

Discourse Markers in Scottish Legal Discourse on Climate Change

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Keywords	Abstract
Discourse analysis discourse markers discourse on climate change legal discourse the Climate Change (Scotland) Act 2009	In 1999, the Scottish Parliament and the Scottish Government, respectively, were established in the wake of the so-called devolution, i.e. the decentralisation of power in the United Kingdom (the UK). Within their devolved power and responsibilities, the Scottish Parliament may decide upon the matters that pertain to education, environment, healthcare, local government, sports, tourism, and, in alia, the issue of climate change. In particular, the Scottish Parliament adopted the Climate Change (Scotland) Act in 2009. Whereas the Climate Change (Scotland) Act 2009 is amply investigated in a variety of scientific fields, there is insufficient research on the Act from the vantage point of discourse studies. Moreover, there is no current research on the metadiscursive means (for instance, discourse markers) that are found in the Act. Against this backdrop, this paper describes a quantitative study that aims at identifying and quantifying discourse markers (DMs) that are used in the Climate Change (Scotland) Act 2009. The study uses a computer-assisted research methodology in order to uncover the frequency of DMs in the Act. The findings of the study are further presented in the article.

Introduction

The issue of climate change can legitimately be described as a major challenge that impacts negatively upon people's quotidian lives in Europe and other parts of the world (Kapranov, 2015; Pfeiffer & Hepburn, 2016). For instance, the United Kingdom (the UK) is regularly reported in conjunction with the negative effects of anthropogenic climate change (Kapranov, 2018, 2024). Furthermore, the UK's constitutive parts (e.g., Scotland) are being increasingly exposed to severe flooding and rising sea levels, which are deemed to be among the direct consequences of climate change (Brown & Damery, 2002). Against this background, the issue of climate change is typically dealt with by means of (i) taking explicit political and legislative steps (Tvinnereim et al., 2017) and, if necessary, (ii) participating in individual and/or collective climate change protest actions (Kapranov, 2017, 2022a). In terms of legislature, it should be observed that the UK has

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introduced comprehensive legislative measures, laws, and directives that aim at adapting, ameliorating, and mitigating the negative consequences of climate change in a sustainable manner (Carlarne, 2010; Kapranov, 2022b).

Now, it should be remarked that Scotland as a constitutive part of the UK has the right to pass its own climate change legislation (Gérard, 2024; Tatham & Lemaire, 2024). This is possible due to the political process of Scottish devolution, which had started with the Scottish referendum in 1997 and resulted in the Scotland Act 1998 that established (i) the devolved Scottish Parliament and (ii) the Scottish Government (Keating, 2010). Following the Scottish devolution, Scotland has obtained the right to legislate acts in such areas as, for instance, education, environment, healthcare, local government, sports, tourism, and transport, to name just a few (Cairney, 2012). Whilst there is a substantial body of research that examines Scottish climate change legislation after the devolution from the UK (McEwen & Bomberg, 2014), there are still insufficient studies that explore Scottish climate change laws from the vantage point of discourse studies. Moreover, there are no published research investigations that analyse metadiscourse and, particularly, discourse markers (DMs) in Scottish legal discourse on the issue of climate change. In this regard, it should be mentioned that the studies on DMs in climate change discourse and in legal discourses are not numerous (Kapranov, 2016a; Tkačuková, 2015). It should be, perhaps, noted that DMs (such as *and*, *but*, *however*, etc.) are argued to form an essential part of climate change discourse (Kapranov, 2016a). They are deemed to facilitate and integrate various textual components, i.e. they ensure discursive coherence and cohesion (Matei, 2020) and, in turn, aid the comprehension of the text at hand (Schourup, 1999).

The present paper describes a quantitative study whose research aim is to identify and quantify DMs in the Climate Change (Scotland) Act adopted by the Scottish Parliament in 2009. Particularly, the study endeavours to provide answers to the following research question (RQ): What is the frequency of the occurrence of DMs in the Climate Change (Scotland) Act adopted by the Scottish Parliament in 2009? It is argued in the study that the analysis of use and frequency of DMs in the Climate Change (Scotland) Act 2009 can contribute to enriching our understanding of discourse processes associated with the issue of climate change in Scottish legal discourses. To this end, this paper is structured as follows. First, an outline of prior research studies on climate change in Scotland is given. Second, an overview of the literature on DMs in legal discourse is presented. Third, the present study is introduced. Thereafter, the results are discussed. Finally, the paper is concluded with the summary of the major findings.

