



Language Countertrading In Courtroom Exchanges in Nigeria:

A Discursive Study

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Abstract

The view of discourse as serving transactional and interactional purposes cascades into practical realities in courtroom exchanges. As an institutional setting, the law courts exemplify a typical social domain where language provides the basis for conveying information; promoting meaningful and goal-directive social and interactional exchanges. Whether in civil or criminal litigations, the proceedings rely on linguistic facilities for accomplishing communicative actions. Language thus remains the sole 'legal tender' and the major instrument for prosecuting the cases and resolving conflicts brought before the courts.

This paper is motivated by the increasing but interesting challenges lay participants face in the courtrooms as they are confronted with language use that is different from their day-to-day experiences. The study discusses these peculiar communicative interactions in a law court in Lagos, Nigeria against the backdrop of very little efforts in courtroom discourse in non-native English speaking contexts.

Specifically, this paper focuses mainly on an aspect of courtroom discourse (i.e. **examination-in-chief**), a procedural questioning session which provides the basis for presenting the plaintiff's arguments and information through the plaintiff's counsel. The data used in this work were drawn from a civil suit filed in a Lagos High Court by a complainant in connection with a dispute on a property in central Lagos.

Using insights from discourse analysis and theoretical construct based on Genre Analysis (e.g. Hasan's Generic Structure Potential) as well as other relevant constructs, the study analyses discourse features and strategies deployed by active participants in the proceedings.

The study finds that legal proceedings contextualized within a given L₂ sociolinguistic and lingual-legal jurisdiction helps to project some of the peculiar features of a non-native English in legal domains. Apart from identifying some peculiar discourse patterns that are institutional-based, courtroom proceedings in this legal culture demonstrates discourse strategies that conflate with similar features in other jurisdictions. That only supports the belief of a common source for most legal systems with colonial experiences as well as the universal applicability of judicial decisions. The complex natures of legal texts that are highlighted merely corroborate previous works in this area. The study concludes by demonstrating how language is used to perform actions that are goal-directive in this domain using the Speech Act model.

Keywords: Legal discourse, courtroom, discourse strategies, examination-in-chief, genre analysis, speech act, L2 context

1. Introduction

One of the functions of language as a social activity is that it lends itself as an instrument of resolving conflict that may arise from day to day human interactions. The legal system provides one of the contexts through which this function is carried out. This it does effectively through the law courts. Both the instruments of law and the procedures for enforcement are done through the use of language. The courtroom is an institutional 'market place' where arguments, information, ideas, questioning, 'pleadings' are traded among the participants via the language choice which remains the only socially and culturally as well as institutionally acceptable instrument of exchanges.



Legal institutions all over the world play a very important role in social reengineering and social restructuring. Apart from their constitutional roles of interpreting the laws of the land and adjudicating in issues and cases that may arise from the application of these laws, the most socially-relevant function that directly affect the lives of the average citizens is conflict resolution. It aims at ensuring peaceful co-existence through conformity to the laws and respect for the rights of others by every citizen. It is this regulatory and conflict resolution functions of the law courts that form the fulcrum of the proceedings being examined in this study. This paper is particularly interested in the linguistic transactions that characterize this particular sub-genre of legal discourse.

Most previous research efforts in this country have merely looked at the features of language of law (e.g. Adetugbo 1990). In other parts of the world, few others (e.g. Harris 1988) have examined the ideological aspect of courtroom discourse (Emerson 1969, Carlen 1976). Sandra Harris (1988) discusses some problems and issues arising from examining court discourse as a genre. She describes linguistic interaction in a British '*finis*' court (a division of Magistrate Court). Still others have attempted to define its functional, social and formal properties in different ways (see Atkinson and Drew 1979, O'Barr 1982; Harris 1980, 1981, 1984a, 1984b; Goodrich 1987 among others).

Obviously, to the best of my knowledge, very little has been done on courtroom procedures in Superior Courts especially in a non-native English environment. While we acknowledge the efforts and contributions of these previous studies especially in native English communities, most of the works done in this dealing with environment are carried out on a limited scope the description of the language of law. Many fail to pay close attention to discourse features and strategies that underlie communicative interactions in superior courts, where there is strict adherence to the rules of evidence.

The present study thus aimed at examining the language of legal discourse vis-à-vis the interactive textual and contextual variables that impinge on the meanings being exchanged which are geared towards conflict resolution through the legal proceeding. In essence, we wish to analyse some of the linguistic and discourse features unique to the linguistic interactions in this genre of legal discourse; examining the different strategies that the text depends on as discourse and how these assist in accomplishing the goals of the discourse and the legal institution in general. Both linguistic and discourse approaches will be relied on in the course of investigating the text which will be examined in terms of discourse features and strategies, generic properties, features of context among others.

1.1 Language and the Law

A quantum of literature exists on the relationship between language and law. From the early evolution of human society, a body of regulations couched in expressions that are meaningful to members of the community and could regulate their actions provides the template for the efforts to achieve cohesion, stability, law and order that will prevent man from going into self-inflicted extinction.

Straddle across three key and interrelated disciplines, scholars in philosophy, linguistics and law have been fascinated by the interconnectedness between language and law. Language is crucial to the process of law making, and the process of interpreting the law. It is also the only instrument the courts use in arriving at its various decisions on legal suits brought before the legal institutions.

