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## A Genre Analysis of Selected Substance-based Judgments of the Nigerian Supreme Court

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### Abstract

This study examines the generic structure of substance-based judgments of Nigerian Supreme Court lead judges. Data consist of fifteen purposively sampled judgments, qualitatively analysed using the generic structure potential approach and the transitivity system. The result shows that the analysed judgments have thirteen macro-structural elements which comprise nine obligatory and four optional elements, realised through major and minor process clauses. The obligatory elements circumscribe the lead judges to their discourse community norms while the optional elements in the judgments are instances of contextual variation in the analysed genre. **Key Words:** Generic Structure, Judgments, Nigerian Supreme Court, transitivity.

### Introduction

Judgments, especially in supreme courts, in a Common Law system are authoritative texts (Vazquez-Orta, 2013:94). They act as “faithful records of all facts of a case, the judge’s argument, his/her reasoning and the verdict s/he arrives at, which are used as precedents for subsequent cases” (Bhatia, 1993:119). Thus, they are described as the final part of a lawsuit where all contested issues are resolved. As such, they are structured in a way that all information necessary for proper adjudication of cases is included in them. Attempts at understanding such structuring in terms of the formal and functional properties of

judgments, have resulted in many genre-based studies (of Supreme court judgments) which have focused on the unique rhetorical practices of judges in drafting their opinions, largely from the move structure perspective (e.g., Maley, 1985; Bhatia, 1993; Mazzi, 2007, Vazquez-Orta, 2013; Fakhri, 2014). Although these studies have shown that Supreme Court judgments have similar rhetorical moves which qualify them as members of the legal discourse community, they are one sided. This is because the previous genre studies investigated the professional genre mainly from the specific purposes approach, which limits the description of the correlation between text internal and external rhetorical

realities of the genre, provided by other genre analysis approaches (e.g., generic structure approach). Moreover, previous genre-based studies of Supreme Court judgments have concentrated on generic structural realities in Western court judgments, which may not fully account for such realities in other legal contexts (e.g., Nigerian court judgments), based on the knowledge that the features of similar group of texts depend on the social context of their creation and use (Hyland, 2002). Since the social context in which Nigerian Supreme Court judgments are created and used is not totally the same as those of the already researched Western courts, there is the need to examine the communicative and functional realities of the said genre in the Nigerian legal context. To this end, this study seeks to examine substance-based Nigerian Supreme Court judgments in terms of its schematic structure and the communicative purposes of such structure in the delivery of the overall communicative goals of the judges.

While there are several linguistic studies on court judgments, they are still largely understudied, especially in terms of the rhetorical structure of non-Western court judgments. Existing studies have rather explored politeness strategies (Kurzon, 2001); argumentative patterns (e.g., Mazzi, 2010; Feteris, 2017), and discourse moves (e.g., Tracy and Hodge, 2018) in judgments. Others have investigated pragmatic acts (e.g., Ogunsiyi and Olaosun, 2012); interpersonal features (e.g., Mazzi, 2014; Breeze, 2018; Gozdz-Roszkowski, 2019), and critical discourse features (e.g., Kalejaiye, 2016; Sanni, 2016), in the judgments. These, however, have not paid attention to the schematic structures of Nigerian Supreme Court judgments.

The few genre-based investigations of judgments have focused on the rhetorical moves of Western courts such as English courts (Bhatia, 1993), Irish/English and

European Communities courts (Mazzi, 2007), the US and Chinese courts (Cheng et al. 2008, Vazquez-Orta, 2013). These studies share the view that these courts have common features, especially the key features a typical judgment should have. For instance, Bhatia (1993:243) finds that a civil judgment consists of a linear four-move structure which includes *identifying the case, establishing the facts of the case, arguing the case and pronouncing judgment*. The study adds that *arguing the case* sub-divides into *stating the history of the case, presenting arguments and deriving ratio decidendi* (that is, the rationale on which a judicial decision is based). In a similar study, Mazzi (2007:26) examines the English, Irish and European Communities (EC) judgments and submits that English and Irish court judgments have a similar linear four-move structure with only the inclusion of a sub-move under arguing the case which is *identifying the conflict of categorisation*. The study contrasts these structural realities in the Common Law judgments with the European Communities and finds that EC judgments have a slightly different structure, implying that no two court judgments are the same.

Taking a different approach, Daniel and Unuabonah (2020) analyse the generic structure of procedure-based judgments of the Nigerian Supreme Court, and find eight structural elements which did not fully account for the macrostructure of substance-based ones. The present study, therefore, aims at interrogating the generic structure potential of substance-based Nigerian Supreme Court judgments against the backdrop of already established structures. This specifically extends the frontiers of existing genre studies of judgments by shedding light on the structuring of judgments in a non-Western context.

## **The Nigerian Supreme Court and its Judgments**

Nigeria like other former British colonies adopted and retained the legal system of her metropole after independence. This has been attributed to the age-long exposure to and familiarity with the legal structure, one which Nigerian elites and leaders were proficient in and used during the struggle for independence (Joireman, 2001). The adversarial judicial system grounded in the Common Law has since been practiced in the Nigerian legal system.

