

Terror at Home

On the Rhetoric of Domestic Violence Legislation in the United Kingdom and Spain

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Abstract

The present study analyses two Parliamentary Acts on the subject of domestic violence: the Spanish Organic Law 1/2004 on Comprehensive Protection Measures against Gender Violence and the Domestic Violence, Crime and Victims Act 2004 from the United Kingdom. The analysis of the texts (organised into two corpora, SPA and UKA respectively) was carried out in three different stages, the first one consisting in the automatic processing of the two texts using Monoconc. After doing so, the lexical component of the two corpora was examined on a superficial level, followed by a discursive analysis of the macrostructural organization of both legal texts. The third stage of analysis focused upon the number and types of metadiscourse markers, capable of unveiling interpersonal relationships in both corpora. These three different but complementary levels of analysis have led us to conclude that the Acts represent different stances from which the subject of domestic violence is envisaged in the Spanish and English contexts. Both legal texts display specific traits that pertain to the different legal cultures these legal instruments arise from. Additionally, such traits reflect rhetorical and cultural dissimilarities in the way in which domestic terror is fought and offer clues for the translation of these Acts.

Keywords: *domestic violence, genre violence, legal genre, intercultural communication, legal translation*

Introduction

The present work undertakes the study of the Spanish Organic Law 1/2004 of Comprehensive Protection Measures against Gender Violence (hereinafter SPA) and the Domestic Violence, Crime and Victims Act 2004 from the United Kingdom (hereinafter UKA). Its major aim is to spot the cultural differences springing from the different legal cultures laws belong to and also from the way the subject is contemplated in Spain and the UK. The study has been carried out in three stages. The superficial or formal stage is devoted to the description of the lexical peculiarities in either genre; the second deals with the discursive level, through the study of the macrostructure or supra-organisation of genres, and the third stage focuses upon the interpersonal relationships established in both laws by means of the use of metadiscourse markers.

Since the translation of legal texts across cultures concerns itself with language and cultural differences, Acts were regarded as products of the particular discursive community represented by the legal profession in two countries where legislation plays a different social role. Actually, comparative law specialists like Merryman (1978) and Tetley (2000) consider the existence of very different legal cultures and traditions. Along those lines, legal translators like Duro (2005) and Orts (2015) describe the deep gap existing between the legal tradition of Spanish law and that of Anglo-Saxon law. In fact, discrepancies between legal genres across nations could be associated to the unavoidable connection between language and culture.

Statute law has received some attention by linguistic studies in the fields of genre and translation (Alcaraz and Hughes, 2002 and Cao 2007, among many others). As rule-making documents, legislative texts in Spain and in the Anglo-American systems present functional similarities, namely, to confer citizens a right, privilege or power; to abridge a right, privilege or power, or to oblige a person to act or not to act (Dickerson, 1986). Nevertheless, when translating legislative texts from English into Spanish, the greatest challenge that the legal translator faces is the lack of uniformity between the Spanish and the Anglo-American law systems. Such lack of uniformity springs from their different epistemological traditions: on the one hand, the English-speaking Common Law –a product of English Empiricism, which asserts that knowledge can only be grasped through experience and evidence– and, on the other hand, Continental or Civil law, a product of Cartesian rationalism, which grants theory and concepts an essential and organizational nature (Orts, 2015). The Common Law system dates back to the Middle Ages in England and was applied within British colonies across continents. However, Continental Law –based upon the Justinian Code– was adapted and newly codified in the 19th century by Napoleon. It spread in continental Europe in the 19th century and was applied in the colonies belonging to European expanding empires such as Spain or Portugal.

One of the most salient traits of Common Law is the absence of codes and the relatively lesser importance of written law, in favour of an empirical, inductivist method that looks at the case in hand. It is mainly based upon precedent, following the doctrine of *stare decisis* ("stay upon what has been decided"), according to which the law must be applied in line with previous court decisions. It could actually be stated that the law is, if not totally at least in a great part, "judge-made". This is why statutes

are not the most important legal source (Cao, 2007), they are fairly restricted in subject-matter, covering specific areas of rule-making (Tetley, 2000) and being supported by hermeneutical autonomy (i.e, there is no room for interpretation but the Act itself). The rule *expressio unius et exclusio alterius* ("the express mention of one thing excludes the presumption of all others") implies that English legal texts are crammed with multifarious details and particularities, containing all the data for the elucidation of their meaning and their subsequent implementation.

In line with a deductive and more abstract thinking style that gives priority to concepts and symbolic knowledge, the Spanish legal system endeavours "to frame the activity of human coexistence through the assignment of rights and duties and the appraisal of social behaviours as right or wrong, in accordance with a set of general principles" (Orts, 2015:35). During the Enlightenment, the ambition of rulers to rationalize the law resulted into a compact normative body where "there is scarce life beyond codes" (Duro, 2005: 620). A child of Justinian law, the Spanish legal system, is based upon legislation, custom and the general principles of law. The fact that codification is the prior source within the Spanish system implies that texts govern at large the dynamics of legal activity in Spain.

With regard to the pragmalinguistic analysis of the above-mentioned laws, it is aimed at shedding some light on the way in which domestic/genre violence is envisaged in Spain and the UK, suggesting that it may mirror two different social stances on the same topic. Even if both Acts fight against the same phenomenon, the concepts of 'gender violence' and 'domestic violence' do not always seem to be clear-cut and distinctly conceptualized worldwide. Furthermore, neither of the Acts under examination defines the differences between gender and domestic violence.

In fact, the 2004 Spanish Act has been blamed for exercising what has been called 'positive discrimination' (Burgos 2007: 29), since it implicitly categorizes any kind of gender violence as male violence against women. The label '*violencia de género*' (gender violence) indistinctly denotes the violent acts perpetrated by male partners on women, also referring to the consequences that those acts may have in the family environment, specifically on minors.

The concepts in the UK remain equally fuzzy. The 2004 Domestic Violence Act defines itself as a series of amendments to other laws, such as the Family Act 1996 and to several sections of the 2003 Criminal Act. It does not provide a clear definition of what domestic violence actually consists in or mention gender violence. A sociological study undertaken by Walby and Allen (2004) during the passing of the Act affirmed that 89% of all those who have experienced four or more incidents of domestic violence are women and, along the same lines, the ONS –Office of National Statistics[1]– specifies that four times as many women as men are killed by a current or former partner. However, the Act does not make any reference to gender issues in its wording.

