

The Language of Justice: An Analysis of Three Appellate Rulings on Election Petitions

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Abstract

This paper explored the language of justice by focusing on lexical and syntactic choices made by judges in three appellate rulings on cases of election petitions in Nigeria. Data were collected from three reported appellate rulings of gubernatorial election petitions in South-Western Nigeria, published in *The Nigerian Weekly Law Report* between 2008 and 2010. The analysis utilised insights from critical discourse analysis and systemic functional linguistics. The analysis, which focused on lexical choices and syntactic structures, revealed the use of words relating to justice and fair hearing for emphasising the ideological values of justice. The appellate judges deployed lexical collocations to evaluate the roles of the election petition tribunals, inter alia, in trying to sustain the persuasive texture of their rulings. They expressed their viewpoints, interpretations, and perspectives with the use of syntactic devices such as modality and transitivity. Rather than straightforwardly commit themselves to some particular perspectives, the judges occasionally chose to be more cautious and circumspect. Through transitivity choices, the judges tried not to act directly upon the two parties most affected by the appellate decisions (the appellants and the respondents) but rather upon the appeal, either admitting or dismissing it. This mitigated the power that they exerted over appellants and respondents. Thus, with linguistic choices, the appellate judges demonstrated their commitment to justice and fairness.

Keywords: Social Justice; Court of Appeal, Election Petition, Court Rulings, Critical Discourse Analysis

Introduction

Justice constitutes an important phenomenon in the human society. It is a core value in social, economic, and political interactions and entails the fair and proper administration of laws that guarantee that all people, irrespective of ethnic or political affiliation, gender, possessions, race, religion, or social status, are entitled to fair treatment without prejudice (Bos, Miedema, Vermunt, and Zwenk, 2011). The United Nations' advocacy programmes on peace profess strong commitments to justice, equity, fairness, empowerment, and social order (Edelman, Klein, and Lindquist, 2012). Justice implies that judges are to judge cases rather than parties or personalities involved. This is an aspiration that is symbolically represented by the blindfolded goddess.

The concept of justice and its breach have been extensively explored in such fields as anthropology, sociology, political science, philosophy, linguistics, and of course law. It is widely recognised that justice is an essential ingredient of the rule of law and language is a vital instrument for dispensing and representing it. In other words, language is a crucial factor in the protection and breach of justice. When language is not properly used in the context of law and justice, the outcome could lead to social disorder. In characterising the language of legal documents, Crystal and Davy (1969:193) have emphasised the need for clarity in legal compositions and communications. However, the ideological nature of legal system often makes the realisation of this principle difficult as the language is customarily complex. The language of justice is apparently ideological as lawyers and judges typically use language to present arguments and power relations. Figueiredo (1998) has observed that judges deploy transitivity choices in rape cases as a way of ideologically hiding their powerful positions. Ibrahim and Awang (2011) have also observed that linguistic strategies such as modality, adverbials as well as context-specific structures alluding to adherence and mutual respect, are employed to temper the emotive tone of judges. Edelman, Klein, and Lindquist (2012) have observed a measure of deviations from expected ideological patterns in the justices' voting in relation to consensus on Court decisions.

On the Nigerian scene few studies have been carried out in relation to dispensing justice. Ogunsiji and Olaosun (2009) explore pragmatic acts in a court discourse and observe that court-ruling discourse is not merely composed of syntactically complex utterances but is characterised by assertive, declaration, directive, representative, and verdictive acts, some of which are expressed explicitly and some implicitly. Sunday (2009) examines an important gubernatorial election tribunal ruling in Osun State, Nigeria and underscores how tribunal judges display or reinstate certain ideologies through grammatical voices, modifiers and imagery. He observes that in their ruling, the judges stress the supremacy of the judiciary over other arms of government and they assert the status of legal practitioners. The judges use language to present the judiciary as an unbiased umpire, a 'cleanser', and the final resort of the masses. Odeunmi (2010) develops and applies a method for tracking the ideological value in some news reports of the Nigerian Supreme Court ruling delivered on the qualification of Former Vice President Atiku Abubakar for the 2007 general election. The study tracks two institutions, namely political and judicial, in the reports through *esphora* and *homophora*.

Therefore, the present study explores the language of justice by focusing on lexical and syntactic choices deployed in three reported appellate rulings on cases of election petitions in Nigeria. Our interest in doing this is to see how details of language use can help to uncover judges' commitments to the course of justice on election petition cases especially in an atmosphere of socio-political tension and crises. In addition, the critical analysis of language elements in the study seeks to bring to the fore how judges exploit the resources of language to professionally express their interpretation of facts and eventual points of view in decision making, with the view to offering additional insights into the language of social justice. For this purpose, the tools of Fairclough's critical discourse analysis and Halliday's systemic functional linguistics will be applied.

