Language in Criminal Justice: Forensic linguistics in Shipman trial

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Inquiry sessions of a court play a vital role in juries' decisions and consequently fate of the defendant. In the present paper, attorneys' questioning strategies in 146 examination-in-chief sessions of Dr Shipman's murder trial are comprehensively studied. Applying the descriptive method, this study is equipped with Quirk, Greenbaum, Leech, and Svartvik's (1980) linguistic, Stenström's (1984) pragmatic, and Goldberg's (2003) legal perspectives as its cornerstone framework. Seven types of question categories with regard to two elements of elicitative force and conduciveness are thoroughly scrutinised. The outcome reveals an eye-catching difference between different categories of questions. Yes/No question is the dominant and tag question is the minor category in both examination-in-chiefs of witnesses and the defendant. Attorneys deliberately use certain kinds of questions in examination-in-chief sessions. Though they are encouraged to use more open-ended questions, they suffice to Yes/No questions to have optimal control over responses.

Keywords: forensic linguistics, courtroom discourse, adversarial system of justice, question types, examination-in-chief, elicitative force, conduciveness

1 Introduction

The field known as "forensic linguistics" is growing in prominence in the past couple of decades. Forensic linguistics is all about taking linguistic insight, method and knowledge in the context of law, judicial

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procedures, police investigations, trials and in short about studying the language of law and solving crimes. Olsson (2004) defines it as an application of linguistics in the context of crime, court proceeding, or arguments in law. This newly grown area has a multifaceted domain. It can involve using linguistic knowledge in murder, rape, stalking, fraud and variety of other crimes. It can even go further to analyse threatening letters and suicide notes, emails, internet chat conversations and cell phone text messages. Forensic linguistic experts are capable of describing the likelihood of the disputed document to be written by a particular author. Coulthard and Johnson (2010) mention that forensic linguistics ranges from courtroom discourse and legal language to plagiarism. Briefly, plagiarism is using other person's work for personal advantage without mentioning his/her name. Forensic linguistic experts who are proficient in plagiarism cases and copyright infringements provide evidence to find out which work is based upon another.

Courtroom talk is the fundamental part of the institutional context of the courtroom. Analyses of courtroom discourse incline towards focusing on the interaction between specific linguistic features and their socio-interactional functions. For example, the grammatical form of the question in inquiry sessions can affect the elicited response. According to Santos (2004), courtroom talk is the basic component of judicial system in which language plays a vital role. This talk is not an ordinary verbal exchange in that there is an asymmetrical power relationship between interlocutors. The nature and structure of attorney-witness and attorney-defendant question-answer exchanges provide a rich source for studying the strategic and persuasive use of language. Whatever goes on in inquiry sessions of a courtroom portrays an authentic context for studying the real life language. In this context, merely prosecutors are capable of determining the type of question, the content of question, and even with the use of special persuasive devices the answers that they tend to elicit.

In some situations attorneys act just like magicians. Attorneys know that words may or may not create a special legal effect. Du Cann (1986 as cited in Hale, 2004) mentions that in the courtroom the attorneys have only "words" as their sheer weapon. Evidence is presented orally in the courtroom in the form of questions and answers.

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Therefore, language becomes a means of power and control. By formulating special types of questions, attorneys thoroughly shift the direction of the talk to their client’s benefit. With the smart use of words they can create a story in such an atmosphere to persuade the jury and win their client’s case.

There are officially two legal systems around the world which are the *Adversarial* and *Inquisitorial* systems. Adversarial (Accusatorial) system is customary in United States, United Kingdom and Australia, and the Inquisitorial system is conventional in Europe. The case that forms the data for this study is the United Kingdom court case which is adversarial. This case, which Coulthard and Johnson (2007) also begin their book with, is about Dr Shipman. He is the UK’s biggest serial killer and is definitely worth studying. Dr Shipman’s case is elaborated in detail in 2.1 under *Method* section.

In the adversarial system of justice, trials look both like a battle and a story telling. On one side, it is like a battle that each party tries to win its own case. On the other side, it is a story telling that different narrative stories are being evaluated by the judge and juries. Attorneys are the directors and writers of the plot and theme of the story. Kubicek (2006) asserts that the adversarial system consists of two opposite parties that each battles for their own case. The evidence is given by adversaries, each side presenting its own evidence and attacking the other side's case. Reese and Marshall (2003) believe that the adversarial system leans on the skills of attorneys to represent their party's position to a judge who must either be persuaded into, or dissuaded from believing a specific story.

In the adversarial system, the parties to a controversy call and question the defendant and witnesses; and within the confines of specific rules manage the process. Commonly, a judge or jury remains passive and neutral throughout the proceeding. The adversarial system is often characterized by a high dependence on attorneys. As Hale (2004) states, the adversarial courtroom relies mainly on oral evidence that is presented in the form of questions and answers. She means that in the adversarial courtroom the pragmatic function of attorneys' questions becomes dominant which differs according to the intention behind them.

