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Aspects of power asymmetry in the language of Nigerian courtroom discourse

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Aspects of Power Asymmetry in the Language of Nigerian Courtroom Discourse

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Abstract

It has already been affirmed that there is power asymmetry in courtroom discourse. Courtroom professionals such as judges or magistrates, lawyers and prosecutors have power over the defendants and witnesses (Danet, 1984; Luchjenbroers, 1997). This thesis attempts to provide an explanatory account of linguistic communication between legal professionals such as lawyers and prosecutors, and witnesses, with a view to show the power prevalent in courtroom discourse. To this end, various forms of questions such as WH-questions, alternative questions, yes/no questions and declarative questions are analysed to account for the discursive practices between the lawyers/prosecutors and witnesses. The framework of this study is supplied by Luchjenbroers (1993).

WH-questions and declaratives in their various forms are further analysed, revealing further manipulation by lawyers to maintain control of courtroom discourse.

The data are 20 hours of audio-taped cases recorded at the High Court of Justice and Magistrate Court in Nigeria. The cases collected include assault, theft, and house breaking.

One of the key suggestions of this thesis is that narrative mode is indispensable in the fact-finding process, which explains why it is favoured during direct examination. Also, questions that contain propositions and presuppositions are strong weapons for the lawyers in controlling, convincing and persuading the witnesses to endorse their ideas. The four analyses carried out in the thesis suggest the fact that lawyers maintain tight control of courtroom discourse.

LIST OF TABLES

LIST OF ABBREVIATIONS

ALTG	Alternative questions
BGR	Backgrounded contributions
CLAR	Clarification
CM	Commands
CTR-X	Content response-x
CTR-ELAB	Content responses
CTR-N-ELAB	Negative content response-elaborated
CTR-X-ELAB	Content response-x-elaborated
CTR-Y-ELAB	Positive content response-elaborated
DECL	Declarative
DI	Discoursal Indication
ENCO	Encouragement
FC	Felicity conditions
FI	Falling Intonation
IFIDS	Illocutionary Force indicating devices
INFO	Information
INTR	Interrogative
MC	Metadiscoursal comments
MR-N	Negative minimal response
MR-Y	Positive minimal response
NDC	Negative declarative
NTG	Negative tags
NYN	Negative Yes/No questions
NA	No answer
NQ	No question
PL	Average pause length
PTG	Positive tags

PDC	Positive declarative
PYN	Positive Yes/No questions
QT	Question type
REF	Reformulation
SAF	Speech Act Functions
S.MPC	Subject-oriented metadiscoursal comments
SUM	Summon
TAG	Tag questions
WHQ	WH-question
2PT	Two part questions

Chapter One

Introduction

1.1 The study

This research studies how power and asymmetry are reflected in the Nigerian courtroom system. Power and asymmetry are very obvious in courtroom discourse because there are rules and procedures guiding the overall courtroom discourse. All these rules and regulations favoured the judges, barristers, and the prosecutors. The defendants and witnesses are at the receiving end of these rules and procedures which suppress and oppress them. For example, only the judges, lawyers and prosecutors can be the questioner and ask questions from the defendants and witnesses. Also, it is they that can also introduce the topic and dictate the turns in the courtroom interaction. Their power is even so pervasive that they dictate the length of talk of the witnesses and defendants and even control their responses. In this regard, the defendants and witnesses are constrained in giving narrative details about the case in question. In other words, the witnesses and defendants are restrained from telling their own story in their own way. They have been denied the opportunity to tell the court exactly what actually happened (Phillips, 1984, Luchjenbroers, 1997).

If there is power imbalance in the courtroom discourse of western societies, it is even more glaring in Nigerian courtroom discourse in particular and African courtroom discourse in general. This is because the western societies such as Britain, United States, Australia and Canada are developed countries and Nigeria and African countries are developing countries. In buttressing this assertion, Moeketsi (1999:24) submits:

> *When I first went to a trial court, I saw something else. I saw blatant inequality and disparity. I saw power juxtaposed with powerlessness, knowledge with ignorance; confidence with fear; arrogant control with humble submission; manoeuvring and manipulation with confusion and bewilderment.*

The power that the judges, barristers and the prosecutors have over the defendants and witnesses is enormous. The defendants and the witnesses must answer any types of questions put to them either by the judge or the barristers. This is in itself a reflection of power. The defendants and witnesses are compelled to answer questions even about personal or sensitive matters, no matter how degrading that can be.

That is why communication in the courtroom has been described as asymmetric, reflecting the hierarchic order between decision makers and their subjects (Aronsson et al., 1987) and as "asymmetrical in terms of both power and status" (Harris, 1989:28). The court, together with its representatives enjoys special institutional powers entrusted to them by law. It can, and, therefore does dictate all terms of procedure. Should any of these terms be infringed upon, the court has the power to sanction such encroachment (Moeketsi, 1999).

This asymmetry is even further manifested in the terms of address for the courtroom specialists such as judges and lawyers. The judges and the magistrates are addressed as "My lord", "Your honour", whether they are male or female. The whole of the court stand up to acknowledge their arrival when they entered the courtroom and until when they sit down, the whole court must remain standing. Also after the end of the courtroom procedure, the court must also stand up until after they take their leave before they can depart. Even the lawyers address themselves as "My learned colleagues" because of their knowledge and power. Furthermore, the court itself is referred to as "The honourable court"

Courtroom discourse is largely made up of questions and answers. That means that the role of lawyers in the courtroom discourse is to be asking questions while the role of the defendants and witnesses are just to be answering them. This asymmetry is so routine and ritualised in courtroom discourse that whenever a witness or a defendant asks a question in court, the lawyers are always quick to call them to order and reiterate the fact the witnesses and defendants are in the court to answer questions and not to ask them. The example below from Harris (1984) which is drawn from Heller's fictional version of Clevinger's trial justifies this argument:

1.1 *"What do you mean" when you said we couldn't punish you?"*
"When sir?"
"I am asking the questions. You are answering them"
"Do you think we brought you here to ask questions and for me to answer them"
"No sir? I ..."
"What did we bring you here for?"
"To answer questions" (Harris, 1984)

The above example vividly explains the role of the defendants and witnesses in court which is to be answering questions and also the role of the lawyers and prosecutors which is to be asking questions.

Since courtroom discourse is made up of question and answer adjacency sequence, the lawyers are also aware that the power they have over the witnesses and defendants stem from asking questions. In this regard, they use, manipulate and exploit questions in different forms to suit their purposes. The lawyers use questions to insinuate, blame, accuse, shout and even abuse the witnesses and the defendants. Questions then, are the only means lawyers have to present information to the court (Through the responses they elicit), as well as the resources to challenge, blame, suggest and direct witnesses' testimony (Rigney, 1999).

From the above, it is obvious that not all the participants in the courtroom are powerful because of the asymmetries discussed above. The courtroom professionals such as judges, magistrates, lawyers and prosecutors are placed on a high pedestal and they have power and control over the defendants and witnesses. This is because of their superior knowledge of courtroom procedures, and status in court.

In the hierarchy of the courtroom, the judge and the magistrate are the most powerful. They preside over all the courtroom affairs. Their orders are laws which must be obeyed by everyone in the courtroom. There is fine for contempt of court for anybody who disobeys the magistrate or the judge's order. The main function of the magistrate or the judge is to maintain justice in the courtroom. They are to see to the proper conduct of the trial in the courtroom. The judge or the magistrates are also charged with the duty to inform the accused person of his legal rights, e.g. the right to be

legally represented. They must make sure that the defendant, and witness knows exactly what they are charged with and what he is required to plead to (Moeketsi, 1999).

After the judge in the high court is the prosecuting lawyer and in the magistrate court is the prosecutor. They are called the" master of the case" (Geldenlyns and Joubert, 1994). The prosecutor in the magistrate court is also the master of the criminal system because in Nigeria nearly all the criminal prosecutions are conducted in the magistrate court: "his main function is to institute and then conduct any prosecution in criminal proceedings in the magistrates court, and this he does on the behalf of the commissioner of police in the state when he is convinced there is a genuine case against the accused. This task involves matters such as case intake, case screening, pre-trial diversion, case review, evolution, assignment, trial preparation, court appearances and recommendation (Fernandez, 1993, Moeketsi, 1999). From the above, we can see that the prosecuting lawyer in the high court and the prosecutor in the magistrate court are very powerful as they exert a lot of influence over the court proceedings.

Next in the hierarchy of power are the defence lawyers. They are very powerful because of their status in court and their knowledge of the law. They main function is to argue cases in court. They are admitted to the bar on the bases of specialist training and experience (Gibbons, 2003).

On the other side of power are the accused and the witnesses. They are so deprived of power that they have no right to speak until they are asked to. They are not allowed to ask questions but instead, they must answer questions posed to them by the lawyers and the prosecutors. They have no

hand in the decision about their fate, as their fate lies in the hands of the court officials such as the lawyers and the judges.

The turn-taking system in the court also reveals the power of the courtroom officials such as judges/ magistrates, lawyers and prosecutors. The purpose of the court is to gather information, and this will be possible only if the speakers are in check. The courtroom therefore operates with a discourse model which defies important basic elements of communication processes where the participants are more or less equal (Moeketsi, 1999). The exchange is made up of a series of questions and answers. The speakers' turns are pre-allocated and fixed instead of being randomly distributed between the participants.

The judge or the magistrate, who is the most powerful, has the opportunity to interrupt at will and can speak at any time of the courtroom proceedings. However, the least powerful people such as the witness can be sanctioned if they speak out of turn. Witnesses are allowed to talk, but they have little control or none over when they speak, and over what they say. Witnesses must spend times, hours or even days waiting their turn whereas counsel frequently interrupts witness, but witnesses are not allowed to interrupt counsel" (Gibbons, 2003). Therefore, questioning procedure in court is a means of control, reserved primarily for those who form a part of the court system e.g. defendants, witnesses, experts of various kinds (Harris, 1984).

Courtroom discourse is completely different from everyday normal discourse. In the courtroom, witnesses are compelled to respond to questions in accordance to the rules and regulations of the court. Courtroom discourse seems to concentrate mainly on allocating blame to the weaker side, attributing fault to him, challenging him and actually

undermining and belittling him. The weaker participant in turn denies, justifies or make excuses for what he is blamed for (Moeketsi, 1999).

Thus, I will demonstrate with the aid of data collected from Nigerian courtroom discourse, especially the high court and magistrate court, how this power and asymmetry are manifested, and who the beneficiaries are, and who are at the receiving end of it in Nigerian courtroom discourse.

1.2 Organization of study

In the previous section, I tried to introduce the main idea of this study that is, to portray the power and asymmetry that are prevalent in the courtroom discourse. This power and asymmetry favour the judges, lawyers and the prosecutors but the defendants, witnesses and the accused are at the receiving end of it. In this section, I will specify how this work is organised.

Chapter two attempts to present generally the concept of power as it cuts across various disciplines, that is how power is being negotiated in other spheres of life such as family discourse, medical discourse, police-suspect interrogation, casual conversation, gendered discourse and also courtroom discourse. The way power is being negotiated in these various disciplines also has direct influence on how power is being negotiated in courtroom discourse.

Chapter three deals with the review of various works in forensic linguistics. This is because courtroom discourse is a branch of forensic linguistics/language and the law. Works are organised and reviewed under

the following sub-headings: caution; power; legal interpreting; and child witness. Some of the tools of analysis of these works reviewed are also relevant to the analysis of the data in this study.

Chapter four attempts to review work on courtroom questions and answers, as the focus of the study is on questions/answers adjacency sequences as they are used in Nigerian courtroom discourse. Furthermore, since the study is being carried out in Nigeria, works done in the area of forensic linguistics in Nigeria so far are also reviewed. Also, various types of courts in Nigeria are highlighted. Some of the tools of analysis for this study are built from these studies.

Chapter five reports on the field work carried out for this study. This chapter also describes the methodology adopted in detail. On the basis of Luchjenbroers (1993) analysis of Australian courtroom discourse, I will also analyse the discourse of Nigerian courtroom too. And building on her analysis, I will also provide new tools of analysis for courtroom discourse.

Chapter six presents an analysis of Nigerian courtroom discourse. The tools of analysis highlighted in chapter five are used in analysing the Nigerian courtroom discourse. Questions and answers used in Nigerian courtroom discourse are analysed in detail.

Chapter seven is a continuation of analysis of chapter six. Based on the outcome of chapter six generated, chapter seven further provides an in-depth study. WH-questions are having the highest frequency in examination and also in the recorded data which necessitates a deeper study and which chapter seven addresses.

Chapter eight further analyses courtroom discourse in Nigeria based on the outcome that the analysis of chapter six generated. During cross-examination in the study, declarative sentences have the highest frequency, and it is this type of question that is more prone to be power-laden, which necessitates further analysis and which chapter eight addresses.

Chapter nine presents an analysis of speech-act functions that are prevalent in the study. Based on the analysis of chapter six, it is observed that there are speech-act functions in the data which are neither questions nor declaratives which are also more prevalent in cross-examination than in direct examination. Chapter nine addresses the intricacies of this.

Chapter ten considers the role of interpreters in Nigerian courtroom discourse. Because of the fact that Nigeria is using English as a second language, and English is the official language of Nigeria, courtroom interpreting is a major part of courtroom discourse in Nigeria. Chapter ten provides an analysis of the intricacies of this.

Chapter eleven attempts a discussion of the key findings of all the four analyses of this study in the light of the major concern of the thesis, which is the power and asymmetry that are prevalent in the Nigerian courtroom discourse.

Finally, chapter twelve provides conclusions and suggestions for future research.

Chapter Two

Power across Contexts

2.1 Introduction

The concept of power is an important one. It is important because it permeates our everyday life. In nearly all our everyday interactions, power normally manifests itself although the degree of power manifested in different contexts differs greatly. For example, the degree of power embedded in an interaction between two classmates talking among each other will be different to that between a police officer to a suspect. In the former, power will be contested between the two colleagues which may depends on who is more knowledgeable, or who has more oratory power, or even who has more physical power etc. This is unlike the latter where the interrogative police officer has power over the suspect based on his institutional role and even fear on the part of the suspect.

Before going on, it is necessary to consider some definitions of power from various scholars. Brown and Gilman (1960: 255) define it thus:

> *One person may said to have power over another in degree that he is able to control the behaviour of the other. Power is the relationship between at least two persons and it is non-reciprocal in the sense that both cannot have power in the same area of behaviour.*

Power as defined by Johnstone (2002) has to do with respects in which relationship are asymmetrical, with one person able to control the other.

In the definitions of power above, the key concept is the ability of one person to control the other which equates to power although the degree of control varies from one discourse situation to another. The degree of control in the interaction between doctor and patient is different from the degree of control existing in the interaction between two friends. In other words, power manifests itself differently from one context to another. The amount of power and control existing in family talk will not be as obvious as that in medical talk. Also the same thing goes for radio talk and courtroom discourse. In radio talk, power is contested between the host and the caller. In this context, power is negotiable. In contrast, in courtroom discourse where all power and control is on the side of the judges, magistrates, lawyers and prosecutors while the defendants and witnesses and are at the receiving end of power and control.

Johnstone (2002) also made mention of asymmetrical relationships. That is a situation whereby a person by virtue of his/her position is more powerful and can control the speech of the other. For example, in legal parlance, the relationship between the judges/magistrates, lawyers and prosecutors on one hand and defendants and witnesses on the other hand is asymmetrical. This is because it is the former that control the talk in the courtroom and not the latter i.e., it is only the lawyers in the courtroom that can ask questions while the witnesses are just to be answering them. The judge can interrupt the proceedings of the court at will, but the witness cannot speak until he/she is allowed to. If he/she speaks out of turn, he/she may be fined for contempt of court.

Everyday conversation is rarely symmetrical. So, power appears to be an intrinsic feature of spoken interaction. It has been pointed out that even relatively symmetrical conversations involve asymmetries of various sorts (Itakura, 2001). In everyday conversation, individuals occupy different roles at different times and context. Roles such as doctors, teachers, servants, bosses, students, lawyers, judges, drivers, officers, police officers, witnesses, accused persons, patients, buyers, sellers, telephone operators and other roles that engage our everyday activities. It is these various roles that dictate and guide our conversation thereby involving some measure of asymmetry. For example, in boss/servant conversation, teacher/student conversation, where the relationship is asymmetrical, there is bound to be some degree of power and control in their interaction, and even among classmates of the same class where asymmetry is not obvious, some factors are bound to bring asymmetry of some sorts such as knowledge, riches, physical power, and popularity etc.

Having all these in mind, and before coming to the body of this research, it is necessary to look at how power is negotiated across different contexts.

2.2 Power across different contexts

2.2.1 Casual conversation

As discussed earlier, everyday conversation is rarely symmetrical. There is power and dominance in everyday conversation. It has been explained that power is negotiable and that people compete for the ability to make things happen, even in situations in which institutionally allotted power might make such competition unequal (Johnstone, 2002). Itakura's (2001) study

focuses on conversational dominance and control using initiative-response (IR), interruptions, overlaps, topic control approaches on conversations between Japanese (L1) and (L2) English students. The study reveals that conversational dominance is a multi-dimensional construct that can be measured along sequential, participatory and qualitative dimensions. "Sequential dominance refers to one speaker's tendency to control the other speaker with respect to the direction of the interaction and the sharing of initiating and responding roles. Participatory dominance refers to the restriction of speaking rights, in particular through interruption and overlap; while quantitative dominance refers to the level of contribution to the interaction in terms of the number of words spoken by each participant" (Itakura, 2001:1862).

Of the three dimensions, sequential control is the most significant dimension because it is closely related to the speakers' behaviour in regard to control over topic development. The (IR) exchange structure is very effective in capturing the development of topic control at each stage of interaction.

From the above, we can see that there is power and asymmetry in all kinds of talk. Power in speech has even been compared to the electric current that makes human interaction possible. This means that power is constant in any situation. If there were no power, there would be no interaction, just as the light would go out if the electric current were cut (Johnstone, 2002).

2.2.1.1 Radio talk

Radio talk represents a public context in which private citizens can articulate their opinions on social issues (Hutchby, 1999). Using the conversational analysis approach, Hutchby (1999) demonstrates how power operates in and through language-by viewing power in terms of relationships between turns (as actions) in sequences. In radio talk, the opening slot is designed for the caller and he/she introduces the topic. This affords the host the opportunity to dominate and control the discourse. Since the opening slot is design for the caller, the host automatically gets the second. The caller is then expected to introduce the topic by expressing an idea on some issue. Going second represents a more powerful position in argumentative discourse than first position. The host is then in a vantage position to take the first speaker up on his idea and challenges, criticizes or even condemns his idea. Contrary to the popular opinion that the more powerful introduces the topic, Hutchby argues that the real asymmetry lies with the second position because he is able to contest the first speaker's idea by picking at its weaknesses.

2.2.1.2 Family discourse

It is widely acknowledged that some of the research findings on family interaction support the image of male dominance and power imbalances between the father and other members of the family. For example, Macdonald (1980) studies husband-wife power relationships and finds out the decision-making indicators such as turn taking (that is, who maintains the floor most or who speaks more), directives (that is who make most decisions) interruptions (who interrupts most) as the primary indicators of power lies with the husband. Many researches have also relied on decision-

making outcomes as an indicator of power to study husband and wife power relationships and come out with the fact that power lies with the husband. (Cromwell and olsen, 1975, Mcdonald, 1980, Scanzoni, 1979). It has also been argued that male representation symbolizes all that is positive and powerful while female representation symbolizes all that is negative and weak (Luchjenroers, 1998). For example, in Luchjenbroers' (1998) study of metaphor and gender representation in Hong Kong English, men representation is symbolized as male creator metaphor:

2.1 He created a Sung Dynasty village
2.2 He conceived the hotel
2.3 He developed all the food concepts

(Luchjenbroers, 1998:112)

Also men are also represented as thinkers as verbs of thinking are used to portray this:

2.4 He masterminded 6 hotels
2.5 He envisaged (an event)
2.6 He struck upon the (concept)

(Luchjenbroers, 1998:110)

In the above examples, men are portrayed as very brilliant, intelligent and creative. Women on the other hand are represented negatively as they are represented by animal metaphor:

2.7 She is a rare breed
2.8 She whines
2.9 She is a fully fledged, modern, grown-up woman

(Luchjenbroers, 1998:115)

Women are also represented by the embryos/children metaphor:

2.10 *She is still developing intellectually*
2.11 *She sounds so juvenile*
2.12 *She has a side that's childlike and silly*

(Luchjenbroers, 1998:115)

In the above examples women are represented as animals, embryos and children which suggest the fact that they are dependent on men, tender and fragile.

However, some studies also view power as being contested between husband and wife and even the children in the family. Huls (2000) working in the realm of power processes studies the concept of power in the Turkish immigrant families. Borrowing insight from conversational analysis, approach, he analyses power and topic control by the use of turn-taking system on two Turkish immigrant families. Hul's finding suggests that mothers in the two families dominate the conversations followed by their children. Contrary to the wider speculations of male dominance, she asserts that fathers are very passive in the conversations of the two families.

Huls' (1989) study also dwells on decision-making indicators in the families of both high status (Factory director) and low status (Janitor). Central to the study are turn-taking, directives, interruptions with which the data are analysed. In the study of the two families, the mothers have a winning chance of 70%, while the fathers have 50%. The eight-year-olds have a winning chance of 40% while the pre-school children chance hovers

around 25% Huls (1989:129). This means that mothers in these families have more conversational power than their husbands.

From the above, it is obvious that power is negotiable. Power is seen as being contestable between the husband and wife. Men can be powerful at the workplace and wouldn't concern themselves with the daily decisions at home while women reign at home and decide on the daily affairs at home. This might be another interesting future research topic.

2.2.1.3 Discourse and Gender

Since Tannen (1990) a growing number of scholars have started concentrating on discourse and gender (see Tannen, 1993, 1994, Hall and Bucholtz, 1995, Bergvall, 1996, Luchjenbroers, 1998). In much of these, concern has been with the issue of power asymmetries in conversation in which male speakers use a competitive style of speech, while women on the other hand use a more cooperative style of speech. For example Coates (1996)'s work investigates women's collaborative talk. The study reveals that while men look for difference, feminine talk is more like melding in together. The study further dwells on features of speech labelled as women's speech such as hedges (e.g., mmm, you know), and questions which secure relationship and collaborative talk.

The study also focuses more on rhetorical questions and tag questions. In women's conversation, rhetorical questions maintain the conversation and are used to confirm the shared world of the jointly negotiated discourse. She also talks extensively on tags question which, together with hedges, have been labelled as powerless speech. But to Coates, they are used to

maintain the collaborative floor by inviting speakers to join in.

In the same vein, Luchjenbroers,'s study reveals that men are depicted as active (always doing, developing, creating, formulating, conceiving), creative (always creating, conceiving, developing, midwife ring), born to succeed (always chairman, director, succeeds as, appointed, took a degree etc). Women, on the other hand, are represented as passive even in success (e.g. she was named executive director), as animals (e.g. she whines, she is a rare breed), embryo/children (e.g. childlike and silly), and their positive qualities are usually juxtaposed with negative qualities (e.g. she toyed with the idea of setting up her business), (Luchjenbroers, 1998).

O'Barr and Atkins's finding is also in line with the above view. It argues that speech differences between men/women should be accounted for in terms of dominance, power and status relations. Following the Duke Language and law programme, conducted in North Carolina in the 1970's the study labels male's talk as powerful and women's talk as powerless language. Men's language is also referred to as being relatively direct, succinct and instrumental, whereas women's style is indirect elaborate and affective (Mulak et al., 2001).

From the above studies, it is observed that men are viewed as being more dominant than their female counterparts. Men are depicted as more powerful, forceful, assertive and in control. Women on the other hand are depicted as being weak, non forceful and collaborative.

2.2.2 Doctor-Patient talk

Questions are an indicator of power that has been widely used to study interaction between doctors and patients by many scholars (West, 1984b; Hein and Wodak, 1987; Weijts 1993). This is because to ask a question is to claim power over emerging talk. The questioner expects an answer to be given. In other words, it is like the questioner is compelling the listener to give a response. These scholars have been able to show that doctor-patient talk mainly involves doctors asking questions and patients answering. Doctor-patient talk has even been likened to an 'interview' (Ainsworth, 2001) which is highly asymmetrical, with one person i.e. (doctor) having the right to question the other i.e. (patient).

Questions and power are closely interwoven. Questions can function as directives. This is because the force of question can be likened to the force of directive which is a request for the listener to do something. By asking a question the speaker is also asking the listener to do something such as providing a response.

The following reasons have been given by Ainsworth-Vaughn (2001:462) on questions' claim to power:(i) a question addressed to another participant chooses that participant as the next speaker- an obvious exercise of control; (ii) a question, in some way, always restricts the topic of the response -the referential content of the conversation. This second point is especially important in the medical encounter, because time for the encounter is limited and choice of topic determines which of the patient's problems will be addressed and which will not be; (iii) some questions entail the expectation that the floor will be returned to the questioner and the control

of the floor is usually thought to embody the power and control position in conversational asymmetry (Ainsworth-Vaughn, 2001:462).

In this regard, questions in medical encounters demonstrate power claiming (Ainsworth-Vaughn, 2001). Comparative numbers and percentages of questions asked have been assumed to be rough indices to the balance of power between doctor and patient. In Frankel's (1979) study, which focuses on American medical interaction, less than 1% of the total number of questions asked by physicians and patients were patient-'initiated'. The remaining were initiated by the physician. This linguistic result shows that power lies with the physician. In West's study also, out of 773 questions, of which 91% (705) were asked by physicians, only 9% of the questions were asked by patients. However, West looks at it from the question and answer sequence and placed few restrictions upon it, excluding only requests for repetition, because one person did not hear the other, and markers of surprise ("oh really?").

Ainsworth-Vaughn's (2001) study reflects a higher percentage of questions asked by the patients which are 38.7% of the 838 questions physicians and patients asked one another. This shows patients claiming more power since tradition changes. However, the above studies still suggest that power resides with the doctor in doctor-patient talk and that the doctors' role is asking questions while the patients' role is limited to answering questions.

From the above, it can be observed that doctor-patient talk is always doctor-oriented; the doctor holds the agenda for the interview and controls the transactions, and the consultation is considered effective if the doctor's (diagnosis) is achieved. Let us consider the following example as an illustration of what we've been discussing:

2.13	*Doctor:*	*Who is in the house with you?*	*1*
	Patient:	*The wife*	*2*
	Doctor:	*Just the two of you?*	*3*
	Patient:	*Yes*	*4*
	Doctor:	*There's nobody with blood pressure in the family?*	*5*
	Patient:	*No*	*6*
	Doctor:	*Do you know anybody with heart trouble?*	*7*
	Patient:	*My mother died when she was 56 with heart trouble*	*8*
	Doctor:	*Are you a worrier by nature, do you think?*	*9*
	Patient:	*Yes, I think I am. I think actually I am*	*10*
	Doctor:	*Have you any particular worries recently or are you?*	*11*
	Patient:	*Well, my son 's living in London and he's not got a*	*12*
		secure job yet. So- I know I shouldn't be worried	*13*
		about him ,he's 24 next month, but...	*14*

(Maclean, 1989)

The above extract from recorded data held in the Medical English Resources Centre, Institute for Applied Language Studies, Edinburgh University shows subroutines near the end of the history taking phase: in this case, social history, family history and psychological assessment (Maclean, 1989). It also shows clearly the extent to which the doctor holds agenda and controls the interaction.

By the use of structured questions, the doctor is able to dominate and control the conversation. Topic control is also determined by the doctor. In the above extract, four topics are introduced. All the four topics are introduced by the doctor. In lines 1 and 3 the doctor wants to know the number of those living with the patient. After receiving that information,

he introduces another topic in line 5 asking about presence of blood pressure in patient's family. Not satisfied with the answer from the patient, he introduces another topic in line 7 asking about the patient knowledge of anybody with heart trouble. After receiving the response that the patient's mother died from heart trouble at the age of 56, the doctor introduces the last topic about asking if the patient is a worrier by nature.