At the heart of the Common Law legal system is the court and her judgments which are highly revered documents used to inform members of the bench and the bar on the outcome of a case (Daniel and Unuabonah, 2020). In Nigeria, courts are classified based on their hierarchies of operation, the highest of them being the Supreme Court, established and recognised by the Nigerian constitutions as the court of last resort. It replaced the Privy Council in 1963 and has since occupied a pre-eminent position in Nigeria being primarily a court of appeal, but exercises some degree of original jurisdiction in civil matters. In its appellate jurisdiction, it has an exclusive power to hear and determine appeals from the Court of Appeal in cases between the federation and a state, between states or individuals. Usually, when presiding over a case (whether civil or criminal), it is made up of a panel of not less than five judges. The five judges write their opinions on each case presided over. Among these five, one is the lead judgment and four others, could be consenting or dissenting judgments. The lead judgment is usually the consistently lengthiest of them as it details all expected parts of a judgment and represents the reasoning of the lead judge on the case. In a previous study of Nigerian Supreme Court judgment, Daniel and Unuabonah (2020), find that the communicative goal of the judgments which could be substantive or procedural, determine the structural

components of such judgments. On the one hand, a substance-based judgment is that which the judge writes to resolve issues bothering on ownership or rights of parties in the case. On the other hand, the procedural judgment is that type of judgment which the judge writes to resolve legal technicalities or procedural shortcomings raised by either of the parties on the case. This study analyses the generic structure of substantive lead judgments using the generic structure potential theory and the transitivity system with a view to revealing possible instances of contextual or regional variation (Mazzi, 2007) inherent in such judgments which may not be present in other judgment types.

### **Generic Structure Potential and the Transitivity System**

The concept of genre means different things to different fields of enquiry; in fact, its multidisciplinary tendency has made the description of the concept a complex and controversial one (Solin, 2011). In linguistics, genre research is perceived as the description of texts being socially situated in semiotic practices. Such linguistic descriptions have been done from a number of approaches such as the new rhetoric (Freedman and Medway, 1994a, 1994b), specific purposes (Swales, 1990; Bhatia, 1993), and the Sydney school or functional linguistics approach (Hasan, 1984; Ventola, 1987; Martin, 1992). The latter has been chosen for its schematic structure model (Hasan, 1977, 1979, 1984), which allows an identification of the correlation between specific forms that are characteristic of specific genres.

The generic structure model is therefore deemed suitable for the present study of Nigerian Supreme Court judgments as it enables a descriptive and systematic account of the linguistic realisation of generic stages in judgment delivery.

The Sydney school approach to genre analysis as an offshoot of Systemic Functional Linguistics, developed from register studies which claimed that particular lexical features are not evenly distributed across texts but that language users make different linguistic choices in different stages of interaction (Solin, 2011). This led to the study of generic staging, where staging is described as “the major linguistic reflex of differences in purpose” (Eggins and Martins, 1997:236). To this school, spoken or written texts are seen as a social process which unfolds in stages and for specific communicative goals or ends. To describe such social and goal-oriented textual realities, emphasis is placed on the lexico-grammatical resources which distinguish a genre from another. One of the major models in the Sydney school is the generic structure potential proposed by Hasan (1984) otherwise known as generic staging (Coffin, 1996).

Generic Structure Potential (GSP) stems from the parent concepts of contextual configuration (a list of important features of a social event) and context of situation and has been described as a statement of the structural resources available within a given genre (Hasan, 1989). A GSP is a condensed statement of the conditions under which a text will be seen as one which is appropriate to a specific Contextual Configuration (Ansary and Babai, 2009). It presents the total range of optional, iterative and obligatory elements (which may be in different sizes, but usually contain at least one proposition) and their order in the text through the use of notations such as the caret sign (^) to show the sequence of the elements; round brackets ( ) to stand for the optionality of enclosed elements; a dot between the elements (.) to represent ‘more than one’ option in a sequence; square brackets [ ] to specify the restraint on sequence; arrows ( $\overleftrightarrow{\hspace{1cm}}$ ) to show iteration; and braces with curved arrows { } to indicate that the degree of iteration for the elements in the square brackets is equal. The study examines the GSP of the Nigerian Supreme Court judgments in order to account for the optional, iterative and obligatory elements while also stating the sequence of the

elements in the text as against already established structures of Western court judgments. The structure which is obviously at a level above the clause is described using the transitivity system to relate the rhetorical structures of judgments to the semantic and grammatical organisation of the texts. This is necessary, to situate the social meaning of the judgments (represented in the GSP), within the ambit of the form and functions of lexico-grammatical features which typically represent each element of the generic structure (Tucker, 2009), thus limiting the possibility of a surface level analysis of the texts.

Within the Systemic Functional Grammar model, three key lexico-grammatical systems function at the clausal level. They include the systems of transitivity, mood and theme. The semantic system embodies the three major levels of meaning in language - the ideational, interpersonal and textual. Of the three systems, the transitivity system is more relevant to this study as it offers the tools necessary to explaining the choices made in instances of language use for the purpose of representing realities in different genres.

The transitivity system is ‘set up to construe our experience of the flow of events, which is chunked into quanta of change by the grammar of the clause, with each quantum of change modeled as a figure - a figure of happening, doing, sensing, saying, being or having’ (Halliday and Matthiessen, 2004:170). In constructing clausal structures, choices are made on which process is appropriate for the representation of the idea to be described. These processes are classified into two broad groups: the major processes (material, mental, and relational) and the minor processes (verbal, existential and behavioural processes). They are briefly explained in turns.