Hence, the main socio-cultural difference between the ways in which either nation envisions the subject of gender violence seems to be that SPA has embraced the cause of women wholeheartedly and openly, while UKA fails to relate to such cause and seems reluctant to differentiate violent crime committed within intimate relationships from other assaults.

In view of this scenario, the present study aims to depict how the subject of gender/domestic violence is actually verbalized both in SPA and UKA from the point of view of genre analysis. The procedure will consist in providing a description of the lexical choices made in either law, analysing their different macrostructures and studying the way in which each of the Acts relates to its subject through the deployment of specific interpersonal mechanisms.

The analysis of two laws on domestic violence

As stated above, studies on the differences in structure, grammar and the role of legislation in Spanish and English –as such, or more generally regarding the Continental law and Common law systems– have already been tackled by several authors, but no specific scrutiny has been undertaken on the legislation concerning the subject at hand.

With the aim of comparing how differently legislation deals with the subject of gender/domestic violence in the United Kingdom and Spain, the present research firstly examines the lexical choice mechanisms at work in both Acts that could present any bias as regards how each instrument conceives the concept of gender/domestic violence. Secondly, the macrostructural distribution of either Act is scrutinized from a discursive perspective, the macrostructure being the supraorganisation of the text which reflects how the conventionalised social knowledge at the disposal of the discursive or professional community is organized (Bhatia, 1993).

Thirdly, and finally, the analysis focuses on the examination and classification of the metadiscourse markers deployed in both Acts from a pragmatic angle. These markers constitute the set of strategies that reveal the existence of an interpersonal relationship, a dialogical framework between the writers and the readers of texts (Hyland, 2005; Dafouz, 2008, among many others). However, this research will explore how interpersonal relationships are established between law-makers and law-takers through the deployment of different metadiscourse mechanisms.

These three levels of analysis should lead us to the conclusion that the drafting of these Acts reflects cultural and linguistic differences that pertain to the asymmetries between the two legal systems, also revealing how the subject is contemplated in the English and Spanish contexts.

1.1. The lexical study

The SPA and the UKA are two corpora made up of 16,575 words and 18,153 words, respectively. The data were gathered using MonoConc, a fast concordancer utilized for the automatic analysis of texts in many different languages. The software produced wordlists of the word types with the highest frequency counts, being adjusted to only mine content words and exclude function words such as determiners, pronouns and finite verbs, as well as modal verbs. In terms of the total number of words used to convey meaning in our corpus, the overwhelming majority were nouns, mainly in the Spanish corpus, the English one showing the occasional appearance of verbal forms like ‘discharge’, ‘convict(ed)’ and ‘plead’. Nominal preponderance is in line with the results obtained in other studies that show how, in specialized discourse, information is represented mainly by nouns, this being more characteristic of Romance languages (Fuentes-Oliveira and Arribas Baño, 2008).

In accordance with the results rendered, the word types were divided into two groups: those terms that make up the legal lexicon covering different legal areas and those belonging to the specific field of gender/domestic violence. Legal terminology could be subdivided into highly technical terms, which can rarely be found outside legal texts (e.g. ‘estoppel’, ‘acquittal’, ‘lien’) and sub-technical ones (e.g. ‘sentence’, ‘conviction’, ‘guilty’), whose frequencies and distributions both in the general and the technical environment are similar, tending to activate new specialized meanings when in contact with the specific environment (Marín, 2014; 2016). Following Tiersma (1999), this is precisely one of the major characteristics of legal discourse (Tiersma, 1999).

Coupled with the fully automatic processing of the corpus, those terms activating a specific meaning in the domain of genre/domestic violence were traced and tagged manually (e.g. ‘protection’, ‘safety’, ‘gender’, ‘conflict’, ‘family’). Nonetheless, even if these terms could be conceived as subtechnical, in the present paper a decision was made to treat them separately, since they seem to form a compact group in the corpus, being associated by virtue of the specific topic, that which the law wishes to regulate. In line with Fillmore’s frame semantics (1982), this special subgroup of terms was labelled ‘conceptual field’ of the ‘non-legal’ kind, since its members refer to related concepts that belong to a coherent structure, but do not have any lexemes in common. The words in the legal lexical group also form a conceptual field, in this case sharing concepts with specific legal lexemes. Hence, we will simply refer to them as the ‘legal lexicon’ of the text. Table 1, Table 2, Figure 1 and Figure 2 show the results obtained on a lexical level. Thus, the terms were classified into conceptual field and legal lexicon. The frequency counts are to be read horizontally, while groups (branded as belonging either to the conceptual field or the legal lexicon) are to be read vertically. For example, the most frequent word in the corpus is *violencia* (in the conceptual field group), followed by *Ley (Orgánica 73)*, a term belonging to the legal lexicon.

Table 1: *Lexis in SPA*

Non-legal conceptual field		Legal lexicon		Non-legal conceptual field		Legal lexicon	
Violencia	259			Igualdad	48	Gobierno	25
		Ley (Orgánica 73)	226			Resolución	25
		Artículo	224			Vigor	25
Mujer	212			Libertad	24		
		Bloque	123			Ministerio	24
Género	115					Títulos	24
Víctima	112					Aplicación	23
		Derecho/s	104			Capítulo	23
		Medida/s	94			Civil	23
		Apartado	86	Prevención	21		
Trabajador/a	74			Tutela	21		
		Juzgado/s	72			Enjuiciamiento	21
		Penal/es	70			Estatuto	21
		Juez/ces	69			Decreto	20
Personas	63					Formulario	20
Protección	61					Instancia	20
		Disposición/es	61	Conflictos	19		

		Caso	55	Convivencia (pacífica)	19		
		Social	55			Procedimientos	19
		Delito	51			Comunidades Autónomas	18
		Judicial	50			Párrafo	18
						Tribunal	18
Seguridad	41			Familiar	17		
		Fiscal	38	Guarda	17		
		Instrucción	38			Falta/s	17
Hombres	36					Procesos	17
		Estado	36			Legislativo	14
		Administración/es	35			Reguladora	14
Asistencia	34			Defensa	13		
Menores	30			Hijos	13		
Educación	29			Respeto	13		
		Código	28			Actuación	13
		Suspensión	28			Autor	13
		Competencia	27			Justicia	13
		Pena	27	Apoyo	12		
		Poder	26	Domicilio	12		
				TOTAL: 1315		TOTAL: 2177	

