

# **Argumentation in legal discourse: A contrastive analysis of concession in Philippine and American Supreme Court decisions**

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## **Abstract**

The Supreme Court, being the highest deciding body that ends legal controversies, drafts decisions that eventually become part and parcel of the constitution that protects the rights of citizens. This paper examines the signals of concession in Philippine and American Supreme Court decisions, specifically focusing on argumentation in jurisprudence. Landmark cases on family relations were analyzed to describe how concession is articulated in decisions that debunk the ruling of lower courts. Moreover, this paper attempts to specify concessive preferences of Supreme Court judges that may somehow describe the standard discourse patterns in Philippine English and American English. The results of this study may be of significance and interest to Filipino students of Legal English, lawyers practicing foreign and legal affairs, and researchers of Philippine English and American English.

**Keywords:** Concession, concessive signals, contrastive analysis, forensic linguistics, legal linguistics, Supreme Court decisions

## **1. Introduction**

The language of the law has always been regarded as a credible example of professional language. However, only a few research have endeavored to investigate the interesting link between language and law. Most studies that attempted to examine this link took either a legal or a philosophical lens. Consequently, linguists and any other scholars have not yet extensively studied the linguistic elements that build the foundation of argumentation in judicial texts. The most common area that addresses the relationship of language and law is legal linguistics, which aids legal scientists and legal practitioners in understanding how language works universally and legally (Salmi-Tolonen, 2013). Also, it seems that forensic linguistics, which is conventional, remains as the most explored area in solidifying the connection between linguistics and law. Several studies on forensic linguistics cover investigations on written and spoken language evidence, including analyses of blackmail letters, suicide notes, wills, hate mail, tape recordings of threat messages, trademarks, and possible plagiarized texts (Solan & Tiersma, 2012). However, it took applied linguistics so long before it ascertained that the legal arena is a fertile ground for employing linguistic expertise (Shuy, 2011). Up until today, studies seem to struggle to articulate the relevance of legal linguistic studies in the practical world (Sarangi & Candlin, 2001). In most instances, these studies examine the very specific semantic and syntactic features of a language used

in legal clauses and provisions (Minarikova, 2006, as cited in Engberg, 2013), which, unfortunately, is difficult to associate with daily, real-world contexts that language users face (Becker & Klein, 2008, as cited in Engberg, 2013). In the same light, Bhatia (1997) asserts that common linguistic artefacts in a discourse community may actually appear as complex in the real world. In other words, although research on understanding the law has already begun in the field of linguistics, not much has been done in examining how the texts constituting legal rules may be understood better.

This paper is an exploratory attempt to link judicial argumentation theory and linguistic analysis by examining concessive patterns and signals and discussing how these patterns and signals contribute to the realization of concession. According to Galdia (2009), legal discourse, which shapes the construction of language used in law, is highly argumentative, and it follows why legal jurisprudence reflects the same assertive makeup. This explains why legal linguistics sees and dissects the law based on the concept that language is constitutive for the law.

One of the few studies on judicial discourse is that of Mazzi (2007), which analyzed the linguistic features of argumentative discourse in judicial texts, specifically concession. He identified the patterns of concession and their distribution in legal texts. His research is somewhat similar to that of Felder (2003, as cited in Engberg, 2013), which examined the different hierarchical levels on a case concerning sit-down rallies as a way of protest in Germany. It was found that knowledge frames show differences in position between the courts and how these positions were expressed in media. Felder claims that building argumentation as a common court practice follows a knowledge-based and dynamic view on linguistic meaning. Accordingly, the discussion was confined to the occurrences of concessive patterns in the argumentative move of judgments, that is, 'arguing the case,' including the court's own argumentation as well as reported arguments. The other moves were excluded from the analysis.

Szczyrbak (2009) expounds on concession as coming from *concession* (derived from the Latin verb *concedere*), which means conceding the adversary's point in order to strengthen one's position. From then on, linguists took a semantic-syntactic approach to understand concession, thus focusing basically on clauses and their relations (Verhagen, 2000). However, it appears that little attention is given to the pragmatic uses of concession and the manner in which concessive clauses function in a specific context. More recently, however, concession has been examined using the lens of pragmatics and has been viewed as a discourse-pragmatic relation.