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A prosecutor is obligated to turn over factual evidence that is favourable to the defendant, while the defense attorney tries to move it in opposite direction and support the defendant. In such a scenario, questions become central tools for attorneys. Moisidis (2008) points out that attorneys use questions in different contexts, and the features of questioning differ in particular ways in the various contexts. The questions that are posed in examination-in-chiefs have a quite different nature with those that are asked in cross-examinations.

In the adversarial trial, a greater reliance is based upon oral evidence given by witnesses, rather than documentary evidence. It is a general rule, according to Keane (2008), in both civil and criminal trials that any fact that needs to be proved by the evidence of witnesses must be proved by their oral evidence given in public. In the adversarial process, the parties call witnesses and usually not the court. The opposing party can challenge the evidence of testifying witness either by calling its own witness to provide a contrary viewpoint or by cross-examining the present witness. The questioning of witness in the English adversary system of justice falls into three stages of examination-in-chief, cross-examination and re-examination. The first stage, examination-in-chief or direct examination, is the stage of adducing evidence from witness by the party calling him.

The primary phase of questioning the witness is called examination-in-chief in the adversarial trial. In this phase, attorneys obtain evidence from their own witnesses. In fact, witnesses are introduced to a trial by their examination-in-chief. Based on Hale (2004), in the examination-in-chief the witnesses are supposed to be given a chance to tell their own stories, to build acceptability and thus persuade the jury of their version of facts. This is usually achieved by asking questions that allow the witness more freedom to speak and supported by the rule that leading questions may not be asked during examination-in-chief except when asking non-controversial, uncontested information.

In simple words, a leading question is one which tries to guide the respondent's answer. It is intentionally designed to make the respondent think in a certain way. A general guideline is provided by the court for defining the leading question. It is putting words in the mouth of the witness by an attorney proposing questions during a trial.

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In Cochran, Kelly and Gulycz (2008), it is a question that requires a yes or no answer, without elaboration. They claim that although a question such as "Did you kill him?" is a yes/no question, it is not leading. It doesn't suggest that a specific answer is sought or desired. On the other hand, "You didn't want to kill him, did you?" is leading because the answer is expected to be "No, I didn't want to kill him."

In examination-in-chiefs, attorneys are not permitted to ask leading questions in order not to lead the responses. Though using open-ended questions are encouraged in this phase of examination, attorneys seem reluctant in using them. Attorneys want to exploit those questions that let them convince the jury of their desired story. According to Goldberg (2003), the real reason for the rule that attorneys should not lead the witness on examination-in-chief, but they should lead on cross-examination is not an evidence rule; it is a rule of persuasion.

It is crucial for the attorneys that their called witness does not digress from the relevant facts, and display the evidence in the best possible way. Accordingly, attorneys control responses with the use of altering questions. Dillon (1990) suggests that during examination-in-chief the questions are less controlling of the witness than during cross-examination. However, in the study conducted by Luchjenbroers (1997), she states that witnesses are the attorney's puppets even during the examination-in-chief, the questions asked are not leading; nevertheless, they exert high control over the witness's responses and actually do not permit him to freely mention his story.

Following examination-in-chief, attorneys for the opposite party get an opportunity to question the witness. The purpose of cross-examination is firstly to advance the party’s own case and secondly to attack the other side’s case. The main intention of cross-examination, according to Kassin and Wrightsman (1988), is to impeach the credibility of the testifying witness to lessen the weight of unfavourable testimony given in examination-in-chief and to persuade the jury not to take the witness' testimony into account.

As with examination-in-chief, the attorneys are only permitted to ask questions during cross-examination. They are thoroughly aware that cross-examination is not the time to ask witness to tell his/her story. Consequently, they attempt to control the responses with asking more close-ended questions. Bergman and Bergman-Barrett (2008)

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propose that attorneys may not make speeches remarking on adverse witness's testimony or argue with a witness. The questions that attorneys ask during cross-examination must be within the scope of the topics that were discussed on examination-in-chief. Asking leading questions during cross-examination is the key for eliciting evidence without giving a witness a chance for retelling a story.

Attorneys are giving a speech in the form of questions. The only way to keep control of the witness in cross-examination is to ask questions that allow for the minimal responses. In any trial, cross-examination is used to persuade the jury of specific points important to the client. According to Reser (2005), cross-examination is an excellent engine for the discovery of truth. Tanford (2002) states that the success of cross-examination depends not on the ability of the attorneys to ask clever questions, but on their ability to control the flow of information. Therefore, the witness's testimony is confined to the selected items the attorneys want to bring out.

The juries do not like to see the constant conflict between attorneys and witnesses. Skilled attorneys know that the winning key for them to dominate the courtroom, crush the opponents and prove their own story to be true is by persuasion not brutality. By nature, persuasion may seem coercive but it does not coerce. Persuasion just changes the belief and thought of the addressee by providing him/her with a new perspective. MacCarthy (2008) believes that the ultimate goal of the trial attorneys with respect to the jury in every aspect of the trial is persuasion. The attorneys are trying to persuade the jury and judge to accept their client's version of the facts as told by them, the lawyers. MacCarthy (2008) also claims that cross-examination is not a time for a dialogue; rather it is a time for a monologue or a soliloquy.

