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'Tell Us Only What You Know': Evidentiality in the Discourse of Participants in Spanish Trials

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Abstract

The aim of this proposal is to explore the use of evidentiality in Spanish trials and its relationship with the genre's conventions and the roles of the participants in these discursive events. To do that, we base our study on a quantitative–qualitative analysis of a transcribed corpus of oral Spanish trials. Evidentiality is a semantic-functional category that includes linguistic devices that mark the source of information behind the speaker's statements. The explicit marking of the source is not obligatory in Spanish; however, in specific genres (legal, parliamentary, and academic), it becomes a powerful argumentative tool for negotiating the validity of the ideas. We analysed how different participants in the trials made use of evidential expressions. It can be observed that speakers with expert knowledge about the genre conventions (jurists) employed evidentiality differently from the way in which lay participants did. Some differences can be observed at the level of the types of evidentiality. For example, generic inferences and the reporting of laws and scripts are typical of the jurists' discourse, while lay participants, particularly the witnesses, referred more often to information based on observation. Furthermore, our analysis suggested that jurists were more likely to exploit evidential constructions for argumentative or strategic purposes. For example, logical reasoning based on presumably known or shared information can be used to downgrade the speaker's commitment or to mitigate and attenuate disagreement.

Keywords Evidentiality · Spanish trials · Legal discourse · Attenuation

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Introduction

The purpose of this research is to study the ways in which evidentiality appears in a specific legal genre, namely trials. One of the main reasons that this particular genre is interesting for the study of evidentiality is that "[i]n law, fact is not found but reconstructed based on the admissible evidence" (Cheng and Cheng 2014). This statement leads to the following two ideas, among others.

First, the 'facts' mentioned in court may not be true, although all the participants attempt to present their facts and speech as being as credible as possible. Second, since the trials and the final decisions of the judges are based on the way in which facts are presented (among other considerations), some specialised devices for making utterances admissible must exist.

One way to produce a convincing discourse is through the use of evidentiality. In this sense, signalling the source of the information and the way the speaker has accessed this source may contribute to increasing the reliability of the discourse. It is not quite the same a statement made using an evidential device, as can be observed in (1), or without it (1′)

(1)
D: en cualquier caso nosotros no tenemos la autoridad/ MÉDICA ni la autoridad CIENTÍFICA/ pero/ mm/ aun siendo así **parece que el sentido común/ nos dice** que es una situación/ EXTREMADAMENTE forzada que se pueda llegar a esa conclusión (SVB)[1]
D: in any case we do not have the MEDICAL/ authority nor the SCIENTIFIC authority / but / mm / even though **it seems that the common sense / tells us** that it is a situation / EXTREMELY forced to reach that conclusion

(1′)
D: en cualquier caso nosotros no tenemos la autoridad/ MÉDICA ni la autoridad CIENTÍFICA/ pero/ mm/ aun siendo así/ es una situación/ EXTREMADAMENTE forzada que se pueda llegar a esa conclusión
D: in any case we do not have the MEDICAL/ authority nor the SCIENTIFIC authority / but / mm / even though it is a situation / EXTREMELY forced to reach that conclusion

While the first example (1), in which the source of information is signalled, presents the information as being reasonable (it is "common sense" that leads us to the conclusions presented), in the second case (1′), seems that the statement of the lawyer is biased by his own interests, and his utterance is, therefore, less credible.[2]

[1] The examples are followed by the code of the trial from which the example was extracted. S stands for 'labour court', C for 'civil court', CA for 'administrative court' and P for 'criminal court'. V designates the place where the trial took place (Valencia) and A or B is an aleatory letter to identify the trial.

[2] Credibility is the ability of being convincing or believable. In this work, we understand credibility as a matter of degree (see Seniuk 2013) that can be applied to the speech of any participant at court, that is to say that being credible can be as necessary and useful for (expert) witnesses as for lawyers at court. The credibility or reliability that triers of facts or an audience grants to a person can be modulated through language (Conley et al. 1978).

In order to conduct this study, we have considered three research questions. The first is how evidentiality is manifested in trials? Second, what kind of differences can be observed in the use of evidentiality among people in law and lay participants in this particular genre in which professional and lay people interact? Finally, if these differences are observed, how can we explain them?

In the following sections, we will discuss the category of evidentiality in Spanish and its relationship to the discourse genre in which it appears. We will also describe the discursive traits of the trials, paying special attention to the role of participants in the Spanish courts. We will then explain the methods used in this study and will present the results of the analysis. Finally, we will provide conclusions based on our research.

Evidentiality and Discourse Genres

In evidential languages, evidentials are codified in grammar and their use is obligatory (Anderson 1986; Aikhenvald 2004). However, in Spanish and other called 'non-evidential languages', evidentiality can be described as a functional category (Hassler 2010; Albelda 2015, 2016; Izquierdo Alegría et al. 2016; Kotwica 2019). "According to this broad [functional] definition, evidentiality is a semantic domain that expresses the source of information through several linguistic mechanisms beyond the purely morphological level" (Albelda and Estellés 2018: 334).