Rudolph (1996) and Taboada (2006) analyzed concession in a clausal relation and asserted that the sequential relation of concession encourages readers to engage in discourse. On the other hand, Dayag (2004) who studied epistemic modality, concessives, and interpersonal meaning in L2 editorials, found that concessive clauses were employed very often in newspaper editorials to make a claim or a counterclaim. In the same study, Dayag underscores that concessives are effective tools in asserting a stand on an issue.

As a discourse structure, concession is categorized under Rhetorical Structure Theory (RST). According to Mann and Thompson (1988), this approach helps readers identify and understand the gist of a sentence. Later on, Couper-Kuhlen and Thompson (2000) complemented this concept. On the other hand, Barth-Weingarten (2003) improved this and came up with an interactional model of concession. Couper-Kuhlen, Thompson, and Barth-Weingarten claimed that concession is realized, prototypically, as a three-part sequence

consisting of three moves: Claim (X), acknowledgment (X'), and counterclaim (Y) (Barth-Weingarten, 2003, as cited in Szczyrbak, 2009). In addition, the aforementioned authors affirm that concession requires (at least) two participants: the first one producing the claim and the other acknowledging it only to refute it with a stronger counterclaim. In the present study, this is how concession is understood—a sequential discourse-pragmatic relation.

As emphasized by a number of publications on legal discourse, it is essential for legal professionals to have a good command of discourse conventions that characterize legal writing. Connor (1996) asserts that cross-cultural differences in writing style are the consequence of unique discourse communities overlapping each other as language users may bring in their L1 textual features and rhetorical strategies when employing their L2, which they may not have fully absorbed yet. In the same vein, Le, Kui, and Ying-Long (2008) opine that unique discourse structures and patterns in the language of law may also depend on the purpose and nature of the legal text. Moreover, since contrastive analysis has been a spreading catchword in linguistics nowadays, research has continued to emphasize that the organizational structure of a text is the key to understanding it. Interestingly, even within a specific discourse community, a shared text may mirror subcultural differences that expose even more discourse variance. In the judiciary, the lower courts, the Court of Appeals, and the Supreme Court may be seen as knowledgeable of and excellent at using the language of law; however, how these courts assert, argue, and concede may also pose existing discourse distinctions. Surprisingly, contrastive rhetoric (CR) studies in the United States seem to look only at the Romano-Germanic civil law tradition or at specific and tradition laws in some geographical regions (Glendon, Gordon, & Carroza, 2003). On the other hand, CR studies in the Philippines mainly deal with argumentation in print materials (Dayag, 2004). To date, none has been done yet on Supreme Court decisions.

## 1.1 Research Questions

This paper examines concession in Supreme Court decisions of the Philippines and the United States of America. Specifically, it sought to answer the following questions:

- a. Is there a difference in the patterns of concession of Philippine and American Supreme Court judgments?
- b. Is there a difference in the markers and signals of concession in Philippine and American Supreme Court decisions?
- c. How do these markers and signals of concession in Philippine and American Supreme Court decisions help realize concession?

## 1.2 Theoretical Framework

The present study is anchored on the following concepts and theories on the identification of concessive patterns and signals:

### 1.2.1 Concession in Written Discourse

Szczyrbak's (2009) study confirms van Dijk's (1997, as cited in Szczyrbak, 2009) claim that discourse captures a specific community interacting socially and that concession is a two-way communication in nature. Although Barth-Weingarten (2003) posits that concession

displays shades of monologic patterns, it is still an interface of two interlocutors. Also, Ford (1994, as cited in Barth-Weingarten, 2003) opines that, even if concession in spoken and written discourse might pose some differences on how they may have been edited, writers consider the diversity of their prospective readers.

Barth-Weingarten's (2003) framework, which was employed by Szczyrbak (2009), identifies two essential and monologically produced concessive sequences that may be found in written discourse: the Pseudo-Dyadic Schema and the Monadic Schema. Also, these sequences have two variations: the Reversed Pseudo-Dyadic Schema and the Reversed Monadic Schema. In the Pseudo-Dyadic Schema, the concessive pattern is initiated by one participant who takes an opposing view, secondly acknowledges the preceding claim, and thirdly produces a counterclaim that downgrades the conceded proposition. Conversely, in the Monadic Schema, though the initial claim is missing or implied, the claim is strongly projected and thus can be conceded in the succeeding move.

The following tables illustrate the different concessive patterns used in the present study:

Table 1 presents that Pseudo-Dyadic Concessive Schema (PD) represented as X-X'-Y follows a claim-acknowledgment-counterclaim format.