Theoretical Perspectives: Critical Discourse Analysis (CDA) and Systemic Functional Linguistics (SFL)

Several scholars have affirmed the link between Halliday's Systemic Functional Linguistics (SFL) and Fairclough's Critical Discourse Analysis (CDA) (Fairclough, 1995; Fairclough, 1989; Martin and Rose, 2003; Blommaert, 2005). The publication, *Language and Control*, by some linguists of critical orientation, Fowler, Hodge, Kress, and Trew, in 1979, was based on the tenets of Systemic Functional Linguistics and Social-Semiotic Linguistics championed by M.A.K. Halliday (Martin and Rose, 2003). In other words, Halliday's works have made some remarkable contributions to the emergence and development of CDA by providing some functional linguistic tools for exploring and analysing the relation between language or discourse and social meaning. Right from the time of its birth in the 1980s up to the present moment, CDA has been developed to integrate some strong and relevant concepts of SFL, semiotics, discourse rhetoric, text linguistics, pragmatics, and social psychology (Rogers, Malancharuvil-berkes, Mosley, Hiu, and Joseph, 2005).

CDA and Ideology

Critical Discourse Analysis aims at exploring and analysing the ideology behind overt representations in discourses especially in language use. It usually involves an eclectic selection of some descriptive tools as it incorporates many other disciplines and theories such as functional linguistics, feminism, hegemony, semiotics, social psychology, text linguistics, and critical sociology. This eclectic nature gives CDA a strong theoretical foundation and favourable intellectual climate (Fowler, 1996). CDA is flexible and capable of being used for analysing different types of data. Its flexibility in accommodating diverse ideas and concepts from related disciplines has made some scholars to describe it as a powerful approach for analysing discourses (e.g. Fairclough, 1995, Wodak, 1995; Martin and Rose, 2003; Morris, 2005).

Critical Discourse Analysis takes a particular interest in the relationship between language and power or ideology. The term CDA is used to refer more specifically to the critical linguistic approach of scholars who find the larger discursive unit of text to be the basic unit of communication (Wodak, 2006). As an applied linguistic approach, CDA brings to the fore the power in public discourses with the view of making contemporary social reality visible and transparent to promote justice and social order. In other words, CDA focuses on the need to ensure fairness, equality; empower the powerless; give voice to the voiceless; expose power abuse; and mobilise people to remedy social wrongs. In order to ensure all this, Toolan (1997) recommends that critical discourse analysts should suggest appropriate linguistic choices that are non-sexist, non-discriminatory, non-derogatory, and unbiased, in specific discourses. Hence, in line with the United Nations' advocacy, CDA professes strong commitments to equity, fairness, justice, and social order. Therefore, CDA is relevant to the present study.

SFL

Systemic Functional Linguistics (SFL) is a system or theory of communication which seeks to analyse how language users exchange ideas in different situations (Lock 1996; Blommaert, 2005). The term, 'functional' has two senses. On the one hand, it has a pragmatic sense, referring to the actual message of language use in specific context. In other words, Systemic Functional Linguistics has at its centre, language functions in social contexts and emphasises how language acts upon and is constrained by the social context. On the other hand, the word 'functional' relates to the internal (unexpressed but implied) function of language (Byram 2000). The two senses imply that a speaker performs some speech acts by using some linguistic structures. To Halliday, the value of a language does not reside in the linguistic structure itself but rather on the communicative (or functional) values which the structure carries (Halliday 1985). He, therefore, underscores the functions of language, especially the ways in which *field* (the subject of interaction), *tenor* (the social role and relationship

between the participants), and *mode* (the channel of communication, e.g. monologic, dialogic, spoken or written, +/-visual) of discourse influence linguistic choices.

Systemic Functional Linguistics is a social semiotic theory where meaning is seen to be context-dependent (Halliday, 1978). A major strength of SFL is Halliday and Matthiessen's (2004) metafunctional principle which provides an integrating platform for theorizing how linguistic resources interact to create meaning in specific contexts. According to O'Halloran (2008), the metafunctional principle is the principle that linguistic structures simultaneously provide the tools for constructing ideational meaning (i.e. experiential meaning and logical relations) and for enacting social relations (i.e. interpersonal meaning). These metafunctions are enabled through the organization of the discourse, which is the textual metafunction of language. The metafunctional principle equally provides a basis for exploring the functionalities of language and for analysing the ways in which linguistic choices interact in discourses to fulfil particular objectives. In the present work, the concept of ideational metafunction which relates the concepts of modality and transitivity is directly relevant.

Methodology

To achieve a clearer picture of the issues raised, data were collected from three reported rulings of the Appeal Court on the 2007 gubernatorial elections in Ekiti, Ondo, and Osun states of Nigeria. The cases are listed in Table 1.

Table 1: List of Cases Examined

| Cases of Election Petitions | State | Date | Source |
|--------------------------------|--------------------|-------------|---------------------------------------|
| <i>Agagu vs. Mimiko</i> | <i>Ondo State</i> | <i>2008</i> | <i>The Nigerian Weekly Law Report</i> |
| <i>Aregbesola vs. Oyinlola</i> | <i>Osun State</i> | <i>2008</i> | <i>The Nigerian Weekly Law Report</i> |
| <i>Oni vs. Fayemi</i> | <i>Ekiti State</i> | <i>2010</i> | <i>The Nigerian Weekly Law Report</i> |

The data were analysed in linguistic terms using analytical tools and insights from critical discourse analysis and systemic functional linguistics.