The definition quoted above presupposes that evidential meanings can be expressed by a variety of language expressions and strategies (such as discourse markers, verbal constructions, specific tense uses and other elements of which the evidential functioning depends on the context in which they are used) (González Vázquez 2016). It is the context that activates the evidential meaning in many expressions, as stated clearly in the discursive definition of evidentiality in Spanish adopted by Cabedo Nebot and Figueras Bates (2018: 9):

> [T]he functional category of evidentiality is brought to discourse by the deployment of a **set of linguistic strategies that make explicit what counts as evidence in certain contexts and in certain textual genres,** and what particular pragmatic meanings these mechanisms acquire, invoke and project onto the on-going discourse (Cabedo Nebot and Figueras Bates 2018: 9, emphasis added).

Although, as expressed above, the context is the key factor for recognising the markers of evidentiality in the discourse, there are several more objective parameters that

can be taken into account. More precisely, in order to consider an evidential use, the evidence must be available to the speaker (Anderson 1986: 274: "(e)videntials show the kind of justification for a factual claim which is available to the person making that claim"). This implies that the perception of the speaker (*I saw that…*) could be considered a trace of direct evidentiality, while the perception of others could not (*My sister saw that…*). Another useful parameter for recognising evidential uses is the presence of the realis context (Anderson 1986), which implies that a negated verb of perception would not be considered to be an evidential (*I did not see that…*). Finally, as Boye (2010) and Boye and Harder (2009) suggested, evidentials operate over a propositional scope.[3] Moreover, it should be noted that a single language element may express different types of evidential meanings, depending on the context, structure, as well as the strategies pursued by the speaker.[4] This means that a single element can be assigned different evidential meanings (Whitt 2010). In "Types of Evidentiality" section, we will revise the classification of evidential meanings as adopted in the present study.

The broad conception of evidentiality has still other interesting consequences related to the discursive behaviour of evidential elements:

> This wide perspective on evidentiality also implies the existence of fuzzy boundaries with other neighbouring categories such as epistemicity, mirativity, and mitigation (…) and also contemplates a genre-related influence in the possibility of acquiring different pragmatic values, which supports the impact of genre in the behaviour of evidentials (Albelda and Estellés 2018: 334).

Multiple studies have proven that the genre is one of the crucial factors determining the way in which evidentiality is expressed and the pragmatic functions that it displays. As recent works prove (for example, Cabedo Nebot and Figueras Bates 2018; Albelda and Estellés 2018, this volume), the correlations between the expression of evidentiality and the discourse genre are multiple and multi-layered. The analysis of evidentiality conducted via a close understanding not only of the co-text but also of the cultural and discourse contexts allows for a better description of the functioning of this category. At the same time, studies of the use and functions of evidential marking in different genres help to obtain better insight in those genres and to pinpoint the strategies used to accomplish different pragmatic functions. As we will attempt to demonstrate, this is the case when analysing evidentiality in trials from Spanish courts.

Expression of Evidentiality in Trials

The resolution of a disagreement in the courtroom entails that the parties in conflict have presented the judge with opposing versions of the facts in the dispute. In this

[3] See Kotwica (2019) for a more detailed explanation of the parameters that help to identify evidential elements in Spanish.

[4] For example, see Estellés (2018) for a discussion of the different uses of the evidential *al parecer* in a parliamentary corpus.

situation, the judge has to determine what can be understood as being true in order to provide a basis for his/her decision. The impossibility of knowing exactly what happened in the past means that, in law, the truth is understood as the existence of reasons to consider particular information to be true (Ruiz Monroy 2016). In other words, it can be perceived a greater or lesser approximation of the truth in relation to the context and the circumstances in question (Taruffo 2010: 99).

Since the construction of the truth is accomplished mainly via what is stated in court, it seems logical to think that those mechanisms that help to present the information as objective or as reasonable as possible will be of great value for the participants. This is why the use of evidentiality is necessary and argumentatively relevant in this genre.

As stated previously, the main goal of a trial is to resolve a dispute. However, as many participants are included in this process and each of them performs a specific role, it is necessary to reflect on the functions of each role in order to understand their particular goals more appropriately. Our hypothesis in this work is that the different roles involve different uses of evidentiality.

The participants in a trial can be classified according to their knowledge of the law and their discursive rights in the courtroom. Accordingly, we can distinguish between professional and lay participants (Briz 2011; Villalba 2017). Among the professional participants, we can find judges, court clerks, court agents, party agents and lawyers. With regard to lay participants, we consider the defendants, plaintiffs, witnesses and expert witnesses.

The judge, who is the highest authority in the courtroom, has the function of moderating and gathering as much information as possible to issue a fair judgement.[5]

Lawyers for both parties[6] share the same goal in court, which is to persuade the judge to make a judgement based on their claims. Despite this, some differences can be identified in this group of professionals. On one hand, the lawyers for the active party represent the interests of the person who raises a claim in a dispute.[7] During the trial, they will rely on the presentation of evidence and their reasons that make their version of the facts convincing. On the other hand, lawyers for the passive party will attempt to refute the arguments of the counterpart and present evidence and testimonies to support their own claims.

It is possible to identify a group of professional participants who, during the course of the trial, adopt a passive role; that is, they appear as assistants to facilitate the development of the process, but do not intervene to a significant degree. Within this group are the court clerk, the party agent and the court agent.

The court clerk records the trial and writes the minutes including the relevant data. During the process, the court clerk has right to interrupt if s/he needs additional information to perform his/her duty.

[5] See the *Commentary on the Bangalore Principles of Judicial Conduct* (2007).

