

# PRAGMATIC MARKEDNESS IN THE ELF-MEDIATED DISCOURSE OF LEGAL COUNSELING TO WEST-AFRICAN FEMALE MIGRANTS

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**Abstract** – This paper introduces a cognitive model of *pragmatic markedness* for the analysis of the ways in which non-native speakers of English as a lingua franca (ELF) differently interpret situations of legal counseling they are involved in. It will be argued that interpretative divergences are to be ascribed to the participants' different 'schematic representations' of the same situations which may come into conflict, thus causing misunderstanding. In this paper, misunderstanding is investigated in relation to a number of case studies regarding asymmetric situations in which West-African (Nigerian) female migrants, using their pidgin/creole-English varieties as ELF variations, should be assisted – but actually are disregarded – by Western (Italian) ELF-speaking legal advisors who are biased against them. The assumption is that the participants 'transfer' their respective native linguacultural features to their ELF variations, which are perceived as 'deviant' – and, therefore, 'marked' – by the other participants in the same situations of intercultural communication.

**Keywords:** Pragmatic markedness; English as a Lingua Franca; Schema Theory; migration encounters; legal discourse.

## 1. Introduction: pragmatic markedness in West-African female migrants' ELF use

This paper applies a Schema-Theory approach (Carrell, Eisterhold 1988) to cases of intercultural miscommunication in Italian unequal situations of 'legal advice' to West-African female migrants, carried out through non-native/nativized variations of English used as a 'lingua franca' (ELF). The assumption is that ELF uses in intercultural communication do not make reference to the 'Standard English' variety, nor to the corresponding dominant culture of a native social group – or of international communities of practice – who use, and impose, such a variety (Guido 2008). In fact, these ELF variations used by non-native participants in intercultural interactions are triggered by their processes of English-language appropriation occurring by means of their native pragmalinguistic schemata – meant as socio-culturally marked conceptualizations of reality stored in their minds. Indeed, by activating their schemata to make the English language their own, non-

native speakers try to avoid the sense of estrangement that the foreign language and culture produce on them (Guido 2018). Yet, these processes often cause miscommunication. To enquire into such processes, this paper proposes a cognitive model of *pragmatic markedness* for the analysis of the ways in which non-native speakers of ELF differently interpret situations of legal counseling they are involved in. It will be argued that interpretative divergences are to be ascribed to the participants' different 'schematic representations' (Lakoff 1987) of the same situations, which may come into conflict, thus causing misunderstanding. In this paper, misunderstanding is investigated in relation to a number of case studies regarding asymmetric situations in which West-African (Nigerian) female migrants, using their pidgin/creole-English varieties as ELF variations, displaced from the original native environment into the foreign context of the host country (Italy) (Guido 2008), should be assisted – but they are actually scorned – by Western (Italian) ELF-speaking legal advisors who are biased against them. The assumption is that the participants 'transfer' their respective native linguacultural features into their ELF variations, which are perceived as 'deviant' – and, therefore, 'marked' – by the other participants in the same situations of intercultural communication. The outcome of such a transfer of L1-features into ELF is 'pragmatic markedness' that will be explored as a deviation at the morpho-syntactic, discursive and schematic levels.

## 2. Theoretical grounds: markedness models in SLA

Markedness has traditionally been the object of enquiry in Second Language Acquisition (SLA) research, mainly at two levels. On the one hand, it has been explored as *formal markedness* implying a *morpho-syntactic deviation* occurring when: (a) a syntactic structure is unavailable in the interlanguage of a non-native speaker (Selinker 1969); (b) an L2-syntactic parameter is distant from the related Universal-Grammar principle that governs every language and is inherent in every human mind (Gass 1979; Mazurkewich 1985); (c) the language typologies of non-native speakers' L1 and L2 are quite different (Eckman 1977); and (d) non-native speakers perceive a 'marked distance' between the structures of their own L1 and the L2 they use (Rutherford 1982). To overcome the sense of unfamiliarity with a structure of the L2, non-native speakers participating in intercultural interactions tend to perform 'repair moves' (Tarone 1980) by transferring the 'unmarked' structures of their L1 into the L2, thus running the risk of making formal errors (Ringbom 1992).

On the other hand, SLA research has explored the construct of *functional markedness* implying a *discursive deviation* occurring when: (a) a non-native speaker needs some language features to fulfill specific

communicative functions, but they are unavailable in his/her mind (Bardovi-Harlig 1987); and (b) a non-native speaker is unable to use the L2 'appropriately' according to the L1 pragmalinguistic code (Thomas 1983). The result is that non-native speakers tend to transfer their L1 functional patterns into the L2 they use, which may be perceived by the other speakers interacting with them as 'inappropriate' and, therefore, 'marked' (Faerch, Kasper 1987; Kasper 1992; Scotton 1983).

