

Investigating Power and Control: Uses Of ‘Invariant Tag’ Questions in Malaysian Criminal Trials

Nurshafawati Ahmad Sani¹, Fatin Rahaina Ahmad Sani²

Abstract

This paper examines invariant tag questions in the 16 Malaysian criminal proceedings (MAYCRIM) corpus, focusing on their role in cross-examination. Cross-examination questions are pivotal as they elicit information and confirmations from witnesses while allowing them to narrate events. Using a corpus-based forensic discourse analysis, the study combines quantitative and qualitative methods to uncover patterns in tag question usage. Five common agreement tags—do you agree, agree/setuju, correct/betul, particle tak/not, and do you know—are identified as tools for Malaysian barristers to exert coercive pressure on witnesses. The critical analysis reveals a preference for the tag do you agree due to its coercive power. The paper concludes with a discussion on the theoretical and pragmatic implications of these findings for bilingual adversarial systems or postcolonial jurisdictions. It also highlights the disadvantaged position of laypeople in bilingual courtrooms, offering insights and proposing potential solutions to address these challenges.

Keywords: Forensic Linguistics, Courtroom Questioning, Tag Questions, Coercive Questions, Corpus-Based Forensic Discourse Analysis.

INTRODUCTION

Power and Control in Neocolonial Courtrooms

The Malaysian legal system has undergone a series of language reforms since 1957 until the 1980s, to allow the national language (i.e., Malay language) to be used in courtrooms, though English remains a privileged language in Malaysian courtroom today. Eades (2023) highlighted and raised the awareness of neocolonial power, and control on the social consequences of postcolonialism for participants in the legal system. Malaysia is no exception.

Malaysia’s long history of British colonisation has produced a system that is based on adversarial common law, but which operates bilingually (Powell & Hashim, 2011, p. 92), in the national language Malay, and English, though, as we will see, English is still the dominant language. The linguistic impact of colonialism is therefore an important dimension of Malaysian courtroom talk. Unlike in Australia, where Eades has worked to provide a guide for lawyer to help them in interaction with Aboriginal witnesses, Malaysia has yet to tackle the question of whether there is a need for guidelines to help participants in courtroom proceedings.

In an institutional interaction (Drew, 1992), questions have different purposes from those in everyday conversation because their discourse properties (Levinson, 1992, p. 81). Questions are designed differently because they involve specific goals, activities and usually as asymmetrical power relationship between the questioner and the answerer. Questioning is used by barristers to elicit narrative from the lay witnesses, but also to allow them to offer their own narrative and retell events from a legal perspective. Tag questions practices in the criminal courtroom happened to reveal the effects of such variation on the lawyers’ and witnesses’ discourse.

Tottie and Hoffman (2006) argued that the tag question is a very “conspicuous phenomenon” (p. 284) that fascinates linguists; thus, an extensive literature is written on their pragmatics, polarity properties and even their discourse functions (González, 2014). There have been few legal studies of tag questions (Rubin, 2017) and little has been said about their uses from a legal-pragmatic perspective. Therefore, this section addresses and highlights the forms and functions of tag questions, specifically in Malaysian legal discourse. This chapter also

¹ Faculty of Languages and Communication, Universiti Sultan Zainal Abidin, 21300 Kuala Nerus, Terengganu, Malaysia, Email: shafawatisani@unisza.edu.my

² Universiti Teknologi MARA, Kedah, Malaysia, Email: fatinrahaina@uitm.edu.my

move beyond the mere description of linguistic variation in the courtroom, and examine the range of linguistic phenomena that brings social consequences.

Corpus-Based Forensic Discourse Analysis

A corpus-based forensic discourse analysis explains the functions of tag questions used by Malaysian barristers. The key ideas and theories that shape corpus-based forensic discourse analysis are derived from the cutting-edge work of a transformed descriptive linguistics over the past 40 years, starting with the pioneering work of Roger W. Shuy (Shuy, 1993, 1995) where he had pieced together a conversation from a deaf man, and Coulthard (1992), who worked on the famous disputed Evans statement with his work contributing to a posthumous pardon.

The potential of forensic discourse analysis has encouraged increasing work on forensic corpus linguistics in courtroom discourse such as Archer (2005, 2006, 2014) who examines the linguistic strategies in the early English historical courtroom. Other linguists (Berk-Seligson, 1999; Harris, 1984; Tkačuková, 2010; Woodbury, 1984) discovered functions of courtroom questions as controlling tools to limit the amount of information delivered to the jury or judge and as a “conceptual framework” to weaken the witnesses’ testimony (Aldridge & Luchjenbroers, 2007). On the micro-level, questions in the courtroom are also analysed in terms of their formal properties (Gibbons & Turell, 2008), illocutionary forces (Cotterill, 2003; Heffer, 2005) and even to the smallest unit of language such as discourse markers that accompany them (Hale, 1999).