Thriving on the strength of long history and contributions from some of the most respected legal cultures in the world, legal language enjoys some stability and peculiarity. Apart from some 'rituals' that are associated with this universe of discourse, the linguistic and extra linguistic features of courtroom discourse distinguish it from language use in other domains.

Experts such as Peter Tiersma (2008), have observed that legal language exhibits features that distinctly draws some attention to it. He observes that

Legal languages are inevitably products of the history of the nation or state in which they are used, as well as the peculiar developments of the legal system in question. In terms of features, they tend to be characterized by minor differences in spelling, pronunciation, and orthography; long and complex sentences, often containing conjoined phrases or lists, as well as passive and nominal constructions; and a large and distinct lexicon. The profession has developed distinct traditions on how its language should be interpreted. In terms of style, the language of the law is often archaic, formal, impersonal, and wordy or redundant. And it can be relatively precise, or quite general or vague, depending on the strategic objectives of the drafter (7)



Some of the peculiar phonological, morphological and syntactic features identified by Tiersma are also found in Nigerian legal language. For example, the syntactic complexity, high number of conjoined phrases and lists of synonyms and near-synonyms have been accounted for and discussed elsewhere (see Opeibi, 2008).

Legal experts have often defended the need for wordiness and lexical density in most legal documents arising from the need for precision in meaning and to anticipate possible contingency and stave off any form of confusion that may arise for lack of specificity in legal expressions.

It is noteworthy that legal communication from this background largely influences instruments of exchanges in the courtroom. It is also formal, institutionalized, ritualistic, precise and largely different from casual conversations or language use in other domains

Several literatures also exist on language use in the courtroom. Atkinson and Drew, 1979, Cotterill, 2003, Ehrlich, 2001 among other scholars have discussed features of language use and discursive practices of legal experts in the courtroom. Most often the more powerful participants, i.e. lawyers, judges and jury use language to control the legal process, exhibit verbal domination during questioning and may manipulate discourse in order to elicit/extract information from the witnesses (see Gibbons, 2003; Opeibi, 2004). Questioning, a key procedure in the discourse analysed in the study has, arguably, remained the flagship of courtroom discourse. In terms of features and goals, it demonstrates the power of language to influence and control linguistic interactions.

Gibbons, 2008:115), observes that

courtroom questioning for instance differs markedly, in that lawyers usually have a particular version of events in mind that they are attempting to confirm with the witness. Usually witnesses are compelled to answer, and do not have the right to ask questions. Therefore courtroom questions differ from everyday questions in both their social and their information characteristics (115)

1.2 The Context of the Present Study

The study focuses on the language of courtroom procedures in a Nigerian Superior Court - The Federal High Court, Lagos. It should be stated here that English has remained the official language of legal system and legal documents especially in the Superior Courts (which include the Supreme Court, Courts of Appeal, High Courts). At the lower courts, for instance the Magistrate and Customary Courts, indigenous languages are sometimes employed depending on the nature "of the legal suits that are entertained and the level of education of the litigants who may be barely literate in English. Since the study focuses on the communicative interactions at the High Court, English was the language of communication as recorded in our database.

It is significant to point out that the study brings into sharper focus the central role of language in conflict resolution through the law courts. Besides, it throws more light on the peculiarity of language use in a highly conventionalized settings, and illustrates how utterances in law courts constitute communicative acts. The study therefore shows features that set apart legal discourse from language use in other social domains.

The data for the study was collected in 1995 at Court 19, Federal High Court Lagos during proceedings in a Suit LD/3725/93 instituted by Mrs. PS Nwachukwu and Mrs. Shonekan (*Plaintiffs*) against Pamlex International Limited represented by Chief Owolade - the Managing Director (*defendant*). Justice (Mrs.) Akinsanya was the presiding judge, while Mr. Uche Uwechia and Miss B. Dakwak appeared for the plaintiffs, Mr. Fola Balogun was counsel to the defendant.

1.3 The Facts of the Case

The plaintiffs are the owners of the *demised* premises (15 Jibowu Street, Yaba) which was let out to the defendant in 1987 by virtue of a lease agreement dated December 6th 1989.

Prior to this time, the defendant entered into an unsigned lease agreement with the plaintiffs' mother (now deceased) who was formally the landlord. The lease was for a period of five years. One month before the expiration of the lease agreement the defendant sought to exercise an option to renew which was inserted into the lease agreement and which said option was of a perpetual nature. The plaintiffs resisted the purported exercise of the said option and requested after series of abortive negotiations that the defendant yield up possession of the *demised* premises. Following refusal of the defendant to either settle amicably with the plaintiffs or vacate the premises, the plaintiff instituted an action on November 11, 1993 for an order of possession and for 'mesne' profit.



After the preliminary filing of notice, the present proceeding, our object of inquiry, is known in legal parlance as *Examination-in-Chief*. It is the evidence of a witness obtained by oral examination. In this procedure, the witness (plaintiff or defendant) is led in evidence by a counsel representing the party for whom he or she is testifying by his/her *Vice Voce* presents to the court the facts as pleaded in the process. It can be a statement of claims or a statement of defence.

In the context of the present study, the witness (representing the plaintiffs) was led in evidence by her leading counsel to present a statement of claims. It is interesting to point out that during the examination-in-chief the witness is only allowed to give evidence or testified on facts pleaded in the pleadings. No extraneous facts or *averments* are allowed.

It is against the backdrop of the need to resolve the conflicts between the two parties that necessitated the proceeding as the study will reveal later.

