

Multimodality in the Courtroom in American and British Criminal Cases¹

Asst. Prof. Dr. Bushra Ni'ma Rashid

College of Education, Ibn Rushd for Human Sciences, The Department of English, Iraq

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ABSTRACT

The public now has access to cases that were previously solely available to legal professionals in the judicial circle since courtroom discourses (CD) are increasingly being mediated online. The complexity of meaning-building techniques in CD must be analysed using a multimodal approach now that these videotaped trials are available for research and criticism. But in court, because of the law, power, culture, society, or other things, the judge may sometimes move away from being neutral, which can lead to judicial injustice. The judge achieves his or her communication goals in the courtroom by controlling the talk in the courtroom. This is the judge's and it directly shows whether the judge stays neutral and makes sure that criminal trials are fair in terms of both the law and the way it is done. This exploratory research aims to provide to analyse criminal CD critically, a preliminary theoretical framework for multimodal discourse analysis (MMDA) has been developed. First, we collect the dataset from criminal cases in British and America. If we want to comprehend courtroom interactions in their whole, we must take into account all kinds of communication in the courtroom. The study shows that the relationship between the prosecutor and the defense lawyer in a British and American courtroom is not balanced, which is shown by their use of multimodal discourse (MMD). It also sheds some light on future research in this area and suggests ways to improve how criminal cases use multimodality.

Keywords: *multimodal discourse analysis (MDA); theoretical framework; criminal courtroom discourses*

INTRODUCTION

Legal discourse analysis is based on vocal materials, such as court judgements and other legal paperwork. One-dimensional and static are the main characteristics of the legal discourse analysis. Forensic linguistics often performs analytic commentary on audio and video materials by transcribing them into vocal texts. Until date, the primary method of analysing legal speech has been orthographic transcription. Multi-modal justification is a relatively new phenomenon in the field of argumentation. For example, sentiments and intuitions as well as the physicality, based on the senses, are also taken into consideration as independent forms of reasoning. Many people use the "logical" approach of argumentation, but there are alternatives. While the social environment (including different psychological elements) and other things that impact the argumentation process are important, the classical view of argumentation and reasoning believes that arguments are fundamentally rational (or at least "reasoned"), which is based on our bodily sensations; and the kisceral, which is based on our instincts, hunches, and other intuitive abilities [1]. Fig.1 depicts the Modality of the American Courtroom.

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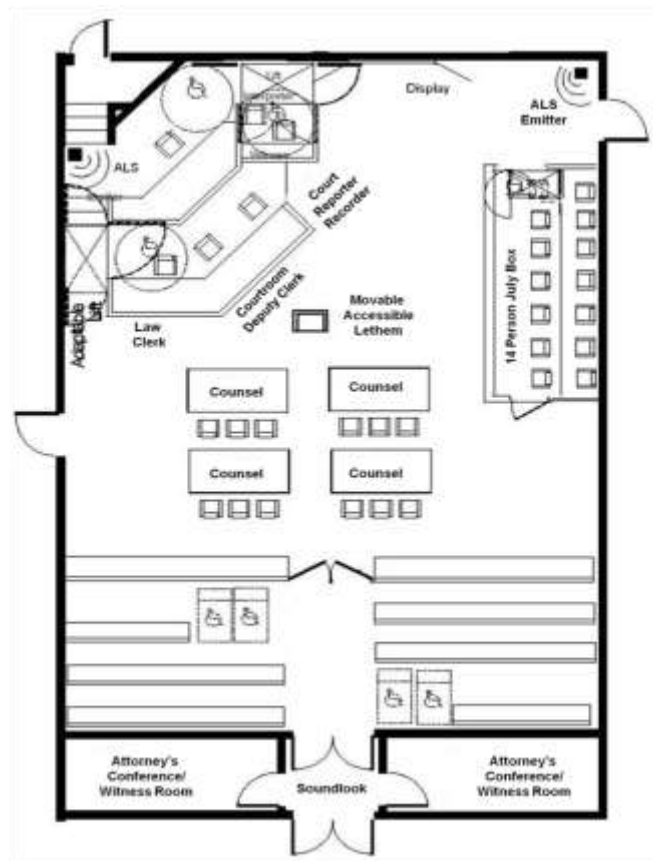