### **3. Rationale: pragmatic markedness as schematic deviation in ELF uses**

From the formal and functional approaches to markedness in SLA it is already possible to deduce the role of cognition in the perception of 'deviant' morpho-syntactic incorrectness and discursive inappropriateness resulting from the conflicting schemata of the non-native speakers interacting by means of their respective ELF variations. Yet, this cognitive aspect of markedness has not yet been sufficiently investigated in SLA and ELF research. Hence, in this paper it will be argued that both levels of morpho-syntactic and discursive deviation are included in the construct of *pragmatic markedness* implying a *schematic deviation* that occurs when the linguacultural and specialized schemata of a non-native speaker participating in an ELF-mediated intercultural interaction interfere with the different schemata of another non-native speaker participating in the same interaction, often causing misunderstanding. This is assumed to induce the interacting ELF-speakers to activate a compensative schema transfer by resorting to L1-chunks of pragmalinguistic routines and specialized registers stored in their minds which should facilitate the ELF-speakers' meaning-attribution process and enable them to interpret concepts and events that are perceived as 'pragmatically marked' because they are inaccessible or unavailable to their native schemata.

### **4. Research hypothesis, objectives, and the pragmatic-markedness model**

The hypothesis justifying this enquiry is the lack of relation between the semantic-syntactic code of the L2 that non-native speakers have learned and the pragmalinguistic code that they acquired within their native linguacultural contexts and that affects their own ELF variations. The assumption is that these two codes belong, respectively, to two distinct schemata that come to interact when the non-native speakers appropriate the L2, authenticating it as their own ELF variations (Widdowson 1994) and, thus, develop their own

ELF variations. The objective is to show evidence of the process by which the pragmalinguistic code acquired with L1-use comes to be transferred into ELF variations, thus producing intercultural miscommunication.

On such premises, a model of pragmatic markedness should take into account that, from the stance of non-native speakers using their ELF variations in situations of intercultural communication, the more accessible an L2 semantic-syntactic structure is to the non-native speakers' linguacultural schemata, the less marked it is perceived by them, in that such a structure comes to be experienced as similar to an analogous and familiar semantic-syntactic structure in their own L1. On the other hand, the less accessible an L2 semantic-syntactic structure is to non-native speakers' linguacultural schemata, the more marked it is perceived by them, as it comes to be experienced as unfamiliar – because divergent from any other comparable L1 structure – thus triggering misunderstanding.

## **5. Case-study method: gender-based schema conflicts in ELF-mediated legal interactions**

In this paper, the model of pragmatic markedness is applied to a number of case studies regarding the analysis of ELF-mediated legal interactions between Italian legal advisors assisting West-African (Nigerian) female migrants. The focus is on the investigation of cognitive processes and pragmatic strategies by which the Italian legal advisors convey to African female migrants their culturally-marked knowledge of the law originated from their Western legal tradition, but unavailable to the migrants' experience of their own non-Western legal systems. Indeed, the African migrants did not possess the relevant 'Western' specialized schemata, and in their attempt to interpret unfamiliar legal – and socio-cultural – concepts, they actually deviated from such schemata – which explains their difficulty in accessing and accepting legal concepts that are alien to their native cultures. Likewise, also the Italian legal advisors were unable to access – and accept – the female migrants' native linguacultural and legal schemata, therefore they perceived their responses as deviant from the expected ones. In sum, the participants in the interactions did not acknowledge each other's sociopragmatic and specialized schemata as they were mutually perceived as 'pragmatically marked'. The exploration carried out in the course of the case studies was precisely meant to focus on how the different schemata that the participants in legal interactions acquired within their original cultures are first reflected in the grammaticalized structures of their L1s (here defined as *L1-semantic-syntactic schemata*) as well as in the pragmatic and discursive organizations of their respective native legal discourses (*L1-pragmatic and*

*specialized-legal schemata*), and then transferred into the ELF variations they use. Both semantic/syntactic and pragmatic schemata are included in the wider notion of linguacultural schemata. The outcome of such a native linguacultural schema transfer was expected to be the cause of schema conflicts and intercultural miscommunication – worsened by the Italian legal advisors’ biases against West-African women’s ability to understand legal issues and concepts, due to their lower-status condition of social exclusion and educational deprivation in their home countries.

In the data-collection process, an ethnomethodological approach was adopted: these ELF-mediated interactions were tape-recorded and their transcriptions provided the grounds for a ‘protocol analysis’ (Ericsson, Simon 1984) aimed at exploring the participants’ processes of interpretation of each others’ ELF uses that they perceived as ‘pragmatically marked’.