Attorneys' acrimonious manner of speech just destroys their own face. Their abrasive and abusive behaviour impedes the fundamental goal of persuasion. Keane (2008) defines cross-examination as a powerful weapon given to attorneys that should be handled with a measure of restraint and politeness to the witness. Sometimes, under difficult situations, attorneys may lose their patience and that is the time their failure is guaranteed. Wellman (2005) mentions that controlling manner toward witnesses, even under the most difficult circumstances is the first lesson for attorneys in the art of cross-

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examination. It is true that by shouting, threatening style attorneys often confuse the wits of the witness but they fail to discredit the witness with the jury.

For being able to discuss the effects of questioning on the participants in courtroom discourse, it is better to first classify questions. According to Quirk, Greenbaum, Leech, and Svartvik (1980), those utterances that are recognised by their function as questions can be categorised into three major classifications as to what response they may elicit:

1. Yes/No questions
2. WH questions
3. Alternative questions

In this classification, declarative questions and tag questions are laid under the umbrella of Yes/No questions. One of the minor types of question categories in Quirk et al. (1980) is interrogative echo which repeats part or all of the previous utterance said by another speaker as a way of checking its content. Interrogative echoes can be divided into yes/no and WH types.

1.1 Persuasion in the Adversarial System

The trial has been described by many scholars in rather emotive words – it is a battle (Hale, 2004), a story telling (Luchjenbroers, 1997), a theatre (Goldberg, 2003), an Art (Wellman, 2005), a war of words (Ehrlich, 2001), etc. All the labels are based on the fact that there are two opposing parties which present their version of the facts to the judge and jury.

Persuasion is at the very heart of an adversarial system. A proper advocacy is the determining factor between a winner and a loser. As Burkley and Anderson (2008) mention, the ultimate goal in the judicial process is persuasion. They mean what is said is not the only cause that can make a difference. How an argument is presented to the jury tends to be more productive.

Although the judge remains above the fray, his role in the adversarial system is more like a referee at a sport event in which the parties are the athletes. Justice is done when one party is able to convince the judge and jury that its version of the fact is the true one. Convincing the judge and jury is based upon the way fact is presented.

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Goldberg (2003) claims that in the adversarial system the actual presentation is much more important than the truth. With considering the fact that your play stands against the play of your opponent, "persuasion" becomes a fundamental issue. The tactics by which the attorney can persuade the jury that her/his version of the facts is the true one not the opposite party's, is significant in the adversarial system.

1.2 Question Functions

Two functions of elicitative force and conduciveness, due to Stenström (1984), are effective in terms of the degree of persuasion of the addressee.

1.2.1 Elicitative Force

Elicitation is request for information in conversation, and elicitative force of a question is its ability in eliciting and extracting a response. According to Stenström (1984), questions have different elicitative force which means they vary in eliciting or inviting a response. Questions and responses are closely related. The degree of elicitative force of a question is related to its form and consequently to its specific function. Therefore, the demand on the respondent to respond seems stronger in some cases than in others, for example a response is necessary after request for information but it is optional after request for acknowledgement. She (p. 70) maintains in her study that a direct relationship exists between form of the question, elicitative force and response options:

Form	Function	Elicitative Force		Response Options	
	Request for:				
WH-Q	identification	strong	↕	many	↕
Yes/no-Q	polarity decision				
Tag-Q	confirmation				
Declarative	acknowledgement	weak		few	

Figure 1: Relation of form, function, force and R-options

Therefore, it is possible to respond to request for identification in different ways while in the case of request for acknowledgement there

is hardly any choice open to respondent. WH questions possess the strongest elicitative force and this force is reflected in the shape of the responses. Attorneys' questions are likely to influence the witness's answers. Archer (2005) believes that question types force the structure of the witness's response in the courtroom.

1.2.2 Conduciveness

A conducive question conveys a preference for one response than another. The questioner's belief underlies these kinds of questions. We may tag conducive questions as biased questions. Koshik (2007) states that the grammatical form of the question can impose constraints on the form of the expected answer and the design of the question can show preference for a particular answer. The term "conducive" is used by some linguists for describing this preference.

By asking the conducive questions, the attorneys expect the respondent to comply with the underlying presupposition of their questions. Conclusively, conducive questions can be highly controlling and powerful in the context of courtroom. Stenström (1984) believes that there is a relationship between question form and its conduciveness. The form of the question can be influenced by a particular situation in which it occurs. She emphasises that the common factor in all conducive questions is that they are not sheer requests for information. They just seek confirmation of the questioner's assumption.

Yes/No question and declarative and tag question, due to Stenström (1984), are similar in that they take yes or no for their response, but they differ in one decisive respect: Declarative and tag questions are always biased towards one response or the other, but yes/no question is so only occasionally. The bias of declarative and tag questions is the immediate outcome of their grammatical form but assertive lexical items, negation and contextual features have effect on the bias of yes/no question.