Figure 1: Modality of American Courtroom

Alternate modalities of expression were coined by Gilbert. Accordingly, researchers have yet to decide whether multi-modality may be meaningful in the setting of law which is a social arena with significant formal and institutional restrictions. It's no surprise that the logic traditionally regarded as the ideal form in law—is the predominant style of legal processes and debate. However, specific legal briefs and the reasoning of judgments show that different modalities exist in the legal setting. Legal arguments in the visceral mode, "strategic maneuvering" within the law's dialectical framework, and rhetorical elements like pathos and ethos may all be found in the visceral form of argument [2]. As far as the author knows, no one has attempted to use Groarke's multimodality or Gilbert's notion of multimodal argumentation in legal analysis. It is important to note that the logical model is concerned with arguments; the dialectical model is concerned with arguers; and, finally, the rhetorical model is concerned with audience involvement [3]. All three highlight the value of an argument as a result, but the rhetorical model emphasizes an argument as a process "used by arguer and listener." Legal argumentation (the two premises (legal norms and facts) and the conclusion) is discussed in terms of substantive law norms in the scope of the logical model. To arrive at a legal conclusion, an argument must adhere to certain procedural norms, which are represented by the dialectical model (in the procedural sense). While it is easy to create a strong legal argument in circumstances that are well defined, it is more difficult to do so in American and British cases that are not so clear-cut [4]. A person's psychological and social circumstances can no longer be dismissed out of hand as unimportant when it comes to debating or trying to sway an audience's fervor for specific theories via speech. All three approaches have been highlighted within the scope of contemporary legal reasoning, notably in the specialist subject of legal argumentation. Syllogistic, propositional,

predicate and deontic logics have been used by theorists employing the logical model to analyze ideal legal arguments. As a result, some legal academics have focused more on the procedural features of legal reasoning (dialogical or dialectical). As seen above, logic and dialectical components may be found in their work. A similar point was made by Alexy, although she referred to it as justification's internal criterion. They require second-order or external standards of justification in the event of uncertain instances, both of them argued, using recognized canons of legal interpretation and evidence to support their claims. Perelman concluded by emphasizing the need of paying attention to the audience ("an adherence of minds") to fully comprehend the claims made by the participants in a given debate. Justice in criminal trials refers to the judge's impartiality and equitable treatment of all sides of the case, which is the foundation of judicial neutrality [5]. Procedural justice, distributive justice, and retributive justice are all issues that the judge addresses in the courtroom when he or she presides over a criminal trial rather than participating in it. The purpose of analysing criminal courtroom discourses, this study provides a theoretical framework for MMDA of criminal CD in American and British cases.

Section II discuss the multimodal discourse analysis, section III discuss about discourse and multimodality in criminal courtrooms, section IV discuss about the preliminary theoretic framework, section V explain conclusion.

MULTIMODAL DISCOURSE ANALYSIS

A. Modality and Systemic Functional Theory (SFT)

Mode is a culturally and socially determined resource for producing meaning. Images, words, layouts, music, gestures, and spoken language all serve as channels of communication. As semiotic resources, modality and multimodality show that meaning may be generated and understood in a variety of different ways. MMDA relies on the theory of social semiotics since they believe language is a social semiotic. Systems functional theory (SFT) is a semiotic framework established by Halliday that sees semiotic resources as meaning systems that serve distinct purposes in human communication. They investigated the connection between media and modalities. They introduced the idea of multimodality and the many ways that meaning may be created that go enhance the semiotic process beyond language. Additionally, they emphasised that the various modalities have achieved some degree of technological parity with one another in the age of digitalization, and this has given rise to the idea of "not only a united and unifying technology, but also a unified and unifying semiotics." [6]

B. Analysis of multimodal discourse

New SFT developments may be modelled and analysed using the multimodal social semiotic technique that incorporates not just language but additional semiotic resources such as images, sound and actions. It has performed a number of research on the systemic functional viewpoint on multimodality, as well as on multimodality in mathematical discourse, pedagogical multimodal literacy, and software creation for critical thinking using multimodal analysis (MMA) and visualisation [7]. Figure 2 depicts multimodal analysis.