From the doctor's topic control above, it is glaring that the doctor controls and dominates the discourse. He asks all the questions. Out of all the questions asked, only one genuinely seeks for information; the first question 'Who is in the house with you?' In this question the doctor wants to know those living with the patient. He uses WH-question type here which asks for information. Four of the questions are of the Yes/no questions type which limit the response of the listener to yes/no. These questions also contain the propositions of the doctor e.g

2.13 Just the two of you?
2.14 Do you know of anybody with heart trouble?
2.15 Are you a worrier by nature, do you think?
2.16 Have you any particular worries recently or are you?

In the above examples, the doctor is embedding his questions with his own ideas and propositions. The patient is just agreeing with him. The last question by the doctor is also declarative question loaded with proposition 'there is nobody with blood pressure in your family?' The doctor's question above embedded with his proposition which the patient is expected to accept or refute.

In essence, the doctor exudes power and control in dealing with the patient. Through structured questions the doctor controls and dictates the tunes in the examples above. The patient did not introduce any topic in the above examples nor did he ask any question. These are the prerogative of the doctor which shows his power. Vaughn (2001) speaking in the same vein observes that questions in medical encounters demonstrate power claiming.

2.2.3 Police-Suspect interrogation

This is another context where the relationship is highly asymmetrical. The type of power in this context is more obvious and glaring than those discussed before. The power here is obvious because of the institutional rules and procedures. This means that it is the regulation of the society that vests the police officer with institutional power over the suspect and the accused. Thus in this regard, the police officer determines the topic of the interrogation, asks questions, interrupts, challenges, accuses and gives directions. During interrogation, the aim of the police interrogator is to secure a confession from the suspect and due to this; s/he makes use of several strategies to enable the offender to confess his/her guilt.

The following techniques have been identified by Walton (2003) as those used by the police usually during interrogation:

I. the easiest way out: This involves wearing the respondent down and then informing him that "if you just give us the information, then your problems are over;
II. the only way out: This is used when conditions become unbearable for the respondent. This involves humiliation and even maltreatment. For example, Wagenaar et al. (1993:109-110) cite the

case of a man interrogated by the police, who made him undress and ridiculed him during a long and intense interrogation in which they threatened to turn him over to neighborhood. His treatment was found not to be in violation of any law but was such that he found it intolerable to continue;

III. authority: This is the way of police using their power and status to secure a confession from the witness. The most powerful element being used here is the questioning technique especially leading question;

IV. hypnosis: This is used by the police as a way to improve memory of distant events. For example Wagenaar et al. (1993:110) also give examples of long sessions of interrogation can be conducted in a bare room with strong lighting which can make the respondent tired and suggestible, creating a state of sensory deprivation that has a hypnotic effect;

V. catching off guard: Another name for this is friendly/unfriendly act. One interrogator can be hostile and aggressive, while another interrogator appears to be friendly and sympathetic just to obtain confession from the witness;

VI. deceit: Wagenaar et al (1993) cites the case of a police officer who disguised himself as a prisoner in the suspect's cell, who elicited a self-incriminating statement from the cellmate. The suspect does not realize that he is being interrogated;

VII. misrepresenting the law: Here, the police may tell the respondent that silence will be taken as confession or that confession will lead to a lesser sentence or that a confederate has already confessed;

VIII. distortion of the seriousness of the offence: Here, the interrogators try to reduce the subject's guilt feeling by minimizing the moral seriousness of the offence;

IX. we already know everything: Using questions that presume that the guilt of the respondent has been established;
X. use of threat: This is the use of mild or indirect threat; and
XI. sympathizing with the respondent: This is by sympathizing and telling the suspect that anyone else under the same conditions might have done the same thing (Walton, 2003:1784-1786).

The techniques above may not be applied to all countries especially the western countries such as United Kingdom, Australia, Canada etc, because of cultural differences, yet they are still very much in practice in some African countries especially, Nigeria where this study is carried out. For example, in in Farinde's 1998 study of police-accused discourse in Nigeria, some of the techniques identified above are present in the recorded data.

All the various techniques are possible because the police interrogators are having power over the subjects. They dictate the pace and tune of the interrogation and they can resort to any of the techniques above just to obtain confession from the suspect. All the above techniques also symbolize power that the police have over the suspect.

Whatever method is used, there is always asymmetry between the interrogator and the suspect. During interrogation, interrogators make ample use of their power. They challenge, warn, accuse, deny and complain. They are more direct. They demand and dominate (Shuy, 1998). They are able to do this through the type of questions they ask. Since asking questions is the resource open to them to do all this, the police make use of structured questions to interrogate the suspect. The police make use of leading questions a lot during interrogation. Leading questions are declarative or yes/no questions embedded with the propositions of the

questioner. With this the police interrogators are able to enforce their own idea and arguments on the suspects.

Also, Farinde (1998) identifies the following Act forms (Act is an element in the hierarchical organization of discourse and it denotes the classification of the functions of utterance in the discourse) that police use to obtain confession from the suspects:

a) **Elicitation Act form-** this asks questions and is used by the police to obtain information from the suspect e.g.

2.17 *What is your address?*
2.18 *Do you know anybody who could have done it?*

b) **Prompt Act form-** this in police/Accused discourse entails threats and persuasion to coerce the suspect to confess his crime.

2.19 *Will you tell us the truth now?*

c) **Directive Act form -** involves command and is used by the police to instil fear into the suspect which will make him to confess his crime.

2.20 *Keep quiet!*
2.21 *Shut up!*

d) **Accuse Act form** this is also used by the police to trap the accused person to confess his crime unwittingly.

2.22 You are the person who stole the properties

e) **Evaluation Act form** this is used by the police to judge whether the accused person is speaking the truth or not.

2.23 You are very difficult to handle. That is how you did last time before you eventually confess.

(Farinde, 1998)

All the above Act forms highlighted by Farinde (1998) can only be used during interrogation by the police interrogator. Therefore, they symbolize the power that the police have over the suspect. Elicitation Act form contains questions. Only the police can ask questions during police-suspect interrogations except the questions asked by the suspect to seek clarification of the interrogator's question. This means that in this context the police can be said to have power over the suspect. In some other contexts such as in a conversational setting, asking a question can be said to offer the floor to the questioned person and demonstrate the questioner's interest in the answer (Goody, 1978; Fishman, 1983). Since prompt Act form entails threats and persuasion, and this is used by the police, then police is having power and control over the suspect.

Also, the directive Act form, Accuse Act form and evaluative act form are always used by the person occupying higher status. Police in police-suspect interrogation occupy the higher position, and therefore, they are entitled to use these Act forms. It indicates that there is asymmetrical relationship between the police and the suspect. The police are always using their power and control to persuade the suspect to confess their crime. By using directive act forms a speaker proposes to exert control over other

conversational participants (Goodwin, 1990). In institutional dyads (attorney-witness, teacher-student, physician-patient), typically, the speaker who has the power to reward (attorney, teacher, physician) has asked the most questions, and the imbalance in numbers has been dramatic (Dillon, 1990). The above are just buttressing the fact that only the person that is superior such as the police interrogator can give directive, reward, evaluate, accuse and even ask most questions.

Some of the techniques discussed above are also found in courtroom discourse and some of them are very relevant in later chapters. Although some of the practices involved are different from countries to countries due to cultural differences, i.e. While in Nigeria the interrogation involves torture, threats, beatings and abuses; it is quite different in the Western countries such as Britain, Australia, and Canada. However, the basic methods remain the same.

From the pragmatic point of view, Thomas (1986) also gives three factors by which the discoursal rights and opportunities of the subordinate participant are restricted, thereby enforcing the dominant participant's topics and discourse control. Working with police data between a superior (chief superintendent officer) and a junior colleague (corporal), Thomas offers the following factors: discoursal indicators, metadiscoursal comments and interactional controllers. Discoursal indicators are the surface level markers of the speaker's discoursal intent. They are used primarily in order to establish the purpose and nature of the talk and to define the topic boundaries of the interaction (Thomas, 1986).

The superior officer uses discoursal indicators by stating the purposes and defining the boundaries of the interaction e.g:

2.24 *Okay, that's that part. The next part that I want to deal with is your suitability to remain as a C.I.D. officer.*

(Thomas, 1989:10)

In the example above, the superior officer is using a discoursal indicator to control their conversation and stating the boundary of that interaction. It has the purpose of limiting the discoursal options of the subordinate interactant and creating discourse space for the superior officer, and also ensuring discourse control by him.

Metadiscoursal comments are the comments used by the superior officer to keep the corporal from wandering from that previously establish part, by disallowing contributions which do not contribute to the superior officer's goals. They are also used by the superior officer to mark new stages in the development of the interaction or to signal that the interaction is about to end and they can be used in order to mark or legitimize the fact that the dominant speaker is going to go beyond his/her boundaries (Thomas, 1986).

2.25 *[Magistrate to defendant.] "I'm not here to answer questions-you answer my questions."*

(Harris, 1980:136)

In the above example, the magistrate is using metadiscoursal comment to keep the defendant from wandering from previously established path. He is also using this to control the discourse in the courtroom.

The third factor, interactional controllers is used to elicit contributions of the subordinate participants to the on-going discourse. Interactional

controllers are used by the dominant participant in order to secure a particular response (Thomas, 1986). Since the subordinate participants always want to be in good position with the dominant speaker, they give it readily. This is in the form of force feedback which dominant participants elicit by the use of "right" or "ok" with questioning intonation e.g.

2.26 *(A) you'll probably find yourself um before the constable okay?*

(B) Yes, Sir, yes, understood

(Thomas, 1989:28)

In the example above the junior officer has to give forced feedback to the superior officer because of the power difference between them. The superior officer has power above the junior officer, hence the enforced feedback. The junior officer is doing this to please the superior officer.

The factors discussed above are also very relevant to courtroom discourse. They are several instances of these types of factors in the data used for this study especially discoursal indicators and metadiscoursal comments because of the oppressive nature of courtroom discourse. So, they are very useful during the analysis of data in the later chapters.

2.2.4 Courtroom discourse

When we are talking of an institutional discourse where power is pervasive, the courtroom discourse is arguably the most direct powerful institution. The judiciary implements the law in the society. A person's freedom and life may be restricted or even cut off completely by law (Gibbons, 2003).

Therefore, the professionals of law such as judges, barristers and magistrates, are placed in high pedestal and they exude power right from their ceremonial attire to the courtroom negotiations. Even the physical appearance of the court shows the high esteem in which the law professionals are held. In a typical layout, the witness is in focal position where all eyes and ears are upon him/her.

Even the furniture in the courtroom reflects asymmetry in the relationships. In particular the judge is seated higher, and his/her bench is generally constructed from massive wood. Barristers stand during testimonies and juries are seated in tiered rows to facilitate view of the court proceedings (Luchjenbroers, 1993).

Judges, barristers and magistrates in most cases dominate courtroom discourse. The witnesses and defendants are placed in subordinate positions. There are three crucial aspects of dominance; (i) quantitative dominance (who says most words); (ii) topical dominance (who determines topics); and (iii) Interactional dominance (who directs and control) (Adeswald et al., 1987).

Quantitative dominance deals with the amount of speech. This is the situation by which an analyst measures the size of utterances spoken by the participants in a piece of conversation and determines who says the most words. Topic dominance refers to the person who determines the topic of conversation. It is this person that will introduce the topic and changes the topic at will. Interactional dominance refers to initiation-response patterns. The dominant speaker is the one who directs and controls the other person. He does this by asking questions and taking initiatives while also avoiding being dominated and controlled. In all these three aspects, the judges,

magistrates and lawyers dominate the topics to be discussed, direct and control the proceedings, and even speak most of the words in the courtroom (Adesward et al.,1987).

In this respect, courtroom discourse is different from non-formal conversation because of the highly hierarchical power structure. In courtroom discourse, who gets to talk about what and when is distributed according to convention (Atkinson and Drew, 1979). The result is uneven distribution in the courtroom, where, witnesses are stripped from any type of power, institutional representatives are invested with triple power: sociocultural power granted by a society that authorizes them to solve disputes; legal power based on the law; and linguistic power that enables them to control the interactional space of conversation, to prompt witness to respond and to pursue answers to questions they ask (Walker, 1987). Power in the courtroom is displayed through control of testimony and this is achieved by:

A. Insistence on role integrity: If witnesses try to exceed the limits imposed on their roles, and ask questions or refuse to answer them, or even speak more than required, the justices and lawyers make them aware of their violations, and remind them that they are there to answer questions and not to ask them. However, some researchers have argued that there are variations in the degree of this control and that serious offenders who receive more severe penalties will be more controlled right from the opening of the trial all the way to the closing phase while the minor offence defendants trials will be more relaxed and they will be treated in a more conversation like manner (see Harris, 1984, Cicourel, 1985, Adelsward, et al 1987, Walker, 1987 Luchjenbroers, 1993, Hobbs 2002,).

B. Topic control: The legal institutional representatives especially the judges and occasionally the lawyers determine the topics to be introduced in the court according to the convention. They will make sure that the trial is conducted according to the law and any irrelevant topics are disallowed. In this regard, it is the legal professionals that control and dominate the topic distribution and witnesses and defendants have no say in it. (Harris, 1984, Walker, 1987, Adelsward, et al 1987, Luchjenbroers, 1993, 1997, Chang, 2004).

C. Structured questions: That is the way in which question types restrict the choice and size of answers. Agar (1985) asserts that the prototypical pattern of speech acts in court is the question/answer sequence which is indeed common to much institutional discourse. A considerable number of writers have asserted that questions in court are used by judges, magistrates, lawyers as a mode of control, thereby making it difficult for defendants and witnesses to put forward propositions of their own (Danet, 1984, Harris, 1984, 1989,1995, Philips, 1984, Adelsward, et al 1987, Luchjenbroers, 1993, 1997, Rigney, 1999, Seligson, 1999, Ehrlich, 2002)).

Research has also revealed those isolated speech attributes that appear to make speakers seem more or less influential and powerful to hearers (e.g. Lakoff, 1975, Scherer, 1979, Gibbons, 2003). Gibbons, (2003:88) lists those powerful attributes which include: (1) loudness and variation in loudness; (2) a larger pitch range (i.e. varied intonation; (3) repetition; (4) silent pauses rather than filled pauses (um,err); (5) interrupting; (6) not using expressions of agreement; (7) fluency; and (8) coherence.

These attributes are very relevant especially in the courtroom discourse. Powerful speakers in court make use of the above attributes and use them to dominate the courtroom discourse. Lawyers make use of degree of loudness and large pitch range for effect. They make use of repetition a lot to drive home their point to the court. Also, when things are not going their way, they will interrupt the proceedings of the court by raising objection. Competent lawyers use silent pause to control the witness and communicate to the jury. It is also their stock in trade to be fluent coherent and always maintaining their line of arguments without using any signs of agreement.

Speech attributes that may make speakers seem less powerful are according to Gibbons (2003:88): (1) hedges (sort of, kind of, you know); (2) hesitation (um, err, oh, well, let's see); (3) uncertainty (often asking questions); (4) uses of 'sir/ma'am'; (5) intensifiers (very, definitely, surely); (6) time taken (powerless take longer to say things); (7) mitigation (would you mind if, sorry to trouble you).

Weak witnesses possess some of the attributes listed above. Hedges and hesitation are common in their speech. Also they use sir/ma'am in their address to the lawyers and justice. They also take longer time to narrate their evidence and they are always being prompted by the lawyers and the prosecutors.

Gibbons study is very significant for courtroom discourse where power and asymmetry are very common. Powerful speakers such as lawyers in court are more likely to dominate the discourse and convince both the jury and the judge while powerless speakers usually the defendants and the witnesses are less convincing.

2.3 Summing up

From the above discussion, we have been able to see that there is power and asymmetry in all kinds of talk. Power is negotiable and in most kinds of talk, people are always jostling for power. However, it is also glaring that power relations are also different from context to context. In the family discourse, radio talk, casual conversation among friends and colleagues, people compete for power. A husband can have more power at workplace while his wife dominates their talk at home. But the doctor holds another kind of power over the patient because of his/her knowledge which the patient may find difficult to contest. Yet this kind of power is also different from that which exists between the police and a suspect. Here, the institutional rules and regulations place the police above and over the suspect and the police officer controls and dominates the interrogation between them.

But of all these various contexts, courtroom discourse is arguably the institution where power and asymmetry is the most obvious. This stems from the fact that the rules and regulations of the courtroom favour this power and asymmetry on the part of the courtroom professionals. Since the courtroom discourse is the focus of this dissertation, the next chapter will focus more on the intricacies of the courtroom.

Chapter Three

Work in Forensic Linguistics

3.1 Introduction

This section traces the historical background of Forensic Linguistics/ Language and the Law and the need for such a body in Nigeria is stressed. Also, the review of work done under Forensic Linguistics is going to be categorised under the following major topics: Caution, Power, Legal Interpreting, and Child Witness. The reason for this is that these are the areas that are very relevant to this study.

3.2 Historical Background of Forensic Linguistics/Language and Law.

It is evident that linguists have been directing their attention to the realities and complexities of interactions in the other professional fields of enquiry. At the initial stages of forensic linguistics/language and the law, linguists who offer expert opinions on the language in legal settings just did so without being aware of the analytical procedures being used by his/her colleagues. Then, there were no organised bodies or journals and books to qualify for a subject area or field. Also there was no official documentation of such consultations.

However, the situation afterwards then improved. French and Coulthard (1994) in their editorial introduction of the birth of the journal *Forensic Linguistics* report that larger numbers of linguists and phoneticians have

become involved in forensic case-work, which has resulted in the formation of two professional organizations. One, the International Association of Forensic Linguistics (IAFL) was founded in 1992. Among its objectives is to provide a forum for the interchange of ideas and information about forensic applications of linguistic analysis generally. Also, it organises annual conferences, prints newsletters and the journal Forensic Linguistics etc. Furthermore, it engages in compiling an international register of qualified linguists who are prepared to act as expect witnesses. The second organization, the International Association for Forensic Phonetics (IAFP) was founded in 1991.

IAFP, in addition to mounting conferences and seminars, serves as the registered professional body for phoneticians involve in forensic work. Through its professional conduct committee, IAFP has formulated a code of conduct which is binding on the activities of its members.

Shuy (2001) traces the progress of forensic linguistics/language and the law in the United States of America from the 1970's to the present and reports that by 1970's due to vast improvements in electronics and the passage of new laws related to electronic surveillance, the government had begun to increase its use of taped evidence in matters of white-collar and organized crime. Also, coincidentally, it was during this same period, linguistics was expanding its domain to include the systematic analysis of language beyond the level of sentence and its study of meaning beyond the levels of words. "Discourse analysis", "Pragmatics", "Speech acts", "Intentionality", "Inferencing", and other such terms began to find their ways into common academic use. The advent of these two developments made it possible to merge them in the use of discourse analysis to analyze the tape recorded

conversation gathered by law enforcement agencies as evidence against suspects (Shuy, 2001).

Discourse analysis is further used in the stylistic identification of authors of written documents, in the patterned language use of voice identification, in the discovery of systematic language patterns that serves as profiles of suspects, and in the identification of crucial passages in civil cases such as disputes over contracts, product warning labels, and identification (Shuy, 2001).

In addition to these bodies, there are a lot of publications and articles on forensic linguistics which had been published in the 1990s. For example, articles on language and the law (Gibbons, 1994; Levi and Walker, 1990; Rieber and Stewart, 1990;), books on the language of courtroom (Solan, 1993; Stygall, 1994) bilingualism in the courtroom (Berk-Seligson, 1990; Moeketsi, 1999) and aircraft communication breakdown (Cushing, 1994) Shuy, 2001).

3.3 Need for Forensic Linguistic/Language and Law Body in Nigeria.

Nigeria patterns her law system to that of law system of Britain. In the Western countries such as United Kingdom, United States, Australia and Canada, there is a body called Forensic Linguistics/Language and the law. According to French and Coulthard (1994) among others, the body's duties include:

- Forensic speaker identification undertaking from audio recordings by phoneticians: methodologies, reliability, practice in different countries;

- Reliability of speaker recognition evidence provided by witnesses;
- Organization of speaker identification parades and voice live-ups for lay witnesses;
- Uses of auditory phonetic and acoustic analysis in determining the content of noisy and difficult audio recordings;
- Speaker profiling: uses of Phonetic, Sociolinguistic and Dialectical data in determining e.g. regional and social background of unknown speakers in criminal recordings;
- Forensic comparison of handwritten samples
- Uses of lexico-grammatical analysis in resolving authorship of disputed texts;
- Lexico-grammatical and semantic methodologies for the determination of bias in judicial summaries; and
- Semantic analysis and the use of data from psycholinguistics studies in the resolution of copyright and patenting disputes over brand names, slogans and advertising texts.

In this regard, there is the need for the formation of Forensic Linguistics/Language and the law that will be addressing all the issues that her counterparts in the United Kingdom and the United State of America have been addressing. In Nigeria today, the system of interrogation between police and suspects is entirely different from that of the Western Countries. There is force, coercion, torture and threats in Nigerian police interrogation. Some people are being killed without trial. But if there were such a body like Forensic Linguistic/Language and the Law, the specialists in Linguistics, Laws, and Philosophy will be writing to address this.

The language of caution in Nigeria is also posing problems for both the police and the suspects. This problem also occurs in the United Kingdom and United States of America where English is used as native language. With the formation of this body many scholars in Linguistics and Law will be writing to address this.

In addition, the Linguistic situation in the Nigerian courtroom also needs to be addressed. There is the empowerment of English language over the three major Nigerian languages: Hausa, Igbo and Yoruba in Nigerian courts. The law of the country is coded in English language. In this regard, there is the alienation of the language of the law from the population. The formation of Forensic Linguistic/ Language and the Law will be able to address this by specialists writing on this critical issue.

As said above, experts in linguistics offer experts opinions on some knotty language problems in the western courts. These are native speakers' countries. Nigeria using English as her official language needs services like this in the Nigerian courts from linguistics experts. Many innocent people are being convicted in Nigeria because of English language confusion. The formation of Forensic Linguistics and Language and the law will be able to solve this problem through specialists in English Language helping to unravel knotty problems of English Language.

There are several injustices within the legal system of the country. Some group of people have power and can influence the decision of the court. Many people are been detained for several years and many died in detention without proper trial. It is high time masses became aware of their rights within the law. The formation of Forensic Linguistics/Language of the law will raise this awareness.

3.4 Caution

Legal language is also used by the police in the discharge of their duties. In the United State of America these legal languages are referred to as warnings or Miranda warnings and in England, Australia, and Nigeria they are known as cautions. They are written by lawyers. Gibbons (2003) identifies four different kinds of cautions which are:

I. caution 1 (used at the beginning of the interview process between the police and suspect e.g. I am going to ask you certain questions which will be recorded on a video-tape recorder. You are not obliged to answer or do anything unless you wish to do so, but whatever you say or do will be recorded and may later be used in evidence. Do you understand that?);
II. caution 2 (used when an interview has been interrupted and about to commence e.g. Do you agree that prior to the commencement of this interview I told you that I intended asking further questions about this matter?);
III. caution 3 (another adoption question for video-taped interviews e.g. What I propose to do is ask you further questions in relation to this matter. My questions and my answers given by you will be electronically recorded on tape as the interview takes place. Do you understand that?); and
IV. caution 4 (used at the end of interview e.g. Has any threat, promise, or offer of advantage been held out to you to give the answers recorded in this interview.

Caution 1 is the most commonly used in different countries such as Britain, United States, Australia and even in some African countries like Nigeria, Ghana etc and it is the one that will be reviewed here.

Cotterill's (2002) explores the language of caution delivered by police to an individual detained on suspicion of having committed a crime in the United Kingdom. The article moves through the process of caution, beginning with a consideration of the legal and linguistic consequences of the cautionary tale which is intended to give the suspects a clear idea of their rights while in police custody, e.g.

> *You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence,*

The police and criminal Evidence Act (PACE) of 1984 in the United Kingdom allows a police officer to vary the wording of the caution and explain to the detainees the meaning of the caution if they do not know its meaning. Cotterill explains that there is a great deal of inconsistencies in both the delivery of the caution and the presentation of the caution. In the first instance, the police officers find the task of measuring linguistic and comprehension level problematic. In addition to this is their repetition of words that appear in the caution, in what are intended to be explicatory paraphrases. Also, the police officers confuse the intended meaning of "advice" with the more threatening connotation of a "warning". Finally there is a conflict between rights and responsibilities in describing the caution.

Gibbons (2003:189) speaking in the same vein argues that there are linguistic complexities in the caution with several layers of subordination and coordination. For example 'you are not obliged to answer' is conjoined with 'or do anything'. Furthermore 'whatever you say or do' is a full clause but it is rank-shifted to be the subject of both 'record' and 'use'.

To overcome the problem, Cotterill suggests among other things that linguists, psycholinguists, and other professionals must collaborate with the legal profession to maintain the delicate balance between increasing comprehensibility and jeopardising the legal status of the text. Since officers untrained in linguistics usually give the caution, she further suggests that greater efforts should be made towards their training in this area. Cotterill's paper adds valuable information to the growing field of police caution and Miranda warning.

Gibbons (2003:191) also suggests the following revisions:

> *I am going to ask you some questions. You do not have to say or do anything if you do not want to. Do you understand that?*
>
> *We will record what you say or do. We can use this recording in court. Do you understand?*

Cotterill and Gibbons suggestions to overcome the problems will go a long way towards eradicating the problem. The suspect will understand the words of the caution clearly and it will prevent misunderstanding and confusion. Police interrogation and courtroom discourse are working hand in hand which explains why they are both under the umbrella of Forensic

Linguistics/Language of the Law. They are both power-laden. That is why Cotterill's paper is very relevant to this study.

3.5 Power

As it has been mentioned before in chapter two, power is very prevalent in courtroom discourse. The courtroom professionals such as judge, magistrate, lawyer, and prosecutor have power over the witnesses and the defendant. The courtroom professionals dominate and control the discourse. Witness and the defendant are subordinate to them.

Harris's 2003 study applies politeness theory of pragmatics to the courtroom situation in the United Kingdom. Central to the work is the belief that politeness theory provides an alternative way of defining and interpreting institutional linguistic norms of behaviour. Following Brown and Levinson (1978) the work bases the theory of politeness on the concept of "face" and focuses on request token. With this, it is argued that despite the fact that courtroom discourse is essentially power-laden, relatively powerful institutional members (i.e. judges, magistrates, barristers) also make extensive use of mitigating forms and other politeness strategies to avoid face threatening acts in the process of countering request tokens constructed by less powerful interactant (i.e. defendants and witnesses). Harris however, cautions that powerful interactants in courtroom settings employ fewer redressive forms in the exercise of their power and are willing to engage in explicitly face-threatening interactive behaviour which would seem to be in accordance with institutional norms.

She further argues that even in settings where the power hierarchy distance is very great, institutional members such as magistrates and the police engage in strategies which offers the less powerful a means of redress in response to face-threatening acts, though at the same time, they are ultimately prepared to bring a about a breakdown in communication (or to refuse a request on the record) if the offers are not taken up.

Harris (2003) also believes that courtroom discourse is asymmetrical in the sense that judge or magistrate, lawyer and prosecutor have the power over the defendant and the witness. But the main thrust of the paper is that despite the fact that courtroom discourse is essentially power-laden, the courtroom professionals also make use of mitigating forms and politeness strategies to avoid face threatening acts in the process of countering request tokens constructed by less powerful interactant.

Much of the power that the lawyers have rests on the power of questions. In courtroom discourse, only the lawyers can ask questions while the defendants' and witnesses' role is to answer them. That is why lawyers in court usually exploit the various forms of questions to convince the witnesses and also to present their own side of the story to the court.