## **6. Case study 1: semantic-syntactic schema conflict in an asymmetrical investigatory interrogation**

Case study 1 reports the analysis of an ELF-mediated investigatory interrogation of a female Nigerian illegal migrant just landed in Italy with other migrants, carried out by two male Italian legal advisors in support of the border police (Guido 2008). The ELF variation spoken by the woman is a ‘displaced variant’ of Engligbo (based on a blend of Nigerian Pidgin English and Igbo as her native language). The woman was accused of withholding information about the identities of smugglers who helped her and other migrants cross the borders.

This case-study focuses on the typological differences in the structures of active clauses between the L1s of the participants in the interaction (Greenberg 1973) which reflect two different ways of conceptualizing events in the two cultures in contact (Guido 2008). The typological differences in point regard: the Italian SVO ‘accusative’ typology (in which the transitive Subject is the animate agent causing a process that produces an effect); and the quite different OV(S) ‘ergative’ typology (in which an inanimate Object in Subject position is the Medium through which a process takes place, producing an effect). The ergative clause structure is typical of some Sub-Saharan native languages – such as Igbo (Agbo 2009; Nwachukwu 1976), i.e., the native language of the female Nigerian subjects of the case studies. In case study 1, once the semantic-syntactic features of the accusative and ergative languages come to be ‘transferred’ into the participants’ respective ELF variations (namely, the legal advisor’s Italian-ELF and the female migrant’s Engligbo as ELF), then they produce semantic-syntactic schema conflicts and, as a consequence, miscommunication. The Nigerian migrant’s

native ‘ergative’ typological structure was transferred into her report, which was considered as a ‘reticent account of events’ from the native ‘accusative’ perspective of the Italian legal advisors’ – who expected her to reveal the identity of the agent as the ‘animate cause of her journey’ (i.e., the smuggler) foregrounded in the Subject position of an active transitive clause.

What follows is a transcription of an extract of the investigatory interrogation (followed by a version in Standard English to facilitate understanding):<sup>1</sup>

#### Transcription 1

Nigerian woman (NW) and Italian legal advisors 1 and 2 (ILA1 and ILA2).

ILA1: who is the pe::rson that (.) that drove the boat (.) that has taken you here in Italy?

NW: >a no sabi se Chi kom fo Italy< (.) car drop fo di contri dem plenti plenti bifo di sea [I don't know that my personal divinity goes to Italy. The car drops at so many countries before heading to the sea]

ILA1: but there is here a particular pe:rson (.) that made you travel? (.) who?

NW: Chi no tell i dey [my personal divinity doesn't tell where she is]

ILA1: ce lo sta dicendo nella sua lingua [she is saying it to us in her own language]

ILA2: how was your jou::rney by sea? (.) did you feel sa:fe (.) when the pilot sailed?

NW: (..) di ship heavy heavy when i sail o o > (.) di wind na strong an cold cold < di wa::ter >katakata hie hie hie< o o [the ship was extremely heavy when she sailed! The wind is strong and extremely cold, the water scattered around here here here!]

ILA2: did you fe::ar that you could be killed by the sea?

NW: (..) di se::a kill mi? (giggle) >oke oshimmi::ri anokata:ghi rie onye obu:la nke o na-ahughi ukwu ya anya< [the sea kills me? The sea never swallows when a person's legs do not come in contact with it]

ILA1: sorry, hhhh we don't understa::nd your language.

The interaction is entirely characterized by ILA1's and ILA/2s' accusative clause structures by which the two legal advisors convey Elicitation Moves – that are covertly Blame Moves (Moerman 1988) – to induce NW to reveal the smuggler's identity. Yet, they perceive NW's replies as ‘dispreferred’ and, thus, pragmatically marked because of the ergative semantic-syntactic structures of her clauses that do not attribute the Subject position to the animate agent. The Subject position is, in fact, attributed to the abstract concept of NW's ‘personal god’ (“Chi”) protecting her in a journey whose destination she ‘did not know’ (“A no sabi”, followed by the simple-present locative verb “dey”, meaning ‘to be’ and indicating that the past traumatic experience is still vividly present in her mind), as well as to the inanimate

<sup>1</sup> The transcription conventions used in the four case studies in this paper are adapted from Edwards (1997, pp. 323-324): [ ] overlapping speech; underlining emphasis; ° ° quieter speech; (.) micro-pause; (..) pause; :: elongation of prior sound; hhh aspiration; .hhh inspiration; > < speed-up talk; = latching.

