

Pragmatic Acts in Court-Rulings: A Case of Nigeria's Supreme Court's Judgement on Obi Versus Nba

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Abstract

Studies on courtroom discourse, particularly in Nigeria, have concentrated more on its lexical aspects than on the (larger) utterance acts that are fundamental in understanding the discourse. As a result of this, legal discourse has been labeled as complex, especially in terms of its structure. This paper, however explores the utterance acts in a particular court-ruling and accounts for how they (the acts) are actions of certain sorts. Data were obtained from the text "Why we sacked Andy Uba by Supreme Court" in *The Guardian* of Saturday 14, 2007. A pragmatic theoretical framework, precisely the speech act theory as propounded by Austin and Searle offered analytical tools for making explicit the acts that are contained in the discourse. The analysis of data revealed that court-ruling discourse was not merely composed of syntactically complex utterances, but was characterised by assertive, declaration, directive, representative and verdictive acts, some of which were expressed explicitly while others were implicit. The analysis further showed that the acts were dominantly expressed in the active voice which served to make them convey desired illocutionary force. The significance of the study lies in characterizing court ruling as a discourse genre that uses conventional illocutionary acts, which are effective in expressing attitude, in conforming to institutional convention of language use in that domain and in preventing miscommunication or pragmatic failure.

I. Introduction

Pragmatics is a sub-field of language study, which came into existence due to the realization that formal semantics was not a sufficient instrument for the analysis of meaning in language. This sub-field handles those facets of meaning in language which a mere formal approach cannot reveal – the use of language in actual communication situation. Pragmatics studies how a language user makes use of the knowledge of the structure of language to achieve a particular communication purpose in a particular communication situation.

Charles Morris was the first scholar to use Pragmatics as the sub-field of language study that investigates the techniques by which language is used for communicative purposes. He identifies Pragmatics as one of the components of semiotics – syntax and semantics being the major sub-field. He sees Pragmatics as being complementary to syntax and semantics and thus not an autonomous linguistic discipline.

To Morris, Syntax has to do with the relationships between signs; Semantics with the relationship between signs and things for which they stand and Pragmatics with the study of the relationship between signs and their users. Most linguists, following Morris's disjunction, (believing that many of the issues in pragmatics can be dealt with within semantics), hold this view. The view however has been greeted with criticisms by many other pragmatics theorists, especially Leech (1983) who explains Pragmatics as the study of communicative meaning minus those aspects of meaning that are the subjects of semantics. Cruse (1990: 143), in line with Leech, provides the disjunction between semantics and pragmatics thus:

Semantics, the meaning that an utterance possesses; as it were, inherently, by virtue of words it contains and their grammatical arrangement Pragmatics, the meaning which the same utterance might be expected to exhibit in any other contexts in which it might occur. Semantics is concerned with inherent meaning while Pragmatics is concerned with meaning in which context plays an essential role.

All this suggests that Pragmatics is not at all complementary to other sublevels of the study of language but rather, is an autonomous sub-level. The major contribution of Pragmatics in the study of language is the recognition of the factor of the user in respect of his "attitudes, behaviour and beliefs" (Leech and Thomas 1990: 173). This suggests that the meaning that an utterance has is dependent on the speaker who utters it. We may say that meaning is not the property of words but that of the users of words. This is because the speakers of any language can use the sentences of that language to convey messages, which do not bear any necessary relation with words they contain and their grammatical arrangement. In the words of Adegbite (2000:63), "participants in a discourse do not rely only on their knowledge of language system in their interaction but also require a combination of the knowledge of language system, the knowledge of the factors of situation in which communication takes place. This implies that apart from the verbal context, there are other contexts, which dictate the form and guide the use of an utterance. These are the context of

culture and immediate context. Many issues are dealt with in Pragmatics, but the major one is the issue of speech events and speech in general. Pragmatic theorists, all of whom condemn in its entirety, the constative approach to the study of language, have written a lot on the issue. A review of some of them will be necessary here.