Background to the Cases

South-West is a relatively new nomenclature given to the geographical location of the Yoruba people within Nigeria. The Yoruba constitute a homogenous ethnic group that occupies six states in Nigeria, namely: Ekiti, Lagos, Ogun, Ondo, Osun, and Oyo. The six states were part of the defunct Western Region of Nigeria which was known for active participation in politics in Nigeria's First Republic. The Yoruba are also noted for truth, fairness, and defence of fundamental human rights.

In April 2007, Nigerians voted for the third consecutive time to elect a new set of political representatives. The Gubernatorial and state houses of assembly elections took place on April 14, 2007 while the Presidential and National Assembly elections were held on April 21, 2007. Immediately after the elections, results were announced by the Independent National Electoral Commission (INEC) and there were mixed reactions. Subsequently, election petition tribunals were deluged with petitions arising from the 2007 elections. As the National Democratic Institute (2008) reports, thirty days after the declaration of the results, the last date for filing election petitions, 1,260 petitions had been filed, including eight petitions that were against the results of the presidential race, over 100 were challenging gubernatorial election outcomes, 131 cases were against Senate races, 291 were questioning the House of Representatives results, and 724 cases were contesting the elections of state legislatures. Various Tribunals ruled on the petitions before them. However, some were characterised by controversies. Hence, there were appeals to the Court of Appeal (National Democratic Institute, 2008). The three cases examined in this paper are part of those that were re-tried

at the Court of Appeal. The cases are *Agagu vs. Mimiko* (Ondo State), *Aregbesola vs. Oyinlola* (Osun State), and *Oni vs. Fayemi* (Ekiti State)

The Analysis

The Lexis of Justice

The analysis below concerns words denoting justice in the data. Based on the frequencies of occurrence of specific lexical items in the texts under analysis, the following words signifying fairness and justice in respect of the court rulings have been identified and classified in Table 2 below.

Table 2: Frequency of Occurrence of Words of Justice in the Three Appellate Court Rulings

| Words of Justice | Frequency Count | | | |
|--------------------------|--------------------------------|---------------------------------------|------------------------------|-------------------|
| | Ruling on Agagu vs Mimiko Case | Ruling on Aregbesola vs Oyinlola Case | Ruling On Oni Vs Fayemi Case | Total Occurrences |
| <i>Evidence</i> | 162 (22.8%) | 530 (74.8%) | 17 (2.4%) | 709 |
| <i>Witness</i> | 44 (12.9%) | 291 (85.1%) | 07 (2.0%) | 342 |
| <i>Right</i> | 50 (37.9%) | 40 (30.3%) | 42 (31.8%) | 132 |
| <i>Proof</i> | 09 (8.8%) | 91(89.2%) | 02 (2.0%) | 102 |
| <i>Fact</i> | 35 (35.0%) | 39 (39.0%) | 26 (26.0%) | 100 |
| <i>Cross-examination</i> | 21(25.3%) | 08 (9.6%) | 54(65.1%) | 83 |
| <i>Justice</i> | 04 (6.8%) | 37(62.7%) | 18(30.5%) | 59 |
| <i>Non-compliance</i> | 11(19.6%) | 43(76.8%) | 02 (3.6%) | 56 |
| <i>Fair</i> | 04 (7.7%) | 01 (1.9%) | 47 (90.4%) | 52 |
| <i>Fairness</i> | 01 (2.0%) | 01 (2.0%) | 47 (96.0%) | 49 |
| <i>Fairly</i> | 02 (4.4%) | 09 (20.0%) | 34 (75.6%) | 45 |
| <i>Testimony</i> | 06 (14.3%) | 35 (83.3%) | 01 (2.4%) | 42 |
| <i>Compliance</i> | 04 (12.1%) | 23 (69.7%) | 06 (18.2%) | 33 |
| <i>Truth</i> | 01 (16.7%) | 04 (66.6%) | 01 (16.7%) | 06 |
| <i>Total</i> | 354 (19.6%) | 1152 (63.5%) | 304 (16.9%) | 1810 |

Table 2 above presents some words including *evidence*, *justice*, *fair*, *fairness*, *proof*, *evidence*, *witness*, *right*, *compliance*, and *truth* which belong to the semantic field of justice and indicates their frequencies in the texts. The words denote and connote adherence to justice and fair ruling. In order words, the words were selected by the judges to foreground the ideologies of justice and truth. Their reiteration emphasises the notion of fair hearing. The Judges deliberately picked some of the words as used in the counsels' arguments and then reused them in their rulings. These words weave like a thread through the discussion, contributing to its global cohesion. In the three appellate rulings, for

example, terms like *justice fair, fairness, proof, evidence, witness, right, truth, and compliance* are expected lexical replication for emphasising justice. In the cases, repetitions are not actually due to the absence of suitable alternatives but rather the choices purposefully made by the judges. The words *evidence, witness, right, proof, and fact* appeared in 709, 342, 132, 102, 100 times, respectively, in the three cases. This implies that the appellate court rulings were based on substantive evidences, witnesses' testimonies, fundamental rights, proof of evidences, legal principles, and facts. All these words and their connotations are germane in court discourse

Justice words are chosen and used in the rulings because the judges felt that they best represent the idea of justice and fair hearing with the words. Through their use in all the three rulings, these words have become part of the judges' specific vocabulary for upholding and dispensing justice. The use of such words and their associated meanings in a legal context offers an obvious opportunity for acceptance by the litigants, respondents, and the general public.