An Outline of Prior Research Studies on the Issue of Climate Change in Scotland

The issue of climate change in the Scottish contexts has attracted attention of a substantial number of scientists (Jackson & Lynch, 2011; McEwen & Bomberg, 2014; McGregor et al., 2011; Porter et al., 2015; Royles & McEwen, 2015; Werritty & Sugden, 2012). Specifically, Jackson and Lynch (2011) demonstrate that Scottish legislation imposes fairly strict legal requirements that are aimed at reducing greenhouse gas emissions. Furthermore, Jackson and Lynch (2011) indicate that the Scottish Government is well positioned to provide a pro-active climate change agenda. In particular, Jackson and Lynch (2011) argue that the Scottish Government as well as Scottish local authorities should prioritise climate change mitigation and



adaptation by means of pursuing energy efficiency, reducing the so-called carbon footprint, and enhancing the resilience and environmental sustainability of Scottish communities. Additionally, Jackson and Lynch (2011) suggest that the Scottish agenda of climate change mitigation and adaptation is in alignment with the UK policies on the matter.

In contrast to the aforementioned views expressed by Jackson and Lynch (2011), McGregor, Swales, and Winning (2011) argue that Scotland seems to pursue its own distinctive energy policies associated with the issue of climate change. To be precise, McGregor, Swales, and Winning (2011) posit that the Climate Change (Scotland) Act 2009 sets more ambitious greenhouse emissions targets than its UK counterpart, e.g.

The aspiration of Scottish climate change policy, as expressed in their targets, is world leading. Currently the Scottish climate change framework is more ambitious than the UK counterpart. It includes international aviation and shipping, is independent of the EU framework and it sets annual targets. These make the Scottish framework tougher but less flexible than its UK equivalent. The Scottish targets will be more difficult to achieve but, if achieved, then this framework could provide an appropriate contribution to Scotland's effort towards mitigating global climate change. (McGregor et al., 2011, p.33)

The aforementioned views seem to be shared by Werritty and Sugden (2012), who show that Scotland experiences a range of the negative consequences of climate change. Furthermore, Werritty and Sugden (2012) maintain that the negative consequences of climate change have profound impacts on Scotland's economy, society and the environment. Particularly, Werritty and Sugden (2012) inform that the negative consequences of climate change for Scotland involve the increase in fatalities and injuries associated with flooding and the susceptibility of farming to damage from the rising sea levels. Importantly, Werritty and Sugden (2012) argue that the general public in Scotland should be made aware of climate change as a major challenge that impacts upon people's daily lives.

In terms of informing the public at large of the negative consequences of climate change, Porter, Demeritt, and Dessai (2015) assert that local government bodies in the UK and, particularly, in Scotland, have a crucial role to play in providing information concerning climate change adaptation strategies. Porter, Demeritt, and Dessai (2015) argue that the local authorities in Scotland have developed proper communicative ways of informing the public at large of climate change risks and opportunities. This argument is in concert with the study conducted by McEwen and Bomberg (2014), who argue that Scotland and the Scottish Government appear to be at the forefront of tackling and mitigating climate change, encouraging a transition to net zero, and communicating its climate change policies accordingly. Furthermore, McEwen and Bomberg (2014) maintain that the Scottish Government's climate change agenda is characterised by several ambitious targets associated with the reduction of greenhouse gasses emissions and facilitating a more intensive use of renewable energy. Similarly to McEwen and Bomberg (2014), a research investigation by Royles and McEwen (2015) shows that the Scottish Government prioritises emission reduction and renewable energy. Notably, Royles and McEwen (2015) posit that the Scottish Government's climate change-related goals align with the expectations of the Scottish civil society.