Some of the symbols used in the study include:

PW - Plaintiff's Witness

PC - Plaintiff's Counsel

DC - Defendant's Counsel

Court- Presiding Judge

1.4 Methodology

The corpus used in this present investigation was collected through the participant-observer method. The case was monitored through visits to the High Courts in Lagos. The actual interactions between the counsel to the plaintiff, the counsel to the defendant as well the role of the judges were closely monitored in order to unveil and understand the discourse strategies adopted during court proceedings in Nigeria. We were able to also take notes during the proceedings which were later properly transcribed as actual data. In order to provide further information on how language use impact selected key participants, unscheduled interviews were done within and outside the courtroom premises.

2. Courtroom Text as Discourse

It is a fact that institutional discourses have enjoyed some relatively adequate attention in discourse literature over the years. Sacks (1984), for instance, makes a distinction between institutional talk and informal talk or "ordinary conversation." Generally speaking most discourses in institutionalized domains are functional, structured, rule-governed, formulaic, goal-oriented and ideologically-based which set the apart from informal talk. In furthering the discussions on institutional communication, Drew and Heritage (1992) argue that "talk in interaction is the principal means through which lay persons pursue various goals and the central medium through which the daily activities of many professionals and organizational representatives are conducted." Pilnick(1997:111) asserts that the institutionality of an interaction is directly related to the participants' institutional or professional identities.

Drew and Heritage argue further that "the institutionality of an interaction is not determined by its setting. Rather interaction is institutional in so far as participants' institutional or professional identities are sometimes made relevant to the work activities in which they are engaged.

The domain of courtroom normally presents an organized, rule-governed setting where linguistic negotiations that take place and the decisions that are arrived at usually affect the lives of the participants. Expectedly, extensive verbal interactions usually characterize normal legal procedures because courtroom presents a communication context where interesting social and ideological issues arise and people have very much at stake (Harris 1988). Additionally, the linguistic exchanges that characterize a typical interactive sessions in law courts reveal a situation where language provides the basis for meaningful goal-directive social interaction and for achieving communicative actions.

Harris (op.cit.) identifies some common features of courtroom discourse. These are:

one, language use in courtroom discourse is constitutive yet at the same time it is embedded in a pragmatic environment. Its experimental context is related to the immediate surroundings;

two, court cases, if they are regarded as the basic unit of interaction in court, are typically complex and also lengthy. They often involve written language as well as spoken; and



three, courts typically involve conflict and confrontation, and Ghee's cooperative principle is often breached.

It is pertinent to point out also that as it is obtained in Western Countries, court discourse is associated with formal institutional settings, which include specifically designated buildings and very often highly conventionalized modes of dress and behavior.

Further, discourse roles are highly institutionalized and generally rule-governed. Linguistic interactions are based on unequal encounters because real power is vested in certain individuals who represent the force of law. For instance, only certain participants may ask questions during particular legal procedures and the order of turns is usually fixed in the type of litigation under consideration.

Interestingly, this discourse is carried on through series of interrogation which the plaintiffs counsel uses to elicit information from the witness and present facts that will enable the court arrive at a decision in resolving the dispute.

Of course, linguistic and discourse features and strategies deployed by participants for the exchange of 'meanings' exhibit unique characteristics. Although the scope of this paper may not permit a lengthy and complex analysis, an attempt is made to use selected extracts from the data to explicate the concern of the paper and project how language could be seen as a resource organized for the accomplishment of communicative goals in that context.

3. Describing the Courtroom Interactions: Aspects of Generic Structure Potential

As different social contexts provide some resources that impact on language use, the processes through which such communicative enterprises evolve and actuate have also attracted the attention of scholars. These processes are believed to be central to discourse goals. The concept of 'genre' as a discursive process has been applied to describe interactions that occur between participants in a social setting. Following the steps of J.L. Austin (1962), who earlier suggested that we do a lot of things with language, Knapp and Watkins (2005) state that genre primarily deals with language processes involved in doing things with language. Norman Fairclough (2001) also describes genre as "a socially ratified way of using language in connection with a particular social activity." Other scholars such as Eggins and Slade, Martin and Rose have also provided some insightful descriptions of genre. For Eggins and Slade (1997), genre is an institutionalized language activity which has evolved over time to have particular text structure" while Marin and Rose (2008) highlight both the functional and interactive features by arguing that genre

"...is a staged, goal oriented social process. Social because we participate in genres with other people; goal oriented because we use genres to get things done; staged because it usually takes a few steps to reach our goals".

Swales' description of genre provides some very useful insight as it supports the approach in Hasan (1984 & 1985) used in this study. He asserts that genre is

...a class of communicative events, the members of which share some sets of communicative purposes. These purposes are recognized by the expert members of the parent discourse community, thereby constitute the rationale for the genre. These rationales shape the schematic structure of the discourse and influence and constrain choice of content and style.

Some aspects of Bhatia's (2004 :23) summary of the common threads in genre studies further provides some useful insights into the structural and functional as well as institutional features of courtroom interactions. According to this scholar, (i) genres are recognizable communicative events typified by a set of communicative purposes mutually understood by members of a given discourse or professional community; (ii) genres are highly structured and conventionalized constructs, with constraints on allowable contributions....; and genres are reflections of disciplinary and organizational cultures. Hence, they focus on social actions embedded within institutional practices (cited in Adam 2011).