[6] We insert the figure of the prosecutor here, as s/he represents the interests of the victim in contrast to those of the defendant.

[7] In criminal court, the interests of the plaintiff are represented by the prosecutor, who intervenes automatically and, if wanted, a private prosecutor as well.

The party agent acts as a representative of the parties in the process. This is a participant whose presence is not always mandatory during the hearing.[8] In our corpus, this figure appears only rarely, which is why we will not take this figure into account during our analysis.

Finally, the court agent is an assistant whose function is to assist in the course of the trial by bringing the witnesses into the courtroom and facilitating the procedures that are performed in the courtroom.

Among the lay participants, the terminology used to refer to the parties involved in the process depends on the jurisdiction[9] and, as analysts, some limitations need to be addressed. In Spanish legal system (which is attached to Continental Law) a citizen or entity can take legal action against another person or entity through any jurisdiction. This is a big difference from the Common Law's system, where it is the State that files legal action in criminal court. The idiosyncrasy of the systems belonging to the Continental Law and Common Law means that there is not enough terminology in English to refer to the Spanish legal reality. Therefore, we have chosen to use 'plaintiff' to refer to the person who decides to initiate the trial and 'defendant' for the person against whom legal action has been taken in every jurisdiction.

The defendant is the person who has allegedly performed the act due to which the judicial process has been initiated. Since s/he has representation, his/her role in the trial is passive; that is, s/he observes the progression of the trial and only intervenes when asked to clarify certain points.

The plaintiff is the person who has initiated the legal process. His/her role in the room is to intervene during the examination and cross-examination, if requested.

In trials in which an expert report has been required, the figure of the expert witness is involved. Expert witnesses are professionals in different fields (medicine, psychology, linguistics and so on) who write a report on some aspect that can provide more information about the facts that are being judged. Their participation focuses on ratifying their reports and answering any questions the lawyers or the judge may have about them.

Finally, the witnesses are those people who offer their testimony for the benefit or detriment of the defendant. Unlike the persons indicated, witnesses have an obligation to tell the truth because, if they do not do so, they could commit the crime of false testimony. Their function is to answer the questions that the lawyers or the judge want to ask.

[8] In accordance with Law 1/2000 of January 7 of Civil Procedure, the figure of the party agent is not necessary when the characteristics indicated in Article 23 are met. Similarly, in labour court, the presence of this professional is not mandatory.

[9] Spanish legal system has four jurisdictions. Each jurisdiction focuses on different matters: criminal jurisdiction encompasses actions present in the Criminal Code, administrative jurisdiction regulates the activity of Public Administration, labour jurisdiction focuses on the management of the conflict between employers and employees and civil jurisdiction takes care of all the cases that are not addressed in the previous jurisdictions. Furthermore, the way process is constructed and its participants is different from one jurisdiction to another.

Every role is constrained by the rights and obligations governed by the genre, as well as the rigidly fixed discursive goals they aim to achieve. Thus, knowledge of these discursive patterns can provide a better understanding of the evidential resources that could be expected according to each role, and to theorise about the possibility that evidentiality can develop other pragmatic functions in this particular context, such as attenuation or intensification.

Corpus and Methods

In order to carry out our study, we followed a quantitative and qualitative methodology based on the study of the Corpus Val. Es. Co. of Oral Legal Discourse (unpublished). We selected two Spanish trials from each subject-related jurisdiction present in the Spanish legal system, namely civil, criminal, labour and administrative systems. In total, our corpus contained eight trials and 49,227 words, but after refining the data, for this study we worked with 41,715.[10]

As we have explained, it seems that evidentiality is embedded deeply in the cultural and contextual traits of the discourse genre "trial", specifically to the different roles that are performed by the participants in this discursive event. Considering this, we have based this research on the analysis on two main variables, namely the type of evidentiality and the roles of the participants.

Types of Evidentiality

Considering the well-known classification proposed by Willett (1988), we distinguished between direct and indirect types of evidence. The domain of direct evidentiality includes different types of perception. For example, with visual evidentiality, the speaker accesses evidence via visual perception. This type of evidentiality is usually expressed by specific constructions of verbs of perception (Whitt 2010). In Spanish, Bermúdez (2005) and Estrada (2009), among others, pointed out evidential uses of the verb *ver* ('to see').

Within the domain of indirect evidence, there are two major types: inferences and reportatives (Willett 1988). Inferences, according to Plungian (2010), pertain to the particular domain of the "indirect/personal" type. As Bermúdez (2005: 13) pointed out, prototypical inferences are those that are based on a personal source and entail cognitive access to the information; however, this author presumed that there was a continuum ranging from purely sensorial to purely cognitive sources of information (Bermúdez 2005: 10). Inferences appear as an intermediate category between the direct and the indirect types of evidence in the classification by De Haan (2001: 196), who described them as the only evidential type that was simultaneously time direct and not first-hand. The special nature of inferences was also addressed by

[10] We have selected only interventions of the participants that interest us for this study (see "Roles of Participants" section). In addition, tags with contextual information have been removed and those words divided by overlaps have been quantified as one word manually.