Fuller's (1994) article concentrates on style switching by barristers in the courtroom as a linguistic strategy used by them to achieve their aim and to imply things which they are not allowed to say overtly in the courtroom. Using data based on Rutherford case aired on court TV, Fuller explores various linguistic strategies used by lawyers in the courtroom. The study observes that lawyers usually switch between situational code-switching (situational code switching is code choice determined by the social situation) to metaphorical code switching (metaphorical code switching

refers to code choices in which variety itself is a social symbol) to changing the alignment or footing. They also switch from various lexical choices such as formal/technical, biblical, lexical colouring to manipulate defendants and witnesses.

In addition to this, they switch their phonological style such as changing their pronunciation tempo, pitch, rhythm and intonation in order to convince the jury. More important is their switching between different questioning styles such as WH-questions (give witness more freedom in answer), yes/no questions (give a narrow range of possible answers), and declaratives with question tag ending (presuppose answer as well as limiting response to yes or no). Switching between all these enables lawyers to do indirectly what they are not allowed to do directly. For example, a lawyer cannot blatantly call a witness stupid but this can, however be implied with style switching. This is often done in order to cast doubt on the testimony of the witness. This subordinates a witness to a lawyer.

One big factor that makes the lawyers successful in their switching between the lines is the asymmetrical relationship that exists between the lawyers and the witnesses. In law courts we can say that the lawyers occupy a higher position than the witnesses. It is the lawyers that initiate the talk, control the turns, and also have the right to ask questions from the witnesses. It is this asymmetrical relationship between the lawyers and the witnesses that Fuller's article is trying to address.

Harris' and Fuller's articles reviewed will be useful to this study. Harris paper dwells on the power prevalent in the courtroom which is necessary to our study of power in the Nigerian courtroom. Also, Fuller focuses on

style- switching of lawyers to achieve maximum effect which are also found in the data used for this study especially switching among different question forms.

3.6 Legal Interpreting

Interpreting is a communication activity that occurs in various situations where a message is transferred from one language to another in a setting where language and culture present themselves as barriers, rendering communication impossible (Moektsi (1999:97). De Jongh (1992: xv) identifies five contexts of interpreting which are: diplomatic, medical, conference, business and legal. Courtroom interpreting is a growing area in the field of language and the law. This is because of its complex nature. In all types of interpreting, courtroom interpreting can be described as one of the most complex. The strategic use of language in the courtroom also makes the task of the interpreter more demanding. Legal interpreting will be viewed from two perspectives which are: questions and discourse markers.

3.6.1 Questions

Much of the literature on legal interpreting has focussed on the interpreters omitting and reducing the pragmatic force and coercive structure of questions asked by the lawyers to the witnesses. There is force and coercion in the questions asked by the lawyers to the witnesses which depends on their format of questions. But during interpretation the interpreters omit and reduce the force and coercion of these questions.

Berk-Seligson's 1999 work focuses on the discussion of the categorization of question types according to their coerciveness. Following Woodbury (1984) the paper suggests different types of questions ranging from yes/no questions, prosodic questions, truth questioning questions (positive or negative) to tag questions, noting that tag questions in whatever forms (copy tags, confirmatory tags, checking tags) are the most coercive and also the most leading. It is also worthy of note that she also believes that they are frequently used during cross-examination because of their coercive nature. Using five trials as examples, she further asserts that interpreters usually reduce the pragmatic force, and thus the coerciveness of barrister's questions in their translation. She believes that their grammatical structure and propositional content are still intact.

Similarly, Rigney's 1999 work focuses on the interpretation of the lawyers' questions into Spanish with the database of a testimony of Spanish-speaking witness in the O.J. Simpson trial. The paper argues that since question is the only means lawyers have to challenge, blame suggests and direct witness's testimony, their form is of crucial importance. Like Berk-Seligson, he also categorises questions according to their degree of control. For example, low control questions comprising of open WH-questions, modal questions, embedded questions and high control questions which are made up of alternate questions, yes/no questions, declarative questions, tag questions and factual questions. The high control questions are the most coercive with factual questions as the most coercive.

The study claims that court interpreters frequently ignore the pragmatic meaning of the source text. In other words they ignore the speech acts, illocutionary force, conversational maxims, politeness elements and these elements have considerable influence on the interpretation of meaning and

on the image of the interaction participants' project to their interlocutors. In the example given, politeness forms are removed from some modal questions during interpreting. Also, the tags of the tag questions are removed which has the effect of turning a directive question into an informative one thereby loosing its coerciveness. Furthermore it is also observed that declarative questions are highly conducive, but during the interpreting process, usually the conduciveness of the questions gets lost because of the mismatch of structures in the two languages, for example:

3.1 *PA: You spoke to her for 2 hours, didn't you?*
1: Habl cested con ella durante dos horas
(Did you speak to her for 2 hour?) (O.J. 17)

3.2 *PA: You also told Ms. Villalpando that you were willing to testify, didn't you?*
1: Tambien dijo usted a la Sra. Villalpando que estaba usted dispuesta a declarer (O.J. 19)
(Did you also tell Ms. Villalpando that you were willing to testify?)
(Rigney, 1999:98)

In the above examples, the tags embeded in them have been removed thereby reducing its coerciveness and force.

The findings of Berk-Seligson and Rigney add valuable information to the growing field of legal interpreting. The two papers emphasize the need for the interpreters to be aware of the pragmatic dimension of language during the process of interpreting.

3.6.2 Discourse Markers

Discourse markers are defined as the units of pragmatic rather than grammatical, as their presence or absence can affect the illocutionary force of the utterance leaving intact the grammatical structure of the sentence and its propositional content (Hale, 1999). Illocutionary act is the act the speaker performs as a result of his/her making an utterance (Crystal 1994) such as command, reward, threats etc. Discourse markers bracket units of talk and are syntactically independent from the sentence, so that they can be detached from the sentence without altering its propositional content (Schiffrin, 1987).

They are usually at the beginning of the sentence e.g. well, so, now, and, ok, etc. Interpreters normally omit these discourse markers because they feel that they are not important and irrelevant in as much as they are not altering the propositional content or the grammatical structure of the sentence.

Hale's (1999) paper focuses on the problems the interpreters face in the translation of discourse markers lawyers make use of during cross-examination. The paper asserts that interpreters frequently ignore the discourse markers such as "well", "now" and "see", which can adversely affect the illocutionary force of the utterance despite the fact that the grammatical structure of the sentence and its propositional content are still the intact. These markers are frequently used during cross-examination by competent lawyers and Hale believes that they are devices of argumentation, combativeness and control, for example:

3.3 *Q1: And uh you tell the Court that you have no prior convictions?*
INT: Dice usted a la corte de que no ha tenido antes ninguna condena?
(You're telling the Court that you never had any convictions before?)
A1: No.
INT: No.

3.4 *Q2: Well, is it correct that you have no prior convictions?*
IN: Es correcto decir que usted no ha tenido condenas anteriores?
(Is it correct to say that you haven't had any previous convictions)
A2: Si.
INT: Yes.

(Hale, 1999:67-68)

The omission of 'and' and 'well' in the above examples reduces their illocutionary force and coercion. The study further observes that these markers are usually used in questions that serve as a preface for starting a disagreement or that seek an answer to suit the lawyer's purpose of discrediting the opening case. For example, "well" is used by lawyers to indicate rejection of the witness/defendant's previous answer and to provoke him/her by proposing something different. Also, "see" connotes a lying evidence, while "now" prefaces disagreement. Hale asserts that these markers are always omitted by the interpreters whereas they are used as assertive, contradictive and confrontational devices by lawyers and barristers.

This study is carried out in a second language courtroom. In this regard the review of literatures on legal interpreting is very useful to the study. The concept of interpreting and the analysis of it are further given in chapter nine in detail. Furthermore, the categorization of questions are also very relevant to the analysis chapters such as chapter six, seven eight and nine.

3.7 Child Witnesses

Another growing area of forensic linguistics is the treatment of child witness. Linguists are of the opinion that justice is not really served in the questioning of children witnesses and in the light of this, many scholars are writing to address it. In most of the works on child witness, concern has always been on the questioning format. This is because questioning format in interviewing children is very important and can lead to the success or otherwise of the interview process. So, there is reason to be concerned about the questioning format asked of children in Forensic situations because the children's answers have important consequences.

For example, Walker's (1993) study focuses on the questions addressed to children witnesses and criticise their forms and structures. Walker suggests that the consequences of asking questions in the wrong way can be severe and may sway the jury's opinion. She frowns at leading questions in whatever forms and wants it abandoned when questioning children. She is of the opinion that while yes/no questions can be leading ones for the young child, tag questions are much worse because in effect, they allow the questioner to do the testifying, tag questions of all forms are the weapon of choice in cross-examination. While the study insists that tag questions should be avoided, it is nonetheless advocated that WH-questions should be used with care. This is because, they can be open questions and therefore of greater evidential values. Walker also views restricted choice questions as being compelling and that the child may feel under pressure even if they do not know the answer.

Brennan (1994) in the same vein also condemns the questioning style of barristers during cross examination of child witnesses which has the effect

of negating the child witness's experience and reducing his credibility in front of the jury. The study terms this questioning style negatively as "the discourse of denial" and opines that children between 6-15years old do not really understand half of what is addressed to them during cross-examination. This is coupled to the fact children in most cases are nervous in the courtroom. Furthermore, Brennan terms questions that contain already completed propositions as "negatively rhetorical" and frowns at their use during cross-examination of children, as they only require confirmation or silent assent as a response.

Similarly, the paper criticises questions that contain many underlying propositions "multi-faceted questions" because in essence, they have the effect of confusing the child witness. It also condemns the use of specific/multiple questions as they also have the effect of disallowing the experience of memories or expressions of a continuous experience of multiple episodes. Other linguistic styles such as juxtaposition of topic, lack of grammatical and /or semantic connection, preservation, nominalization, tagging, and unmarked questions are also to be used cautiously because in summary they put the cross-examiner in the position of power over the child witness.

Walker and Brennan condemn the style in which children are questioned. They frown at questions that contain propositions which can confuse the children such as declarative questions, tag, yes/no and alternative questions. These are coercive and control questions that can confuse the children to give wrong answers. They even have the same effect on adult witnesses in court as lawyers use these types of questions to convince and sway the witnesses to their side. These various forms of coercive questions will still be dealt with in detail in the analysis chapters. However, they canvass the

use of open questions such as WH-question as its use will allow the children to be comfortable and answer in full.

In a similar manner, Perry (1995) also disapproves of the language used by attorneys when questioning children in court. She conducts a study into the impact of some of the complex question forms used by the barristers when examining children witnesses. The study reveals the use of negatives, double negatives, tag questions, rapid shifts, which presents difficulties for children witnesses who are naïve about the legal structure and system.

The impact of these to the child witness is that, these questions are confusing and also the complex and embedded clauses are beyond their memory. It is then recommended among other things that apart from the fact that the language used in the courtroom should be simplified, lawyers and judges should also receive specialized training in developing skills on appropriate questioning techniques. She further requests the court to engage linguistic professionals in eliminating the use of complex question forms.

Also, Peterson et al (1999) traces the intricacies embedded in questioning format employed for the children especially the preschoolers. They opines that although open-ended questions are the best for children because of its accuracy, young children are unlikely to provide narrative answers like adults unless they are prompted with specific questions. Another problem is that specific questions can also be suggestive and leading for young children. How does one overcome such problems? To overcome the problem, Peterson et al suggest much use of specific WH questions which is a crossroads between those questioning formats. The use of specific WH questions will not enable the children to launch into narratives which will

require the use of leading and suggestive specific questions. Also, the use of specific WH questions also requires specific answers and they are not leading or suggestive like yes/no questions,

Still speaking on questioning format, Aldridge and Wood research (1998) also dwells extensively on different types of questions suitable for children. The study canvasses the use of open-ended question with care especially those ones that do not put pressure on children. For example what is favoured while questioning children but 'how' 'why' and 'when' questions should be used sparsely with younger children and they are the last of WH-questions to be acquired. 'Why' should even be avoided totally as children feel the need to justify behaviour. They are also to be used with specific yet non-leading questions so as to provide extension and clarification of the narrative answer generated from the open-ended question phase. Aldridge and Wood also frowns at the use of leading questions especially yes/no questions and tag questions because in essence they imply the answers or assume facts that are likely to be in dispute.

Perry, Walker, Brennan, Aldridge and Wood and Peterson et al papers not only cover the questioning style pose to the of child witness in particular but also address the issue of linguistic asymmetries that prevail in courtroom in general. Their analyses of questions pose to children will be particularly useful for this study as they are very relevant for adult witnesses as well.

3.8 Summing up

From the discussion above, we have been able to see Forensic Linguistic/ Language and the law in a very broad perspective. Different types of Forensic Linguistic analysis such as child witness, power, questions, legal interpreting, and caution are discussed. These are very relevant to other chapters in this study. For example power as discussed in this chapter will be relevant to other chapters throughout this study since the study is based on power. Furthermore, question will be equally useful to all the analyses chapters since they are based on questions. Also efforts are also made to trace the background of Forensic Linguistics/Language and the Law. Since our dissertation is on question especially how it can reveal power and coercion in court, the next chapter is going to be devoted to the literature on the subject.

Chapter Four

Reseach on Questions

4.1 Introduction

In this section, research by various scholars on courtroom questions and answers is reviewed. As the focus of this research is to carry out an in-depth study of the language of law in Nigeria, the final section of this chapter is devoted to works specific to Nigeria. Nigeria is a former colony of Britain and has based its law system on the law of Great Britain. However, unlike Great Britain where there are many works on the language and the law, little work has been done so far in Nigeria. This study will provide a comprehensive analysis of Nigerian courtroom discourse much needed in the field.

4.2 Courtroom Procedures

Before going on to questions in court, it is necessary to discuss courtroom procedures. This will guide us in later stages when some aspects of the procedures in the courtroom are referred to. In the courtroom, examination-in-chief usually comes first. The aim is to obtain narrative facts from the witnesses that will support the examiner in-chief client. In England and Wales the party who calls a witness (to the court) conducts the examination-in-chief (Luchjenbroers, 1993). In Nigeria, the prosecution counsel who is the lawyer representing the state asks question or examines the witness. In the magistrate court in Nigeria, the prosecutor who is a police officer usually examines the witness.

Either in the high court or the magistrate court, the prosecuting counsel who is a lawyer or the prosecutor who is a police officer must be well armed with the facts of the case. The examination-in-chief is also known as 'direct examination' or 'examination'. The object of examination-in-chief is to obtain vivid narrative facts of the case from the witness.

In this regard, questions that will generate maximum narrative facts are more frequent as they "allow the witness to break into narratives that give an authentic ring to testimony" (Woodbury, (1984-211). At this stage, leading questions are frown upon in the court, because the aim is to elicit maximum facts from the witness. Leading questions are questions embedded with propositions of the questioner which can convince the witness. This will be discussed fully in section 4.3.2.

Cross-examination on the other hand, comes after examination-in-chief. Here, the objective is quite different from examination. The aim of cross-examining lawyers is to discredit the witnesses' testimony. Thus, it is usually a tense confrontation between an aggressive lawyer and the witness. The cross-examining lawyer will aim to derive testimony that will be favourable to him from the witness, "lawyer's role in direct examination is to showcase the witness testimony, on cross-examination, you should be centre of attention" (Manet 1980:247-249). That is why examination has always been described in the literature as cooperative while cross-examination is described as hostile and uncooperative (Walker 1987, Luchjenbroers 1997).

4.3 Questions in court

As this study focuses on the questions used in the court, this section is going to be devoted to courtroom questions. It is also apposite to devote this section to courtroom questions because much of courtroom conversation dwells on the question/answer sequence.

Questions in court are different from questions in other contexts. This is so because in the courtroom, question can only be asked by the judges, lawyers and prosecutors. The witnesses' and defendants' role is just to answer these questions. This is unlike in other contexts such as conversation between two colleagues whereby any of the two can ask questions and is not reserved for one person alone. Questioning procedure, therefore, in court is reserved primary for those who form a part of the court system e.g. judges, magistrates, lawyers, clerks (Harris 1984:6).

In the courtroom, the witnesses must answer the questions put to them by the judges, lawyers and prosecutors. The force of questions in court has been compared to the force of summons (Scheglof, 1972). This is because, like a summon which the witnesses must respond to, witnesses must also respond to questions in court without which they can be charged with contempt of court.

Questions compel a response. The most general thing we can say about questions is that they compel, require, and may even demand a response (Goody 1978). For example, by asking the following questions, the questioner is waiting for answers:

4.1 What is your name?

4.2 What happened there?

Luchjenbroers (1997:481) corroborates this by explaining that questions in court are fundamentally defined as a summon to reply; the speaker compels, requires or demands that the addressee respond, and function as elicitation for information, requests, suggestions and ironical assertions. The force of questions can be compared to the force of commands, as discussed above. When asking questions, the questioner is asking the addressee to answer just like in a command where somebody who commands expects the addresses to do something. For example:

4.3 Close the door (command)

4.4 Where are you going? (question)

As the speaker expects the addressee to do perform an action by closing the door, so also is the questioner also expects his/her listener to reply him by giving him/her an answer.

In Nigerian culture, question is also regarded as a source of power. It is a norm for the superior to ask questions from his inferior. But it it is difficult for the inferior to be asking questions from his/her superior. Also, questions in Nigeria reflect age difference. A child who asks too many questions is regarded to be an insolent child.

4.3.1 Questions and power

In courtroom discourse, questions and power are closely interwoven. As the study is devoted to power as it manifests in courtroom discourse, it is

necessary to discuss the relationship between questions and power here. In court, a question is a source of power. As only the judge, magistrate, lawyer and prosecutor can ask questions in court, this gives them power over the witnesses and defendants. The only questions that the defendants and the witnesses can ask are the clarification questions.

In court, the power that the courtroom officials (judges, magistrates, lawyers, prosecutors) have rests on the power inherent in questions. As much of the discourse in court is based on question and answer sequences, questions are the weapons that lawyers have to control the witnesses' and defendants' testimonies (Rigney 1999). Using question, a lawyer can challenge, blame suggest and direct the witness testimony (Rigney 1999: 85). Stygall (1994:120) also supports this by explaining that courtroom questions are a powerful tool for attorneys, who use them to control the flow of discourse, requesting particular information in a certain fashion, presenting the story in the order they decide to impose, which does not necessarily follow the temporal succession of the actual events. In other words, this means that the lawyers can ask any questions at any time. With their questions they can jump from topic to topic which is to their benefit e.g.

4.5 ***Lawyer:*** *Who actually measured the land for you?*
Witness: *I don't know. But we met many people there.*
Lawyer: *Any document giving to you on the land?*
Witness: *We were not given any document.*
Lawyer: *When did the killing of Ijesha people stop?*
Witness: *When the owu people came*

In the example above, the lawyer has been asking questions about the land the witness is farming on before jumping to the question about racial war between two tribes which has no bearing on the question before. This shows the lawyers' power and freedom in choosing any topic they like. The power that the judges, lawyers, and prosecutors have over the defendants and witness is very enormous. The defendant and the witnesses must answer any type of questions put to them either by the judge or the lawyers. This is in itself a reflection of power. The defendants and witnesses are compelled to answer questions even about personal or sensitive matters, no matter how degrading they may be. Walker (1987:59) sees this as the result of the unequal distribution of power in the courtroom. For example, in part of the data used for this study, the defence lawyer asks a personal question of the witness. The witness initially refuses to answer until the judge prevails on him that he must answer all questions posed to him e.g.

4.6 ***Lawyer:*** *Do you like the accused woman as a woman?*
Witness: *Why should I like her like a woman?*
Judge: *You must answer straight!*
Lawyer: *Do you like the accused like a woman?*
Witness: *It is because I like her that I lend her money.*

In the example above, the witness is reluctant to answer the lawyer's personal questions about whether he loves the accused person or not because he suspects where the question is leading to. But the judge intervenes, stating that he must answer straight and that is why he answers the question. The following are given as their source of power by Walker (1987:58-59);

a) *A socio-cultural base of power – the court is an institution where disputes are settled formally and this vests power on the court officials.*
b) *A legal base of power- in court, there are bodies of law which govern procedures for discovering what the evidence is and for presenting it later at trial. These terms give attorneys and judges power over defendants and witnesses.*
c) *A linguistic base of power- In addition to the socio-cultural and legal bases of power from which attorneys operate, there is also the linguistics which rests on the power of questions (Walker 1987:58-59)*

4.3.2 Leading /Conducive questions.

Most of the questions in court are powerful and coercive because they are leading and conducive. That is why it is highly necessary to discuss leading and conducive questions in this section before going on to treat powerful and coercive questions in detail in the next section. Leading or conducive questions are questions embedded with questioner's propositions and ideas which aim to convince the listener. Thus, leading questions enable barristers to assert their own versions of reality, which adds to their control of witness, and also illustrates the extent to which lawyers know and demand a presumably expected answer (Danet 1980).

Leading questions are so powerful that lawyers are not allowed to lead witnesses during examination but they are allowed to do so during cross-examination (Manet 1996:50). By the use of leading questions, a cross-examining lawyer can dominate the stage during cross-examination and at

the same time limit the responses of the witnesses. Through the use of leading questions during cross-examination, the examiner can force a witness to limit, his/her answer to 'yes', 'no' and 'I don't know'(Packel and Spina 1984:79).

The following functions of leading question have been given by Hobbs (2003:486) which summarises all the points noted above about leading/conducive questions:

(1) they are hearable as implied statements, they signal their expected answers and they imply that the expected answer is correct(i.e. will be confirmed by the witness); (2) also allow the lawyer to stimulate a monologue and to control the trajectory of the talk; (3) Moreso, such questions which ask the witness to agree or disagree with their propositional content, effectively limit the scope of the witnesses answer to 'yes/no', thus allowing the lawyer to obtain a relatively risk-free corroboration of his or her preferred facts; and (4) the lawyer thus retain the floor, reducing the witness to a listener ever as he or she speaks (Hobbs 2003:486). Examples of leading questions are:

4.7 Lawyer: *When the policemen came, nobody was arrested?*

4.8 Lawyer: *You wouldn't know if anybody was around when your wife was counting the money?*

In the examples (7) and (8) above, the lawyers have already embedded their questions with propositions and their ideas with which they hope to convince the witnesses. The same set of questions can be uttered in this way:

4.9 When the policemen came, who was arrested?

4.10 Who was there, when your wife was counting money?

But because the latter form will not suit the lawyer's purpose, they prefer the former form which will convince the witnesses.

4.3.3 Research on Questions

4.3.3.1 Non-powerful Questions.

Question research is viewed along the dimension of power. This is because this study focuses on power inherent in questions. Along the dimension of power, the least powerful question a lawyer can ask is a WH-question. This is treated under: (1) Non-restricted WH-question and (2) Restricted WH-question.

Non-restricted WH-question is the least powerful question as found in this study. It is the least powerful because it requires vivid, clear, informative and narrative details. According to Woodbury (1984:211), they allow the witness to break into narratives that give an authentic ring to their testimony.

Non-restricted WH-questions are favoured more during examination because the examination stage is a cooperative and supportive stage. The more frequent occurrence of non-restricted questions in direct examination creates the space for witnesses to provide their own version of events, as opposed to version of events that are structured by the assumptions of cross-examining questioners (Marley, 1994, Ehrlich, 2002).

That is why Non-restrictive WH-questions are the least powerful. In the courtroom, the more a witness retains the floor and provides highly informative and narrative facts, the looser the hold of the lawyer on him. On the other hand, the more a lawyer can retain the floor by asking propositional questions which will limit the response of the witness, the more he will also have the hold on the witness. For example, Danet (1980) explains that a lawyer's ability to control witnesses is measured (among other things) by the length of witness responses, and therefore, cross-examination will contain more coercive questions that elicit shorter answers.

Non-restricted WH-questions can also be viewed from two perspectives: Noun non-restricted WH-questions and verb non-restricted WH-questions. Verb non-restricted WH-questions are the less powerful of the two. This is because they are broad and require highly informative and narrative responses. Noun non-restricted WH-questions on the other hand are more powerful than their counterparts because they tend towards being more restrictive. They are just asking for some points and facts. 'What' and 'how' usually introduces non-restrictive questions. For example:

4.11 Prosecutor: *Take your mind back to on the 10th of March, 2003.at about 5.30pm and tell this honourable court <u>What happened</u> on that day?* ***Verb***

Witness: *On that very day, I went to shop, then my wife came to call me and I asked her what is the matter, and she said they have stolen her money 42;500 Naira. Then I went down to the police station to complain.*

4.12 Lawyer: *What day was that-**Noun***

Witness: *On the eve of the meeting*

4.13 Prosecutor: *When you got to the house, based on the complaint laid by your wife, how did you assess the house then? –**Verb***

Witness: *When I got home, I first looked through the entries... the entrance to the main room. My room is room two to the right and their own is room three to the right. I observe that they passed through the ceiling in my room.*

4.14 Prosecutor: *How many police **were** given to you- **Noun***

Witness: *Two policemen*

(11) and (13) are clear examples of Verb non-restrictive WH-question. They are the least powerful questions because they allow the witnesses to provide highly informative and narrative answers. In (11), the prosecutor wants to know all that happened during the day in question. Everything that leads to the case and the witness gives him a response that encapsulates all that happened that day. Also in (13), the prosecutor also wants to know how the witness assessed his house. This also requires a narrative answer which the witness provides.

In examples (12) and (14), the lawyer and the prosecutor are asking for some facts and points of the case. ((12) and (14) are the noun non-restrictive WH-question. They are more powerful than their counterpart because they expect short responses.

Restricted WH-questions on the other hand request only for specific information and facts. They are introduced by where, who, whom, when

and which. They are more powerful than their non-restricted counterpart because they just require for specific facts. For example where requests for place, which request for type, while when request for time or period and who/whom demands for person or people. According to Rigney (1999:87) closed WH-questions are questions that elicit the display of information providing narrative orientation, in as much as they request only information about specific details. In other words they are just helping non-restrictive WH-questions by providing specific facts to fill the gap in the narrative provided by the witnesses.

In the data for this study, prosecutors use restrictive WH-questions sparingly during examination stages. The prosecutors use them only when they want to clarify some facts during the narrative of the witness generated by asking non-restrictive WH-questions. Lawyers, during cross-examinations on the other hand, if they must use WH- questions they prefer to use the restrictive WH-question so as to prevent the witnesses launching into narratives. For example:

4.15 ***Prosecutor:*** *Who beat you because that is the genesis of this case?*
Witness: *Only the woman*

4.16 ***Prosecutor:*** *Which hospital were you taken to?*
Witness: *General hospital.*

4.3.3.2 Powerful Questions.

Powerful questions are coercive and controlling questions. They are powerful, coercive and controlling in the sense that they already contain propositions with which the witnesses are expected to agree or disagree.

They are also called leading questions. Powerful questions can be viewed from two perspectives: choice questions and declarative questions.

Choice questions: These are questions that require choice for response. They are Yes/No form and alternate questions. Yes/No are so powerful that they are labelled accusatory while alternative questions are labelled forced-choice (Luchjenbroers 1997:482). Both of them are called choice questions because they both require choice for response. While yes/no question requires either yes or no, alternative question requires choice between two or more options. They are very powerful, coercive and controlling because they limit the choice of the witnesses' answer to a choice of two or more options. Because they are powerful, they are greatly favoured during cross-examination by the cross-examining lawyers. Imwinkelreid (1980) explains (in lawyer-trainee manuals) that Yes/No questions restrict the witnesses' opportunity to speak and so should be used consistently in cross-examination (Walker 1987).

Apart from limiting the response of witnesses to a matter of choice, Yes/No questions and alternative questions also contain propositions that the witnesses are expected to pick from e.g.

4.17 Did you know the accused person - (accusatory - Yes/No)

4.18 Is the accused person Tunde or Shola – (Forced choice)

Examples (17) and (18) above already contain the proposition of the questioner (about the accused person) and also (about the accused person's name) and the listeners are just expected to pick between Yes/No in (17) and also between Tunde and Shola in example (18). In essence, of all the

options available to the listener to choose in response, s/he cannot go beyond those given in the questions. This is where the power lies. The questions have restricted the answerer's response to the options given above. Through the use of leading questions during cross-examination, the examiner can force a witness to limit his/her answers to 'yes' 'no' and 'I don't know' (Packel and spina 1984:79).

