

A Generic Structure Analysis of Nigerian Appellate Court Judgements

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Abstract

Appellate judgements have continued to play important roles in the ordering of the society and directing legal practice, hence their significance as sites of academic enquiry. Existing studies on Nigerian appellate judgement texts have concentrated more on grammatical features and power and the linguistic means of achieving same in courtroom discourse, particularly lawyer/judge and witness interactions. The purpose of this paper, therefore, is to investigate the move structures of Nigerian appellate judgements in order to show their communicative relevance. Three judgements were randomly selected from the Nigerian Supreme Court website. The English for Specific Purposes (ESP) genre theory is applied to the interpretation of data. The study shows Nigerian appellate judgement texts have six move structures comprising recognizable steps. These are: identifying the case with four steps; stating case history with four steps; arguing the case (one move-step); deriving *ratio decidendi*; pronouncing judgement; and validating the judgment. The authors argue that the study has pedagogical implications, especially in the areas of teaching and curriculum development. For instance, the findings can aid the understanding of appellate judgement in terms of composition and interpretation. Furthermore, the knowledge espoused can also be used in developing curriculum for English teaching in the legal domain.

Keywords: Appellate judgement, move structure, genre analysis, legal pedagogy, interpretation

1. Introduction

Following the growing trend in the linguistic study of legal texts in the 1980s and beyond, especially in UK and America, some linguists have

shown interest in the study of court judgements (Ononye 2012, Kalejaiye 2016, Ogunsiji and Olaosun 2009, Kurzon 2001, Cheng, *et al* 2008). These studies which are based on Nigerian and non-Nigerian legal genre-texts have not sufficiently accounted for the language features of judgement texts, especially the organizational features of Nigerian appellate judgements. The principal reason for this is the inability of some scholars (especially linguists) to differentiate between the trial court judgement and the appellate judgement. Even those studies that have shown awareness of the differences (Ononye 2012, Kalejaiye 2016 and Kurzon 2001), have not studied the move structures of Nigerian appellate judgements. This study, therefore, focuses on the explanation of the move structures of Nigerian appellate judgements with a view to expanding the existing discourse on the judgement sub-genre of the legal genre.

The term, judgement, is an important concept in both legal practice and the larger society. This is because of the consequential effects in ordering the society and shaping the legal practice. *The Black's Law Dictionary* defines a judgement as “A court's final determination of the rights and obligations of the parties in a case,” while *The Encyclopedia Britannica* describes a [judgement or] as “a decision of a court adjudicating the rights of the parties to a legal action before it.” The definition of judgement is further clarified by the Nigerian Supreme Court in the case of **Williams vs. Daily Times of Nigeria Ltd**, when it states that a judgement is “a decision of the court[...] and it includes judgments, decrees, orders, sentences or recommendations. It is immaterial whether the expression order, judgment or ruling is used, each is a decision of the court.” The latter definition gives a more comprehensive view of a judgement and allows one to understand a judgement as an authoritative and a binding statement of a court on any given issue brought before it. In the words of Hon. Justice Oluşumbo O. Goodluck, “Judgment is the end-product of trial in a case and until it is delivered, the paramount duty of a Judge is not accomplished” (2017:2).

Clarifying further, she observes that whilst the Judge may make interlocutory orders, Judgment is delivered at the conclusion of a case. A judgement is a product of a court, and the power of a court in a country's court system determines the extent of the efficacy of its judgement. In this regard, we have lower and appellate courts in Nigeria. The lower court is also known as a court of first instance or trial court. This is where cases are

first heard. Usually parties present their cases before a single judge who presides. Judgements from this court is subject to appeal, if either of the parties so wishes. Appellate courts hear cases from the lower courts. Nigeria has two categories of appeal courts: the appeal and the Supreme Courts. Judgements delivered by courts of appellate jurisdiction are regarded as appellate judgements.

Usually, courts of appellate jurisdiction have more than two judges in a panel. Besides the judge that gives the lead judgement, other judges in the panel are required to give their judgments either in support or against the lead judgement (See Section 294(2) of the *1999 Constitution (amended)*). This is a key feature that differentiates a judgement from a trial court and the one from an appellate court. The present study, by focusing on appellate judgements, especially those of the Supreme Court takes into cognizance the pivotal role Supreme Court judgements play in affecting the society and influencing legal practice and training. The purpose of this study, therefore, is to account for the move structures of Nigerian appellate judgement. The study is significant because it identifies the organizational patterns of appellate judgements and explains their communicative functions. This is considered relevant for legal practice and training.

2. The ESP Genre Theory

The study adopts the ESP genre theory for the interpretation of data. The application of genre to linguistic study dates back to late 1970s and early 1980s. According to Swales, linguists were reluctant to use the term in the study of language because of the perceived affinity with literary studies resulting from long years of use and the acrimonious relationship between linguists and literary critics. Corbett traces the application of genre in non-literary to the influential works of Mikhail Bakhtin when he relates literary language to systems governing discourse in general. According Bakhtin (1993)

Each separate utterance is individual, of course, but each sphere of language used develops its own *relative stable* types of these utterances. These we may call *speech genres*.... Special emphasis should be put on the extreme homogeneity of speech genres (oral and written). In fact, the category of speech genres should include short rejoinders of daily dialogue (and

these are extremely varied depending on the subject matter, situation, and participants, writing (in all its various forms), the brief standard military command, the elaborate and detailed order ... (qtd in Corbett, 287).