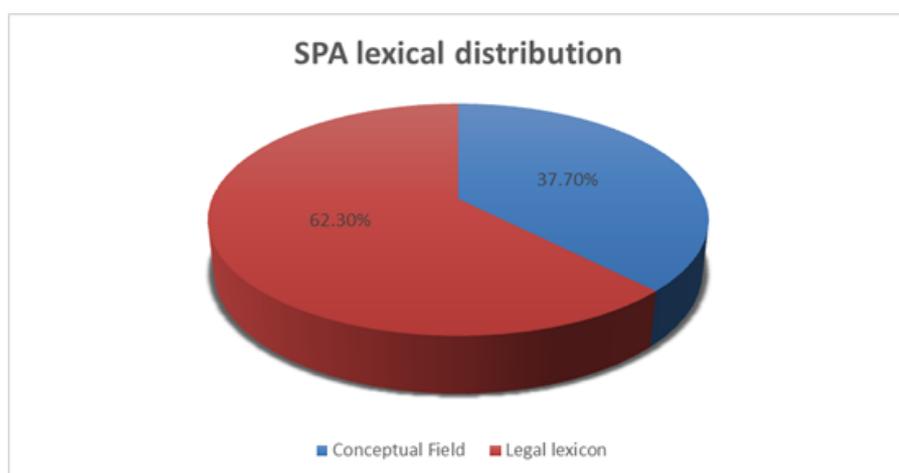


Figure 1: *Lexical distribution in SPA*

As Table 1 and Figure 1 illustrate, the terms in the Spanish Act add up to 3,492 occurrences. While those terms conceived as belonging to the non-legal conceptual field of gender/domestic violence display 1,315 frequency counts in total, legal terms occur on 2,177 occasions, representing 62.3% of the whole term list, as shown below. The rest of terms, 37.7%, relate to the conceptual field of domestic violence, a dramatically higher percentage than that in the UKA corpus, as shall be illustrated below.

In the latter, the word *violencia* (violence) ($F[2]=259$) displays the highest frequency counts, being the most recurrent word in the corpus overall. It is followed by *mujer* (woman) ($F=212$), *género* (gender) ($F=115$) and *víctima* (victim) ($F=112$). Other salient words in this conceptual area have to do with purpose of the law, as expressed in its preliminary chapter –such as *protección* (protection) ($F=61$), *seguridad* (safety) ($F=41$), and *asistencia* (assistance) ($F=34$)–, which describes how the working environment of women, their protection, freedom, respect and the education of society should be safeguarded. The group of legal terms is more prominent as regards frequency, but limits itself to the adjectival content of the law, (i.e. its procedural, administrative aspects), disregarding areas that pertaining to the expression of duties, rights, crimes and responsibilities[3]. The only terms related to substantive law are *delito* (crime) ($F=51$) and *falta* (misdemeanor) ($F=17$), and have been highlighted in red. Therefore, the Spanish corpus mainly refers to the Act itself (*Ley Orgánica*) ($F=226$) and its parts –such as *artículo* (section) ($F=224$) and *bloque* (chapter) ($F=123$)–, to the institutional related bodies –*juzgado* (court) ($F=72$), *juez* (judge) ($F=69$), *fiscal* (prosecutor) ($F=38$)– or the executive bodies of the country, such as *Estado* (State) ($F=36$), *Administración* (Administration) ($F=35$), *Gobierno* (Government) ($F=25$) and *Ministerio* (Ministry) ($F=24$), to name but a few.

Table 2: *Lexis in UKA*

Non-legal conceptual field		Legal lexicón		Non-legal conceptual field		Legal lexicon	
		Section	305			Convicted	28
		Act	230	Insanity	26		
Person/s	213					Discharge	25
Victim/s	174					Evidence	25
		Offence	160			Tribunal	24
		Subsection	127			Paragraph	24
		Court	110			Regulations	20
		Probation	84			Conviction	19
		Board	83			Panel	18
		Secretary	73			Plead	17
		State	73			Disclosure	14
		Criminal	72			Penalty	14
		Offender	58			Tried	14
Domestic violence	55			Family	13		
		Representations	51			Authority	13
		Crime	50			Charged	13
		Schedule	47			Courts	13
		Effect	46			Murder	13
		Provision/s	40			Order	13
		Case	39			Surcharge	13
		Justice	38			Guilty	13
		Proceedings	38			Law	12
		Power	38			Manslaughter	12
		Jury	36			Indictment	11

	Article	32		Assault	10
	Chapter	32		Draft	10
	Procedure	30		Force	10
	Trial	30		Verdict	10
	Code	29		Harassment	10
	Commissioner	28			
			TOTAL: 481	TOTAL: 2397	

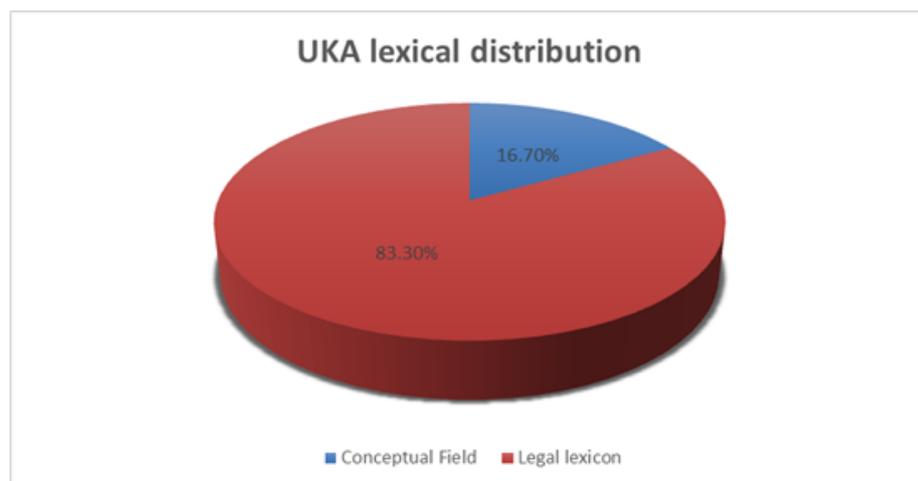


Figure 2: Lexical distribution in UKA

Table 2 and Figure 2 show different results for the UKA corpus. Out of 2,878 tokens, only 481 (16.7%) refer to the conceptual area of the Act, whereas 2,397 (83.30%) belong to legal terminology. The data show the aseptic, detached nature of this corpus as regards the inner problems and ramifications of domestic violence, since no references to gender are made. As a matter of fact, the only words that belong to this area are ‘person’ ($F=213$), ‘victim’ ($F=174$), ‘domestic violence’ ($F=55$), ‘insanity’ ($F=26$) and ‘family’ ($F=13$), which are diffuse enough to overlap with the legal lexicon group, by virtue of their subtechnical character.