*Material Process* clauses are the clauses of ‘doing’ and ‘happening’ (e.g., filed or counterclaimed). They express abstract and concrete ideas. *Mental processes* are processes of sensing (e.g., felt or deemed), which may be “construed either as flowing from a person’s

consciousness or impinging on it; but it is not construed as a material act' (Halliday and Matthiessen, 2004:197). *Relational processes* are said to characterise and identify. They can be attributive or identifying. In the attributive mode, an entity has some features or 'class' ascribed to it, (e.g. *was* wrong). In the identifying mode on the other hand, one thing is used to identify the other (e.g., *This appeal is against that judgment*). *Behavioural processes* are processes of psychological and physiological behaviour such as breathing, coughing and smiling among others (e.g. observed or smiled). *Verbal clauses* are clauses of saying (e.g., says, or stated). The Process in the verbal clause is a verbal group, where the function of saying is realised by the lexical verb. *Existential processes* represent the fact that something exists or happens. The transitivity system also accounts for other elements such as participants and circumstance but our focus here is on the construal of different experiences in the generic structure through processes.

### Data and method

The data for the analysis are fifteen purposively selected Nigerian Supreme Court lead judgments of civil cases. They were chosen because judgments here are final and are written by the highest cadre of judges in the Nigerian judicial system. The choice of civil cases hinged on the fact that they are not unanimously instigated and are open ended (can be instituted by anyone and on any legal issue). They were also selected to lay the groundwork for other type of cases (e.g., criminal) which may be taken up for further research.

The cases were selected via convenience sampling from the *Nigerian Weekly Law Reports* due to the size of the corpus and to the fact that in the law reports both civil and criminal cases are packed together. Due to the limitation of the method, it was used with extreme caution. Also, to avoid the possible influences of generational and

diachronic variation in the style of the genre, only those published between 2006 and 2015 were chosen; that is, two judgments per year, and each judgment is between 7000 -10000 words long. It should be noted that judgments are public documents meant to serve members of the bench and the bar (that is, professionals and non-professionals); thus, require no special ethical procedure to assess them.

The judgments were broken into rhetorical units. Linguistic markers of coherence, boundary markers and typographical cues (Ansary and Babaii, 2009) helped in breaking the texts into different rhetorical elements. Other useful tools that aided the recognition of the elements apart from the legal professional's inputs are the judge's text division devices such as paragraphs, italics, subtopics, and numberings. These helped in the initial breaking into chunks. However, typical linguistic boundary markers such as connectors (e.g., starting with the preliminary objection, the crux of the appeal, in the light of the foregoing), marked themes, introduction of new lexical items among others helped in the analysis. Each of the chunks was thereafter coded based on the central idea in the chunk. The codes derived were presented to a legal practitioner for adjustment and alignment purposes which resulted into series of redefinitions and recoding to resolve points of discrepancies and derive a condensed structure comprising obligatory, optional and iterative elements.

The fifteen selected judgments are substance-based, being judgments written to determine the rights and obligations of parties in a case or those based on ownership and substance issues. They differ from procedure-based judgments which are written to address legal technicalities and procedural shortcomings raised by either of the parties (Daniel and Unuabonah, 2020). The schematic structure of the former in relation with the process

types used to realise such structures are presented in section 5.

### Analysis and Findings

The generic structure of substance-based judgments of the Nigerian Supreme Court reveals thirteen rhetorical elements with slight variations informed by the number of issues presented in each case and the style of the judge. Having assembled such variations alongside the salient points, the following elements make up the possible structure of substance-based Nigerian Supreme Court judgment: History of the Case (HC); Facts (F); Issues by Both Parties (IBP); Issues for Determination (ID); Arguments by both Parties (ABP); Summary of Case at the Lower Courts (SCLCs); Summary of Cross-Appeal (SCA); Evaluation (E); Judge’s Position (JP); Review of Court of Appeal’s Judgment (RCAJ); Judgment (J); Order (O) and Judgment Reaffirmed (JR). The macro-structural elements in the substance-based judgments are catalogued thus:



[HC.^ F.^  
 (SCLC).^IBP^ID.^ABP^(SCA)]^^{  
 E^JP}^{[(RCAJ)^J^O^(JR)]

#### The GSP of Substance-based

#### Judgment

The GSP of substance-based judgments shows nine (9) obligatory elements which include: HC, F, IBP, ID, ABP, E, JP, J and O, and four (4) optional elements: SCLC, SCA, RCAJ and JR; while the iterative elements are F, E, and JP. The caret sign shows the sequence of the elements. The round brackets show optionality of enclosed elements. The dots between HC,

F, SCLC and ID indicate that more than one option in a sequence is possible. That is, F may either precede or follow HC; F may even appear at any point but not after J in the structure. The square brackets show the restraint on sequence. They show that neither IBP nor ID may follow SCA or E. The arrows show iteration while the braces with curved arrows indicate that the degree of iteration for the elements in the braces with curved arrows is equal, thus, F, E and JP are iterative. However, E and JP share the same degree of iteration, that is, if E appears twice, JP should also appear twice. The elements are described in the subsections that follow:

### 5.1 History of the Case

HC is an obligatory element in substance-based judgments, as it presents an account of the case from the time it was instigated, to the point it appears at the Supreme Court and also appears in thirteen of the fifteen substance-based judgments analysed. The need to introduce learned colleagues and other interested parties to the background information on the case at hand necessitates this informative element of the GSP. Usually, it details reference to places, date, events and parties to the case. In the data analysed, HC subsumes other elements such as an introduction, pleadings (which includes statement of claim, statement of defense and counter claim), summary of lower courts’ judgments and a conclusion. Example (1) is an instance from the text.