The position expressed by Bakhtin (1993) seeks to establish genre as cutting across all speech events thus extending the use of the concept beyond its traditional province of literary study to the general discourses of human activities such as daily dialogue and rejoinders.

Also significant in the evolution of genre analysis in the non-literary context is the influence of M .A. K. Halliday, the proponent of Systemic Functional Grammar. Halliday (2004) believes that genre should be confined to its traditional domain as a text type that is subordinate to register (1973, p. 145). This position is supported by Gunter Kress when he disagrees with Martin and Ruthery. In his words, "for Martin/Ruthery, genre is the term which describes, in the end, significantly differing register types. For me, 'genre' is one term which, together with others, forms the complex types of texts; to which I am happy to give the label 'register' (1996, p. 35). Swales attributes the reluctance to demote register to the secondary position to large scale investment in analysis of language variations and little interest on how language is used by members of community (1990:42).

In advancing his view, Swales (1990, p. 58) defines genre as follows:

A genre comprises a class of communicative events, the members of which share some set of communicative purposes. These purposes are recognizable by the expert members of the parent discourse community, and thereby constitute the rationale for the genre. This rationale shapes the schematic structure of the discourse and influences and constrains choice of content and style.

It is worthy of note that scholars interested in genre analysis have adopted this notion of genre as enunciated by Swales (Bhatia, *Analysizing Genre*; Arinas Pellon and SamraKunt-Akbas). This view of genre is also adopted in this study.

Genre study relies primarily on the significance of the communicative purpose of a genre-text for the explanation of text structure and choice of rhetorical strategies. The communicative purpose of a text is realised by the move structures or generic structure. The move-structure means the conventions or practice used in realising the communicative purpose. It consists of steps or stages adopted to realise a communicative purpose. It is isolatable, meaningful structure that is used alone or in combination with others to realise the purpose of a genre-text. It is a tactical information bearing unit that is only a sub to the entire composition, but higher than a sub-move. It is different from a paragraph, as a paragraph could contain numerous move structures like the case of abstracts. It may consist of steps or stages. The study of move-structure in genre analysis is traced to earlier studies dedicated to the explanation of the organization of texts. Widdowson (1978), Michael Hoey (1983), and Sinclair and Couthard (1975) have studied the structure of discourse. Widdowson (1978) employed the term, rhetorical structure to explain the global structure of discourse and Hoey (1983) explains discourse structure in terms of problem-solution. He believes that different parts of texts regularly interact to produce meaning. He argues that readers automatically search for meaning when they make a mental connection between two clauses, sentence and segments in a text. To Hoey (1983) the identified patterns provide a good template for both teaching in writing and comprehension. Sinclair and Couthard (1975) study the structure of classroom discourse. They identify scales of units consisting lower and higher units. In all, they identify five units that make up a classroom discourse in a descending order consisting of lesson, transaction, exchanges, move and act, in which a lesson is described as the superstructure that subsumes others in a descending order.

According to Fairclough (1993, p. 15), Sinclair and Couthard's Framework draws on systemic organization properties of dialogue and provides a way of describing them. It is to be noted that the above studies focused on establishing regularities in text patterns without explaining the motivating factors or how the identified patterns could be exploited for the development of professional competence. Genre study, in order to improve on the existing studies on text organization, explains texts in situated contexts to establish conventional patterns that are recognizable and used by expert members of a professional group and explain the

rationale for their use. In this regard, Bhatia (2004) states that “They interpreted such structures not simply in terms of schematic patterns of individual readers, but more narrowly in terms of the socio-cognitive patterns that most members of a professional community use to construct and interpret discourses specific to their professional cultures.” The move structure analysis is important in genre theory because it facilitates the interpretation of texts and enhances pedagogical process, especially in the acquisition of language skills.

The analysis of rhetorical strategies is another aspect of genre analysis. It involves the identification and explanation of linguistic resources and how they are conditioned by the functions they perform in the context of use. This involves the explanation of lexico-syntactic and discursual features. According to Kirsten Wolch Rasmussen and Jan Engberb, “The aim of the rhetorical analysis is to look for such regularities or standard practices in the actual formulations of genres” (2017:116). Rhetorical strategies are used to realise the move structures, while move-structures are used to realise the communicative purpose. It is believed that a specific type of communicative purpose influences the options of rhetorical strategy deployed such as visual presentation, choice of words, grammatical structures and meaning potentials.

3. Methodology

Three Nigerian Supreme Court judgements are randomly selected from the Nigerian Supreme Court website (judgment.supremecourt.gov.ng/). These are: *The Nigerian Navy & ors v. Navy Captain D.O. Labinjo*; *Michael Odunze, Onyeaju Odunze, Ogbuehi Odunze, Ukachi Amu, Julius Odunze, and Okwuchi Amuzie v. Nwolu Nwosu, Benedith Ihu, Columbus Akpelu, Ambrose Onyeze, and Cletus Ajoku* (henceforth *Michael Odunze & ors v. Nwolu Nwosu & ors*), and *Ikko Kashadadi v. Ingila Sarkin Noma*. The choice of data is influenced by the social significance of Supreme Court judgements in affecting people's lives and legal practice.