As a sub-domain of discourse analysis, forensic discourse analysis is an approach that can be seen as “a combination of insights from different linguistic fields, including speech act theory, corpus linguistics, register and even psycholinguistics” (Olsson, 2008, p. 20). Commenting on the forensic corpus-based method, Cotterill (2010, p.578) notes the use of corpora in many types of forensic linguistic analysis is becoming increasingly commonplace. This is because the use of corpora in forensic linguistics sheds light on the “the prototypical language patterns and functions of various professional domains” (Flowerdew, 2004, p. 23) such as questioning in the courtroom.

Malaysian Criminal Trial

The Malaysian Criminal (MAYCRIM) trial is situated within the Malaysian adversarial system and depend on oral evidence; therefore, lawyers’ interactions with witnesses are vital, being made up of the cultural and cognitive practices of legal professionals (Drew & Heritage, 1992, p. 3; Heffer, 2005, p. 36) such as the particular ways they interact in the courtroom due to the institutional and professional rituals they have to adhere to.

Courtroom discourse is described as a complex genre (Heffer, 2005, p. 71) that is made up of “a number of key events formed from sequential speech acts” (Coulthard, Johnson & Wright, 2016, p. 78). Courtroom discourse in Malaysia is a complex genre because of the wide range of events that occur in an adversarial setting, including the opening speech, prosecution and defence evidence, closing speeches, and judgement and sentencing. Gibbons (2003) explains that in the English adversarial system, the questioning of a witness falls into three stages: examination-in-chief, cross-examination and re-examination (optional). In examination-in-chief, “friendly counsel” (Coulthard & Johnson, 2007, p. 96) establishes evidence from their witnesses to the jury or judges. Archer (2005, p. 74) asserts that in this primary stage, the witnesses are given a chance to narrate their own events (i.e., adhere to evidence given in the police statement) and thus “establish facts to the jury”. Cross-examination follows examination-in-chief and is conducted by “opposing counsel” (Coulthard & Johnson, 2007, p. 96) to solicit and test the accuracy of information and sometimes undermine the evidence presented by witnesses earlier (Archer, 2005).

The final, optional stage is re-examination, which is usually used to confirm or clarify evidence communicated in examination or cross-examination. In the contemporary Malaysian courtroom context, the trial phases are almost identical to the English courtroom with the exception of summing up and jury deliberation. The jury system was abolished in 1995 due to many reasons, including the risk of lay-people untrained in the legal profession delivering verdicts grounded on emotions or popular perceptions.

METHOD

Tag Questions in MAYCRIM Corpus

The MAYCRIM corpus is a compilation of official courtroom transcripts from the Sessions and High Courts of Malaysia. MAYCRIM is a specialized corpus with a size of 326,785 words, and consists of a range of criminal offences. The trials took place between 2001 and 2015. Table 1 displays the size and nature of each trial that makes up the MAYCRIM corpus.

The data is presented in four columns that begin with range of offences codified as criminal offences under the Malaysia Penal Code. The corpus ranges from a minor criminal offence of cheating money to the major offence of murder. The second column refers to the year and number of days for each trial. The longest trial is 27 days, while the shortest is 5 days. The language column refers to the language used in each trial. Ten trials were conducted fully in Malaysian English, despite a policy to shift from English to Malay in the Malaysian legal system. Four trials were conducted in a mixture of English and Malay, as the court gives discretion for this in the interests of justice, and it is therefore common to find that both languages are used in the same trial (Powell & David, 2011). This is an effect of language reformation and language shift from English to Malay (Ahmad Sani, 2019).

Interestingly, although Malay is the national language of Malaysia, the MAYCRIM corpus consists of only one case (i.e., Murder) that was conducted fully in Malay. The language used in the MAYCRIM corpus represents the multilingual setting of Malaysian criminal courtrooms, and also the language politics of Malaysia. The final column indicates the total number of words in each case with a total of 326, 758, making this a small but a specialized corpus.

Table 1: The MAYCRIM Corpus Description

No	Codes and offences	Details	Language	No. of words
1.	Lodging false report	2011, 5 days	Mixed	8,222
2.	Possession of obscene CDs	2003, 9 days	Mixed	14,022
3.	Outrage modesty	2006, 8 days	Mixed	12,758
4.	Voluntarily causing hurt	2001, 12 days	Mixed	9,998
5.	Robbery	2005, 11 days	English	14,191
6.	Theft	2011, 5 days	English	7,761
7.	Corruption 1	2004, 5 days	English	34,885
8.	Corruption 2	2006, 27 days	English	67,072
9.	Breach of trust	2006, 8 days	English	10,779
10.	Statutory rape	2006, 5 days	English	6,409
11.	Human trafficking	2012, 11 days	English	9,399
12.	Drug trafficking 1	2015, 16 days	English	57,002
13.	Drug trafficking 2	2014, 6 days	English	6,766
14.	Drug trafficking 3	2013, 11 days	English	33,453
15.	Cheating	2011, 6 days	Mixed	18,800
16.	Murder	2013, 5 days	Malay	15,268
TOTAL				326, 785

Extraction of the variant and invariant tags was conducted using Wordsmith Tools 9.0 (Scott, 2024). Wordsmith Tools 9.0, is a software package intended for lexical analysis (Scott, 2008, p. 96) that allows an automated analysis to be conducted. It has a feature that allows the researcher to look at the most frequent words (i.e., wordlist) that exist in the corpus, and also can determine listings with specific words (Reppen, 2001). In other words, it is very useful to determine questions with specific formal properties such as *negative yes/no, tag, and wh questions*. Prior to this stage, a set of search words (i.e., *is it, isn't it, do they, right/benar, correct/betul, agree/setuju, particle tak/not, do you agree/adakah anda bersetuju, do you know/adakah anda tahu*) that reflects the formal properties of variant and invariant tag questions is built so that the concordance listings can be generated. Note that the search words include tags from Malay too, because the MAYCRIM corpus includes code mixing and code switching as common practice (Ahmad Sani, 2021; Powell & David, 2011).