The first significant work on linguistic pragmatics was done by the philosopher J.L. Austin, who initiated, in the analysis of language, the disjunction between the formal and functional approaches to the analysis of meaning. According to him, there is quite often something, which lies beyond the superficial, context-less meaning of words, which will give us more complete picture of meaning in language. He calls this the performative, which refers to some kind of action, deemed to have been performed by saying something. The opposite of this is the constative, which is the meaning viewed in a truth-conditional term. Austin later used the terms locutionary act and illocutionary act to refer to the terms constative act and performative act respectively. The most important of these acts, to Austin, is the illocutionary act, which one uses an utterance to perform a speech act, which has an effect on the hearer. This effect he calls perlocutionary act.

A later development on Austin's locutionary, illocutionary and perlocutionary tripartite acts led to such other concepts as locutionary force (actual and intended), implicit and explicit performatives. The actual illocutionary force of an utterance is the illocutionary force conceived by the hearer while the intended illocutionary force is that conceived by the speaker. This suggests that it is possible for a hearer to misinterpret a speaker in a speech act situation for the former may register an illocutionary force that is different from that which is registered by the latter in producing an utterance. This then leads to the disjunction between implicit and explicit performative utterances. An utterance is explicitly performative when it contains a performative verb, which overtly states the intended force of the utterance e.g. 'I warn you not to do it'. The verb 'warn' in this sentence is indicative of the force which the speaker intends it to have on the hearer. An utterance, on the other hand, is implicitly performative when it does not contain a performative verb e.g. "Do not do it." This utterance can be variously interpreted - I advise you not to do it. I warn you not to do it; I persuade you not to do it, etc.

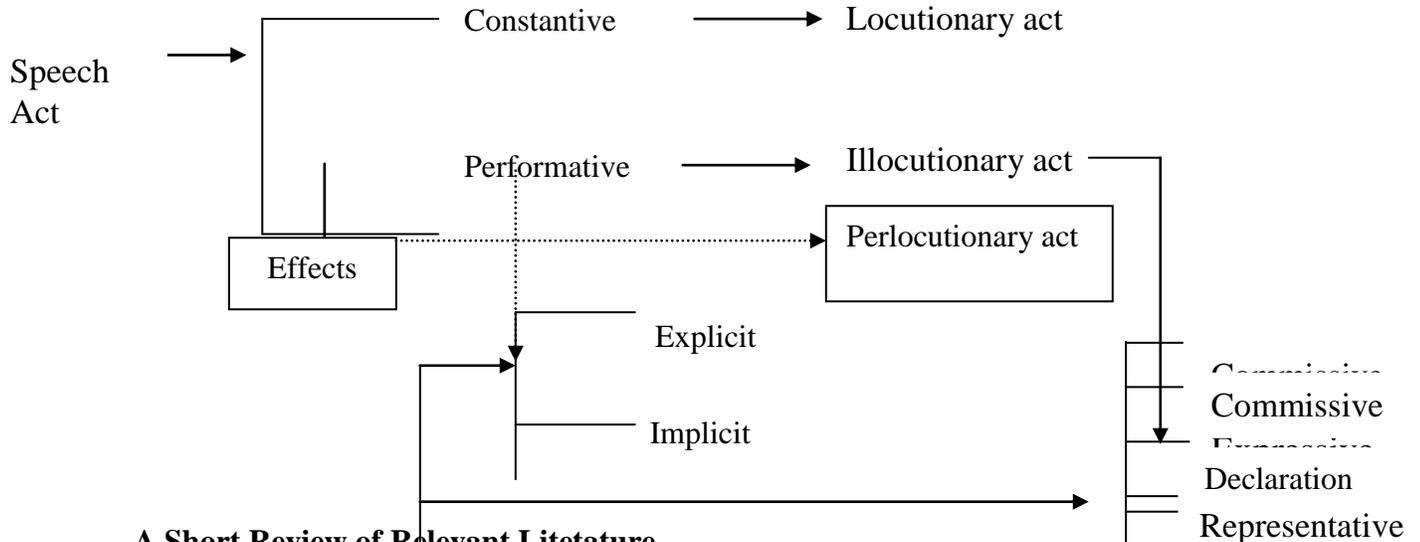
All these and some other ideas initiated by Austin led John Searle to classify speech acts into directives, commissives, expressives, representatives and declarations. He provides the table below to explain those terms:

Figure 1: John Searle's Classification of Speech Acts.