4. Data Presentation and Analysis

Move-Structure of Appellate Court Judgments

The communicative purpose of appellate judgements are to resolve disputes in a definite manner and serve as judicial precedents. Appeal court judgements have discernable move structures that contribute to the

realization of identifiable communicative purposes. The author adopts the parameters developed by Bhatia (1993) in the explanation of British legal case report with some modification. In his explanation of the move structure of British legal case reports, Bhatia (1993: 126-136) uses such terms as *identifying the case*, *establishing facts of the case*, *arguing the case* and *pronouncing judgement*. These terms are found to be useful and applied in the explanation of Nigerian appellate court judgements.

Identifying the case

This is the first move-structure of an appellate court judgment (and indeed all other court judgments). The *identifying the case move-structure* of an appellate court judgment has recognisable and isolatable steps and these are shown below:

Step 1: Showing the Instant Court in the Hierarchy of Courts.

This is the first element in the *identifying the case move-structure* and it is written in upper case letters. Apart from showing the position of the instant court in the court hierarchy, it helps to show specificity and certainty and the extent of the bindingness of the instant judgement.

Example 1 (Ikko Kashandadi v. Ingila Sarkin Noma)
IN THE SUPREME

In the three judgments studied, this step is obligatory and it is not varied. The step is important in the composition of court judgments because it shows whether a judgment has a persuasive or a binding effect on other court judgments. It is important to observe that Nigeria practices a precedential system of adjudication. This means that the decisions of superior courts are binding on inferior courts. For instance, the decisions of appellate courts, especially those of the Supreme Court are binding on all other courts in the land. Therefore, this step helps to identify a judgement and show its place in the court system

Step 2: Validating the court.

This step gives the names of the justices of the Supreme Court that constitutes a given panel that hears a case. It begins with the expression: “Before their Lordship”. This is noticeable in all the judgements studied.

Example 2 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

Before their Lordship

| | |
|----------------------------|-------------------------|
| Walter Samuel Nkanu | – Justice Supreme Court |
| Ibrahim Tanko Mohammad | – Justice Supreme Court |
| Olufunlola Oyelola Adekeye | – Justice Supreme Court |
| Mary Ukaego Peter-Odili | – Justice Supreme Court |
| Olukayode Ariwoola | – Justice Supreme Court |

The Supreme Court is expected to have not more than twenty-one judges (Section 230(2)b of the *1999 Constitution amended*. However, Section 234 of the same Constitution states: “for the purpose of exercising any jurisdiction conferred upon it by the Constitution or any law the Supreme Court shall be constituted, if it consists of not less than five justices of the Supreme Court...”. From the above provision, it is clear that for the Supreme Court to be validly constituted, there must be at least five justices in a sitting. Therefore, the giving of the names of the justices in an appellate court judgement before the judgement text serves to validate such a court and the judgement. It is important to observe that this step is realised by intertextual strategy as the text constituting the step is instigated by a constitutional provision.

Step 3: Identifying the Suit Number

This appears after the names of the justices, and it is usually assigned to cases for the purposes of identifying a particular case and the ease of accessing same. This makes for easy referencing and retrieval. For instance, the number is made up of letters and numerals. The letters are capital 'S C' standing for Supreme Court, while the others are the serial number and the year.

Example 3

| | |
|------------|---|
| SC263/2000 | – (Ikko Kashandadi v. Ingila Sarkin Noma) |
| SC329/2009 | – The Nigerian Navy & ors v. Navy Captain D. O. Labinjo |
| SC387/2001 | – Michael Odunze & ors v, Nwolu Nwosu & ors |

The first part of the case numbering step shows the court with the letters 'SC' standing for Supreme Court, while the numerals show the serial number of the case in the Supreme Court cause list. The other part is the year the case was filed.

Step 4: Identifying the parties

This is the last step in identifying the case move structure. It identifies the parties in the instant case. It is realised in the following ways.

Example 4

Petitioner: The Nigerian Navy & ors
and

Respondent: Navy Captain D. O. Labinjo

This helps the legal practitioners and the reading public to identify and refer to a given case in course of any legal transaction. Also the identifying the parties step helps to clearly state the individuals and organisations whose rights and privileges are affected by a given judgement

From the study above, it could be understood that the *Identifying the case move-structure* has four obligatory steps that are invariably fixed. All the steps could be used individually or collectively to identify a given case. This means that using all the steps together helps to reinforce one another and establishes the *Identifying the case move-structure* of appellate court judgement as very important in the production, understanding and realisation of the communicative purposes of the legal sub-genre.

Stating the History of the Case

This is the second move-structure. It appears immediately after the *Identifying the case move-structure*. It gives the history of the case from the beginning to the present. Three steps can be identified in this move-structure. These are *establishing the origin of the case, showing judicial action and presenting legal issues*.

Step I: Establishing the origin of the case.

In this step, an attempt is made by the judge to establish the origin of the

instant case. This is done by showing the subject of the case from the beginning (which of course must remain the same), the name and location of the court the case was first heard and the date of filing the case and giving judgment. The information provided here helps to establish the case as a reality having spatial and temporal references. This, in turn helps to give credibility to the entire legal system. The following extracts exemplify this:

Example 5 (Ikko Kashandadi v. Ingila Sarkin Noma)

This matter started from the Upper Area Court No 1 Minna. That was in 1995 and Suit No UAC/MN/CNF/203/95. It was a claim ... of title over a farmland...