In elucidating the legal-discourse pragmatic functions of tag questions found in the MAYCRIM, the extracted tag questions are classified and discussed according to the classification of pragmatic categories, as illustrated in Table 2. The coding system is adapted from the classification of variant (Algeo, 1988; Holmes, 1995; Tottie

& Hoffmann, 2006) and invariant tag questions (Columbus, 2010; Takahashi, 2014). The invariant tags and their categories identified by Columbus (2010) and Takahashi (2014) were built from Asian Englishes, therefore it was important to consider their definitions and functions as a basis for this investigation, as MAYCRIM corpus consists of Malaysian English and Malay. This classification consists of two macro-categories: epistemic and affective functions. Table 2 exemplifies the criteria for each functional category and examples of each are provided to explicate their functions.

Table 2: Classification of Pragmatic Categories of Tag Questions

Macro-category	Micro-category	Explanation	Examples
Epistemic modal	Affirmatory/ Confirmatory	Tag questions that clearly seek and receive answers and which do not have a strong affective function. The speaker is not confident about the validity of the fact.	DC: <i>You are the investigation officer to investigate the true fact of the complainant by Sergeant Terry, is that correct?</i> PW6: <i>Yes</i>
	Attitudinal	Tag questions that express a speaker's opinion or attitude.	DC: <i>According to Custom Act, in the midst of you making examination on the items presented by any subject in which you have reasonable suspicion there were infringed goods/items were hidden from the view of any Custom officer, you are given authority to give him caution according to the law. Do you know?</i> PW1: <i>I do not know</i>
Affective	Challenging	A confrontational tag question that challenges or expresses a speaker's disbelief in the stated view of reality.	DC: <i>I put it to you, that you said "no" to the accused and he tried to explain to you in Tamil about this, but still, you said "no", do you agree?</i> PW2: <i>I disagree</i>

RESULTS AND DISCUSSION

Patterns of Invariant Tag Questions in MAYCRIM Corpus

Twelve patterns of tag questions are found; five variant tags and seven invariant ones as illustrated in Figure 1. The frequency of tag questions in cross-examination is so different from the direct examination because they have a high degree of coerciveness in the courtroom questioning. Though there are five variant tags, they only occurred in cross-examination activities, with a preference for: *isn't it* (2.7%) and *is it* (0.7%).

It is interesting that invariant tag questions are so dominant, which contradicts with Anglo-American courtrooms that favour canonical or variant tag questions. The distribution shows that invariant tags with agree, such as *do you agree* (37.6%) and *agree/setuju* (32.2%) are the most frequent, followed by *correct/betul* (18.1%). What stand out is that the invariant tag *correct/betul* is also used in direct examination, though much less frequently (1.3%). The unique structure of tag questions in Malay and Malaysian English with particle *take/not* are noteworthy too in cross-examination activities, though much less frequent.

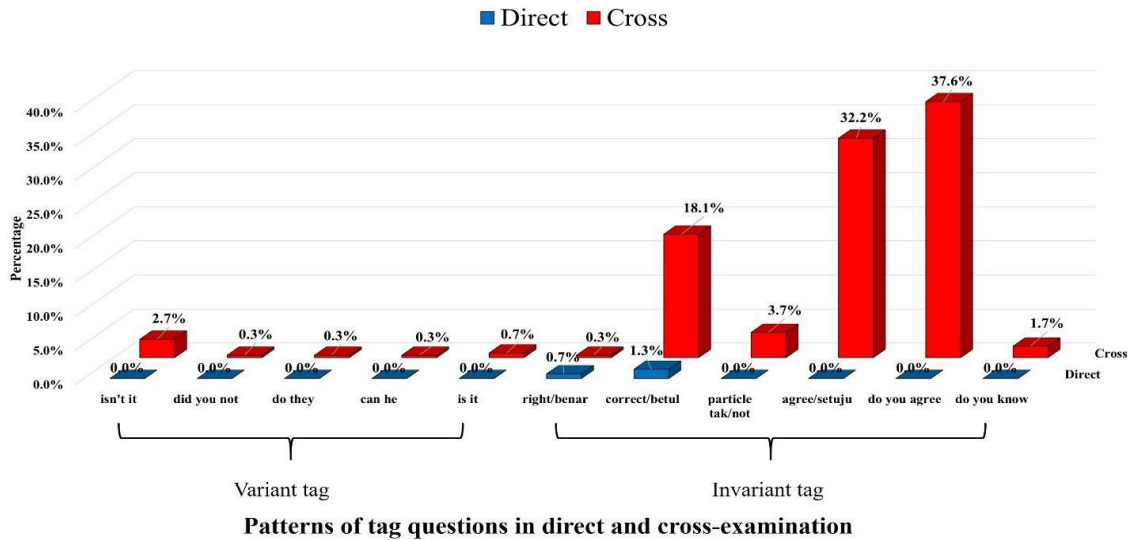


Figure 1: The Distribution of Variant and Invariant Tag Questions in Direct and Cross-Examination