Collocations Indicating the Judges' Assessment of the Trial Tribunals

Collocation is a form of lexical cohesion in texts. It has to do with mutual expectancy in the use of words to represent experiences (Halliday, 1985). The collocations identified in Tables 3 and 4 specifically relate to the appellate court judges' observations in the earlier Tribunals' rulings.

Table 3: Frequency of Occurrence of Collocations Indicating Tribunals' Failure in the Three Appellate Court Rulings

| Collocations | Frequency Count | | | |
|--|--------------------------------|---------------------------------------|------------------------------|-------------------|
| | Ruling on Agagu vs Mimiko Case | Ruling on Aregbesola vs Oyinlola Case | Ruling on Oni vs Fayemi Case | Total Occurrences |
| <i>Miscarriage of justice</i> | 11 (73.3%) | 01 (6.7%) | 03 (20.0%) | 15 |
| <i>The Tribunal failed to'</i> | 03 (37.5%) | 03 (37.5%) | 02 (25.0%) | 08 |
| <i>The Tribunal erred in law</i> | 02 (28.6%) | 03 (42.8%) | 02 (28.6%) | 07 |
| <i>The Tribunal wrongly rejected</i> | 01 (16.7%) | 04 (66.6%) | 01(16.7%) | 06 |
| <i>The Tribunal clearly misdirected itself</i> | 02 (33.3%) | 03 (50.0%) | 01 (16.7%) | 06 |
| <i>The Tribunal is clearly wrong</i> | 01 (20.0%) | 02 (40.0%) | 02 (40.0%) | 05 |
| <i>The Tribunal wrongly ded that</i> | 02 (40.0%) | 01 (20.0%) | 02 (40.0%) | 05 |

Our collocational analysis *shows the judges' commitment to upholding justice*. In other words, in spite of the fact that the trial tribunal judges are part of the legal system in the country, the appellate court judges were bold in nullifying some of the earlier verdicts of the tribunals. Table 3 shows clearly the frequency of collocations indicating appellate court judges' reactions to the tribunals' failure in their trial of the three election petitions. Through the incorporation of common lexical collocations such as

The Tribunal wrongly concluded that (appearing in 5 times)

The Tribunal erred in law (appearing in 07 times)

The Tribunal wrongly rejected (appearing in 6 times)

The Tribunal wrongly misdirected itself (appearing in 6 times)

The Tribunal failed to (appearing in 15 times)

the judges indicate that the trial tribunals in the election cases erred in some of their decisions. Hence, many of the decisions of the tribunals were later set aside by the appellate judges. The judges also strengthen their arguments and make the rulings more objective and acceptable to the audience. In order words, collocations enhance meaning-making, connection-building, and relationship-construction in the three appellate court rulings. In the spirit of justice, the collocations in table 3 suggest that the appellate court judges observed that the tribunal judgments were not in order in the case of Aregbesola vs. Oyinlola and Oni vs. Fayemi where the Tribunal had earlier ruled in favour of Aregbesola and Oni, respectively. The appellate court rulings eventually nullified the tribunals' rulings on the two cases.

Table 4: Frequency of Occurrence of Collocations Indicating Tribunals' Adherence to Principles of Fair Hearing in the Three Appellate Court Rulings

| Collocations | Frequency Count | | | |
|--|--------------------------------|---------------------------------------|------------------------------|------------------|
| | Ruling on Agagu vs Mimiko Case | Ruling on Aregbesola vs Oyinlola Case | Ruling on Oni vs Fayemi Case | Total Occurrence |
| <i>The Tribunal was right</i> | 04 (23.5%) | 11 (64.7%) | 02 (11.8%) | 17 |
| <i>Fair trial</i> | 02 (28.6%) | 01 (14.3%) | 04 (57.1%) | 07 |
| <i>The Tribunal rightly nullified</i> | 02 (40.0%) | 01 (20.0%) | 02 (40.0%) | 05 |
| <i>The Tribunal rightly found that</i> | 01 (25.0%) | 02 (50.0%) | 01 (25.0%) | 04 |

Table 4, however, presents the frequency of collocations further showing the appellate court judges's evaluation of tribunals' adherence to fundamental legal procedures. Through the incorporation of common lexical collocation such as

The Tribunal was right (appearing in 17 times)

The Tribunal rightly nullified(appearing in 05 times)

The Tribunal rightly found that (appearing in 04 times)

And so on, judges indicate that the trial tribunals in the election cases adhered to legal procedure and principles in some of their decisions. Hence, few decisions of the tribunals were upheld by the appellate judges. For example, the tribunal's judgment in the case of *Agagu vs. Mimiko* was upheld by the appellate court as the following excerpt indicates.

In the final analysis, it is clear that all the appeals lack merit. They are accordingly dismissed. The judgment of the tribunal delivered on the 25th day of July, 2008 is hereby affirmed.

(*Agagu vs. Mimiko* pg 56)

With the use of collocations that have both positive and negative connotations, the judges also implicitly defend their rulings, presenting their decisions in expressions that help to make them unprejudiced and acceptable to the audience.