Example 6 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

This appeal is against the decision of the court of Appeal Holden at Lagos in Appeal No CA/L/364/2004 delivered on the 13th day of May, 2008 in which the court dismissed the appeal of the appellants for want of diligent prosecution.

The extracts above show how the step is realised in appellate court judgments. In the three extracts conscious effort is made to establish the origin of the present cases to give them the necessary foundations. However, there are few differences. For instance, extract 2 (c) does not show specific temporal and spatial information. This information is no doubt provided in other parts of the judgment for a good understanding.

Step 2: Showing Judicial Actions

This step presents the accounts of different actions taken by the litigants and the court(s) that necessitate the present appeal. These include briefs of arguments of parties and judgements of the lower courts.

Example 7 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

The respondent [...] was indicted and charged before a general court martial and tried and convicted for the offence of disobedience He was sentenced ... Appellants were not satisfied with the decision and consequently appealed to the lower court. The appeal was subsequently dismissed also for want of

diligent prosecution resulting in the instant appeal.

Example 8 (Ikko Kashandadi v. Ingila Sarkin Noma)

The court did not find the case of the plaintiff / respondent proved On appeal to High Court that court allowed the appeal. The learned appellate judge gave judgment to the respondent. The court of Appeal upheld the decision of the High Court.

Example 9 (Michael Odunze & ors v, Nwolu Nwosu & ors)

At the trial the parties and their witnesses gave evidence and the trial Court undertook a visit to the locus in quo. Evidence was taken at the locus. Both counsel to the parties addressed the trial court and in a reserved judgment the trial court dismissed the plaintiffs' case. Dissatisfied with the decision the plaintiffs appealed to the Imo State Customary Court of Appeal. It heard the appeal and set aside decision of the trial Customary Court given in favour of the defendants. Dissatisfied with the decision the defendants have appealed to the Port Harcourt Division of the Court of Appeal that is, the Court below, which unanimously dismissed their appeal.

Example 7 above shows various activities carried out by the actors in the case. In the first instance, it was shown that the respondent was charged and convicted by a general court martial. The account presented also indicates that the respondent appealed the sentence by applying to a Federal High Court, Lagos for judicial review. Here, the court set aside the judgement of the general court martial. There was further appeal to the Appeal Court before the case got to the Supreme Court. The same form of account could be noticed in the other two judgments used in this study. In example 8, the step shows more of the actions taken by the different courts before the case was brought to the present court. The account given also serves to present an unbroken link among the various actions of the courts in order to justify the present appeal. Example 9 also shows the actions taken by actors in the judicial process.

It is shown that the trial court visited the locus in quo. Counsel to the parties addressed the trial court and "... the trial court dismissed the plaintiffs' case." The account also shows that the plaintiffs appealed to the State Customary Court of Appeal. According to the account, "it [Court]

heard the appeal and set aside the decision of the trial Customary Court..." The defendants also appealed to the Port Harcourt Division of the Court of Appeal and the appeal was also dismissed. It is important to note that the account presented shows the judicial actions taken by both the courts and the counsel to the parties. The account as presented tends to show transparency in the process. Among other things, the account is able to show what the courts and other parties in the judicial process have done. This does not only help to establish the foundation of the present case, but also makes known to the readers the facts of the case in order to understand the present judgment. It is important to note that this step is also realized by means of intertextual references. As observed, previous court records showing parties' briefs of arguments and judgements of lower courts are drawn upon to properly situate the instant judgements.

Step 3: Stating the Legal Issues

This is the last step in the *stating the history of the case move-structure*. It is made up of legal issues formulated by either or both parties to the case. The issues are necessarily deductions from the judgement being appealed against. The step serves to justify the instant appeal and situate the legal issues in the context of the present judgement. It also serves as a link between the second move-structure and the third move-structure since it provides the substance for the actualisation of the move. Sometimes, the issues stated are accompanied by briefs of arguments either in support or against the legal issues raised.

Example 10 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

...the issue for the determination of which has been formulated by learned counsel to the appellate C.I. Okpoko Esq. ...
"Whether the learned justices of the Court of Appeal were right in dismissing the appeal?"

In arguing the issue learned counsel submitted that the lower court having struck out the motion for departure from the rules lacked the jurisdiction to dismiss the appeal...

It is the further submission of counsel that the provisions of Order 8 Rules (1),(2) and (3) of Court of Appeal Rules 2007 the appeal had not been entered at the time the lower court purported to dismiss it....

On his part learned counsel for the respondent Akin Kejewa Esq.... submitted that Order 8 Rules (1), (2) and (3) Of the Court of Appeal Rules 2007 are not relevant to the case as they relate to the duties of the register of the court below after compilation of record of appeal: that the issue before the court is on failure of appellants to compile record in accordance with Order 8 Rule 10 (4) of the court of Appeal Rules, 2007.

Example 11 (Ikko Kashandadi v. Ingila Sarkin Noma)

The appellant has come to this court. He formulated three issues for determination. The respondent formulated two issues for determination. The respondent has raised a preliminary objection on all the four grounds of appeal. The crux of the objection is that the grounds of appeal, being grounds of mixed law and fact, needed leave of court.

Example 12 (Ikko Kashandadi v. Ingila Sarkin Noma)

He also submitted that the ground is one of the mixed law and fact as this court must of necessity consider the facts adduced in evidence before considering whether there was proper evaluation of those facts. Taking Ground 3, learned counsel submitted that the ground does not amount to an error of law but a finding based on the facts adduced in evidence.