**Table 1**  
*Pseudo-Dyadic concessive schema (PD)*

Participant	Move Symbol	Move	Move Description
A:	X	Claim	Author A assumes an opposing point of view of Author B or (in the absence of the other interactant/other interactants) reports a third party's argumentation (e.g., argumentation presented by a court of lower instance, appellant, the Council, a government, etc.)
	X'	Acknowledgment	Preposed acknowledging move/X' negates the grounds for a possible objection
	Y	Counterclaim	Counterargument/ the author's preferred position

Table 2, on the other hand, shows that in the Reversed Pseudo-Dyadic Schema (RPD), denoted by X-Y-X', claim is followed by counterclaim, not by acknowledgment.

**Table 2**  
*Reversed Pseudo-Dyadic schema (RPD)*

Participant	Move Symbol	Move	Move Description
A:	X	Claim	Author A assumes an opposing point of view of Author B or (in the absence of the other interactant/other interactants) reports a third party's argumentation (e.g., argumentation presented by a court of lower instance, appellant, the Council, a government, etc.)
	Y	Counterclaim	Counterargument/ the author's preferred position
	X'	Acknowledgment	Postposed acknowledging move/X' negates the grounds for a possible objection

Table 3 displays that the Monadic Concessive Schema (M1), coded as 0-X'-Y, starts with an implied claim, followed by an acknowledgment, and culminated by a counterclaim.

**Table 3**  
*Monadic concessive schema (M1)*

Participant	Move Symbol	Move	Move Description
A:	0	Claim	Implied claim
	X'	Acknowledgment	Preposed acknowledging move/X' negates the grounds for possible objection

Table 3 continued...

Participant	Move Symbol	Move	Move Description
	Y	Counterclaim	Counterargument/ the author's preferred position

Table 4 presents that the Reversed Monadic Schema (RM1), symbolized as 0-Y-X'-Y', interestingly repeats an earlier point after an acknowledgment.

**Table 4**  
*Reversed Monadic schema (RM1)*

Participant	Move Symbol	Move	Move Description
A:	0	Claim	Implied claim
	Y	Counterclaim	Counterargument/ the author's preferred position
	X'	Acknowledgment	Insertion of acknowledgment/X' negates the grounds for a possible objection
	Y'	Return to Counterclaim	Repeated earlier point

Lastly, Table 5 shows that the Reversed Monadic Schema (RM2), represented by 0-Y-X', is initiated by a claim, followed by a counterclaim, and completed by an acknowledgment move.

**Table 5**  
*Reversed Monadic schema (RM2)*

Participant	Move Symbol	Move	Move Description
A:	0	Claim	Implied claim
	Y	Counterclaim	Counterargument/ the author's preferred position
	X'	Acknowledgment	The acknowledging move ends the sequence (backing down)

## 1.2.2 Judicial Discourse

Swales (1990) asserts that a discourse community is a group of individuals who communicate with structured channels. In the present study, the discourse community is formed by the chief justices of the Supreme Court of the Philippines and the United States of America and their audience who may be judges of the lower courts, lawyers, law students, and citizens who may be plaintiffs or complainants. Vannier (2001, as cited in Mazzi, 2007) designed a model that somehow applies to the discourse community for judicial jurisprudence in the Philippines and the USA. The Supreme Court decisions in the Philippines and the USA involve: (1) a State governed by the rule of law; (2) parties in the dispute; (3) first judicial degrees; (4) Supreme Courts; (5) public opinions; and (6) legislators. The cycle goes on and on in the said model.

## 1.2.3 Contrastive Analysis of Supreme Court Decisions in the Philippines and the USA

Court decisions are very different from scientific research (Myers, 1992). They are highly performative compared to usual reports because their main purpose is to order the implementation of a decision that ends a legal dispute. Similarly, Maley (1985) stresses that jurisprudence is both declarative and imperative or even beyond a statement and an order because the Supreme Court's decisions become part of the law as well. Therefore, the fact and the analysis supporting the decision or disposition are inevitably indispensable.

Bhatia (1993) outlines a four-move structure of judgments. However, he argues that judgments' moves do not always conform to a pattern. In the present study, the moves employed by Mazzi (2007) were adopted because they seem to fit the structure of Supreme Court decisions in the Philippines.