- (1) This is an appeal from the decision of the Court of Appeal, (Ibadan) Division **delivered** on the 23<sup>rd</sup> day of November, 2004, which **affirmed** the decision of an Abeokuta High Court **delivered** on the 20<sup>th</sup> day of September, 1999. The respondent, as plaintiff **sued** the defendant/appellant on a 15-paragraph amended statement of claim for: ... The defendant

**responded** by **filing** a 29-paragraph amended statement of defence and 6 paragraph counterclaims. The defendant **counterclaimed** against the plaintiff as follows...In a considered judgment **delivered** on 20 September 1991, the learned trial judge **gave** judgment in favour of the plaintiff as follows...On 23 November 2005, the Court of Appeal **affirmed** the judgment of the High Court and **dismissed** the appeal with N5,000 costs against the appellant...This appeal **is** against that judgment. In accordance with Order 6, rule 5 of the Supreme Court Rules briefs **were** duly **filed**. The appellant's brief **was** **deemed** duly filed on 9 April 2008, while the respondent's brief **was** **filed** on 26 May 2008. The appellants **filed** a reply brief on 3 June 2008.

Due to its communicative function of introducing the reader to the case, HC in (1), is realised by the relational, material and mental process clauses. Being a narrative part of the judgment and functionally informative, relational process clauses serve to characterise the case while material process clauses report the various activities of the parties. The first introductory clause is a relational process clause where the judge characterises the case using the 'be' verb. This is followed by material process clauses (still in the introduction) which state the various steps taken by other judges, shown in the use of material processes such as *delivered* and *affirmed*. In other words, they are used to narrate the 'doings' of the lower courts' judges on the case. The lead judge moves on in the HC by stating the steps taken by the parties to the case in their pleadings also couched in material processes evident in such words as *sued*, *counterclaimed*, *filing* and *responded*. These are prototypical

registers in a pleading, where an aggrieved party sues the other, by filling an application in court and the sued party responds and counterclaims.

In reporting the judgments of lower courts (still in HC) the judge employs material process clauses involving processes such as *gave*, *delivered*, *affirmed* and *dismissed*. He concludes the HC with a blend of the relational (is), material (were ... filed, filed, was filled) and mental (was deemed...) processes. The relational process re-characterises the appeal, the material processes state the different layers of activities on the case while the mental process introduces the judge's view on the nature of the appellant's brief exemplified in the clause *The appellant's brief was deemed duly filed on 9 April 2008*.

### Facts

F is a core component of substance-based judgments which usually comes before or after SCLC, IBP and ID. It is the major determinant in the distinction between substance and procedure-based judgments. In procedure-based judgments, the judge rather than stating the facts of the case simply goes on to present the technical issues the parties are laying claims to. Facts are the parties' stories, actions taken and other background information that could support their claims. They involve the use of clear figures, coherent and credible incidents that triggered the legal action. This is shown in example (2) and (3).

(2) The plaintiffs **maintained** that the land **known** as Aiyetoro **belonged** originally to the defendants' family Balogun Osolo family. That many years ago, the Balogun Osolo family **made** an outright grant of the land in dispute... and thereby

**became** the absolute owners of same...

(3) The appellants **were** the community resident of Ojaja Quarters of Moore, Ile-Ife, Osun State. The land in dispute **is** an access road between the police barracks and the respondent's building to Moore or Ilesa/Ife major road...

The narrative mode of F necessitates the choice of relational, material and mental processes. Although examples (2) and (3) are facts of cases, they differ in the process clauses used to present them. In (2), the judge employs the material (maintained, made), relational (belonged, became) process clauses, with only an instance of the mental process (known) clause. In (3), F was narrated in relational process clauses. This is because, when presenting the fact, the judge could 'report' or 'narrate' it, or do a combination of the two. In reporting the parties' facts, the judge in (2) made use of material and relational process clauses. In narrating the fact (adapted from either of the parties), the judge in (3), chose the relational process (*is* and *were*) in their identifying capacities to describe the appellants as residents of the said community.. This simply indicates that in writing judgments, the judge has the option of reporting the fact as a third party who is only concerned about making the story behind the case known. He may, however, adopt the most credible of the facts and narrate it, which has a direct consequence on his choice of processes. The relational process is deployed to identify and clarify the stories presented by both parties. To give details of the events, happenings at different points between the parties, the material process is chosen.

### Summary of the Case at Lower Courts

SCLC comes either before or after Facts, as an optional element of the judgments, but before Issues by Both Parties. Here, the lead judge extracts core principles upon which the High Court and Court of Appeal judges based their judgments. This element subdivides into Summary of Case at the High Court (SCHC) and Summary of the Case at the Court of Appeal (SCCA) as shown in (4) and (5) respectively. These are either summarised as one or separated, or even be completely absent at this point in the judgment, depending on the style of the judge.