Example 10 shows the legal issue before the court as formulated by counsel to the appellant. The legal issue is supported by argument to justify the view being canvassed. It is important to observe that the respondent's counsel did not raise any issue, rather he addresses the issue raised. In doing this, he faults the submission of the counsel to the appellants. According to him the provisions of the court of Appeal Rules cited are irrelevant and therefore not applicable to the instant case. Also it can be observed that *stating the legal issues step* helps to define the scope of the case and focus the mind(s) of the justices and readers on the issues that are germane to the resolution of the case at hand. The accompanying arguments by both parties make for a good understanding of the issues and a necessary launch pad for the determination of the case.

Example 11 shows the legal issues that are presented and reports that the appellant formulated three issues, while the respondent formulated

two issues. In addition to the issues is a preliminary objection. As could be observed the issues are not stated, whereas the issue constituting the preliminary object is stated, that is, presenting an appeal that has grounds of mixed law of court. The reason for this is that preliminary objection, where raised, takes preeminence over issues for determination. This means that when preliminary objection is raised, issue(s) for determination takes secondary position. This could explain why legal issues are not stated, but preliminary objection is stated. In support of the preliminary objection, argument is presented by the respondents. The argument presented above in advancing the preliminary objection raised serves to prioritise the preliminary objection above every other legal issues raised. This also serves to focus the present judgement on the issue of preliminary objection that is hinged on the constitutional requirement of seeking leave of the Supreme Court if the ground of appeal is mixed law and fact. So in this case, the legal issues raised are not examined as the prescribed procedure for approaching the court is not complied with. This means that the judgement of the lower remains while the instant appeal is dismissed. From the study presented, it could be noted that *stating legal issue(s)* is a recognisable step in *stating the history of the case* move. It is the last step in the move-structure and it precedes *arguing the case* move. It is presented in the form of questions. Also significant is the use of intertextual strategy that serves to incorporate extracts from preceding text.

Arguing the Case Move-Structure

This appears after stating the history of the case move-structure. In this move, the legal issues raised by contending parties, together with the grounds of appeal and previous court judgments are subjected to rigorous reasoning to establish conducts and actions that are in line with existing laws and legal traditions. This makes for the discrimination of the evidences adduced by the parties for the purpose of arriving at a justifiable judgement. In this move-structure, different issues raised are examined one after the other. Cumulatively all the issues are examined and conclusions reached. In order to achieve this, mis-stated facts and laws are pointed out to show the fallibility of the argument presented.

Example 13 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

The complaint is that they were denied fair hearing in that they were not given notice of any intention by the respondent to apply to the court for the appeal to be dismissed for want of persecution after their motion for departure was struck out.

The question is whether the submission is supported by the facts. The answer is clearly in the negative. It is clear at page 1229 of the record that as far back as the 19th of October, 2006, the respondent had filed a motion on notice praying the court for an order striking out the appeal for want of prosecution. Appellants have not denied being served with the said notice of motion.... The above being the case it follows that the submission of counsel on the issue has no factual basis

Example 14 *The Nigerian Navy & ors v. Navy Captain D. O. Labinjo*

Apart from there being a motion on notice calling for the striking out of the appeal for want of prosecution which was duly served on the appellants, Order 8 Rule 18 of the court of Appeal Rules 2007 on which learned counsel relied in submitting that filling of notice of motion for the striking out an appeal for want of prosecution is mandatory does not support that contention.

At the beginning of example 13 is the restatement of the legal issue. This serves to situate the legal issue in the context of the argument that follows. The argument is introduced by a question that is followed by a negative answer. The argument proceeds to show inconsistency in the facts presented before the court to disprove the claim made. Here two contradictory statements of facts are placed side by side to arrive at a given conclusion. And the conclusion is stated thus: “the above being the case it follows that the submission of counsel on the issue has no factual basis.” The conclusion shows that a given issue has been resolved through the process of argumentation. Also, in example 14, the court proceeds with the argument by affirming the position earlier arrived at and continuing by contradicting what is perceived to be a wrong assertion based on misstatement of facts. This is reinforced by making reference to the provisions of Order 8 Rule 18 of the Court of Appeal Rules, 2007. From the explanation given above, it could be understood that the court resolves contentious issues in the *arguing the case move-structure*. This is done by

examining the submissions before the court to establish instances of mis-stated facts, contradictory claims and outright false presentation. In fact, this is where contentious facts are tried to eliminate false claims and uphold the right ones.

Example 15 (*Ikko Kashandadi v. Ingila Sarkin Noma*)

I should now examine the four grounds of appeal. One common expression in the particulars of error in ground 1, 2, 3 is evidence. While particulars of error (a) uses the word 'evidence' ground 2 also uses the word 'evidence'. The only particular of error in ground 3 uses the words 'traditional evidence'. Evidence, whether under statute, common law or customary law, is presented to the court on facts by witnesses. The facts could be oral or documentary. In such a situation, it cannot be said that a ground of appeal is exclusively law.... Accordingly, it is my view that ground 1,2 and 3 involve mixed law and fact.

Example 16 is also from the *arguing the case move-structure*.

