



Perfect Worlds and Reasonable Men:

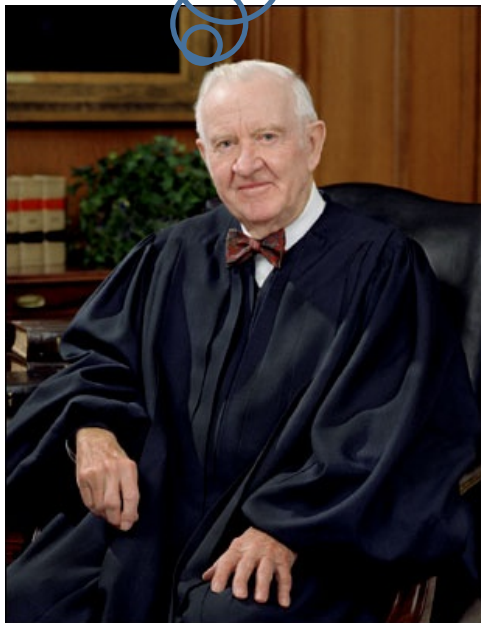
Helping EALP (English for Academic
Legal Purposes) Students Understand
Hedging in Legal Discourse

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From a judicial opinion

In an ideal world, parents **might** always seek to cultivate the bonds between grandparents and their grandchildren.

Needless to say, however, our world is far from perfect... 530 U. S. 57 (2000)



Research question

This research aims to compare hedging in two different legal genres which would potentially be handled by an LLM (Master of Laws) student in the U.S./U.K. in order to answer:

- How is hedging achieved in these legal genres?
- How can we help EALP students develop ‘hedging competence’ in order to process, interpret and use hedges correctly?

Previous research

- **Hedging competence** is part of ‘pragmatic competence’: “the ability to communicate your intended message with all its nuances in any socio-cultural context and to interpret the message of your interlocutor as it was intended” (Fraser 2010: 15).
- The inability to hedge appropriately can result in second-language speakers being perceived as **impolite**, **arrogant** or **offensive**, and inability to interpret hedging can result in second language speakers **failing to understand** a native speaker’s meaning (Fraser, 2010: 15).

Hedging in law

- Both lexical and strategic hedges are “crucial for deductive reasoning and legal argumentation” (Bhatia et al. 2004:218)

The genres

Supreme Court opinion

- Public record of decision made by Supreme Court, the highest court in the U.S.

Law review article

- Analyses a legal problem
- suggests a solution
- provides a comprehensive treatment of a particular area of law

Both underpin LLM students' research

Hedging

- Hedging: a rhetorical strategy which allows a writer to **express uncertainty of knowledge** and **show commitment or lack thereof** to the truth value of a proposition (Maurenen 1997; Salager-Meyer 1997).
- Hedging **'tones down' language** so that a claim is presented as opinion rather than fact, thus **affording the writer some protection** from counter claims and helping to avoid potential disagreement and conflict (Hyland, 1998; Markkanen and Schröder 1997; Salager-Meyer 1997).

Hedges (Hyland, 1996; 1998)

- **Lexical hedges**

- **Modal verbs:** may, might, could, would, should
- **Lexical verbs:** suggest, appear, think, believe, seem
- **Adjectives:** likely, potential, possible, general
- **Adverbs:** sometimes, relatively, perhaps
- **Nouns:** Uncertainty, probability, possibility, likelihood

- **Strategic hedges**

- other means of expressing tentativeness

Strategic hedges (Fraser 2010)

- **Concessive conjunctions:**
 - although, though, while, whereas, even if
- **Prepositional phrases:**
 - to our knowledge, in my view, in essence, in part, in fact + hedge
- **Negation:**
 - I/We do not, I am not, We are not
- **If clause:**
 - If true, if valid, if any

Hedging strategies: Certain lexical items can signal specific hedging strategies

- **Subjectivisation:** indicates that what is being said is personal and subjective, not factual
 - We hold as we do because respondent's view seems to us the only permissible interpretation of the text – which may, for all we know, have slighted policy concerns on one or the other side...
 - Although we have no cause to doubt respondents' assertion...we fail to see how petitioner's operation of a hotel on non-Indian fee land "threatens...the economic security..."