(4) In the judgment **delivered** on 18 November 1996, the learned trial judge **accepted** that the land in dispute **was granted** to the plaintiffs by the defendants. He **rejected** the plaintiffs' claim for title as he **held** that the grant to them **was** in the nature of a customary tenancy. Heavy reliance **was placed** on exhibit E, which the plaintiffs **maintained was** an unpleaded record of evidence of witnesses and judgment in an earlier case as well as unpleaded exhibits G - G1 by the trial judge who **entered** judgment for the defendants on their counterclaim.

(5) The Court of Appeal hereinafter **called** the court below unanimously **dismissed** the appellants' appeal. Justice Adekeye, JCA as he then **was** and who **presided** over the dismissed appeal **has** this to say on pages 146 - 167 of the record of the proceedings. And on page 159 - 160 Adekeye, JCA as he then **was stated** thus:

In (4) and (5), there is a blend of material processes (delivered, was granted, rejected, entered, called, dismissed, presided, was placed), mental processes (held, accepted), relational process (was, has), verbal process



(maintained, stated). Among the four process types that feature in the two examples, the material process has the highest occurrence. This can be attributed to the fact that the elements SCHC and SCCA present the ‘doings’ of the lower courts’ judges on the case. Mental processes also feature in the examples with words like *held* and *accepted*, used to show the readers some of the mental activities (such as the judges’ *acceptance* of the plaintiff’s claim on the disputed land, while *holding* or *believing* that the said land was granted the plaintiffs as customary tenants) of the lower courts’ judges in determining the case. The relational processes performed identifying and attributive functions in the two examples while the verbal process served substantive and procedural functions. Substantive in the sense that, the verbal process *maintained* was used by the plaintiff to affirm his claim, while the other verbal process *stated* served the procedural function, in the sense that it involves the judge’s act of saying in the course of giving his judgment.

### Issues by both Parties

IBPs are the bones of contention, questions presented by both parties, to be legally addressed. They are obligatory elements of judgments as there can be no judgment without the issues to be addressed. They comprise *Appellant’s Issue* and *Respondent’s Issue*, and are presented separately in the cause of the judge’s presentation of the judgment. The *appellant’s issues* are the questions he/she seeks answers for at the court being the instigator of the case while the *respondent’s issues* are those raised in response to the appellant’s suit. They are presented in examples (6) and (7).

(6) ...Whether or not the lower court *was right* to hold that the conclusion **arrived** at by the director of Ife Area Town Planning Authority in exhibit P7 which **was** a reply

to exhibit D4 letter **written** by the respondent **referring** the dispute between the parties for arbitration before the Town Planning Authority **amount** to a mere advice and **did not create** the land-in-dispute an access road. Whether the lower court *was right* to endorse the trial court’s observation that there **was** other road other than the access road in dispute...

(7) Whether ...the Court of Appeal **was not** right in **upholding** the judgment of the trial court that the appellants **had not proved** their case to entitle them to judgment on the reliefs **claimed**...Whether the court below **was** right when it **held** that suit No. 27/83 **did not constitute** issue estoppel.

Judges in (6) and (7), itemise the issues in contention presented by the appellant and the respondent. It is argumentative in nature as aggrieved parties present their issues in prototypical clauses such as *Whether or not the lower court was right...*; *whether... the Court of Appeal was not right...* As shown in (6) and (7), the element is couched in material, relational, mental and existential processes. The judge’s need to mention some of the deeds of the parties necessitates the use of material processes (*written, referring, did not create, claimed, and had not proved*). Relational processes are used to identify the parties’ issues as either right or not right. Also featuring in IBP are the mental (*held*), and the existential process which can be seen in the complement clause *that there was other road....* The mental process (*held*) introduces one of the arguments of the lower court judge on the disputed suit, while the existential process clause represents the lower court’s claim on the existence of the disputed access road.

### Issue for determination

ID is an obligatory element in the substance-based judgment writing process. It is the point where the judge adopts either of the parties' issues, formulates his, or mixes both parties' issues after reading the issues presented to him. It validates both or either of the parties' issues which are later taken as the focus of the judge's evaluation. This is instantiated in example (8).

(8) A careful review of the pleadings...**reveals** that the threshold issue **is** whether the land in dispute **was sold** or **leased** and whether the findings of both courts below on this issue **was** correct... Accordingly, the appellant's issues 1, 3 and 4 **would not be considered**. They **are** rather prolix and **do not** properly **present** the real issues. Rather the appellant's issue 2, and all the respondent's issues to my mind properly **address** the real legal issues in this appeal. They **are** clear, simple straight to the point and **cover** all the grounds of appeals. They **would be considered** in this appeal.

In (8), the judge's view on the issues presented by the parties is expressed in material and relational process clauses, for the purpose of describing, clarifying and justifying his choice of such issues. The relational processes (is, are, was), were used to clarify the judge's view of the issues he chose for determination, while the material processes (was sold, leased, flow, present, address, would be considered) were used to express the actions of the parties as well as the expected action of the judge. In other words, the judge, in choosing the issues to be determined identifies and describes the preferred issues (that is, the appellant's issue 2 and all of the respondent's issues) and gives justification for her/his preference using the relational process clauses while the material process

clauses were used to comment on the actions or steps taken by the parties (that is, parties' sale or lease of the disputed land) and those to be taken by the judge, which is determining the substance of the issues raised.