Object of a “car” as the intentional animate cause of ‘dropping’ (deliberately used as an intransitive verb *Vi*) at many different countries before reaching the sea, and to the inanimate Object of “ship”, too “heavy” with people to fight against furious natural elements: the “strong and cold wind”; the “scattered water” (emphasized by the emotional use of reduplication: “plenty plenty”, “heavy heavy”, “cold cold”, “katakata” transferred from Igbo – Anagbogu 1995) and the “sea” that could not kill her (as in the Igbo proverb she quotes). The NW’s deviant clausal structures are thus interpreted as pragmatically marked by ILA1 and ILA2 who unfairly refuse to understand NW.

## **7. Case-study 2: pragmatically-marked schema conflict in a medical-legal encounter**

Case study 2 reports on an asymmetric medico-legal interaction whose participants are: a female medical-legal officer (MLO) in charge of the encounter and a Nigerian female cleaner (NC) illegally employed by a cleaning service, who underwent a miscarriage caused by the hard work she had to endure. NC speaks Nigerian Pidgin English (NPE), usually perceived abroad as any other ELF variation. (Typical characteristics of the NPE are the tense/aspect markers: e.g., “bin” for the past tense, “don” for the perfect aspect, “de” for the continuous aspect, as well as the plural marker “dem” – meaning ‘them’ – after singular nouns, and a conventional transcription according to phonetic orthography). In this interaction, the focus is on the conflict between two socio-culturally different “maternity schemata”: rather than focusing on the hirer of illegal cleaners responsible for NC’s hard work causing her miscarriage, MLO tries to impose on lower-status NC her ‘Western’ view on contraceptive methods that NC is expected to adopt to avoid further pregnancies as she cannot support other children economically and ensure their education and future in employment. This view is rejected by NC because contrary to her native socio-cultural beliefs.

What follows is the transcription of part of the exchange between MLO and NC (together with a version in Standard English):

## Transcription 2

Nigerian female cleaner (NC) and female medical-legal officer (MLO).

NC: a bin fall (.) a no remember noting .hhh (.) dark attack my head an my leg dem weak weak an a bin fall .hhh a no remember noting sorry hhh (.) a no don de understand se a pre::gnant .hhh a get faif pikin dem (.) >faif child dem< hhh a bin de want dat baby. [*I fell down, I don't remember anything. Darkness attacks my head and my legs are extremely weak and I fell down. I don't remember anything sorry. I hadn't yet started realizing that I was pregnant. I have five kids, five children. I was wanting that baby*]

MLO: hhh >can you keep another baby?< / [b] .hhh I mean (.) phy::sically (.) °fina::ncially° (.) >you know< (.) consider the day-to-day reality of coping with six children (.) the responsibi::lity for >shaping their personalities< =

NC: child dem na pro::paty for family hhh my husband de want plenti child dem .hhh >for dem go de farm di land> [*children are the wealth of a family. My husband is wanting many children to farm the land*]

MLO: (.) °you mean° (.) to farm the la::nd in Africa?

NC: (.) yes

MLO: hhh where's the la::nd in Africa? the de::sert you mea::n .hhh children are sta::rving there and you:: (.) hhh you and your husband left Africa >for a better life here< .hhh (.) look (.) mate::rnrity is not an obligation (.) it's not a du::ty (.) °your husband can't pressurize you into motherhood° (.) hhh show him the va::lue that you place on your five children .hhh >by putting your consideration for their future above your beliefs> °you know° (.) hhh this centre offers counselling for women thinking of contraception .hhh (.) °and termination (.) of course° (.) >you know< (.) we can discuss exa::ctly >which method is best for you<

NC: a: (.) a no (.) na wrong ting [*I ... I don't ... it's a wrong thing ...*]

MLO: >not at all< (.) hhh >if you have been taking the pill °for a while°< the risk of contracting cancer can be reduced .hhh also IUDs are quite sa::fe .hhh (.) >and give you better protection< against pre::gnancy.

The analysis in this case study is carried out by investigating the conflicting Conversational Moves (Moerman 1988) activated by MLO and NC. The objective is to better understand the pattern of pragmatic markedness characterizing their difficult interaction.

NC's opening Inform Move reports her fainting and miscarriage as a consequence of her hard work, as well as her regret for losing her sixth baby. MLO's attention, however, seems immediately to fall on NC's lack of birth control, rather than on her hard illegal work as a cleaner causing her miscarriage. Yet, NC initially seems at ease with MLO, confidently illustrating her "traditional West-African Maternity Schema". To this, MLO replies with a Challenge Move, using a scholarly style to convey her "Western 'responsible' Maternity Schema". At this point, also NC replies with a Challenge Move to defy MLO's schema, by making reference, this time, to her husband's 'authoritative stance' of 'a large family with many children as farm labourers', typical of a traditional rural economy. MLO, then, retorts with a Blame Move, directly attacking NC's poverty as well as

doubting her ability to take care of her children. Then MLO upgrades her blame with a Challenge Move criticizing the behaviour of NC's husband and suggesting a strategy to persuade him to modify his native 'family' schema for the sake of their children's future. Finally, MLO – by using an almost patronizing tone – informs NC about birth-control and pregnancy-termination options offered by the medical-legal centre where she works. NC loses her initial confidence and her speech style becomes awkward. Yet, she replies with a Challenge Move rejecting MLO's "Maternity Schema" by hastily defining it as "a wrong thing".