Squartini (2008). This author proposed that, in order to account for the different types of information on which an inference can be built, one must consider inferences in terms of a gradient in which three main points are distinguished, namely circumstantial inferences, generic inferences and conjectures. All of these are based on the inferential processes, but some distinctions can be made:

> However, the three are differentiated along a parameter that is connected to the balance between the speaker's involvement as opposed to the import of external evidence. While in one of the two poles (circumstantial inferences), the speaker's own reasoning is heavily supplemented by external sensory evidence, in the opposite pole, all external evidence is missing, the speaker being solely responsible for the reasoning process. In between, the intermediate area of generic inferences can be found with a balanced proportion of the speaker's own reasoning and external information deriving from general world knowledge (Squartini 2008: 925).

Based on the above quotation, in order to distinguish between the three types of inferences, one should focus on the proportion of the speaker's reasoning involved versus presence of evidences from the external world.

Finally, in the case of the reported evidentiality, the information originates from an external source (second-hand, third-hand or folklore, in the classification by Willett 1988), which means that the speaker acquires the information from the discourse of others. Special note should be taken of the direct reported discourse as a case of evidential marking. Direct reported discourse is extremely common in oral Spanish. As Estellés (2015) proved for the case of colloquial Spanish, direct reported speech is often inserted into the discourse without any specific introductory elements that could be categorised as evidential markers (for example, verbs of communication). However, Estellés (2015) showed that when such explicit markers do not appear, it is the specific prosodic configuration that functions as evidential mechanism.[11]

In sum, in this research we took into account the following types of evidential meanings: direct sensorial evidentiality (for example, evidences from the vision), inferences (circumstantial, generic, conjecture) and reportatives.

Roles of Participants

In addition to the identification of types of evidentiality, our analysis also takes into account the role of the speaker who uses the evidential mechanism. It has already been explained that we postulate the hypothesis that genre influences the way in which evidentiality manifests in discourse.

[11] Quoting Estellés (2015): "The fact that marked prosody appears whenever a linguistic mark is lacking, but not vice versa, points to the important role that prosody might play as an indicator of DRD when no other linguistic marks signal the presence of reported discourse. In such circumstances, it stops being just redundant or concomitant, and becomes prominent and non-optional. Consequently, prosodic markedness could be regarded as an evidential mechanism".

Table 1 Frequencies of evidential types in the corpus

	Frequency	Percentage
Reported evidentiality	209	64.1
Generic inference	82	25.2
Visual evidentiality[a]	17	5.2
Conjecture	13	4
Circumstantial inference	5	1.5
Total	326	100

[a]Visual evidentiality was the only type of direct evidentiality observed in the corpus

In our analysis, we have distinguished between professional and lay participants. Among the professional participants, the figures of the judge, lawyers and prosecutor have been taken into account. The court clerk, the court agent, or the party agent have not been considered because their contribution during the hearings is scarce, as their oral participation is limited. With regard to the lay participants, we have worked with the statements made by defendants, plaintiffs, witnesses and expert witnesses.

The first part of the qualitative analysis of the aforementioned variables was conducted manually because a close analysis of each context was necessary to judge the type of evidential meaning expressed. In the second phase of the study, we transformed the results into nominal variables and conducted a simple statistical analysis in order to investigate whether any interesting associations existed.

General Results

We analysed 326 linguistic elements as occurrences of evidentiality or evidential markers, which is 7.81 evidential markers per every 1000 words. Table 1 shows the frequencies of each type.

According to our results, the presence of reportative evidentiality was the most prominent in the entire corpus (64.1%). This was due to the format of the trials in which testimonials and legal documents were quoted literally or referred to on numerous occasions. The second most frequent type of evidentiality was generic inference (25.2%); that is, an inference based on the previous knowledge of the speaker, general information and/or logical reasoning. The other two types of inferences did not appear frequently in the corpus. Conjecture appeared in 4% of the cases, and circumstantial inference only appeared in 1.5% of them. We found visual evidentiality in 5.2% of the examples. In the following paragraphs, we will show some examples of how each evidential type was expressed in the corpus.

Evidentiality in the Corpus of Trials

All instances of direct visual evidentiality in the corpus were expressed via verbs of perception, mainly *ver* ('to see'); there was also one case of *apreciar* ('to perceive').

The following example (2) is the most prototypical context in which the speaker describes what he/she saw personally.

(2) T2: pues les he venido a contar que salí de casa↑/ yy **vi que había mucho follón** en la calle↑ (PVB)
T2: so I came to tell you that I left the house / aand I saw that there was much racket in the street

The linguistic element that transmits evidentiality here is the verb *ver* ('to see') and the verb is conjugated in the first person singular, signalling that the evidence was accessed by the speaker him- or herself and no one else. In this particular case, the speaker relates what s/he saw when s/he left the house and entered the street. It is interesting to observe that the speaker appears in the role of a witness during the trial, and s/he stresses explicitly that s/he came to the court to describe what s/he observed that may be related to the case (*les he venido a contar que…*).

Apart from first person uses of verbs of perception, we also found examples of plural forms. The following example illustrates the use of the first person plural (*vemos*, 'we see').