Table 6 presents the moves and their corresponding descriptions and functions in the argumentation patterns of the data.

**Table 6**  
*Generic structure of Supreme Court decisions*

Move	Move Description	Move Function
1	Identification of the case	Informative
2	Identification of the scope of proceedings	Informative
3	Reference to community law and national legislation	Informative
4	History of the case	Informative
5	<b>Arguing the case</b>	<b>Argumentative</b>
6	Settlement of costs	Performative
	Pronouncement of judgment	Performative

Table 6 shows that the first four moves of judicial jurisprudence are mere reviews of previous decisions of lower courts. The first four moves in Mazzi's (2007) framework

can be the counterpart of McCarthy's (1991, as cited in Dayag 2004) first move, which is establishing a common ground. Dayag (2004) describes this as the part of argumentation where the writer activates the schema of the reader. In addition, Dayag claims that such a significant process makes writing interactional and not monologic.

On the other hand, according to Mazzi (2007), much of concession can be found in Move 5: Arguing the case. Therefore, the present study only examined this argumentative part of the data.

## 2. Method

The study analyzed a compilation of 15 Supreme Court decisions in the Philippines on family relations and 15 Supreme Court decisions of the United States of America on marriage and children. The former were randomly retrieved from the database of the Supreme Court of the Philippines through <http://sc.judiciary.gov.ph/decisions.php>, which provides texts of Supreme Court decisions, among other documents, dispensed by the Supreme Court of the Philippines. On the other hand, the USA court decisions were retrieved from the Cornell University-College of Law website, which may be accessed through <http://www.law.cornell.edu>. Although there was no assumption as to jurisprudential area would make a significant criterion during the selection of the date, landmark cases for each category were, by chance, downloaded.

The first stage of the analysis was to extract Move 5 (Argumentation) from all the 30 Supreme Court decisions in order to identify the concessive patterns. The following are examples of how all the samples of Move 5 were coded in the study:

### Pseudo-Dyadic Schema (PD) Claim-Acknowledgment-Counterclaim

People of the Philippines vs. Marivic Genosa, January 15, 2004

A:	X	The defense fell short of proving all three phases of "cycle of violence" supposedly characterizing the relationship of Ben and Marivic Genosa.
	X'	No doubt there were acute battering incidents. In relating to the court <i>a quo</i> how the fatal incident that led to the death of Ben started, Marivic perfectly described the tension-building phase of the cycle. She was able to explain in adequate detail the typical characteristics of this stage.
	Y	<b>However</b> , that single incident does not prove the existence of the syndrome.

### Reversed Pseudo-Dyadic Scheme (RPD) Claim-Counterclaim-Acknowledgment

Sharron A. FRONTIERO and Joseph Frontiero, Appellants, v. Elliot L. RICHARDSON, Secretary of Defense, et al. 411 U.S. 677 (No. 71-1694)



- A: X **It is true**, of course, that the position of women in America has improved markedly in recent decades.
- Y **Nevertheless**, it can hardly be doubted that, in part because of the high visibility of the sex characteristic, [<sup>16</sup>] women still face pervasive,
- X' although at times more subtle, discrimination in our educational institutions, in the job market and, **perhaps** most conspicuously, in the political arena.

### Monadic Concessive Schema (M1) (Implied) Claim-Acknowledgment-Counterclaim

Nilda V. Navales vs. Court of Appeals, June 27, 2008

- A: 0 In this case, Reynaldo and his witness sought to establish that Nilda was a flirt before the marriage, which flirtatiousness recurred when she started working as an aerobics instructress.
- X' The instances alleged by Reynaldo, i.e., the occasion when Nilda chose to ride home with another man instead of him, that he saw Nilda being kissed by another man while in a car, and that Nilda allowed other men to touch her body, if true, **would** understandably hurt and embarrass him.
- Y **Still**, these acts by themselves are insufficient to establish a psychological or mental defect that is serious, incurable or grave as contemplated by Article 36 of the Family Code.

### Reversed Monadic Scheme (RM1) (Implied) Claim-Counterclaim-Acknowledgment-Return to Counterclaim

Linda Sidoti PALMORE, Petitioner v. Anthony J. SIDOTI. 466 U.S. 429 (No. 82-1734)

- A: 0 It would ignore reality to suggest that racial and ethnic prejudices do not exist,
- Y or that all manifestations of those prejudices have been eliminated.
- X' **Thus**, there is a risk that a child living with a stepparent of a different race may be subject to a variety of pressures and stresses not present if the child were living with parents of the same racial or ethnic origin.