### **8. Case-study 3: legal-schema conflict in the pragmatically-marked interpretations of EU immigration laws**

Case study 3 illustrates how pragmatic markedness in specialized interactions – such as the one in point, focused on legal counselling – could hinder the possibility of enabling participants in an ELF-mediated interaction to become aware of each other's identities reflected in their different native socio-cultural and specialized (legal) schemata that come to be transferred into their ELF variations. This case study focuses precisely on issues of accessibility and acceptability of the EU laws on immigration and asylum. Indeed, enhancing the non-Western migrants' accessibility to conceptual and textual structures of such laws should be a central issue in the process of their drafting in English. EU immigration laws, instead, reflect 'Western' legal schemata that typically assume a coincidence between the drafter's illocutionary intention encoded in such laws and the perlocutionary effects of such laws on receivers (Gibbons 1994). And yet, predictably, the conceptual and textual structures of the EU-laws may be alien to non-Western migrants, who perceive them as pragmatically marked in that they often find them obscure – or socio-culturally unacceptable. The role of a legal advisor, therefore, should primarily be to promote conceptual accessibility in order to prevent ambiguity. This objective could be achieved by including non-Western stances on legal discourse through a revision of Grice's (1975) 'sender-centred' *Cooperative Maxims*, as well as of the European Union's *Joint Practical Guide of the European Parliament, the Council and the Commission* (2003) addressed to the drafters of EU laws in 'International English'.

The present case study reports on a situation of legal advice offered by an Italian male legal advisor (LA) to a Nigerian female migrant (NM) using NPE as her ELF variation. The focus is on a EU immigration law (i.e., *EU Council Regulation No. 343/2003*) drafted according to principles of 'clarity,

simplicity, conciseness, precision, and unambiguousness' stated in the *Joint Practical Guide* (2003) and addressed to non-European receivers – and, more specifically, as stated in the following point 1.2, accounting for the principle of:

equality of citizens before the law, in the sense that law should be accessible and comprehensible for all; legal certainty, in that it should be possible to foresee how the law will be applied. The principle is particularly important in respect of Community legislative acts, which must fit into a system which is not only complex, but also multicultural and multilingual.

The case study in point, instead, accounts for another situation characterized by pragmatic markedness in that it demonstrates that such a principle does not work in real multicultural and multilingual communicative situations. Indeed, since the EU law is actually inaccessible to NM's native legal schemata, thus causing a cross-cultural pragmatic failure (Thomas 1983) in NM's interaction with LA.

Central to this EU Regulation No. 343/2003 is the notion of 'false identity', whose definition is neither inferable from the textual structure of the law, nor coincident with NM's native "identity schemata", thus producing miscommunication – worsened by LA's tendency to belittle NM as he considers her an uneducated woman unable to understand the Western legal notion of 'identity', as well as the difference between the notions of "economic migrant" and "refugee".

What follows is an extract of this interaction:

### Transcription 3

Nigerian female migrant (NM) and Italian male legal advisor (LA).

NM: I must go for Germany (.) I want to go for the Embassy in Rome (.) .hhh >because I must find my husband< (..) he de work in Germany .hhh letter dem say se [that] hhh he want to come here °to stay with me in Italy° (.) .hhh >but I no see him here< o (..) .hhh maybe (.) °sickness de hit him° (.) >or death<

LA: is he illegal in Germany?

NM: o I think document dem na [are] alright for him there.

LA: can I see your residence permit (.) please? [NM gives the permit to LA and LA checks it] .hhh who did you pa::y for this? (.) did you give mo::ney to a lawyer °for this?°

NM: (.) no (.) >no money for [nobody<

LA: you can] tell this to me (.) we are not the poli::ce (.) .hhh we are voluntary workers

NM: (..) no (.) °no money°

LA: (..) .hhh this is a counterfeit permit hhh issued thanks to some corrupted lawyer >who asked money in return< °for a residence permit° (.) Nigeria is not a Country at wa::r .hhh >so you're not a victim of persecution or a political refugee

NM: (..) what I can do? .hhh I want help

LA: if you try to cross the borders (.) or ask the Embassy for help (.) the police shall expel you °from Italy° .hhh >and you can't return here for more than< ten years (.) because you have a counterfeit permit (.) you understand? (.) oka:y?