### Arguments of Both Parties

ABP is another obligatory element in the substance-based judgments being facts, legal cases, precedents, enacted laws and legal provisions that support the party's position on the issues presented to the court by the parties' counsels on their behalf (appellant and respondent). They are included in lead judgments to feed the reading audience on the parties' arguments which inform the judges' arguments in the latter part of the judgments. In terms of sequence, ABP comes after ID and is shown in examples (9) and (10).

(9) On behalf of the appellants, it **was submitted** that exhibits E, G and G1 **were duly pleaded**. It **was contended** that exhibit E **was** admissible... Learned counsel **maintained** that exhibit E **is** relevant and **was** sufficiently pleaded...

(10) Learned senior counsel to the respondents further **observed** that exhibit E **is** the record of proceedings and judgment... He **maintained** that it **was** not part of the case pleaded by either party... As such, exhibit E **was not tendered** in proof of any pleaded fact and **ought to have been rejected** when objection **was taken** to it. He **felt** that

exhibit E goes to no issue.

As can be seen in (9) and (10), the arguments of the parties' counsels comprise AA (Appellant's argument) and RA (Respondent's Argument). ABP is largely couched in material processes evident in examples such as (was submitted, were...pleaded, was contended, maintained, was...pleaded), because it narrates the activities of the parties' counsels on the case. Relational processes are also present in ABP in dual capacities. Here they ascribe attributive and identifying functions to the entities they describe, evident in the expression: *It was contended that exhibit E was admissible*; where the process *was* is attributive. The identifying relational mode is exemplified in the clause; *He maintained that it was not part of the case pleaded*. Also featuring in ABP is the mental process (felt) clause though used sparingly.

### Summary of Cross Appeal

SCA is an optional element in the macro-structure, optional because it is not in all cases that parties cross-appeal. Civil litigations usually result in either of the parties winning or losing the case. A cross-appeal stems from such a losing result and involves a respondent appealing an aspect of the lower court's judgment which s/he feels is not favourable. Where there is a cross-appeal, the lead judge in the course of writing his judgment will of necessity evaluate the cross-appeal as a part of the issues he is to evaluate. As an element in the structure, cross-appeals were found after ABP.

- (11) On the cross-appeal, learned counsel for the respondent/cross appellant **referred** to paragraphs 5 and 6 of the statement of claim and the evidence **adduced** both oral and documentary and **submitted**

that there **was** abundant and sufficient, evidence to entitle the respondent to full judgement. He **urged** this court to restore the final order **made** by the trial court which **entitled** the plaintiff/respondent to a grant of the certificate of occupancy... which **was deleted** by the court below.

In (11), SCA narrates the grievance of the respondent as it details facts and events that triggered the act of cross appealing with a preponderance of material processes evident in such processes as (referred, submitted, urged, made, was deleted, entitled), and an instance of an existential process evident in the expression *There was abundant and sufficient... evidence to entitle the respondent to full judgement*, which is made up of an existential *there* and an existent *evidence*.

### Evaluation

E is the next major element in the lead judgments; it is obligatory, iterative and argumentative in nature. It is the crux of Common Law judgments, being the point where the judge, having laid the premise, analyses the issue(s) for determination based on legal principles, evidences and facts and affirms or refutes the different claims set before the court. This element may be repeated as many times as necessary depending on the number of issues to be addressed, so it is iterative. Its argumentativeness is demonstrated in that the judge juxtaposes the parties' arguments alongside other legal interests, principles and laws and draws his conclusion.

- (12) Let me **say** it right away that the object of pleadings **is** to require each party to give notice to his opponent with clarity and precision of the case which he **is** to meet. Each party **is expected** to place his cards on the table

face-up. This **is** essential to prevent any of the parties from being taken by surprise and **enable** them **frame** and prepare their cases for trial. Paragraph 6 of the statement of defence and counterclaim which **says** the defendants shall rely on all related documents... all relevant survey plans including Survey Plan No. SEW/73016 **does not disclose** any fact in proof of which exhibits E, G and G1 **could have been** properly **tendered** and **admitted**...

Example (12) details the judge's analysis of issues presented to the court. It involves almost all process types as there are instances of the verbal (say, says), identifying relational (is), attributive relational (is), mental (enable, frame), and the material processes (does not disclose, could have been... tendered and admitted). The verbal process which involves the 'saying' verb confirms its argumentativeness. Also, because the judge has to describe and clarify a number of knotty issues, the relational processes are deployed in the attributive and identifying capacities. Moreover, to make recourse to events and actions of different parties in the evaluation process, the judge used material processes. Lastly, to represent judges' deductions of the psychological posture of parties in the case, mental processes were used.

### Judge's Position

JP is the comment of the judge in the course of evaluating the case. Depending on the length of the issues in the case, JP can be repeated across the evaluated issues, therefore, it is recursive. Example (13) is an instance from the text,

(13) Put briefly, I **cannot fault** the stance **taken** by the

court below...This claim **was** loosely **framed** by the counsel... No court **should encourage** such a carefree attitude by counsel. The court below **was correct** in its stance that same **is not known** to law and that the order **made** by the trial court in respect of the far-fetched claim **should be set** aside.