Grammatical Representation of Justice

Transitivity

Transitivity offers a network of inter-related options for representing different types of experience — experience of the material world, of the world of our inner consciousness, of the world of symbolization, and so on (Halliday and Matthiessen 2004). The central idea of Halliday and Matthiessen (1999) is that transitivity is the foundation of representation; it is the way the clause is used to analyse events, actions, and situations as being represented in different communication encounters. Transitivity is of great interest in the analysis of legal communication because judges say and do many things which can be analysed with various transitivity processes. Transitivity makes options available to the language user; thus some possibilities are always suppressed and the choice a judge makes may suggest that the judge's point of view is ideologically significant. Court rulings provide abundant examples of the ideological significance of transitivity. Halliday and Matthiessen (2004) identify some processes according to whether the clause expresses actions, speech, states of mind or states of being. They include material processes (process of doing), relational process (process of being), verbal process (process of saying), and mental processes (process of sensing).

By selecting from the range of processes, judges can present rulings to the appellants, respondents, and the public with an ideological slant imposed upon them. People, parties, and institutions can be presented as actors or recipients of actions, and they can be presented in terms of their behaviour or qualities. The appellate court judges in the three appellate decisions studied utilise the strategy of verbal, material, relational, and mental processes of transitivity in their rulings. These are instantiated below.

Verbal Process of Saying

The verbal process is very important in the court discourse as it relates the verbs of saying. According to Crystal and Davy (1969:193), the word 'say' is important in the legal context because in court discourse all intentions of the judges must be clearly stated in trying to arrive at decisions. In other words, verbal process of saying helps to denote what the judges actually say in relation to the cases. According to Halliday and Matthiessen (2004), in the verbal process of saying, the participant roles related to the verbal process are that of the 'sayer' (the individual who is speaking) and the 'receiver' (the addressee E.g. addressee to whom the process is directed). Then there is the 'verbiage' (what is said). Verbal clauses form an important device in various kinds of discourse. Examples of verbs that can serve as process in different verbal clause types include said, claim, assert, reply, point out, suggest, tell, report, quote, praise, insult, flatter, blame, criticise, announce, promise, threaten, persuade, convince, entreat, and implore (Halliday and Matthiessen 2004). The verbal process is exemplified below:

There was, also, the testimony of PW11: this was the witness: who, under cross-examination, gave evidence as to what he saw; who, under cross-examination by the 4th - 1365th respondents, **asserted** that election was peaceful before PDP thugs arrived; and who was not cross-examined by the 13 66th-13 67th respondents. (Aregbesola vs. Oyinlola p.76)

The judgment of the tribunal delivered on the 25th day of July, 2008 is hereby **affirmed**.

(Agagu vs. Mimiko p.56)

Learned senior counsel for the appellant had **suggested** earlier in this brief that the documents were admitted with the concurrency of both parties with the understanding that they would subsequently object to or cross-examine on them.

(Agagu vs. Mimiko p.39)

Learned counsel **pointed out** that up to the time of filing this reply and about 3 months after filing the petition, the 1st respondent/petitioner himself had not even filed the documents he intends to use at the hearing of the petition. (*Oni vs. Fayemi*, p. 21)

Material Process

Material process of transitivity is the process of doing. In other words, it is synonymous with action clauses which are betrayed by action verbs including develop, form, assemble, petition, paint, establish, nullify, dissolve, uphold, submit, appeal, entertain, contest, fault, appeal, and dismiss. The material process expresses the notion that somebody or something does something to some other person or entity. The material process has two inherent participant roles associated with it – the actor, an obligatory element that represents the ‘doer’ of the process expressed by the clause. The second is an optional goal which represents the person or entity affected by the process. Halliday and Matthiessen (2004) affirm that goal implies ‘directed’ at.

The appellant and several other candidates including the 1st respondent **contested** the election for the office of Governor of Ekiti State, which was held on 14th April, 2007. At the end of the election, the 2nd respondent declared the appellant duly elected as Governor of Ekiti State.

(*Oni vs Fayemi p.3*)

We therefore **arrive at the inevitable** conclusion that the voters' registers represented in exhibits 78 and 1258 have so abused the whole purpose of the presumption of regularity and genuineness that they cannot enjoy such presumption.

(*Agagu vs Mimiko p.35*)

The tribunal held that the application had merit and ruled as follows:-

The ballot papers shall be counted in the presence of 2 representative of the petitioner and the 1st, 2nd, 3rd - 14th and 15th and 16th respondents each. (*Agagu vs. Mimiko p.21*)

Dissatisfied with the said judgment, the petitioners **appealed to court** by the notice of appeal dated 14 June 2010 and filed on 16 June 2010. (*Aregbesola vs Oyinlola p.28*)

I agree with the submission of the learned senior counsel for the appellant that if there is an error in the calculation of the lawful votes cast at the Ondo State Governorship election of 14th April, 2007 by the trial tribunal then the consequential declaration of the petitioner as the elected Governor of the state cannot stand. (*Agagu vs Mimiko p.37*)

The learned senior counsel for the appellants **submitted** that there are two fold allegations arising from the petition. (*Aregbesola vs Oyinlola p.36*)

I therefore agree with the learned senior counsel for the respondent that the situation "is a study in prolixity". (*Agagu vs Mimiko p.8*)

Mental Process

This process relates to expressions having verbs of cognition and understanding. The mental process is concerned with sensing - perception, cognition, intention, and emotion; configurations of a ‘process of consciousness involving a participant endowed with consciousness and typically a participant entering into or created by that consciousness’ (Halliday and Matthiessen, 2004:197). The mental process is often signalled by verbs such as sense, worry, like, see, notice, smell, believe, understand, conjecture, wonder, doubt, think, convince, surprise, decide, agree, comply, rejoice, regret, comfort, please, afraid, shock, etc.