NM: no (.) a no understand

LA: well (..) this is the law [LA finds EU Council Regulation No. 343/2003, in the Official Journal of the European Union, 25.2.2003, and reads it]: "When it is established that the asylum seeker has entered the territories of the Member States irregularly, he or she shall not be sent back to persecution. The fact that the residence documents or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the Member State issuing the residence document or visa shall not be responsible if it can establish that a fraud was committed after the document or visa had been issued." ] you see? [LA hands the Regulation text to NM]

NM: [reads the Regulation in silence] .hhh law no se [says] this (.) my identity is no false (..) here [she points at her permit] >look my name< (.) my country, °and my picture°

LA: yes >but it's not sure< you see? .hhh >because the document is< counterfeit °and not valid°

NM: the passport is valid .hhh and this here see? my name

LA: .hhh how I can know this is your name? >where was it issued?< here? .hhh in Nigeria? (.) in Libya? who °gave you° this document?

NM: .hhh I must find my husband

LA: .hhh here in Italy (.) >or if you go to Germany< you will be arrested °because your permit° is false .hhh >and maybe also your identity<

NM: no in Germany >dem no arrest me< .hhh Germany is no responsible (.) °se [says] the law°

LA: where?

NM: >read this< (..) no responsibility >go for states< (.) .hhh and i °no go back to persecution°

LA: but this is not so .hhh states are responsible and shall arrest you and send you back >to your country< .hhh °because there is° no persecution in Nigeria (..) however (..) .hhh try (.) try to contact the Red Cross (.) perhaps they can help you >°to find your husband°< °if he is using his true identity there°.

Both participants in the interaction activate Challenge Moves to contradict each other as their respective interpretations of the law diverge and are mutually perceived as pragmatically marked. This is due to the fact that the Regulation ambiguously omits the indication of Agency in passive structures, making it difficult to identify the Member State responsible for issuing an identity document – as evident from the following version of the legal text:

When it is established [by whom?] that the asylum seeker has entered the territories of the Member States irregularly, he or she shall not be sent back [by whom?] to persecution. The fact that the residence documents or visa was issued [by whom?] on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated [by whom?] to the Member State which issued it. However,

the Member State issuing the residence document or visa shall not be responsible if it can establish that a fraud was committed [*by whom?*] after the document or visa had been issued [*by whom?*].

To disambiguate this EU norm, thus making it accessible to non-Western receivers, it may be necessary to redefine Grice's (1975) 'Western-centred' *Cooperative Maxims* that are central to traditional Pragmatics, and also justify the EU *Joint Practical Guide*. The intent is to propose an application of such redefined pragmatic maxims to the drafting of EU immigration laws in order to allow ELF-speaking migrants from different native languages and cultures to access and possibly to accept Western legal concepts and terminology that are unfamiliar to them. The revision of Grice's four *Cooperative Maxims* of *Quality*, *Relevance*, *Quantity*, and *Manner* is justified by the fact that they take a univocal stance by focusing on what the Sender of the message intends to communicate, without acknowledging the Receivers' possible diverging interpretations of that message. Hence the proposal to reformulate Grice's maxims into four new *Cooperative Parameters* (Guido 2008) aimed at making EU laws on immigration accessible and acceptable to migrants. These parameters are:

- 1) *Implicature* – related to the Sender's illocutionary intention encoded in his/her message, and entirely based on his/her subjective assumptions of evidence and falsity. This parameter is meant as a revision of Grice's *Quality* maxim that recommends "not to say what you believe to be false, or what you lack adequate evidence for" – thus expressing an objective judgment on what it is just the Sender's subjective interpretation of events, which may be perceived as 'pragmatically marked' by Receivers who interpret the same events from their different socio-cultural schemata.
- 2) *Inference* – related to the perlocutionary effects of the Sender's message on Receivers. Such effects, however, may not coincide with the Sender's intentionality, as empirical Receivers may find the message relevant to them, or rather irrelevant. This parameter, therefore, is meant to revise *Relevance*, a maxim that Grice himself found too complex to define.
- 3) *Negotiation* – related to the Sender's and the Receivers' mutual pragmatic cooperation, thus broadening the scope of Grice's maxim of *Quantity* from the Sender's intention to make his/her message informative by including the empirical Receivers' possible different interpretations of the Sender's message.
- 4) *Acceptability* – related to the Sender's and Receivers' efforts to disambiguate concepts that belong to their respective different cultures and, as such, may be mutually perceived as alien and 'pragmatically marked'. The objective is to enhance an understanding of their respective

interpretations of a message – thus revising Grice’s maxim of *Manner*, which refers only to the Sender’s efforts to “avoid obscurity of expression, ambiguity and prolixity”. The objective of the new *Acceptability* parameter, instead, is to become aware of situations in which the Sender’s message can be perceived as ‘pragmatically marked’ by empirical Receivers from different cultures, thus producing on them unintended effects of obscurity and ambiguity. In such cases, ‘prolixity’ may be considered as an effective strategy to achieve disambiguation and to render the message acceptable to the Receivers’ different socio-cultural schemata.