If an utterance is:	
A directive	The speaker wants the listeners to do something
A commissive	S/he indicates that she herself will do something.
An expressive	S/he expresses her feelings or emotional response
A representative	S/he expresses her belief about the truth of a proposition
A declaration	Her utterance results in a change in the external non-linguistic situation.

Austin's and Searle's taxonomies of speech acts discussed above are not unconnected. The diagram below (which synthesises them) shows the relationship between the taxonomies.

FIG 2: A Synthesis of Austin's and Searle's Speech Act Taxonomies.



A Short Review of Relevant Litetature

Lots of works has been done on the linguistic features of specialized discourses in English. For instance, Davy and Crystal's (1969) "The Language of Legal Documents" Brekke's (1989) "The Beigen English for Science and Technology (Best) corpus", Sager Dungworth, and Mc Donald's (1980) "English Special Languages", Bhatia's (1993) "Analysing Genre: Language Use in Professional Setting, Cotterill's (2004) "Collocation, Connotation and Courtroom Semantics" and Vass's (2004) "Socio-Cognitive Aspects of Hedging in Two Legal Discourse Genres", to mention just but few. Three of these works prove particularly relevant to this study and are reviewed here:

Crystal and Davy (1969) conceive of legal language as that which is unusual (for containing many oddities) and the "least communicable (p. 193) for it "is designed not so much to enlighten language-users at large as to allow one expert to register information for scrutiny by another". They hint that the language is derived from a common source "Form books", which contained established formulae, thus making the language far removed ...from informal spontaneous conversation". According to them, legal language is not only complex to none experts, but also legal experts who do not find it easy in generating it. They therefore blamed the conservation of legal language on the reliance of the practitioners on "forms which were established in the past and the reluctance to take risks by adopting new and untested modes of expression..." (p. 7).

Similarly, Cotterill (2004) undertakes a study of how lawyers in a courtroom control witness testimony through lexical negotiation. Based on data from rape sexual assault and domestic violence trials held in the UK in the late 1990s, the study discovers that "individual lexicalizations of crime events and circumstances can express far more than a straightforwardly neutral denotational meaning and as such can be manipulated by cross-examining lawyers in court" (p. 527). He says further that courtroom discourses on the subjects of crime, rape and domestic violence are dominated by lawyers, who get what they want to get from their witness through constructing closed, leading and response-

restrictive questions and exploiting certain “connotational and semantic prosodic properties of the lexicalizations they select” (p. 528). All these manipulations (in language) by courtroom lawyers prevent witnesses from “telling their stories” (P. 533).

This study implies that courtroom discourses in the UK are more dominantly manipulative than explicative. It shows that lawyers (because they seem to understand the nuances of their language better) engage witnesses in cross-examinations, which lead them in producing incomplete representation of crime events. Thus, the study justifies the general claim (which Crystal and Davy (1996) also buttress) that the language of law is linguistically obscure and difficult to understand.

Vass (2004), unlike the scholars, whose works are reviewed above, conceives of legal discourse as a pragmatic rather than a purely semantic one by identifying lexical items signalling hedging, explaining the strategies that these lexical items are employed to carry out and defining the functions the strategies help to fulfill in the analysed discourses. She finds out that interpreting legal discourse is a socio-cognitive enterprise. According to her, the addressee must draw not only from lexicon-grammatical knowledge about language but also from its relationship with the context”.

Though this work is more theoretical than analytical, for the writer does not provide adequate data illustrating the concept of hedging which is its subject matter, we share her conviction (implicitly stated) that legal discourse is not generated only to “meet certain conventionalized expectations” established by the practitioners, but also to communicate intentions clearly to non-practitioners. The fact emphasised in the study and which the present study aims at further propagating is that legal discourse is not completely inaccessible as most scholars have suggested and that (as it would be shown shortly in this paper), interpreting legal discourse involves adequate recourse to certain semantic, pragmatic, social and cognitive (Vass 2004: online) factors which help in decoding it.