Indetermination

- **adds uncertainty to a proposition by making it vaguer in terms of quality or quantity**
 - Even if the legislature somehow could authorize the court to change a proposed amendment, the purported concession was allegedly extracted from the legislature's counsel at oral argument...
 - The direction of influence, if any, from some of these variables is theoretically ambiguous.

Depersonalization

- **allows the writer to avoid direct reference and distance himself from the responsibility inherent in the propositions which are expressed.**
- We hold as we do because respondent's view seems to us the only permissible interpretation of the text

Camouflaged hedging

- moves the focus of attention or negative reaction from the proposition by using expressions such as ‘really’, ‘in fact’ or ‘indeed’ in conjunction with a hedge.
 - In fact, I think the opposite is likely to happen since courts tend, today, to look for “purposes,” and so they tend to gravitate toward general statements.

The corpora

	# of files	# of tokens
Law review articles	20	668,983
Supreme Court decisions	73	600,597
TOTAL	93	1,269,580

Methodology

- A list of potentially high-frequency items used to signal hedging was drawn up based on Bhatia et al. (2004), lemmatized and loaded onto the WordList function of WordSmith Tools 6.0 as the match list file. Results were colour coded:

Modal verbs	Lexical verbs	Adjectives	Adverbs	Nouns
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- The Concord function of WordSmith Tools was used for checking the context of the hedges and extracting examples.



Why use corpus tools to explore hedging

- First we can use corpus tools to understand how hedging is realized – what **lexical/strategic items** and what **strategies** are being used
- And then to create exercises for our students to practise with

Most frequent lexical items

LR

N	Word	Freq.
1	WOULD	1623
2	MAY	1438
3	MIGHT	1046
4	SHOULD	817
5	COULD	782
6	ARGUE	714
7	GENERAL	698
8	CONSIDER	404
9	LIKELY	390
10	SUGGEST	300
11	UNCERTAINTY	290
12	APPEAR	222
13	THINK	222
14	POTENTIAL	208
15	PERHAPS	207
16	PROBABILITY	202
17	POSSIBLE	189
18	BELIEVE	183
19	SEEM	178
20	ASSUME	159
21	EXPECT	144
22	PROPOSE	138
23	SOMETIMES	136
24	POSSIBILITY	123
25	ALMOST	117
26	RELATIVELY	109
27	TEND	106
28	TYPICALLY	101
29	ATTEMPT	97
30	DEPEND	95
31	LIKELIHOOD	88
32	PREDICT	83
33	INDICATE	74
34	UNLIKELY	72
35	ASSUMPTION	71