Consequently, the most frequent words pertain to the area of the law text itself and its parts – ‘section’ ($F=305$), ‘act’ ($F=230$) and ‘subsection’ ($F=127$) – and its bodies (‘court’ ($F=110$), ‘board’ ($F=83$), ‘tribunal’ ($F=24$)), among many other within the legal domain. There are, interestingly enough, more words reserved to substantive law (outlined in red) in this corpus than in SPA, which not only denote wrongs in general – ‘offence’ ($F=160$), ‘crime’ ($F=50$) – but also specify the nature of the crimes, like ‘murder’, ‘manslaughter’, ‘assault’ and ‘harassment’. Additionally, the fact that parts of the law or other laws – the above-mentioned ‘section’ and ‘subsection’, but also ‘article’, ‘chapter’, ‘schedule’, ‘provision’ or ‘paragraph’ – have a strong presence in the corpus is an indicator of the intertextual nature of the corpus, as shall be illustrated below, in our metadiscourse analysis. This is after all – as was mentioned in the previous section – an Act amending other Acts.

1.2. The Macrostructure

Macrostructural rigidity is a common factor to legal genres, but this is especially true of statutes. According to Bhatia, legislative provisions have a conventionalized dominant structure or organizational framework, a predictable layout of its constituent parts which is peculiar to each legal culture (1993:137). Even if legislative texts in English and Spanish show the same formal structural constraints of statutes at large, there are important differences between them, in tune with the legal culture where they originate.

Citing Dale (1997), Cao (2007:105-108) outlines the prominent differences of statutes in both traditions. Enactments in Civil law systems begin with general legal principles, but lack definition and interpretation sections. Their style is natural and the statements are concise, flowing in logical sequences. They contain long sentences, but the subordinate complexity of English legal qualifications is absent in them. On the other hand, Common law statutes lack significant propositions of law, but abound in definition provisions, since it is precisely the constricting nature of the legal text which favours the use of specialized terminology that may require an explanation. Such abundance of legislative definitions, normally long and syntactically dense, reflects the eagerness of the text to avoid ambiguity and approach the utmost accuracy and precision of reference. The two corpora at hand are illustrative examples of this fact, displaying diverging shapes in accordance with the tradition they spring from. Table 3 delineates how the layout of the Spanish Act (SPA) is arranged:

Table 3: Macrostructure in SPA

Title
Preamble a) Enacting Formula b) Statement of Purpose
Preliminary Title (Sections 1-3)
Title I: Measures of Sensitization, Prevention and Detection (Section 3) CHAPTER I (Sections 4-9) CHAPTER II (Sections 10-15) CHAPTER III (Sections 15-16)
Title II: Rights of Women subject to Gender Violence CHAPTER I (Sections 17-20) CHAPTER II (Sections 21-23) CHAPTER III (Sections 24-26) CHAPTER IV (Sections 27-28)
Title III: Institutional Protection (Sections 29-32)
Title IV Criminal Protection (Sections 33-42)
Title V Judiciary Protection CHAPTER I (Sections 43-72) CHAPTER II (Section 57) CHAPTER III (Sections 58-60) CHAPTER IV Sections 61-69 CHAPTER V Section 70

Table 3 shows that the Spanish Act starts with a title, the date, a preamble and statement of purpose, as well as the enacting words which are the expression of royal assent or sanction. It also consists of a preliminary title in which the fundamental principles of the law are embodied, i.e. the contextualization of the law in the Spanish sociopolitical scope, its legal antecedents or its relationship with other international enactments. The main body of the law consists of five titles subdivided into chapters, and these into sections, or *artículos* in the original. The drafting style, just as Cao describes (2007: 106), is “natural and smooth, without awkward or involved sentences”, statements are concise and there are no definition sections. The Spanish law text reasons how measures of defense and awareness are necessary to protect the rights of women in the face of domestic violence, and how criminal and measures have to be preceded by basic rights like information access, social assistance, and economic and labour support, presenting an orderly sequence of ideas and simplicity of expression. With the exception of several references to the Penal Code and other Organic laws, the argument flows unimpeded and the act wording is clear and patent.

In contrast, Table 4 reflects how the UK Act (UKA) is organized in terms of macrostructure:

Table 4: Macrostructure in UKA

Short Title

Long Title -Statement of Purpose
Enacting formula
PART ONE, DOMESTIC VIOLENCE Sections 1-9
PART TWO, CRIMINAL VIOLENCE Sections 10-31
PART THREE, VICTIMS CHAPTER I, victim's code, sections 32, 33, 3, sections 32-34 CHAPTER II, representations and information 35-46 CHAPTER III, Other matters relating to law victims, 47-57
PART FOUR, SUPPLEMENTARY Amendments, extent, short title

Judging by the structure of the UK Act, it appears to be much more compact, but its simplicity of appearance is deceiving. It has no preamble, and, therefore, there seems to be no explicit connection of the law with the political and sociological conditions that justify the introduction of new legislation. There are no general principle provisions in it, in tune with Cao's affirmations about Common law legislation (2007:107). The only contextualization is provided from the legal framework itself: the Long Title links this law to previous legislation which is poised to amend, i.e., the Family Law Act 1996, the Protection from Harassment Act 1997, the Protection from Harassment (Northern Ireland) Order 1997, and section 58 of the Criminal Justice Act 2003.

Syntactically, the layout of the text is fairly dense, being articulated into sections (numbered) and subsections (numbers between brackets), and then into paragraphs (lower-case letters) and subparagraphs (lower-case Roman numerals), where subordinate clauses and phrases are interpolated in the form of legal qualifications. In general, as it was illustrated by the lexical analysis above, the UKA is an objective, almost detached technical piece of law-making. On a macrostructural level, this is shown by the complex wording of the text, full of exhaustive elaborations on points of law and providing no explanations about the sociopolitical area that the law wishes to regulate. The SPA, on the contrary, has a more extended macrostructure that painstakingly and extendedly explains its purpose, the reasons for its drafting and the context in which it is to be applied.