Y' The question, **however**, is whether the reality of private biases and the possible injury they might inflict are permissible considerations for removal of an infant child from the custody of its natural mother. We have little difficulty concluding that they are not. [n2] The Constitution cannot control such prejudices, but neither can it tolerate them. Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect.

### Reversed Monadic Schema (RM2) Implied Claim-Counterclaim-Acknowledgment

HAZELWOOD SCHOOL DISTRICT, et al., Petitioners v. Cathy KUHLMEIER et al. 484 U.S. 260 (No. 86-836)

A: 0 **While** it is true that Reynolds did not verify  
 Y whether the necessary modifications could still have been made in the articles,  
 X' **fundamentally** Emerson did not volunteer the information that printing could be delayed until the changes were made. We **nonetheless** agree with the District Court that the decision to excise the two pages containing the problematic articles was reasonable, given the particular circumstances of this case. These circumstances included the very recent [p276] replacement of Stergos by Emerson, who may not have been entirely familiar with Spectrum editorial and production procedures, and the pressure felt by Reynolds to make an immediate decision so that students would not be deprived of the newspaper altogether.

The second stage of analysis was done by doing a thorough manual count of the concessive devices used in Move 5 from all the data, which include: (1) concessive conjunctions, (2) concessive disjuncts, (3) concessive verbs, (4) attitudinal disjuncts, (5) conditional conjunctions, (6) modals of possibility, and (7) truth-evaluation phrases. It must be noted that various methodological approaches were adopted. For example, *although* in the present study, according to Quirk and Greenbaum (1973), is a subordinating conjunction, while concessive markers such as truth-evaluation elements, and disjuncts were based on Lyda's (2007, as cited in Sczyzrbak, 2009) study. Lastly, modals in the present study were based on Couper-Kuhlen and Thompson (1999).

### 3. Results and Discussion

Genre analysis is an indispensable and feasible means employed in the analysis of court judgments, which are considered as discourse of professional communication and for specific purposes.

As discussed earlier, only the distinct instances of concession were included in the analysis. Conversely, questionable examples in Move 5, i.e., Arguing the case (with no clear three-move sequence), were excluded from the scope of the study. It is important to note that in the written discourse, concessive moves are not always placed closely. This is most especially true in the data because judicial language is complex in syntax and lengthy in structure. Moreover, the size of the moves can be reduced or expanded. As a result, the concessive moves in the data include fragments of sentences, full sentences, or even whole paragraphs. It should be noted that this circumstance builds an action-oriented approach to concession.

Table 7 shows the distribution of concessive patterns in the data. The most frequent pattern found in the argumentation of the Supreme Courts is Pseudo-Dyadic Schema (X-X'-Y) accounting for a little over 50-60% for both sets of decisions. On the other hand, Reversed Pseudo-Dyadic Schema (X-Y-X') scored almost 20% of all occurrences, whereas a slightly smaller proportion (lower than 2%) represented the Monadic Schema (0-X-Y). Finally, the Reversed Monadic Schema, i.e., RM1 and RM2, scored the lowest.

**Table 7**  
*Distribution of concessive patterns in the data*

Pattern	Philippine Data		American Data	
	# of occurrences	%	# of occurrences	%
PD (X-X'-Y)	21	52.5	18	60
RPD (X-Y-X')	7	17.5	5	16.7
M1 (0-X'-Y)	6	15	4	13.3
RM1 (0-Y-X'-Y')	4	10	2	6.67
RM2 (0-Y-X')	2	5	1	3.33
<b>Total</b>	40	100	30	100

The following extracts illustrate how a linguistic analysis of the interactional model of concession was carried out in the study:

Extract 1 Pseudo-Dyadic Schema (PD), X-X'-Y

People of the Philippines vs. Renato Flores, December 14, 2001

A:	X	In his vain attempt to discredit the testimony of complainant, appellant cites two inconsistencies.
	X'	He concedes that she was forcibly brought by Pareno to the nipa hut.
	Y	Prosecution witness, Larry Frias' testimony, <b>however</b> , allegedly showed that Pareno merely instructed her to go to the nipa hut with him.