It may thus be argued that given the importance of courtroom interactions in any jurisdiction, the legal-based generic description of proceedings in the court will naturally follow the processes identified by the institution, structured and rule-governed communicative interactions directed towards achieving specific goals. It is no wonder that Swales (op cit) submits that "genres are communicative vehicles for the achievement of goals". One other useful observation is the relationship between genre theory and exchange structures in dialogic interactions. Most discussions on the theory emphasize the centrality of the analytical tools that yield themselves readily to the process of identifying and describing structured exchanges in the given communicative events.



Using the approach espoused in Hasan 1984, 1985, we attempt to describe the courtroom interaction by highlighting the processes, the features, as well as the discourse goals. The GSP (Generic Structure Potential) is a model for describing attributes and labeling elements in the linguistic interactions of any given social activity, (see Hasan 1984, 1985). The generic structure of any text refers to separate events or interactional elements within a discourse that distinguish that particular text from another of its kind. For instance, the text under consideration - examination-in-chief, is a genre in courtroom discourse and it exhibits specific linguistic interactions that set it apart from other texts (e.g. cross-examination).

Hassan proposes 'that such a model will provide specification of the range of lexico-grammatical patterns which are capable of realizing specific semantic properties. Harris (1988) adopted this approach in her description of the series of transactions (semantic units of structure) in the Arrears and Maintenance Court (in Britain). Her linear model of the basic structural components is used in this paper with slight modifications. One major difference is that the kind of litigations entertained in the lower court are quite different from what obtains in the courts of higher jurisdictions where the rule of evidence is strictly applied. Of course, in Arrears and Maintenance Court the procedure is summary as shown in her study (Harris 1988) and, thus there is no strict adherence to the rules of evidence. Consequently, the generic structure of the court from where our database is taken exhibits slight divergence from that of lower courts.

Generally speaking, the court is characterized by ordered series of interactions and they are often in fixed order. Following Harris proposal, a linear model of the basic structural components of this court (its GSP) can be described as follows:

- A[^]I[^]S[^]SI[^] P[^] IG[^] O[^] C[^]
- A - Announcement
- I - Introduction
- S - Summoning
- SI - Swearing In
- P - Preliminary
- IG - Information Gathering
- O - Ordering
- C - Closing

The linguistic transaction in this legal procedure opens with the first stage -*Announcement*, The court registrar announces the particulars of the suit to be entertained by reading out the Suit No. ["suit number LD/3725/93"] and the names of the plaintiffs and defendant.

Between: Mrs. P.S. Nwachukwul	}	Plaintiffs
Mrs. Shonekan		
AND		
Pamlex International Limited	}	Defendant
Chief Owolade (Managing Director)		

Each litigant rises and takes a bow to register his/her presence in the courtroom. This stage thus involves identification of the suit and the litigants. The registrar then hands over the case file to the presiding judge.

The next stage which also involves verbalization is described as *Introduction*. Here, counsels to the two parties introduce themselves. Because it is the plaintiff's case, their counsels introduce themselves first followed by the defendant's counsel. Two lawyers represent the plaintiffs while only one stands for the defendant.

The *Summoning* in this court, unlike in lower courts involves the witness (who is already in the courtroom) being called into the witness box where she is sworn in by the registrar. The *Swearing in* transaction is done by the registrar who presents a bible to the witness (now in the box) and directs as follows – "*place your right hand on the book and say after me ...*" the swearing-in is thus always enacted by means of imperative forms (e.g. '... say



after me' "I xxxxx do solemnly swear that the evidence I shall give in this court shall be the truth only and but the whole truth").

It may be necessary to state that where the *Preliminary Transaction* which deals-with the confirmation of certain specified information i.e. the identity of the counsels and the 'facts' of the case comes after the oath taking stage in some courts, it takes place before the witness is sworn-in in this court.

The next phase is the *Information Gathering* transaction which is initiated by the plaintiffs' counsel through a series of interrogating exchanges seeks to elicit information from the witness. The information so elicited represents statement of claims necessary for the prosecution of the case.

The transactions at this stage also involve the presiding judge who from time to time interrupts the exchanges, either to accept any documents as exhibits or to seek the opinion of the defendant's counsel concerning any aspect of the facts being pleaded. We may cite the following examples from our corpus.

(1) **Court:** *Any Objection? The defendant's letter dated 8th March is admitted as exhibit B*

The information gathering procedure is usually long and complex comprising series of turns in a specified order whereby the plaintiff and her counsel present their evidence, with the witness (plaintiff) pleading the case assisted by her counsel. For example,

(2) **PC:** *Do you know the defendant*

(3) **PW:** *Yes I do. He is representing Pamlex International*

PC: *You said, Pamlex International Limited is your tenant, can you state how the relationship came about?*

(4) **PW:** *The property was my late father's and he willed it to my mum which also devolved to my sister and I after her death. Jide Taiwo contacted us of their interest in the property....*

It is pertinent to point out here that this is the most important stage in this genre of legal discourse. The prosecuting (plaintiffs) counsel argue the case indirectly through the witness by leading her in oral examination to provide detailed information and facts that will lead to the resolution of the dispute. In this court, and in the context of this discourse only the plaintiff lawyer and his witness are active participants in the lengthy linguistic transactions. (Although both the judge and defendant counsel are involved). The exchange of information is well-structured and ordered. It may be argued that while the information being presented to the court can be regarded as new, it is shared between the plaintiff and her counsel.

The *Ordering* transaction stage occurs when a date is set for further hearing with a formal pronouncement of adjournment.