Here, argument is presented to resolve a contentious question before the court which is: “whether the grounds of appeal are mixed fact and law or law only”. The judge is able to resolve this question by examining instances of contradiction in the submission of a party. For instance, the judge states: “evidence, whether under statute, common law or customary law is presented to court on facts by witnesses.” Here, the difference that is made between evidence (fact) and law is collapsed to show that fact and law go hand in hand as fact is only relevant in the context of existing law. It is based on this that a conclusion is reached in the instant case that the grounds of appeal presented in the case involve mixed law and facts. To finally resolve the issue raised, the argument proceeds in the extract below

Example 17 (*Ikko Kashandadi v. Ingila Sarkin Noma*)

Section 213(3) of 1979 Constitution provides that subject to the provisions of section 213(2) an appeal shall lie from the decisions of Federal Court of Appeal with leave of Federal Court of Appeal or the Supreme Court. Section 213 (2) provides for matters in which

appeal from the court of Appeal lie as of right to the Supreme Court. The matter involved in the appeal is not one of such. Therefore appeal lie by leave of Court of Appeal or the Supreme Court.

The judge, having established in example 16 above that the submission of the appellant is of mixed law and fact, proceeds to the second leg of the argument to test the finding against the existing law. The applicable law in this regard is section 213(2) of 1979 constitution which states that an appeal on law only lies of right to the Supreme Court, but that of mixed law and fact is by leave of Court of Appeal or the Supreme Court. Having established that leave was not sought and obtained, a conclusion is reached that the appeal is incompetent. The conclusion reached provides the basis for deriving the *ratio decidendi*

From the study, it is very clear that the *arguing the case move-structure* is important in realising the communicative purpose of the appellate court judgment. Significantly, the move-structure helps to distinguish factual statements from non-factual statements. This is achieved through a rigorous reasoning process. In this move, there are also notable linguistic features. One of these is the presence of positive and negative statements. This is used by the judge to make knowledge claim as it shows his/her approval or disapproval of evidence adduced by parties. There is also the use of intertextual strategies in the move to incorporate the submissions of parties and judgements of the lower courts for better understanding of the points being made.

Deriving the *Ratio Decidendi*

Ratio decidendi is a Latin expression that means “reason for the decision”. It is one of the recognizable move-structures of an appellate court judgement. It appears immediately after the *arguing the case move*. It is a statement of absolute conviction derived from the findings of the court and anchored on existing legal principles or precedents. The extract below shows the *ratio decidendi* move-structure in the context of appellate court judgement.

Example 18 (The Nigerian Navy & ors v. Navy Captain D. O. Labinjo)

In fact I hold the considered view that appellate court in a situation like the one under consideration in this appeal, has the inherent

jurisdiction to *suo motu* list the appeal and summarily dismiss same for want of prosecution without waiting for the respondent to make the application either orally or by way of motion on notice as the court has the inherent power to do away with frivolous or vexatious appeals so as to decongest the cause list particularly where the appeal is intended to overreach or deny the respondent the enjoyment of the fruits of the judgment in his favour by the lower court.

Example 19 (Michael Odunze & ors v, Nwolu Nwosu & ors)

In the face of the claim before the court, the plaintiffs, having failed to discharge the heavy burden on them as per *Elia v. Omo – Bare* (1982)5 SC, have failed woefully to establish their claim to a declaration of title and so, the claim is liable to be dismissed.

Example 20 (Ikko Kashandadi v. Ingila Sarkin Noma)

Where an appeal requires the leave of court and the leave is not sought and obtained, the appeal is incompetent and will be struck out see *Russel v. Russel* (1987) 12 NWLR (pt 51) 437. This is because a court of competent jurisdiction has no jurisdiction to hear incompetent appeal.

Example 18 is an unequivocal statement of the court that is founded on the existing legal principle that borders on the idea of the inherent powers of an appellate court and the need to dispense justice. As could be noted, the findings of the court as realised in the *arguing the case move-structure* are linked to the established practice of appellate courts. This is shown in the following expression “an appellate court... has the inherent jurisdiction to *suo motu* list the appeal” The above represents the principle under which the present judgment is hinged on. In justifying the principle, the court states its advantage(s) in serving the interest of justice in the following words: “particularly where the appeal is intended to overreach or deny the respondent the enjoyment of the fruits of the judgment in his favour by the lower court.”

Also, example 19 constitutes the *ratio decidendi* of *Michael Odunze & ors v. Nwolu Nwosu & ors*. As could be observed, the statement gives the reason that backgrounds the pronouncement that follows: The

reason is that the plaintiffs have failed to discharge the heavy burden of proof. The reason is further justified by the precedent established in *Elia v. Omo – Bare* (1982)5 SC to give it the legal foundation to stand on. As observed earlier, the *ratio decidendi* is a statement of conviction, hence the use of such maximizers as 'heavy' and 'woefully'. Example 20 is also an example of *ratio decidendi* of a court judgment. It is an absolute statement that leaves no one in doubt about the conviction of the judge. For instance, the judge states in unequivocal terms “the appeal is in competent”. This is a declarative statement that mediates knowledge and power. It is worthy of note that the statement is linked to an established judicial precedent to foreground the court pronouncement and ensures the continuity of a legal tradition. The *ratio decidendi* move-structure of an appellate court judgement is a compulsory move. The use of intertextual strategies is also noted in this move as reference is made to existing judicial precedent to justify the instant case and integrate with the *corpus juris* that defines the Nigerian legal system.