In Extract 1, the Philippine Supreme Court recognizes the claim of the appellant that the complainant's testimony is void of merit. In the second statement, the Court continues to take note of the appellant's claim but attempts to open the argument for a possible objection, especially that the word *forcibly* is used. Finally, the Court, as signaled by the word *however*, counter-argues the claim by citing a witness's testimony.

Extract 2 Reversed Pseudo-Dyadic Schema (RPD), X-Y-X'

- A: X First, it must be stated that neither the trial court nor the respondent court made a finding on who between petitioner and private respondent refuses to have sexual contact with the other.
- Y The fact remains, **however**, that there has never been *coitus* between them.
- X' At any rate, since the action to declare the marriage void **may** be filed by either party, i.e., even the psychologically incapacitated, the question of who refuses to have sex with the other becomes immaterial.

In Extract 2, the American Supreme Court reiterates the views of the lower courts and then immediately makes a counterclaim as motioned by the concessive word *however*. It can be noticed that the concession is ended by an acknowledgment of the Court's claim, which negates the petitioner's stand. It is interesting to note that such an acknowledgment could actually follow the petitioner's claim immediately, but the Court decides to suspend it to make sure that the petitioner's stand has been considered as sound; only that the Court's claim is more of significance. Moreover, the acknowledging move uses the modal *may* to somewhat allow a possible objection but immediately negates this by asserting that any objection will be deemed *immaterial*.

Extract 3 Monadic Schema (M1), 0-X'Y

William Herbert ORR, Appellant, v. Lillian M. ORR. 440 U.S. 268 (No. 77-1119)

- A: 0 **Though** it could be argued that the Alabama statutory scheme is designed to provide help for needy spouses, using sex as a proxy for need, and to compensate women for past discrimination during marriage, which assertedly has left them unprepared to fend for themselves in the working world following divorce, these considerations would not justify that scheme, because, under the Alabama statutes, individualized hearings at which the parties' relative financial circumstances are considered already occur.

- X'        **Since** such hearings can determine which spouses are needy, as well as which wives were, in fact, discriminated against, there is no reason to operate by generalization.
- Y        “**Thus**, the gender-based distinction is gratuitous. . . .”  
Weinberger v. Wiesenfeld, 420 U.S. 636, 653. pp. 280-282.

In Extract 3, the American Supreme Court implies that although the lower courts might have based their decisions on an existing law, it suggests a more appropriate focal point that the said courts could have set their attention on. This time, the Court concludes by stating its strong stand on the issue by using the concessive device *thus*.

Extract 4 Reversed Monadic Schema (RM1), 0-Y-X'-Y'

Burt v. Titlow 680 F. 3d 577, reversed.

- A:        0        The Court cannot take judicial notice of foreign laws as they must be alleged and proved.
- Y        This case
- X'        **therefore** should be remanded to the trial court for further reception of evidence on the divorce decree obtained by Merry Lee and the marriage of respondent and Felicisimo.
- Y'        Even assuming that Felicisimo was not capacitated to marry respondent in 1974, **nevertheless**, we find that the latter has the legal personality to file the subject petition for letters of administration, as she may be considered the co-owner of Felicisimo as regards the properties that were acquired through their joint efforts during their cohabitation.

In Extract 4, the American Supreme Court implies its attitude toward a possible error of the lower courts on failing to realize that the Supreme Court has its own limitations, too, in deciding on cases governed by the International Law. The concessive device *therefore* signals the acknowledgment that the lower courts have better clout on the issue. However, the Supreme Court reiterates its stand on the issue, which was earlier mentioned in the argumentation.

Extract 5 Reversed Monadic Schema (RM2), 0-Y-X'

Johanna Sombong vs. Court of Appeals, January 31, 1996

- A:        0        It will be remembered that, in *habeas corpus* proceedings, the question of identity is relevant and material, subject to the usual presumptions including those as to identify of person.

- Y            These assumptions may yield, **however**, to the evidence preferred by the parties.
- X'            Evidence must necessarily be adduced to prove that two persons, initially thought of to be distinct and separate from each other, are **indeed** one and the same.

In Extract 5, the Philippine Supreme Court does not explicitly state that something is wrong with the decisions of the lower courts. This is made clear with the use of the concessive device *however*, which establishes the Court's counterargument. Nonetheless, the Court seems to end the sequence by somewhat admitting and emphasizing, through the use of the word *indeed*, that the lower courts are not totally wrong with their contentions.