SC

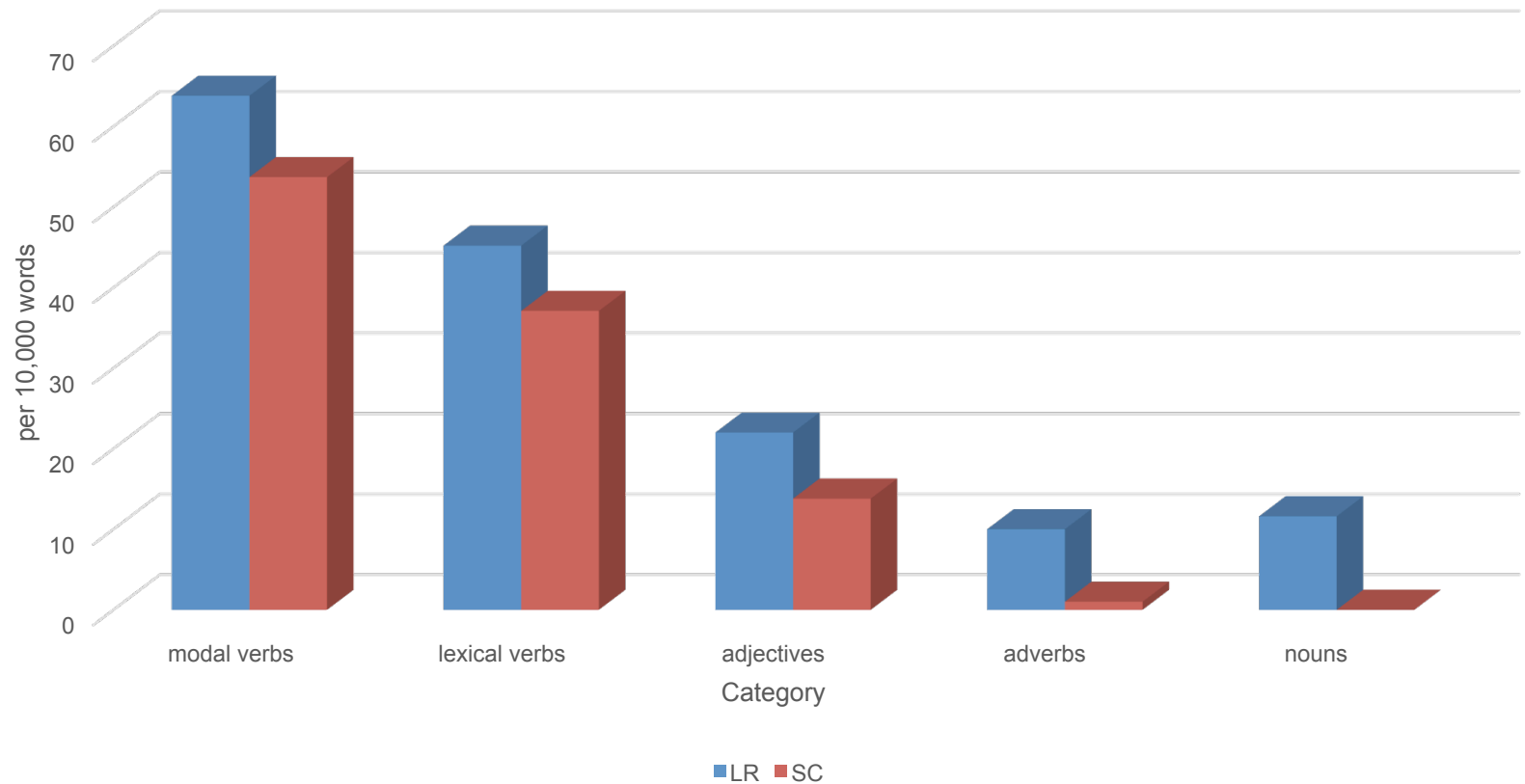
1	WOULD	1736
2	MAY	1185
3	COULD	686
4	SHOULD	498
5	CONSIDER	392
6	GENERAL	345
7	MIGHT	303
8	ARGUE	299
9	ALLEGE	284
10	SUGGEST	231
11	BELIEVE	181
12	LIKELY	157
13	THINK	154
14	INDICATE	107
15	ASSUME	105
16	PROPOSE	105
17	APPEAR	98
18	POTENTIAL	95
19	ESSENTIAL	86
20	DEPEND	82
21	POSSIBLE	74
22	PROBABLE	69
23	PRESUME	64
24	SEEM	63
25	PERHAPS	62
26	EXPECT	61

Most frequent lexical items

	Law Review Articles	Supreme Court Decisions
Modal verbs	Would, may, might, should, could	Would, could, should, may, might
Lexical verbs	Argue, consider, suggest, appear, think, believe, seem, assume, expect, propose, tend, depend, predict, indicate	Consider, argue, allege, suggest, believe, think, indicate, assume, propose, appear, depend, presume, seem, expect
Adjectives	General, likely, potential, possible, unlikely	General, likely, potential, essential, possible, probable
Adverbs	Perhaps, sometimes, relatively, typical	Perhaps
Nouns	Uncertainty, probability, possibility, likelihood, assumption	-----