Having outlined some of the prior studies that contextualise the issue of climate change in Scottish settings, let us proceed to an overview of the literature on DMs in legal discourse.

An Overview of the Literature on DMs in Legal Discourse

Providing an overview of the literature on DMs in legal discourse necessitates, in our view, a brief reference to the notion of discourse in general and legal discourse in particular. Informed by the work of Foucault (1971, 1972), discourse could be seen as the function of statements, which are embedded into social processes, that are aimed at securing dominant relationships of power by means of employing language (Kapranov, 2016b, 2016c; Nakayama & Krizek, 1995; Taylor, 2004). The Foucauldian perspective on statements is further disentangled by Graham (2005), who posits that

The statement as “function” can be theorised as a discursive junction-box in which words and things intersect and become invested with particular relations of power [...] in which one can “recognize and isolate an act of formulation” (Foucault, 1972: 93). According to Foucault (1972: 100), the statement is a “special mode of existence” which enables “groups of signs to exist, and enables rules or forms to become manifest” (Foucault, 1972: 99). (Graham, 2005, p.7)

Following Foucault (1972), discourse, in addition to the notion of power, pertains to the key notion of knowledge. It can be seen as a projection of the power relationships, given that the exercise of power is an arena where knowledge is formed (Miller, 1990; Patton, 1985). The Foucauldian understanding of discourse resonates with Trosborg (1992), who regards legal discourse as a type of discourse that centres on power relationships. In particular, Trosborg (1992) indicates that language comes to the fore in human affairs related to law, given that “law would not exist without language” (Trosborg, 1992, p. 9). Informed by an intricate interplay between language and the relationship of power in the Foucauldian sense, legal discourse can be defined as a complex type of discourse, which “is realized through legal texts written in legal language, which are regarded as special-purpose texts different from other kinds of texts in respect of their text-internal and text-external properties” (Berūkštienė, 2016, p.89). Indeed, legal discourse is a complex discursive space, which involves a range of legal genres, for instance, legislation, judgments, legal textbooks, law cases, and typical legal contexts (Bhatia et al., 2004).

One the linguistic properties of legal discourse is manifested by DMs. Whereas “finding a unified definition for discourse markers is problematic since they do not form a unified group” (Tkačuková, 2015, p.145), DMs are conceived of as lexical expressions that are drawn from such syntactic classes as conjunctions, adverbs and non-propositional phrases, which signal a relationship between two clauses and/or sentences (Fraser, 1999, 2006, 2009). In legal discourse, DMs are argued to perform the following functions:

- mark relations between discursive items;
- organize discourse at the textual and interactional level;
- highlight or contribute to cohesion and coherence relations in discourse;
- act as constraints on relevance (i.e. they guide the interpretation process of the hearer/reader towards the intended meaning);



- are endowed with interactive and expressive functions;
- have an indexical function at discourse level (i.e. they indicate an interpretation path towards the correct understanding of the message). (Matei, 2020, p. 332)

Whilst Matei (2020) argues that DMs in written legal discourse tend to be associated with the formal register of English (for instance, *therefore*, *henceforth*, etc.), Tkačuková (2015) asserts that DMs in oral legal discourse are quite often derived from the informal register (e.g., *well*). To be more precise, Tkačuková (2015) demonstrates that the informal DM *well* seems to play a critical role in oral legal discourse that is contextualised in discussions between litigants, counsels and judges about legal points and organisational matters. Furthermore, Tkačuková (2015) shows that the functions of the DM *well* in oral legal discourse is quite frequently involved in turn-taking during the court litigation.

Matei's (2020) study echoes that of Farouq (2019), who regards DMs as cohesive devices that play an important role in connecting paragraphs, sentences, clauses in legal discourse. By means of examining a corpus of legal documents by the International Civil Aviation Organisation (ICAO), particularly, the ICAO's annexes, Farouq (2019) demonstrates that they seem to employ DMs that are used in the formal register of English, whilst colloquial DMs that perform interpersonal functions are not found in the annexes. Farouq (2019) posits that the register-driven choice and usage of DMs in the legal discourse by the ICAO impact upon the structure and organisation of the legal texts.