1.3. Metadiscourse markers in SPA and UKA.

The concept of metadiscourse could be defined as the set of strategies that reveal the existence of a dialogical framework between the writers and the readers of texts (Hyland 2005 and Dafouz 2008, among many others). It is "the means by which propositional content is made coherent, intelligible and persuasive" to the receivers of texts (Hyland 2005: 39). Salmi-Tolonen has recently used the concept of metadiscourse in the area of the law (2014: 63-86) to explain how the linguistic mechanisms of interpersonality determine the success of communication between the law-makers and the law-takers of a legal text. The aim of this section is to discern how both SPA and UKA relate with their receivers through the analysis of the two types of metadiscourse markers originally identified by Hyland: interactive or textual (the ones that organize information in a coherent and convincing way for the audience) and interactional or interpersonal (the ones that allow writers to express linguistically their attitudes and perspectives toward the propositional content of the text) (Hyland, 2005). The analysis will be applied to our corpus to find out how the writers –the legislators– project themselves and their audience in the discourse. In theory, and in tune with what metadiscourse theory seems to accept, the interpersonal markers deployed in legal texts are a reflection of the efforts made by law-makers to 'communicate' with the users of the law.

1.3.1. The textual level: interactive markers in legal texts

As Salmi-Tolonen affirms, textual or interactive markers are used to "organize propositional information in a way that the intended audience, the law-takers, will find coherent and convincing" (2014: 71). Furthermore, the notions of coherence and conviction in legal texts depend on the expectations of each legal tradition as to what a "coherent and convincing" text should be like, as will be argued below.

Within the group of Salmi-Tolonen's interactive markers, endophorics refer to information in other parts of the text, so as to support the argument and help law-takers to understand the text better (e.g. 'by virtue of' or 'under'; *de acuerdo con, al amparo de*, in Spanish). Frames, on the other hand, announce a discourse goal, framing it with respect to the rest (e.g., 'for the purposes of', 'where any agreement', in Spanish *en lo que respecta a, referido a*) or label the text stages (e.g., 'the first', 'the second'; *en primer/segundo lugar*). Transitions exert a connective function between clauses, marking "additive, contrastive and consequential steps in the discourse, as opposed to the external world" (Hyland, 2005: 50). They are mostly conjunctives and adverbial phrases such as 'in addition', 'but', 'therefore', and 'likewise', and, in Spanish, *además, pero, en consecuencia*. In tune with Hyland's taxonomy, code glosses are used by writers to ensure the readers understand the meanings of specific elements, phrases, or idioms. They are "textual devices that supply additional information by rephrasing, explaining or elaborating what has been said, to ensure the reader recovers the writer's intended meaning" (Hyland 2005: 52). In the present

study, the instances of these occurring in the UKA corpus are ‘namely’, ‘in other words’, ‘such as’, while in the SPA we find *es decir, por ejemplo*, or colons or parentheses when they precede exemplification or are used to re-define or illustrate. Finally, evidentials refer to the sources of information from other legal texts, acting as markers of the presence of intertextuality in the text and also connecting it with different legal sources such as precedents, statutes or other texts, like treaties and conventions.

Table 5 exemplifies the textual or interactive markers found in the corpus. The taxonomy is Hyland’s (2005), as adapted by Salmi-Tolonen (2014: 74) to legal texts. Additionally, Figures 3 and 4 show the amount and types of interactive markers in either corpus.

Table 5: *Interactive markers*

<i>Category</i>	<i>Function</i>	<i>SPA</i>	<i>Frequencies</i>	<i>UKA</i>	<i>Frequencies</i>
Endophoric markers	Reference to other parts of the text	<i>De acuerdo con lo establecido en el artículo 110</i> <i>Al amparo de lo previsto en el artículo 149.1</i>	18	As specified in/under article.. In accordance with the provision Subject to the provisions	347
Frame Markers	Sequencing devices, topicalizers	<i>Con referencia concreta al ámbito de ..</i> <i>A que hacereferencia expresa</i> <i>En lo referido a</i> <i>En primer lugar</i>	21	For the purposes of the following enactments Where a person is convicted . The first condition the second condition .	99
Transition markers	Relations of addition, comparison or consequence between main clauses	<i>Además de intervenir en los procesos /de las leyes aprobadas</i> <i>..así como en el ejercicio de la tolerancia .</i> <i>..pero integrándolas en la sociedad .</i>	55	But the person conducting such review . ..the court shall also make a restriction order	22
Code glosses	Elaboration of propositional meanings	Como Colon+ enumeration Brackets	149	shall be amended as follows Subject to the following provisions . Colon+enumeration Brackets (for clarification)	53
Evidentials	Reference to other texts	References to the Penal Code References to other laws (<i>Ley de Enjuiciamiento Criminal, Ley del Estatuto de los Trabajadores and others</i>)	148	References to other laws (among others, the ones that this Act amends)	180
TOTAL INTERACTIVE MARKERS:		391		701	