From the above study, it is perhaps right to state that the *ratio decidendi* is a statement of conviction by the judge, having resolve the issues raised in arguing the case move-structure. It is important to note that the statement is supported by both the argument of the court and judicial precedents and legal principles. It is important to note that the statement is supported by both the arguments of the court and judicial precedents and legal principles. By this, a relationship is established between the instant case and the extant *corpus juris*. The move - structure serves as a link between the arguing the case move and pronouncing judgment move. Also notable in the move is the use of positive and negative declaration statements to clearly define a given position.

Pronouncing Judgement

This is the final and most important part of a court judgment. It is a statement that shows the definite resolution of the case before the court and it has a binding effect on the parties. The *ratio decidendi* move provides the foundation for its realisation. Consider the examples below:

Example 21 (*Ikko Kashandadi v. Ingila Sarkin Noma*)

In sum, this appeal is incompetent and this court lacks the jurisdiction to go into the merits accordingly, The appeal is struck

out. I award N10,000.00 against the appellant in favour of the respondent.

Example 22 (*The Nigerian Navy & ors v. Navy Captain D. O. Labinjo*)

In short, I find no merit in the issue raised by counsel for appellants and consequently resolve some against the appellants. In conclusion, the sole issue having been resolved against appellants, it is clear and I hereby hold that the appeal is grossly without merit and is consequently dismissed by me

It is further ordered that the judgment of the lower court entered 12th day of May, 2008 be and is hereby affirmed with N50,000.00 (fifty thousand Naira) cost against appellants.

Example 23 (*Michael Odunze & ors v, Nwolu Nwosu & ors*)

In sum, I find that the appeal is meritorious and I allow it and set aside the respective decisions of the appellate lower courts in their entirety. I restore the decision of the trial Customary Court. I also set aside that part of the trial Customary Court awarding the land in dispute and granting the order of perpetual injunction to the respondent (defendant in the case) who have not counter – claimed. Also I set aside the finding of the trial Customary Court to the effect that “the parties are disputing boundaries” for having no basis in the context of my judgment. The appellants are granted N10,000.00 as costs in this appeal.

In example 21, the court makes a statement of finality aimed at resolving a case before it. The statement is rendered in declaration active voice and it clearly shows the position of the court. In addition, it sets out the rights and liabilities of the parties. Again, it indicates power that alters the existing reality and usher in a new one. Another noticeable feature of this move is the use of self- mention device, notably first person singular pronouns 'I' and 'my'. This shows personal responsibility and commitment to the position adopted. It further shows that appellate judgement, and indeed, court judgements generally are the personal responsibilities of individual judges. This also makes the judgement an identifiable judicial fact in legal history. Also, example 22 shows the position of the court in respect of a

case brought before it. Apart from the above, the move-structure manifests the use of adverb of time (such as “hereby” which is repeated three times). This is used to show immediacy of action. Other notable linguistic features are the use of such words that show power and authority, for example, “ordered”, “dismissed”, “grossly without merit” and others. This is shown in the example 23 which is introduced by the phrase “in sum”

Also the statements that make up the move-structure are presented in declarative active sentences as they show in unequivocal terms the position of the court. Another important observation is the high incidence of the use of the personal pronoun 'I'. This clearly highlights the identity, power and responsibility of the judge to in the judicial system. From the study of the pronouncing judgment move-structure, it is clear that it has semantic, grammatical and lexical features that set it apart from other identified move-structures. For instance, it has a clear social impact on the parties. It is realised by the use of active declarative sentences, and finally it uses self-mention strategy realised by the personal pronoun 'I' to stress the power and authority of court judges.

Validation Move Structure

The validation move-structure of an appellate court judgement comes after the lead judgement. It is made up of at least four separate judgements of the justices in the panel which could be in favour or against the lead judgement. The number of judgements in favour of the lead judgement must be more for the lead judgement to stand.

Example 24 (Ikko Kashandadi v. Ingila Sarkin Noma)

George Adesola Ogutaade: I have read a draft copy of the lead judgement by my learned brother, Tobi JSC. I agree with him....I would also strike it out....

Aloma Mariam Muckter: ...I have read in advance the lead judgment delivered by my learned brother Niki Tobi J.S.C. I am in full agreement with him that the appeal is incompetent.

Walter Samuel Nkanu Onnoghen: I have had the opportunity of reading in draft the lead judgment of my learned brother Tobi J.S.C.... I agree with his reasoning and conclusion.

Example 24 shows the different judgements given by other three judges that constitute the panel together with the giver of the lead judgement, that is, the judgement of the court. These judgements serve to validate a given Supreme Court judgment since this is a constitutional requirement. According to Section 294(2) of the 1999 Constitution (amended) “Each justice of the Supreme Court or of the Court of Appeal shall express and deliver his opinion in writing, or may state in writing that he adopts the opinion of any other who delivers a written opinion...” The validation move structure is a compulsory feature of all appellate court judgements as non-compliance renders the judgement invalid. It is also important to observe that for a Supreme Court to be constituted, it must have at least five judges sitting in a panel.

5. Concluding Remarks

The study establishes that the appellate court judgements have identifiable move structures and steps that establish them as belonging to a genre (sub genre). The study shows that appellate court judgment has the following move structure: (1) identifying the case with four steps, (2) stating case history with four steps; (3) arguing the case (one move-step); (4) deriving ratio decidendi; (5) pronouncing judgement, and (6) validating the judgment. The explication of the identifying the case move structure and the accompanying steps, for instance, validates the claim of Llopis (1999) that legal texts are examples of texts that leave nothing unsaid as there is the tendency to cover all grounds. Again, the study shows that the identifying the case move of appellate judgements is quite different from the identifying the case move of legal case reports as established by Bhatia (1993:128). Another high point of the study is that scholars have not accounted for the communicative import of the validation move of appellate judgements and its significance in the constitution of a valid appellate judgement. The findings can be used to achieve pedagogical purposes.

