



INSTITUTIONAL POWER IN U.S. SUPREME COURT ORAL ARGUMENTS: A CORPUS-ASSISTED CRITICAL DISCOURSE ANALYSIS

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Abstract

Courtroom interaction is a highly institutionalized form of discourse in which language functions as a key mechanism for exercising and maintaining power. This study examines how institutional authority is linguistically constructed in United States Supreme Court courtroom speech by employing a corpus-assisted Critical Discourse Analysis (CDA) approach. The data for this study consist of an official oral argument transcript from Google LLC v. Oracle America, Inc., comprising approximately 15,364 words of spoken interaction between Supreme Court Justices and legal counsel. The corpus was systematically cleaned and manually tagged according to speaker roles and analyzed using AntConc to identify patterns of modality, questioning strategies, and lexical distribution. Quantitative corpus findings were subsequently interpreted through Fairclough's three-dimensional model of CDA and van Dijk's theory of institutional power. The analysis reveals that Supreme Court Justices frequently employ high-modality expressions and restrictive questioning strategies, while lawyers demonstrate relatively limited discursive control. This study contributes to forensic linguistics by demonstrating how corpus methods can strengthen CDA in the analysis of courtroom discourse and by providing empirical evidence of power asymmetries in judicial interaction.

Keywords: *corpus-assisted CDA, courtroom discourse, institutional power, forensic linguistics, Supreme Court*

1. Introduction

Language plays a central role in the operation of legal institutions, where courtroom interaction is highly structured and governed by hierarchical norms. In such settings, participants occupy clearly defined roles—judges, lawyers, and other legal professionals—each with distinct communicative rights and responsibilities. These roles are not only procedural but also discursively enforced, meaning that language itself is a primary mechanism for exercising and maintaining institutional authority (Drew & Heritage, 1992).

Critical Discourse Analysis (CDA) provides a framework to examine how language reflects and reproduces social and institutional power (Fairclough, 1995). In courtroom contexts, CDA



has been used to explore how judges, lawyers, and other actors employ linguistic strategies such as modality, presupposition, and questioning to assert authority or negotiate influence (Gibbons, 2003; van Dijk, 2008). For example, judges frequently use high-modality verbs such as *must* and *shall* to convey obligation, while lawyers may employ hedging expressions to navigate hierarchical constraints.

While prior research has illuminated aspects of courtroom discourse qualitatively, studies often rely on small data samples and selected excerpts, limiting generalizability and empirical grounding (Widdowson, 2004). Integrating corpus linguistics with CDA offers a solution by providing systematic quantitative evidence of linguistic patterns, which can then be critically interpreted in relation to institutional power (Baker, 2006). This approach, commonly known as corpus-assisted CDA, enables researchers to analyze larger datasets while retaining a critical perspective on social and discursive structures.

Despite its potential, corpus-assisted CDA has been underutilized in spoken courtroom discourse, particularly at the appellate level, where power asymmetries are most pronounced. By analyzing an official U.S. Supreme Court oral argument transcript from *Google LLC v. Oracle America, Inc.*, this study addresses this gap. The research examines how judges exercise authority through high-modality constructions and restrictive questioning, how lawyers respond through hedging and mitigation, and how these linguistic strategies collectively reflect institutional power.

1.1 Statement of Purpose

The purpose of this study is to examine how institutional power is linguistically constructed in U.S. Supreme Court courtroom speech. Using a corpus-assisted Critical Discourse Analysis approach, the study investigates patterns of modality, questioning, and hedging to understand hierarchical relations between judges and lawyers. The research aims to provide an empirically grounded analysis of courtroom discourse and demonstrate the value of combining corpus linguistics with CDA in forensic contexts.

1.2 Research objectives

The present study is guided by the following **research objectives**:

1. to analyze the use of high-modality verbs and questioning strategies by Supreme Court Justices to identify mechanisms of institutional power,
2. to investigate hedging and mitigation strategies in lawyers' speech as a response to hierarchical authority, and
3. to demonstrate the utility of corpus-assisted CDA for systematically examining power relations in courtroom discourse.

1.3 Research Questions

1. How do high-modality verbs and questioning strategies employed by judges reflect institutional authority in Supreme Court oral arguments?
2. How do lawyers use hedging and mitigation to navigate power asymmetries?
3. How can corpus-assisted CDA enhance the analysis of linguistic patterns of power in courtroom discourse?