The distribution of variant and invariant tag questions in MAYCRIM points to the fact that Malaysian barristers are not exploiting canonical tag questions, which are prominent in British and American English. The big question is: are Malaysian barristers missing tricks in not using canonical tag questions? Do invariant tag questions perform similar pragmatic functions to canonical tag questions? Although invariant tag questions do not have the same polarity structure, they do perform similar pragmatic functions to variant tag questions.

By using three categories of confirmatory/affirmatory, attitudinal and challenging functions (see Table 2), each invariant tag questions were assigned respectively. Figure 2 shows the expectation that the three invariant tags containing agree or correct/*betul* might only perform the confirmatory/affirmatory function. It is proposed that all invariant tag questions can be multifunctional across the three categories. In fact, in the case of *do you agree*, the attitudinal and challenging functions appear more important than the affirmation/confirmation one, suggesting that, rather than seeking agreement, these questions are designed to provoke argument. On the other hand, *correct/betul* tags seem primarily designed to seek affirmation/confirmation. Invariant tag questions can serve coercive functions in cross-examination, despite of their lack of polarity.

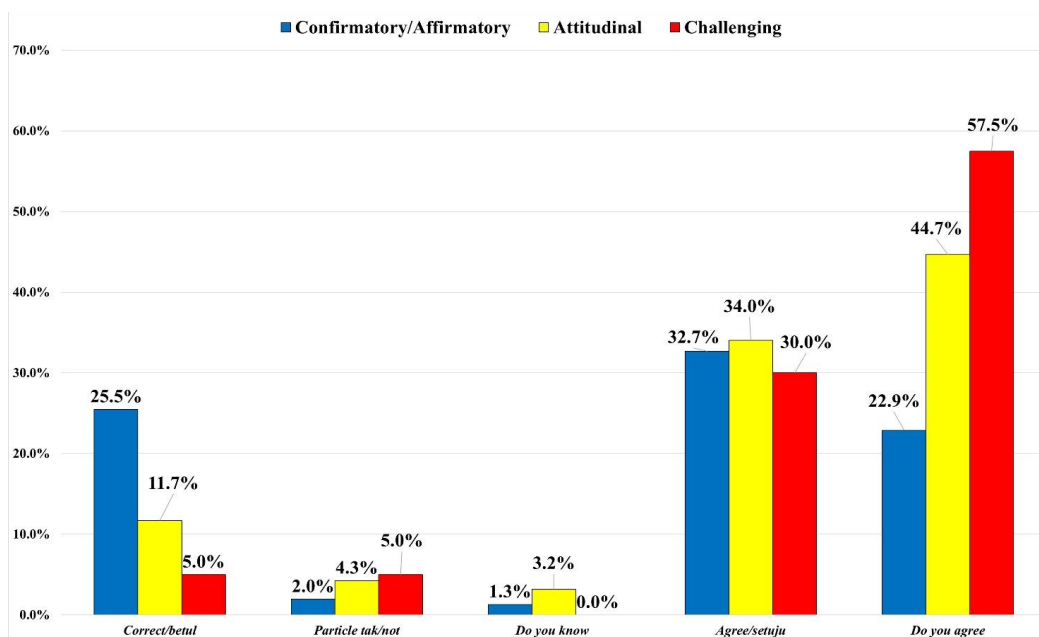


Figure 2: Percentages of Invariant Tag Questions Across Legal-Pragmatic Functional Categories in Cross-Examination

Invariant Tag Questions as Discursive Strategies for Defence Lawyers in Cross-Examination

The literature on variant tag questions suggests that the differences in polarity are often correlated with pragmatic functions (Tottie & Hoffmann, 2006, p. 137) whereby the proposition is that the declarative anchor is “evidentially modified” (Kimps & Davidse, 2008, p. 719). Gibbons (2003) states that questions tags with reversed polarity elicit a strong force for agreement and are highly coercive, while constant polarity also expresses “a number of attitudes towards the proposition” (Kimps, 2007, p. 270). Since the invariant tag questions lack polarity properties, the question is: (how) do Malaysian barristers carry out these functions through invariant tag questions? Tag questions are able to perform a variety of valuable functions for defence lawyers in cross-examination. First, tag questions control and entice affirmative responses from witnesses. Second, tag questions also make accusations against witnesses. These pragmatic functions reflect the ability of invariant tag questions to perform similar functions to variant or canonical tag questions which are favoured by lawyers in Anglo-American courtrooms.