(5) **Court:** *It is not proper and neat. I advise the counsel to follow the proper procedure. (Judge turns to the witness in the box). Please go and sit down. The case in adjourned to the 2nd of November for the cross-examination of the plaintiff's witness.*

Obviously, this utterance also signals the *Closing* of the transactions. The response of the counsels further confirms this observation.

(6) **PC & DC:** *As the court pleases.*

Hereafter, the lawyers then rise one after the other, take a bow and leave the courtroom.

Some observations about the generic properties of this courtroom discourse reveal that the structural components identified in the series of transactions are obligatory. Although not all are of the equal length and complexity, there is usually extensive verbalisation of the transactions that puts language constantly in the process of accomplishing the communicative goals in that context.

Therefore, one can formalise the basic structural components of the legal proceedings of the High Court (in a non-native English-speaking environment) as follows:

GSP = A[^] I[^] S[^] S[^] I[^] P[^] IG[^] O[^] C

4. Discourse Strategies in the Exchanges

Scholars have argued that an understanding of any piece(s) of language as discourse should be a combination of text and context (Geis 1982, Cook 1992, Halliday 1985, Hasan 1985 *etc*).

Beyond the discursive elements that are uniquely peculiar to the context of the courtroom discourse, strategies deployed to craft and communicate the elements also pivotally constitute some interesting sub-discursive



structures that enable participants present and share information. The following components provide the counter-balancing effect of the meanings that are exchanged.

- (a) the structure of the message
- (b) the addresser-addressee structure; and
- (c) the cohesive structure

4.1 Discourse Exchanges: The Structure of the Message

The legal procedure under study shows an interactive process where there is the exchange of information between the participants especially the litigants and counsels on one hand and the presiding judge on the other. Using Halliday's (1994) *Theme* and *Rheme* structure, the analysis reveals how messages are distributed within and across the texts. The functions that language is meant to perform in this context are realised through the means of theme and information focus.

Our corpus shows that apart from very few declarative and imperative sentences, the information gathering process and presentation of facts are done through the means of interrogations. The preponderance of interrogative sentences is a reflection of the nature of that legal process. Some of the extracts below show how the theme and rheme structure combine together to structure the clauses as meaningful pieces of discourse and project the message.

(7) **PW:** *The property was my late father's ...*

Jide Taiwo contacted us of their interest in the property

(8) **PC:** *I seek to tender the document*

(9) **Court:** *The response of Jide Taiwo dated 23rd February is admitted and marked exhibit C.*

The nominal groups - *The property, Jide Taiwo, I, The response of Jide Taiwo dated 23rd February* in each of the pieces above constitute the theme while the remaining part make up the rheme. Both the two parts function to express the structure and the function of the message.

The two major types of *interrogative forms* (the *polar* and the *wh-question*) that are employed in the text have different functional interpretations. They function to confirm or refute information, and elicit or seek particular piece(s) of information. The extracts below are illustrative.

(10) **PC:** *Did your agent respond-to the letter?*

PW: *Yes, Please*

(11) **PC:** *Who drafted the unexecuted agreement...?*

PW: *Pamlex Limited*

The extracts, obviously, demonstrate the process of exchange of information through interrogation.

In extract (10), the operator (Did) in the polar question functions as the 'unmarked' theme of the clause. In extract, (11) the element that function as Theme is the one that requests the information (i.e. the wh-element) which expresses the nature of the missing piece of information.

A syntactic analysis of the structure of the message shows that the discourse is characterized by simple clause structures as shown in the deployment of simple declaratives and interrogatives. Although complex sentences are sometimes used when the witness tries to give details of such information being supplied, we observe that such sentences are made up of simple clauses. For example:

(12) **PW:** *The property was my late father's and he willed it to my mum which also devolved to my sister and I after her death. Jide Taiwo contacted us of their interest in the property.*

The admixture of simple, compound and complex sentences in a single piece reflects the nature of the interaction as being spontaneous and unscripted- The messages are not lost however. The facts are still presented in a simple manner.

Being an unscripted text, we observe some features of spoken text which include: the use of speech fillers and uncompleted statements which are very common in spoken discourse. Although they do not appear in the transcription there are only few instances of their use in the exchange. This goes to confirm the suspicion that the witness must have been briefed before the court appearance. Unnecessary repetition of structure and phrases also characterise the discourse.



Generally speaking, the text can be described as an admixture of long and short sentences. There is the predominance of short sentences which is a reflection of the nature of the discourse - a question and answer text. The use of long sentences in the discourse is occasioned perhaps by the need to give detailed information concerning some of the issues that led to the dispute between the two litigants.

A closer look at the exchange between the plaintiffs' counsel and the witness also shows a lot of *cooperation* at work. The responses of the witness to the counsel's queries show that:

- (i) she's listening;
- (ii) she's in agreement with the comment; and
- (iii) she supports the subject matter.

The smoothness of the transactions further confirms the belief that it must have been rehearsed before the actual public demonstration in the courtroom. The few occurrences of speech fillers as well confirm this position. The only example came from the defence counsel who was not privy to the rehearsal. Instances of *incomplete statements* as discourse feature can be cited in the text. For example

(13) **Court:** *It is the plaintiff's case. The objection is overruled Mr. Balogun are you satisfied?*

(14) **DC:** *My Lord...*

(15) **Court:** *Are you satisfied?*

(b) **Addresser(s) - Addressee Structure**

It is very interesting to observe that the participant context in the study shows that there are layers of addressers and addressees which also interweave. At one level, there is the plaintiffs' counsel and the witness or the presiding judge. The presiding judge also sometimes assume the role of the addressee, while at another time it is the defence counsel that addresses both the plaintiffs' counsel or the presiding judge.