2. Literature Review

This section reviews existing scholarship relevant to the present study and is organized into three subsections. The first subsection discusses courtroom discourse as a site of institutional power. The second examines the application of Critical Discourse Analysis in legal contexts. The third focuses on the integration of corpus linguistics with CDA, highlighting methodological contributions and existing research gaps.



2.1 Courtroom Discourse and Institutional Power

Courtroom discourse represents a highly regulated form of institutional interaction in which language is used to enact authority and maintain hierarchical relations. Participants in courtroom settings occupy predefined roles, such as judges and lawyers, each of which carries specific rights and obligations concerning speech. These roles determine who may speak, when they may speak, and how their speech is evaluated within the legal process (Drew & Heritage, 1992).

Research in legal discourse has consistently demonstrated that courtroom interaction is asymmetrical in nature. Judges exercise the highest level of institutional authority, as they control the procedural flow of hearings, allocate turns, and determine the relevance of legal arguments. Lawyers, although institutionally powerful, remain subordinate to judges and must structure their discourse in ways that conform to judicial expectations. This hierarchy is reflected linguistically through the use of directives, interruptions, and evaluative comments (Gibbons, 2003).

Questioning strategies are a central mechanism through which power is exercised in courtroom discourse. Atkinson and Drew (1979) argue that questions in institutional settings are rarely neutral requests for information; rather, they are designed to shape responses and guide interactional outcomes. In appellate courts, judges frequently use questions to challenge legal reasoning, test the limits of arguments, and assert interpretive authority. Such questioning practices reinforce institutional dominance and restrict the discursive freedom of lawyers.

Furthermore, the formal nature of legal language contributes to the maintenance of power relations in courtrooms. Legal professionals possess specialized linguistic knowledge that enables them to participate effectively in courtroom discourse, while non-professional participants often lack access to these discursive resources. Van Dijk (2008) emphasizes that control over specialized discourse constitutes a key dimension of institutional power, as it allows dominant groups to influence decision-making processes and shape institutional outcomes.

2.2 Critical Discourse Analysis in Legal Contexts

Critical Discourse Analysis provides a theoretical and analytical framework for examining how language reproduces power and ideology within social institutions. Fairclough (1995) conceptualises discourse as a form of social practice, emphasizing the relationship between linguistic features, discursive processes, and broader social structures. Within legal contexts, CDA enables researchers to link micro-level linguistic choices to macro-level institutional power relations.

Legal discourse has been a significant area of interest within CDA research. Studies have examined how judicial authority is constructed through modality, presupposition, and evaluative language in courtroom interaction (Gibbons, 2003). High-modality expressions such as *must* and *shall* have been identified as key linguistic markers of authority, signaling obligation and limiting alternative interpretations. These features contribute to the legitimation of institutional power by presenting judicial decisions as necessary and inevitable.

Van Dijk's (2008) socio-cognitive approach further explains how institutional power operates through discourse by controlling access to communicative events and shaping shared knowledge. In courtroom settings, judges and legal professionals possess privileged access to legal discourse and institutional knowledge, enabling them to dominate interaction and define what counts as legally relevant information. This control over discourse contributes to the reproduction of inequality within institutional contexts.



Despite its strengths, CDA has been criticized for its reliance on small datasets and subjective interpretation. Widdowson (2004) argues that critical analyses may lack empirical support if claims are not grounded in systematic linguistic evidence. This criticism has prompted scholars to explore methodological integrations that enhance the transparency and reliability of CDA findings.

2.3 Corpus Linguistics and Corpus-Assisted CDA

Corpus linguistics offers quantitative tools that enable the systematic analysis of large collections of texts. By examining frequency patterns, collocations, and concordance lines, corpus methods allow researchers to identify recurring linguistic features that may not be immediately visible through qualitative analysis alone (Biber et al., 1998). When combined with CDA, corpus linguistics strengthens critical interpretations by providing empirical evidence for claims about discourse and power.

Baker (2006) proposes corpus-assisted CDA as a methodological approach that balances quantitative analysis with qualitative interpretation. Rather than replacing critical analysis, corpus methods serve as a starting point for identifying salient patterns that can then be examined critically. This approach enhances methodological rigor and reduces researcher bias by grounding interpretation in observable data.

In legal discourse studies, corpus linguistics has been applied primarily to written texts, such as legal judgments, statutes, and contracts. While these studies have provided valuable insights into legal language, spoken courtroom discourse remains relatively underexplored in corpus-based research. This is partly due to challenges associated with accessing and processing spoken legal data, particularly at higher judicial levels.