Invariant Tag Agree/Setuju to Control and Entice Affirmative Responses from Witnesses

Invariant tag agree/*setuju* has the highest confirmatory/affirmatory function with 32.7% of usage across types of invariant tags. From the discourse-pragmatic analysis, declarative + agree/*setuju* is commonly preferred by barristers to control witnesses and invite witnesses’ agreement in both English and Malay. Example 1 elucidates how invariant tag agree/*setuju* is used to get affirmation from a witness in the cross-examination of a murder case.

Example 1. Source: Cross-examination, Case 16 (MURDER)

Line		Reported speech
	DC:	<i>Pada masa itu juga kamu masih</i> At time that also you still <i>berada dalam keadaan mabuk, setuju?</i> state in state intoxication agree?
1.	→	<i>At that time, you were also still in a state of intoxication, agree?</i>
	PW5:	<i>Benar pada masa itu juga saya dalam keadaan mabuk.</i> Agree at time that also I in state intoxication
2.	→	<i>I agree that at that time I was also in a state of intoxication.</i>
	DC:	<i>Kamu seorang keadaan tidak tahu apa</i> You are state not know what <i>sedang berlaku disana, setuju?</i> ongoing happen there, agree?
3.	→	<i>With your state, you did not know what was going on there, agree?</i>
	PW5:	<i>Saya setuju pada masa itu saya tidak tahu apa yang sedang</i> I agree at time that I not know what that is <i>berlaku di sana.</i> happening there.
4.	→	<i>I agree at that time I did not know what is happening there.</i>

In Example 1 the defence counsel (DC) cross-examines prosecution witness 5 (PW5) to discredit the witness as a credible and reliable prosecution witness in front of factfinders. In line 1, invariant tag agree/ setuju entices an affirmative response from PW5. This question imposes the proposition that PW5 was in intoxicated state, therefore affecting his faculties and behaviour as a reliable and credible prosecution witness. Pronoun you/ kamu is used by the defence lawyer to directly address the witness and to highlight PW5 as the actor; therefore, PW5 is expected to give information about himself. As a response to the lawyer's question, PW5 affirms with agreement of benar or agree that he was drunk during the incident. Based on the witness's answer, the defence lawyer builds his discrediting narrative with another invariant tag agree/ setuju in the following line to propose that because of intoxication PW5 is unaware of his surroundings. The declarative part that precedes the invariant tag consists of a factive proposition that presupposes PW5's state of mind. This is achieved via the mental verb tahu/know that expresses the state of knowledge of the witness. The tag agree/ setuju is used as a request for agreement and this is successful (line 4). PW5 agrees with the lawyer's proposition, indicated by saya setuju (I agree). In addition, PW5 also shows evasion in his answer via saya tidak tahu (I do not know) to lessen his responsibility as an eyewitness due to the fact that the accused is his friend. So far, the invariant tag agree/ setuju is used by the lawyer to coerce agreement in order to have a detrimental effect on the witness's credibility as a reliable prosecution witness.

It is evident that, invariant tag agree is highly affirmatory/confirmatory, and thus favoured by Malaysian barristers in cross-examination, as it controls and invites witnesses to give affirmative responses, coercing them to agree with the lawyer's propositions. The lawyers covertly exercise power to control and constrain witnesses through the declarative + agree/ setuju structure rather than using the polarities in tag questions to do this.

Invariant Tag Declarative + Do You Agree to Make Accusations Against Witnesses

Reversed polarity tag questions are known to be extremely coercive and have a strong force for agreement (Gibbons, 2003; Heffer, 2005). In courtroom settings, they can also be used to control the information or the recipient. In the MAYCRIM corpus, it is found that invariant tag questions do you agree are used by barristers to make accusations and attack or deconstruct existing narratives. The distribution of functional categories also indicates that invariant tag do you agree is strongly preferred by Malaysian barristers to challenge and express their attitudinal stance to hearers (see Figure 2).

From the discourse-pragmatic analysis, invariant tag questions with *do you agree* can be used by lawyers to develop an antagonistic questioning structure that challenges witnesses to accept their version of events and simultaneously tarnishes witnesses' credibility in front of factfinders, that is judges. Example 2 illustrates how a series of invariant *do you agree* tags are used by the defence lawyer to develop this antagonistic structure with prosecution witness 9. First, though, the defence lawyer casts doubt upon PW9's existing evidence via declarative assertions (lines 1-10). Line 1 begins with a yes/no question that consists of time adverbial *yesterday* and a reported speech of *you told us* to quote PW9's previous evidence in direct examination. This quote becomes the basis for the defence lawyer challenging PW9's testimony of the accused's behaviour, that is, banging his head on the wall, crying and shouting "I am dead". In lines 4, 6 and 8, the defence lawyer makes propositions to assert his client's version of facts through the metalinguistic marker *I put it to you* combined with declarative statements. However, these assertions are resisted by PW9 through stand-alone *I disagree*.