Most significantly is the fact that the discourse structure predominantly exhibits the dialogic mode which makes the interactions sometimes dramatic and at other times confrontational as the discourse progresses. The discourse structure can also be described as majorly bidirectional communication, with the plaintiffs' counsel and the witness engaging in what we can call reciprocal discourse. However other participants (the presiding judge and the defence counsel) contribute to the exchanges, when there is the need to accept any document as exhibit or raise objections on any aspect of the proceeding respectively.

The addresser - addressee structure is realised further in the text through the use of the pronominal system and mood system. Both the use of *declarative* and *interrogative sentences* help to explicate how interpersonal structures operate in the text.

The *Pronominal System* reveals the predominance of the second person pronoun, *you*, and first person singular, / and plural, *we*. The collective pronouns *us* and *we are* also used.

The kind of interpersonal communication between the witness and her counsel is revealed through the use of the second person pronoun. On several occasions in the text, the counsel refers to the witness as *you* to sustain the tempo of the dialogue. E.g.

(16) **PC:** *Do you know the defendant?*

(17) **PW:** *Yes I do.*

(18) **PC:** *You said Pamlex International is your tenant, can you state how the relationship came about?*

(19) **PC:** *Mrs. Shonekan, can you tell us what happened afterward*

The personal pronoun 'I', is used in three different dimensions. First, to refer to the witness, at other times it refers to the counsel to the plaintiff, and third, to the defence counsel respectively as shown below.

(20) **PW:** *Yes I do.*

(21) **PC:** *My Lord I seek to tender the copy of the defendant's letter*

(22) **DC:** *My Lord I just wanted to tender some documents with the consent of the PC.*

The collective first person pronoun, *we* and *us* specifically refer to the plaintiffs (represented by the witness). Both the witness and her sister (non-contextual participant-'exophoric referent') are made to identify with the common action through the use of the proforms, *we* and *us* as shown in the piece below.



(23) **PW:** *We never got original letters because when we went back to Jide Taiwo to collect the document, the documents dealing with such property was not in the file. We search and search nobody could tell us where they are:*

At a particular point in the transaction the pronoun, *us*, is used to refer to all the participants especially the presiding judge, the defence counsel and the public.

(24) **PC:** *Mrs. Shonekan can you tell us what happened afterwards.*

In terms of the *mood system*, the indicative is most predominant. Here, both the declarative and interrogative are employed. When facts are presented and information is transmitted, the declarative sentences play the role. Interrogatives are used to elicit the information and facts from the witness. The counsel is the inquirer, while the witness is the informant. In fact the whole discourse is all about question and answer.

(c) **Cohesive Structure**

The internal organisation of the linguistic system in this piece of discourse influences the participants' ability to understand the text as a well organised communicative event. The participants within the context of discourse are thus able to benefit from the process of language use.

In the context of this text, features of cohesion include the use of *references, ellipses, conjunctions, and substitution.*

The choice of these internal resources within the language system, applied in a logical manner to project the content of the message makes the linguistic interaction and the exchanges more meaningful.

For instance; the use of proforms such as *you, your, we, us* significantly establish the semantic relations between one part of the discourse and the other.

(25) **DC:** *He said there was an agreement dated 1989. I expected them to tender a document of this agreement.*

Court: *It is the plaintiff's case. The objection is overruled.*

Mr. Balogun are you satisfied

DC: *My Lord...*

Court: *Are you satisfied?*

DC: *My Lord what we are saying is that the terms are already in the document, we do not dispute it.*

In the pieces above, the exchanges become more meaningful with the anaphoras *He* referring to the plaintiff's counsel, *I* to the defence counsel, *them* to the plaintiffs' counsel and the witness, *you* to the defence counsel, *we*, to the defence counsel and the defendant, and *it*, to the agreement in question.

Across the text, there are many instances of chain references made to the participants or things in the discourse. They reveal the identity of the participants (the litigants) and the object of litigation. They effectively establish a semantic relation between the pieces of information in the text. Sometimes we are given the identity of participants outside the context through the second witness. Mrs. Nwachukwu, the witness' sister, and their deceased mother are exophorically referred to in the discourse through the use of the referential items - *us*, and *her*.

(26) **PW:** *The property was my late father's and he willed it to my mum which also devolved to my sister and I after her death. Jide Taiwo contacted us of their interest in the property...*

Ellipses and substitution are employed in the text to enhance effective communication and economy. Being a spoken discourse, elliptical statements, also a form of anaphora, serve as a cohesive agent to further strengthen the semantic structure of the text. Apart from being used to achieve economy, one could see the establishment of a personal conversational tone between the addresser and addressee so that familiarity and rapport are created through the use of ellipses. As Cook (1992: 172) observes, ... lack of ellipsis implies formality, social distance or a lack of shared knowledge.

The extracts below show how the devices operate in the text.

(27) **PC:** *Do you have the original copies of the document?*

PW: *No. [we do not have the original copies of the document]*

(28) **PC:** *Can you tell the Court the person who drafted the two agreements. Who drafted them?*



PW: Pamlex Limited, [drafted the agreements]

The elliptical expressions in these extracts enhance communication as needless repetitions are avoided. They also reveal that the participants operate in context where the speaker expects the listener(s) to 'fill in' the gaps from their shared knowledge. The deletion of some linguistic elements makes the text effective and direct.