I am respectfully unable to agree with learned senior counsel for the appellant's submission that the only plea of the first respondent on Irele V ward 10 was as per paragraph 21.6(x)(i) which reads as follows:-

"Form ECSB for Irere V ward 10 is not signed by any party and the form is severally altered without any endorsement. (*Agagu vs Mimiko* p.30)

I agree with learned counsel for the appellant that they are no authority for rejection of evidence or testimony of a witness. (*Agagu vs Mimiko* p.34)

When plaintiffs' third witness **wanted to** lead evidence on it he was stopped by objection from adducing evidence on it. (*Agagu vs Mimiko* p.49)

Learned senior counsel for the appellant **argued** that the allegation of violence, rigging and other malpractices were not linked directly or indirectly to the appellant. (*Agagu vs Mimiko* p.22)

Relational Process

Relational process of transitivity expresses the process of being and having. As Halliday and Matthiessen (2004) put it, relational process tends to characterise and identify. It relates to a clause in which the process takes the form of a relation between two participating entities, or between one participating entity and an attribute. Both of these two types may have the appropriate form of the verbs 'be' and 'have'.

The petitioner, Dr. Rahman Olusegun Mimiko, was the candidate of the Labour Party and first respondent herein, Dr. Olusegun Agagu filed his reply to the petition on 13th June, 2007 thereby joining issues with the petitioner. (*Agagu vs Mimiko* p.7)

The appellant's complaint in this issue is unmeritorious since more than half of the votes cast in each of Apoi II ward 002 and Apoi III Ward 003 had been found to be unlawful votes. Issue 7 is also resolved against the appellant. (*Agagu vs Mimiko* p.38)

The tribunal was, therefore, right to have acted on the exhibits and ballot papers relating to the election in the manner it did because the petitioner took steps to ensure that the voting papers were tied by credible evidence to every unit, ward and Local Government from which they derived. (*Agagu vs Mimiko* p.41)

In the final analysis, it is clear that all the appeals lack merit. (*Agagu vs Mimiko* p.56)

In the result and for all the reasons stated, this appeal succeeds (*Oni vs Fayemi* p.26)

The evidence of the expert witnesses called on all the sides could not be relied upon. (*Fayemi vs. Oni* p.12)

From the examples cited above it can be deduced that the appellants and respondents are agents of all the four kinds of processes: material, mental, verbal and relational but they are actors of material processes mostly in case description in the three reported appellate cases. In most material processes where the appellants appear as *actor* the trial tribunals serve as *goal*, i.e. the recipient of the actions of the appellants (e.g. *the learned senior counsel for the appellant submitted that there are two fold allegations arising from the petition... Aregbesola vs. Oyinlola* p.36). The appellants are reported as performing verbal process (e.g. *Learned counsel pointed out that up to the time of filing this reply... Oni vs. Fayemi* p.21), mental process (e.g. *Learned senior counsel for the appellant argued that the allegation of violence, rigging and other malpractices were not linked directly or indirectly to the appellant... Agagu vs. Mimiko* p.22) and relational process (e.g. *The petitioner, Dr. Rahman Olusegun Mimiko, was the candidate of the Labour Party... Agagu vs. Mimiko* p.7), when the trial judges are presenting the prayers of the appellants.

The judges and or the Appeal Court are presented as agents of different kinds of processes: verbal, material, mental, and relational. However, they mostly serve as agent in the verbal process (e.g. *the judgment of the tribunal delivered on the 25th day of July, 2008 is hereby affirmed... Agagu vs. Mimiko* p.56), mental process (e.g. *I agree with the submission of the learned senior counsel for the appellant... Agagu vs. Mimiko* p.34) and relational process (e.g. *in the final analysis, it is clear that all the appeals lack merit Agagu vs. Mimiko* p.56). The appellate judges deploy relational process to

describe actors in the three appellate rulings analysed, to depict the relationship between an instant case and its precedents, to portray the weight of evidence and worth of arguments or issues, to label tribunals' rulings, and to pronounce judgments on the appeals brought by the appellants. The judges apply the relational process to assign either positive or negative attributes to the rulings of the tribunals that first tried the cases. This situation paints a picture of the appellate rulings essentially as a non-active. The appellate court judges carefully present their ruling in such a way that the public will see them as neutral or unbiased. In other words, it is not the judges that act but rather the law or the Appeal Court. In few instances where the judges the appellate court appear as actors in a material process, the goal (the party that receives the action) is never directly the appellants or the respondents, but rather a nominalised process (*I agree with the submission of the learned senior counsel for the appellant that if there is an error in the calculation of the lawful votes cast... Agagu vs. Mimiko p. 37*).