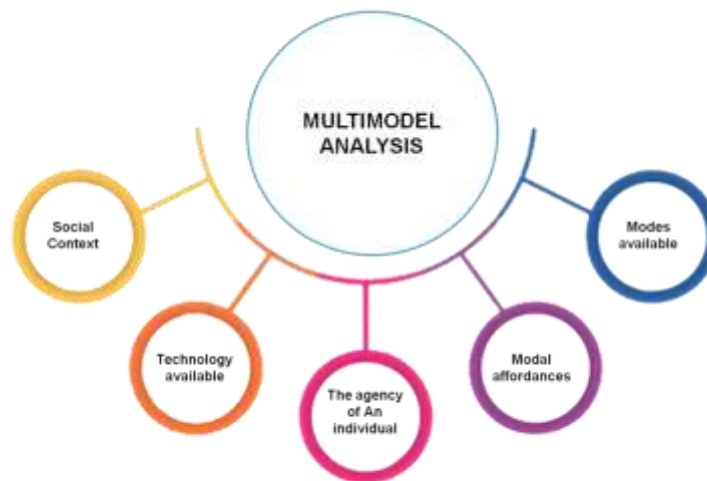


Figure 2: Multimodal analysis

C. Multimodal Discourse Analysis Software

Computers in the contemporary digital world provide us the physical means for store and processing large amounts of multimodal information, such as audio, video, and text files. Multimodal data mining becomes demanding but also rewarding. Researchers may segment and annotate still and moving pictures, sound streams, graphic texts, and other media using a range of applications including MMAV (Multimodal Analysis Video), etc. They can manage static and dynamic data synchronically across several modes by using video files [8].

A sort of interactive software called MMAV is used to annotate and analyse movies, as well as to provide example analyses and pre-made templates to make it easier to educate and learn about the language, picture, and audio resources that are present in videos. Visualization displays relative times for various multimodal combinations as well as flexible ideas and frameworks for critical analysis and interpretation [9].

The growth of MMDA means that it is now regarded multidisciplinary in nature. Researchers may conduct quantitative studies to characterise multimodal data systems and find trends or patterns by using a multimodal corpus and a MMDA technique. This can help them develop the creation of meaning beyond speech [10].

DISCOURSE AND MULTIMODALITY IN CRIMINAL COURTROOMS

A. Multimodality and Criminal Trials

Consider the criminal justice system in the United States. In the American criminal justice system, evidentiary standards and judicial procedures are used to create the justice system. However, the evidence presented in a criminal trial in the United States is just a small part of the process. Actually it is a drama in which the several courtroom performers "play out the guilt or innocence of the defendant for the trier of fact to judge." In addition, they suggested that a number of non-hard evidence elements, such as the quality of lawyers' argument, the defendant's behavior and appearance in court, and even the victim's representativeness, would really influence the result of a criminal case. Figure 3 depicts the graphic representation of American court room [11]. Figure 3 describe the communication connections between court parties to emphasise performativity. Despite being preferred, witness examination must be preceded by the opponent case. Communications between parties provide the contest space a third dimension. These communications target the jury and judge. The courtroom is designed for such communication dynamics.