Another important feature of the discourse is the step-by-step information management and presentation of facts through interrogations. It begins with problem identification followed by explication and ending with request for resolution. E.g.

(29) **PC:** *Mrs. Shonekan what do you want the court to do for you?*

PW: *My Lord we want the Court to help us take possession of the said premises...*

Lexical Cohesion is achieved in the text through the repetition of some items Reference is made to 'documents' as *otters, receipts, agreements*. At other times, the documents or letters are referred to as *premises, inheritance*, while the litigation (suit) *itself* is frequently substituted with *case*.

The Use of Repetition

It is common to find frequent *repetition* of *letter, document, rent, defendant, My Lord, property, facts, agreement* among others. These items either share common semantic elements or are mere variation of the other. Thus they share the same semantic field. They not only highlight the features of the discourse, they reflect the nature of the linguistic exchanges as those embedded in the context of legal institution.

The Use of Conjunction

Clauses and sentences in the text are also 'hanged together' logically through the use of various *connectives*.

The use of the *additive connector, and, is*" predominant in this piece of structured spoken discourse. Examples include

(30) **PW:** *Jide Taiwo had and kept all original copies.*

(31) **Court:** *The response of Jide Taiwo dated 23rd February is admitted and marked exhibit C.*

The *Connective of summation, then*, provides the link between what has happened between the plaintiffs and the defendant in the extract below.

(32) **PW:** *Yes, the rent became due and overdue. After series of correspondence between ourselves and Chief Owolade, he said he did not recognise as owners of the property. We referred him to our father's will. We **then** ask for the rent that was overdue.*

The *adversative conjunction, but*, in the text below indicates the beginning of the sour relationship and conflict of interest between the litigants.

(33) **PC:** *What do you mean?*

PW: *Because we had written letters to them **but** said he did not recognise us as the rightful owners.*

The exchange of information and process of fact-finding which the discourse set out to achieve is further facilitated through the use of these and other cohesive markers. The *Causal - conditional connector, because*, and the *connective of inference, if*, also establish semantic connection among pieces of information and messages in the text. The causal-conditional connector indicates the reason for the plaintiff's action to seek legal redress. *If*, as a connector (in extract 34, below) indicates an inference from what is implicit in the preceding clause and helps to establish the authenticity of the facts being presented by the witness.

(34) **PC:** *Did your agent respond to the letter?*

PW: *Yes, please.*

PC: *If you see a copy of the letter would you recognise it?*

PW: *Yes*

Therefore it can be argued that these cohesive features are interwoven into the structure of the discourse, helping to explicate the meanings of the messages by establishing effective semantic relationship among the structural elements in the text.

5. Lexico-Semantic Features



One other interesting aspect of the courtroom exchanges is the choice of some of the words used in the discourse. Although many of them appear familiar, they assume different or special meanings in this context. They are employed to convey special meaning and are meant to be understood by the legal professionals in that context. Examples include

Plead the case, statement of claim, demise premises, will, devolved, Unexecuted agreement, terms of agreement parties, documents, facts, order, etc. -

Many of these words or phrases although are used in everyday language, they express different meaning in the text. Their meanings are only derivable in the context of the discourse.

Unlike formal legal documents or complex legal procedures, special registers and technical words, Latinate or archaic words are not common in the text. This could be as a result of the nature of the legal procedure which is still at the preliminary stage. Nevertheless, there are a few words or phrases that easily characterise the discourse as a typical legal procedure. Examples include: *My Lord, plaintiff, defendant, exhibit, facts pleaded, court, evidence, statement of claim, defence counsel, cross-examination, tender, plaintiff's witness, proper procedure, case, adjourned, chambers, waiver of notice, etc.*

The formality of the language is also noted and sometimes its *extraordinary precision*. This may partly be to avoid misinterpretation or misrepresentation. At other times, we observe deliberate use of words and expressions with flexible meanings. For example: *due process, consent, sake of convenience, proper and neat, take possession, overruled, strange practice, etc.*

As Mellinkoff (1963) rightly observes, the discourse also exhibits the *use of argot*, a specialized vocabulary common in any field, or language of communication within a group whether or not deliberately designed to exclude the stranger. The interactions between the plaintiffs' counsel, the defendant's counsel and the presiding judge towards the end of the procedure aptly illustrate this position. The choice, of language used is intended to speak primarily to one another. At this stage some technical terms are introduced which make them to operate outside the linguistic frequencies of participants that are not professional lawyers, (see pp 8-10: appendix).

Generally speaking, apart from the few instances where fairly complex legal terms are introduced, the language of the discourse is fairly simple and meaning intended does not necessarily pose any difficulty to the addressees.

5.1 Nigerianisms

The case has been made in sociolinguistic literature that there exist some varieties of English that reflect the socio-cultural and sociolinguistic features of their second language contexts. Examples include Indian English, Malaysian English, Nigerian English among several others(see Kachru, 1985; Dadzie & Awonusi, 2004). By 'Nigerianisms', we refer to such expressions in English as Second language in Nigeria that are intelligible and socially-acceptable in the context of usage but slightly different from English expressions in native speakers' environments. As the language of legal communication in Nigeria, this courtroom proceeding also exhibits some instances where some expressions used during the exchanges exhibit the features of Nigerian English expressions. These include

(a) Omission of article as in

PW: *"Jide Taiwo had and kept all () original and sent copies to us.*

(b) **Reduplication phenomenon**

In an attempt to stress a particular point Nigerian users of English tend to repeat the lexical item.