(3) T3: bueno pues eel servicio comienza cuando vamos patrullando por la avenida Conde Ludovico// a la altura del cruce con la calle Manantiales/ eeh **vemos al caballero cruzando conn- con un PERRO**↑ entendemos que es de raza peligrosa/// (PVB)
T3: so well thee service starts when we are patrolling the Conde Lodovico Avenue // at the junction with Manantiales street / eeh **we see the gentleman crossing with- with a DOG** we understand that it is of dangerous breed ///

In example (3), there is a report of another witness, a police officer, who describes what he and his colleague saw while patrolling the streets. The evidential expression here is again the verb 'to see' in the plural form (*vemos*). The witness suggests that two people perceived the same thing at the same time (which could be acceptable when we consider that two officers were patrolling together) and, even more intriguing, that they both came to the same conclusion about the perceived scene. The conclusion part is expressed in the clause *entendemos que es de raza peligrosa.* This section of the information is still based on what the speaker saw; however, a deeper cognitive processing is suggested here, which means that it is a case of circumstantial inference in which the speaker relies on some direct experience in order to formulate a conclusion.

In example (4), we show another case of circumstantial inference; nevertheless, some previous background is necessary to explain it. What occurs in the example is that speaker D (the defendant's lawyer) affirms that the plaintiff was laughing while the defendant was making his declaration. The lawyer makes this statement in order to cast doubt on the credibility to the plaintiff's declaration. However, this affirmation causes the judge to interrupt the lawyer—the judge wants to make it clear that she did not appreciate any inappropriate laughter and thinks that the behaviour of the plaintiff was due to some tics he has. After the judge's intervention, the defence

lawyer explains that it was not her intention to offend, but rather to express the impression or the sensation she had. We quote an example below:

(4) D: (…) no debió ser/ ni tan tremenda ni tan peligrosa ni desde luego tan/ HUMILLANTE o tan atentatoria contra/ eeh su persona el hecho de que se haya estado riéndose durante toda su declaración/ lo cierto es quee/ [en→]

J: [siento inte]rrumpirle sie- por- per- esto nn- yo no lo he apreciao/ creo que es un tic y una forma de hablar del agente/ [¿eh?]
D: [bueno dis]culpe **eesta es mi impresión/** si es/ lo contrario no lo [hago con ánimo de ofender]
J: [es que si se- si se hubie]se estado riendo le habría llamado la atención evidentemente (…) no / me parece que no
D: le digo que esto no es a- con ánimo de ofender sino **con ánimo de apreciación que me ha dado la sensación**[12] (PVB)

D: (…) it couldn't have been / neither so tremendous nor so dangerous nor of course so / HUMBLING or so threatening against / eeh himself the fact that he has been laughing during all his statement / the truth is that / [in→]
J: [I'm sorry to interrupt you], because- this- I have not appreciated it / I think it's a tic and the agent's way of speaking / [you know?]
D: [well sorry]y **this is my impression** / if it is / the opposite I don't do it [with the intention of offending]
J: [the thing is that if he had] been laughing, he would have called attention obviously (…) / it doesn't seem so no
D: I´m telling you that this is not a- with the intention of offending but with **the intention of appreciation that I had the sensation**

The parts of speaker D's speech in which she refers to her own *appreciations* and *sensations* are meant to express a circumstantial inference that this speaker has made based on what she heard in court in the declaration of the plaintiff whom she accuses (although *without meaning to offend*) of laughing inappropriately during her client's declaration. The laughter is certainly something that can be perceived and, as the judge states, everyone would have heard it, herself included. At this point, D has no other option but to resort to an inference that allows her to add some personal interpretation to the reality. Clearly, she cannot attempt to affirm that she had purely sensory evidence of the laughter having taken place (other people would have heard it too); therefore, she uses the inference to downgrade the affirmation. She did not *hear* the laughter per se, but what she heard made her think that the plaintiff was laughing.

The second type of inferences, generic inferences, were the most frequent in the corpus (82 occurrences). These examples are mainly cases of reasoning based on logical argumentation (5), arguments and data stemming from the legal documentation (6) or a combination of both types of information and the speaker's general knowledge about the world (which is sometimes also specialised) (7).

[12] The transcription of some examples has been simplified for clarity (e.g. we have deleted some transcription marks related to prosody and pauses that are not relevant for this research).

(5) D: ¿se pusieron en paralelo?
T2: sí sí
D: ocupando dos carriles**/ claro/ obviamente** (PVA)
D: they drove in parallel?
T2: yes yes
D: occupying two lanes **/ of course / obviously**

(6) D: (…) pero vamos ello **evidentemente↓ en base al artículo veinte** justifica que no se apliquen intereses moratorios↓ (PVA)
D: (…) but well this **evidently ↓ based on article twenty** justifies that moratorium interests are not applied ↓

(7) J: (…) **es evidente que** no existee eh doblee castigo y así se pronunció el Tribunal Constitucional en una sentencia (…) (PVA)
J: (…) **it is evident that** the double punishment doesn't exist and that is how the Constitutional Court pronounced in a judgement (…)

Because of the nature of the arguments involved in the formation of the inference, the speakers often imply that the reasoning is of a universal nature; that is, that the conclusions he or she has drawn are the logical, obvious conclusions that anyone would draw given the same set or arguments. This is frequently implied by the form of the evidential used, for example: *entendemos, evidentemente, lógicamente, es evidente, parece ser que* ('we understand, evidently, logically, it's evident, it seems that'). All of these resources reinforce the idea of a more general, shared reasoning that is not restricted to the realm of the speaker's subjectivity. The use of shared, accessible (Bermúdez 2005) or intersubjective (Nuyts 2001) evidence, along with the role that the speakers who use them play in the trial, have interesting pragmatic consequences, as we will show in "Evidentiality and Role of Participants: The Influence of the Genre" section.