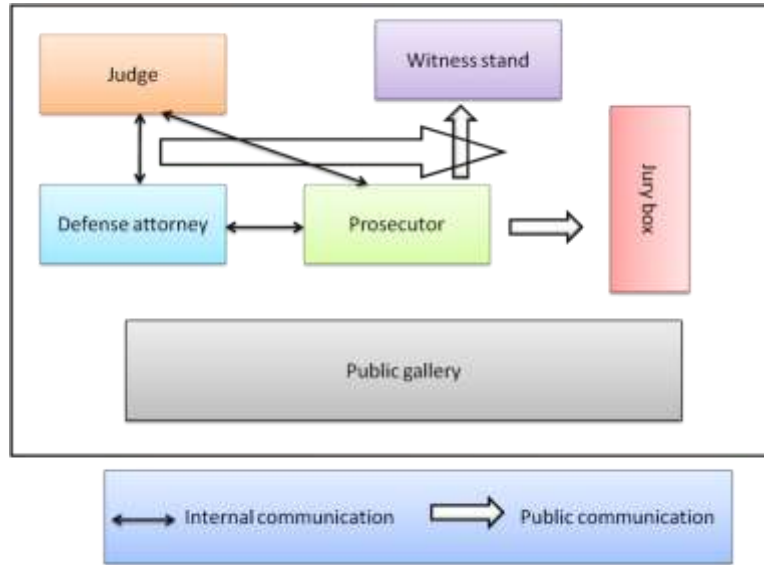


Figure 3: Graphical depiction of an American courtroom

In this instance, linguistic characteristics as well as other informational modalities are present in criminal courtroom discourses. As semiotic resources, MMDA may be used in criminal cases to examine the allocation of speech power between the prosecution, the defence, and the judge. A key rape trial witness employed multimodal communication practises, such as facial expressions and bodily alignment and realignment, to bargain with the lawyer for power and epistemic connections throughout the trial and to co-construct her separate witness identity, according to this study paradigm [12]. Figure 4 depicts the graphic representation of English courtroom. The Court transforms speech into truth claims, appearances into accountabilities, and interests into responsibilities. In both courts, competition drives important truth effects. In both courts, two hostile cases contend in front of an unbiased and commonsense audienc. The spatial connections of speaking locations and reception positions are schematized in figure 4.

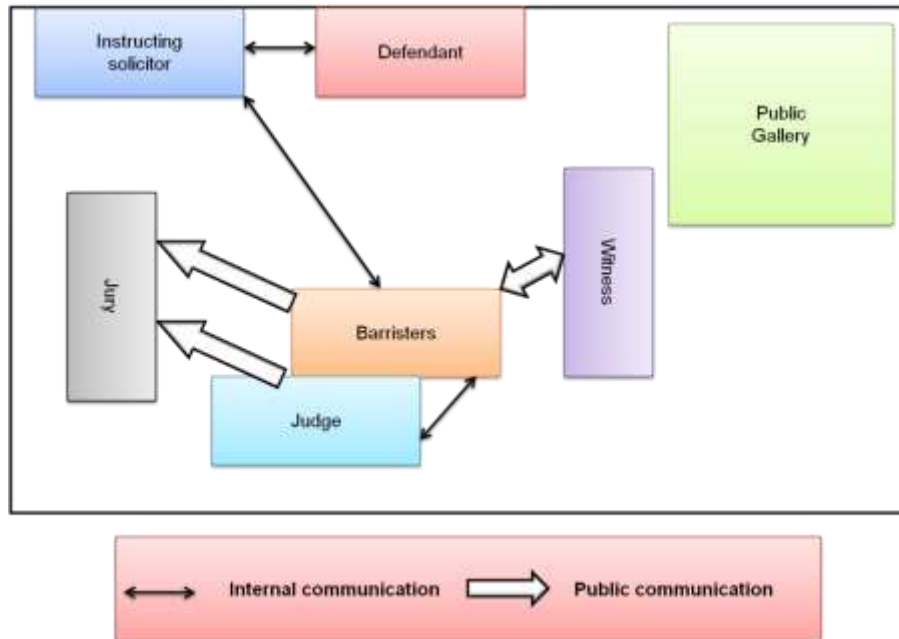


Figure 4: Graphical depiction of an English courtroom

B. Prior Criminal Discourse Analysis

Multimodal study of criminal courtroom speech is unusual. Most courtroom speech research focused on particular cases. Some investigate the link between courtroom speech and power. Some highlight the balance of power in the court, particularly the influence of colour, ethnicity, etc. on power manipulation in a criminal trial. There are infrequent multimodal studies, but systematic study on criminal courtroom in American and British using multimodal techniques is forthcoming [13].

PRELIMINARY THEORETIC FRAMEWORK**A. The Theoretical Principle**

In legal discourse research, static rather than dynamic language analysis has been repeatedly recognised as a problem. In order to conduct contemporary research on legal discourse, it is required to examine both linguistic and nonlinguistic behaviours, such as eye contact, facial expressions, physical activity, and geographical locations. If we want to perform more deep analysis on multimodal courtroom discourse analysis, we must first construct a speculative theoretical framework for MMDA. MMDA in criminal trials is different from MMDA of civil cases because of the variances in legal procedures.

Each text has three levels of meaning at the same time, as is fundamental to social semiotic theory: interpersonal meaning, which deals with the negotiation of social relationships and the expression of attitudes; experiential and logical meaning, which interprets our experience of the world and the logical relationships that exist; and textual or compositional meaning, which interacts with the coherence of messages and their significance to the context [14].

B. The Preliminary Framework

To understand criminal court language, important modes that contribute to meaning should be identified. Social semiotic theory suggests that courtroom videotape ought to capture both verbal and nonverbal cues such as eye contact and physical activity as well as facial emotions. In a criminal court, human communication happens; hence the physical surroundings should be encoded to maintain decorum. For example, the judges' outfit, lighting design, and furniture arrangement in a criminal court all contribute to the meaning of the dynamic MMDA of criminal trials. Figure 5 depicts the three layers of framework.