PW: *We never got original letters because when use went back to Jide Taiwo to collect the document, the documents, dealing with such property was not in the file.*

We search and search nobody could tell us where they are.

Wrong Use/Placement of Pronoun

PW: *Yes, we went to him and told him that since my mother is dead and the property has been passed to myself and my sister we should discuss...*

PW: *Yes, the rent became due and overdue. After series of correspondence between ourselves and Chief Owolade.*



These among others are some of the features' that characterise non-native Englishes especially in West Africa. This is to further confirm sociolinguists' assertion that the speakers of a second language can not be totally divorced from the influence of his or her native language.

6. Contextual Configuration of the Text

As stated earlier, Halliday and Hassan's (1985) concept of contextual configuration (field, tenor and mode) is used to reveal the interactions of the contextual variables that play significant roles in the projection of the message and explication of the meaning of the text.

a. In terms of *field*, the text describes a field of activity which is the legal evidence of the plaintiff's witness obtained through interrogation by her counsel. It could be described as a verbal regulation of social interaction through the sanctions of legal systems - a preliminary stage in the resolution of the conflict of interest between the plaintiff witnesses (Mrs. Shonekan) -and the defendant (Chief Owolade - Pamlex International Limited). The text is ideologically-motivated, semi-technical, and a sub-genre of courtroom or legal discourse.

b. The *tenor* of the discourse reveals that the participants can be described as multi-party active participants: the plaintiff witness, her counsel the defendant and his counsel, and the presiding judge. The plaintiff's counsel acts as the major questioner while the witness acts as respondent.

The participant's roles are primary, and all the participants are operating within ideological framework in conflict. The presiding judge exercises control over the discourse. The role relationship is highly institutionalized and rule - governed exhibiting features of unequal encounters.

c. In terms of *mode of discourse*, the text is primarily spoken with features of spontaneity. Some parts of the discourse are written or documented for further references in the course of the proceedings. The text gives status (as social act) to the verbal interaction. The act of questioning initiated by the plaintiff's counsel or the presiding judge is partly formulaic and partly spontaneous. Some of the questions are read out from a written text, while the responses of the witness are often spontaneous. The text also highlights the feature of performatives, because it constitutes or realises the act in question, that is, obtaining evidence of oral examination. Additionally, the text is a public act; a dialogue and a whole relevant activity in legal province.

It is grammatically simple and lexically sparse; expository and contains very few technical terminologies.

These contextual variables have clearly shown the importance of extralinguistic features to the identification of a piece of language use situated within a particular environment of discourse. They constitute part of the strategies that help to decode the meaning and function of the legal texts. The contextual configuration serves to interpret the social context of the text, the environment in which meanings are exchanged.

7. Aspects of Speech Act in the Proceedings

Linguistic exchanges in any context always result in fulfilling the goals of communication. As Schiffrin (1988) observes, discourse, apart from having structure and conveying meaning, it results in action. Austin's (1962) Speech Act theory discusses how language performs action. And highly conventionalized settings like the law courts often provide the easier cases where language is used to perform actions(see Opeibi, 2003) We are able to identify some illocutionary force in some of the utterances. The speech acts that are embedded in the text further highlight how meaning is constructed and achieved in the course of the legal proceeding. Some utterances, apart from being propositional, they also carry conventional communicative force that simultaneously achieve the intended action. The 'saying' of those utterances is taken as the 'doing'.

Examples include:

(30) *Court: The copy of the letter is **admitted** as an exhibit and **marked** exhibit A.*

(31) *Court: It was duly pleaded. I **overrule** the objection...*

(32) *Court: ... The case is **adjourned** to the 2nd of November for the cross-examination-of the plaintiff's witness*

The performative verbs; *admitted*, *marked*, *overrule*, and *adjourned* in these utterances carry the illocutionary force and the acts are immediately accomplished.

It is pertinent to observe that as expected like in most discourse embedded in institutionalized setting, speech acts often originate from powerful participant towards the less powerful. In the context of this discourse the presiding judge (court) issues most of the performative utterances. Additionally, features of speech acts are realised also through the question and answer procedure. Thus, the text highlights the feature of performatives, because it constitutes or realises the act in question that is, obtaining evidence by oral examination.



8. Conclusion

This study has shown that the courtroom as an institutionalized communicative context is a typical 'market place of ideas' where transactions and exchanges are done through the use of well-structured and conventionalized mode of discourse. It has also demonstrated how the various linguistic and extra linguistic variables interact to produce meaning and perform actions in this courtroom in Nigeria.

The study has further shown that conflict resolution through the instrumentality of the law courts is facilitated by linguistic resources that are carefully and deliberately manipulated and deployed. Interestingly, the courtroom talk may not necessarily represent a real exchange of information between the major participants (the plaintiff's lawyer and the witness) but a display of information/presentation of facts, for the judge, that has to solve a dispute based on the facts as presented during the oral examination. The question/answer sequence has revealed possible communicative functions that interrogation can perform in legal discourse, e.g. elicitation of information, -complaining, ascribing blame, refutation of information, etc.

The structural components, linguistic and discourse features that characterize the text as a sub-genre in legal discourse have been projected through the analysis of the text. In conclusion, the study has also shown evidence of peculiar non-native variety of English, and examples of how some utterances do not only make prepositional statements but also contain illocutionary force.

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