Frequency of lexical hedges

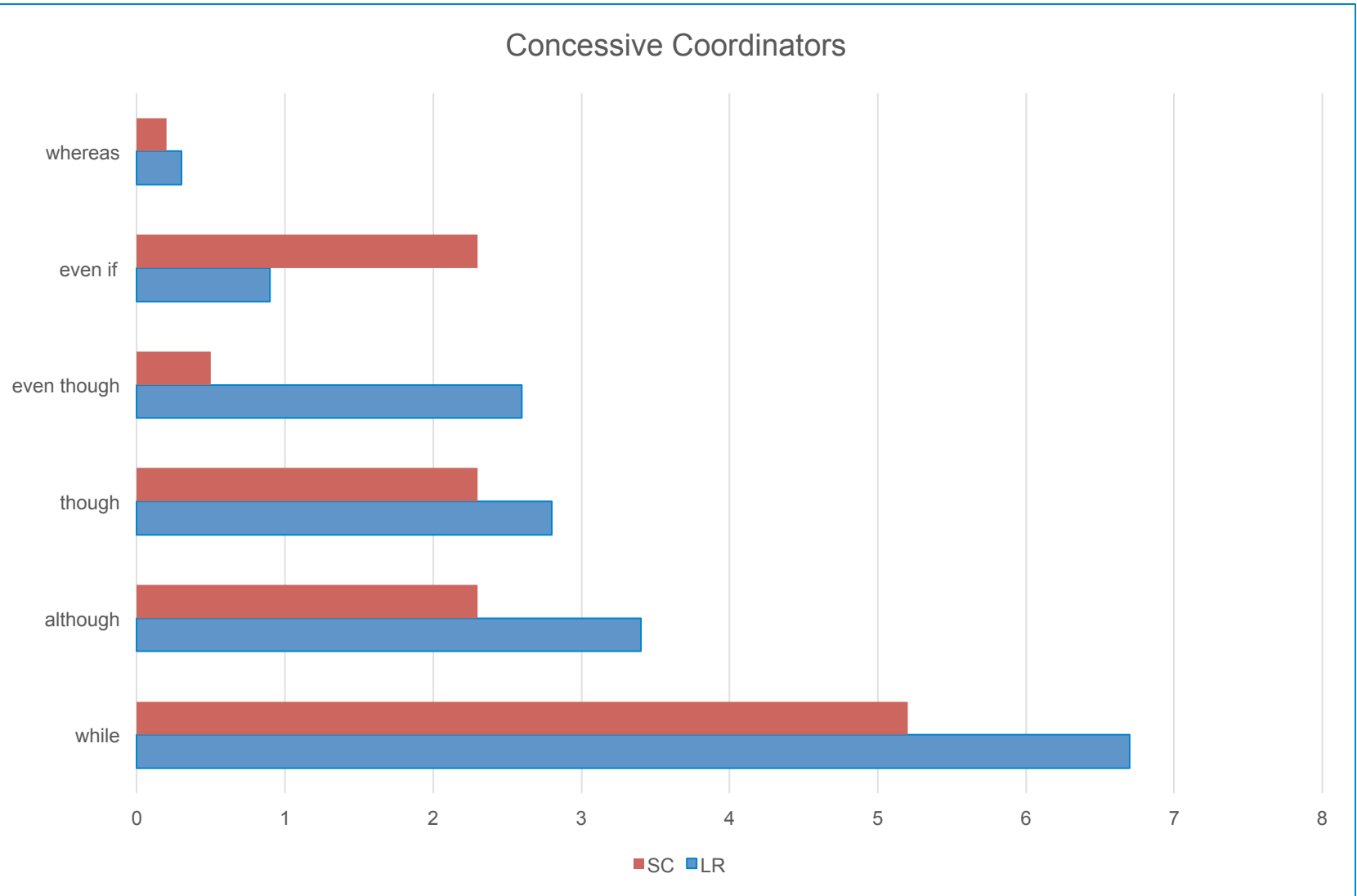
Most frequent lexical items



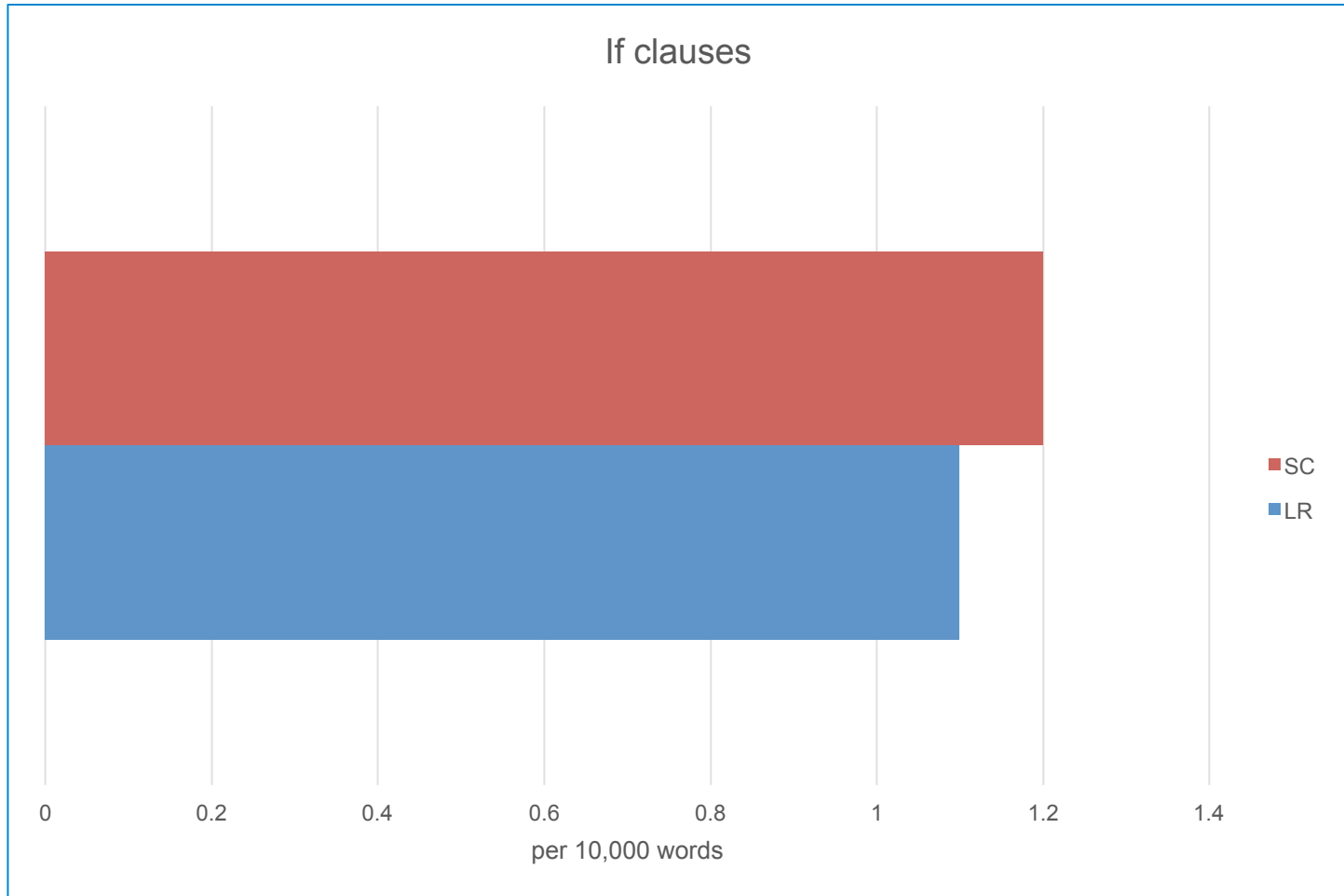
Conclusions

- **Lexical Hedges:**
 - 30% more lexical hedging in LR than in SC
 - Wider variety of lexical hedges in LR
 - Verbal hedging in both genres outweigh non-verbal hedging