The analysis of the transitivity pattern in the three reported appellate rulings has, therefore, showed that the judges, or the Appellate Court, do not act directly upon the two parties most affected by appellate decisions (the appellants and the respondents) but rather upon the appeal, either admitting or dismissing it. This is done to mitigate the power that they exert over appellants and respondents: their actions are often presented as affecting not human agents, but mainly nominalised processes (e.g. 'the appellant's application', 'the respondent's evidence', etc). In the cases of *Agagu vs. Mimiko* and *Oni vs. Fayemi*, where the court rulings do not favour the appellants, the decisions are syntactically presented in the passive or through nominals, thus circumventing the presentation of 'learned' legal practitioners as their agents. In other words, judicial ideology (the assumption that all legal practitioners professionally belong to the learned group – an ideology symbolised by the white wig) is reinstated in the appellate court-rulings. Thus, the "learned counsels" are not represented as having failed but rather it is the appeals that failed.

Active and Passive Voices

Active and passive voices are two related syntactic devices. The active voice involves bringing the actor to the focus in a way that the reader easily sees and understands who is doing what while passive voice brings the receiver or experiencer of the action to the fore (Scollon 1998). Some particular effects can be created by placing the actor or agent in a less prominent position in a sentence or by completely de-emphasising (removing) the agent. However, the choice of either active voice or passive voice and the choice of the specific type of passive voice (agented or agentless), especially in public texts, is not unconnected with the need to express some particular hidden meanings.

Dissatisfied with the said judgment, the petitioners appealed to court by the notice of appeal dated 14 June 2010 and filed on 16 June 2010. (*Aregbesola vs. Oyinlola p.28*)

Submitting further on issue 17, the learned senior counsel to the appellant faulted the tribunal in failing to take certain documents into account. (*Aregbesola vs. Oyinlola p.29*)

The texts above are constructed with the active voice. The actors are also either the petitioners, appellants, or respondents. The choice of active voice for representing appellants, respondents, issues, petitions, and arguments is to allow the judges to objectively present the background to the cases and the trial processes of the cases at the various tribunals. In other words, the actions are directly attributed to the appellants, respondents, and counsels while the judges are absolved. For example, the use of the learned senior counsel faulted the tribunal in failing to take certain documents into account, helps the judges to imply that the eventual setting aside of the ruling of the trial tribunal in *Aregbesola vs. Oyinlola 2008* was occasioned by the submission of the learned senior counsel to the appellant.

The judgment of the tribunal delivered on the 25th day of July, 2008 is hereby affirmed. It is therefore ordered as follows:

(1) That the election of the appellant, Dr. Olusegun Agugu, as the Governor of Ondo State at the Governorship election of 14th April, 2007 be and is hereby nullified.

(2) That the first respondent, Rahman Olusegun Mimiko, having satisfied the requirement of section 179(2)(a) and (b) of the constitution of the Constitution of the Federal Republic of Nigeria 1999 and by virtue of section 147(2) of the Electoral Act, No.2 of 2006 be and is hereby declared as the Governor of Ondo State of Nigeria. (*Agagu vs. Mimiko* pg 56)

The ruling of the Tribunal refusing the application for an extension of time and for leave to file the "Bundle of Documents referred to in the reply of the appellant is hereby set aside. (*Oni vs. Fayemi*, p. 26)

In the texts above, the utterances are constructed with the passive voice. The actors are also deleted. In other words, agent that is affirming, nullifying, declaring, and setting-asides, is deliberately obscured. The choice of passive voice for presenting the Appeal Court's decisions is a way of hiding the powerful position of judges or down-toning their decisions. In other words, the power and decisions in the rulings are attributed to the law or the Appeal Court and not the judges. This is connected to the fact that election cases are very sensitive in Nigeria and their rulings can cause crises or death. Therefore, the appellate court judges exploit the passive voice to shield themselves so that they are not seen by the public as being responsible for the failure of any of the parties involved in the sensitive election cases.

Modality: Attitudinal Representation by Disjunct

Modality supports the verbal process and it helps to make the intention of the judges clear. Modality refers to the way in which a text syntactically expresses attitude towards a person, situation, or policy (Scollon, 1998). In other words, with the use of modal verbs such as *can, will, shall, may, must, could, would, should, might*, and other modal phrases including *it seems, it is possible, may be, and probably*, the writer can set the tone of the text to convey the degree of certainty or authority, doubt or surety, possibility of impossibility, contingency or necessity of something (McGregor, 2003). As Watson and Hill (2006:177) suggest, modality serves to insert 'yes but' into representation of truth or reality. The judge may deploy this syntactic resource to present his or her decision and ideologies.

Attitudinal disjunct is found within the context of modality and performs some interpersonal functions. It expresses comments of a speaker, shows his or her attitudes and reveals his or her evaluation of a situation (Fowler 1991). Also, Fowler (1991) identified certain linguistic means of expressing modality and they include modal and sentence adverbs (such as "probably" and "surely") and evaluative adverbs (such as "fortunately" and "regrettably"). The sentence adverbials are otherwise called disjuncts. Judges in their rulings in the three appellate cases, exemplified in the data below, deploy attitudinal disjuncts to assert their conviction about their decisions.