Also set in the context of international legal discourse, the study by Heidar and Biria (2011) reveals that international law texts exhibit a certain frequency of the occurrence of DMs. Among the most frequently occurring DMs in the international legal discourse, Heidar and Biria (2011) single out the following ones that are further given in the order of frequency: *and*, *or*, *but*, *although*, *however*, *before*, *second*, *while*, *even though*, *thus*, *consequently*, *though*, *nevertheless*, *yet*, *then*, *therefore*, *previously*, *because*, *whilst*, *albeit*, *that is*, *so*, *third*, *in other words*, *as has been said*, *finally*, and *likewise*.

As shown in the literature review, there is a line of not so numerous studies, which seek to address the use of DMs in legal discourse. Presently, however, there is no published research on DMs in the Climate Change (Scotland) Act 2009. In the subsequent section of the article, a quantitative study is presented that sets out to fill the current gap in knowledge pertaining to the frequency of the occurrence of DMs in the Act.

The Present Study: Its Theoretical Underpinnings, Materials and Methods

On the theoretical level, the present study is informed by (i) the Foucauldian (1971, 1972) perspective on discourse, which in the study is instantiated by the legal discourse of the Climate Change (Scotland) Act 2009, (ii) the view on legal discourse as a set of legislative genres proposed by Bhatia, Langton, and Lung (2004), who posit that legal discourse is characterised by extremely conservative and fixed subgenres of rules and regulations, contracts and agreements, and (iii) the definition of DMs formulated by Fraser (1999), who regards DMs as lexical units with zero propositional structure that join two pieces of discourse, represented by clause/sentence 1 and clause/sentence 2, typically occurring at the clause/sentence-initial position in clause/sentence 2. Based upon these theoretical pillars, the present study, as indicated in the



introduction, aims at establishing the frequency of the occurrence of DMs found in the Climate Change (Scotland) Act 2009 (see the RQ of the study in the introduction). Accordingly, the materials of the study are represented by the Climate Change (Scotland) Act adopted in 2009, which is freely available for viewing and downloading at <https://www.legislation.gov.uk/asp/2009/12/contents/enacted>. The Act consists of six chapters and six parts of chapter one, as well as two annexes (93 pages and 28 934 words in total, mean words 2 411.1, standard deviation 2 189.5).

The study employs a quantitative computer-assisted methodology, which is used to analyse the Act in AntConc (Anthony, 2022), a computer concordance program, which computes the frequency of the occurrence of DMs. In the analysis, the Act is saved as a set of Word files corresponding to the Acts' chapters and parts, as well as annexes (referred to as Schedule 1 and Schedule 2, respectively). Each of the files is processed in AntConc (Anthony, 2022). In addition, the computer-assisted analysis is extended by a manual procedure, which is needed in order to eliminate possible misclassifications and omissions. Given that the Act is processed as individual chapters and parts, the total number of each respective DMs in the Act is accompanied by its mean and standard deviation, computed in the Statistical Package for Social Sciences (SPSS), version 20.0 (IBM, 2011).

Results and Discussion

The results of the quantitative investigation are presented in Table 1 below, which shows the total number of each respective type of DMs, inclusive of its mean and standard deviation.

#	Discourse Markers	Total Number	Mean	Standard Deviation
1	<i>And</i>	70	6.3	5.7
2	<i>As</i>	78	7.1	5.7
3	<i>But</i>	3	1.0	0
4	<i>If</i>	38	5.4	4.9
5	<i>In particular</i>	10	2.5	2.6
6	<i>In so far (as)</i>	9	1.8	1.2
7	<i>Or</i>	59	5.9	6.3
8	<i>Otherwise</i>	1	0	0
9	<i>So</i>	10	2.0	0.6
10	<i>Such</i>	7	1.8	0.8
11	<i>Whether</i>	12	2.4	1.4

Referring to the RQ in the study, which seeks to establish the frequency of the occurrence of DMs in the Climate Change (Scotland) Act 2009, it is evident from Table 1 that there is a clear set of the frequently occurring DMs, such as *as*, *and*, and *or*. Let us discuss these DMs in more detail and, in our, discussion, draw comparisons with the prior studies. First of all, we can observe that the most frequent DM is represented by *as*, whose distribution is uneven in the Act. It occurs the most in Chapter 1, particularly in its fifth part (i.e., Part 5), as shown by Figure 1 below.