On such grounds, two reformulations of the EU Regulation no. 343/2003 (which was the focus of the interaction reported in ‘transcription 3’) were drafted by two post-graduate Italian students in intercultural mediation according to the new *cooperative parameters*, with the intent to avoid the Receivers’ perception of a pragmatically-marked specialized text and to make it, instead, clearer to them (more specifically, to ELF-speaking Nigerian migrants, as the one in the case in point) (Guido 2008).

#### Reformulation 1

Agency specified according to migrants’ L1 ergative (OVS) structures.

If the *territories* of the Member States irregularly host an asylum seeker with invalid residence documents or visa, *they* cannot expel him and send him back to persecution to his Country. *Invalid documents* lay the responsibility on the Member State that issued them. However, if *the Member State* can demonstrate that after it had issued the document or visa, a fraud was committed by someone else, then that *Member State* shall not be responsible for that fraud.

#### Reformulation 2

Agency specified by means of ‘prolixity strategies’ to suit migrants’ L1 clarity parameters.

The European Council established that when the asylum seeker enters the territories of a Member State irregularly, he or she shall not be sent back by that Member State to persecution in his or her Country. The European Council has also established a clear method to identify the Member State responsible for the examination of an asylum application. If the asylum seeker possesses a valid residence document, then the Member State that issued that document is responsible for the examination of the asylum application. On the contrary, when a Member State issues non-valid residence documents to a migrant or an asylum seeker, the European Council considers that Member State responsible for it. However, a Member State cannot be considered responsible if the European Council establishes that the fraud was committed after the issuing of the document.

## 9. Case study 4: An ethnopoetic approach to ELF-mediated forensic ‘entextualization’ of trauma reports

In case study 4, the focus is on non-Western migrants’ oral reports of trauma experiences. Such reports, once collected by Western medical-legal officers during interviews, come to be transcribed and reformulated into different written formats (e.g., notes, translations, and summaries) for the legal purpose of certifying post-traumatic stress disorders (PTSD) principally in situations of asylum seeking. Medical-legal officers, therefore, become the actual ‘forensic editors’ of the migrants’ trauma reports. In playing this role, officers often ‘displace’ such reports from their original socio-cultural contexts in order to reframe them – or ‘entextualize’ them (Urban 1996) – into a written form within the new and alien socio-cultural contexts of the host country (Slembrouck 1999). In the case in point, the entextualization process typically occurs according to the conventional Western forensic methods of transcription organized into textual paragraphs which normally do not correspond to the non-Western migrants’ native textual conventions (Blommaert 1997). And in fact, migrants frequently perceive their transcribed reports as ‘pragmatically marked’, since they do not recognize them as ‘their own’. Indeed, the higher the medical-legal officer acting as editor perceives his/her socio-cultural and professional status with respect to the migrants’ status (especially female migrants’ status), the more s/he tends to impose his/her own ‘preferred interpretation’ on the written reformulations of the migrants’ original oral reports. The outcome is often an unequal and culturally-biased entextualization for forensic purposes (Coulthard 2000), which may give rise to injustices in that it disregards the migrants’ different native socio-cultural conceptualizations of events reflected in the structure of their original oral trauma reports.

Case study 4 proposes a possibility of entextualizing a female Nigerian migrant’s oral trauma report by identifying in it some specific textual clues for its correct interpretation, based on the migrant’s native socio-cultural schemata. Such clues would allow a medical-legal officer as editor to recover the original ‘situatedness’ (Gumperz 1982) within the very structure of the migrant’s report, thus overcoming the sense of a pragmatically-marked and unfamiliar narrative structure and facilitating the production of appropriate forensic reformulations. The method adopted in this case study is Hymes’ (2003) ‘Ethnopoetic Approach’ applied to written reformulations of migrants’ oral trauma narratives (Guido 2018), with the intent to infer the migrant’s intentionality from the close form/meaning interrelationships identified in the Nigerian migrant’s trauma report. This method is in fact meant to question the customary Western forensic entextualization of non-