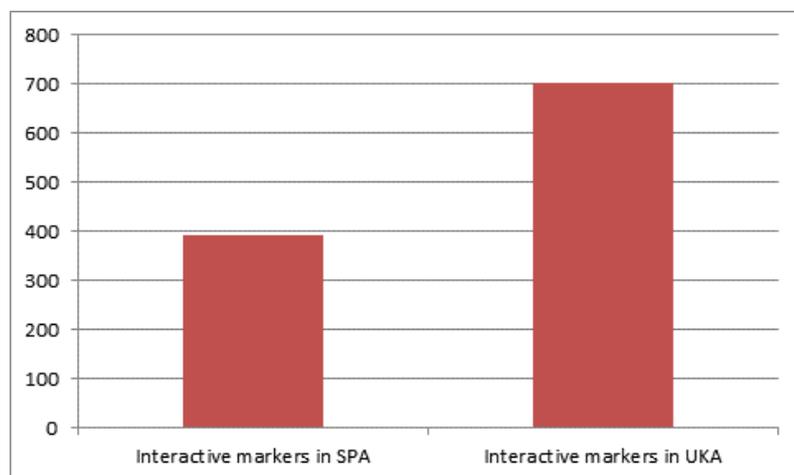


Figure 3: *Interactive markers in SPA and UKA*

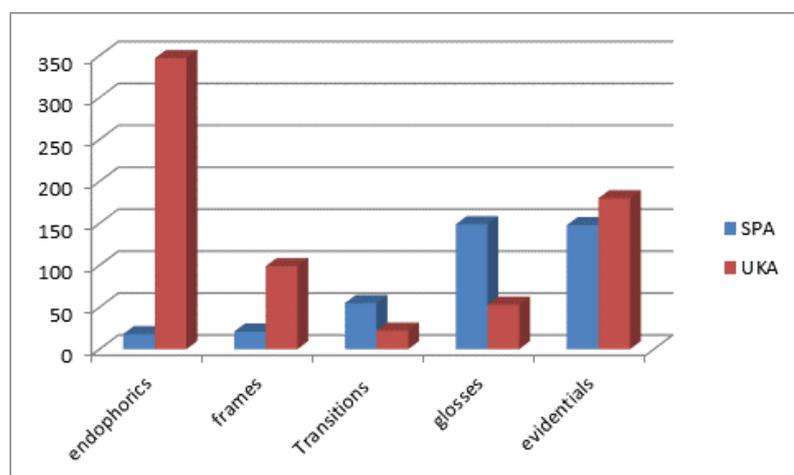


Figure 4: *Types of interactive markers in SPA and UKA*

The table and figures above illustrate the dramatic difference in number and types of markers between the two corpora. Ostensibly, and following the studies by Hyland (2005) and Dafouz (2008), among others, such results should point at a potentially greater readability of the UKA text, although they could also hint at the strong intratextual and intertextual character of English laws (Cao, 2007). As revealed by figures 3 and 4, the overall number of occurrences of endophorics, frames and evidentials in UKA is much higher than in SPA, reaching 347, 99 and 180 frequencies, respectively, in the former, and 18, 21 and 148 (also respectively) in the latter.

Following the above, it could be argued that the UKA is clear and coherent inasmuch as it is architecturally well built to be interpreted autonomously, any clarification being provided in the text itself, or through the context of other legal texts. Continental laws, in contrast, do not rely as much on intertextuality or intratextuality. Contrarily, in case of ambiguity, they resort to teleological interpretation, taking into account the political, social or economic background of the law. Hence, the internal cohesion of the UKA is vertebrated through the metadiscourse markers used to refer to this law and to the other laws that it amends. The overabundance of endophorics and evidentials, together with the dearth of transitions and glosses, does not make the law easier to process and understand by law-takers at large. All of these, however, are indications of the technical hue of the text, which is mainly written to be understood by experts. The excerpts below illustrate the intricate character of the British Act:

1. Where **by virtue of section 35(3) of the Criminal Justice and Public Order Act 1994 (c. 33)** a court or jury is permitted, **in relation to the section 5 offence**, to [...], the court or jury may also draw **such inferences** in determining whether he is guilty [...] (**evidential+endophoric+endophoric**).
2. Where a magistrates' court is considering **under Article 37 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))** whether to commit the defendant for trial [...], if there is sufficient evidence to put him upon trial **for the section 5 offence** [...] (**evidential+endophoric**).

In contrast, explanatory devices such as glosses ($F=149$) and transitions ($F=55$) are much more salient in the Spanish law, even if in more modest numbers. The technicality found in UKA is not necessary in the Spanish equivalent, the latter being a product of a system where the law does not have to stand upon itself, but rather upon other sources of interpretation like the *travaux préparatoires* of the Parliament and other social or political contextualizations having to do with the moment when the law was passed. Additionally, the quantity of transitions and glosses in SPA indicate that it is mainly written to be understood by lay people. Examples of this vocation to explain and illustrate go as follows:

3. *Sin embargo, conocerá de los juicios por faltas tipificadas en los artículos 626, 630, 632 y 633 del Código Penal, el Juez de Paz del lugar en que se hubieran cometido* (“**However**, the Justice of the Peace of the place where the misdemeanours were committed will interpret them **under articles 626, 630, 632 and 633 of the Penal Code**”)(**transition+evidential**).
4. Se apoya a las víctimas a través del reconocimiento de derechos **como el de la información, la asistencia jurídica gratuita y otros de protección social y apoyo económico** (Victims are assisted through the recognition of rights **such as those of information, legal assistance and other means of social protection and economic aid**) (**code gloss**).

In sum, this difference between both corpora as regards the amount and typology of textual markers might be indicative of the fact that readability (intended for the general audience) is to be separated from clarity and compactness of reference (aimed at the expert) and, hence, that coherence and intelligibility do not imply the same things in either tradition of law.

1.3.2. The interpersonal level: interactive markers in legal texts.

Hyland (2005:49) classified interactional metadiscourse markers into five major categories: hedges, boosters, attitude markers, references to self and engagement markers. Hedges refer to situations in which writers –the lawmakers– desire to convey their presence in the text through verbs, nouns or adjectives, evidencing their reluctance to present propositional information categorically. This would be the case of epistemic English verbs and expressions like ‘should’, epistemic ‘must’, ‘may’, ‘might’, ‘probably’, ‘likely’, or Spanish *ser probable, debería, quizá* or *a lo mejor*, which could not be found in the Spanish corpus.

Boosters, on the contrary, could be described as metadiscourse markers that lawmakers employ so as to express their certainty concerning an idea, or to emphasize their claims in the text (deontic verbs like ‘shall’, deontic ‘must’, nouns like ‘duty’ and ‘liability’, and adverbs and adjectives like ‘clearly’, ‘imperative’ and ‘promptly’). The Spanish counterparts of boosters are to be found amongst verbs in the future tense which have a deontic hue, namely, *podrá, deberá*, and adverbs and expressions of certainty, such as *evidentemente* plus nounlike *deber*.

Attitude markers, on the other hand, are employed when writers are in need of communicating their perspectives and attitudes towards the propositional content of the text. Within this group we find English verbs like ‘feel’, ‘believe’, adverbs like ‘unfortunately’ and ‘surprisingly’, and adjectives like ‘appropriate’ and ‘justified’. In the Spanish corpus, verbs in the reflexive passive like *se considera, se manifiesta* or adverbs like *desafortunadamente* and *sorprendentemente*, together with ‘subjective’ adjectives like *complejo* and *justo* perform this function. Finally, references to self are instances where law-makers make an explicit reference to themselves or the text itself (‘we’, ‘this Act’/ *la presente/esta Ley, nosotros*) and engagement markers are those by which law-makers directly refer to, or build relationship with the law-takers (‘agree’, ‘respect’; in Spanish *estamos de acuerdo, respetamos*).