In comparison to other types of questions, WH questions can solicit more information from the respondent. They do not restrain limitations on the responses. According to Stenström (1984), WH question is the least conducive question form because the respondent is

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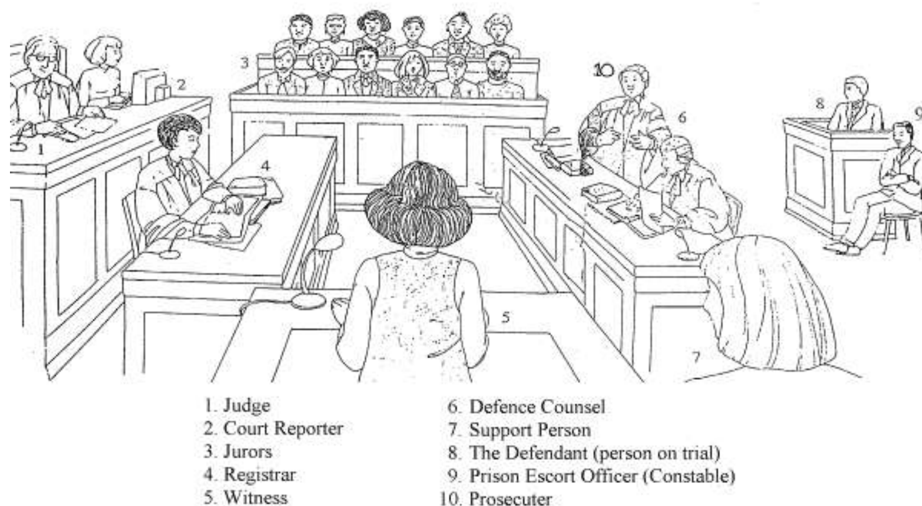
free to produce any response as long as the answer is relevant and within the limits established by the underlying presupposition.

Example: What did Mary do? She did *something*.
How did she do it? She did it *somehow*.
Why did she do it? She did it *for some reason.*

1.3 Courtroom setting

In the adversarial system, courtroom discourse seems to be a power talk. Power is not distributed identically in the courtroom. Berk-Seligson (2002) infers that linguistic power in the courtroom lies basically in the hands of attorneys and judges and this power is achieved through the interrogation process. Luchjenbroers (1991) states that there is a hierarchical power relation in the physical layout of the courtroom. The judge occupies the dominant position and is usually placed in upper place with a big chair and witness is considered to be at the other end of power continuum. The witness is in the center of focus absorbing all eyes and ears. Attorneys rise during testimonies and juries are seated in rows. The jury, attorneys, and especially the judge look down on witness (Figure 2).



1. Judge
2. Court Reporter
3. Jurors
4. Registrar
5. Witness
6. Defence Counsel
7. Support Person
8. The Defendant (person on trial)
9. Prison Escort Officer (Constable)
10. Prosecuter

Figure 2: Typical criminal court layout (adopted from www.tki.org.nz/r/socialscience/curriculum/SSOL/crimes/court2.gif)

1.4 Interaction in the Courtroom (from 17th century to modern time)

There seems to be a triangle shape interaction between the judge and juries; defendant and witnesses; and attorneys. Parties' attorneys try to persuade the judge and juries to the benefit of either the victim or the defendant with the presented evidence by witnesses and the defendant. Modern trials differ from 1640-1700 trials in number of ways. As Archer (2010) mentions, in 1640-1700 there was the highest interactivity between judges and defendants in English courtrooms. During 18th and 19th century, there was a decline in defendant-judge interactivity and increase in attorney interactivity. As a result, there is a move toward adversarialism. Archer (2010) maintains that judges were more interactive in 17th century courtrooms than their modern equivalents. He also adds that in the beginning of 18th century, examination-in-chief and cross-examination procedures were not as stringently defined as they are today and to some extent the active interaction between defendants and judges was still visible in courtroom procedure. The emergence of advocacy in criminal trials, according to Archer (2010), started from 18th century but professional advocacy was what appeared to matter seventy years later.

In the courtroom, interaction may be portrayed by simply exploring a response to who speaks what language to whom, when, where, and why. Opposing attorneys in different parties use persuasive language to witnesses during inquiry sessions in courtroom to persuade the judge and jury. The adversarial system prompts attorneys to identify all the evidence beneficial to their client's side. Interaction in the legal system, according to Coulthard and Johnson (2010), is illustrated with mentioning three themes of asymmetry, audience and context. Linell and Luckmann (1991, as sited in Coulthard and Johnson, 2010) define asymmetry in terms of inequalities in amount of talk, in distribution of interactional moves, in determining the topic and finally in contributing the most important interventions. In the case of the second theme, audience, Coulthard and Johnson (2010) believe that in symmetrical/asymmetrical balance the fact that who is speaking to whom is of crucial importance. Those who have the power of designing the questions can dominate ones that are merely allowed to be the sheer respondents. Finally with regard to context, Linell and Luckmann (1991, as sited in Coulthard and Johnson, 2010) believe that

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asymmetries are contextualised first within the dialogue, later in the institutional context and ultimately in the broader social context.

1.5 Turn-taking

The major types of turns, according to Burns and Seidlhofer (2002), are "adjacency pairs" that happen together, mutually affect one another, and make it possible for interlocutors to allocate or give up turns. One of the most common adjacency pairs is "question and answer" which includes two parts: a first pair part and a second pair part.