Contextual Background of the Text

The Anambra State political crisis in the last five years describes one of the consequences of the politics of godfatherism in Nigeria: During the 2003 general election in the country, Dr Chris Ngige contested for the gubernatorial seat of Anambra State under the umbrella of the Peoples Democratic Party (PDP). Chris Ubah, a business tycoon, and power broker in the state was his godfather. With the support of Ubah, election was rigged in favour of Dr. Ngige and he was sworn in as the governor of that state.

The opposition winner of the gubernatorial election, Peter Obi, took the matter to State Election Petition Tribunal. The case was protracted for good three years. In the meantime, there was personality friction between governor Ngige and his godfather – Ubah. The former confessed openly that they rigged the election that brought the latter to power. Consequently, the election of Chris Nwabueze Ngige was overturned and Peter Obi was declared the legitimate governor of Anambra state. However, that regime had only one year left to expire.

During the 2007 fresh general election, Peter Obi was not allowed to contest election at all. Andy Ubah, the elder brother to Chris Ubah, was pitched against other gubernatorial aspirants in the state by the same godfather. Andy went to the poll and was

presumed to have won the election. Peter Obi later went to court seeking his three-year legitimate mandate. The Supreme Court in the country heeded his plea and returned him as Anambra state governor. So, Andy Ubah was sacked just after two weeks he was sworn in.

The short contextual information given above is certainly crucial to the understanding of the analysis of the text that follows shortly. As would be shown in our analysis, the text is a legal interpretation of the scenario and an assessment of the manner it was handled earlier by the Election Petition Tribunal in the state.

Breaking the text into Pragmatic Pieces

Act A

Utterance Act	Pragmatic Acts/Implications
<p>By the judgment of the court of Appeal given on 16th March, 2006 returning Obi to the seat of governorship of Anambra State, it implies and rightly of course, that Dr. Chris Ngige was not in lawful occupation of the seat of governor of Anambra State from April 2003 when he was unlawfully declared the winner of the election at that time</p>	<p>(a) Interpretive act => reference to the judgment of the court of Appeal". Also, the expression "It implies..."</p> <p>(b) Expressive act => Identifies himself with the judiciary act: "it implies and rightly of course"- quite assertive "not in lawful occupation of the seat..." "He was unlawfully declared the winner of the election...."</p> <p>(c) Representative act =>It implies and rightly of course 'not in lawful occupation (active) He was unlawfully declared winner" (passive). Note the change of voice from active to passive. The active form serves to capture his emotional commitment to his utterances. The passive form serves to represent his condemnation of the action denoted by the verb "declared".</p> <p>Note also that he does not furnish readers with the agent of the action of the verb "declared". This is a face saving strategy in the discourse.</p>

Act B

Utterance Act	Pragmatic Acts
<p>It must always be remembered that an election petition tribunal is not an all-purpose court that can entertain all sorts of claims or reliefs</p>	<p>a). Directive act - He wants readers to remember something b). Representative - He believes that it is necessary to always remember (note the expression "must always" c). Expressive: He believes strongly in his assertion. Note that: the subjects of "it must be always be remember" is everybody including the speaker.</p>

Act C

Utterance Act	Pragmatic Acts
<p>In the final analysis, for all I have been saying, which explains the reasons for my decisions on the 14th of June 2007. It is my judgment that the appeal is meritorious (1) it must be allowed (2) and I hereby allow the appeal (3). I set aside the judgments of these courts below (4)._ In their place, I make the following declarations and orders which the justice of this case demands; they are:</p> <ul style="list-style-type: none"> • That the office of Anambra State <u>was not</u> vacant as at 29th May, 2007 • That the tenure of office of the appellant (Peter Obi) as Governor of Anambra State, which is four years certainly <u>will not</u> expire until 17th March, 2010 for the reason of the fact that he being a person first elected a governor under the 1999 constitution, took oath of Allegiance and Oath of office on March 2006. • It is hereby ordered that the 5th respondent (Dr, Andy Ubi) <u>should vacate</u> the office of the Governor of Anambra State with immediate effect to enable the plaintiff/appellant (Mr. Peter Obi) to exhaust his term of office. <p>For the avoidance of any doubts, the judgement affects the office of the Governor of Anambra State alone</p>	<p>1. Verdictive act 2. Verdictive/performative (explicit) 3. Performative (explicit) → assertive 4. Performative (explicit) → assertive 5. Performative (explicit) and representative → Informative/representative/assertive → Informative/expressive/assertive → Directive/verdictive/assertive → Declaration</p>

