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Speech Acts and Ideology in Select Nigerian Legal Discourse (Pp. 62-76)

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Abstract

Since linguistic investigations have proved that ideology is woven in our everyday linguistic interaction, the speech acts can portray such beliefs. Affidavit, on the other hand expresses facts for official and record purposes, as a result, there is a conceived inherent notion held in the interaction. As well, numerous studies on Nigerian legal discourse have largely concerned themselves with its stylistic and pragmatic features, but none of these have worked within the constraint of a model like speech acts to show that the ideological position of affidavit is apparent in its linguistic approach. This paper is therefore interested in filling this gap, concentrating only on speech acts in affidavits. The study is significant in that it shows how a legally and socially situated text such as affidavit is 'not perfectly free' of the ideological groups of its originators and time. This paper therefore, investigates fifteen affidavits of three different subject matters - affidavit of loss, affidavit of change of ownership and affidavit of personal identification. The paper concludes that ideological representations in affidavits, in addition to showing the bases of the terminology and aiding their meanings, reveal how speech acts account for acts which language may be used to perform.

Introduction

Ideology, the principal issue in critical discourse analysis, has been associated with three established approaches; Wodak's (2001) discourse-historical approach, Van Dijk's (1998, 2001) socio-cognitive approach and Fairclough's (1995, 2003) socio-semiotic approach. While all the approaches

to discourse in the critical tradition meet at, the point where ideology is viewed as the set of implicit associations held in interaction, those of Fairclough and Wodak align more to power relations than that of Van Dijk, which emphasizes mental models. For Fairclough, for example, “the capacity of ideology to give sustenance to power in equalities and thus serve political purposes lies in the implication of ideology” (Fairclough 2001). For van Dijk, ideologies are shared social beliefs, operate at the level of the group, are structured, non-negative in concepts, knowledge-based and attitude-constrained. For Wodak (1996&2007), ideologies are particular ways of representing and constructing society, which produce unequal relations of power, relations of domination and exploitation; and the system of representation that in strongly unconscious ways mediate individuals’ understanding of the world. In essence, language and ideology are inseparable. This is because people communicate or use language as determined by social structures. Perhaps, this is why Fowler (1981: 29) states that “Given the nature of the society we live in, much communication is concerned with establishing and maintaining unequal power relationship between individuals, and between institutions and individuals”. The paper is informed by the theoretical postulation that discourse is a configuration of peoples’ or institutions’ socio-historical existence. This is because of the strong historical base naturally associated with the nature of affidavits and legal discourse in general. Ideologies, shaped by historical models, therefore, restrict preference for topics and choices of words, as in affidavits. And since certain tendencies which have been imbibed and become incorporated accordingly, into individuals’ historical and social systems are uncovered in the course of human to human communications whether spoken or written, this paper concentrates on how language is used in affidavits to bring to light the stable in society.

Scholars like Fairclough (1995, 2001), Wodak (1996, 2001, 2007), van Dijk (1989, 2002), and Taiwo (2007) who have worked on Critical Discourse Analysis and researchers on legal discourse such as Mellinkoff (1963), Crystal (1987), Onadoko, (1998), Bhatia (1989), Tiersma (2003), Alabi, (2003), Aganga, (2007) and Ezeife (2008) see language as the basic social institution that is linked to power. Nevertheless, none of these scholars have worked on the ideological formation of the speech acts in affidavits. The prospect is that the acts performed in the speeches of the affidavits would help in accessing the ideological display of a legal discourse. Language therefore, expresses ideology, and since ideology remains a social product

and practice, it will always be expressed by language. The ideology or ideologies within which a text is written constrain choices in discourse organization, grammar and lexis (Fairclough, 1995). Hence language in affidavit generates an unambiguous, reliable and authoritative means of regulating human society and resolving conflicts. Most of the words in legal discourse are technical on the account that they belong solely and uniquely to the field of law. This means that affidavit is not an impartial value liberated for representation of facts; rather it enforces formation of values, social or legal, which mark ideological peculiarity.

Recent works on ideology have worked on the role of news report in ethnic relations (van Dijk, 1991), how news report serves the interest of dominant forces (McGregor, 2003), the representation of ideology and power relations in Nigerian newspaper headlines (Taiwo, 2007) and the ideology in Nigerian poetic discourse (Aboh, 2009). However, this paper uses the process of speech acts to study the ideological undertones of select affidavits in Nigeria. Affidavits just like legal documents can be seen as 'objects of discourse' since the process of documenting not only factualizes but objectifies discourse (Ezeife, 2008). Affidavit as a discursive object is fixed and at the same time retains its identifying features.