The third type of inference, conjecture, represents the speaker's most personal and subjective judgements, personal beliefs and hypotheses. These are not particularly frequent in the corpus; however, we can see some examples in which conjectures can be expressed; for example, using future and conditional tense forms.

(8) D: Señoría yo no he negado el documentoo eh vamos/ lo digo por el representante legal **supongo que será** paraa la factura (CVB)
D: Your Honour, I have not denied the document hmm well / I say it because of the legal representative I **suppose it would be for the invoice**

As in example (8) above, when a conjecture is made, it is impossible to recognise the actual arguments on which the speaker bases the formulation of his or her hypothesis; the speaker appears to be guessing or relying on personal ideas and intuition, not on any observable facts or logical arguments.

A significant amount of information that appeared during the trials in our corpus data was based on reported information. The main type of reports that appear in this genre are quotes and references to legal documentation (legal articles, witness and forensic reports, court sentences and the like). We present some excerpts in which reported evidence is signalled in the examples below:

(9) A: (…) así se ha manifestado/ entre otras sentencias el Tribunal Supremo (…) (SVB)
A: (…) this has been shown / among other judgements of the Supreme Court (…)

(10) J: (…) de acuerdo con la ley (…) (PVA)
J: (…) according to the law (…)

(11) F: (…) el Tribunal Superior viene estableciendo que (…) (PVB)
F: (…) the Superior Court establishes that (…)

(12) A: (…) el forense señala y manifiesta que (…) (SVA)
A: (…) the forensic expert states and manifests that (…)

Apart from the examples such as (9–12), instances of direct reported discourse appeared frequently in the corpus, with or without explicit marking (e.g. *verba dicendi*). Such cases also compute to the overall number of cases of reported evidentiality in the corpus.

Roles of Participants

The results presented in "Evidentiality in the Corpus of Trials" section show that the presence of markers of evidentiality in the discourse of the participants in the trials varied (Table 2).

Based on these results, a first observation is that there is a contrast in the quantity of evidential resources used by different participants in the trial. Within the professional roles, judges use a smaller number of evidential devices than do lawyers, who constitute a significant proportion of the cases of evidentiality analysed. This can be explained because the judge, who acts as a moderator, rarely intervenes in the process (they are present in all trials and, despite that, concentrate 13.90% of the words in the corpus). Thus, the construction of the discourse relies on the lawyers and the non-professional participants who will present their testimonies.

It is noteworthy that, in the lawyers' speeches, where the number of words stated by each role is similar, the presence of evidentiality is visibly higher in the case of the lawyers of the passive party compared to the lawyers of the active party. This contrast has also been documented in other research on the study of attenuation in trials (Villalba 2017). As in our case, attenuation devices were found more frequently in the discourse of the passive party than they were in the discourse of the counterpart.

This difference can be explained if we think that elaborating the argumentation seems more demanding in the case of the passive party than in the case of the active party. In other words, the refutation of the arguments of the active party and the construction of a defence require an extra effort that can be traced linguistically in the greater presence of discursive mechanisms oriented towards satisfying the role's goal; in our case, these discursive mechanisms are evidential devices.

Table 2 Number of words per participant and frequencies of evidential devices according to the participant's role

	Total number of words	Percentage of words	Frequency of evidentials devices	Percentage of evidential in relation to the number of words	Percentage of evidential devices
Judge	5804	13.90	13	0.22	3.90
Lawyers for the active party	10,918	26.20	53	0.48	16.30
Lawyers for the passive party	11,862	28.4	115	0.97	35.30
Defendant	1885	4.50	47	2.49	14.4
Plaintiff	1270	3.10	15	1.18	4.60
Witness	7179	17.20	72	1.00	22.10
Expert witness	2532	6.10	11	0.43	3.40
Total	41,715		326	0.78	

Something similar happens when we pay attention to the non-professional participants and, more precisely, to the people represented by the lawyers for the passive and the active party: the defendant and the plaintiff. According to our data, the presence of evidentiality in defendants' discourse is higher than in plaintiffs' discourse. This can also be linked to the fact that what is stated by the defendants is generally more challenged, and they have to convince the participants (mostly the judge) that their version of facts is true. Consequently, evidential devices are more profusely present in their discourse.

Finally, the participation of (expert) witnesses is limited to reporting that which could assist in reconstructing and understanding the facts in the most accurate way. Nevertheless, the way their discourse is constructed is different. While the witnesses have to show the certainty of what they say and to do this they frequently refer to how they have obtained the information, experts, as specialists in a field, are recognized with certain authority in the matter. As a consequence, the use of evidentials becomes somehow less necessary in comparison.

Evidentiality and Role of Participants: The Influence of the Genre

In addition to observing the presence and frequency of evidential markers in the discourse of the speakers representing different roles in court, we analysed the types of evidentiality each of them used. According to the statistical analysis of the data, there seems to be a significant relationship (Chi square $p = 0.00$) between the role of the speaker and the preference for certain types of evidentiality. More specifically, there seem to be associations between the role of the *lay participant* (particularly witnesses) and visual evidentiality. Generic inference, on the other hand, is associated with the role of the lawyer. We will now look closer at each evidential type and its relationship with the speaker's role. Special attention will be paid to visual evidence and generic inferences.