Existing literature also views yes/no and alternative questions as being powerful, coercive, controlling and combative (Danet 1980, Woodbury, 1984, Harris 1984, Walker 1987, Luchjenbroers 1993, 1997).

Declarative Questions: These are the most powerful questions in the courtroom. They are very powerful, coercive and controlling because they already contain propositions which the listeners are invited to accept or refuse. In most cases, the witnesses accept these propositions because it will be difficult to refute the propositions embedded in these declarative questions. This is pointed out by Harris (1984:16) "to challenge a complete proposition requires more interactive work than to support it, the greater amount of interactive work is required to reject a complete proposition".

They can be formulated both positively and negatively. Rigney (1999:89) is of the opinion that they are considered very coercive because the declarative form gives them the illocutionary force of statements more than that of questions. Furthermore, declarative questions are very powerful because they also limit the witnesses' response. They afford the cross-examiner an opportunity to maintain the floor and present his/her own version of reality. This view is supported by Harris (1984:15). Because so many of the questions contain completed propositions, it becomes very difficult for defendants to introduce new topics and, indeed such questions

establish a high degree of control by the magistrate and clerk over what is discussed.

Most research on the classification of questions has also viewed declarative questions as the most powerful, coercive controlling and challenging. For example Danet 1980, Luchjenbroers 1993, 1990 ranges questions based on the extent to which the question constrain or limit the witnesses' response. The most coercive in Danet's classification of questions types are the declarative questions. This is because their form contains propositions thereby restricting possible answers. In likewise manner, Luchjenbroers (1993, 1997) also view declaratives and tags as the most coercive. For example:

4.19 You know the accused person?

In example 4.19 above, the question is presented in a statement form thereby indicating the speaker's belief in his/her statement. The proposition embedded in the declarative question is so powerful that it can convince its listener especially in the courtroom

To summarise all the arguments above, the main argument is that questioning form can be used to control the flow of discourse in the courtroom. Also, that some questions are more coercive, powerful and leading than others. The powerful, coercive and leading questions are declarative questions, Yes/No questions and alternative questions. They are powerful and coercive because relatively, they contain some propositions which influence and convince the witnesses.

Powerful, coercive and leading questions are also greatly favoured during cross-examination because of their hostile nature. For example in Harris (1984) study, 62.2% of questions asked during her trial data are leading questions and they mostly occurred during cross-examination while in Danet's (1980) study, they make up 47% during examination and 87% during cross-examination.

4.4 Courtroom Answers.

Courtroom discourse comprises of questions and answers (in court). Questions in court are impossible to ignore. Though in everyday conversation, speakers feel obliged to answer questions posed to them, in courtroom discourse, it is imperative for the witnesses to answer the questions posed to them. Hoffmann and Zeffertt (1988) explains that a witness who refuses to answer a question in the courtroom without a valid reason, may be charged with contempt of court, and the law goes as far as providing sanctions and even punishment for such misdemeanour. He/she could be imprisoned for a period of up to five years, depending on the seriousness of the offence (Moeketzi, 1999:67).

Courtroom answers must be accurate and precise. The most important requirement for courtroom answers is that they will be truthful. Moeketsi (1999:71) explains that in order to secure the truth in evidence, trial procedure requires that all participants who present testimony take an oath that they will tell the truth, and nothing but the truth. These participants are invariably the accused and the witnesses. Moeketsi explains further that lawyers who conduct direct and cross-examination may not take the oath because, first, the law does not allow them to lead any evidence, and second, questions do not have any truth value; i.e. a question can never be

true or false. Magistrates do not need to take the oath either, because their function in the court is mainly to advise and to adjudicate.

Questions in court usually contain (as is the nature of declarative questions, yes/no questions, alternative questions) propositions of the lawyers especially during cross-examination and this will influence the type of answers given. Loftus (1975, 1977) has revealed in her studies of simulated court proceedings, how the manipulation of semantic presupposition of question can (i)significantly alter the truth value of the answers to those questions; (ii) affect the content of the following questions; and (iii) affect the verdict. Loftus identified the following phenomena as having an effect on witness testimonies:

a) the severity of question verbs affects answers
b) the choice of a definite or indefinite article can alter the response
c) implicating false information in a question can lead a witness to report it as a fact.
d) When subjects are exposed to delayed, misleading information, they are less confident of their correct responses than of their incorrect ones.
e) When people are asked questions in an aggressive, aggravating and active manner, they will report an incident they have witnessed as being noisier and more violent than those asked in a more neutral manner.
f) Substantively leading questions encourage (stimulated) jurors to give a guilty verdict, moreso than neutral questions.
g) When a witness has seen a number of people committing different acts, leading questions make him/her more likely to identify the wrong person as being responsible for a given act.

(Luchjenbroers 1993:152)

In addition, Loftus found, in her 1975 research on eyewitness reports, that if witnesses have been asked leading questions immediately after the event witnessed, their memory of that event is influenced. Loftus found that the suggestion of false presuppositions (e.g., existence of an object that did not exist in the event scene) will increase the likelihood that subjects will later report having witnessed the presupposed objects. This is particularly important for the Nigerian judicial system, where trials are heard several times before judgements are actually delivered. Therefore, suggestions made in earlier trials may be remembered as crime related facts in subsequent trials (Luchjenbroers 1993:153)

The focus of Loftus work is that answers are usually determined by the question asked. For example, questions loaded with presuppositions can influence the answers given as well influence memory of the events being questioned.

4.5 Law in Nigeria

In Nigeria, Nigerian legislation is the major law. Government functions are divided into three main organs; The Legislature (which is responsible for making laws), the Executive (which is responsible for executing laws) and the Judiciary (which is responsible for interpreting the laws made by the legislature). Such laws are called statutes or enactment (Sofowora 1997:22).

Nigeria became a British colony with her annexation by Britain from the 18th century with the arrival of the Royal Niger Company and the eventual

amalgamation by Lord Lugard for in 1914. Then the colony of Lagos, the Northern and Southern protectorate became an entity called Nigeria. Legislations were passed by the secretary of state for the colonies through the Governor or Governor-General for such annexed territories. Such Legislations were referred to as *ordinances.*

In other words, ordinances are laws passed by the British overlords in Nigeria during the colonial era e.g. the criminal procedure ordinance of 1948. After what appears to be a cosmetic approach to federalism by the 1946 Richards constitution and the 1951 Macpherson constitution; by October 1st 1954, when Nigeria became a fairly true (through the Lyttleton constitution) federation, Ordinances gave way to serious constitutional making process (e.g. The 1957 and 1958 constitutional conferences) which eventually culminated in the passing of the Independence Act of 1960.

After independence, federalism was firmly entrenched with the federal government and regional government having legislative powers divided among them. At the centre, two houses of parliament were created, one based on equal representation i.e. the house of senate and the other based on population i.e. the House of Representatives. Each region, however, had its own House of Assembly. These features have since then become a permanent one in the process of constitutional engineering in Nigeria.

In effect, laws made by parliament during civilian regimes at the centre are called *Acts* while those made by the regions or states are called *laws.*

4.5.1 Nigeria constitutional System

Nigerian courts are graded hierarchically in order of the seriousness of the cases they have the jurisdiction to try. They are as follows: Supreme Court, Court of Appeal, Federal Court of Appeal, High Court of Appeal, Sharia Court of Appeal, Customary Court of Appeal, Magistrate Court, District Court and Area Court.

4.5.1.1 Supreme Court

The Supreme Court is at the top of the hierarchy of courts in Nigeria. It is the highest court in the country and after it; there can be no further appeal to any other court in the country. Since it is the highest court, it settles the disputes between the federal and the state government or between states. Furthermore it hears appeals on matters concerning the questions of laws, interpretation of constitution, breach of fundamental human rights and cases that warrant the death penalty from the Court of Appeal.

"The Supreme Court is headed by the Chief Justice of Nigeria and such number of Justices of the Supreme Court not beyond 15 as may be prescribed by the act of the National Assembly", (Sofowora,1997:42). The Supreme Court Justices in Nigeria can be compared to the Law Lords in the law of England and Wales. They are both similar in the type of cases they can try. This is so because to a large extent, Nigerian law system follows the British legal system.

The full name of the Law Lords is the judicial committee of the House of Lords. It is the highest appeal court in England and Wales. Like the Supreme Court in Nigeria, it also has jurisdiction over cases where

questions of law of major importance are involved. The only major difference between the two is that in the House of Lords there are always members of the jury involving twelve members. But in the Supreme Court of Nigeria, there is no jury and judgement is giving by a panel of judges headed by the Chief Justice.

4.5.1.2 Court of Appeal

As the name implies, the Court of Appeal in Nigeria hears appeals for every lower court whether State or Federal. In essence, it hears cases from High Courts (State or Federal) Customary Court of Appeal and Sharia Court of Appeal. An appeal from the Court of Appeal is heard in the Supreme Court. It is also headed by the president and fifteen justices with at least three being learned in Islamic law and at least another three being learned in customary laws. As it is the case in the Supreme Court, the only point of departure of Nigerian Court of Appeal and the Court of Appeal in England and Wales is the composition of the jury, which is not present in the Nigerian Court of Appeal.

4.5.1.3 High Court (State or Federal)

The High Court in Nigeria is of two types namely: Federal High Court and the High Court of a state. The Federal High Court is headed by the Chief Judge. There is only one in the country and it is in the capital of Nigeria, Abuja. "Since it is a Federal court, it hears cases relating to the Revenue of the Federation in which, the said government or its agents is a party, companies taxation, customs and exercise duties, banking, foreign exchanging and other fiscal measures arising from the operations of: (a) Companies and Allied matters act of 1990 or other relevant statutes in respect of companies operation and (4)Statutory laws, copyright, patients,

designs and trade marks, merchandize mark" (Sofowora, 1997:51). Apart from these, it also tries cases of criminal or civil nature just like its state counterparts.

The High Court of a State is also headed by a Chief Judge. It hears cases of any civil or criminal matter in respect of State or Federal legislations. It is the highest court in order of hierarchy in any state of the federation. It hears appeals from the lower courts such as the Magistrate Court.

The High Court of justice in Nigeria can be likened to the Crown Court in England and Wales. Although the High Court in Nigeria can try both the criminal and civil cases, the Crown Court of England and Wales can only try criminal cases. In the Crown Court, a Crown Court Judge presides over cases where juries decide whether people are guilty of a crime and if so, the judge decides how they should be punished. But in Nigeria it is the judge who decides whether people are guilty of a crime or not. (Since there is no jury) and also determines the punishment.

4.5.1.4 Sharia Court of Appeal

This court has always been a controversial issue in Nigeria because of its religious nature. It is a court that follows the tenets of Islam and, since Nigeria is a secular country, it has always created rancour and big sentiments. On many occasions, the Federal Government of Nigeria has intervened in the debate so as not to degenerate into chaos and anarchy.

In this regard, the constitution of Nigeria stipulates that it is optional for any states that require it. Because of this, it is only present in the North as only the 19 Northern states have created the Sharia Court of Appeal. As the name implies, it is an Appeal court and it hears and determines appeals on

matters relating to the aspects of Islamic personal laws only. The appeal usually comes from the upper area court existing in the area of the court's jurisdiction.

The Grand Kadi presides and it is duly constituted if it consists of at least 2 Kadis of the court on any matter brought before it. Because of its Islamic nature, its law is always generating controversies in the country and even all over the world. To buttress that, I cite the case of Amina Lawal who because of committing adultery was condemned to death by stoning at the Sharia Court of Appeal. This judgement ignited heated argument and controversy in Nigeria and the outside World. Organisations such as Amnesty International intervened on this case and all the people in Nigeria reacted against the harshness of the ruling. Eventually she was let off the hook by the Sharia Court of Appeal because of this big outcry.

4.5.1.5 Customary Court of Appeal

Also, as the name implies, the Customary court of Appeal is a court of appeal and hears appeals on matters of customary law relating to the civil proceedings aspects only. "This appeal usually comes from the customary court existing in the area of the court's jurisdiction. It is also optional to states. It is headed by a president. It is duly constituted if it consists of such numbers of judges as many that may be prescribed by the law on any matter brought before it" (Sofowora, 1997:27)

4.5.1.6 Magistrate's Court

In Nigeria, especially in the southern part, Magistrate Courts hears civil and criminal cases, whereas in the north, it can only try criminal matters. The civil cases are tried in the District Court in the North. The Magistrate Court

deals with less serious criminal cases. Appeals from the highest grade of Magistrate Court go to the High Court in the state in which the Magistrate Court is created. Every Magistrate has jurisdiction throughout the state. There are three types of Magistrate Court which are: (i) chief Magistrate; (ii) senior magistrate; and (iii) Magistrate.

The grade that a Magistrate belongs will determine its jurisdiction and powers. A single Magistrate presides over a Magistrate Court. The Magistrate Court in Nigeria can also be likened to the Magistrate Court of England and Wales, but there are many differences between them. For instance, in Nigeria, to be qualified as a magistrate of a court, one must have qualified as a legal practitioner and must have the relevant experience determined by the number of years relevant to the grade in question. But in the case of magistrates of a court in England and Wales, it is not the requirement for them to undergo legal training. But in the case of the Magistrates of courts in England and Wales may not be legal practitioner.

Also, instead of one magistrate presiding over a court as it is the case in Nigeria, there is usually three magistrates that would be presiding over a court and the head among them is the chair who will be sitting in middle position. In the light of this the magistrates in England and Wales usually ask for advice on matters of law from the clerk of the court who must be a solicitor and in this regard must have undergone legal training.

Another major difference between them is that in Nigeria, a policeman is the prosecutor of the Magistrate Court and he is prosecuting on behalf of the commissioner of police whereas in the law of England and Wales, a solicitor is the prosecutor and he is prosecuting on behalf of the Crown.

4.5.1.7 District Courts

District Courts exist only in the Northern part of the country and they can only determine civil matters. Their jurisdiction is highly limited by law depending on the grades of the courts. Appeal is from District Courts to the High Court in the state.

4.5.1.8 Customary Courts

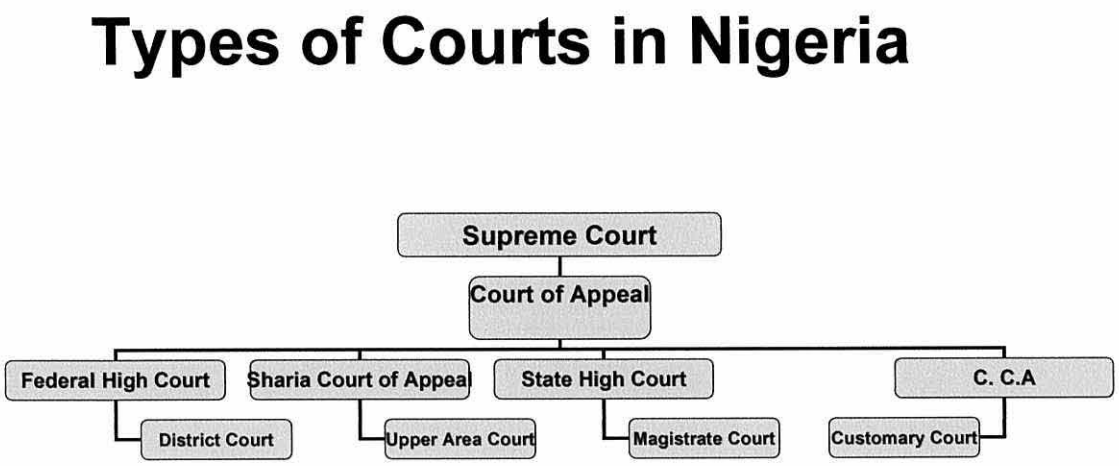
This exists in the southern part of Nigeria. Its jurisdiction is very limited. It tries cases ranging from inheritance to property according to customers, succession to marriage contracted under customary law. The highest grade of this court appeals to the Customary Court of Appeal.

4.5.1.9 Area Court

These exist in some parts of the North. These courts deal with cases bothering on Islamic personal law or customary law. They try both civil and criminal cases. "An Area Court is duly constituted when an Area judge sits with one or more members"(Sofowora, 1997:60). Sofowora (1997) asserts that the Area Courts have jurisdiction over any person who is a member of any tribe indigenous to Africa or one whose parents was member of such tribe, but the Governor can exclude any person or class of persons from the Area court jurisdiction.

The Nigerian courtroom system is shown diagrammatically below:

Figure 4.1



Sofowora (1997)

4.5.2 Courtroom Procedures in Nigeria

Nigeria has based its law system on that of the law system of England and Wales. In Nigerian courtroom proceedings, evidence is first presented to the court during examination-in-chief which is challenged during the subsequent 'cross-examination'. Should misunderstanding arise under cross-examination, the examining lawyer may then choose to 'redirect' the witness (re-examination). After the prosecution has presented its case, then the defence may call its own witness to present an alternative interpretation of the facts if they so wish (Luchjenbroers 1997:479)

Apart from that, in Nigerian magistrate's court, the prosecutor is prosecuting on the behalf of the state and s/he is a prosecuting officer for the complainant. In that regard, only the accused person is entitled to hire the services of a lawyer and the argument is between the prosecutor acting for the complainant and the accused person's lawyer. Although the complainant can also hire the services of a lawyer, the lawyer can only be seen in the magistrate's court, but cannot be heard.

On the other hand, in the High Court of Justice the prosecuting lawyer is representing the state and is on the payroll of the state government and the argument is usually between the prosecuting lawyer and the defence lawyer, who represents the accused person.

The prosecutor in the Magistrate's Court of Nigeria is always a policeman while prosecuting counsel in the high court is a lawyer. In this regard, in the Magistrate's Court, the argument is between the prosecutor (the policeman) and the lawyer for the accused person. In the Magistrate's Court, the prosecutor acts as the representative of the commissioner of police (who represents the state). The prosecuting lawyer is also representing the state in the High Court

Furthermore, in both the Magistrate's Court and the High Court in Nigeria, the language in use is English. But at times, the accused person or the witness may not be able to speak English. In this situation, s/he is allowed to speak with his/her native language: Yoruba, Igbo or Hausa (the three major indigenous languages spoken in Nigeria).

In some of the cases for this study, some of the witnesses speak directly in Yoruba, and the courtroom clerks act as interpreters for them. The swearing-in-transaction in the High Court in Nigeria is done by the Registrar of the High Court while in Magistrate's Court; the swearing is done by the court clerk.

The type of religion the accused person or witness is practising will reflects the type of swearing-in s/he is subjected to. If the witness is a Christian, he or she is asked to swear on the Bible and if a Muslim, s/he is asked to swear on the Quran. If s/he is a traditionalist, s/he is asked to swear on an object depicting his/her traditional religion (e.g. an iron for Ogun, the god of iron). It is necessary to describe the appearance of a High Court I attended in Okitipupa, Nigeria here.

The appearance of the court is very impressive. It is a big hall with rows of chairs for the participants. The Justice's position is raised up on a bench facing the rest of the court. He has an eagle-eye view of the court which symbolises power. A policeman is attached to the court and he also sits in a corner of the raised pedestal and also has an eagle-eye view of what is going on in the courtroom. In the left front position is the witness stand and that position is the focus position where everybody in the courtroom can easily see him/her. Immediately down below also facing the rest of the court is the secretary to the court position. After this, there is some space before the other rows of chairs. There is obvious demarcation between these institutional and structural symbols of courtroom power on one hand and the rest of the population in the courtroom.

The first two rows of chairs are reserved for the lawyers and the barristers. Nobody is allowed to sit there unless they don a lawyer's robe. Custome is

a symbol of power, therefore the judges and lawyers exudes power. Immediately after the lawyers rows are the spectator's rows of chairs. We can see that the physical appearance of the court reflects the hierarchical power structure of the court.

4.5.3 The Empowerment of English Language in Nigeria

The role of English in Nigeria is highly prominent. It could rightly be described as the pivot on which the international and integration lives of the people of Nigeria revolve. Unlike any of the indigenous languages, the English language, because of its neutrality, does not engender any ethnic hostility; rather it ensures peaceful co-existence in Nigeria's linguistic diversity.

The English language now enjoys enormous prestige in Nigeria. Success in English is the key to decent employment. English is the language of the Executive, Legislative and the Judiciary. Admission to post-primary institutions depends on one's performance in English which is the medium of instruction from the last three years of primary education to the university. English also serves as the language of trade. It is also the language of the media, both electronic and print media. In short, English is the language of the institutions left behind by the colonizer, e.g. education, technology, administration, judiciary and executive (Akindele and Adegbite 1999).

Because of the central position of English in Nigeria, English language also serves as the language of the court. Despite the fact that the defendants and witnesses are allowed to choose from any of the three major languages to be

used for them: Hausa, Yoruba and Igbo, the law is still coded in English-language. Already, to average citizens who are laymen, language use in court proceedings is mystified, coded and 'strange' (Tiersma, 1999). This situation becomes more aggravated when the language of the law which is the English language alienates the majority of the Nigerian populace.

In this regard, there is the empowerment of English language over the three major languages in Nigeria. In some of the cases used for this study, the lawyers exploit the knowledge of English language to the detriment of the witnesses who are stark illiterate or half-baked literates. As an example, there is a case involving a lawyer and a half-baked teacher who opted for her case to be conducted in English language. Throughout the proceedings, the lawyer always intimidates this witness just because of her little knowledge of English language e.g.

4.20 ***Lawyer*** *How old are you? Tell the court how old are you!*

Witness *Mo ti le ni omo ogoji odun*

(I am above forty years)

Lawyer *You told this court that you are going to speak English, so answer my question in English!*

In the example above, the lawyer is compelling the witness to speak English-language throughout the court proceedings. The witness resorts to an indigenous language (Yoruba) for ease of communication, but because she had initially chosen English language to be used for her case (probably to save face since she is a teacher) the lawyer is enforcing her to stick to English language throughout proceedings. Another example goes thus:

4.21 Lawyer *Cool down. Don't be nervous. It is normal in Ondo kingdom*

alone. Don't worry about that again. But tell the court madam, what day of the week do this incident happened? What day of the week. Answer me You went to school! You are a teacher!

Witness *On Sunday.*

In the example above, the lawyer is intimidating this same witness because of her lack of confidence due to her lack of competence of English language. The lawyer reiterates the fact that she went to school, and she is a teacher, she ought to be able to speak English-language confidently.

4.5.4 Nigerian Language and the Law Literature

Little work has been done in the area of Language and the Law in Nigeria. The little research efforts that is in existence have dwelt much on the features of the language of the law, including lexical, syntactic, discoursal and graphological features. For example, Okolo's (2000) study looks at the features of language of the law in general at the discoursal level, syntactic level and lexical levels.

At the discoursal level, the study frowns on the absence of pronouns and lack of cohesive devices in the legalese which makes legal documents very difficult to comprehend for a lay man. At the syntactic level, legal documents also have large numbers of passive constructions, truncated passives, nominalisations, multiple negatives, misplaced or intrusive phrase, doublets such as *any* and *all, cease and desist, false and untrue* and unusual prepositional phrases such as 'as to', 'in the event of', and 'until such a time as'. Word lists such as those italicised in the following example:

I. A witness who has a special *knowledge, skill, experience training, or education* in a particular *science, profession or occupation*,..

II. Any person who *corrupts* or *fouls* the water to any *spring, stream, well, tank, reservoir* of *place*, so as to render it less fit for the purpose for which it is ordinarily used, is guilty of misdemeanour, and is liable to imprisonment for six months or a fine.

(Okolo 2000:20)

Okolo admits here that subjecting legal documents to syntactic analysis will be a Herculean task because syntactic rules cannot generate most legal sentence structures. Furthermore, at the lexical level, there is a preponderant presence of French, Latin and Old English words, whose original meanings have not been replaced with their current equivalents as should be expected, making legal language a myth to a lay man.

All the above features are given in Okolo's study and this mystification of legal language is observable at those levels of linguistic analysis. However, central to Okolo's study is the application of existing linguistic theories with which this problem can be overcome.

In the first instance, under historical linguistics, a thorough study of the history of the language of the law can reveal its historical development through which it can be understood. In other words historical linguists study development and the changes that languages have undergone. For example, while ordinary language changes through normal social process, legal language changes and develops new meanings through legislation, judicial decision and socio-legal factors (e.g. the use of ritualised language to convey the power and efficacy of the law; the conservatism of the legal profession, etc.). As a result, rather than replace its older forms, it adds the

new forms to the older forms creating doublets or strings of largely synonymous words such as 'cease and desist', 'false and untrue', 'remise', 'release and forever discharge' (Okolo 2000).

Also, grammatical theory can help in understanding the nature of law language. For example, through understanding of the rules of passivisation, nominalisation and case grammar will enhance comprehension of legal language. Furthermore, under sociolinguistics, understanding performatives can also be relevant since a prominent feature of the legal language is the use of performatives e.g. 'I sentence you to life imprisonment'. As legal language does not conform to every day speech and as such can not be studied by applying Grice (1975) 'Cooperative Principle', Okolo advises the use of Rosenbaum's (1981) principle, 'Uncooperative Principle'- the use of language to constrain others from doing certain things, to protect people, information, or things and to penalize others for violating those constraints and protections. Cross-examination fits the uncooperative principle very well. Furthermore, the use of performatives usually the prerogative of the judge reveals acutely the power that is prevalent in courtroom discourse. The performative sentence, "I sentence you to death" can deprive a person of his/her life if uttered in the court by the judge to the guilty accused person.

Still speaking on the peculiar language features of the language of law, Alabi's (1997) work also categorised these features into lexical and syntactic peculiarities, and graphological peculiarities. Under lexical and syntactic pecularities, the study identifies the following as being the features of language and the law: (i) technical words such as malicious, act, decree, plaintiff etc; (ii) foreign words such as French and Latin borrowings e.g. de jure, in loco parentis, tort and posteriori; (iii) nominalizations such

as assignor, transferor, inspectee, appointee; (iv) stringing together of adverbials and prepositions e.g. therewith, thereafter, hereby, whereof etc; (v) many abbreviations such as L.J. for justice; (vi) preponderant use of nominal and dearth of pronouns; and (vii) inversion of word order.

Also, under graphological peculiarities, the paper identifies gothic writing- a type of print with thick black letters, capitalisation of initial letters or whole items and spacing of words and paragraphs. Alabi (1997) affirms that the use of these graphological peculiarities mark out or emphasises key words which conspicuously point out significant references. Both Okolo's (2000) and Alabi's (1997) studies dwell on the features of the language of the legal system in Nigeria. The features identified by Okolo's study are also identified by Alabi's study. But in addition to that, Okolo (2000) also goes further to give some of the existing linguistic theories with which students of both Linguistics and Law can overcome this problem when encountered during their studies.

Only very few of the studies of language and the law in Nigeria attempt the language analysis of the structure of courtroom discourse. Among those are Opeibi (2001) and Farinde (1998). Given in Opeibi's (2001) is the categorisation of the discourse strategies used in court which are: the structure of the message, the addresser-addressee structure and the cohesive structure. The author is of the opinion that by the nature of the courtroom discourse, apart from very few declarative and imperative sentences, the information gathering process and gathering of facts are done through the means of interrogations. Opeibi (2001:9) asserts that the preponderance of interrogative sentences is a reflection of the nature of legal process in general.

The addressers and addressee in court are in layers. At one level, there is the plaintiff's counsel and the witness or the presiding judge. Also, the presiding judge sometimes assumes the role of the addressee, while at another time it is the defence counsel that addresses both the plaintiff's counsel and the presiding judge (Opeibi 2001). The effect of this is that the discourse structure exhibits the dialogic mode which makes the interactions sometimes dramatic and at other times confrontational. Finally the paper lists three cohesive devices which make the text stand as a well organised communicative event. These are: ellipses, conjunctions and substitutions.