Courtroom context provides a rich collection of turn-takings. Turn-taking process in the courtroom is affected by the power relations between attorneys and the defendant/witnesses. The more powerful participants (attorneys) ask questions and the less powerful participants (defendant/witnesses) are expected to reply them. Atkinson and Drew (1979 as cited in Stenström, 1984) mention that the court dialogue in examination sessions consists of institutionally enforced adjacency pairs, one part is labeled as a question and the other part as an answer. They claim that two characteristics separate examination from conversation:

1. Turn order is predetermined.
2. The type of turn is predetermined.

Raising the topics and allocating turns are in the hands of the attorneys. Atkinson and Drew (1979 as cited in Gibbons, 2006) indicate that in a court it is against the law to speak without being allotted a turn and it is illegal not to speak when questioned. Gibbons (2006) asserts that turn-taking in courtrooms has been controlled along power hierarchy lines.

The purpose of this study is to analyse the types of questioning used during the 146 examination-in-chiefs of Shipman trial who was convicted at Preston Crown Court on 31 January 2000. From the pragmatic perspective, the researcher studies the persuasion devices inherent in each category. The persuasive illocutionary force of each question category, considering two features of elicitative force and conduciveness, are examined. The researcher wants to find out which question category is the most frequent one and find pragmatic justification for its exploitation. Accordingly, the following research questions are proposed:

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1. What is the most frequently used question category in different sessions of examination-in-chiefs of witnesses and the defendant in the Shipman trial?

2. What are the persuasion devices inherent in each question category?

2 Method

2.1 The Case

Harold Fredrick Shipman was a General Practitioner at Market Street, Hyde, near Manchester. He was declared guilty at Preston Crown Court on January 31, 2000 of the murder of 15 of his patients and of one count of counterfeiting a testament. Shipman was convicted to life imprisonment. Police have also inspected allegations that he may have killed many more patients while he was a GP in Todmorden and Hyde.

Shipman was under suspicion of the murder of more than 116 patients over 14 years. He is known by British media as Dr Death. The inspection into Dr Shipman's practice started after family members of Kathleen Grundy, 81, a prior mayoress and prestigious charity worker from Hyde, near Manchester, found out that she had left nothing in her testament to her daughter and two sons.

Three attorneys appeared on behalf of the prosecution and two attorneys appeared on behalf of the defendant in this trial. Mr Henriques, Mr Wright, Miss Blackwell appeared on behalf of the prosecution. Miss Davies and Mr Winter appeared on behalf of the defendant. Mr Justice Forbes presided all the sessions of inquires. Although the attorneys directed the questions to the witnesses and the defendant, the ultimate addresses were the judge and the juries. Members of the jury were silent during the attorneys' inquires.

Thirty four witnesses in the case of Kathleen Grundy, seven witnesses in the case of Bian Pomfret, 15 witnesses in the case of Winifred Mellor, six witnesses in the case of Joan May Melia, seven witnesses in the case of Ivy Lomas, six witnesses in the case of Marie Quinn, eight witnesses in the case of Irene Turner, eight witnesses in the case of Jean Lilley, three witnesses in the case of Muriel Grimshaw, four witnesses in the case of Marie West, seven witnesses in the case of Lizzie Adams, seven witnesses in the case of Laura Kathleen Wagstaff,

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four witnesses in the case of Norah Nuttall, seven witnesses in the case of Pamela Marguerite Hillier, nine witnesses in the case of Maureen Ward, and one witness in the case of fingerprint took part in the 29 days of Inquiries in the Shipman trial. Dr Shipman himself got through 15 sessions of examination-in-chiefs.

2.2 Data Collection Sources

The material for analysis is provided in the official trial transcript made available on the internet (The Shipman Inquiry, retrieved from http://www.the-shipman-inquiry.org.uk/trialtrans.asp). Fifty-eight days of the trial are downloaded and 29 of them which are in fact the enquiry sessions, selected for detailed study.

2.3 Design of the Study

The method of this study was descriptive in which the researcher called on pragmatic theory to describe how the different types of questions comply with the goals of the legal situation. Their illocutionary forces were interpreted and compared to the discourse tactics of the defence and the prosecution.

A quantitative and qualitative discourse analysis based on pragmatic interpretation was employed for analysing the data. In the first part of data analysis, the tabulation of the frequency of the different types of question categories during 146 examination-in-chiefs was conducted. In the next step, the percentage of their occurrence was calculated. A Chi-Square analysis was run on the data to detect the difference in persuasion devices inherent in different question categories. Later, descriptive analyses and pragmatic justifications were provided.

2.4 Procedure

The researcher analysed the type of questions used during the 146 examination-in-chiefs during the 29 days of the Shipman Trial. She arranged different question categories according to their frequency of occurrence in the inquiry.

As courtroom discourse is a field of study approached by both linguists and lawyers, two frameworks were adopted in this study for discussing the effects of questioning on the participants in the

courtroom. One based on the legal perspective and the other based on the linguistic approach. The linguistic framework proposed by Quirk et al. (1980) in which questions are divided into seven categories of Y/N questions, Y/N-echo questions, alternative questions, WH questions, declarative questions, tag questions and questions with lexical tag.