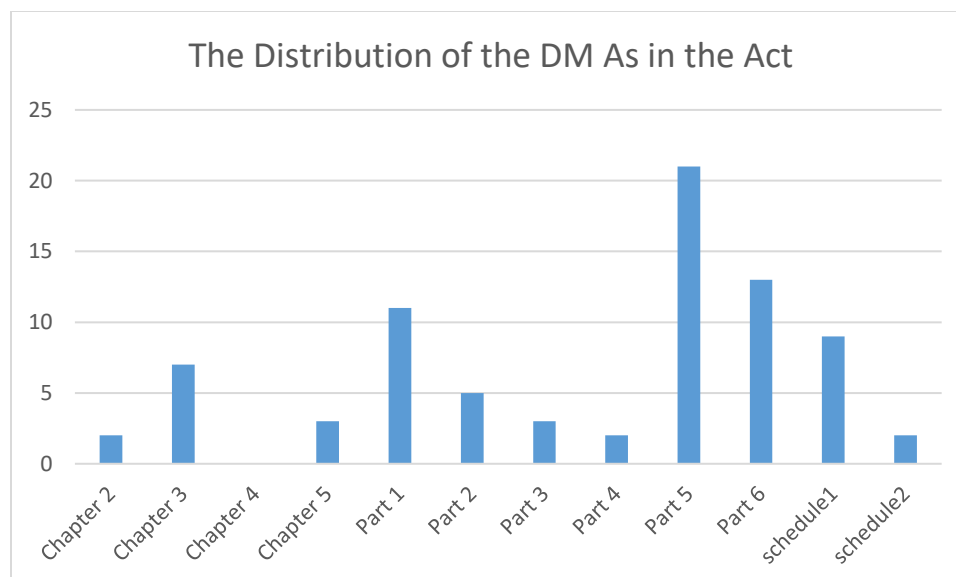


Figure 1. The Distribution of the DM *As* in the Climate Change (Scotland) Act 2009

To an extent, the present finding appears to be in contrast to the previous study conducted by Heidar and Biria (2011), who do not mention *as* among the most frequent DMs in English-medium legal discourses. However, the finding lends indirect support to Matei (2020) and Farouq (2019), respectively, who indicate that legal discourses tend to be associated with the neutral and formal register of English, both of which employ the DM *as* quite frequently. The frequency of the occurrence of the DM *as* in the Climate Change (Scotland) Act 2009 is further illustrated by excerpt (1):

- (1) 90 Penalties. (1) A person who commits an offence under regulations made under this Part is liable to such penalties, not exceeding those mentioned in subsection (2), **as** are provided for in the regulations. (2) Those penalties are — (a) on summary conviction, a fine not exceeding the statutory maximum; (b) on conviction on indictment, a fine. (The Scottish Climate Change Act, 2009, p.73)

Excerpt (1) shows an instance of the occurrence of *as* that is employed in order to connect the main clause to the subordinate clause “**as** are provided for in the regulations”. In other words, *as* in (1) plays its canonical role of joining two clauses (Fraser, 1999) without adding a propositional content to both of them. Arguably, *as* in (1) indicates the way that something should be done and/or prescribed.

Another frequently occurring DM in the Climate Change (Scotland) Act 2009 is *and*. Its frequent occurrence is in line with the study by Heidar and Biria (2011), who report that *and* occurs frequently in English-medium legal discourses. Its high frequency of the occurrence in the Climate Change (Scotland) Act 2009 seems to be explained by the need to add an elaborative shade of discursive relationships between the adjoining clauses, as shown by excerpt (2):



- (2) Where the Scottish Ministers lay a plan mentioned in subsection (1) or a report mentioned in subsection (2) before the Parliament, they must, as soon as reasonably practicable after doing so, **and** in so far as reasonably practicable, make a statement to the Parliament relating to the plan or, as the case may be, report. (The Scottish Climate Change Act, 2009, p. 51)

In (2), the DM *and* introduces a clause that provides more specific information and elaborates upon the preceding clause. Often, this is done in unity with other DMs, as, for instance, with the DM *in so far as* (see excerpt (2)). The DM *and*, just like *as*, is not evenly distributed in the Climate Change (Scotland) Act 2009, as exemplified by Figure 2 below.