Farinde's (1998) study focuses on discourse acts in police/accused discourse. Discourse Acts as used in this work are different from Austin's (1962) and Seale's (1969) Speech Acts. Any overlap between the uses is therefore, coincidental. Act is an element in the hierarchical organization of discourse and it denotes the classification of the functions of utterance in the discourse. For instance a teacher can utter the following in the class:

Now,	1
I want to tell you about how the planets move	2
Can somebody tell me what a planet is	3

The above example is structured in three layers. Line 1 represents one layer, line 2 represents another and line 3 represents the third layer. These layers each realize one act. It follows that Acts are realized by words, phrases and sentences. Line 1 above is the 'marker', line 2 represents 'metastatements' and line 3 is 'elicitation.

Central to this Farinde (1998) is the functional organization of acts in the structure of police/accused discourse. These acts are as follows: (a)

Elicitation act form – used by the police to get information from the accused person; (b) Prompt act form – entails threats, and persuasion to force the accused person to confess his crime; (c) Directive act form – used by the police to trap the accused person to confess his crime unwittingly; (d) Accuse act form – used by the police to trap the accused person to confess his crime; (e) Evaluate act form – used by the police to judge whether the accused person is speaking the truth or not; (f) Excuse act form – used by the accused person to exonerate himself of the crime; and (g) Reply/Informative act form – used by the accused person to give information concerning the case under investigation.

Some of the act forms that are provided by Farinde (1998) are very useful for the analysis of the data used for this study. Although the acts are generated during the analysis of Police-accused discourse yet they are still useful because both police-accused interrogation and courtroom discourse belong to the genre of Language and the law/ Forensic linguistics. The two of them reveal power and asymmetrical nature both at the police station and in the courtroom. Power belongs to the police, judge, magistrate, lawyer and prosecutor while the accused person, witnesses and the defendant are totally deprived of power.

4.5.5 Problematizing Power in the Nigerian Courtroom

As has been asserted earlier on, power now can be found in any conversation of everyday life. Ideal dialogue (as coined by scholars such as Maranhao 1990, Crowell1990 and Linell 1998) which is supposed to be exempt from power is believed to be unattainable and unrealistic. "Power is coherent in all dialogue whether in casual conversation or in institutional

settings" (Wang 2006:929). Although, the degree of power manifested in different contexts differs greatly.

Power is a major concern of critical discourse analysts. That is why critical discourse analysts like Fairclough (1992) and Van Djik (1993, 2001) view power as being manifested through verbal interaction and this power is determined by their institutional role and their socio-economic status, gender or ethnic identity. Fairclough 1989:46) defines power in discourse as having to do with powerful participants controlling and constraing the contributions of non-powerful participants.

Van Djik (2001) defines social power as control and holds that groups have power if they are able to control the acts and minds of other groups. "Different types of power may be distinguished in according with the different resources employed to exercise power. Members of more powerful social groups have the precedence to access and control over some public discourse. Thus professors control scholarly discourse, teachers educational discourse, Journalists media discourse, Judges and lawyers legal discourse, and politicians, policy and other public political discourse" (Wang, 2006:531).

Therefore, since critical discourse analysts belief that there is domination and oppression of some groups by other groups in power relations, Fairclough (1995) notes that a major goal of critical discourse analysts is thus to develop a framework of analysis that can become a resources for people who are struggling against domination and oppression in its linguistic forms. In the same vein, Van Dijk (1993) distinguishes between three crucial aspects of language power "reproduction" which is the process by which the elites exert their dominance through language, "resistance"

which is the way the less powerful attempt to oppose the attempts by the elites to dominate them and "joint production", which is when the dominant groups are persuaded that dominance is "natural" or in some way legitimate (Flowerdew: 1997).

Flowerdew (1997) gives the following premises on which power is based which summarise power in all its ramifications:

1. Power is exercised by individuals and therefore involves choice, agency and intention.
2. The interest of the powerful and less powerful are likely to differ and therefore the exercise of power may lead to conflict, resistance, and coercion.
3. On the other hand, individuals involved in power relations may not always be aware of the power they wield or are subjected to.
4. Although, power can be seen as productive, enabling, and as a positive capacity for achieving social ends, it is very often used negatively, and the literature on language and power has primarily concentrated on this negative aspect and how the powerful exploit the less powerful.
5. In the modern world, power is exercised increasingly by linguistic means.

From the above analyses, we can see that power is a relative concept between the oppressed and the oppressor.

Fairclough (1989) classifies power broadly into two major categories: power in discourse and power behind discourse. Power in discourse has to do with powerful participants controlling and constraining the contributions of non-powerful participants. Fairclough (1989:46) believe that this constraint rests on three factors which are (i) contents (on what is said or

done); (ii) relations (the social relations people enter into in discourse); (iii) subjects (the subject positions people can occupy).

Power in discourse has to do with asymmetrical relationships. One group will be able to control the other group. So power can feature the ability of one person able to control and enforce the other. Power also has to do with the ability of one person able to assert his/her influence and will on the other. According to Lukes (1974) the exercise of power shows that one affects or coerces another person in a manner contrary to another person's interest, and affecting or coercing another person in a manner contrary to another person's interest (Wang 2006:531)

Thus, the discourses of unequal encounter such as-between teacher and student, doctor and patient, police and suspect and lawyer and witness-where the power relationship is overt and institutionalized are all examples of power in discourse. Furthermore, casual conversation such as radio-talk, family discourse, discourse and gender where power is covert and usually contested also belong to power in discourse.

Power behind discourse on the other hand does not belong to face-to-face discourse such as all the examples above. This kind of power is a hidden power. Power behind discourse, according to Fairclough (1989) is the idea that the whole social order of discourse is put together and held together as a hidden effect of power. Institutionalized discourse such as legal discourse, doctor/patient talk, and police-suspect talk are all examples of discourses where power is highly prominent. But the power behind the conventions of these discourses does not belong to these institutions themselves but to the power holders in the institutions. These power-holders are also responsible to some powerful group of people who control

and dictate to them. A group of people are behind the scene pulling the strings of power. For example:

A former governor of a state in Nigeria won the election in 2003 under the platform of a popular party. The rise of the governor to the post was based on the full backing of a very rich and influential octogenarian political godfather. As time rolled by, event took a drastic turning that the relationship between the governor and his godfather was no longer cordial because the political godfather wanted to have direct access to the state treasury which the governor was against. This situation degenerated to a level where the godfather instigated the house to impeach the governor. And as the majority of the house was being controlled by the godfather, the kangaroo impeachment motion was carried out successfully despite court injunction that the circumstances surrounding the impeachment process was not constitutional. After the impeachment, the deputy became the governor because he was a stool of the godfather.

This development caused a lot of reactions. The Nigeria Bar Association (NBA) went for one day strike on the matter accusing the government of not obeying court injunctions and rulings. And in as much as the party is the ruling party in Nigeria, the government was in full support of what happened in that state. The president even described the political godfather as the best politician of that time. Despite all legal oppositions they still executed their plan. This example shows power behind discourse. Despite the court injunction, the impeachment was still carried out because of some powerful group behind the scene.

Another good example is the case of a powerful politician of a state in Nigeria. This politician was accused of having hand in the gruesome

murder of the former Minister of Justice of the country. Subsequently, he was detained and the matter was in court. The matter was still in court when the 2003 general election came and because of the fact that the powerful politician belongs to the ruling party, all legal rulings were bridged and he was voted in as a senator. How somebody in police custody could win an election in absentee? But this was possible because of the fact that his party is the ruling party and court injunction or no court injunction, whatever they say goes.

The example above also shows power behind discourse. Despite the fact that the politician was still in police custody, he still went ahead to win the senatorial seat just because his party belongs to the ruling party. That means some powerful group can still influence the decision of the court in Nigeria. However, since this study is based on face-to-face discourse and language can only be analysed on power in discourse, the focus of this study will be on power in discourse.

4.6 Research hypothesis/Working assumptions.

Courtroom discourse has been branded as very asymmetrical in nature. The courtroom professionals such as Judge/Magistrate, Lawyers and prosecutors have power over the defendants and witnesses in courtroom talk (Danet, 1984; Luchjenbroers, 1997). For example, only the Judges, lawyers and prosecutors can be the questioner and ask questions from the defendants and witnesses. Also, it is they that can introduce the topic and dictate the turns in the courtroom interaction. Their power is so pervasive that they dictate the length of the talk of witnesses and defendants and even control their responses (see chapter One).

The research outlined in this dissertation has two major components: the first, Analysis A, B, C deals with the structure of questions/answers of courtroom discourse; while the second, employed linguistic tools of analysis drawn from pragmatics to study other expressions in court other than question and statement that do not contribute to the crime narrative and which precede the part that witnesses are expected to respond to

However, the position taken before these analyses are performed is that lawyers have power over the witness in courtroom talk and throughout the trials they always maintain tight control over the court proceedings. Furthermore, that Nigeria being a second language English speaking country, this power will be much more pervasive. Consequently, Analyses A, B, C, D, provide statistical evidence for this position that is strongly suggested in the literature, but had yet been proven.

4.7 Summing up

From the discussions above, we have seen the treatment of questions from different perspectives. How different questions can be manipulated through their forms by lawyers is also highlighted. How power and asymmetry are also prevalent in both the courtroom discourse and police-accused interrogation are also portrayed. The police, judge, magistrate, lawyers and prosecutors have power over the accused person, defendant and the witnesses in courtroom talk through the forms of questions they ask and also because of the institutional rules and procedures. Also, since the study is carried out on data collected from Nigeria law courts, efforts are made to review works done so far on courtroom discourse in Nigeria. Furthermore, different types of courts in Nigeria are also highlighted. In the next chapter, methods of collecting the data in Nigeria will be shown. Furthermore, all

the tools of analysis that will be used for the analysis will be discussed fully.

Chapter Five

Methodology

5.1 Introduction

This chapter focuses its attention on the data itself. In it, methods of collection are highlighted and the units of analysis are given, comprising contribution types, question types and answer types.

5.2 The data

The analysis of courtroom discourse which will be shown in the following chapters is derived from 20 hours of audio-taped cases recorded at the High Court of Nigeria and the Magistrate Court of Nigeria over a period of 4 months. The cases recorded include initial appearances, examinations, cross examinations, postponements, and full trials. Among the cases covered were cases of assault, assault and battery, rape, theft, house breaking, land mutiny, rental, and law breaking.

5.3 Collection

The cases collected at the High Court of Nigeria were collected at the High Court of Justice in Okitipupa, while those of the Magistrate's Court were collected at the Magistrate Court, Ondo. The help of the Justice and the Magistrate were enlisted for the collection which they granted with the approval of the Chief Justice of the State. However, because of the

courtroom asymmetry, the lawyers and the witnesses were not contacted by the researcher which led to the following encounter. During the recording process, the researcher was arrested by the policeman at the High Court of Justice, Okitipupa with the support of the lawyers in the court who had complained that the recording was against the ethics of the profession.

However, after he was sighted by the judge, he was released and permitted to continue the recording. Because this type of scene occurred many times during the recording of this data, extract of one of such scenes is given below:

(5.1) ***Lawyer***: *Why are you recording the proceedings?*
My lord, it is not allowed. Why is he recording the proceedings?

Magistrate: *It is for academic purpose*

Lawyer: *Has he taken permission from the court because you just don't come and start recording the proceedings.*

Magistrate: *He has taken permission*

Lawyer: *Why is he pointing it to me? (Court laughs). That is another dimension to this proceeding*

Researcher: *It is for the sake of clear recording.*

Many scenes such as the one above also occurred during the recordings of the courtroom discourse but the researcher was able to overcome all these due to the permission already granted for the recording by the judge and magistrate.

5.4 Luchjenbroer's analysis of courtroom discourse

In order to put the method of analysis into the right perspective, it is necessary to review Luchjenbroers (1993) since her method of analysis is used in this study, albeit with modifications and extensions. Luchjenbroers (1993) is chosen because of her detailed framework which suits the purpose of analysis in this study.

A. Contribution types: The first variable is categorised in terms of the form of barrister's contribution which are interrogative, declarative (whether it functions as statement or question) and speech act function. Speech act functions are expressions other than questions such as instructions, explanations, responses, and apologies which do not contribute to the crime narrative unfolding. Questions are interrogatives of the barristers while declaratives include utterances that have the form of statement and yet in courtroom discourse they are often treated as questions. These will be discussed fully later.

B. Question Types: Luchjenbroers identifies eight different types of questions in her courtroom data which are (i) positive Yes/No Questions (PYN); (ii)Negative Yes/No Questions (NYN); (iii) positive tags (PTG); (iv)negative tags (NTG); (v) WH-questions (WHQ); (vi) alternative questions (ALTQ); (vii) positive declarative(PDC); and (viii) negative declarative (NDC).

Of all the forms of questions given above, Wh-question and alternative questions are the least powerful and coercive according to Luchjenbroers (1993:188). That is why in her study, 71% of all WH-questions and alternative questions occur during examination. WH-questions request

contentful responses and highly informative answers. Also, alternative questions requests choice from two or more options. Though alternative questions limit the response of the witnesses, they still give options of two or more responses. Luchjenbroers' finding also illustrates the basic nature of examination which serves to elicit information.

Furthermore, there are also very minimal negative questions such as negative Yes/No question, Negative Declarative and Negative Tag in the study. Yet those that are there mostly occur during cross-examination which means they are challenging, powerful and coercive question which is also compatible with the basic nature of cross-examination. The three negative questions are leading questions with embedding propositions which explains why they are challenging and powerful.

The high occurrence of declarative questions and tags in cross-examination and low occurrence of them in examination, in Luchjenbroers' study shows the powerful and challenging nature of these questions. For example, in cross examination declarative numbers 61.5% while in examination it is 38.5%. Tag question is 2.1% in cross-examination while it is 0.2% in examination. Both declarative and tag questions are highly conducive and challenging questions which explains their distribution above. The finding also buttresses the challenging nature of cross-examination. They are questions loaded with the propositions of the questioner which limits the responses of the witnesses.

Also, 73.8% of all SAF's are produced during examination while 26.2% are produced during cross-examination. According to Luchjenbroers (1993), this occurs because fewer instructions are deemed necessary during cross-examination due to the witness familiarity with the setting.

C. Answer Types: Here, Luchjenbroers (1993) focuses on the distribution of witnesses answer types. These include : (i) no answer(NA); (ii) backgrounded contributions(BGR); (iii) tag Questions (TAG); (iv) two part questions(2PT); (v) positive minimal response (MR-Y); (vi) negative minimal response(MR-N); (vii) content response-x (CTR-X); (viii) content responses (CTR-ELAB); (ix) positive content response-elaborated (CTR-Y-ELAB); (x) negative content response elaborated (CTR-N-ELAB); and (xi) content response-x-elaborated (CTR-X-ELAB). These are discussed below:

No answer (NA) encompasses those occasions when no answer or response is given (at all), as well as those occasions when a response is not an answer. The example below illustrates that although failure to remember is a response, it does not constitute an answer to a question

(5.2) I can't recall (NA) (Luchjenbroers 1993:170)

Not all barrister contributions attract an answer; usually by virtue of being followed by another contribution before the barrister's turn is over. These fall into three categories: BGR (Background contributions) TAG (contribution is followed by a tag question) and 2PT (Two-part questions/ contributions). In all, the witness is not offered an opportunity to reply until the entire sequence is complete (Luchjenbroers, 1993:171).

In Luchjenbroers' study, 77.8% forms the backgrounded contributions (which include No answer, Background, Tag and 2 part questions) and minimal responses (which include positive and negative minimal responses and content response-x). This means that 77.8% represent both no response at all and very minimal responses. It shows that the lawyers dominate this

stage and do most of the talking during the proceedings while the witnesses are not allowed to present their own cases and stories. That is why only 22.2% of all witness contributions have some content over and above a yes or No answer. This is a far cry from witnesses presenting their individual testimonies in their own words (Luchjenbroers, (1993:192).

Moreover, in Luchjenbroers' (1993) study, the elaborated responses (which include positive content response-elaborated CTR-Y-ELAB; Negative content response elaborated CTR-N-ELAB; and content response-x elaborated CTR-X-ELAB) constitutes 17.4% during examination and 10.9% during cross-examination. This finding shows that during examination, witnesses are allowed to give more contentful answer than during cross-examination. Luchjenbroers (1993:194) also asserts here that this finding provide strong support for the test hypothesis that barristers provide the main content for the narrative constructed by jurors.

5.5. Unit of Analysis

Question and contributions are analysed in terms of main clauses. This is done in order to separate an instruction from a question or statement, or barristers' opinions from the facts of the trial. The sentence would be too large for the unit of analysis because it will contain some contributions that are non-finite and which must be separated from the main clause e.g.

(5.3) ***Lawyer***: *Cool down. Don't be nervous. It is normal in Ondo Kingdom alone .Don't worry about that again. But tell the court madam,* ***what day of the week do this happened?*** *Answer me! You went to school, you are a teacher!*

In the example above, only the underlined clause is the part that the witness is expected to answer. Other bits are instructions, commands, barrister's opinions and information, although these bits also contain the discourse tools with which the lawyers seek to intimidate the witnesses.

5.6 Contributions in these data

The section above reviewed Luchjenbroers (1993) study which will be used for the first analysis of this study with modifications and extensions. The methodology presented in this section will serve as a platform for the first analysis. The first variable will cover interrogative types, declarative types (which include those that function as questions and those that function as statements), and speech act functions which do not contribute to the crime narrative.

5.7 Question types

The second variable concerns the lawyers and prosecutors questions which are coded according to their specific type.

0) *No Question* (**NQ**) refers to lawyers' contributions that do not add to the crime narrative being constructed. That is speech act types other than questions or statements such as instructions (as given above) or encouragements.

(5.4) *Go on*

1) WH-Questions **(WHQ)** refers to questions that request an informative answer

(5.5) *After that, what happened?*

2) *Alternative questions* **(ALTQ)** these limit the required responseto a choice between two or more options. Consider:

(5.6) *Do you prefer English or Yoruba*?

3) *Positive Yes/No Questions* **(PYN)** these include only positively biased questions that demand Yes/No answer-e.g.

(5.7) Is there any agreement between you and the accused?

4) *Negative Yes/No Questions* **(NYN)** are negatively biased questions that demand Yes/No answer –e.g.

(5.8) *Is there not an agreement between you and the accused person?*

5) *Positive declarative* **(PDC)** these are positively biased statements that contain the propositions of the questioner. e.g.

(5.9) *You will know if anybody was around when your wife was counting the money?*

6) Negative declaratives **(NDC)** refer to negatively biased statements e.g.

(5.10) *You will not know if anybody was around when your wife was counting the money?*

5.8 Answer type

The third variable shows the distribution of witnesses' answer types. This includes minimal, elaborated and evasive answers to questions, as well as those occasions when witnesses give no response at all –whether given an opportunity to answer or not.

0) *Backgrounded* **(BGR)** refers to those occasions when the witness gives no response and also when s/he gives a response that is not an

answer or even when s/he gives an answer that forms the immediate context for the following question e.g.

(5.11) *I don't know*

While example 43 is a response, it doesn't constitute an answer.

1) *Positive minimal Responses* **(MR-Y)** refer to only yes answers or answers that are semantically synonymous with a yes answer e.g.

(5.12) *Yes, I am not happy*

2) *Negative Minimal Responses* **(MR-N)** include only no and other answers that mean no e.g.

(5.13) *No, I don't know him*

3) *Context Response-x* **(CTR-X)** refers to the answer to closed WH-questions which by nature specify a required element to be answered by the witness, e.g.

5.14.1 Lawyer: *how many rooms are there in your house*

Witness: *Ten rooms*

4) *Content Responses* **(CTR-ELAB)** refer to responses that do not provide the required element in the witness's response.

(5.15) *I don't know*

5) *Positive content Response-elaborated* **(CTR-Y-ELAB).** These provide additional information to the answers required-e.g

5.16 L*awyer:* *if he pays your money, you are not going to continue with the case?*

Witness: *yes, I have told him before to pay my money and I will forgive him. God's judgement is the most powerful*

6) *Negative content Response-elaborated* **(CTR-N-ELAB)** refers to elaborated negative answers to a yes/no question e.g.

(5.17) Lawyer: *Did somebody assist her in running away?*

Witness: *No, after she had finished beating me, she then*

ran away

7) *Content Response-X-elaborated* **(CTR-X-ELAB)** includes elaborated responses to WH-questions-i.e. the answers provide the requested element plus additional information. e.g.

(5.18) *Lawyer:* *Who remove your bucket that day?*

Witness: *On that morning, I was fetching water from my tap after I had removed their already full bucket. When she arrived, she started beating me*

Generally speaking, the above answer values are closely related to the proceeding question types.

5.9. WH-question

As it is the fact that the WH-questions form the major part of the data collected for this study, and because of the interesting and diverging results it yielded in both examination and cross-examination stages there necessitates a closer study on which the second analysis is based on.

Chapter seven then presents an in-depth study of the intricacies of the various WH-question types such as what, how, when, why, where, who, whose, whom, and which.

5.10 Declarative

Declaratives presents an interesting topic of study. They have the form of statement, yet in courtroom discourse, they are often used as questions. Furthermore, their use in other contexts also differs from their use in courtroom discourse. Based on this and also their divergent results in both examination and cross examination, a deeper study of declaratives is carried out in chapter eight.

5.11 Speech act functions

5.11.1 Simple type

There are some parts of sentences that do not contribute to the crime narrative under discussion, yet are still very interesting in the deeper study of courtroom discourse. This is because they reveal the power of the lawyers and prosecutors over the witnesses in courtroom talk. They are uttered by the lawyers and prosecutors. They normally come before the part that requires a response, but in carrying out an in-depth analysis of courtroom discourse, they cannot be ignored. Chapter nine addresses this. To show their interesting features, fourteen examples of the simple type are given below:

(5.19) *Don't tell lies*- Instruction
(5.20) Take *your mind back to 14th day of January 2004 at 9am* - Instruction
(5.21) *And explain to the court* - Instruction
(5.22) *Answer me* - Command
(5.23) *That is what I am saying*- Information
(5.24) *I am sorry* -Apology
(5.25) *Tell this honourable court your name*- Instruction
(5.26) *Look at these accused persons*-Instruction
(5.27) *Ok.* -Response
(5.28) *Take your mind back to on the 2nd day of November*- Instruction
(5.29) *Thank you for that beautiful answer*- Response
(5.30) *Answer that question quickly*- Instruction
(5.31) *Talk, talk, talk*- Command
(5.32) *Answer my question in English*- Instruction

Apart from these simple speech act functions, we also have those that are more complex. These complex speech act functions are highly manipulated

by the cross examining lawyers to intimidate and suppressed the witnesses. Furthermore, the lawyers also make use of them to maintain the floor and control the courtroom discourse. Such complex speech act functions are: reformulations, discoursal indicators, metadiscoursal comments, illocutionary force indicating devices, speaker-oriented metapragmatic comment, and appeal to felicity conditions.

5.11.2 Complex Types

5.11.2.1 Reformulations

This is defined as the repetition of defendant's expressions by the lawyers. It has the effect of challenging and intimidating the defendants, thereby resulting into them retracting or mitigating a previous contribution or relapsing into silence (Thomas 1985). It is therefore, in effect restraining the range of possible responses of the witnesses and the defendants e.g.

(5.33) ***Lawyer***: *You are now telling the court again that it was not in Pa Ajayi's house you were given a wrapper?*

Witness: *it is not at Pa Ajayi's house that they gave me a wrapper*

5.11.2.2 Discoursal indicator

This is defined as occasions when the dominant speaker makes it abundantly clear in the surface structure of his/her utterances the intended illocutionary force (Thomas, 1989). Using this, the lawyers control and dominate the discourse, particularly in cross-examination:

(5.34) **Lawyer**: *Now, I want you to answer one question*

5.11.2.3 Metadiscoursal comments

These are used by lawyers in cross examination to keep the defendants and witnesses wandering from a previously established path (Thomas 1989). They are used by lawyers to correct the defendants and witnesses and to marshall them to their own line of thoughts. Apart from courtroom discourse, it has even been argued in other discourses that it is only the person that has more power and control that gives metadiscoursal comments to his/her inferior. For example, the teacher gives metadiscoursal comments called feedback to the pupils to let them know how they stand. The same thing is applicable to the police when interrogating a suspect:

(5.35) ***Lawyer:*** *It is on record. You cannot deny that again*

5.11.2.4 Illocutionary force indicating devices (IFIDs)

This is defined as any expression whose occurence determines that a literal utterance of a sentence containing a certain occurrence of that expression has a given illocutionary force (Thomas 1985). In other words, a verb that names the illocutionary act being performed is included in the sentence. Such a verb is known as performative verb. They also occur in the discourse of unequal encounters such as courtroom discourse, where power and asymmetry prevails. In this regard, they are most commonly uttered by the superior speaker to his/her inferior such as between boss/servant, police/accused, teacher/pupil etc. For example:

(5.36) Lawyer: *You have told this court that you left home around 8am and the matter was brought to your notice around five.*

That is the period of about nine hours. When you were at the shop, you didn't know what was happening at home. ***I want to put it to you that*** *you wouldn't know what happened since 8am till about five after you had left. About nine hours, you wouldn't know what was happening in that house.*

Witness: *Yes, I didn't know.*

5.11.2.5 Speaker-oriented metapragmatic comment (S-MPC)

Thomas (1985) defines speaker-oriented metapragmatic comment as "a comment used by the dominant speaker to comment prospectively or retrospectively on the pragmatic force of his/her utterance, thereby removing any possibility of the subordinate interlocutor's complaining" (Thomas, 1985:770) In this regard, with the S-MPC, the dominant speaker has removed all ambivalence from his/her utterance because s/he is so sure of the power s/he has over the inferior that s/he feels safe and confident that s/he wont be challenged by the inferior. From the explanation above, it is equally glaring that this is a feature of the discourse of unequal encounters. That is why throughout my data, all the samples of this type of speech acts found in my data are uttered by the lawyers to the witnesses during cross-examination. For example:

*(5.37)****Lawyer****: Who told you, that was what I am asking?*

Witness*: Alhaji Laniyi, and he had died since.*

5.11.2.6 Appeal to felicity conditions

In moment of crisis especially during cross-examination when the lawyers feel that their authority, power and control are being challenged they appeal to felicity conditions. These are certain expected or appropriate circumstances required for the performance of a speech act to be recognized as intended (Yule 1996). In other words, the dominant speaker counters the challenge of the inferior speaker by demonstrating that the necessary felicity conditions obtained for the comment (Thomas 1985). In courtroom discourse, especially during cross-examination the dominant speaker is the lawyer and the inferior is the witness. For example:

(5.38) ***Lawyer:*** *My lord, she is laughing, she is not serious. The witness is laughing.*

Witness: *And I cannot be crying.*

Lawyer: *You cannot talk to a lawyer like that. You just cannot. You have no right in the court! Right?*

5.12 Courtroom interpreters

All the cases recorded for this study were heard in English and in Nigerian languages. This is because Nigeria uses English as its official language. Cases that were heard in the Nigerian languages such as Yoruba, necessitates the use of interpreters, and the court clerk always acts as interpreters for the court. An in-depth study of the intricacies embedded in this are presented in chapter nine.

All the variables discussed above that will be used for the first analysis 1 which are contribution types, question types and answer types are represented in a figure below:

Table 5.1 Analysis 1-Questions

Contribution	*Question*	*Answer*
1 SAF	0 NQ	0 BGR
2 INTR	1 WHQ	1 MR-Y
3 DECL	2 ALTQ	2 MR-N
	3 PYN	3 CTR-X
	4 NYN	4 CTR-ELAB
	5 PDC	5 CTR-Y-ELAB
	6 NDC	6 CTR-N-ELAB
		7 CTR-X-ELAB

Key:
SAF = Speech act functions
INTR = Interrogation
DECL = Declarative
NQ = No questions
WHQ = WH-question
ALTQ = Alternative questions
PYN = Positive Yes/No
NYN = Negative Yes/No
PDC = Positive declarative
NDC=Negative declarative
NA= No answer
MR-Y =Minimal Resp. Yes
MR-N= Minimal Resp. No
CTR-X=Content (WH-q)
CTR-ELAB= Content (evasive)
CTR-Y-ELAB=Content elaborated, Yes
CTR-N-ELAB= Content elaborated, No
CTR-X-ELAB= Content elaborated, Wh-q

5.13 Summing up

From the discussions above, we have seen the method of collecting data, the tools of analysis which comprise contributions, questions and answer

types. In the following chapter, analysis will be carried out on the data from Nigerian courtroom discourse using the tools that have been highlighted in this chapter.