Theoretical Framework and Analytical Approach

This paper is based on the theoretical postulations of Critical Discourse Analysis (Fairclough 2001 and Wodak 2007). The analytical approach draws significantly from the concept of Speech acts (Searle, 1969, 1976, and 1979). CDA does not have a unitary theoretical framework, because it is not a specific direction to research. It (CDA) employs interdisciplinary techniques of text analysis to draw out how texts portray social identities, social relationships and political ideologies. Critical discourse analysis (CDA), according to Van Dijk (1993) 'seeks to explore the role of formal structures, features, or other properties of a text, verbal interaction or communicative events in the interpretation of power relations'. CDA therefore, is context sensitive, it acknowledges that real texts are produced and disseminated in real situational contexts. The basic impression of CDA is that no human utterance is neutral rather it is imbued with the ideological position of the encoder. The three dimensions of CDA as stated by Fairclough (2001:21) are the description, the interpretation and the explanation stages. The description stage examines the formal property of the text in question. The second stage (interpretation) delineates the relationship between the text and the social process of production and interpretation, while the third (explanation) stage is

concerned with the relationship between interactional properties and social context.

In the same way, Wodak (2007) sustains that a CDA analysis must examine two aspects, which she identifies as the micro and macro levels. The micro level deals with the linguistic property of a text and the macro level situates the text within a social context of production, which in turn influences the interpretation an analyst makes out of a text. This fundamental theoretical ground that lays the foundation of CDA, an interdisciplinary research language program within discourse analysis, also explores the ideological values and assumptions that are integrated in texts. It, at the same time serves as the frame of reference for our analysis. The concept of speech acts was informed by the observation that human words are not just uttered in a vacuum or that something is not just being said (Austin, 1962; Searle, 1969; Sadocks, 1974; Bash and Harnish, 1979; and Adegbija, 1982). As such, the theory could be seen as a very useful instrument for explaining and comprehending verbal or written behavior as being a part of social behavior. The study adopts Searle's theory of speech acts as outlined in his *Speech Acts: An Essay in the Philosophy of Language*, where we are told that 'the production or issuance of a sentence is taken under certain conditions in a speech act, and speech acts are the basic or minimal units of linguistic communication' (16). The argument is that 'a theory of language is part of a theory of action simply because speaking is a rule-governed form of behaviour' (17). Thus, speaking a language is performing statements, giving commands, making promises, making assertions etc.

The three most important bases of Searle classification of speech acts are; 'illocutionary point (or purpose)', 'direction of fit between words and the world (thing)', and 'expressed psychological state'. Searle also sets up five basic types of illocutionary acts; representatives (assertives), directives, commissives, expressives, and declarations. Since the performance of these five types of illocutionary acts are engaged in the rule-governed behaviour, thereby expressing the illocutionary purpose, direction of fit and the psychological state in any discourse, we can use speech

the frequency of the illocutionary acts and its sub – acts that are

acts to investigate the ideological concern of a legal document. The preoccupation of speech act theory therefore, as we shall later explore, is that every utterance serves a communicative purpose, which derives from the contextual factor. Such contextual factors may include social circumstances, attitude and beliefs.

Methodology and Analytical Procedures

The corpus of this work consists of a total of fifteen affidavits of three different subject matters from the High Courts of Nnewi and Onitsha in Anambra State (the selection is limited by the analytical procedure employed in this work). The affidavits which are: affidavit of loss, affidavit of declaration of age and affidavit of personal identification were selected through a purposive random sampling technique. The samples were photocopies of sworn, signed and stamped affidavits from the courts mentioned above. The subject matters are labelled Text **1**, **2**, and **3** respectively. Each comprises of five affidavits labeled '**A, B, C, D and E**' respectively.

Locating these illocutionary acts within social structure necessitates the employment of the interdisciplinary methods of CDA. **Table 1** stands for the classifications of each of the three subject matters of the sampled affidavits.