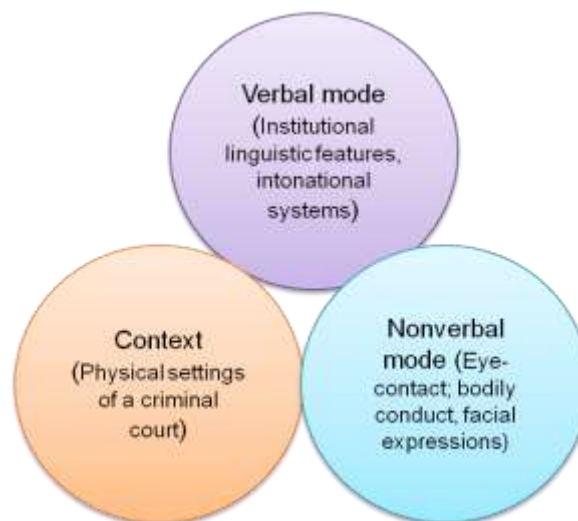


Figure 5: Three levels of annotation in a criminal court.

In order to make this structure more straightforward, a criminal court video recording must include at least three levels of annotation:

- Verbal mode
- Context
- Non-verbal

The above-mentioned three layers' detailed measurements for annotation will vary depending on each unique scenario. The initial step toward using large-scale video and audio data for quantitative MMA is multimodal case analysis of criminal courtroom discourses [15].

Creating complicated coding schemes for MMA may be made easier with the use of computer software that was developed using scientific principles. MMA is one such example. This video from MMA Company discusses the ideas and frameworks of SFT for the purpose of analysing how verbal, visual, and auditory resources attract attention and generate meaning. In a nutshell, the software library may provide customers with a vast repertoire of system choices for the purpose of annotating video streams.

For example: In the courtroom, eye contact shows public distance, connection, and additional information. In a criminal trial that is being recorded on videotape and is being filmed in the courtroom there may be additional possible participants, the internet audience [16]. We've all noticed that viewers are more direct eye contact between the cameras and the visual participants, and less engaged if they're not. So it's intriguing to see whether courtroom participants are staring at the camera. Judges may engage their audience as observers or at the very least observers if they address their cameras directly in courtrooms. In multimodal contexts, camera gaze or visual address establishes interpersonal relationships between screen participants and viewers. MMAV's offers annotation system [17]. This feature is unique in nonverbal mode since it allows us to examine to what degree courtroom participants engage individuals outside the courtroom or want to interact with the camera within the courtroom. Another system option in MMAV is a criminal court's dimensional and temporal linkages must be examined as a significant aspect.

When it comes to American criminal courtrooms, the defendant and his or her legal counsel sit together. Cross-examination of prosecution witnesses by defense counsel is common in American criminal courts, resulting in synchronic speech from both sides, particularly when the cross-examinee is annoyed by his or her interrogator. As a result, the construction of meaning in a MMD relies heavily on spatial and temporal relations.

MMA software may thus assist in the development of a framework for each multimodal case study using the systems selected for analysis. Analytical theory and software must be in sync as well, for the time being at any rate. MMDA might be more difficult to do if a software design is not in accordance with the theoretical foundations of this kind of analysis. A framework for MMDA of criminal court discourses is provided by integrating social symbolism with SFT software. MMAV's design is based on social semiotics theory, therefore its system choices coincide with MMD analysis. Combining both in a tentative framework allows academics to study how meaning develops through system combinations (modes) [18].

CONCLUSION

MMA involves text, picture, audio, and video. In today's digitalized world, literacy isn't limited to words alone. Courtroom communication relies heavily on the use of visual and aural elements. Cases formerly reserved for the expertise of legal professionals are now open to the general public. In truth, these filmed procedures are open to the public and might be used by forensic linguists as first-hand study materials. A multimodal approach is required to investigate American and British courtroom meaning-making procedures. A criminal court contains dramatic confrontations and strategic shifting of discourse power, therefore we need to understand how multimodal communication may engage and produce meanings. American and British Courtroom communication is complicated, thus all means of communication should be addressed. Moreover, in the digital era, which presents new changes and problems, forensic linguists must face those obstacles to evaluate expanding forensic multimodal discourses in the public. New techniques and tools are required, and this paper aims to get researchers' attention. With the complexity of multimodal courtroom discourses, MMA is needed. The study's preliminary framework offers analytical aspects for multimodal courtroom discourses.