This could be in areas of teaching and curriculum development. The presentation in this research can also aid the understanding of appellate court judgement in terms of composition and interpretation. Such areas of study as comprehension, interpretation and composition of appellate judgements could be introduced with the aim of enhancing understanding and application of appellate judgement in legal practice. In the words of

Hyland: “By making the genres {e.g. appellate judgements} ... visible and attainable through explicit instruction, genre pedagogies seek to demystify the kinds of writing that will enhance learners' career opportunities and possible access to a greater range of life choices.” (2003:24). The goal of genre analysis is to improve the language competence of aspiring members into their chosen professions. It is believed that this study will be useful to teachers, students, practicing and aspiring lawyers and other members of the society as the study seeks to bring new insights into the understanding of the language of law.

References

- Bhatia, Vijay K. (1993). *Analysing Genre: Language Use in Professional Settings*. Longman.
- (2004). *Worlds of Written Discourse*. Continuum.
- Cheng, L., et al (2008) “A Discursive Approach to Legal Texts: Court Judgments as an Example”. *The Asian ESP Journal*, (4) 1, pp. 14-28.
- Corbett, J.B. (2006) “Genre and Genre Analysis”. *Encyclopedia of Language and Linguistics*, pp.266-292
- Cruz, S. and J. C. M. Paríña (2015). “Legal English in Court Resolutions: A Stylistic Analysis” *Proceedings of the DLSU Research Congress*, vol. 3.
- Fairclough, N. (1993). *Discourse and Social Change*. Polity.
- Halliday, M.A.K. (1973) *Explorations in the Functions of Language*. Edward Arnold.
- Hernandez, H. P. (2017). “Forensic Stylistic Analysis of Adverbials of Attitude and Emphasisers in Supreme Court Decisions in Philippine English.” *Indonesia Journal of Applied Linguistics*, (1) 2, pp. 455-66
- Hasan, R. (1985) “The Conception of Context in Text” *Discourse in Society: Systemic Functional Perspective*. R.H Fries and N. Gregory Eds. Norwood, NJ: Ablex, 182283.
- Hoey, M.P. (1983). *On the Surface of Discourse*. Allen and Unwin.
- Hyland, K. (2003) “Genre-based Pedagogies: A Social Response to Process.” *Journal of Second Language Writing*, (12) Pp. 17–29.
- Kalejaiye, A. S. (2016) “A Linguistic Analysis of Selected Nigerian

Appellate Court Judgements.” Diss. Babcock University, Ilishan-Remo.

- Kress, G. (1996) “Language in the Media: The Construction of the Domains of Public and Private.” *Media, Culture and Society*, (8) Pp. 395-419.
- Kurzon, Dennis. (2001) “The Politeness of Judges: American and British Judicial Behaviour.” *Journal of Pragmatics*, (33)1, 61-85.
- Llopis, M.A.O. (1999). “Analysis of Legal Text: Lloyd's Institute Cargo Clauses.” *IATEFL ESP Newsletter* 14, n.p.
- Martin, J. R., F. Christie and J. Rothery. (1996) *Social Research in Education: A Reply to Sawyer and Watson (and others)*. *Current Debates*, edited by I. Reid.. Deakin UP, pp. 46-51.
- Munby, J. (1978). *Communicative Syllabus Design*. Cambridge University Press.
- Ogunsiji & I.E. Olaosun. (2009) “Pragmatic Acts in Court Rulings: A Case of the Nigerian Supreme Court's Judgement on Obi Versus Uba.” *Papers in English Language and Linguistics*, 10, 168-81.
- Olasumbo O. G. (2017) “The Art of Judgement Writing.” A paper presented at the Induction Course for Newly Appointed Judges and Khadis at the National Judicial Institute on the 7th July 2017.
- Ononye, C. F. (2012). “Dignifying Language: Graphology of Language Use in Selected Supreme Court Judgement Texts in Nigeria.” *Justice and Human Dignity in Africa: Collection of Essays in Honour of Austin Chukwu*, edited by G. Emezue et al, pp. 212-221
- Paltridge, B. (2013). “Genre and English for Specific Purpose” In Paltridge and Sue Starfield (Eds), *The Handbook for English for Specific Purposes*. Blackwell.
- Rasmussen, K. W. and J. Engberg (2017). “Genre Analysis of Legal Discourse.” *Hermes*, (2)22, 113-132.
- Sinclair, J. and Couthard, M. (1975) *Towards the Analysis of Discourse: English Used by Teachers and Pupils*. Oxford University Press.
- Simpson, P. (1997). *Language through Literature*. London: Routledge.
- Swales, J. M. (1990). *Genre Analysis: English in Academic and Research Settings*. Cambridge University Press.
- The 1999 Constitution (amended).
- The Black's Law Dictionary, 7th ed.

van Dijk, Teun (1988). *A. News as Discourse*. Erlbaum Associates.
Widdowson, H.G.(1978). *Teaching English as Communication*. Oxford:
University Press.