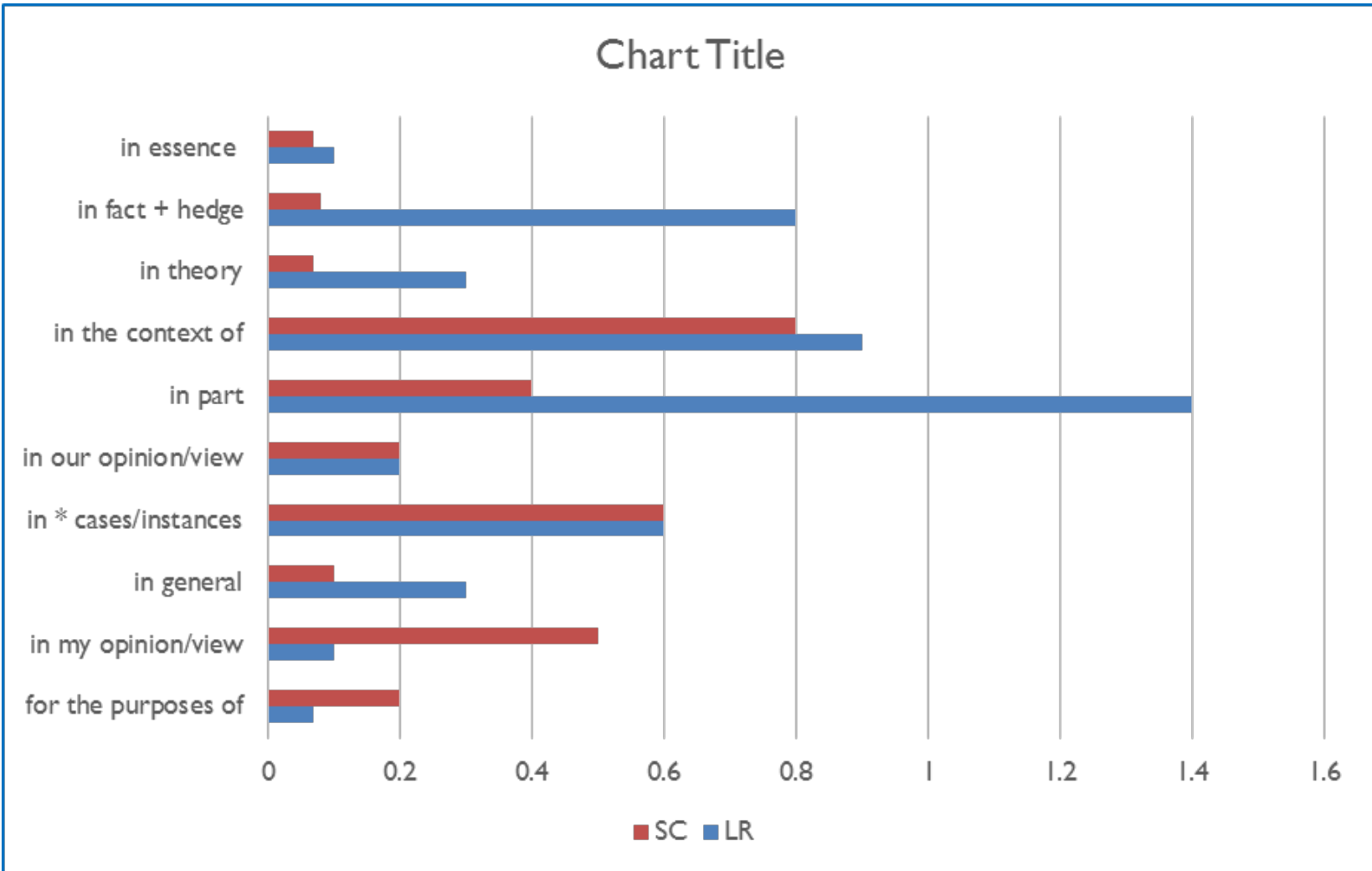
Frequency of strategic hedges: Concessive coordinators