Line		Reported speech
1.	DC:	<i>Yesterday, you told us that the accused bang his head on the wall,</i>
2.		<i>did you say that?</i>
3.	PW9:	Yes.
4.	DC:	<i>I put it to you that the accused never bang his head on the wall.</i>
5.	PW9:	I disagree.
6.	DC:	<i>I put it to you that the accused never cried as you testified.</i>
7.	PW9:	I disagree.
8.	DC:	<i>I put it to you that the accused never repeatedly uttered the word</i>
9.		<i>"dead".</i>
10.	PW9:	I disagree.

Example 2. Source: Cross-examination, Case 12 (Drug Trafficking 1)

Seeing that his casting doubt on PW9's existing evidence is unsuccessful, the defence lawyer shifts to a new topic as can be seen in lines 11 and 14 to elicit evidence that supports the defence lawyer's version of facts.

11.	DC:	<i>According to your testimony, you found certain exhibit on the floor</i>
12.		<i>of the accused's room, correct?</i>
13.	PW9:	Yes.
14.	DC:	<i>And also, Detective Corporal Song also found certain exhibit</i>
15.		<i>on the floor of the accused's room.</i>
16.	PW9:	Yes.
17.	DC:	<i>Were you carrying out the search simultaneously together?</i>
18.	PW9:	Yes.
19.	DC:	<i>Did you make a report on your search?</i>
20.	PW9:	No, I did not, only the raiding officer lodged the report.
21.	DC:	<i>Did you make a note of the item that you found on the floor?</i>
22.	PW9:	No.
→	DC:	<i>Do you agree with me, that in the circumstance of our case,</i>
24.		<i>there are no records or whatsoever of the item found by you?</i>

25.	PW9:	I disagree.
26.	DC:	<i>Why do you disagree?</i>
27.	PW9:	Because it was recorded in the report about the exhibits
28.		that were found by me.
29.	DC:	<i>Is there a report made by you?</i>
30.	PW9:	No.
→	DC:	<i>I put it to you there was no report because you did not</i>
32.		<i>discover anything, do you agree?</i>
33.	PW9:	I disagree.
34.	DC:	<i>There was no record to show your discovery because</i>
35.		<i>you did not discover anything at all.</i>
36.	PW9:	I disagree.

In line 11, reported speech based on PW9’s previous evidence is used to establish a new argument, that is, a certain exhibit was found in the accused’s room. An invariant tag *correct* is attached at the end of the question to check consistency in PW9’s answer, which PW9 confirms. In line 14, the and-prefaced question is used as a marker to construct a narrative sequence (Johnson, 2002), whereby this question also proposes that another person found the exhibit. In both questions, the defence lawyer uses an unspecific adjective certain that indicates his doubt about the said exhibit. This covertly expresses his epistemic stance on PW9’s existing testimony. Then, PW9 is requested to provide specific information through conducive yes/no questions (lines 17 to 21) so that the defence lawyer can control the information and reveal weaknesses in PW9’s investigation. In line 23, he uses a yes/no question that invites opinion from the witness and simultaneously expresses the lawyer’s assertion. This “do-operator yes/no interrogative with mental process” (Sarfo, 2016, p. 157) agree seeks PW9’s opinion on his embedded presupposition that nothing was found in the search. Despite the fact that this question is “more coercive when constructed as an assertion” (Sarfo, 2016), the witness resists with stand-alone I disagree. In reaction to PW9’s response, a “what/how causality” (Andrews et al., 2016, p. 344) why-question is used to seek a reason for the witness’s disagreement.

In line 27, PW9 provides the reason however, when the defence lawyer pressurises with a yes/no question the witness responds with a stand-alone “No” to boldly disagree with the defence lawyer. So far, the witness has used a series of repetitive disagreements of stand-alone *No* or *I disagree* to strongly resist the lawyer’s power and control. From lines 31 onwards, a series of coercive questions are used by the lawyer to accuse and challenge the witness as a credible prosecution witness, because his attempts to establish his version of the facts have not been successful. Lines 31 to 32 demonstrate the lawyer’s assertion, as indicated by the metalinguistic marker *I put it to you* combined with the tag *do you agree* to seek agreement from the witness. The witness boldly disagrees with stand-alone *I disagree* and, in reaction to PW9’s answer, the defence lawyer reformulates his question (lines 34-35). This “reformulation” (Heritage, 1985, p. 108) emphasising the defence lawyer’s assertion is rejected because the witness disagrees with his assertion.

Despite the non-existence of polarities, the discourse-pragmatic indicates that barristers can still adopt invariant tag questions in their cross-examination as one of the many linguistic strategies to pressurise or even to tarnish witnesses’ credibility in front of factfinders.

It can be concluded that Malaysian barristers do not only rely on the polarities in canonical tag questions to control or coerce witnesses; instead, they manipulate their linguistic choice through invariant tag questions which are found to be dominant in the Malaysian criminal trial discourse. The usage of invariant tag questions in the witnesses’ examination reveals various legal-pragmatic functional categories performed by these invariant

tags. They become valuable discursive strategies for controlling and enticing affirmative responses through the agree/*setuju* tag. They can also mark accusations through *do you agree* tag.