From the content of the above, **it seems** to me that this provision was specifically enacted to save proceedings in courts/tribunals which would otherwise have been thrown out on technicalities Without affording litigants the opportunity of either ventilating their grievances to the hilt or defending actions against them to the full extent. (*Oni vs. Fayemi*, p.23)

In view of all the foregoing, **it seems** quite clear to me that the Tribunal has failed to exercise its discretion in accordance with the appropriate provision of the law governing applications of this nature. (*Oni vs. Fayemi*, p.23)

It appears to me from the study of the chart at page 7074 that there had been *lapsus calami*, an omission in the case of units 8 and 24 where Form EC8A was not produced. (*Agagu vs. Mimiko*, p.46)

I think it is essential for better appreciation of the issue to set out the averment relevant to the areas in dispute in the petition stripped of its allegations of crime. (*Aregbesola vs. Oyinlola* p. 43)

With the use of modality (indicated in bold in the data above), the judges indicate probability. The use of modality markers such as the modal shifts 'it seems to me', 'it appears to me' and 'I think...' indicate that the judges' comments or statements are not generally or fundamentally acceptable but rather, personal opinions. In other words, in the course of presenting the background to the cases and delivering their judgments, the trial judges encounter a variety of assessable facts about which they express their viewpoints, interpretations, or perspectives. But rather than straightforwardly commit themselves to a particular perspective, the judges occasionally choose to be more cautious or circumspect. What becomes most evident in the use of modality in the rulings is the avoidance of strong declarations of fact and the shifting of authorship to outside sources. The results of the deployment of modality are twofold: on the one hand, a more neutral footing is achieved, and, on the other, the views of the judges are expressed in a way that they appear to be more generally accepted.

What is more, our close reading of page.184 of vol 7 intimates us that the tribunal, actually, acknowledged PW80 as a finger print expert. (*Aregbesola vs. Oyinlola* p. 82)

We think that the learned trial Judge was clearly in the wrong when he decided to uphold the preliminary objection of counsel for the defendants at the particular stage of the proceeding when the statement of defence has already been filed and the issue joined between the two parties. (*Agagu vs. Mimiko* p.13)

Surely, the tribunal's view of expert opinions does not tally with the long line of authorities on the point. We are satisfied that this witness PW82 is an expert. (*Aregbesola vs. Oyinlola*, p.85)

For that reason, it is undoubtedly in the interest of justice to intervene in order to prevent a miscarriage of justice. (*Oni vs. Fayemi*, p.24)

With profound respect to the tribunal, its above findings were products of illogical obscurantism. PW81 never arrogated the status of expert to himself. His evidence was that he participated in the physical inspection of electoral materials. His testimony was therefore, based on the things apparently observed on the electoral materials. (*Aregbesola vs. Oyinlola* p. 84)

The texts above reveal how judges in their rulings use disjuncts to express their conviction that the tribunal that tried *Agagu vs. Mimiko* erred in law. The attitudinal Disjuncts such as actually, clearly, surely, undoubtedly, and apparently are used in the texts above to depict confidence and firmness about the judges' decisions. In other words, the judges deploy the disjuncts to express a high degree of conviction about their decisions that the tribunals erred in law in some cases.

Regrettably, however, the tribunal imputed certain conclusions which were not derivable from this witness' testimony to him, see, for example, page 184 of vol 7 of the record for its erroneous interpretation of the aspects of his evidence (*Aregbesola vs. Oyinlola* p. 82).

Now, notwithstanding the tribunal's finding that PW80 is an expert and actually admitted the reports he made, it surprisingly refused to accord any weight to the said reports. It reasoned that the witness did only 10% of the work. (*Aregbesola vs. Oyinlola*, p. 82)

Instead of evaluating the pieces of evidence this witness adduced by placing them on an imaginary scale, as shown above, the tribunal rejected them for extraneous reasons: reasons which were, irreparably nonsequitur. (*Aregbesola vs. Oyinlola*, p. 84)

The texts above reveal how the judges in their ruling use the attitudinal disjuncts regrettably, surprisingly, irreparably to express their shock about some unexpected or non-procedural decisions taken by the tribunals. Regrettably, surprisingly, irreparably are expressions of shock, disappointment, and lost hope. With the deployment of these disjuncts, the judges describe the trial tribunal's decision on the cases as being in sharp contrast with the high responsibility and trust placed on it. With the disjuncts, the judges revealed their dissatisfaction with the refusal of the tribunal to accord any weight to the witness' testimony.

Conclusion

The appellate court rulings examined in this paper display a celebration of the triumph of justice. This is demonstrated in lexico-syntactic choices made by the appellate court judges. In other words, the language of the three appellate court rulings studied is characterised by some functional lexical replication and collocation for upholding and dispensing justice. Through lexical choices and collocations, the appellate court judges sustain a persuasive texture in the composition and communication of their rulings. The judges dispassionately expressed their viewpoints, interpretations, and perspectives about the cases by exploiting linguistic resources for objective reference and factuality. Through the detailed analysis of lexical and syntactic patterns, the study has uncovered the commitment of the appellate judges to the value of justice in a peculiar Nigerian society. Therefore, a close linguistic analysis is very relevant to legal discourse.

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