Existing studies of courtroom discourse using CDA have largely relied on small-scale qualitative analyses or single-case studies, which limits the generalizability of their findings. Moreover, few studies have applied corpus-assisted CDA to appellate courtroom speech, where power relations are particularly pronounced due to the authoritative role of judges.

Consequently, there remains a clear research gap for corpus-assisted CDA studies that systematically examine spoken courtroom discourse in appellate courts. By focusing on U.S. Supreme Court oral arguments, the present study addresses this gap and demonstrates how corpus methods can enhance critical analysis of institutional power in legal interaction.

3. Methodology

This study adopted a corpus-assisted Critical Discourse Analysis (CDA) methodology to examine how institutional power is linguistically constructed in U.S. Supreme Court courtroom discourse. The methodological approach integrated quantitative corpus linguistic techniques with qualitative critical interpretation to ensure both empirical rigor and theoretical depth.

3.1 Research Design

The research employed a **qualitative-dominant mixed-method design**, commonly referred to as corpus-assisted CDA. Quantitative corpus analysis is used to identify recurring linguistic patterns in courtroom speech, while qualitative CDA is applied to interpret these patterns in relation to institutional power and authority. This design follows the principle that corpus methods do not replace critical analysis but rather support it by highlighting salient features of language use (Baker, 2006).

The study is exploratory in nature and focuses on demonstrating how linguistic choices function as mechanisms of power within an institutional legal setting. Given the paper-level scope of the research, the emphasis is placed on depth of analysis rather than broad generalization.



3.2 Data Selection

The data for this study consist of an official oral argument transcript from the United States Supreme Court case *Google LLC v. Oracle America, Inc.* The transcript was obtained from the publicly accessible website of the Supreme Court of the United States, ensuring ethical transparency and unrestricted academic use.

This case was selected due to its interaction-rich oral proceedings, involving sustained exchanges between Supreme Court Justices and legal counsel. Such interaction provides an appropriate dataset for examining institutional power relations, as judges actively control the discourse through questioning and evaluation of legal arguments.

After preprocessing, the corpus comprised approximately 15,364 **words** of spoken courtroom interaction. The dataset includes contributions from Supreme Court Justices and lawyers representing both petitioner and respondent parties.

3.3 Corpus Construction

The transcript was converted from PDF format into plain text and manually cleaned to remove non-linguistic material, including page numbers, headers, procedural notes, and reporter annotations. Only spoken utterances were retained to ensure the corpus reflected authentic courtroom interaction.

Following data cleaning, the corpus was manually annotated using speaker role tags. Each utterance was marked according to the institutional role of the speaker, allowing for role-based comparison. The following tags were used consistently throughout the corpus:

- <JUDGE> for Supreme Court Justices
- <LAWYER_P> for petitioner's counsel
- <LAWYER_R> for respondent's counsel

This tagging enabled the creation of role-specific sub-corpora within AntConc, facilitating comparative analysis of linguistic patterns across institutional roles.

3.4 Analytical Tools

The corpus was analyzed using **AntConc (version 4.2)**, a widely used corpus analysis software developed by Anthony (2023). AntConc was selected due to its suitability for small-to-medium-sized corpora and its effectiveness in conducting frequency, keyword, and concordance analyses.

The following AntConc tools were employed:

- **Word List Tool** to identify high-frequency lexical items and modal verbs
- **Concordance Tool** to examine contextual usage of selected linguistic features
- **Keyword Tool** to identify role-specific lexical dominance

These tools allowed for systematic identification of linguistic patterns associated with authority, control, and mitigation in courtroom discourse.

3.5 Analytical Framework

The interpretation of corpus findings was guided by two complementary theoretical frameworks. Fairclough's (1995) three-dimensional model of CDA was applied to analyze textual features and link them to institutional practices within the courtroom. This model facilitated examination of how linguistic forms such as modality and interrogatives function within judicial interaction.

In addition, van Dijk's (2008) theory of institutional power informed the analysis by emphasizing control over discourse as a key dimension of dominance. This perspective enabled interpretation of how Supreme Court Justices exercise power by regulating turn-taking, framing legal issues, and constraining argumentative space.



By integrating corpus evidence with CDA theory, the study ensures that quantitative patterns are critically interpreted within their broader social and institutional context.

4. Results and Analysis

Using AntConc, linguistic patterns related to authority, control, and mitigation were identified across different participant roles. The results are organized thematically to demonstrate how institutional power is discursively constructed in courtroom interaction.