Chapter Six

Analysis A- Questions

6.1 Introduction

Courtroom discourse has been branded as very asymmetrical in nature. Many writers have written about the power that the judges and prosecutors have over the witnesses. The present writer is of the belief that in Nigeria, where English is not the first language, this power will be much more pervasive. It is hypothesized that lawyers have power over the witnesses through questioning, and in this section; the analysis of data will be used to test this hypothesis.

6.2 Distribution of Contribution Types

The first analysis will be focused on the distribution of contribution types. This will be looked at in three ways namely interrogative (INTR), declarative (DECL), and speech act functions (SAF) (other than questions and statements that contribute to the crime narrative). These will be looked at across legal procedures (direct examination and cross examination).

Table 6.1 Distribution of Contribution Types

	Examination			**Cross Exam.**			**Total**	
CN	No	R%	C%	No	R%	C%	No	C%
INTR	140	45.8	77.4	174	54.2	32.5	321	44.2
DECL	3	1.4	1.6	211	98.6	39.4	214	29.5
SAF	40	20.9	21.0	151	79.1	28.2	191	26.3
Total	190	26.2%	100	536	73.8%	100%	726	100%

Key: SAF = Speech Act Function (other than questions or statements)
INTR= Interrogative
DECL= Declarative
CN = Contribution

The table 6.1 above shows the distribution of contribution types. It is interesting to note that questions contribute almost half of the whole data which is 44.2%. This is not surprising, since courtroom discourse is largely based on question and answer sequences. What is more glaring however is the fact that out of 321 questions 77% are asked during direct examination while only 32% are asked during cross-examination.

This is due to the fact at the direct examination stage, getting the witness' side of the story from the witness is the main objective. That is why lots of questions constitute this stage. In legal procedure, it is an established fact that direct examination serves to establish claims: and cross-examination serves to challenge them. This finding leads credence to this fact.

The percentage of declaratives in cross-examination also contrasts sharply with the percentage they make up of direct examination. Nearly all the declaratives are concentrated in cross-examination which is 39% and in examination it is 1%. This finding shows the fact that examination stage is a friendly stage while the cross-examination stage is a hostile one. At the examination stage declaratives are not favoured but in cross-examination stage, it is the order of the day. Lawyer's usually direct declaratives to their witnesses so as to put forward their own propositions and reality during cross -examination.

Distributions within each legal procedure portray that during examination, declarative forms are definitely not favoured, accounting for only 1%, while more than two thirds are interrogatives (77%). Conversely, during cross-examination, the percentage of questions and declaratives is not markedly different (39% and 32%). This means that during cross-examination, lawyers switch between the two question forms to convince the court and the witnesses. During direct examination however, lawyers and prosecutors adhere strictly to interrogatives just to obtain maximum information from the witnesses.

Another glaring fact from the table above is that speech act functions contribute to 26.3% of the whole data. Speech act functions are expressions other than questions or statements which do not contribute to the crime narrative. What it is most striking in this distribution however, is the fact that in examination they make up only 20% while in cross-examination they make up 28%. This is due to the fact that during cross examination lawyers dominate the stage. Also, it is worth noting that the type of speech act functions used during examination are the simple and friendly ones while the type used during cross-examination are the complex and coercive type.

This finding also serves to buttress the hostile nature of cross-examination and the friendly nature of examination. This will be discussed fully in chapter nine.

6.3 Question Types

Table 6.2 below shows the distribution of question types used in both the examination and cross-examination. The analysis identifies questions in their various forms ranging from WH-questions to the declarative questions.

The first glaring fact to be noted about the table 6.2 is the sharp contrast in the distributions of WH-questions which is greater in percentage during examination stage (62%) but by contrast is lower in cross-examination stage (18%). This finding conforms to existing literatures in legal discourse about the contrast between direct examination and cross-examination. The direct examination stage is very supportive and cooperative as opposed to the cross-examination stage which is hostile and unfriendly. The prosecutors use WH-questions to elicit maximal response and more facts from the witnesses during examination. Since they are acting on behalf of the witnesses, they are sympathetic towards them. Many of the WH-questions that they use are non-restricted ones that enable them to get the real information about the witness' version of reality from the witnesses. On the other hand the defence lawyers use WH-questions sparingly in the cross-examination stage. They make sure that they use restricted questions that require only naming a specific thing. This reveals the power that lawyers have over the witnesses.

Table 6.2 Question Types

	Exam			**Cross exam**			**Total**	
QT	N0	R%	C%	N0	R%	C%	N0	C%
NQ	40	20.9	21.0	151	79.1	28.2	191	26.3
WHQ	119	54.8	62.6	98	45.2	18.3	217	29.9
ALTG	4	26.7	2.1	11	73.3	2.0	15	2.1
PYN	24	27.9	12.6	62	72.1	11.6	86	11.8
NYN	-	-	-	3	100	0.5	3	0.4
PDC	3	1.5	1.6	194	98.5	36.2	197	27.1
NDC	-	-	-	17	100	3.1	17	2.3
TOTAL	190	26.2%	100%	536	73.8%	100%	726	100%

Key: WHQ = WH-Question
ALTG = Alternative QN
PDC = Positive Declarative
PYN = Positive Yes/No QN
NYN = Negative Yes/No QN
NDC = Negative Declarative
QT = Question types
NQ = No question

Another notable feature about this table is that nearly all the positive declaratives used are in cross-examination. Out of the 197 positive declaratives in the data 197, 36% occurs during cross-examination, contrasting sharply with 1% at the direct examination stage. This is hardly surprising however, since the aim of the defence lawyer is to impose his proposition and his own version of reality on to the witness. This is why the defence lawyers in my data are always using positive declaratives to project their propositions forward and to limit the responses of the witnesses to bare acknowledgement of their own propositions. This also

reveals the power that the lawyers and prosecutors have over the witnesses, stemming from the form of questions they ask. On the other hand, prosecutors during the direct examination stage always ask questions that generate narrative and maximal responses from the witnesses. Hence, they hardly make use of positive declarative questions, which explains why there are so few in the direct examination stages 1%.

One other thing that is evident from this table is the little use of negative questions throughout the data. Those that occur are used in cross-examination which reveals the powerful nature of negative questions and the oppressing nature of the cross- examination stage. For example, negative yes/no is 0.5% in cross examination while it is nil in direct examination. Also negative declarative constitutes 3% in cross-examination while it is nil in direct examination. This could be due to the fact that Nigeria is not a native English speaking country.

6.4 Answer Types

This first analysis will also consider various forms of answers given in the data. These include analysing those contributions of the lawyers that require an answer and those that do not, and also recognising the type of answers given. This is shown in table 6.3.

The table shows that 28% of the responses do not elicit answers. That is they are the backgrounded type. Backgrounded are those expressions that witnesses are not expected to respond to, and which precede the final contribution of the lawyer. Also, almost half of the answers constitute minimal responses (40%). Minimal responses indicate that the witnesses

are just required to answer either yes/or no, or just to mention the name of something. If the percentage of backgrounded questions is added to that of minimal responses, then this means that 68% of all testimonies are made up of the lawyers' questions. Therefore, only 25% are just the witnesses' responses that supply highly informative answers. This finding shows that the witnesses are not allowed to narrate their own story. During cross-examination, the lawyers do not want the witnesses to present their own ideas and arguments. This is because they already have their own prepared ideas and arguments that they want to present to the court. In this regard, they always want to prevent the witnesses presenting narrative and factual details about their ideas and arguments. Instead, the lawyers prefer the witness to give minimal responses which will suit their purposes.

Table 6.3 Answer types

	Examination			Cross Exam.			Total	
Answer type	No	R%	C%	No	R%	C%	No	C%
Backgrounded	40	20.7	18.9	153	79.3	32.0	193	28.0
MR-Y	14	14.3	6.6	84	85.7	17.6	98	14.2
MR-N	2	5.0	0.9	38	95.0	8.0	40	5.8
CTR-X	60	43.2	28.3	79	56.8	16.6	139	20.2
Minimal Resp.	**76**	**27.4**	**35.8**	**201**	**72.6**	**42.1**	**277**	**40.2**
CTR-ELAB	2	4.3	0.9	44	95.7	9.2	46	6.7
CTR-Y-ELAB	14	29.8	6.6	33	70.2	6.9	47	6.8
CTR-NELAB	4	10.3	1.9	35	89.7	7.3	39	5.7
CTR-XELAB	76	87.4	35.8	11	12.6	2.3	87	12.6
Elab. Resp	96	43.8	45.3	123	56.2	25.8	219	31.8
" -CTR-ELAB	**94**	**54.3**	**44.3**	**79**	**45.7**	**16.6**	**173**	**5.1**
TOTAL	212	30.8	100	477	69.2	100	689	100

Key: MR-Y = Minimal Responses Yes CXTR-ELAB = Content (Evasive)
MR.N = Minimal Responses No CTR-Y-ELAB =Content elaborated, Yes
CTR-X = Content (WH-Q) CTR-N-ELAB= Content elaborated, No
CTR-X-ELAB=Content elaborated Wh-Q

Also evident from the table is the high proportion of elaborate responses (44%) in direct examination, and low proportion of same in cross-examination (16%) (omitting 'CTR-ELAB', evasive responses). This is not surprising as the finding shows that during examination the emphasis is on obtaining maximum and narrative information concerning the facts of the case from the witnesses. During direct examination, WH-questions, especially the non-restricted type that will generate elaborated responses, are more frequently used than during cross-examination.

Still looking at the table in terms of legal procedure, there is a slight difference between minimal responses in cross-examination (42%) and examination (35%). This slight difference is explained by the greater incidence of WH-question (CTR-X) minimal responses during examination. It has already been shown that WH-questions are more frequent in direct examination than in cross-examination, which are in keeping with its friendly nature.

Another glaring finding that is evident from the table is also the small proportion of negative responses which confirms the finding of few questions found in table 2. Much more glaring is the negative responses distribution, which contrasts sharply between cross-examination (15%) and examination (1%). This finding also shows the uncooperative and hostile nature of cross-examination and the friendly nature of direct examination.

The friendly nature of the examination stage is further shown by the distribution of CTR-X (WH-question minimal responses) (28%) which also contrast slightly with CTR-X-ELAB (WH-question content elaborated) (35%) during direct examination. The higher occurrence of WH-question content elaborated (which generate maximal and narrative response) as compared to WH-question minimal responses during direct examination suggests its friendly nature.

Furthermore, the fact that CTR-ELAB (content responses evasive) is higher in cross-examination (9%) while in examination it is 0.9% further emphasizes the uncooperative and hostile nature of cross-examination. Since an evasive response is neither positive nor negative, it shows that cross-examination is a challenging and argumentative stage.

Finally, in this section, the greater occurrence of backgrounded in cross-examination (32%) than in examination (18.9%) further gives credence to the unfriendly, uncooperative and hostile nature of cross-examination. During cross-examination, the lawyers use speech act functions more to control and coerce the witnesses to their line of arguments

6.5 Comparison of Nigerian Data with Australian Data

6.5.1 Question Types

Table 6.4 shows the comparison of Nigerian data with Australian data. The first analysis is a modified version of Luchjenbroers (1993). Because of this, the comparison of the two findings is the focus of this table. This is

highly necessary since in Australia, English is used as a native language while in Nigeria it is used as a second language. Also, western tools of analysis are used to analyse Nigerian data which necessitates the comparison. The first comparison is based on the question forms. It has already been hypothesized that there is power and asymmetry in courtroom discourse, and that in Nigeria, being a developing country, the power and asymmetry will be more pronounced. The two tables in this section (both on questions and answers) test this hypothesis.

Table 6.4 Question Types

Question	Examination		Cross Exam		Total	
Types	Nig.	Aus.	Nig.	Aus.	Nig.	Aus.
No QN	40	387	151	125	191	512
C%	21%	18.9%	28.2%	7.6%	26.3%	13.8%
WHQ	119	342	98	133	217	475
C%	62.6%	16.7%	18.3%	8.1%	29.9%	12.8%
ALTG	4	26	11	17	15	43
C%	2.1%	1.3%	2%	1%	2.1%	1.2%
PYN	24	690	62	422	86	1112
C%	12.6%	33.6%	11.6	25.6%	11.8%	30%
PDC	1.6	545	194	766	197	1311
C%	2%	26.6%	36.2%	46.4%	27.1%	35.4%
NYN	-	-	3	15	3	15
C%	-	-	.5%	.9%	.4	.4
NDC	-	13	17	56	17	69
C%	-	0.6	3.1%	3.4%	2.3%	1.9%
TOTAL	190	2051	536	1650	726	3701
C%	26.2%	55.4%	73.8%	44.6%	100	100

Key:

WHQ = WH-Question	NYN = Negative Yes/No QN
ALTG = Alternative QN	NDC = Negative Declarative
PDC = Positive Declarative	QT = Question Types
PYN = Positive Yes/No QN	NQ = No Question

The table above shows the comparison of Nigerian questioning data and Australian questioning data. The most interesting observation in the comparison of the data above is that the Nigerian data complements the Australian data. With the differences in numbers, the two data complement each other. For example, in WHQ questions, there are greater numbers in the direct examination stage than in the cross-examination stage. In the Nigerian data, there is 63% in the direct examination stage, as opposed to the cross-examination stage, where we find 18%. Also, in the Australian data, WHQ accounts for 17% in direct examination contrasting with the cross-examination stage where it accounts for 8% (see chapter 5). The number difference is greater in the Nigerian data (45) while the Australian data has 9. This shows that the direct examination stage in Nigeria is more friendly and cooperative than the direct examination stage in Australia. Both of them maintain the fact that WH-questions are used maximally in the examination stage to draw the real facts of the case from the witnesses, which is compatible with the basic function of the direct examination phase.

It is interesting to note that in both the Nigerian data and Australian data, there are no negative Yes/No questions in the direct examination stage. But in cross-examination stage there are a few examples. Since in the data of the two countries there are none in direct examination, they generate the same percentage which is nil. What this is suggesting to us is that negative Yes/No questions are rare in both Nigerian and Australian data, and the few

that do occur are used during the cross-examination stage. Also, since negative questions are generally believed to be challenging, combative and controlling in nature, the few that occur are used during the cross-examination stage.

Furthermore, another interesting finding is that positive declarative questions are higher in cross-examination than in direct examination in both the Australian and Nigerian data. In the Nigerian data, it is 2% in examination and 36.2% in cross examination. In the Australian data, it is 26.6% in direct examination while it numbered 46.4% in cross-examination (see chapter 5). The number difference in Nigerian data is greater (34) while in the Australian data it is 19. What this suggests is that cross-examination in Nigeria is more hostile and uncooperative than her Australian counterpart. This finding buttresses the fact that power and asymmetry are more pronounced in the Nigerian courtroom than her Australian counterpart. Both of them reiterate the fact that declarative questions are extensively used during cross-examination. Declarative questions are power-laden questions which convince the opponents with propositions and assumptions, explaining why they are greatly favoured during cross-examination. This also gives credence to the challenging and hostile atmosphere of the cross-examination stage.

Negative declarative questions are rarely found in the Nigerian data, the few that occur are used during cross-examination. So, in Nigerian data, negative declarative do not occur at all during direct examination while accounting for 3.1% during cross-examination. In the Australian data, it is .6% during direct examination, and 3.4% during cross-examination. This finding also buttresses the fact that negatives are rare in the data of the two

countries. Also, since there are high numbers of them in cross-examination, the fact that cross-examination is challenging and hostile is validated.

Another major difference between Nigerian data and Australian data is in contrastive findings of No question. No questions are speech act functions which are contributions other than questions and statements that do not contribute to the crime narrative, and that precede the part that the witnesses are expected to answer to. In the Nigerian data, No questions numbered 21% in direct examination and 28% in cross-examination. The reason for this is that lawyers during cross-examination make use of speech act functions, especially the complex ones (which dominate no questions during cross examination stage), to intimidate, control and coerce the witnesses to their line of arguments. Contrastingly, in the Australian data, no questions occur more frequently in direct examination (18.9%) than in the cross-examination stage (7.6%) (see chapter 5). This also points to the fact that there is more power and control on the part of the lawyers in Nigerian courtroom discourse than in that of Australia.

6.5.2 Answer Types

Table 6.5 highlights the comparison of answer types of both Nigerian data and Australian data. Since answers are a compulsory part of questioning in court, a comparison of types of answers is attempted in this section.

Immediately evident from the table is the contrast between backgrounded expressions in the data of the two countries. In the Nigerian data, backgrounded expressions occur more frequently in cross-examination (32%) than in direct examination (18.9%), which further gives credence to

the unfriendly, uncooperative and hostile nature of cross-examination. During cross-examination, the lawyers use speech act functions more to control and coerce the witnesses to their line of arguments, which buttresses the power that the lawyers have over the witnesses. But in the Australian data, the contrary is the case, as backgrounded expressions in direct examination occur more frequently (25.8%), as compared to cross-examination (22.7%) (see chapter 5). This shows that power and asymmetry are more pronounced in Nigerian courtroom discourse than in Australian.

Table 6.5 Answer types

Answer Types	Examination		Cross Exam		Total	
	Nig.	Aus.	Nig.	Aus.	Nig.	Aus.
BGR	40	64	153	56	193	902
C%	18.9%	25.8%	32.0%	22.7%	28%	24.4%
MR-Y	14	468	84	417	98	885
C%	6.6%	22.8%	17.6%	25.3%	14.2%	23.9%
MR-N	2	72	38	59	40	131
C%	.9%	3.5%	8%	3.6%	5.8%	3.5%
CTR-X	60	265	79	73	139	338
C%	28.3%	12.9%	16.6%	4.4%	20.2%	9.1%
Min. Resp.	76	805	201	549	277	1354
C%	35.8%	39.2%%	42.1%	33.3%	40.2%	36.5%
CTR-ELAB	2	153	44	127	46	280
C%	.9%	7.5%	9.2%	7.7%	6.7%	7.6%
CTR-Y-ELAB	14	152	33	90	47	242
C%	6.6%	7.4%	6.9%	5.4%	6.8%	6.5%
CTR-N-ELAB	4	60	35	47	39	107
C%	1.9%	2.9%	7.3%	2.8%	5.7%	2.9%
CTR-X-ELAB	76	145	11	44	87	189
C%	35.8%	7.1%	2.3%	2.7%	12.6%	5.1%
Elab. Resp.	96	510	123	308	219	818
C%	43.8%	24.9%	25.8%	18.6%	31.8%	22.1%
"-CTR-ELAB	94	357	79	181	173	548
C%	43.8%	17.4%	16.6%	10.9%	25.1%	14.5%
TOTAL	212	2051	477	1650	689	3701
C%	30.8%	55.4%	69.2%	44.6%	100	100

Key : MR-Y = Minimal Responses Yes
MR.N = Minimal Responses No
CTR-X = Content (WH-Q)
CXTR-ELAB =Content(Evasive)
CTR-Y-ELAB= Content elaborated,Yes
CTR-N-ELAB= Content elaborated,No
CTR-X-ELAB=Content elaborated Whq

Another notable difference is that difference between MR (minimal response) findings of the two countries. In Nigerian data MR occur more in cross examination (42.1%) than in direct examination (35.8%). This slight difference buttresses the findings from table 3: that during cross-examination, the lawyers do not want the witnesses to present their own ideas and arguments. This is because they already have their own prepared ideas and arguments to present to the court. In this regard, they always want to prevent the witnesses presenting narrative and factual details about their ideas and arguments. Instead, the lawyers prefer them to give minimal responses to suit their purposes. However, the contrary is the case in the Australian data, as minimal responses occur more frequently during direct examination (39.2%) than during cross-examination (33.3%).

Similarly, the number difference of CTR-ELAB (elaborated responses) is very glaring. In both the two countries, CTR-ELAB are greater in direct examination than cross-examination, but it is in the number difference that their contrast is more striking. For example, in the Nigerian data, CTR-ELAB number 43.8% in examination, and 25.8% in cross- examination (-CTR-ELAB). The number difference between the two legal procedures is 18%. On the other hand, in the Australian data, elaborated responses number 24.9% during examination and 8.6 in cross-examination. The

number difference is just 6.3%. This finding suggests that the direct examinations stage in Nigeria is friendlier than her Australian counterpart.

The fact that occurrence of CTR-ELAB (content evasive) is greater in cross-examination (9.2%) than in direct examination (.9%) in the Nigerian data shows that the cross-examination stage is hostile, argumentative and highly combative. Although CTR-ELAB also occur more frequently in cross-examination (7.7%) than in direct examination (7.5%) in the Australian data, the number difference between Nigerian legal procedures is greater than her Australian counterpart. The number difference is 8.3% in Nigerian data while it is .2% in Australian data. This difference further suggests the fact that cross-examinations in Nigeria are more hostile, oppressive and uncooperative than their Australian counterparts.

Furthermore, in the data of the two countries there is also the little use of negative answers. That is not glaring in itself. But what is more glaring is the contrast between the findings of the two countries on negative answers. For example, negative minimal responses occur more frequently in cross-examination (8%) than in direct examination (.9%) in the Nigerian data. Also, negative content elaborated is greater in cross-examination (7.3%) than in direct examination (1.9%). This finding shows the uncooperative and hostile nature of cross-examination and the friendly nature of direct examination. In the Australian data on the other hand, though the rate of negative minimal response is higher in cross-examination (3.6%) than direct examination,(3.5%), the number difference is slight. Negative content elaborated, on the contrary, is even greater during examination (2.9%) than in cross examination (2.8%). This further shows that power is more pronounced on the part of the lawyers in the Nigerian courtroom than in her Australian counterpart.

6.6. Summing up

From the analysis above, we have seen how questions forms are used by the lawyers to convince, control and coerce the witnesses, and how this reveals the power they have over the witnesses. This is made possible because of the asymmetrical relationship that exists between the judge, lawyers and prosecutors on one hand, and the defendant and the witnesses on the other hand. We have also seen how the forms of these questions can constrain the type of responses given by the witnesses. Attempts are also made to compare the findings of this study with Australian findings, which reveal that power and asymmetry are more pronounced in Nigerian data than in her Australian counterpart.

But many facts stand out that still require further study. For example, WH-questions have the largest distribution in the data. They occur mostly in examination and rarely in cross examination, and also different types of it are found which require further study. Similarly, declarative questions are another interesting finding in the study. They are statements, yet lawyers use them as questions in courtroom discourse. The witnesses also treat them as such and respond to them. The intricacies of this and the fact that they have the highest frequency during cross-examination in my data necessitate further study. Furthermore, the reverse frequency of speech act functions in both examination and cross examination and the manipulation of complex speech act functions by the cross examining lawyers which are present in the data used for this research also require further study. All these are going to be minutely dealt with in the subsequent chapters.

Chapter Seven

Analysis B- WH-Questions

7.1 Introduction

This chapter is going to be devoted to WH-question analysis. This is because they are an important part of all the questions asked in my data. We have seen in chapter six that WH-questions have the highest frequency in my recorded data. Furthermore, they also have the highest frequency in all the questions asked during the direct examination stages. Prosecutors also make use of them maximally during examination stages. This necessitates a closer and more detailed study and analysis.

Table 7.1 WH-question types

	Examination			**Cross –examination**			**Total**	
WH-q	**No**	**R%**	**C%**	**No**	**R%**	**C%**	**No**	**C%**
What	72	72	60.5	28	28	28.6	100	46.1
How	11	29.7	9.2	26	70.3	26.5	37	17.1
Where	12	54.5	10.1	10	45.5	10.2	22	10.1
When	1	12.5	0.8	7	87.5	7.1	8	3.7
Which	6	35.3	5.0	11	64.7	11.2	17	7.8
Who/ Whom	16	53.3	13.4	14	46.7	14.2	30	13.8
Why	1	33.3	0.8	2	66.7	2.0	3	1.4
Total	119	54.8	100%	98	45.2	100%	217	100%

Key: No= Number
WH-q= WH-question

7.2 What

In the table above, What WH -questions are the most and commonly used WH-questions in my data. 'What' alone represents 60.5% of the total WH-questions used in my data the during direct examination stages. 'What' is greatly favoured during the direct examination period because in most cases, it is prone to be non-restricted. Non-restricted questions require narrative details. They demand highly informative answers. They are fact finding WH-questions. They generate vivid details about the facts of a case. However, the degree of non-restriction varies. The more non-restricted a WH-question is, the more narrative answers will be given. Restricted WH-questions, on the other hand, requires specific information and pertinent ideas. 'What' belongs to the WH-question type which courtroom ethics greatly favour during examination because they provide vivid and narrative information.

When compared with other WH questions such as 'how', 'when', 'why', and 'where', I discover that what WH-questions are the most elastic and that can be used to generate vivid and detailed information. As can be observed from the analysis of my data, 'what' WH-questions perform three functions during examination which are; (i) to elicit personal information; (ii) to elicit detail and narrative answer; and (iii) to require specific points.

As can be observed from the analysis of my data, some proportion of 'what' WH-questions are used to ask for personal information from the witnesses.

This is done to obtain personal information about the witnesses which can shed more light about the behaviour of the witnesses. This exercise may seem mundane and irrelevant but it is quite relevant to the cases under discussion. These personal elicitations enable the barristers and the prosecutors to know the background of the defendants and the witnesses, and this will in turn help the court to determine the veracity of the evidence being given. For example:

7.1 ***Prosecutor:*** *What is your name?*
Witness: *Michael*

7.2 ***Prosecutor:*** *Michael what?*
Witness: *Michael Awosika*

7.3 ***Prosecutor:*** *What are you doing for a living?*
Witness: *I am a teacher*

7.4 ***Prosecutor:*** *What is your address?*
Witness: *No 53, Oke Odunwo, Ondo*

The examples above are used by the prosecutor to elicit personal information from the witness. In Nigeria, there is the belief that the personal information about an individual such as names, address and the type of job one is doing can determine the type of a person one is. It will also go along way to determine whether a person is capable of committing an offence or not, and also whether a witness is capable of lying or not. In this regard, the first thing in the court is the elicitation of personal information which the prosecutor is doing in the above examples.

The second function and that which suggests maximal use is the one which elicits detailed and narrative answers. This is the most crucial function of 'what' WH-questions. During examination, the focus is on eliciting greater details and narrative answers from the witness, and 'what' WH-questions are the most suitable for this because they are easily prone to be non-restricted:

7.5 Prosecutor: *Take your mind back to on the tenth day of April about 5.30pm and tell this honourable court what happened on that day*

Witness: *On that very day, I went to the shop and then my wife came and called me and I asked her what is the matter, and she explained that they have stolen her money 42.000 naira. Then I went down to the police station to complain.*

7.6 Prosecutor: *What did the police do?*

Witness: *They hold Niyi and his wife ran to the other house and fetched a big stick with the intention of beating it on my son's head. I alerted my son and he collected it from her and she ran away. We entered and saw the stone that she threw at my mother and the police picked it up...*

7.7 Prosecutor: *Thereafter what happened?*

Witness: *They said we must not enter the farm. Then the accused persons came out with cutlasses in their hands and they started pursuing us and we ran to Litaye and boarded a vehicle and when we got home we reported the matter to our dad...*

7.8 Prosecutor: *What happened that day?*

Witness: *He said he was interested in marrying me and I told him that my husband had died and that I was still a nursing mother. He said he would be taking care of my offsprings too...*

7.9 Prosecutor: *Tell this honourable court, on the 15th day of January, what happened on that day?*

Witness: *I was inside my house when PWI came and said the king was calling me. He said Mr Ilemobayo told him the farm that they have driven him from, some people have started farming on it...*

As can be observed from the examples above, the prosecutor is demanding a vivid account and narrative information regarding the cases in question. He needs to use the type of questions that will generate maximal response so that the witnesses will be able to reveal all that happened during that day in question, and 'what' WH-questions are the most suitable to do this because they are the most prone to be non-restricted. Taking the question literally, 'what happened on that day' means, that the prosecutor is not restricting the witness to any part of the action concerning the case. The witness is encouraged to give a vivid account and narrative information about all that happened during that day in question. Since the prosecutor is acting on the behalf of the witnesses, he is sympathetic towards them. Therefore, he uses the most open-ended WH-question type, 'what'. In most cases in my data the prosecutors are not yet always satisfied that the witnesses have narrated all that happened, and they will still ask more non-restricted what WH- questions such as 'Thereafter, what happened?', or 'after that what happen again?'.