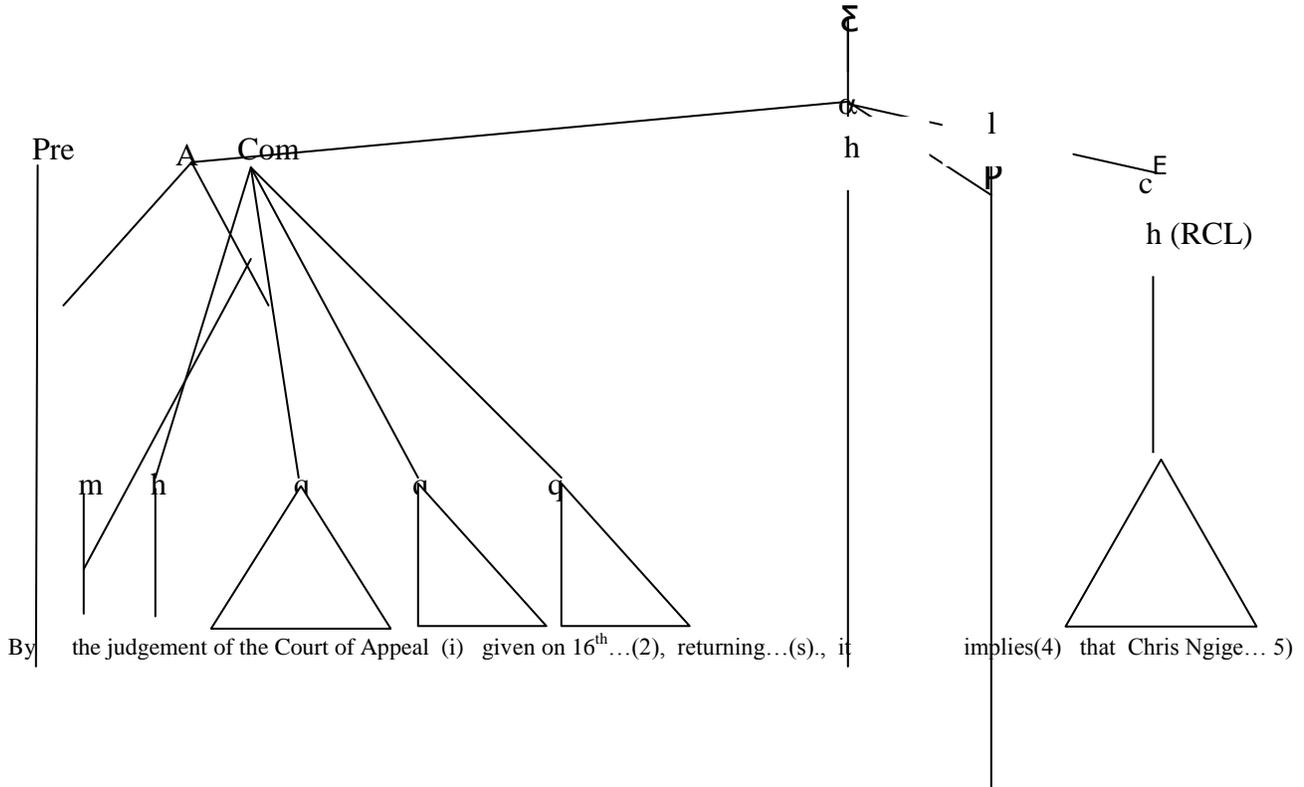
Analysis of Act A

As indicated in the table above, act A is a single-sentence utterance. The sentence is long-winding as it contains many subordinations and adjunct clauses as shown in its components below:

- (1) By the judgement of the court of appeal (Adjunct)
- (2) Given on 16th March, 2006 (non-finite rank-shifted clause, performing adjectival function).