After classifying the question categories, the frequency and percentage of each question type were calculated. The counting procedure was accomplished manually. The next step was using the chi-square analysis for detecting the significant difference between categories of questions in each examination phase dependently for witnesses and the defendant. The differences are also shown with pie charts in result section, under relevant titles.

For legal perspectives, the researcher leaned on Goldberg (2003) and for pragmatic justifications regarding the persuasive illocutionary force of each question category she relied on Stenström (1984). From the point of view of pragmatics, this paper studied the persuasion devices inherent in each category. Among the features that affect the persuasive illocutionary force were elicitative force and conduciveness. The differences in force with regard to general context of conversation and the specific institutional context of the courtroom were studied.

3 Results

3.1 Results of the First Research Question

The primary concern of the researcher in this study is grasping the most frequent question category in different sessions of examination-in-chiefs in the Shipman trial. She starts with a meticulous account of the 131 examination-in-chiefs of the witnesses:

3.1.1 Quantitative Results of the Examination-in-chiefs of Witnesses

In Shipman trial, 131 examination-in-chiefs of witnesses were held. Each of these examinations is analysed separately. The sum of the frequencies of question categories asked from witnesses can be summarised in the following table:

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Table 1
The sum of the frequencies of question categories asked from witnesses in 131 examination-in-chiefs

Question Category	Frequency	Percentage
Y/N Questions	3986	65.13%
Y/N-Echo Questions	211	3.45%
Alternative Questions	138	2.25%
Declarative Questions	484	7.91%
Tag Questions	19	0.31%
Questions with Lexical Tag	41	0.67%
WH Questions	1241	20.28%
Sum	6120	100%

As it is clear, the most frequent question category and the highest percentage belong to Y/N questions with an eye-catching difference in comparison with other question types. In order to detect the significant difference in frequency of question categories, a one-way (goodness of fit) chi-square is run in this phase:

Table 2
The frequency of different question categories in 131 examination-in chiefs of witnesses

Examination of Witnesses

Question Category	Observed N	Expected N	Residual
Y/N	3986	874.3	3111.7
Y/N Echo	211	874.3	-663.3
Alternative	138	874.3	-736.3
Declarative	484	874.3	-390.3
Tag	19	874.3	-855.3
Lexical Tag	41	874.3	-833.3
WH	1241	874.3	366.7
Total	6120		

The Observed number shows the number of the times that one question category is repeated in the data and the expected number which is (874.3) is what the researcher expects due to probability. The residual shows the difference between the observed frequency and

expected frequency. Tag question category, for instance, has the frequency of (19) in examination-in-chiefs of witnesses. Therefore, the observed frequency is (19). The researchers expected it to have the frequency of (874.3). The residual is (-855.3).

The following table shows the test statistics for the descriptive table above:

Table 3
Test statistics

	Examination of Witnesses
Chi-Square[a]	14157.284
df	6
Asymp. Sig.	.000

a. 0 cells (.0%) have expected frequencies less than 5.
The minimum expected cell frequency is 874.3.

Based on the results of above-mentioned calculations, the difference in frequency between different categories of questions (Y/N Questions, Y/N-Echo Questions, Alternative Questions, Declarative Questions, Tag Questions, Questions with Lexical tag and WH Questions) is highly significant ($p < 0.001$):

χ^2 (6, N=6120) =14157.284 $p < 0.001$

The calculated value of the most frequent question category, Y/N Question, is (3986) which is much bigger than the expected value of (874.3). The least frequent question category is "Tag Question". Its value, 19, is much smaller than the expected value of (874.3).

Therefore, the null hypothesis can be rejected and it can be said that there is a significant difference in frequency between categories of questions with regard to examination type. The less constraining and more open ended types of questions predominate in the examination-in-chiefs of witnesses.

The following pie chart clearly shows the significant difference between categories of questions:

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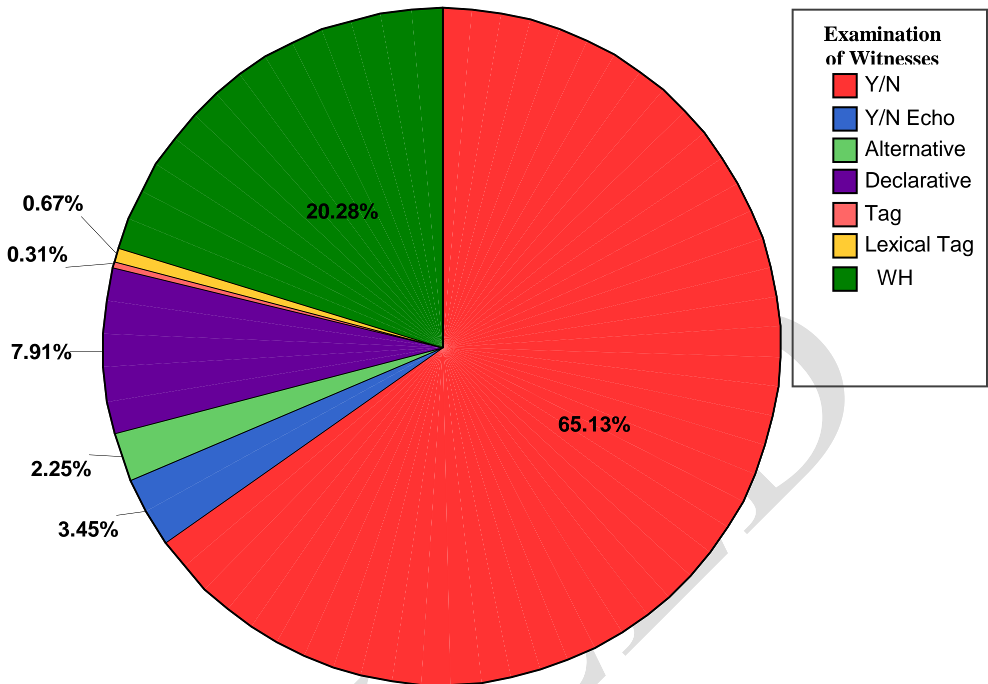