Table 2 represents performed in the affidavits. It reveals that the occurrence of the sub- act of 'reporting' in the illocutionary act of 'assertive' is on the high side compared to the other sub- acts of all the illocutionary acts that occurred in the data. The sub- act of 'soliciting' in the illocutionary act of 'directive' has the lowest occurrence. Basically, the illocutionary acts and its sub – acts show that every expression provides a communicative intent, which originates from the contextual factor. Since legal writing is not spontaneous but is copied directly from 'form books' in which established formulae are collected, there must be an intention for that. It is on this ground that the application of speech acts to the study of ideology in the sampled texts will be appreciated. The fact is that ideologies are linked up with speech acts as discussed below to enable us uncover how they facilitate in expressing the legal ideology.

Analysis and findings

Assertives: Assertives are statements that may be judged as true or false. They describe state of affairs in the world. They are satisfied because the propositional contents correspond with the facts that exist in the world. Assertives have the highest frequency among the illocutionary acts that occurred in the sampled data. Sequel to the nature of affidavits, there are some statements that are repeated. In **Text 1 (Affidavit of Loss)**, there are examples of assertives;

- *That I am a deponent in this affidavit. (Text 1A)*

- *That the said Stall had Certificate of Occupancy 3654 dated 8/7/93. (Text 1B)*
- *That I sat and passed for the First School Leaving Certificate Examination in the year 1978 at the said school. (Text 1C)*

The first example tells the hearers the status of the speaker on the facts he/she is about to state under the oath taking. It is repeated in all the sampled affidavits. This statement is relevant in the affidavits because it makes the speaker to take responsibility of any false information that is discovered. Its illocutionary point is to ascribe strong and firm importance to whatever the speaker has to say. The direction of fit is word to world while the expressed psychological state is 'belief'. Therefore, the implication of the statement is that the speaker wants the hearers to believe what he/she said. The deponent is the person taking the oath. The discourse strategy is to activate a frame of background knowledge that the deponent presupposes is shared with Nigerians that write and use affidavits. This frame reminds one of the Evidence Ordinance which was brought into operation in Nigeria in June 1, 1945. When Nigeria became a sovereign state as a Federation in October 1, 1960, the evidence ordinance by statutory adaptation became the evidence act as a piece of legislation of the Federal Parliament (Aguda, 1999). And thereafter, affidavit contains only those facts in which the declarant (deponent) has personal knowledge of, or from the information, which he believes to be true.

The informant, fact and circumstances forming the declarant's belief must be stated. It must be compiled with the requirements of the oath act and this occurs when an affidavit is concluded with a statement 'That I depose to this affidavit in good faith'. However, the exploration of assertive in **Text 1B** is to give the hearers information about the number and date written in the lost 'Certificate of Occupancy'. In the third example (**Text 1C**), the speaker has the intention of making the readers accept the fact that he obtained the said certificate in the alleged year and school; and that is the illocutionary purpose of the statement. Therefore, the speaker informs the hearers on what he believes that took place some years back. The statements in **Text 1B** and **Text 1C** have word to world direction of fit. Their expressed psychological state is 'belief'. The deponents employ the above words to advocate a communal existence in the legal world which has been the underlying formula in constructing affidavits. The statements discursively take us back to the basis of affidavit that accounts for the frequent use of ordinary words

with specialised meanings as in ‘deponent’, ‘declarant’, and seems to suggest that the paramount thing in affidavit (of loss) is ‘conviction’.

The illocutionary acts of assertive are also seen in **Text 2 (Affidavit of Declaration of Age)**;

- *That her birth was not officially registered hence this affidavit. (Text 2C)*
- *That his mother is O. V. (Text 2D)*
- *I know of the fact in No.5 above because I was already an adult at the time of the birth of A.D.E. (Text 2E)*

The first two statements inform the readers of what necessitated the swearing of the affidavit: the birth of his daughter, **I.U.K** which was not registered in any birth registry; the name of the referent’s mother; and the third one gives report on how the speaker got to know about the fact he stated in No. 5 of the text. The statements have word to world direction of fit and the expressed psychological state of ‘belief’. However, the purpose (point) is that the speakers want the readers to accept their statements as true. Its illocutionary point lies on the speakers’ intention of making the hearers believe that the information and report are not false. One can say that the speakers made the statements to uphold the laid down shared way of life of the legal profession. Despite the fact that the deponents expressed what they know, they did that based on the ideology behind the construction of affidavit.