To buttress the open-endedness of 'what' WH-questions in my data, 60.5% of all the WH-questions asked during direct examination are of the 'what' WH-question type. From the answers given by the witnesses, the use of 'what' WH-questions by the prosecutors enables them to obtain the real information concerning the facts of the cases from the witnesses. Through the narrative information given by the witnesses, the prosecutors are able to know the version of events from the point of view of the witnesses. The court will be able to hear what happened from the real participants of the events themselves and not from the information structured by the cross-examination lawyers. Although at the same time, by the use of 'what' WH-questions which are the most non-restricted, the prosecutors loose control and power since the witnesses will be responding with narrative answers. In courtroom discourse, the more narrative responses given, the looser the reins of the questioner.

The third function of what WH-question is that they are used to ask for specific information and points. They are very minimal. They are used during the narrative of the witness by the prosecutor or lawyer when they want to clarify a point or need a specific detail. For example:

7.10 Prosecutor: *In that farm, <u>what and what do</u> they destroy there?*

Witness: *When we got to the farm, they have destroyed a lot of big trees and they were cultivating the land.*

7.11 Prosecutor: *When you come back from the station, <u>What</u> <u>did</u> you see there*

Witness: *When we got to the station, they wrote down our statements.*

7.12 Prosecutor: *<u>What</u> is the name of that your husband's brother?*

Witness: *Samuel*

7.13 Prosecutor: *What is the name of that woman?*
Witness: *Kate*

7.14 Prosecutor: *What is the name of the hospital?*
Witness: *General hospital*

In the above examples, the prosecutor is trying to elicit specific points and details from the witnesses. After asking a non-restricted 'what' WH-question, he is trying to clarify some points during the narrative.

The contrary is the case during cross-examination. Here, the floor is opened to the defence lawyer to use his skills and knowledge in order to discredit the testimony given by the witness during direct examination. The defence lawyer does this by skilful use of questions. He doesn't ask questions that are non-restricted. Since he wants to hold the reins of the conversation, and control the discourse, he asks questions that generate minimal answers. Most of the questions he asks entails propositions of his own thereby ensuring that the witness is just agreeing to what he is saying.

It is not that the defence lawyers don't use 'what' WH-questions. They do use them, but in a somewhat different way. They use 'what' WH-question in a restricted format. 'What' WH-questions in their restricted format does not generate maximal responses. The defence lawyer does not want the witness to narrate his own version of events but just to agree to the version of events given by the defence lawyer. There he uses the restricted format of 'What' WH-questions. During cross-examination, 'What' WH-questions

serves two main purposes which are; (i) to elicit personal information; (ii) to request specific points.

During cross-examination, lawyers also ask personal questions so as to collect information about the background of the witnesses. The purpose of asking personal question during cross-examination is quite different from that of asking them during direct examination. During direct examination, the purpose of personal questions is to determine the veracity of the evidence being given. During cross-examination however, the purpose is for the cross-examining lawyer to know how to trap and handle the witness. The following example will serve to buttress the argument:

7.15	***Lawyer:***	*What is your qualification?*
	Witness:	*I said surveyor*
	Lawyer:	*Which school of survey did you attend?*
	Witness:	*I didn't attend any school of survey*
	Lawyer:	*You are not a surveyor*
	Witness:	*I am a surveyor. If you want to ascertain, then follow me to my master's place*
	Lawyer:	*Where is your certificate?*
	Witness:	*It is at home*
	Lawyer:	*What do you use to survey?*
	Witness:	*Compass, Theodolite, Calculator*

The example above just serves to buttress the point that personal questions being asked by the lawyer during cross-examination are for discrediting the witnesses' testimony. In the example above, the lawyer is trying to discredit the witness's assertion that he is a surveyor. Examples of 'What'

WH-questions that are used to elicit personal information during cross-examination include:

7.16 ***Lawyer:*** *What is the name of your father*
Witness: *Akinboyewa*

7.17 ***Lawyer:*** *What is the name of your mother?*
Witness: *Oyadurodemi*

7.18 ***Lawyer:*** *What is your father's position in Akinboyewa's family*
Witness: *Fourth position*

7.19 ***Lawyer:*** *What year were you born?*
Witness: *I was born in the year 1960.*

In the examples above, the lawyer is trying to elicit personal information from the witness so as to be in a better position to discredit his testimony. The lawyer asks personal questions that are pertinent to the case in question.

The second function, which is to elicit specific points or detail, is the focus of the use of 'What' WH-question during cross-examination. Cross-examining lawyers do not use what WH-question to generate narrative answers, as is the case in examination. They prefer to use 'What' WH-questions that are restricted. A way of making a 'What' WH-question restricted is by qualifying it (noun non-restricted 'What' WH-question) or it can be without qualification (verb non-restricted WH-question). Noun non-restricted 'What' WH-questions are more restricted than verb non-restricted 'What' WH-question. For example:

7.20 ***Lawyer:*** *What was the allegation then? (Noun))*
Witness: *That I took my husband's brother there when they were threatening to kill me with native medicine*

7.21 ***Lawyer:*** *What part did Niyi played in the assault? (Noun)*
Witness: *That is what he said, that he is going to kill my mother*

7.22 ***Lawyer:*** *What blood relationship do they have in common? (Noun))*
Witness: *They belong to the same father*

7.23 ***Lawyer:*** *What day was that? (Noun)*
Witness: *On the eve of the meeting*

7.24 ***Lawyer:*** *What is the location of that your house? (Noun))*
Witness: *It is by the road side.*

7.25 ***Lawyer:*** *What effort did you make to settle this matter involving senior or junior? (Noun))*
Witness: *Since this is the fourth time, and he nearly beat my mother to death, I didn't make any effort.*

As can be observed from the examples above, cross-examining lawyers are just using the noun non-restricted 'What' WH-questions type. The lawyers always want to ask questions that will generate highly minimal answers. They always want to maintain the floor and present facts and arguments from their own points of view, with which the witnesses are expected to agree. None of the examples above are the verb non-restricted 'What' WH-questions, which generate maximal responses.

None of the questions asked above by the lawyers generate narrative answers. They are just asking for specific point such as 'what year were you born?', 'what part did Niyi played?',etc. This is quite unlike the direct examination stage where most of the 'what' WH-questions asked are the non-restricted type.

At times the lawyers will ask restricted 'what' WH-questions and the smart witness will use this as an excuse to launch into narratives, but the lawyers are always quick to cut them short and revert them back to the minimal answers ,as this example shows:

7.26	***Lawyer:***	*What is the relationship between you and the accused persons that they are telling you this?*
	Witness:	*So many times, I have helped them by giving them money and food. So many times, I have told their brother not even once. So many times, I have been reporting them. There was a day the policeman caught them. They were looking at television, in my own room. I kept my store outside at the passage and Kenneth went there and stole the yam which we are cooking...*
7.27	***Lawyer:***	*That aspect is not before this honourable court. What is before this honourable court is that you said they stole 42.000 naira.*

In the example above, the witness is trying to launch into narrative when answering restricted 'what' WH-question asked by the cross-examining lawyer, but the lawyer is quick to call him to order, reminding him that aspect is not before the court.

Contrary to the cross-examination stage, narrative answers are the order of the day during the direct examination stage. That is why 'What WH-questions in examination are 60.5%, while in the cross-examination stage they make up 28.6%. Even, though courtroom ethos encouraged that, it is worthy of note that the bulk of 'What' WH-question during direct examination stage are of the verb non-restricted type, which generate maximal answers, while the bulk of 'What' WH-questions during the cross-examination stage are of the noun non-restricted type, which elicit minimal answers. This findings support the existing literatures on the subject, which affirm that the direct examination stage is a friendly one while the cross-examination stage is hostile.

7.3 How

'How' is another very important part of WH-questions that are used very often in courtroom discourse. Because 'How' can also be used as a non-restricted WH-question, it is also favoured during the direct examination stage. But it is not as fully prone to being non-restricted as 'What', and that is why 'What' WH-questions occur more in my data during the direct examination (60.5%) than 'How' WH-question (9.2%). Even the way the questions are structured suggests the point. 'What happened?' is asking for all that happened that generates the case, whereas 'how did you access the house?' is less open since the narrative that the question demands is about the manner of assessing the house.

Another fact that suggests that 'How' WH-question can be more closed than its 'What' counterpart is the fact that, when compared across the direct examination and cross-examination stages, we observe that 'How' WH-

questions occur more frequently in cross-examination (26.5%) than in examination (9.2%). This finding suggests another fact: that 'How' WH-questions are favoured during cross-examination because they are more prone to being restricted and suit lawyer's purpose during cross-examination. The following examples of 'How' WH-questions as they are used during direct examination will buttress the argument:

7.28 Prosecutor: *When you got to the house, based on the complain laid by your wife, <u>how did</u> you assess the house then?*

Witness: *When I got home, I first looked through the entries... the entrance to the main room. My room is room two to the right and their own is room three to the right. I observed that they passed through the ceiling because they cut the ceiling in my room.*

7.29 Prosecutor: *<u>How did</u> you manage to get to the police station?*

Witness: *That is how we went to the police station at Orisunmibare saying trouble has started*

7.30 Prosecutor: *<u>How does</u> the king surface?*

Witness: *It was about 4.00am when we were about to sleep that he arrived*

7.31 Prosecutor: *When the king surfaced, <u>how did</u> he narrate his ordeal on the first of May?*

Lawyer: *With due respect sir, we are not here to hear. Any other story except what he knows that he should tell the court.*

In the examples above the prosecutor is trying to get the more facts about the witnesses' side of the story from the witnesses. In these examples he is

using 'How' WH-questions which are non-restricted and those that will generate vivid and narrative information regarding the case in question. The prosecutor knows that non-restricted 'How' WH-questions are fact finding questions that will tilt the case in favour of the prosecution, and that is why he uses this type a lot. The bulk of 'How' WH-questions asked during this direct examination period are of the non-restricted type.

At times, the witnesses will not give narrative answers (as examples two and three have shown), but the prosecutor still continues asking these non-restricted types until he obtains all the facts of the cases. Also in example four, the prosecutor asks the non-restricted 'how' WH-question, but the defence lawyer raises an objection because he knows that the facts that the witness will narrate can damage his case.

Apart from the open-ended 'How' WH-questions explained above, the prosecutor also asks very few closed type of 'How' WH-questions to clarify and elucidate some points. This happened on very few occasions in my data during the direct examination stages. The examples are shown below:

7.32 Prosecutor: *How many days did it take the police to arrest the second accused person?*

Witness: *The third day*

7.33 Prosecutor: *How many police were given to you?*

Witness: *Two policemen*

7.34 Prosecutor: *How many years did you marry him?*

Witness: *One year and three months.*

In examples 32-34 above, the prosecutor is asking the closed type of 'how' WH-questions to obtain some specific facts, in order to clarify and elucidate some points regarding the facts of the case. In my data these are very rare during direct examination stages.

Unlike in cross-examination, where all the 'how' WH-questions asked are the restricted type, in direct examination the defence lawyers always prefer to use the type that will generate highly minimal answers. It is worthy of note that of the entire 'How' WH-questions asked during cross-examination, the bulk of them are of the restricted type. During cross-examination, the defence lawyers seek minimal responses from the witnesses in order to present their own idea and arguments to the court and also in order to discredit their testimony. That is why all the 'How' WH-questions asked during this stage in my data are of the restricted type: to prevent the witnesses from providing narrative answers. The following examples will serve to justify the explanation above:

7.35 ***Lawyer:*** *Baba, how long ago have you been living at Aba Olabosipo*
Witness: *It is more than forty years now*

7.36 ***Lawyer:*** *How far away is your own house to the first witness's house*
Witness: *It is far, but not up to three miles.*

7.37 ***Lawyer:*** *How is your father's farm to their own farm*
Witness: *Very far*

7.38 ***Lawyer:*** *How is your mother to the first accused person?*
Witness: *They belonged to the same family*

7.39 ***Lawyer:*** *So many people are living in that house, how many people?*
Witness: *We are only four*

In examples 35-39 above, the defence lawyers are using restricted 'how' WH-questions to obtain specific facts and minimal answers from the witnesses. The lawyers make sure, that they use the restricted type, so that the witnesses will not resort to responding with narrative details. Because 'How' is more prone to be used as a restricted WH-question, there are more 'How' WH-questions during cross-examination (26.5%) than during the direct examination period (9.2%). The defence lawyers are using this closed form of 'How' so that the witnesses will cut short their answers rather than providing narrative answers. It also suits lawyer's purpose because, with these minimal answers, they will obtain further specific points and ideas to be used in discrediting the witnesses' testimonies.

In most of the examples of these type of questions in my data, after obtaining these specific points from the witnesses, the defence lawyers go on to use these same specific points to pick holes in the witnesses' answer, and by so doing discrediting the witnesses' testimonies in front of the judges and the courts. The example below will show how the defence lawyer in the case uses the specific information obtained from the witness to pick holes in the witness' testimony:

7.40 ***Lawyer:*** *So many people are living in that house, how many people*
Witness: *We are only four*
Lawyer: *Only four?*
Witness: *Yes*

Lawyer: *Mention those who are living there*
Witness: *The first person there is the police*
Lawyer: *You and your wife are there and the accused persons and you said four people!*
Witness: *I mean four rooms.*

In the exchanges above, the defence lawyer asks a restricted question by using a restricted 'How' WH-question type, and obtains specific information from the witness: that there were only four people in that room. But by answering this question, the witness has committed himself to a lie: the defence lawyer knows that he and his wife were in the house and the two accused persons together with the cops. So already, they are more than four people. So the defence lawyer has caught him with a lie. The defence lawyer points out his lie and further discredit his testimony: 'You and your wife are there and the accused persons and you said four people!'

As can be seen from the answer of the witness, he quickly retracts back his earlier statement of 'four persons' and substitutes it for 'four rooms', but a point has been made in favour of the defence lawyer and the effect will not be lost on the presiding judge and even the court, because it shows that the witness is capable of lying and this can damage his case.

7.4 Where

'Where' is also another WH-question type used both in the direct examination and cross-examination stages in my data. Since it is a type of WH-question that requires the location of thing, place or human, it belongs to the restricted type of WH-questions. In that regard, it can not be used as non-restricted WH-question like 'What' and 'How' WH-questions.

Because it is restricted, it is not used extensively during direct examination by the prosecutor except to ask for personal details and to elicit specific locations. That is why, in my data, it accounts for only 10%. Consider the following examples:

7.41 ***Prosecutor:*** *Where do you live?*
Witness: *I live at Bolorunduro, in Okitipupa*

7.42 ***Prosecutor:*** *Where are you living?*
Witness: *Gbagia*

In the examples above, the prosecutor is using restricted WH-question to get personal information from the witness. He wants to know where the witnesses are living, and this information can remotely connect to the case under investigation. Since they are they restricted, they can only generate minimal answers of location.

Apart from using it to obtain personal information, the prosecutor also uses it to ask for specific location of things, events, humans and animals that are connected to the case in question. Take the following examples for instance:

7.43 ***Prosecutor:*** *Thereafter, where was the complaint treated?*
Witness: *At the police station in Akure*

7.44 ***Prosecutor:*** *Where is your shop*
Witness: *Near central market in Okitipupa*

In the two exchanges above, the prosecutor uses restricted WH-question 'where' to obtain specific location of the shop and the police station. Since 'where' is a type of restricted WH-question, it is sparsely used during examination in my data. When compared with 'what' WH-question, it falls short of it. For example, what WH-questions number 60.5% while 'where' WH-questions are just 10%. During direct examination, the prosecutors and lawyers always want to obtain maximal and narrative information from the witnesses and that is why they favour 'what', which is the most open-ended of WH-question, and use 'where' very sparsely because it is restricted and can only generate minimal answer of location. This is why, when compared with its cross-examination counterpart, it differs slightly. In direct examination it is 10.1% while in cross-examination it is 10.2%

In cross-examination, 'where' is used more than in direct examination because it suits the defence lawyers purpose of generating minimal answers from the witnesses. It is used to obtain specific location of places, thing events and humans during cross-examination in my data. For example:

7.45 ***Lawyer:*** *As at that time, <u>where were</u> your people reported to?*
Witness: *Ondo*

7.46 ***Lawyer:*** *<u>Where is</u> your certificate?*
Witness: *It is at home*

7.47 ***Lawyer:*** *<u>Where do</u> the accused persons living?*
Witness: *All are in Litaye. All the seven of them*

7.48 ***Lawyer:*** *<u>Where was</u> he living when he was alive?*

Witness: *At Ile Mofe*

In exchanges 45-48 above, the lawyers make sure that they use restricted WH-question type 'where' because it generates short and minimal answers. The questions are just demanding short answers of location. Those are the type of questions favoured by the cross-examining lawyers because the witnesses will not be able to relapse into narratives. That is why in cross-examination, it is 10.2 % while in examination it is 10.1% and Defence lawyers use these restricted WH-questions 'where' when they are seeking for location of people, events, things, and actions.

7.5 When, Which, Who/Whom

'When', 'which' 'who/whom' are also WH-questions used during both direct examination and cross-examination in my data. The three of them are restricted WH-question types. 'When' demands for place while 'which' requires type and 'who/whom' requires for person or people.

In examination 'when' is 0.8% while 'which' is 5.0% and 'who/whom' numbers 13.4%. They all total 19.2%. Because they are restricted and they generate minimal answers too, they are rare during the direct examination period. The three of them, which total 19.2%, do not even numbered one third of 'What' WH-questions only in my data which is 60.5%. They are used during examination to clarify and elucidate some points during the narratives of witnesses. In this regard, they are just used to support non-restricted 'What' or 'How' WH-questions. For example:

7.49 Prosecutor: *That Dammy's mother, I mean Kate, who assisted her to run away*

Witness: *Nobody. After she had finished beating me, she then ran away. It was when she left that they sent for my daughter.*

7.50 Prosecutor: *Who beat you because that is the genesis of this case?*

Witness: *Only the woman*

7.51 Prosecutor: *Which part of your body did you sustain injury with?*

Witness: *I was injured all over my body*

7.52 Prosecutor: *Which hospital were you taken to?*

Witness: *General hospital*

7.53 Prosecutor: *When did mama recovered?*

Witness: *My mother recovered after six days*

All the examples 49-53 are all examples of restricted WH-questions. They just require specific information regarding the facts of the cases. Since lawyers and prosecutors favour highly narrative answers from the witnesses during examination, they don't use these closed types of WH-questions very often. That is why the three of them numbered 19.2%. 'When' in cross-examination is 7.1% while 'Which' is 11.2% and 'Who/Whom' totals 14.2%. Their total figure, 32.5%, almost doubles that in examination (19.2%).

This is so because defence lawyers make use of restricted WH-questions a lot more than their open-ended counterpart. They do this because restricted WH-questions require specific information and minimal answers. They like

this since the witnesses will just answer with brief statements. Consider the following examples:

7.54	***Lawyer:***	*Among which party did you came to Olabosipo*
	Witness:	*We were many. We met daddy and Amidat's father there*
7.55	***Lawyer:***	*Who gave you the land there?*
	Witness:	*Daddy Onileola and Daddy Olabosipo*
7.56	***Lawyer:***	*Who told you that there was farm to take at Olabosipo*
	Witness:	*Because people were going there saying there was a new land there*
7.57	***Lawyer:***	*Who told you, that was what I am asking?*
	Witness:	*Alhaji Lamidi and he is dead*
	Lawyer:	*You could have just told us that instead of telling us another story.*
7.58	***Lawyer:***	*When did the killing of ijesha stopped?*
	Witness:	*When the owu people came*
7.59	***Lawyer:***	*Which one did the accused person locked?*
	Witness:	*The back one that leads to the kitchen.*

Defence lawyers are using restricted WH-questions to obtain specific information from the witness in the above examples. They favour these types of questions that require minimal answer. This also speaks a lot about the power and control that lawyers have over the witnesses. Maximal answers and narrative details of the witnesses signal less power and control

on the part of the defence lawyers. But minimal answers lead to more power and control on the part of the lawyers too. This is so because the witnesses will not be able to present their own side of the case to the presiding judge and the court. Instead they will be forced to agree to the lawyers' version of events. That is why lawyers make sure that they make use of closed WH-question during cross- examination.

Even when the witnesses want to resort to narrative by trying to evade the questions asked, the lawyers are quick to call them to order as example 3 exemplified. When the defence lawyer asks the witness a question with a restricted WH-question 'who told you there was a farm to take at Olabosipo?' The witness tries to evade the answer and give a narrative answer, 'because people were going there saying there was a new land there'. But the defence lawyer was quick to call him to order and repeated his question with more emphasis 'who told you, that was what I am asking!' It is then that the witness answers minimally and directly 'Alhaji Lamidi and he is dead'.

The witness is probably afraid that he might be asked to produce the person who gives the land to him, and he is trying to evade the question, but when the lawyer repeated his question with emphasis, he now gives the person's name with the additional information that he is dead, so that he wont be asked to produce the person. The lawyer then uses comment to rebuke him 'You could have just told us that instead of telling us another story'. These exchanges show powerfully the power and control that the lawyers have over witnesses in the courtroom. With this comment, the lawyer is asserting his power and control over the witness.

So, the power and control that the lawyer has over the witness gives him the right to repeat his question emphatically and also to rebuke him for correction so that the witness will not resort to that again. The power and control that lawyers and prosecutors have over the witnesses and defendants are very pervasive. Even from the rules and procedures guiding the courtroom discourse, we can say that these rules and procedure always favour the lawyers and prosecutors. For example, from our discussion of the analysis of our data so far, we can observe that it is only the lawyers and prosecutors that are asking questions all along from the witnesses and the witnesses are just replying to them

These priviledges give the lawyers the chances and opportunity to use questions selectively in various forms to suit their own purposes, and give them the chance to present their argument convincingly to the judges and the court. For instance lawyers during cross-examination prefer restricted WH-questions and use these more than their non-restricted counterpart. Also, there are still many forms of questions, such as yes/no and declarative questions, that are still further used by them to present their case convincingly to the judges and the court. These other types of questions shall be further treated in the next chapter.

'Why' is the last WH-question that is used in my data. Of all the WH-questions 'why' is the least used both during examination and cross-examination. During examination in my data, it is used very minimally and that is why the percent is 0.8%. The same thing goes for cross-examination where it is 2%. Although the number is greater in cross-examination than examination, the fact remains that it is sparsely used in my data.

'Why' can be non-restricted or restricted depending on the context. The reason that it is sparsely used in my data is that 'why' is a subjective WH-question. Its subjectivity is highly apparent. 'Why' always ask for opinion and reason in answer and in most cases, if not subtlety used, it may be discouraged during court proceedings. To buttress this point, I will cite an example from my data where the prosecutor is asking for witness's opinion and the defence lawyer opposes this move. Although, 'why' is not used in that question, but it is a question that asks for opinion too and the magistrate also opposes it:

7.60 Prosecutor: *In that compound, where you live, who has been stealing in that house*

Witness: *It is Kenneth and the second accused person*

Lawyer: *With due respect sir, my lord, I am sorry; the prosecutor* ***himself*** *knows that, that is not a good question to be asked in court*

Magistrate: *I wouldn't allow that*

Lawyer: *Thank you very much sir*

Prosecutor: *I am sorry sir.*

In the exchanges above, the prosecutor asks his witness an opinion-giving question that who has been stealing in their house because the case under question is a case of stealing. But the defence lawyer opposes it and maintains that it is not a good question to be asked in court, which the presiding magistrate too also upholds. This type of question, although is not actually a why WH-question type, yet it can be likened to it because it is also a subjective question which require for the opinion of the witness. This explains the reason that 'why' is used very minimally both in

examination and cross-examination. Let us consider the example of it during examination:

7.61 ***Prosecutor:*** *Why did they arrest the third accused person?*
Witness: *They said they bought the land from him.*

The example above is a 'Why' WH-question type. Although it asks for the opinion of the witness on why they arrest the third accused person, the opinion asked is based on fact and that is why it is allowed in court. The prosecutor is using the question to obtain some facts regarding the case in question. Let us also look at its use during cross-examination:

7.62 Lawyer: *Tell this court why you are Mrs Awosika and not Michael because the normal thing is for a woman to answer her husband's name*
Witness: *I told the court that I am Michael because this case is a case that involves my mother, and had it been that my father was still alive, he would have handled this case.*

The example above is a 'Why' WH-question and is also allowed in the court because it is asking for personal information from the witness. The lawyer is trying to discredit the witness' testimony by challenging the fact that she should be known to the court by her husband's name instead of her father's name. She then explained that it is because the case concerned her mother and had her father been alive, he would have handled the case which explains why she sticks to her father's name during the court proceedings.

7.6 Summing up

From the ongoing discussion above, we have seen how WH-questions can be manipulated by the lawyers and prosecutors to suit their various purposes. This acutely reveals the power and control that the lawyers have over the witnesses and the defendants. With this power and control they can afford to use the various forms of WH-question to suit their own purpose. Likewise, they can manipulate declarative questions, which are even more suited to their manipulation than WH-questions. With the aid of intonation and pause in declarative questions the lawyers further wield their power and control over the witnesses and the defendants. This will be shown fully in the following chapter.

Chapter Eight

Analysis C- Declarative Question

8.1 Introduction

In my data, during cross examination, declarative questions have the highest frequency. Contrastingly, during the direct examination stage, they occur very rarely. This makes one wonder of the reason behind these contrasting findings. Because of this, it is evident that a deeper study is needed, which this chapter addresses.

8.2 Intonation and Pauses in Declarative Questions

Declaratives questions can be defined as a statement functioning as a question. Many scholars including Guy et al (1986) Schifrin (1987) and Stenstrom (1984), believe that what differentiates declarative questions from declarative statements is the final rise in intonation. Many writers have also given their reasons for asserting that final rise in intonation mark declarative statements as questions. For example Bolinger (1982) argues that final rises convey incompleteness; Guy et al (1986) affirms that it denotes uncertainty. Also Brown (1980) suggests that a final rise demands a response.

Geluykens (1987) argues that apart from the rising intonation, pragmatic factors can also contribute to the identification of declarative statements as questions. This assertion is particularly based on Searle's felicity

conditions. Seale (1969) gives four conditions for identifying questions which are:

Propositional content	*Any proposition or propositional function*
Preparatory	*(a) S does not know the answer*
	(b)It is not obvious to both S and H that H will provide the information at that time without being asked
Sincerity	*S wants this information.*
Essential	*Counts as an attempt to elicit this information from H.*

But declarative questions in courtroom discourse and also in the data used for this study are quite different, and cannot be accounted for by the two lines of arguments identified above. What is most striking in the data used for this analysis is that most of the declarative questions used are not inflected with rising intonation, but with falling intonation. The two reasons that I will give for this are that, since courtroom discourse is based on question/answer adjacency pairs, once the lawyers ask their declarative questions, the witnesses know that it is their turn to answer whether they are uttered with rising intonation or not. This also shows the asymmetrical nature of the courtroom system. The witnesses are to respond to lawyers' declarative questions whether they are uttered with falling or rising tone which also shows the power that the lawyers have over the witnesses.

Furthermore, declarative questions in courtroom discourse and also in the data used for this study do not follow Searle's felicity conditions. This is because lawyers already know the answer of the propositions contained in their declarative questions, and they simply expect the witnesses to

corroborate it. Also, lawyers are not eliciting information from the witnesses but merely seeking for the witnesses to buttress and support the propositions contained in their declarative questions.