- (3) Returning Obi to the seat of governorship of Anambra State (non-finite rank-shifted clause, performing qualifier function)
- (4) It implies and rightly of course (S.P.A. clause, needing a completive clause)
- (5) That Dr. Chris was not in lawful occupation of the seat of governor of Anambra State from April 2003 (Beta Clause as complement of the predicator in 4 above).

Though the sentence is syntactically complex, it is not disconnected as its internal structure below reveals:



From the pragmatic point, the utterance is triadic in function: it is interpretive, by making reference to the judgement of the court of appeal given on 16th March, 2006. The constative “it implies” suggests this function explicitly. It is also expressive by reflecting the commitment of the speaker to the fact expressed in the act. The assertive act “rightly of course” describes this pragmatic function of the utterance. Thirdly, the utterance is representative of his strong belief in, and acceptance of the judiciary act which he refers to in the sentence. The producer uses the text to hold his reasons closely to his heart. The utterance is also used to cope with the demands of the legal institution for clarity of messages conveyed in order to prevent miscommunication.

The sub-acts that follow the pronouncement are basically assertive acts, reflecting in the strong anomalous finites in the verbal groups “was not”, “will not”, “should not”. These assertive acts are further amplified by the emphatic adverb – ‘certainly’ and adverbial group – “with immediate effect” found in sub-acts 2 and 3 above.

Analysis of Act B

Act ‘B’ is also a one-sentence act. It is syntactically straightforward. However, like the one discussed earlier, it is triadic in function. It is a directive act because the speaker wants the bearers to remember something and remember it always. It is representative because it shows that the speaker believes the truth in his utterance. It is expressive because it shows a strong determination of the will power of the producer to remember always. He is convinced that election petition tribunal who handled the case did not handle it properly. However, he does not say that it was biased. Rather, he feels the case was beyond its jurisdiction. The constative “...not an all-purpose court that can handle all sorts of claims or relief” is logically interpretable as:

- i. A court is all-purpose. A court can handle all sorts of cases
- ii. Election petition tribunal is not a court
- iii. It can not handle some cases
- iv. One of the cases it cannot handle is the one under reference.
- v. Therefore the declaration of Dr. Chris Ugige as winner by the election petition tribunal is unlawful.

As could be noticed from the logical analysis above, this utterance is also interpretive. The producer has demonstrated his understanding of the legal process in Nigeria, which must be explained to the audience who have little or no knowledge of it. It also points to the battle of supremacy between two legal bodies in the country, namely the Supreme Court and the Election Petition Tribunal.

Analysis of Act C

This act is dense with verdictive and assertive acts. The acts are also representative. The general tone is verdictive with the use of power pronoun – ‘I’ and authoritative adjective ‘my’. These are reinforced by explicit performative verbal groups “hereby allow”, “set aside”, “make”. The producer of this act has shown that he is in the right position to declare, set aside, make declarations etc in the case, being a supreme court judge. In addition, the verdict is not politically motivated but arise from the need to uphold justice (which the justice of the case demand).

Analysis of Act D

The act is the shortest in the discourse. It is a declaration act with implicit directive act. The expressive “for the avoidance of any doubts” implicitly directs participants in the discourse situation not to doubt the judgement of the Supreme Court in the case. It also warns them not to generalize the judgement for it “affects the Office of the Governor of Anambra State alone”. The utterance also implies that states, with similar cases, should not give a general interpretation to the judgement but rather seek independent redress in the appropriate court. The act serves in the discourse to prevent misinterpretation of a judicial act or in order for the judge not to “fail in his job: (Davy and Crystal, 1969: 194).

Conclusion

Generally, the discourse under study is dominated by simple utterances through which many acts are realised. It can be said based on this study that Legal language can be best understood or interpreted through the invocation of linguistic and pragmatic background (Vass 2005: online) of the participants in the discourse situation.

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