REFERENCE

1. Ajjawi, R., & Boud, D. (2023). Changing representations of student achievement: The need for innovation. *Innovations in Education and Teaching International*, 1-11. <https://doi.org/10.1080/14703297.2023.2192513>
2. Al-Juboury, M. T., & Saedi, M. A. M. A. (2018). Modernizing Teaching English with Reference to Some of The Traditional Methods. *Al-Adab Journal*, 2(126), 53-72. <https://doi.org/10.31973/aj.v2i126.48>
3. Al-Waili, S. A., Jassim, A. T. A. H., & Khudha, A. T. B. K. (2018). The Extent of the Arabic language Teachers Practice in the Intermediate Stage for the Modern Teaching Skills from the point of view of the Managers and Supervisors in Iraq. *ALUSTATH JOURNAL FOR HUMAN AND SOCIAL SCIENCES*, 226(3), 361-378. <https://doi.org/10.36473/ujhss.v226i3.100>
4. Chang, C. C. (2023). Enhancing EFL University Students' Readiness for Learning Academic Content in English: the Effectiveness of Combining MOOCs with Data-Driven Learning Activities in an English Language Classroom. *English Teaching & Learning*, 1-26. <https://doi.org/10.1007/s42321-023-00139-8>
5. Feng, D. Zhang, D. and O'Halloran, K. 2014. "Advances and frontiers of multimodal discourse analysis", *Contemporary Linguistics*, Vol. 16 (1), pp. 88-99, 2014.
6. G. Kress, What is mode?, in C. Jewitt, ed., *The Routledge Handbook of Multimodal Analysis*, London: Routledge, pp. 54-67, 2009
7. Jewitt, C, J. Bezemer and K. O'Halloran, *Introducing Multimodality*. London, [England] New York, New York: Routledge, 2016.
8. K. O'Halloran, *Multimodal analysis video*. creativework. Multimodal Analysis Company, 2013.
9. Lewandowska-Tomaszczyk, B., & Trojszczak, M. (Eds.). (2022). *Language Use, Education, and Professional Contexts*. Springer. <https://doi.org/10.1007/978-3-030-96095-7>
10. Miyano, K., Shinkuma, R., Shiode, N., Shiode, S., Sato, T. and Oki, E., 2020. Multi-UAV allocation framework for predictive crime deterrence and data acquisition. *Internet of Things*, 11, p.100205.
11. Moore, S., Clayton, A. and Murphy, H., 2021. Seeing justice done: Courtroom filming and the deceptions of transparency. *Crime, Media, Culture*, 17(1), pp.127-144.
12. Najeeb, A. F., & Rezqallah, M. S. (2023). Effective Metadiscourse Strategies in Texts of English and Arabic Trade Agreements to attain persuasion. *Journal of the College of Languages (JCL)*, (47), 104-125. <https://doi.org/10.36586/jcl.2.2023.0.47.0104>
13. Nashmi, B. H., & Mehdi, W. S. (2022). A Pragmatic Study of Identity Representation in American Political Speeches. *Journal of the College of Education for Women*, 33(1), 16-32. <https://doi.org/10.36231/coedw.v33i1.1560>
14. S. Tan, B. A. Smith and K. J. O'Halloran, "Online leadership discourse in higher education: A digital multimodal discourse perspective", *Discourse & Communication*, Vol. 9 (5), pp. 559-584, 2015.
15. W. Guo, "On the construction of legal facts in court discourse: A multimodal perspective", *Journal of Guangdong University of Foreign Studies*, pp. 53-57, 2014 (1).
16. Włodarczyk, M., Kopaczyk, J. and Kozak, M., 2020. Multilingualism in Greater Poland court records (1386–1448): tagging discourse boundaries and code-switching. *Corpora*, 15(3), pp.273-290.
17. Yuan, C., 2019. A battlefield or a lecture hall? A contrastive multimodal discourse analysis of courtroom trials. *Social Semiotics*, 29(5), pp.645-669.
18. Zhang, Y. (2021). *Adversative and Concessive Conjunctions in EFL Writing*. Springer Singapore. <https://doi.org/10.1007/978-981-15-7837-3>