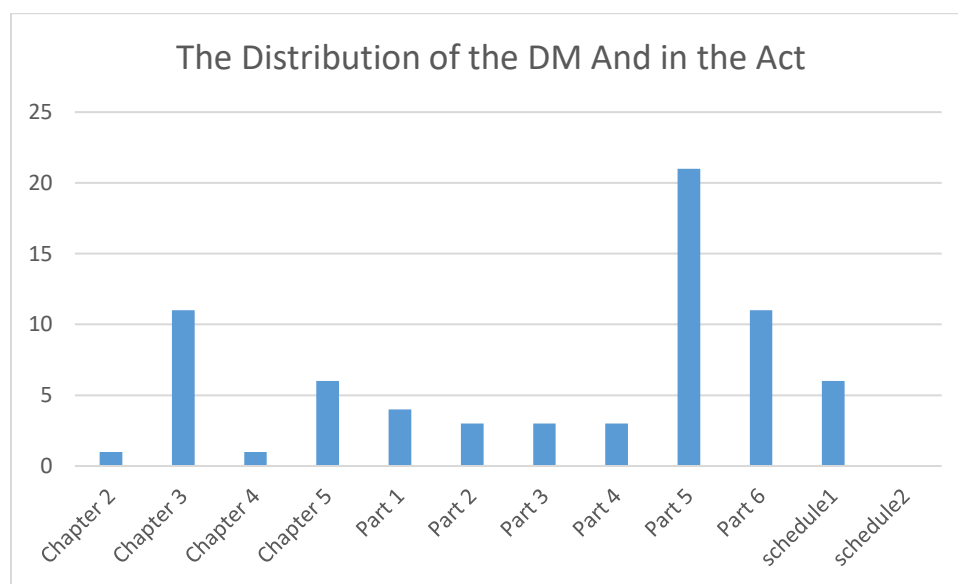


Figure 2. The Distribution of the DM *And* in the Climate Change (Scotland) Act 2009

It follows from Figure 2 and Figure 1 that the frequencies of the occurrence of the DMs *as* and *and* increase in Parts 5 and 6 of Chapter 1 of the Act. Whilst Part 5 deals with various climate change provisions, Part 6 deals with general and miscellaneous matters. Notably, Parts 5 and 6 are characterised by a rather high number of words in comparisons with other chapters and parts of the Act.

Finally, let us discuss and illustrate the frequently occurring DM *or* (see Table 1). Its high frequency of the occurrence is in alignment with the results that are reported by Heidar and Biria (2011), who also single out *or* as one of the rather frequent DMs in legal discourse. The pragmatic role that the DM *or* plays in the Act can be attributed to the manifestation of contrast, as emblematised by excerpt (3):

- (3) The period referred to in subsection (5) (b) is the period of 3 years beginning with the day on which — (a) the plan is first published; or (b) the plan was last reviewed under subsection (5). (The Scottish Climate Change Act, 2009, p. 50)



Interestingly, the distribution of *or* in the Climate Change (Scotland) Act 2009 follows that of the other frequent DMs *and* and *as*. This is graphically represented by Figure 3.