Table 6 displays the results obtained from both corpora in terms of type and frequency:

Table 6: Hyland’s interactional markers in SPA and UKA. Adapted by Salmi-Tolonen (2014:75)

Category	Function	SPA	Frequency	UKA	Frequency
hedges	Law-maker’s comment	No occurrences	0	verbs: should be dealt with, may be prescribed, might have been charged nouns: 0 adverbs/adjectives: is likely to mean	103
boosters	Law-maker’s emphasis, emphasizing the objective	verbs in the future with a deontic hue: <i>podrán acceder, deberán, serán compatibles</i> adverbs/adjectives: <i>fundamental, urgente, prioritario, necesario, legal, jurídico, excepcionalmente, evidentemente</i>	468	verbs: shall (as in The Court shall make”), deontic must (as in ‘must provide the information) nouns: obligation, duty adverbs/adjectives: necessary, promptly, due, required	113
attitude markers	Law-maker’s attitude	verbs: <i>se considera, se apoya, se aborda, se contempla, se pretende</i> nouns: 0 adjectives: <i>complejo, brutal, inhumano, degradante</i>	350	verbs: consider, regard nouns: 0 adverbs/adjectives: appropriate, sufficient, suitable	32

references to self	Law-maker's Self-references	verbs: <i>Nos encontramos</i> nouns: <i>esta ley/la presente Ley</i> adverbs/adjectives: 0	13	verbs: 0 nouns: . This Act	13
engagement markers	Building of relationships with the law-taker.	verbs: <i>respetar, respetando</i> nouns: <i>respeto, compromiso</i> adverbs/adjectives: <i>adecuado</i>	10	verbs: 0 nouns, opportunity, right adverbs/adjectives: entitled	10
TOTAL INTERACTIONAL MARKERS:		841	271		

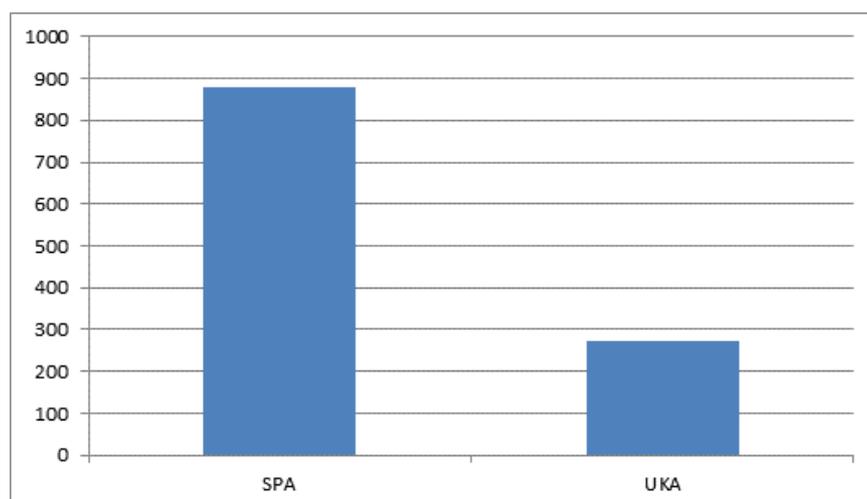


Figure 5: Interactional markers in SPA and UKA

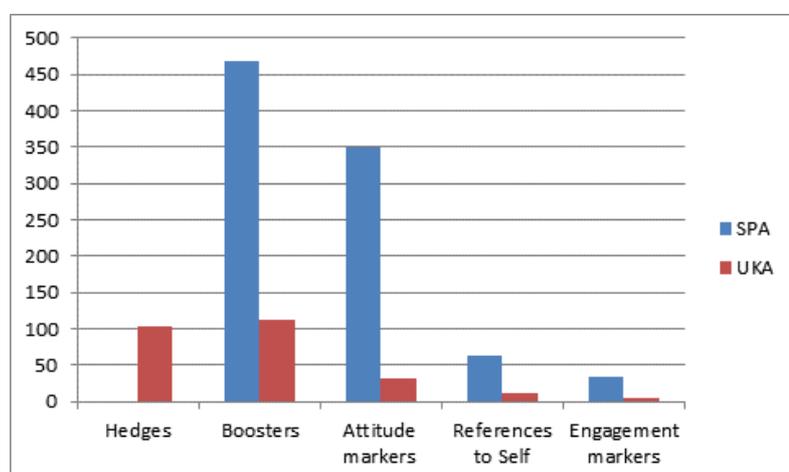


Figure 6: Types of interactional markers in SPA and UKA

In the legal texts under scrutiny, interactional markers have been considered as “markers of epistemic modality” (Salmi-Tolonen 1993, in 2014: 75), which are used to “convince the law-takers of the law-makers good intentions and good cause, drawing them into the discourse and making them participants to further this cause” (Salmi-Tolonen 2014: 76). Remarkably, the amount of interpersonal markers in SPA is considerably higher ($F=841$) than in the UKA ($F=271$). This could be interpreted as an indication that the Spanish law tries harder to establish a dialogue with the receiver of the text. The example below illustrates this interpretation:

5. *Para la ciudadanía, [.....], la Ley [reference to self] quiere dar una respuesta firme y contundente [...]. (“To the citizens, the Act [reference to self] aims to provide a firm and forceful response”).*

In contrast, the English corpus seems to be comparatively more detached in expressing the relationship between the law-maker and the law-taker. The only exception where interactional markers are more numerous in UKA are hedges ($F=103$), which are not found in the Spanish corpus. This, again, might be understood as the relative lack of emphasis of the English law, or as an

apparent unwillingness to categorically assert its imperative position. Similarly, it may also be an indication of the proverbial inclination of the British culture towards understatement and litotes (Hubler, 1983). For instance:

6. The first condition is that the number of counts included in the indictment **is likely to mean** that [...]
7. [...] if the offender is transferred to a prison or other institution in which he **might** have been detained [...], whether he **should** [...] be subject to any licence conditions or supervision requirements.

Boosters, on the other hand, have a similar relevance in the UKA ($F=113$), but are relatively low in number in comparison with SPA ($F=448$), where they show an extremely pervasive presence, in line with the Spanish tendency to express thoughts and feelings through hyperbole (Cascón, 2000), as in:

8. *Estos servicios podrán solicitar al Juez las medidas **urgentes** que consideren necesarias.* (“These departments may demand from the judge the necessary **urgent** measures”)
9. *Las mujeres víctimas de violencia de género serán consideradas colectivos **prioritarios**, [...].* (“Women who are victims of gender violence shall be considered as **priority** groups”).