Example (13) details the opinion of the judge while evaluating each issue in the case. It involves the mental process (cannot *fault*, is not *known*), material process (taken, *was...framed*, *made*, should be set aside, should encourage), and the relational process (*was* correct, *is* not known). Since the element details the judge's deductions on the evaluated issues, mental processes were employed to represent such. Attributive relational processes were used to justify and validate judges' opinions on the evaluated issues. Material processes were used to comment on some facts about the case.

### Review of Court of Appeal's Judgment

The Supreme Court judge who is out to affirm or reject appeals brought before the court reviews the judgment of the Court of Appeal for the purpose of aligning the said judgment with his, before pinpointing the disparity between the two. This element is an optional element in the texts, as it depends on the style of the judge and appears before the final judgment of the lead judge. Example (14) is an instance from the text.

(14) The judgment of the Court of Appeal **affirmed** by the Court of Appeal **reads** as follows: 1. Declaration that the plaintiff is entitled to statutory right of occupancy in respect of all that piece... behind WAEC office, Onikolobo,

Abeokuta... In (14), RCAJ reports the judgment of the Court of Appeal. This was done using the material processes (affirmed and reads) which report the action of the lower court judge.

## Judgment

J is the verdict of the judge having evaluated all issues in the case, to affirm the legal rights and obligations of the parties in the case. It is a core element in judgments as it is the conclusion of the judge on the issues evaluated. It is usually short and bears a tone of finality.

(15) The appeal **succeeds** in part, and for clarity, the judgment of this court **is** as follows: 1. The plaintiff/respondent **is entitled** to a statutory right of occupancy... parcel of land **edged** blue, lying and **being** behind WAEC office, Onikolobo Abeokuta. 2. Order of forfeiture **is** hereby **set aside** 3. Order of injunction **is** hereby **set aside**

In example (15), judgment is presented through the material (succeeds, edged, set aside) and relational processes (*is, is* entitled, being). The material processes state the conclusion of the case as either successful or set aside, while the relational processes describe the conclusion.

## Order

O is the last obligatory element in the texts analysed, which appears after the final judgment has been declared. The lead judge, after passing his/her judgment, prescribes actions directed at either of the

parties with respect to monetary settlements.

(16) The plaintiff/respondent **is** hereby **ordered** to return the sum of N3,000.00 to the appellant forthwith.

(17) I **award** the sum of N100,000.00 as costs in favour of the respondents and against the appellants.

This element of the macro-structure involves the judge settling monetary aspects of the case. As shown in (16) and (17), it mainly involves material processes (is...ordered, award), one said in the passive and the other in the active voice.

## Judgment Reaffirmed

JR is an optional element in the texts analysed. Here, the judge (perhaps for emphasis) re-states the already given judgment after O (Order) which is usually the last element in the structure.

(16) Main appeal **allowed**, while the cross-appeal **is dismissed**.

Although short, JR contains a proposition in that it reaffirms the judgment of the judge, and so passes as an element of the schematic structure of the judgments analysed. It is couched in the material (allowed) and the attributive relational processes (*is* dismissed). The choice of these two process types makes the element succinct and devoid of misrepresentations.

## Conclusion

The analysis of the generic structure potential of substance-based Nigerian Supreme Court judgments has shown that

no two court judgments are completely the same, as features of similar group of texts depend on the social context of the creation and use (Hyland, 2002). Unlike the eight macrostructures in procedure-based Nigerian Supreme Court judgments (see Daniel and Unuabonah, 2020), and four or seven in English/Irish or European Communities judgments (Mazzi, 2007; Vazquez-Orta, 2013), the writing of substance-based Nigerian Supreme Court judgments involves thirteen macro-structural elements where the lead judges begin by stating the history of the case, presenting the facts of the case and the issues brought by parties in the case. This is immediately followed by the issues the judges deem appropriate for the determination of the case after which they present the arguments of the parties. They follow this up with a summary of the case at the lower courts and a summary of cross-appeals (where applicable). Judges' analysis of the case using legal principles, evidences and precedents, follow as the lead judges state their positions on each evaluated item. To conclude, judges may review the judgments of the lower courts after which they state their verdicts and order parties on monetary issues. This may be followed by a re-statement of the judgment.

These generic stages yielded the condensed structure of nine obligatory and four optional elements of the judgments. The obligatory elements which "are constitutive of a genre" determine whether the legal genre is complete or not (Solin, 2011:122). They also mark the genre as a member of the legal discourse community, while the optional elements signal instances of contextual variation (Bhatia, 1993), occasioned by the style of the judge or the nature of the cases to be addressed. The study also finds embedded microstructures within the HC element of the macrostructure which validate the proposition on possible structural embedding in the rhetorical structure of

judgments (Bhatia, 1993). Apart from the optional and obligatory elements, the present study also finds instances of recursion of three of the obligatory elements (F, E and JP), which was not covered in existing move structures of Western Supreme Court judgments.

Four of the nine obligatory elements in the present study (History of the Case; Facts, Evaluation and Judgment) conflate with the four moves in English judgments (e.g., Mazzi, 2007; Vazquez-Orta, 2013), marking them as members of the same community of practice. However, unlike *Identifying the case*, (that is, the first move in existing studies, where the title of the case is presented alongside the names of the parties, the type of the case, the court and the year it was tried), HC in the present study, subsumes other micro-elements such as Introduction and Pleadings, among others.