Figure 3
The distributions of question categories in 131 examination-in-chiefs of witnesses

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3.1.1 Quantitative Results of the Examination-in-chiefs of the Defendant, Dr Shipman

Dr Shipman was examined in 15 sessions of trial. All these sessions are downloaded and each question category is classified under its own heading. The outcome of these analyses can be summarised in the following table:

Table 4
The sum of the frequencies of question categories in examination-in-chiefs of Dr Shipman by Miss Davies during 15 sessions of trial

Question Category	Frequency	Percentage
Y/N Questions	1355	41.95%
Y/N-Echo Questions	24	0.74%
Alternative Questions	103	3.19%
Declarative Questions	881	27.28%

Tag Questions	2	0.06%
Questions with Lexical Tag	45	1.39%
WH Questions	820	25.39%
Sum	3230	100%

It is quite obvious that Y/N Question category is the most frequent and the Tag Question category is the least. The result of the one-way (goodness of fit) chi-square for detecting the difference in frequency between different categories of Questions (Y/N Questions, Y/N-Echo Questions, Alternative Questions, Declarative Questions, Tag Questions, Questions with Lexical Tag, and WH Questions) is presented in *Table 5* and *Table 6.*

Table 5
The frequency of different question categories in examination-in-chiefs of the defendant

Examination of Shipman

Questio	Observed N	Expected N	Residual
Y/N	1355	461.4	893.6
Y/N Echo	24	461.4	-437.4
Alternative	103	461.4	-358.4
Declarative	881	461.4	419.6
Tag	2	461.4	-459.4
Lexical Tag	45	461.4	-416.4
WH	820	461.4	358.6
Total	3230		

Table 6
Test statistics

	Examination of Shipman
Chi-Square[a]	3916.935
df	6
Asymp. Sig.	.000

a. 0 cells (.0%) have expected frequencies less than 5.

The minimum expected cell frequency is 461.4. It is clear that the difference between the above-mentioned categories of questions is highly significant ($p < 0.001$):
χ^2 (6, N=3230) = 3916.935 $p < 0.001$

Y/N Question category bears the most frequent repetition in the examination-in-chiefs of Dr Shipman. The least frequent question category is Tag Question which occurred only two times of the overall (3230) questions. Its value is much smaller than the expected value of (461.4). Thus, the null hypothesis can be rejected and it can be inferred that there is a significant difference in frequency between different categories of questions, considering examination type. The less constraining and more open-ended types of questions predominate in the examination-in-chiefs of the defendant. These frequencies are reflected in the following pie chart:

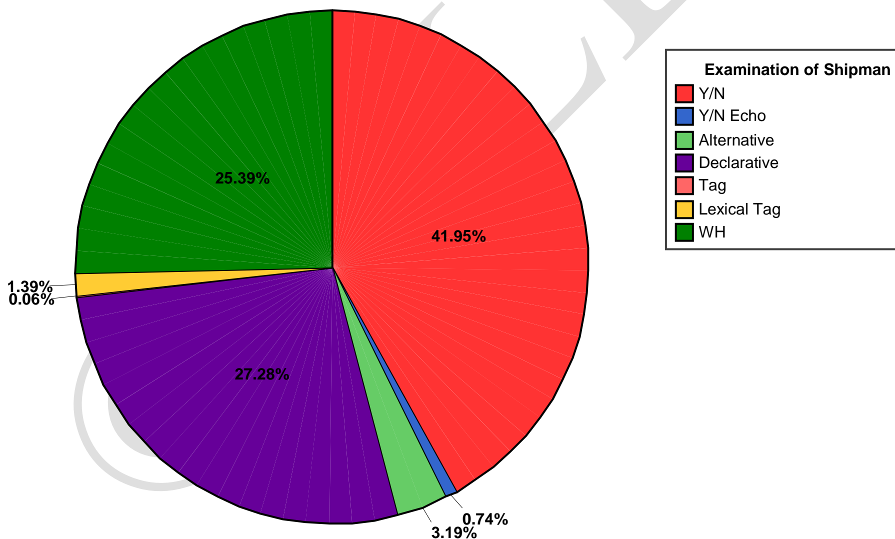

Figure 4: The distributions of question categories in examination-in-chiefs of the defendant