Likewise, attitude markers are ubiquitous in SPA ($F=350$), while scarce in UKA ($F=32$). Actually, both boosters and attitude markers act as an aid for the legislator to firmly establish the norm. In fact, Spanish legislative discourse manages to establish it mainly through the deontic use of the future and with some solidly-grounded adjectives like *flagrante*, *complejo*, *inhumano*, *brutal*, which leave no room for soft expressions or ambiguous meanings, as in:

10. *La violencia de género [...] se manifiesta como el símbolo más **brutal** de la desigualdad [...].* (“Gender violence manifests itself as the most **brutal** symbol of inequality”).
11. [...] *sin que en ningún caso puedan ser sometidos a torturas ni a penas o tratos **inhumanos** o **degradantes**.* (“[...] but in no case may they be subjected to torture, or to **inhuman or degrading** treatment”)

In UKA, modals of the deontic kind are used to lay the ground of the law, such as ‘shall’ and ‘must’, as well as nouns like ‘obligation’ or ‘duty’, and a number of adjectives like ‘necessary’, ‘promptly’ or ‘legal’. Below, it can be observed how differently prescriptions are made in the English law, where the boundaries of the legal and the unlawful seem almost subdued as compared to the Spanish law:

12. It is the **duty** of any person or body within subsection (4) [...]
13. Rules of court may make such provision as appears to the authority making them to be **necessary** or **expedient** [...]

In the Spanish corpus, the Act itself –*esta Ley, la presente Ley*– is again more present ($F=63$) than in the English one (‘this Act’), where there are only 10 self-references. Finally, engagement markers are scarce in the corpora ($F=10$ in both), but in reaching out to the law-takers, both texts show a number of conciliatory and appeasing expressions of respect and commitment such as *respetar* and *respeto* in Spanish and ‘opportunity’, ‘right’, or ‘entitled’, in UKA. For instance:

14. En el campo de la publicidad, ésta **habrá de** respetar la dignidad de las mujeres [...] (“Advertising **shall** respect the dignity of women”).
15. Any person mentioned in the order **is entitled to** be heard [...]

Similarly to the results obtained for lexical expressions, the Spanish corpus seems to be more involved in the expression of the general principles of the law and the purposes it aims to attain, than in the more technical, detached details of law drafting. Conversely, the UKA could be regarded as a purely technical text which is more concerned about exhaustively detailing how the sections of the law are to be construed.

Conclusions

This research has attempted to describe how cultural attitudes are reflected in the drafting of laws on the subject of gender/domestic violence. Lexically, in view of the data obtained from the corpora presented above, it appears that the Spanish law gets much more involved in characterizing who the subjects and the victims of the law are. In the so-called act of “positive discrimination” that its legislators have been allegedly accused of creating, the Act does not quibble in regarding women as the victims of violence *in stricto sensu*, recommending explicitly how such violence is to be prevented and its subjects protected. In contrast, the English law seems to favor a relative lack of involvement and, thus, more detached, distant names for the law-takers (‘the subject’, ‘the victim’), thus rejecting to point a finger at wrong-doers and victims. Macrostructurally speaking, the Spanish legislative text, in line with those of civil-law systems, is characterized by its open texture and is made up of simple, uncomplicated sentences that state policy and principles in broad terms. Rather than comprehensively exploring every conceivable contingency, it elaborates the contents and purposes of the law in a much more ‘user-friendly’ way to its mainstream reader.

The English enactment, comparatively, is fairly restricted in subject-matter, covering specific areas of rule-making, in the attempt to complete or amend other legal texts. It, thus, resorts to a more technical kind of drafting, full of intratextual and intertextual references. The only context it relies upon for interpretation is the juridical framework of the law itself, but since the essential purpose of UKA is to amend previous provisions on the subject, other Acts need to be considered for the purposes of legal application. Pragmatically, this difference in involvement, or lack of it, is characterized also in the way that interpersonality reveals the dissimilar stances (one authoritative and personal, the other unbiased and technical) that law-makers take when addressing the receivers of the law. All in all, the Spanish instrument seems to be written to be read by the layperson, whereas the English one seems to be a product to be understood and handled by experts.

In turn, the drafting and interpretive asymmetries in legal cultures and in the way in which societies regard the subject of gender/domestic violence are important for the translator's task. Macrostructurally, legislative texts in English and Spanish should not be very challenging to translate, since they show the formal constraints of Parliamentary rule-making texts at large. But as it was mentioned above, English legislative texts have to resort, ideally, to self-sufficiency of interpretation, which implies that subsections, and sometimes even entire sections, are complexly formulated as a single sentence and definitions abound. On the contrary, the Spanish enactment begins with statements of principle, which are fundamental to their subject matter, and lacks qualifications and definition sections.

Additionally and contrary to what may be expected, full-blown legalisms are not liable to create fuzzy interpretations and usually have an equivalent in the target language. Hence, legal terms, such as those mainly favored by the English Act, do not necessarily pose translation problems, as long as the process takes place within the borders of "simple transposition" (Šarčević 1997). It is subtechnical terms -and specifically those which have been deemed to belong to the conceptual field of the law- which might present potential problems (Baker, 1988; Tiersma, 1996; Marín, 2014). These should be contemplated and translated not according to their general meaning, but to the meaning they acquire in the context of legal discourse and to the topic that the Act aims to regulate.

In sum, in the same way as lawyers are the interpreters of the law, translators may become interpreters and mediators between legal cultures: they are promoters of intercultural communication from the moment their function is to constitute a link between different languages and cultures. Hence, deep knowledge of different legal systems and the way in which a relevant subject such as gender/domestic violence is regarded by the laws of different countries is required for the successful rendering of legal texts, since it should provide more comprehensible and consistent translations of texts in this field. After all, knowledge about the sociopolitical and legal context in which legal texts exist is, in translation, as important as the knowledge of the language itself, in order to pre-empt ineffective, inaccurate translations and interpretations of the law.

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María Ángeles Orts Llopis has been teaching and translating Professional English since the onset of her career, especially in the areas of law, economy and business. She has taught and coordinated numerous postgraduate courses in Legal, Economic and Scientific English, also publishing extensively on these areas. Her present research revolves around the economic and legal lexicon of the Global Systemic Crisis, the translation of corruption crimes and gender violence, the expression of power and legitimation in legal texts and the translation and interpretation of legal genres in the Common Law and Continental traditions.

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[1] Office for National Statistics:
<http://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/2015-02-12>

[2] *F* stands for frequency.

[3] Substantive law defines rights and duties, such as crimes and punishments in the criminal law and civil rights and responsibilities in civil law, while adjective law is the portion of the law that deals with the rules of procedure governing evidence, pleading, and practice (*Merriam Webster Dictionary*)