Western migrants' oral reports displaced from their original linguacultural contexts and conventionally transcribed into paragraphs – a form of textualization regarded as the 'universal' format for the coherent discursive representation of recounted events. It will be argued, instead, that such a paragraph-based textual format does not disclose the illocutionary force of the migrants' original oral trauma reports (i.e., the migrants' intentionality in producing them), but rather it would only convey the perlocutionary effects of the migrants' reports on the Western medical-legal officers acting as editors and, as such, interpreting the reports from their socio-cultural standpoint according to which events are first experienced and then textualized into blocks of paragraphs (namely, Introduction, Development, Conclusion). Conversely, Hymes' 'ethnopoetics' would reveal, instead, the 'non-conventional' patterns of coherence in non-Western migrants' ELF-mediated oral reports (such as, for instance, word repetitions, shifts in tense/aspect, in location, or in actor-position within accusative/ergative clauses), indicating units of meaning to be edited into 'lines'. The choice of lines rather than paragraphs is obviously not for aesthetic effects since, in autochthonous oral narratives, it reflects the rhythms of bodily actions and emotions in relation to the perceptions of natural phenomena, revealing what the speakers themselves regard as relevant in their narrative. Predictably, Western legal experts could experience such an unusual forensic transcription as marked, but non-Western migrants' should instead not perceive the ethnopoetic entextualization of their oral trauma reports as familiar and pragmatically unmarked.

From a forensic examination of a mini-corpus of West-African migrants' trauma narratives aimed at identifying PTSD syndromes (Guido 2018), it was possible to identify a typical 'sonnet-like' pattern of five and three lines – the former five lines describing the outer events causing trauma; the latter three lines representing the migrants' inner state of distress in response to the traumatic events. More specifically, case study 4 focuses on the ethnopoetic transcription for forensic purposes of a trauma report by a Nigerian female migrant using Nigerian Pidgin English as her ELF variation during a medical-legal examination aimed at establishing the eligibility for the refugee status:

Transcription 4.

*Lines 1-5: outer context.*

1. Das pipul dem bin don mek mi walk fo tri day dem, o, fo Niger border  
*[Those people had made me walk for three days to the Niger border]*
2. wie dem bin sell mi to won 'madam' and won car bin tek mi fo Al Zuwarah  
*[where they sold me to a 'madam' and a car took me to Al Zuwarah]*
3. wie won shack wit di sand-bed bin don lok mi and oda ten ten girl dem

*[where a shack with a sand-bed had locked me crammed with other ten girls]*

4. wie di oyibo dem (Yoruba: white men) bin de kom evri de evri de  
*[where the white men were coming every day, every day]*

5. a remember di pain fo my yansh and leg dem and di cut dem fo my bodi  
*[I remember the pain in my back and legs and the cuts in my body]*

*Lines 6-8: inner response*

6. Wen di boat bin bring os fo Italy a bin mek my pikin,  
*[When the boat brought us to Italy I gave birth to my child]*

7. but hie police dem bin spot os and dem bin pik os all.  
*[but here the police found us and they took us all.]*

8. fo Nigeria a no get hope fo mari and fo my pikin in future.  
*[In Nigeria I have no hope for getting married and for my child's future.]*

In the first five lines of this ethnopoetic transcription, regarding the ‘outer context of trauma’, the link-words mark the ethnopoetic turning points of the woman’s oral report, which make her trauma narrative move forward to the rhythm of an emotional alliterative pattern. The evidence can be found in lines 2-4 that start with “wie” (‘where’), thus highlighting the places of the woman’s distress (namely, the “car”, the “shack”, the “boat”) which are thematized as animate agents in subject position within ergative clauses. In line 5, the woman avoids an explicit description of herself undergoing rape and torture – in fact she just hints at abuse frequency, emphasized only by the use of reduplication (‘every day every day’), and at its consequences, by simply mentioning the wounds and the pain in her back and legs. In the last three lines, regarding the woman’s inner response to trauma, her concern is focused on the socio-cultural effects of rape, which she expects would destroy her hopes of getting married and of securing future for her illegitimate child, in case of her repatriation in Nigeria. The entextualization of this trauma report into lines, respecting the rhythm of the woman’s original narrative, would provide evidence of the fact that trauma in other non-Western cultures not always should be treated as a subjective experience in need of an individual PTSD therapy, but rather as a political action aimed at the individual’s social recovery within his/her native community.

## 10. Conclusions

This research has advanced the notion that non-Western migrants (and in particular lower-status female migrants) involved in asymmetric intercultural situations of legal advice in Europe, are expected to overcome the sense of unfamiliarity prompted by the pragmatically-marked spoken and written registers of the Western immigration and asylum laws by authenticating them

differently, according to their different native pragmalinguistic schemata that they activate in interpreting such laws. These different schematic authentications, however, may cause schema conflicts giving rise to serious misunderstandings. Hence the need for solutions that challenge the notion of legal registers standardized according to shared generic norms. Recognizing communication failure can foster mutual understanding and acceptance of differences expressed precisely through the structural pliability of English, making this language a democratic ‘lingua franca’ giving voice to all its speakers’ marked socio-pragmatic uses and specialized stances.

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