3.2 Qualitative Results of the Second Research Question

Detecting the persuasion devices inherent in each question category is another concern of this study. The following figure illustrates the degree to which the four factors of "elicitative force", "questionness", "conduciveness", and "interrogation control" play role with regard to different categories of questions:

	Elicitative Force	Questionness	Conduciveness	Interrogation Control
WH-Questions	↑	↑	↓	↓
Alternative Questions				
Y/N Questions				
Tag Questions				
Questions with LT				
Declarative Questions				

Figure 5: The degree of incidence of different question functions

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WH question category is in the highest degree of elicitative force and questionness which means that this question is in the highest degree of eliciting and drawing out information from the respondent. In contrast, declarative question category is in the highest degree of conduciveness which means that the form of the question implies a preference for one type of answer that is expected. Declarative question category closes the chance of narrative responses to the respondent. Most often, this question category can be answered merely by yes or no. Therefore, the interrogation control is the highest in declarative questions. The questioner can highly control the respondent's answers.

There is a direct relationship between the above-mentioned question functions. The higher the degree of elicitative force, the higher the degree of questionness, and the higher the degree of conduciveness, the higher the degree of interrogation control. The higher the degree of

elicitative force and questionness, the lower the degree of conduciveness and interrogation control.

WH questions and declarative questions are at the two ends of one continuum. WH questions open the ways for narrative responses, but declarative questions close any ways of narrative responses. It is difficult to answer a mere yes or no to WH questions, but often declarative questions can be answered with a one-word yes or no.

According to Quirk et al. (1980) and Stenström (1984), each question category has a specific function. Based on their definitions, the researchers came to *Figure 5* which shows each category of question with regard to its specific functions (Elicitative Force, Questionness, Conduciveness, and Interrogation Control). The figure above is the outcome of the findings after analysing each category of question and its related functions. Y/N-Echo question can be treated as an elliptical form of Y/N question, it merely repeats what had just been said and according to Quirk et al. (1980), "question" is contextual rather than formal label. Therefore, it is not included in *Figure 5*.

4 Discussions

Yes/No question category is the most frequent one in 131 examination-in-chiefs of witnesses and 15 examination-in-chiefs of the defendant. Drawing on Quirk et al. (1980), the grammatical form of the question sets constraints on the response that follows; in that it creates preferences for a certain type of answer – yes or no, or rather agreement or negation. It seems that attorneys formulate their examination questions in such a way that they elicit a minimal response. Thus they exercise great amount of control over the response possibilities of witnesses and the defendant.

Some examples are selected from the examination-in-chief of Dr Shipman in the case of Bianca Pomfret (Trial Day 28) to clarify two elements of elicitative force and conduciveness):

Q. Was the positions this, Dr Shipman, that Mrs Pomfret was a regular attender at your surgery?
A. She was.

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Q. In fact, had she been to Germany to see her family at about that time?
A. She had.
Q. In respect first of all of the phone call on the 9th December, were you aware of that phone call?
A. I was aware of that phone call.
Q. Apart from anything else would you have your afternoon surgery to carry out?
A. That's right.
Q. We have seen in other cases that there are backdated computer entries. During the period from 1992 onwards when you were utilising the computer for medical records, did you back date entries if you thought it necessary on occasion?
A.Yes.
Q. Were you aware whether in fact of others at your practice also did that, that is back dating?
A. I know that happened.

It is mentioned in Goldberg (2003) that Leading Questions, legal term for Tag Questions, may not be used during the examination-in-chief. Therefore, attorneys employ other forms of restrictive questions to have a control on the responses. In the study conducted by Hale (2004), tag questions had the least frequency during examination-in-chiefs. She stated that leading questions, which provide more information than they ask, are not allowed in examination-in-chief except when asking non-controversial information. The results of this study thoroughly proved Goldberg's (2003) and Hale's (2004) claims; in that tag question category has the lowest frequency in both examination-in-chiefs of witnesses and the defendant.

Attorneys are encouraged to ask free-response questions during examination-in-chiefs in order to let the jury decide on the basis of the witness's story. However, the attorneys prefer to tell their own version of the story from witness's mouth through the questions that they pose. They strategically ask Y/N questions in order to achieve their purposes of controlling the responses. Y/N questions let the respondent take the floor, but in contrast with WH questions the respondents are not free enough to produce their desired information. To sum up, the function of

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Y/N questions can be polar as the grammars would claim, however the majority of these questions will be asked with a bias towards a given answer; their function thus is being that of confirmation-seeking.

5 Conclusion

In this paper, a fairly large body of data devoting a considerable amount of time was analysed to provide a comprehensive case study of the process of questioning in a criminal trial. Different categories of questions in examination-in-chief sessions of Dr Shipman's trial were classified and meticulously studied.

Question types are related to the types of examination. In the analysis of the present data, Y/N question category shaped the majority of questions asked in both examination-in-chiefs of witnesses and the defendant. During examination-in-chiefs, witnesses are supposed to be given a chance to tell their own stories because the evidence needs to originate from the witnesses. Open questions are also limited in examination-in-chiefs; however, they are more likely to appear than in cross-examinations.

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