the evaluative meaning component is not carried out by one prevalent phrase. Instead, it is realised by linguistically discrete items such as adjectives (e.g. *dubious, unavailing, compelling,* etc.), verbs (e.g. *rejected, commend, disapproved,* etc.), adverbs (e.g. *inexorably*) and nouns (*support, proposition*). Worth stressing is that the semantic sequence is not fixed, i.e. items belonging to the evaluative component can be found at various syntactic positions in a sentence or, importantly, in more extended co-texts. This observation seems to corroborate the findings demonstrated in Hunston (2011) and suggesting that evaluation is to a great extent contextual and cumulative, i.e. evaluative meaning is spread across phraseologies rather than attached to individual words.

In addition, the analysis of our corpus has shown that evaluative meanings are not always immediately conspicuous. Indeed, some patterns are actually 'invisible' or rather 'latent' in the judicial discourse and they become clearly manifest, thanks to the possibilities offered by corpus linguistics. We mentioned in the Introduction the term 'latent patterning', adopted by Sinclair and Coulthard (1975: 125) to refer to patterning in language that is not obvious to intuition or to language as it is observed in single texts. The study of the concordances has revealed that, apart from overtly and explicitly evaluative items (nouns like *omission*, *problem*;

verbs such as *disagree*, *agree*; adjectives as *illogical*, *logical*, *correct*; adverbs like *wrongly*, *correctly*, etc.), there is a whole range of nouns that pass unnoticed because they are connoted in a less explicit way. Table 1, as well as the examples analysed in Section 3 provide an excellent example: there is nothing intrinsically positive or negative in nouns like *fact*, *argument*, *conclusion*, *view* or *fatto*, *conclusione*, *valutazione*, *tesi*, and yet these status nouns are employed by the judges in contexts marked by strong positive or negative polarities. The same applies to the syntactic position: far from being a mere coincidence, we are convinced that these patterns are part of the 'legal grammar' of the judges, stylistic and phraseological conventions settled in time by usage and which have become part of the judges' discourse strategies.

The quantitative part of the study corroborates the claim made in Hunston (2008) that semantic sequences can be usefully employed to investigate epistemology in disciplinary discourses. It seems that there is a considerable overlap between scientific and legal discourses in the way '*the* + Noun + *that*-clause' pattern is crucial to their epistemologies. Interestingly, this type of phrase appears to have a wider distribution as both American and Italian judges display a marked tendency to resort to it in their opinions. The evidence presented above suggests that starting with a grammar pattern in

search for such constructs is a highly productive way of detecting evaluation in judicial discourse. In fact, it adds to the growing evidence indicative of the same tendency present in other types of legal discourse. For example, Goźdź-Roszkowski (2012) explores semantic patterns in legal academic journals and textbooks. A small-scale study of two nouns (*idea* and *notion*) frequently found in the pattern *the* + Noun + *that*-clause reveals an underlying semantic sequence of 'institution' + 'accept or reject' *the notion* + *that*-clause.

An important finding is that many of these nouns tend to be found in predominantly negative or positive co-texts, an observation that is by no means immediately clear on the basis of individual texts. Particularly noteworthy are status-indicating nouns, such as *notion, argument* and *suggestion* in English and *tesi* che in Italian, found in phraseological patterns containing negative polarity because they do not display this semantic property when viewed in isolation as individual word forms. It is hoped that in this paper we managed to draw attention to the important role of evaluation in the construal of argumentation in judicial discourse and the central importance of the 'N+*that* pattern' as a widely-used device to label and assess arguments advanced in legal opinions by lower court judges or colleagues from the bench.

The present study could be extended in many directions. First of all, other grammar patterns could be taken as a starting point in the search for semantic sequences or other types of recurrent expressions. For example, the analysis of important evaluative phraseologies could commence with the 'small words' such as prepositions (cf. Gledhill 2000). There are obviously other resources used for status modification or more generally evaluation, such as verbs, nouns and adjectives governing that-clauses (e.g. *It has been suggested that*), adverbs and adverbials (e.g. *probably, allegedly,* etc.), modal auxiliaries, etc. Armed with computer tools and corpus resources, the analyst is now in a position to undertake a study of known and explicit markers of evaluation on a much larger scale than so far.

The strategies of construing evaluation can be also seen in terms of politeness phenomenon. Judicial discourses might differ in the extent to which they employ subjective, value-laden words (e.g. *absurd, dubious*) with negative polarity to evaluate concepts and argumentation in law. In his seminal study of politeness in British and American judicial opinions, Kurzon (2001) documents how politeness is essentially adhered to even in the case of disagreement. Interestingly, the judicial behavior of judges appear to vary with American appellate judges indulging not infrequently in rather overt expression of criticism towards their colleagues on

the bench and judges from lower courts. These findings are highly relevant to the present study because they raise important questions concerning, more generally, the role of a particular jurisdiction and legal culture in shaping the linguistic strategies of expressing evaluation.

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