Table 8 shows the distribution of the concessive patterns per jurisprudential set.

**Table 8**  
*Distribution of the concessive patterns per jurisprudential set*

Case	PD	RPD	M1	RM1	RM2	Total
	X-X'-Y	X-Y-X'	0-X'-Y	0-Y-X'-Y'	0-Y-X'	
Philippine Cases	21	7	6	4	2	40
American Cases	18	5	4	2	1	30

Apart from identifying the concessive patterns in the data, this paper likewise examined the signals that co-occur with concessive relation. Although a good number of linguists (Halliday & Hassan, 1976, as cited in Szczyrbak, 2009) identified various coherence relations, there seems no unanimity in terms of the relation that they mark. On the other hand, basic signals of concession, such as conjunctions *although* and *even though*, may not always mark concession understood as an interactional sequence.

Although both sets of cases may not vary in terms of the ranking among the concessive patterns, the table shows that the American cases scored lower in terms of the number of concessive patterns. Aside from the fact that the American cases were considerably shorter than the Philippine cases, it was observed that concessions by American judges were simpler and more succinct.

Table 9 shows the distribution of concessive signals in the data. As can be gleaned from table, Philippine Supreme court decisions scored higher in terms of concessive signals than the American cases.

As previously mentioned, the Philippine Supreme Court judges employed more concessive patterns in asserting juridical decisions than did American judges. In the same token, the former might have needed more concessive devices to signal multiple concessions in a single decision. On the other hand, the latter enunciated its decisions in the shortest and simplest possible way. Although both sets of Supreme Court decisions are strongly performative than research reports, it appears that American Supreme Court decisions concede without circular reference to decisions by the lower courts, which do not matter to the reversal or approval of previous decisions (Myers, 1992). Particularly, in both nations, Supreme Court judges aim to convince their professional and academic peers of

the soundness of their arguments. Therefore, a judgment serves both a declaratory and a justificatory function (Maley, 1994).

**Table 9**  
*Distribution of concessive signals in the data*

Case	Concess. Conj.	Concess. Disj.	Concess. Verb	Attitud. Disj.	Cond. Conj.	Modals of Poss.	Truth- Eval. Phr.	Total
Philippine Cases	34	121	9	51	12	154	3	<b>384</b>
American Cases	27	98	4	47	11	140	0	<b>327</b>

The findings shown in Table 10 imply that concession in Philippine Supreme Court decisions are signaled more explicitly than in American Supreme Court decisions as revealed by the fact that there were more concessive signals employed in the former, although the analyses carried out in some studies that analyzed concession in newspaper articles, such as Taboada's (2006) and Dayag's (2004), might say otherwise. This can be explained by the fact that writers do not have at their disposal such an extensive repertoire of signals as speakers, who interact and negotiate with meaning.

Table 10 likewise shows the concessive signals that occurred most frequently in the data. Among the Philippine cases, *may* and *however* got the highest frequency among other signals, both with a little over 15%. On the other hand, in the same set of cases, the attitudinal disjunct *indeed* was two points higher than the concessive conjunction *although*. Lastly, the concessive verb *agree* occurred almost the same as the conditional conjunction *only where*.

As regards American cases, *may* and *on the other hand* scored the highest, while the attitudinal disjunct *certainly* was higher than the conjunction *though*. Lastly, the concessive verb *agree* had frequency points almost similar to *if*.

**Table 10**  
*Frequent concessive signals in the data*

Type of Signal	Signal	Case	No. of Occurrences	% of All Concessive Signals
Concessive Conjunction	<i>Although</i>	Philippine Cases	25	5.20
	<i>Though</i>	American Cases	9	12.20
Concessive Disjunct	<i>However</i>	Philippine Cases	58	15.10
	<i>On the other hand</i> (with <i>on the one hand</i> )	American Cases	21	31.71

Table 10 continued...