It is not surprising that visual evidence is related to lay participants and, in particular, to witnesses. Lawyers invite their clients and witnesses to court to recount what they witnessed and then use their testimonies to support their version of the facts. In contrast to the statements by defendants and plaintiffs, who have an interest in the resolution of the conflict, the testimony of the witnesses is expected to be more objective.

At the beginning of the examination phase, the judge asks witnesses if they have any interest in the judgement and makes them promise or swear that they will tell the truth. The witnesses are informed that, should they lie in court, this would be considered a crime of false testimony and legal action could be taken against them. This caution prior to the examination seems to constrain the speech of the witnesses. They need to use linguistic strategies that can help to ensure the accuracy of what is said, particularly when his/her discourse is challenged, as occurs during the cross-examination. Let us show how this is encoded linguistically in example (13):

(13) T4: mi compañero se tuvo que subir a la reja para evitar que este señor lo atropellara

D: **eso es lo que le dijo su compañero/** ¿no?
T4: **es que yo vi** al- mi compañero en una reja/ y el coche debajo↓ o sea no creo que mi compañero se subiera a la reja porque sí→(PVA)

T4: my partner had to climb the fence to prevent this man from driving over him
D: **that's what your partner said /** right?
T4: **the thing is I saw my partner on a fence /** and the car below↓ I mean I don't think that my partner would have climbed the fence for no reason→

In example (13) above, the lawyer for the passive party (D) tries to confirm that the version the witness (T4) presents comes from a second-hand source (*that's what your partner said/right?*). However, T4 corrects him and stresses that his statements are based on what he observed (*the thing is I saw*). By doing so, he attempts to verify what he is saying is true.

With regard to generic inferences, our data show these are correlated strongly with lawyers. This type of evidentiality is frequently based on general knowledge and logical arguments. Even if this is not the case, the speaker can use specific linguistic resources to show that evidence is universal or shared by himself and others (including other participants in the event). In this sense, evidential expressions are more than just markers showing the origin of the information, as they can be used strategically.

Lawyers' speech is mainly argumentative, as their goal in court is to persuade the judge to pass a judgement favourable to the interests of the person or entity that they represent. Accordingly, generic inferences at court will be used frequently to serve this goal.

In Spanish, the use of evidential elements has been associated with different pragmatic strategies due to the non-obligatory character of evidentiality in this language (Albelda 2016: 80). When using evidential elements, the speaker's decision may be highly strategic, since no language rule dictates the use of evidentials in Spanish. This means that the speaker is free to either omit any evidential marking or to use the type of evidential element he/she considers the most suitable according to the situation. Some generic inferences can be pragmatically neutral and simply serve to introduce the mode of knowing and/or the source of information (Albelda 2016: 95). This can be seen in example (14)

(14) D: sin embargo **parece ser** que era un aparato bastante grandee↑/ eeh diferente a una/ pistola eléctrica / un táser (PVB)
D: however **it seems** that it was a quite laarge device↑ / eeh different to a / stun gun / a Taser

The defendant and the lawyer for the passive party in example (14) claim that the plaintiff menaced the defendant with a Taser. After the plaintiff's testimony, all the participants realised that the object the claimant had was not a Taser. Thus, the use of the evidential *parece ser* ('it seems') is just a linguistic device to signal that this information was revealed to the defence lawyer during the hearing.

In contrast to this neutral use, other generic inferences may have different pragmatic functions in the discourse. This can be observed in example (15). The plaintiff's lawyer is attacking the expert's report presented by the lawyer for the passive party and, to do so, he uses the verb *entendemos* ('we understand').

(15) A: fija el quince de junio/ de forma GRATUITA/ de forma eeh absolutamente eeh yy sin apoyo sin apoyo documenTAL de ningún tipo↑/ y por lo tanto **entendemos** que este informe no es serio y desde luego no puede↑ en modo alguno combatir el contenido del informe de sanidad el médico forense (CVA)
A: determines June fifteen/ ARBITRARILY/ absolutely eeh and without support without documenTARY support of any kind ↑ / and therefore **we understand** that this report is not serious and certainly cannot ↑ in any way combat the content of the health report of the forensic doctor

In the legal framework, as in academia, arguments tend to be accepted more easily when they are presented in a more objective manner (Livnat 2010). One way to achieve objectivity is through defocusing the agent that develops the action. Therefore, the concealment of the speaker by using the plural voice (*entendemos*/*we understand*) contributes to creating a distance between the speaker and his/her own words (Villalba 2018).

In brief, in the example above, the lawyer uses an attenuation mechanism, linguistic impersonality or defocalisation of the deictic-personal point of reference (Caffi 2007), to satisfy a communicative goal strategically; in other words, to be more persuasive. At the same time, using a logic verb, the speaker shows that what has been stated cannot be reduced to a personal inference. As the faculty of *understanding* and logical reasoning is (generally) shared by all humans, everybody should make the same inference as the speaker. Consequently, the presence of the speaker is mitigated to make the statement more objective, but the assertion is boosted, as the inference is presented as a logical conclusion accessible to everybody. This combination of attenuation–intensification has been signalled as a somewhat predictable phenomenon when evidentiality is used strategically, and particularly in uses of indirect evidentiality (Estrada 2008; Briz 2016; Albelda 2016).