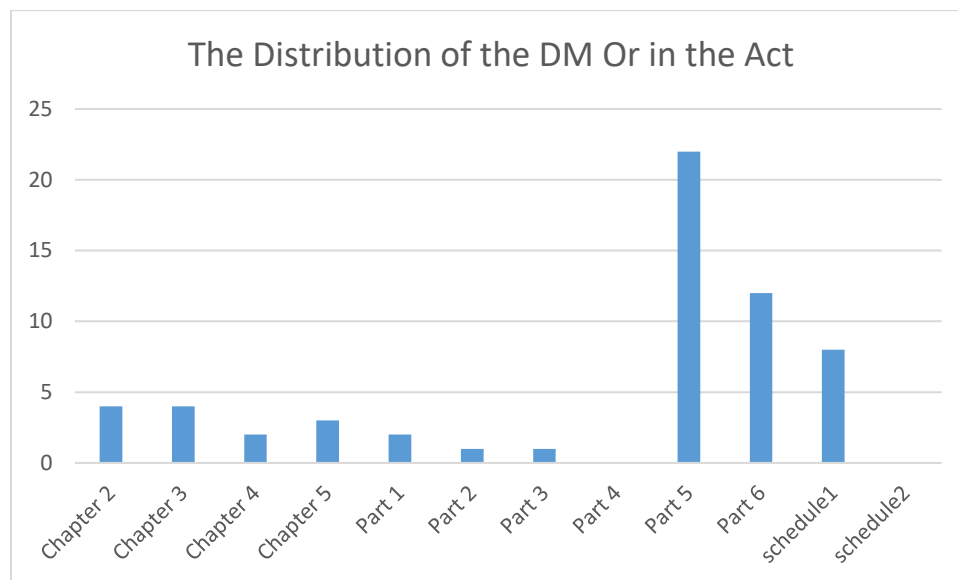


Figure 3. The Distribution of the DM *Or* in the Climate Change (Scotland) Act 2009

Identically to the frequencies of the occurrence of the DMs *as* and *and*, the increase of the frequency of *or* is associated with Parts 5 and 6. So far, we may argue that the most frequent DMs *as*, *and*, and *or* are characterised by rather similar distributional patterns in the Climate Change (Scotland) Act 2009. Additionally, we may also argue that the Act is characterised by quite limited types of DMs. The latter finding appears to be in contrast to Heidar and Biria (2011), who report a much more diverse range of DMs in English-medium legal discourses.

Conclusions

This paper looks into the frequency of the occurrence of DMs in the Climate Change (Scotland) Act 2009. The results of the quantitative computer-assisted analysis reveal that the Climate Change (Scotland) Act 2009 is marked by the presence of three frequently occurring DMs, namely (i) *as*, which is employed in indicating the way that something should be done and/or prescribed, (ii) *and*, that is involved in explaining and specifying the message, and (iii) *or*, which is used to render contrast and opposition. The dominance of these DMs in the Act could be interpreted as the marking of discursive relations between discursive items (see Matei (2020)), which are reflective of elaboration, specification of the expected manner of legal practices associated with the issue of climate change, and contrastive choices and alternatives related to the issue of climate change. Seen through such a discursive lens, the results of the present investigation contribute to a deeper understanding how the Climate Change (Scotland) Act 2009 is organised discursively.



Furthermore, the results of the study highlight the pragmatic orientation of the Act towards prescription, explanation and specification, and contrast.

Additionally, the study has unveiled that apart from the aforementioned frequently occurring DMs, the Climate Change (Scotland) Act 2009 is characterised by quite a limited set of types of DMs, such as *but*, *if*, *in particular*, *in so far (as)*, *otherwise*, *so*, *such*, and *whether*, which, arguably, belong to the neutral register of English. These findings provide indirect support to the literature (Farouq, 2019; Matei, 2020; Tkačuková, 2015), which points to the importance of the register in English-medium legal discourses. To reiterate, the study demonstrates that all the DMs in the Climate Change (Scotland) Act 2009 pertain to the neutral regular of English.

Finally, it should be summarised that the limited repertoire of the DMs in the Climate Change (Scotland) Act 2009 buttresses the observation made by Bhatia, Langton, and Lung (2004), and Berūkštienė (2016), who posit that the English-medium legal discourses are characterised by rather rigid, nearly ossified and formulaic linguistic means. Apparently, the fact that the present study has uncovered the limited repertoire of DMs in the Act fits into mould of the English-medium legal discourse situated in the context of climate change-related legislature in the UK, particularly in Scotland. Hopefully, the results of the study can serve as a benchmark for further research on legal discourses pertaining to the issue of climate change.

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