Furthermore, *arguing the case* move (Bhatia, 1993, Mazzi, 2007) conflates with the E element of the macro-structure, but while *arguing the case* is the most important move in previous studies, one which subsumes *stating history of the case*, *presenting arguments* and *deriving a ratio decidendi*, there are seven other obligatory elements in the present study. Also, rather than repeating the history of the case, the judge in the Nigerian context begins evaluating the case by placing the issues for determination alongside legal principles (*ratio decidendi*) and reasoning of lower courts' judges. Also, while pronouncing judgment is the last move in previous studies, it is not the case in substance-based judgments as the lead judges move on to settle monetary issues in the case with the O element of the macro-structure. Comparing the findings in the present study with European communities' judgments (Mazzi, 2007), some similarities were found with moves such as *Stating the History of the case*, *Arguing the case*, *identifying the scope of proceedings* and

*settling costs*. They differ however, in the number of elements in both set of judgments and their sequence of occurrence. This may not be far from the Civil Law system in operation in mainland Europe.

The present study has attempted to extend the frontiers of genre-based studies of judgments from the Nigerian court of last resort and concludes that similar texts in different contexts of use will necessarily have different end products evident in the optional elements in the judgments analysed. The obligatory elements on the other hand, clearly represent the communicative purpose of the genre and restrict the judges to rhetorical choices permissible in their discourse community. The present structure of Nigerian Supreme Court judgments can be linked to their legal system, one which is largely dominated by the inherited Common Law system. The number of the condensed structure is informed by the chosen approach to the analysis of the genre, which provides a systematic description of the propositional contents of the texts in relations with the lexico-grammatical features of each element in the structure represented with the process types.

This study has contributed to existing knowledge in genre research especially judicial opinions in a non-Western context. By examining its structural components in terms of its rhetorical and lexico-grammatical components, the analysed genre has been rendered assessable for other research interests knowing that a major step in exploring an understudied genre is to understand its structural composition on a form to function basis (Bhatia, 1993). To the legal professionals, findings from the present study have pedagogic significance for the teaching of budding attorneys on the art of writing judicial opinions. The application of the pedagogy-friendly approach (the GSP) to describing a professional text such as this

has further established the effectiveness of the model which has hitherto been applied to other less formulaic genres such as business letters (Ghadessy, 1993), introduction sections of research articles (Paltridge, 1993), newspaper editorials (Ansary and Babai, 2005) and quasi-judicial public hearings (Unuabonah, 2012), among others. In future research, there is the need to engage a larger corpus to substantiate the structure and contrast the established structure with the generic realities in criminal judgments. The process types in each element of the schematic structure need be further quantitatively engaged in a larger corpus to establish patterns of their occurrence.

## References

- Ansary H and Babaii E (2009) A cross-cultural analysis of English newspaper editorials: A systemic-functional view of text for contrastive rhetoric research. *RELC* 40:211-249
- Asein JO (2005) *Introduction to Nigerian legal system*. Lagos: Ababa Press.
- Bhatia VK (1993) *Analysing Genre: Language Use in Professional Settings*. London: Longman.
- Bhatia VK (2002) A generic view of academic discourse. In Flowerdew J (ed) *Academic discourse*. Great Britain: Pearson Education Limited, pp. 21-39.
- Daniel, FO & Unuabonah, FO. (2020). The generic structure of selected procedure-based Nigerian Supreme Court judgments. *JESAN*, 22(2), 143-159
- Eggin S and Martin JR (1997) Genres and registers of discourse. In van Dijk TA (ed) *Discourse as structure and process*. London: Sage, pp. 230-256.
- Halliday MAK and Hassan R (1989) *Language, context and text: Aspects of language in a social-semiotic perspective*. Oxford: Oxford University Press.

Halliday MAK and Matthiessen MIM (2004) *An introduction to functional grammar* (3<sup>rd</sup> ed). Great Britain: Arnold

Hasan R (1984) The nursery tale as a genre. *Nottingham Linguistic Circular* 13: 71-102

Hyland K (2002a) Genre: language, context and literacy. *Annual Review of Applied Linguistics* 22:113-135.

Joireman SF (2001) Inherited legal systems and effective rule of law: Africa and the colonial legacy. *Political Science Faculty Publication* 113: 1-44

Mazzi D (2007) The construction of argumentation in judicial text: Combining a genre and a corpus perspective. *Argumentation* 21: 21-38.

Ogunsiji A and Olaosun IE (2012) Pragmatic acts in court-rulings: A case of Nigeria's Supreme Court judgement on Obi versus Uba. *Papers in English and Linguistics* 168-181

Solin A (2011) Genre. In: Zienkowski J, Östman JO and Verschueren J (eds) *Discursive Pragmatics*. Amsterdam: John Benjamins, pp. 119-129.

Tucker G (2014) Process types and their classification. In: Kunz K, Teich E, Hansen-Schirra

S, Neumann S and Daut P (eds) *Caught in the Middle-Language Use and Translation*. Universaar: Saarland University Press, pp. 401-416.

Vazquez-Orta I (2013) Authoritative intervention in legal discourse: A genre-based study of judgements and arbitration awards. *Volumen Monografico* 91-103.

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