In the case of circumstantial inference, the examples are very rare (only five occurrences), and we could not assign them specifically to one group of speakers. However, considering other types of evidence that were more frequent in the corpus, it could be concluded that circumstantial inference is not a suitable type of evidence for this genre. Firstly, lay participants are only supposed to talk about their direct experiences; therefore, the cognitive filter that inference adds is not suitable. Secondly, expert witnesses and jurists base their arguments on legal documentation, logical reasoning and quotes from others, which again leaves circumstantial inferences out of their discourse.

Similar conclusions can be drawn for the case of conjectures, which do not seem to be an appropriate type of evidence, neither in the case of the professionals nor lay participants. In the corpus, we found examples in which this type of highly personal or subjective reasoning was rejected explicitly:

(16) T1: consigue recogerme en la calle Ancha↑/ sí/ estamos hablando de TRAMOS rectos y de casco urbano/ ya está

D: hombre/ **me parece un poco difícil**↑ [(( ))]
J: **[((deje)) sus] opiniones personales a un lado para la fase de informes/ si puede ser/ las ha[ce de un=]**
D: [muy bien]
J: = modo jurídico/ y le hace preguntas sobre lo que vio y lo que oyó y no entre en la conversación con un TESTIGO/ adelante↓ por favor (PVA)

T1: got to me to pick me up in the Ancha street↑ / yes / we are talking about straight STREETS of the urban area / it is
D: man / **I find it a bit difficult** ↑ [(( ))]
J: **[((leave)) your =] personal opinions set aside for thereporting phase / if possible / make [them of =]**
D: [very well]
J: = legal mode / and ask him questions about what he saw and what he heard and do not start a conversation with a WITNESS / continue↓ please

In example (16), the lawyer for the passive party offers his opinion, which does not seem to be based on any type of argument other than his own suppositions and conjectures ("it seems a bit difficult to me"). This is rejected overtly by the judge, who states that personal opinions should not appear in this phase of the trial.

Similarly, in example (17) below, the witness tries to offer conjectures and suppositions about what happened at the scene of accident, which prompts the judge to reprimand him:

(17) A: el contendor se salió de su sitio por culpa del viento porque estaba suelto o por por→
T2: ¡pues **sería** un cúmulo de circunstancias! **supongo que sería**→// una de las cosas fue el viento porque ese día hizo MUUCHO viento que hubo muchos servicios relacionados con el viento↑ pero también tiene suu debería tener suu sistemas de retención (…) noo **funcionarían** o noo / **no estarían** colocados
J: un un segundito por favor/ **de todas maneras lo que le voy a agradecer es que conteste lo que sepa (DIRIGIÉNDOSE A T2) ¿mh? no lo que suponga↓ si llega a alguna suposición↑** (CVB)

A: the container moved because of the wind because it was loose or because of →
T2: **it would have been be a pile of circumstances** then! **I suppose it would have been**→// one of the things was the wind because that day it was VERY windy there were many services related to the wind↑ but it also has its it should have some retention systems (…) **they would not have** worked or they **would not have been placed**
J: just a second please / **anyway what I'd appreciate is if you told what you know (ADDRESSING T2) mh? not what you suppose ↓ if you reach some supposition ↑**

In example (17), the judge's reaction to the witness's reconstruction of what had occurred (based on conjecture) was to ask him to keep to the facts he knows and to refrain from guessing ("what I'd appreciate is if you told what you know mh? not what you suppose"). These examples support what the data have shown, namely that some types of evidentiality are reserved for each role according to the rights and obligations during the trial.

With regard to the reported evidentiality, it is present in the speech of all participants; however, we observed interesting differences related to the type of sources that were quoted. On one hand, the specialists recalled documentation, laws and previously recorded court statements, and the reported information was used as an element in the argument. On the other hand, in the reports of lay participants we found mentions of what they had heard from others, such as people present where the facts on dispute happened, and this information was used to reconstruct the scene. Therefore, there is a qualitative difference regarding the type of indirect source quoted by the participants according to their roles in court and the goals they pursue.

Conclusions

In this paper, we focused on how the category of evidentiality is expressed in Spanish trials. The results of our analysis showed that, even though linguistic mechanisms for expressing all types of evidential meanings could be found, the most common types of evidentiality in this genre were reported evidentiality and generic inference. We also found interesting associations between the type of evidentiality and the role of the speaker in the trial. More specifically, visual evidence was typically presented by the lay participants (for example, the witnesses), while generic inferences were found predominantly in the discourse of specialists, such as lawyers. These results are related directly to the role that these categories of speakers are expected to play during a trial. Witnesses are expected to describe what they know about the circumstances of the dispute and what they experienced directly. Lawyers base their discourse on different types of arguments and types of reasoning that help them to demonstrate their points and defend their position. These results led us to draw two main conclusions. Firstly, this analysis proved that the relationship between the expression of evidentiality and the genre of a trial in Spanish is a strong one; that is to say, the genre conventions (particularly those related to the roles of the participants in the trial) constrain the types of evidentiality that are used and the purposes for which they are used. Secondly, and bearing in mind the pragmatic functions derived from the use of some generic inferences in the discourse of lawyers, it seems that those who know the 'rules' or the genre conventions best are most likely to exploit them for the benefit of their own arguments. Exactly how this is accomplished and the extent to which generic inferences in the discourse of the lawyers lead to the mitigation and/or strengthening of their arguments will be addressed in further research.

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