In **Text 3 (Affidavit of Personal Identification)**, assertive statements are shown below –

- *That I was born on the 25th day of December, 1980. (Text 3B)*
- *That I attached herewith my personal passport photograph duly signed by me. (Text 3C)*
- *That I am desirous of opening a personal account with Skye Bank PLC Onitsha Branch, Anambra State of Nigeria hereinafter called ‘The Bank’. (Text 3E)*

The above statements have ‘word to world’ direction of fit. This is because the words are used to give information and report of the event that occurred in the world (that is, the birth of the speaker; information on something that is attached to the affidavit and; the zealously of the speaker in opening a personal savings account with Skye Bank PLC Onitsha Branch). Their

expressed psychological state is 'belief'. The illocutionary purposes of the statements boil down on the speakers' intention in making the readers believe that the assertions are truth. Law uses linguistic terms dealing with generalizations and categories that have to be applied to individual specific circumstances (Sharon, 1999) and that is applicable in the above affidavits of Personal Identification.

Directives – These are illocutionary acts that get the hearer to do something. They have the lowest frequency in all the speech act types in the sampled data. In most cases, they occur together with other illocutionary acts like assertives. Examples of directive in **Text 1** are shown below -

- *That I dispose to these facts for official and record purposes and for the information of the authorities concerned to take note. (Text 1A)*
- *That this affidavit is now required for official and record purposes and for the information of the MTN Authority to retrieve the said land. (Text 1E)*

In the above examples, two possible statements can be created from each utterance. They are –

- *(That) I dispose to these facts for official and record purposes.*
- *(I dispose to this facts) for the information of the authorities concerned to take note. (Text 1A)*
- *(That) this affidavit is now required for official and record purposes.*
- *(That this affidavit is now) for the information of the MTN Authority to retrieve the said land. (Text 1E)*

The first possible statement in each of the expressions above is assertive. We are more interested in the second ones because they are directives. The above directives solicit with the authorities concerned to take note of the loss. Taking note of the loss perhaps involves getting another certificate or line from them (authority) or (MTN) to replace the lost ones. The above directives have the 'world to word' direction of fit. This implies that things are changed in the world through the future actions of the hearers which are necessitated by the uttered words. The expressed psychological state is want or desire. In fact, the implication of the statements is that the speaker wants the hearers to do something. And this is one of the purposes of affidavits. The

discursive frame brings to mind the instructive or requesting nature of affidavits. This is based on the ideology behind the reliable and authoritative means of legal language in regulating human society and resolving conflicts.

There is no instance of directive in **Text 2 (Affidavit of Declaration of Age)**.

In **Text 3A**, the statement below contains the illocutionary act of directive;

- *That this affidavit is to enable the said bank allow me open an account with them and also for records and official purposes.*

The above statement involves two statements. They are –

- *(That) this affidavit is to enable the said bank allow me to open an account with them.*
- *(This affidavit) is also for records and official purposes.*

The first part of the above utterance is a directive. This part implores and asks the Skye Bank plc in a sincere way to allow the deponent open an account with them. In essence, the affidavit stands as an order, a criterion that can make the bank allow somebody to open an account with them. Therefore, its implication is to make the hearers (bank) to do something. The statement has the expressed psychological state of ‘wish, want, or desire’. Its direction of fit is ‘world to word’. This implies that something is changed in the world through the future action of the hearers which are necessitated by the statement. This type of statement is seen in legal texts like affidavit to portray its ideology which is to create or modify rights and obligations of individuals and institutions.

Commissives – These illocutionary acts are like directives but the only difference is that in commissives, the speaker is committed to a certain course of action. Examples of commissive in the data are shown below –

- *That I depose to this affidavit for official and record purposes believing the contents to be true and correct by virtue of the oaths act of 1990. (Text 1B)*
- *And that I make this solemn declaration in good faith and in accordance with the oath law of 1990. (Text 2A)*

And that I depose to this affidavit in good faith, in accordance with the oath act of 1990. (Text 3C)

The speakers of the above statements are committed to getting something done. The above examples are evident in all the studied affidavits, indicating the established procedure in creating affidavits. The statements have 'world (thing) to word' direction of fit, and are satisfied when things are changed by the future actions of the speakers. The above commissives are 'swearing'. The propositional content is that the speakers seriously and truthfully make the declarations with the intention of being honest and helpful. This is to say that the speakers of the above statements are committed to be truthful in what they said based on some laid down rules of the law on oath taking. The illocutionary purpose of the statements is obviously present, sequel to the fact that the speakers are committed to getting something done (changed) in the world with their words. It is assumed that the hearers believed the speakers because they (speakers) have the intention of committing themselves to some course of actions.