CONCLUSIONS

The combined quantitative and corpus-based method produces interesting patterns to investigate in the qualitative analysis. The quantitative distribution of invariant tags indicates that the MAYCRIM corpus is dominated by invariant tag questions, rather than variant ones, as found in the Anglo-American courtrooms. The finding that invariant tag questions are dominant might suggest that Malaysian barristers are less able to perform power and control with witnesses in cross-examination. This chapter constitutes that that invariant tag questions have the same potential as canonical tag questions. First, the declarative + agree/*setuju* with the highest affirmatory function was mostly used by lawyers to get affirmative answers from witnesses. The linguistic marker to achieve this function is via a factive sentence with tag agree/*setuju* that can be used as a request for agreement from the hearers. Second, we know that a reversed polarity tag question has a strong force for agreement and is highly coercive; however, this chapter underlines that declarative + *do you agree* is also highly coercive, as it allows lawyers to impose their version of facts or presuppositions to coerce hearers to accept their assertion. In addition, the you/*kamu* pronouns in the tag put more pressure on witnesses.

Taken together, since the discussion features linguistic varieties in a bilingual courtroom setting, it has global implications for any bilingual adversarial system or postcolonial jurisdiction that uses more than one language in court. The complexities of language used in a bilingual courtroom are exemplified in barristers' questioning forms. The language choice is not simply the lawyer's choice to help witnesses or defendants, but rather it is a strategy to express power and control.

REFERENCES

- Ahmad Sani, N. (2019). Questioning and Answering Strategies in Malaysian Criminal Proceedings: A corpus-based forensic discourse analysis [Doctoral dissertation, University of Leeds]. <http://etheses.whiterose.ac.uk/id/eprint/24325>
- Ahmad Sani, N. (2021). Questioning and answering strategies in Malaysian criminal proceedings: a corpus-based forensic discourse analysis. *International Journal of Speech, Language and the Law*, 28(1), 145–148. <https://doi.org/10.1558/ijssl.20248>
- Aldridge, M., & Luchjenbroers, J. (2007). Linguistic manipulations in legal discourse: Framing questions and “smuggling” information. *International Journal of Speech, Language and the Law*, 14(1), 85–107. <https://doi.org/10.1558/ijssl.v14i1.85>
- Algeo, J. (1988). The tag question in British English: It's Different, isn't? *English World-Wide*, 9(2), 171–191. <https://doi.org/10.1075/eww.9.2.03alg>
- Andrews, S. J., Ahern, E. C., Stolzenberg, S. N., & Lyon, T. D. (2016). The productivity of wh- prompts when children testify. *Applied Cognitive Psychology*, 30(3), 341–349. <https://doi.org/10.1002/acp.3204>
- Archer, D. (2005). Questions and answers in the English Courtroom (1640-1760). John Benjamins Publishing Company.
- Archer, D. (2006). (Re)initiating strategies: Judges and defendants in Early Modern English courtrooms. *Journal of Historical Pragmatics*, 7(2), 181–211. <https://doi.org/10.1075/jhp.7.2.03arc>
- Archer, D. (2014). Historical pragmatics: Evidence from the Old Bailey. *Transactions of the Philological Society*, 112(2), 259–277. <https://doi.org/10.1111/1467-968X.12011>
- Berk-Seligson, S. (1999). The impact of court interpreting on the coerciveness of leading questions. *Speech, Language and the Law*, 6(1), 30–56. <https://doi.org/10.1558/sll.1999.6.1.30>
- Columbus, G. (2010). A comparative analysis of invariant tags in three varieties of English. *English World-Wide*, 31(3), 288–310. <https://doi.org/10.1075/eww.31.3.03col>
- Cotterill, J. (2003). Language and power in court: A linguistic analysis of the O.J. Simpson trial. Palgrave Macmillan.
- Cotterill, J. (2010). How to use corpus linguistics in forensic linguistics. In A. O'Keeffe & M. McCarthy (Eds.), *The Routledge handbook of corpus linguistics* (pp. 578–590). Routledge.
- Coulthard, M. (1992). Forensic discourse analysis. In R. M. Coulthard (Ed.), *Advances in spoken discourse analysis* (pp. 242–254). Routledge.
- Coulthard, M., & Johnson, A. (2007). An introduction to forensic linguistics: Language in evidence. Routledge.
- Coulthard, M., Johnson, A., & Wright, D. (2016). An introduction to forensic linguistics: Language in evidence (2nd ed.). Routledge.
- Drew, P. (1992). Contested evidence in courtroom cross-examination: The case of a trial for rape. In P. Drew & J. Heritage (Eds.), *Talk at work: Interaction in institutional settings* (pp. 470–520). Cambridge University Press.
- Drew, P., & Heritage, J. (1992). *Talk at work*. Cambridge University Press.