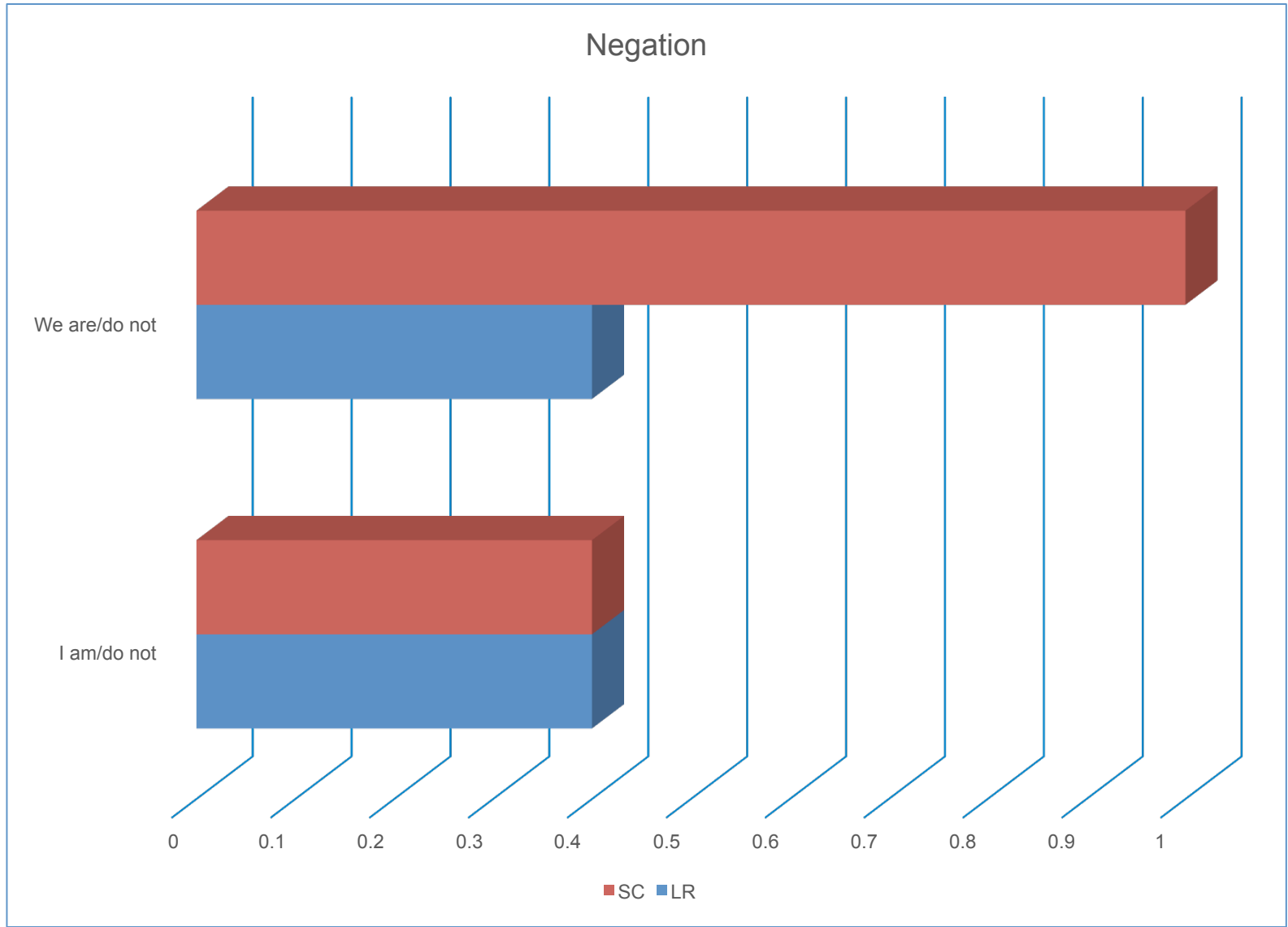
If clauses



Prepositional phrases




Negation



Conclusions

- **Strategic Hedges:**

- more use of **if clauses** and **'even if'** in SC perhaps indicating greater use of hypothetical thinking to engage with a range of possible scenarios outside of their present, real situation
- Greater frequency of **'in essence / part / general / theory'** as well as **'in fact + hedge'** in LR could indicate that indetermination and camouflaged hedging are key strategies
- Greater frequency of **'in my view'** and **'we'** in SC could indicate that subjectivisation and depersonalisation are key strategies



There is hedging in both genres, but it is carried out differently.

Why is this important for EALP students to know?

Hedging competence is hard to obtain and can be culture-specific.

Hedging and EALP students

- Abbuhl found competent ability to use hedges “notoriously problematic” for even advanced-level non-native speakers,
- Especially true in legal writing which she deemed crucial as the common law U.S. legal system, as opposed to code law, relies heavily on interpretation of precedents (2006:152).

- Tessuto's comparison between English and Italian law students supports the fact that **different cultures approach hedging in different ways**.
- **Italian writers** generally bring their readership around to the accuracy and legitimacy of their reasoning by using **more categorical statements** than the English, and therefore leave little room for likely contentions from their readers.
- By contrast, it is customary for **English writers**, in any disciplinary discourse, to achieve the same effect in their reasoning by **cautious statements** constructed through a variety of hedging devices (2011: 308).

- Alonso et al. found that Spanish students either failed to identify hedges in the L2, English, or considered them to be “**negative, evasive concepts**” (2012: 47).
- While hedging can imply politeness and respect for a discourse community, helping to avoid conflict, the Spanish students associated them with “**lack of clarity, insecurity and lack of validity of the proposal being expressed**” (2012: 58).

In summary

Using corpus tools helps us to

- Know which lexical items to target and how they are used
- Tailor pedagogical interventions accordingly
- Implement an explicit, deductive approach to the teaching of hedging

Both Hyland (1996, 2007) and Bhatia et al. (2004) propose using concordancing software as well as texts to help students to develop hedging competence.

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Thank you for your attention!