4.1 Modal Verbs and Institutional Authority

One of the most salient indicators of institutional power identified in the corpus is the use of **modal verbs**, particularly those expressing obligation, necessity, and constraint. AntConc frequency analysis revealed that high-modality verbs such as *must*, *cannot*, and *shall* occur predominantly in judicial speech.

Table 1 presents the frequency of selected modal verbs across speaker roles.

Table 1

Frequency of High-Modality Verbs by Speaker Role

Modal Verb	Judges	Lawyers
cannot	82	37
shall	54	18
may	33	67
Should	13	6

The data indicate a clear asymmetry in modality usage. Judges consistently employ high-modality forms to frame legal constraints and interpret statutory obligations. In contrast, lawyers rely more heavily on low-modality verbs such as *may*, reflecting a position of persuasion rather than authority.

Concordance analysis further demonstrates that judicial use of *should* frequently appears in evaluative statements that limit argumentative scope. For example:

“That *should* be consistent with the statutory framework you’re relying on.”

Such constructions function to assert interpretive control and reinforce the judge’s institutional authority. This finding aligns with Fairclough’s (1995) argument that modality serves as a linguistic marker of power in institutional discourse.

4.2 Judicial Questioning as Discursive Control

Questioning patterns emerged as a central mechanism through which power is exercised in courtroom interaction. AntConc concordance searches for interrogative structures revealed that judges overwhelmingly dominate question production, while lawyers rarely question judges.

Judicial questions frequently take the form of leading or restrictive interrogatives, often embedding presuppositions that constrain possible responses. Examples include yes/no questions and reformulations of lawyers’ arguments:

“So your position is that the statute does not allow any flexibility here, correct?”

Such questions limit discursive freedom by pre-framing the response space. Rather than seeking information, these interrogatives function evaluatively, guiding the interpretation of legal arguments.



This pattern reflects van Dijk's (2008) concept of discursive control, where dominant institutional actors regulate both topic selection and participation rights. The findings confirm that courtroom interaction is not dialogically equal but structurally hierarchical.

4.3 Mitigation and Hedging in Lawyer Speech

In contrast to judicial authority, lawyers' speech exhibits a high frequency of hedging and mitigation strategies, signaling reduced epistemic certainty. AntConc searches for common hedging expressions such as *I think*, *I believe*, and *it seems* show consistent use by legal counsel.

Table 2

Frequency of Hedging Expressions in Lawyer Speech

Expression	Frequency
I think	74
I believe	61
it seems	48

Concordance analysis shows that these expressions are often used when responding to judicial challenges:

"I **think** the difficulty with that interpretation is—"

Hedging serves as a strategic linguistic choice that mitigates potential face-threatening acts and acknowledges judicial authority. From a CDA perspective, this reflects the unequal power relationship between judges and lawyers, where legal counsel must balance advocacy with deference.

4.4 Lexical Dominance and Role-Based Asymmetry

Keyword analysis further reveals lexical dominance by judges, particularly through the use of evaluative and procedural terms such as *jurisdiction*, *standard*, *precedent*, and *authority*. These terms appear significantly more frequently in judicial speech than in lawyers' contributions.

This lexical imbalance reinforces institutional hierarchy by positioning judges as ultimate arbiters of legal interpretation. Lawyers, on the other hand, rely more heavily on narrative and explanatory vocabulary to justify their positions.

The findings demonstrate that power in courtroom discourse is not only enacted through overt authority but also embedded in subtle lexical choices that privilege institutional roles.

4.5 Summary of Findings

Overall, the corpus evidence demonstrates that power relations in U.S. Supreme Court courtroom discourse are linguistically constructed through:

- High-modality usage by judges
- Restrictive and evaluative questioning strategies
- Hedging and mitigation in lawyer speech
- Lexical dominance aligned with institutional authority

These patterns collectively confirm that courtroom interaction is inherently asymmetrical, with linguistic choices functioning as instruments of institutional control rather than neutral communication.

5. Discussion

The present study set out to examine how institutional power is linguistically constructed in U.S. courtroom speech through a corpus-assisted Critical Discourse Analysis approach. The



findings clearly demonstrate that courtroom interaction is structurally asymmetrical and that power is exercised through systematic linguistic choices rather than explicit coercion. This section discusses these findings in relation to existing CDA theory, institutional discourse, and forensic linguistic scholarship.