Declarations – These are utterances that attempt to change the world by representing it as having been changed. Because affidavit is a form of oath taking, where the individual makes some declarations, many speech acts of declaration are duplicated. Therefore, only three examples of declarations will be analyzed and explained from the three subject matters. Below are the examples -

- *I, MR. C.A., a male, a Christian and a true citizen of Federal Republic of Nigeria, of Bengen Investment Limited, New Market Road Onitsha, Anambra State, do hereby make an oath and declare as follows – (Text 1A)*
- *I, A. I., male, Christian, Nigerian, 16 Nwegbeigwe Close, Awada do hereby make Oath and declare as follows – (Text 2B)*
- *I, O. J. I., of No. 13 Obosi Street Fegge Onitsha, a Christian and a true citizen of the Federal Republic of Nigeria, do hereby make an oath and state as follows – (Text 3C)*

The above utterances attempt to change the world by representing it as having been changed (that is, trying to make an oath, yet stating it as if it has been made). The implication of the statements is that the hearers understand the intended illocutionary points (purpose) in relation to the propositional contents. The propositional contents are the intentions of the speakers to make the oaths and declare some things. The statements have double direction of fit – 'word to world and world to word'. They are satisfied as the

speakers do something in the world at the moment the declarations are made, just by the virtue of saying that they do them. The speakers of the above statements alter their external conditions by making the expressions. They have the authority to do that because such declarations are compulsory when swearing affidavits. However, because of the nature of affidavit, the examples of declaration above are used to introduce the oath taking in all the studied data.

The declarations help in fusing the deponents' ideology with the events in the legal field. They predefine the existing complexity in the language of affidavits and communicate to the reader what one should expect in the discourse. These declarations in affidavits give way to enumerations, which involve an introductory statement, as in the above examples, followed by a set of numbered items to form a complete sentence. Each of such itemized expression is a subordinate noun clause and starts with 'that'. The lists are numbered perhaps, to facilitate easy reference to specific information for people who want to cite it and to discourage the falsification of the assumed sanctity of the document. Meanwhile, the declarations in affidavits are on complete exactness. This enhances directness, avoidance of vagueness and generates clarity of expression.

Conclusion

This paper shows that speech acts as a linguistic procedure could be employed in investigating the ideological concern of a legal discourse. It also reveals that beyond media discourse, other discourse types like affidavits can be a medium for the presentation of ideological positions on both social and legal issues. The paper has been able to sustain that affidavits are containers of 'facts' and 'evidence' because they are created in the cause of talk – text transformation. The ideology behind its complex language and reliance on forms can be traced to the age of the profession. And this is why it has a regular format. However, having done a reduced analysis such as this, it will be misleading to generalize the findings to other legal discourse. It is therefore suggested that a broader analysis could be done to either contest or maintain the claim that ideological categories are inculcated in lexical items of legal discourse. Also, because the legal profession is one of the earliest few professions of mankind, the practitioners try to keep the norms and practices of the profession as they relate to the tradition of the judiciary. It is then difficult to provide rational justification for legal language (affidavits in particular) because many of its characteristics have their roots in the historical origins of legal procedure.

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Table 1: Sub - Categories of Studied Data from the two Courts

Affidavit of loss (Text 1)	Affidavit as to Declaration of Age (Text 2)	Affidavit of Personal Identification (Text 3)
A B C D E	A B C D E	A B C D E

Table 2: The Speech Acts, the Sub – Acts types and Percentage of the Categories of the Studied Affidavits

SN	Illocutionary Acts Performed	Its Sub – Acts	Affidavit of loss	Affidavit as to Declaration of Age	Affidavit of Personal Identification	Total	%
1	Assertive	Asserting	4	9	5	18	16
2	Assertive	Informing	9	7	12	28	25
3	Assertive	Reporting	12	11	8	31	27.7
4	Commissive	Swearing	5	5	5	15	13.4
5	Directive	Imploring			4	4	3.6
6	Directive	Soliciting	1			1	0.9
7	Declaration	Declaring	5	5	5	15	13.4
	Total		36	37	39	112	100