Type of Signal	Signal	Case	No. of Occurrences	% of All Concessive Signals
<b>Concessive Verb</b>	<i>Agree</i>	Philippine Cases	5	1.30
	<i>Agree</i>	American Cases	3	5.37
<b>Attitudinal Disjunct</b>	<i>Indeed</i>	Philippine Cases	27	7.03
	<i>Certainly</i>	American Cases	14	12.20
<b>Conditional Conjunction</b>	<i>Only where</i>	Philippine Cases	6	1.60
	<i>If</i>	American Cases	5	4.89
<b>Modals of Possibility</b>	<i>May</i>	Philippine Cases	59	15.40
	<i>May</i>	American Cases	32	29.27
<b>Truth-Evaluating Phrase</b>	<i>The fact remains</i>	Philippine Cases	2	0.60
	<i>It is true</i>	American Cases	3	4.39

It seems relevant to explain the present study's data against those of previous studies on judicial discourse. It is interesting to note that, in the present study, there were more concessive disjuncts, with *however* as the most frequently used, than concessive conjunctions, with *although* as the most preferred. This finding hardly confirms the results in the studies of Rudolph (1996) and Szczyrbak (2009), which found that *although* as the most commonly used concessive device. It can be that both Supreme Courts have greater tendencies to counterclaim than acknowledge. It must be understood that in the study, concession only included the argumentations made by the Philippine and American Supreme Courts and discarded the reported concessions by their respective lower courts. This could explain why there were more concessive disjuncts, especially that Supreme Courts can reverse the decisions of the lower courts.

On the other hand, it should be underscored that with the American cases, the most common concessive devices scored considerably lower than those in the Philippine cases because it was observed that the former used a wide array of these devices (e.g., *on the other hand* [with *on the one hand*], *but*, *nonetheless*, *as well as*, *positively*, etc.). As Taboada (2006) and Dayag (2004) affirm, this can be explained by the fact that unlike native speakers, nonnative speakers of English may have a limited gamut of concessive signals.

Also, it is interesting to note that in his research, Barth-Weingarten (2003) identified *but* occurring more than 90% of all concessive devices, while in the present study, no occurrence of *but* was observed in both sets of Supreme Court decisions. This could have been possible because of the fact that Barth-Weingarten focused on concession in spoken discourse, while the present study delved into judicial discourse, which is more serious in tone and formal in structure than everyday conversation.



#### 4. Conclusion

Since it is very difficult to find studies that deal with the linguistic analysis of the interactional model of concession, especially on judicial jurisprudence, a study examining a bigger dataset might show definite findings on current trends in the language of jurisprudence. Nonetheless, the present study revealed that the interactional model of concession may be applied in the analysis of judicial jurisprudence because judges seem to follow the three-move sequence of concession. Based on the results, American and Philippine Supreme Court decisions heavily employ the Pseudo-Dyadic Concessive Schema (X-X'-Y) because the Court perhaps wants to guarantee that all claims of the lower courts have been reviewed and acknowledged before it pronounces the verdict in every case.

Although there are differences in marking concession in spoken and written discourse, this study highlights that *however*, a concessive disjunct, and *may*, a modal of possibility, are the most frequent signals of concession in the selected judicial jurisprudence in the Philippines. In the same way, concessive disjuncts scored the highest in the American Supreme Court decisions, and the most common is *on the other hand* (*with on the one hand*); while *may*, a modal, was the second most frequently used concessive signal.

In addition, while it is true that there were more concessive signals recorded from the Philippine than the American Supreme Court decisions, the former displayed more examples of such signals. This may be explained by the fact that native speakers of English utilize a wider array of concessive signals when writing jurisprudential decisions. Borlongan's (2011, as cited in Collins & Borlongan, 2015) "dawn metaphor" on Philippine English may also explain why Philippine Supreme Court decisions employed less concessive signals (p. 19). According to Borlongan (2016), Philippine English has yet to complete its endonormative stabilization as an English variety; in contrast, American English is already further away in the developmental model, having reached the fifth and final stage, that is, differentiation. In terms of concessive signals, Philippine English is not as advanced as American English.

While this research merely attempted to identify the patterns and signals of concession in Supreme Court decisions in the Philippines and in the United States of America, it could somehow spark further research on rhetorical moves in judicial decisions in Philippine English and American English. Court judgments are basically seen as decisions that end legal controversies before the court. This performative nature of court decisions makes jurisprudence a special genre of the legal discourse community. Interestingly, a court decision, in the realization of its performative function of serving justice, may actually be dissected in parts that also serve specific functions in the expression of jurisprudence. Lastly, further studies on the discourse and pragmatics of concession in judicial jurisprudence will provide more insights on the structure of judicial argumentation, which may be significant to forensic linguists, students of Legal English, law students, legal researchers, lawyers, and judges.

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