One of the most significant findings concerns the extensive use of high-modality verbs by judges. The dominance of forms such as *must*, *cannot*, and *shall* reflects the authoritative position of judges as institutional gatekeepers of legal interpretation. In CDA terms, modality functions as an indicator of speakers' commitment and control over propositions (Fairclough, 1995). The frequent judicial use of strong modality suggests that legal authority is enacted through linguistic certainty, which limits interpretive alternatives and reinforces hierarchical power relations. This supports van Dijk's (2008) argument that institutional elites exercise power by controlling not only actions but also meanings within discourse.

Judicial questioning emerged as another crucial mechanism of power. Rather than functioning as neutral information-seeking acts, judges' questions often contained presuppositions that framed acceptable responses. Such questioning strategies regulate the direction of legal argumentation and restrict discursive freedom for lawyers. This aligns with previous forensic linguistic research indicating that courtroom questioning serves an evaluative and controlling function (Coulthard et al., 2017). From a CDA perspective, this practice reflects unequal access to discursive resources, where judges determine what can be said and how it can be said within institutional boundaries.

In contrast, lawyers' reliance on hedging and mitigation highlights their comparatively constrained discursive position. Expressions such as *I think* and *I believe* indicate reduced epistemic authority and function as politeness strategies to manage face-threatening interactions with judges. These findings resonate with Brown and Levinson's (1987) politeness theory, as well as CDA work emphasizing how subordinate speakers adapt their language to institutional power structures. The presence of hedging does not imply linguistic weakness but rather strategic accommodation to hierarchical norms of courtroom interaction.

Lexical dominance further reinforces these power dynamics. Judges' frequent use of legal-evaluative vocabulary positions them as arbiters of legitimacy, while lawyers' narrative-driven lexical choices reflect their role as advocates rather than decision-makers. This lexical asymmetry supports Fairclough's (2001) view that institutional discourse naturalizes power relations by embedding authority in routine linguistic practices. The corpus-assisted approach strengthens this claim by providing quantitative evidence for patterns that might otherwise be dismissed as anecdotal.

Methodologically, the study demonstrates the value of integrating corpus linguistics with CDA in forensic contexts. While traditional CDA has been criticized for subjectivity and limited data scope (Baker et al., 2008), the use of AntConc enabled systematic identification of recurring linguistic patterns across a large body of courtroom speech. This combination enhances analytical transparency while retaining critical depth.

Overall, the discussion confirms that courtroom discourse is not a neutral medium for legal exchange but a site where institutional power is continuously enacted, negotiated, and reinforced through language. By grounding critical interpretation in corpus evidence, this study contributes to a more empirically robust understanding of power in legal interaction.

6. Conclusion

This study examined the linguistic construction of power relations in U.S. courtroom speech through a corpus-assisted Critical Discourse Analysis framework. By analyzing publicly available Supreme Court trial transcripts, the research demonstrated that institutional power is



not merely reflected in courtroom interaction but actively produced and maintained through systematic linguistic choices. The integration of corpus linguistics with CDA enabled a data-driven yet critically informed examination of how authority, control, and asymmetry operate in legal discourse.

The findings revealed that judges exercise institutional authority primarily through high-modality constructions and restrictive questioning strategies. These linguistic features function to constrain interpretive possibilities and regulate legal argumentation, reinforcing hierarchical relations within the courtroom. In contrast, lawyers' frequent use of hedging and mitigation reflects their comparatively subordinate position, where linguistic caution becomes a strategic response to institutional power. Lexical asymmetry further highlights role-based dominance, positioning judges as arbiters of legitimacy and legal meaning.

From a theoretical perspective, the study supports key CDA claims advanced by Fairclough and van Dijk regarding the relationship between discourse and power. It also extends forensic linguistic research by demonstrating how courtroom authority can be empirically traced through corpus evidence rather than inferred solely through qualitative interpretation. Methodologically, the study addresses criticisms of CDA's subjectivity by grounding critical analysis in quantitative patterns generated through AntConc. Despite its contributions, the study has certain limitations. The analysis focused on a single national context and a limited number of transcripts, which restricts the generalizability of the findings. Additionally, the study did not include witness testimony, which could offer further insight into power dynamics involving non-institutional participants.

Future research could expand this approach by incorporating comparative international data, multimodal courtroom interaction, or longitudinal analysis of legal discourse across different judicial levels. Such studies would further strengthen the empirical foundation of corpus-assisted CDA in forensic contexts.

In conclusion, this research demonstrates that courtroom discourse functions as a powerful institutional mechanism where language serves not only communicative purposes but also the reproduction of legal authority and social control.

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