- Eades, D., Fraser, H. & Heydon, G. (2023). *Forensic Linguistics in Australia: Elements of Forensic Linguistics*. Cambridge University Press
- Flowerdew, L. (2004). The argument for using English specialized corpora to understand academic and professional settings. In U. Connor & T. A. Upton (Eds.), *Discourse in the professions: Perspectives from corpus linguistics* (pp. 11–33). John Benjamins Publishing Company.
- Gibbons, J. (2003). *Forensic linguistics: An introduction to language in the justice system*. Blackwell Pub.
- Gibbons, J. (2008). Questioning in common law criminal courts. In J. Gibbons & M. T. Turell (Eds.), *Dimensions of forensic linguistics* (pp. 115–130). John Benjamins Publishing Company.
- Gibbons, J., & Turell, M. T. (2008). *Dimensions of forensic linguistics* (J. Gibbons & M. T. Turell, Eds.). John Benjamins Publishing Company.
- González, G. M. de los A. (2014). Canonical tag questions in English, Spanish and Portuguese: A discourse-functional study. *Languages in Contrast*, 14(1), 93–126. <https://doi.org/10.1075/lic.14.1.06gom>
- Hale, S. (1999). Interpreters' treatment of discourse markers in courtroom questions. *Forensic Linguistics*, 6(1), 57–83. <https://doi.org/10.1558/sll.1999.6.1.57>
- Harris, S. (1984). Questions as a mode of control in magistrate's courts. *International Journal of the Sociology of Language*, 49, 5–28.
- Heffer, C. (2005). *The language of jury trial: A corpus-aided analysis of legal-lay discourse*. Palgrave Macmillan.
- Heritage, J. (1985). Analyzing news interviews: Aspects of the production of talk for an overhearing audience. In T. A. van Dijk (Ed.), *Handbook of discourse analysis* (Vol. 3) (pp. 95–117). Academic Press.
- Holmes, J. (1995). *Women, men and politeness*. Longman Publishing.
- Johnson, A. (2002). So...?: Pragmatic implications of so-prefaced questions in formal police interview. In J. Cotterill (Ed.), *Language in the legal process* (pp. 91–92). Palgrave Macmillan.
- Kimps, D. (2007). Declarative constant polarity tag questions: A data-driven analysis of their form, meaning and attitudinal uses. *Journal of Pragmatics*, 39(2), 270–291. <https://doi.org/10.1016/j.pragma.2006.08.003>
- Kimps, D., & Davidse, K. (2008). Illocutionary force and conduciveness in imperative constant polarity tag questions: A typology. *Text and Talk*, 28(6), 699–722. <https://doi.org/10.1515/TEXT.2008.036>
- Levinson, S. C. (1992). Activity types and language. In P. Drew & J. Heritage (Eds.), *Talk at work: Interaction in institutional settings* (pp. 66–100). Cambridge University Press.
- Olsson, J. (2008). *Forensic Linguistics: An introduction to language, crime and the law* (2nd ed.). Continuum International Publishing Group.
- Powell, R., & David, M. K. (2011). Language alternation in Kenyan and Malaysian Courts. In A. Wagner & L. Cheng (Eds.), *Exploring courtroom discourse: The language of power and control* (pp. 227–249). Ashgate Publishing Ltd.
- Powell, R., & Hashim, A. (2011). Language disadvantage in Malaysian litigation and arbitration. *World Englishes*, 30(1), 92–105. <https://doi.org/10.1111/j.1467-971X.2010.01689.x>
- Reppen, R. (2001). Review of MONOCONC PRO and WORDSMITH TOOLS. *Language Learning & Technology*, 5(3), 32–36. <https://doi.org/10.1525/bio.2010.60.10.17>
- Rubin, G. B. (2017). Power, solidarity and tag questions in crisis negotiations. *The International Journal of Speech, Language and the Law*, 24(1), 45–65.
- Sarfo, E. (2016). *Questioning and debating in UK and Ghanaian Parliamentary Discourse* [Doctoral dissertation, University of Leeds]. <https://etheses.whiterose.ac.uk/13437/>
- Scott, M. (2008). Developing WordSmith. *International Journal of English Studies*, 8(1), 95–106. <https://doi.org/10.6018/ijes/8/1/49111>
- Scott, M. (2024). *WordSmith Tools Version 9 (64 bit version)* Stroud. Lexical Analysis Software.
- Shuy, R. W. (1993). *Language crimes*. Blackwell Pub.
- Shuy, R. W. (1995). How a Judge's Voir Dire can Teach a Jury What to Say. *Discourse & Society*, 6(2), 207–222. <https://doi.org/10.1177/0957926595006002004>
- Takahashi, M. (2014). A comparative study of tag questions in four Asian Englishes from a corpus-based approach. *Asian Englishes*, 16(2), 101–124. <https://doi.org/10.1080/13488678.2014.908529>
- Tkačuková, T. (2010). Representing oneself. Cross examination questioning: Lay people as cross-examiners. In M. Coulthard & A. Johnson (Eds.), *The Routledge handbook for forensic linguistics* (pp. 333–346). Routledge.
- Tottie, G., & Hoffmann, S. (2006). Tag Questions in British and American English. *Journal of English Linguistics*, 34(4), 283–311. <https://doi.org/10.1177/0075424206294369>
- Woodbury, H. (1984). The strategic use of questions in court. *Semiotica*, 48(3-4), 197–228. <https://doi.org/10.1515/semi.1984.48.3-4.197>