Furthermore, the use of falling intonation with declarative questions also suggests the power of lawyers over the witnesses. By using declarative questions with falling intonation, the lawyers are able to put across their propositions convincingly to the witnesses. The use of falling intonation on declarative questions suggests coercion, cajoling and persuasiveness on the part of the lawyers.

While the above is true of declarative questions used in court, the intricacies embedded in it go beyond that. Another way of marking declarative statements as question is by the addition of tags which emphatically ask questions based on the preceding statements before it. But there are many declarative statements that are counted as questions even without the addition of tags. In most of the data used for this study, the declaratives there are counted as questions, yet they are without tags.

Dunstan (1980) in his reaction to Danet and Bogosh's classification of declarative statements as questions argues that declarative does not have a question format, which is to say that there are no linguistic features that specify that an answer is a required next activity, for instance, there is no tag such as 'didn't you'. Danet and Bogosh (1980) on their own part assert that the presence or absence of a tag is not a criteria feature in determining declarative questions. Dunstan (1980) afterwards gives three suggestions of determining declarative statements as questions. The first one is that the readers of English can use their own native competence to deduce that a declarative statement is a question. The second one is to take the response

as an answer. Dunstan however argues against this in that it involves a procedure of looking to a next turn to provide a characterization of the first. He further gives repetition as the third solution. By the time the lawyer is repeating a statement, the witness would know that it is a question that requires answer.

Let us assume that all the reasons given above mark statements as questions, what is then the clue for the witness to know that it is his turn to answer and that the lawyer or prosecutor has finished speaking since there is no tag and the statement is not rendered with rising intonation? The answer to this is the pause that occurs at the end of the statement. Atkinson and Drew (1979) assert that pauses in cross-examination can be recognised as interactional strategies employed by counsel, directed particularly at the jury, to display his disbelief or scepticism of the validity of an answer, to stress the particular significance of an answer and so on. The final pause after a statement could then be recognised as a possibly completed question.

Atkinson and Drew (1979) even argue that the final pause after the statement can be heard as being the witness's turn. When he/she does not start immediately, it becomes a possibly noticeable absence, which can be heard to occasion counsel's use of a tag to mark the questions completion and prompt the recipient to start. They further give two implications of the above assertion. The first one is that if the pause is heard as the witness turn, and the tag as orienting to his/her failure to start early enough/ then the witness may appear to be reluctant to answer' or evasive'. The second implication is that if it appears ambiguous as to whether or not the question is complete or reasonable to take such length of time before answering, the counsel's addition of the tag question may be heard as impatience or

bullying tactics on the part of the counsel. Many scholars have asserted that tag questions can be leading, combative and argumentative.

With the aid of WASP speech filling system (SFS) and Goldwave showware version, I have been able to measure the length of pauses that occur at the end of declarative questions which act as a clue for the witness to answer back in my data. This is done to justify all our arguments above. Below are examples of this (my interpretation in brackeks and bold):

8.1 ***Lawyer:*** *The cocoa you are talking about, your own cocoa was not found with the second accused? (3)*

Interpreter: *Baba o, koko ti e soro e yii, won ko rii ni ile odaran keji?*

Witness: *en-hen . oun gan so wipe oun ni o ji ko. Ko si se.*

(Yes, the third accused person confessed that he stole it. He didn't even deny it.)

8.2 ***Lawyer:*** *So, it would be wrong for the police to say that the second accused person stole your cocoa? (2)*

8.3 ***Interpreter:*** *Baba, won n sope ko le je ooto ni won so wipe odaran keji ji koko yin?*

Witness: *Bee ni.*

(Yes)

8.4 ***Lawyer:*** *Baba, at any time, nobody, nobody, nobody including you saw any cocoa with the second accused person? (3)*

Interpreter: *Baba o, ko si eni kankan ti o so pe oun ri koko pelu odaran keji?*

Witness: *Iro o. Ni ojo yen, onikaluku lo n so tire.*

(That is a lie, that day in question everybody was giving his/her own interpretation of it)

8.5 Lawyer: *The landlord of the second accused person is well known to you? (3)*

Interpreter: *E mo landlord odaran keji yii daradara?*

Witness: *Mo mo .*

(Yes, I know him)

8.6 Lawyer: *The community use the landlord to threaten the accused person to make a confessional statement on the cocoa? (3)*

Interpreter: *Awon ara adugbo ni o lo landlord yii lati jeki okunrin yii soro tipatipa?*

Witness: *Rara o.*

(No)

8.7 Lawyer: *The community wrote a letter to the accused person asking for whatever assistance and that he should leave the community? (3)*

Interpreter: *Igba kan wa ti awon adugbo yii ko leta si odaran keji ki o ko jade nilu?*

Witness: *Rara o.*

(No)

8.8 Lawyer: *Baba, I put it to you that the cocoa that you see with the second accused person is not your own cocoa? (2)*

Interpreter: *Baba, won ni koko ti e so wipe won ri lowo odaran keji ki ise koko yin?*

Witness *Kii se koko temi ni.*

(It is not my cocoa)

Table 8.1 Intonation and Pause in Declarative Question

	Examination						Cross-Examination					
	No	R%	C%	PL	RI	FI	No	R%	C%	PL	RI	FI
PDC	3	1.5	1.6	.5	√	-	36.2	98.5	36.2	3.0	-	√
NDC	-	-	-	-	-	-	17	100	3.1	3.0	-	√

Key: PL= Average pause length
RI= Rising intonation
FI= Falling intonation
PDC= Positive declarative question
NDC= Negative declarative Question

In the examples above, the pause at the end of each of the declarative questions signals the end of the lawyer's turn and that it is the turn of the next speaker. The average pause length of the declarative questions in cross- examination is 3 seconds while it is .5seconds in the direct examination stages.

From the table above, it is obvious that declarative questions number few during the direct examination stage. Positive declarative questions make up just 1.6 percent while negative declarative questions do not occur at all. The reason for this is the fact that declarative questions are powerful and controlling questions. They are powerful and controlling in nature in the sense that they restrict the response of the witnesses. Also, they contain propositions of the lawyers that witnesses are to agreed or disagree with. And in most cases, they always agree as exemplified in my data. Since the direct examination stage is a friendly stage, the prosecutors in my data refrain from using declarative questions with their witnesses. Instead, they

use questions like WH-questions, which generate maximal and narrative responses from their witnesses.

It is not even the scarcity of declarative questions used during the direct examination period is striking in itself, but the fact that those that are used end with rising intonation. This suggests that the prosecutors want the witnesses to supply an answer that they are hitherto oblivious to. All the declarative questions used during examination period in my data are questions used to clarify some points that are not clear to the prosecutors. For example:

8.9 *That Abuja is part of Ondo /here?*

8.10 *The accused persons no 1 and no 2 minus /no 3?*

8.11 *You mean the main /entrance?*

Examples 9-11 above exemplify the argument that declarative questions during examination stages are always uttered with rising intonation. All the three above are uttered with rising intonation, which means that the prosecutors are genuinely asking for the information that they did not know and which they want to know. They seek for clarification of some doubts that will help them to get the witnesses' answer clearly. The rising tone at the end of the statements already mark them as questions that the which the witnesses must respond to and, in the split of a second, witnesses always respond. This is why the average length of a pause after declarative questions during direct examination is .5 seconds.

This is quite unlike during cross-examination where the reverse is the case. Declarative questions have the highest frequency during cross-examination in my data, with positive declarative question having 36.2% while negative declarative questions number 3.1%. Declarative questions are frequent during the cross-examination stage because it is a hostile stage. The defence lawyers at this point always want to maximise their turns and minimise the contributions of the witnesses. They therefore use this type of questions, which will restrict the witnesses' answer and at the same time put their own propositions convincingly to both the witnesses and the court.

Also from the look of the table above, we will discover that it is not the number difference that stands out at this stage but the fact that all the declarative questions used end with falling intonation and also the fact that the average pause length is 3.0. When compared to the declarative questions used during the direct examination period, we will see that there is a sharp difference. During the direct examination stage, all the declarative questions end with rising intonation, and with just the slightest pause of .5 seconds. But during cross-examination stages now, the entire declarative questions end with falling intonation and the average pause length is 3.0 seconds. This sharp difference speaks volumes on the dichotomy between the direct examination and cross-examination stages.

During cross-examination, the lawyers are the all powerful. It is they that control the discourse between them and witnesses. They dictate the turns and the length of witnesses' contributions. The fact that declarative questions are asked with falling intonation ending suggests and indicates their power and control over the witnesses. It also shows the asymmetry between them. It is even the marked difference between leading and non-leading declarative questions. Many scholars have written about

declarative questions being leading questions, but they have not been able to separate between declarative questions that are leading and declarative questions that are not leading. The two prosodic differences between examination and cross-examination differentiate between these. Declarative questions used during examination in my data are non leading in the sense that they are uttered with rising intonation ending with slightest pause. Also, they are genuinely asking for answers and clarification that the prosecutors are not aware of. But the declarative questions used during cross-examination in my data are leading questions with the fact that they are uttered with falling intonation ending. In this regard they are like statements but uttered during cross-examination, they are very powerful, leading and coercive. This connotes knowledge, authority, power and control. The declarative questions asked during cross-examination with falling intonation are not asking for questions that lawyers did not know already. Rather, they are asking of the witnesses corroboration and agreement of the propositions embedded in them. Falling intonation has been associated with knowledge, power and dominance while rising intonation is associated with lack of knowledge (Tench, 1996:88).

This shows the power and control that the defence lawyers have over the witnesses. They uttered their declarative questions with falling intonation which sounds like statements, to connote the facts that they are already armed with their facts and knowledge. They also do this to suppress and control the witnesses. Apart from this falling intonation ending, their declarative questions are also followed by the average pause length of 3.0 seconds which signal the end of their turns and for the witnesses to respond.

Another reason for the distinction between the declarative questions used during examination and those used during cross-examination in my data is

conduciveness. All the declarative questions used during cross-examination with falling intonation ending are always conducive. By conduciveness, we mean those declarative questions that are embedded with the propositions of the lawyers which the witnesses are expected to corroborate and agreed with.

Before coming to the court, the defence lawyers are already armed with their facts and knowledge of the case. It is these facts that they want the witnesses to agreed with and also the court to uphold. In this, regard, during cross-examination, they will always ask the type of questions that will contain these facts and knowledge. Conducive declarative questions with falling intonation are the most ideal questions to be used that will sell their facts and knowledge to the court and also the witnesses.

So, this means that the declarative questions used during cross-examination are always conducive and if they are conducive, they will end with falling intonation. The defence lawyers during cross-examination are already armed with their facts and knowledge of the case. So, by asking these conducive declarative questions, they are not asking because they don't know the answer. They already know the answer, but they want the witnesses to confirm and agreed with their own propositions embedded in the questions.

The declarative questions asked during examination on the other hand are not conducive, and therefore, they are always ending with rising intonation. The prosecutors in my data are genuinely asking their declarative questions for answers they are hitherto not aware of. They are seeking for clarifications or some facts that the witnesses will provide. In this regard,

they always use the declarative questions that are not conducive and with rising intonation.

This is not to say that the findings of this study can be applicable to ordinary discourses. Courtroom discourse is completely different from everyday speech. There are rules and regulations that are applicable to courtroom discourse alone. For example, in courtroom discourse, only the lawyers, prosecutors and the judge that can ask questions from the witnesses, while the witnesses' role is just to answer them.

Because, the courtroom rules and ethics favour the lawyers, they can use declarative questions that are conducive and also with falling intonation to restrict the answer of the witnesses, and also to put their own propositions across. This relates to the power and control that the lawyers have over the witnesses and even courtroom discourse in general.

In everyday speech, declarative questions are uttered with rising intonation. Many scholars have written to support this argument. It is the unmarked order when declarative questions are uttered with the final rising intonation. Declarative questions are thus affirmed to end typically with a rising pitch movement. For example, it is reported that complete statements said with the high bounce (a high rising contour) have the effect of questions in most cases (O'Connor and Arnold, 1961). This claim is also supported by kingdom (1958), Halliday (1968), Schiffrin (1978; 1994).

To support her argument that final intonation on a declarative statement marks it out as a question, Schiffrin (1994) gives 4 examples which are discussed below:

i) INTERVIEWER/H: a) What is your name?
INFORMANT /S: b) Maria Martinetti?
ii) IRENE/H: a) What is your name?
DERBY/S: b) Debby Schiffrin?

(Schiffrin 1994)

Because H makes use of the marker WH-question 'what' which marks his utterances in (2a, 3a) as questions, the focus is not on his utterances. The argument here is on S's utterances in (2b, 3b). S's utterances in the two examples provide answers to H's questions but because of their final rising intonations, they also pose further questions to S. These questions could be interpreted as "Is that what you meant?" or "did you get that?", S's responses now require the third part of the exchange and it is up to 'H' to let S know of the adequacy of S's answers. In this regard, the final intonation of S's utterances marks them out as questions. Consider the next example:

phone rings:

iii) Called: (a) Hello?
Caller: (b) Yeah, hi. This is Derby, David's mother?
Called: (c) Oh hi… how are you…

(Schiffrin 1994)

In the example above, with the use of the final intonation on 'hello?' the called is asking the question who is on the line, as well as answering the ringing of the phone simultaneously. Likewise, the final rising intonation of the caller's self-identification serves as an answer to 'hello?', and, after the called fails to recognise her with the mentioning of Derby, it also serves to elicit recognition of the self identification. Immediately after, this

eliciting from the caller, the called then recognises her as her answer reveals "oh hi…" how are you…

In the next example, the author is giving her social security number to an insurance company agent during a phone call:

iv) DERBY: One two four?
AGENT: Um.
DERBY: Three two?
AGENT: Okay.
DERBY: Nine four six six..

(Schiffrin 1994)

In the example above, the final rises indicate segmented parts and the agent answers by acknowledging them. The last segment then has falling intonation, indicating...

In the last example, Zelda is telling a story about a doctor:

(v) ZELDA: (a) the following year, his son, who ha-was eighteen years old just graduating from high school.
(b) was walking through the em… the fountain, logan square Library?
(c) Y'know that fountain?
DERBY: (d) Yeah
ZELDA : (e) Bare footed, and stepped on a-a bare wire

(Schiffrin 1994)

In the example above, Zelda is telling the author a story. She uses final rising intonation in (b) and (c) to fix important locations in her story, and also to ensure her story is being properly understood by her hearer. The

final intonations in (b) and (c) then raise the questions of ascertaining of being properly understood

The claim by these authors appears to be so because declarative questions asked in everyday speech are not meant to restrict the answer of the listener, neither are they intended to suppress them. But in courtroom discourse, especially cross-examination, because of its asymmetrical nature of it, declarative questions are uttered with falling intonation to restrict the answers of the witnesses and also to suppress them. Furthermore, the declarative questions in cross-examination are always conducive because the lawyers will always embed them with their own propositions.

It can even be suggested here that declarative question in my data with the falling intonation have the force of tag questions. In the literature on this subject, tag questions have been considered as the most coercive because of their challenging and forceful nature. But declarative questions in cross-examination in my data have this same challenging and forceful nature, since they are uttered with falling intonation. For example:

8.12 Lawyer: *It was not in your presence, madam, when the accused persons allegedly threw stones at your mother, you were not \there?*

Witness: *I was not there.*

8.13 Lawyer: *And you believe that statement because she is your \brother?*

Witness: *Yes, because I saw how her body looks and how the whole house was turned upside down together with the police*

8.14 Lawyer: *Since the house is beside the road, anybody passing will pass near the \house?*

Witness: *They can pass through the main road. But not beside our house.*

8.15 ***Lawyer:*** *So momo, immediately Kate beat you, you fainted, you don't know, you are \unconscious?*

Court clerk: *Ni igba ti Kate n lu yin, se e subu lule, e daku?*

Witness: *Bee ni. Mi o mo nkankan mo*

(Yes I fainted and I didn't know what was going on.)

8.16 ***Lawyer:*** *So, when the police came Kate was not at home, and the police had to arrest this man, because he was the one at \home?*

Court clerk: *Ni igba ti awon olopa wa, Kate gan ko si nile, se nitori eyi ni olopa se mu okunrin yii nigba ti o je pe oun ni o wa nile?*

Witness *Bee ni*

(Yes)

The examples above are declarative questions used during cross-examination in my data. All of them are uttered by the defence lawyers with falling intonation, which makes them more coercive, forceful and powerful in nature. Also, all of them are conducive, that is, they all have embedded propositions which make them persuasive and convincing to the witnesses.

In Example 12, the defence lawyer is trying to disprove the allegation made by the plaintiff that the accused person assaulted her mother. With this

declarative question, the lawyer is impressing on to the witness the idea that since she was not there at the scene of assault, all that she alleges is merely hear say. Unwittingly, the witness agrees with the lawyer. The declarative questions with falling intonation used by the lawyer makes the statement sound casual and as a matter of fact. In this regard the lawyer takes the truth of the declarative question as a foregone conclusion.

Likewise, in example 13, the defence lawyer is also trying to disprove the allegation made by the plaintiff that the accused person assaulted her mother. The defence lawyer is stressing the fact that the witness was able to believe the statement conjure by other people, because the victim is her mother. The declarative statement with falling intonation used makes the witness agree with the lawyer, although she offers excuse for her agreement. The proposition embedded in the declarative question is so strong and forceful that the witness has no other option but to agree and later find an excuse for doing so.

In example 14, the defence lawyer is trying to dispute the allegation of the plaintiff that the accused person steals from his house. Although the declarative question used is also forceful, coercive, conducive and uttered with falling intonation, the witness here is very smart and he modifies his agreement. The lawyer is stressing that since the house in question is beside the road, anybody passing can easily steal the money. But the witness sees through the proposition of the lawyer and he modifies his agreement by saying that 'they can pass through the road, but not beside our house'

Furthermore, in example 15, the lawyer is trying to disprove the allegation of the plaintiff that the accused, person together with his girlfriend,

assaulted her. The lawyer poses a trapping declarative question to her by suggesting that immediately the second accused person beat her, she fainted and became unconscious. The witness took the proposition embedded in that declarative question to be sympathetic towards her case and she agreed that she fainted and became unconscious. But the coercive declarative question uttered with falling tone is a trapping one because the lawyer further asked her another challenging question based on her agreement that "How did you know that the accused person lock the door then?". This catches her unawares, and she starts floundering. The lawyer is able to achieve this because of the declarative question used. Because the proposition embedded in the declarative questions are so powerful, coercive, cajoling and persuasive, and also uttered with falling intonation, the witness agrees with it unwittingly, not knowing that it is a trapping question.

The final example 16 is a continuation of the case of example 15. The lawyer here is trying to prove that the accused person is innocent and it is just because he was the only one at home that the police arrested him. Because the propositions embedded are also convincing and cajoling, the witness agrees with the lawyer.

8.2 Summing up

From the above discussion, we can see how intonation and pauses are used with declarative questions to further compound their powerful and coercive nature. We have also seen how they are used by the lawyers, especially during cross-examination, to convince the witnesses of their lines of arguments. Also, we have seen how declarative questions are used in

everyday conversation, and that it contrasts sharply with their use in courtroom discourse. The reason is that courtroom discourse is different from everyday discourse. In this data, some of all these declarative questions are delivered from the lawyer to the interpreter before the witnesses can understand them. What is the effect of this third party on the coercion and power embedded in the declarative questions? The next chapter will answer that.

Chapter Nine

Analysis D- Speech Act Functions

9.1 Introduction

In chapter six, I analyse my data with the tools of analysis that I have highlightened in chapter five. It is noted in the course of the analysis that Speech Act Functions (SAF) are sharply contrasted in examination and cross-examination in terms of numbers and frequency. For example in cross-examination it totals 151 while in examination it is 40. Another striking fact is that the types of Speech Act Functions that are frequently used in examination differ from the types that are frequent in cross-examination. Because of the reasons highlighted above, I think it warrants a deeper study, and this is what this chapter deals with.

9.2 Background

Before going into the analysis of Speech Act Function, it is apposite to know the background of speech acts themselves. According to J.L. Austin(1962), in every utterance, a person performs an act, such as stating a fact, stating an opinion, confirming or denying something, making a prediction or a request, asking a question, issuing an order, giving a permission, giving a piece of advice, making an offer, making a promise, thanking somebody, etc. All the actions mentioned above are called Speech Acts. From the above, we can see that verbs are the natural way of

expressing a particular Speech Act. In this regard, verb plays a major role in the theory of Speech-Act.

Speech-Acts consists of three parts which are the locutionary act, illocutionary act and perlocutionary act. The locutionary act is the basic of utterance, or production of a meaningful linguistic expression. The illocutionary act is performed via the communicative force of an utterance (Yule, 1996). The perlocutionary act is the speaker's intended effect of an utterance on the hearer.

Among the three types of Speech Acts listed above, the most used and discussed is the illocutionary force. It is so widely discussed that Speech Act is often interpreted to mean the illocutionary force of an utterance. It is widely discussed because the illocutionary force of an utterance is what it "count(s) as" (Yule 1996). My discussion and analysis of speech act functions also fall into this category.

Speech-acts have been classified into many different dimensions. They are classified into five categories of verdictives, exercitives, commissives, behabitives and expositives (Austin, 1962). Another dimension of Speech-Act classification is thus: assertives directives, commissives, expressives and declarations. This second classification is based on the assumption that the first classification is deficient and that there was too much overlap in them (Searle, 1969).

Sadock's (1974) study argues that the most straight-forward way in which our intended locution can be communicated is to mention directly what we are doing in constructing a particular utterance, and that the factors that determine whether a particular illocutionary act succeeds are termed

'Felicity conditions' maintaining that in the majority of cases, the illocutionary force of an utterance is not signalled by a performative formula.

Bach and Harmish's (1979) study frowns at certain aspects of earlier theories, claiming that intention and inference are basic elements to understanding. The study classifies illocutionary acts into two namely: communicative, with four main categories of constatives, directives, commissives and acknowledgement, and the non- communicative class with two sub-categories of effectives and verdictions (Ayodabo, 1997).

What is observed in the classification above is that some of the classifications run into one another. According to Allan (1986) there is no consistent principle of classification, but the criterion generally seems to be semantic similarity between English verbs. This approach however has problems, however, because some verbs do not fit into category they are assigned to; some are not illocutionary. Even the categories overlap haphazardly (Osisanwo, 2003). However, the problems and inconsistencies notwithstanding, I will review one closely here.

For the purpose of this analysis, I consider Keith Allan's classification more useful because of its detailed nature and copious examples. Allan (1986) classifies speech acts into interpersonal illocutionary acts (which consist of interaction between speaker and hearer at individual level) and declarative illocutionary acts (which imply that hearers' interaction is not required for the act to take effect). Their detailed membership will be presented below with their examples:

Table 9.1-Speech -Acts

No	Subgroup	Membership/Illustration
1.	**CONSTATIVES**	
a.	**Assertives**	Performative assertive verbs: Affirm, assert, avow, declare
b.	**Informatives**	Performative informative verbs: tell, announce,report, testify
c.	**Retrodictives**	Performative retrodictive verbs: recount, report
d.	**Concessives**	Performative concessive verbs: agree, assent, grant, concede
e.	**Dissentives**	Performative dissentive verbs: Offer, disagree, dissent, reject
f.	**Suppositives**	Performative suppositive verbs: assume, suppose, stipulate, postulate
g.	**Constative verdicts**	Performative constative verdict verbs: judge, hold, approve, find
2	**PREDICTIVES**	Performative predictives verbs: Forecast, prophesy, predict
3	**COMMISSIVES**	
a.	**Promises**	Performative promising verbs: swear, vow,bet, guarantee
b.	**Offers**	Performative offering verbs: offer, propose, volunteer
4	**ACKNOWLEDGEMENT**	
a.	**Apologies**	- apologise
b.	**Condolences**	- condole, console
c.	**Congratulation**	- congratulate

d. **e.** **f.**	**Greetings** **Thanks** **Farewell**	- greet - thank.
5 **a.**	**DIRECTIVES** **Requestives**	Requestives performative verbs: solicit, summon, petition, ask.
b.	**Questions**	Questioning performative verbs: ask, query, question, inquire.
c.	**Requirements**	Requiring performative verbs: Order, command, demand, require.
d.	**Prohibitives**	Prohibitive performative verbs: Forbid, prohibit, restrict, enjoin.
6 **a.**	**INTERPERSONAL AUHORITATIVES** **Permissives**	Permissive Performative verbs: Pardon, licence, sanction, release
b.	**Advisories**	Advisory performative verbs: Counsel, caution, warn, advise

B. DECLARATORY ILLOCUTIONARY ACTS

S/No	Subgroup	Membership/illustration
1	**EFFECTIVES**	Effective acts include: Sentencing, sacking, appointing
2	**VERDITIVES**	Verdictive acts include: Verdicts, judging, casting, declaring

Adapted from Osisanwo (2003)

Some of the above listed speech acts which I will call simple speech-acts also feature in my speech-act functions. Apart from the simple speech acts listed above, some scholars have also classified speech act such as Levinson (1983), Leech (1983) and Thomas (1985) based on goal-orientation, and the observation of Grecian maxims and principles of interpersonal pragmatics. These scholars are of the opinion that most works on discourse organization have come not from linguists, but from conversation analysts such as Sacks, Schegloff and Jefferson, and others in the ethnomethological tradition. They believe that despite its merits of rigorous empirical observation, and absence of premature formalisation, its predictive power is limited and explanatory power totally lacking. It is this weakness that these scholars are trying to correct. Thomas (1985) affirms:

> *'My aim in this paper is to build on the work of the conversational analysts, taking it beyond the level of a very detailed description of the organization of discourse, in order to show how and why the participants in the interactions I describe are able to exploit the features which the system makes available in order to achieve a particular goal'*

Thomas (1985, 1986), in her studies of the discourse of unequal encounters prostulates some speech-acts which she terms metapragmatic acts. These are: IFID'S (Illocutionary Force Indicating Devices), Metapragmatic comments; Upshots and Reformulations, Appeal to felicity conditions,

Discoursal indicator, Metadiscoursal comments, Forced feedback, Discoursal disambiguation, and Discoursal imposition.

The above different types of Speech Acts are going to be adapted for Nigerian coutroom discourse. It has been discovered that apart from questions and statements, there are some expressions that lawyers still make use of that precede the bit that witnesses are expected to respond to which are still being used by the lawyers to maintain rigid control of the courtroom proceedings. These types of expressions fall under the category of some of the Speech Acts mentioned above.

Table 9.2 Speech Act Functions

	Examination			**Cross-examination**			**Total**	
SPC	**No**	**R%**	**C%**	**No**	**R%**	**C%**	**No**	**C%**
CM	25	48.1	62.5	27	51.9	17.9	52	27.2
ENCO	1	100	2.5	-	-	-	1	0.5
INFO	1	100	2.5	-	-	-	1	0.5
SUM	1	100	2.5	-	-	-	1	0.5
CLAR	1	100	2.5	-	-	-	1	0.5
DI	6	24	15	19	76	12.6	25	13.1
MC	3	7.1	7.5	39	92.9	25.8	42	22
REF	2	4.8	5	40	95.2	26.5	42	22
S-MPC	-	-	-	11	100	7.3	11	5.8
1FID	-	-	-	13	100	8.6	13	6.8
FC	-	-	-	2	100	1.3	2	1
TOTAL	40		100%	151		100%	191	100%

KEY: CM = Commands ENCO = Encouragement
INFO = Information SUM = Summon
CLAR = Clarrification DI = Discoursal Indication
MC = Metadiscoursal Comments REF = Reformulation
S-MPC = Subject-oriented metadiscoursal comments
IFID = Illocutionary force indicating devices
FC = Felicity Conditions

9.3 Command

From the table above, we can see that commands are the speech act functions that have the highest distribution of all other speech Act functions in direct examination (62%). It is the most frequent because prosecutors and lawyers give commands to their witnesses to let them know what to do next. It is frequent in direct examination because prosecutors give commands to let the witnesses know what to do and to guide them, but the way they are used in direct examination is completely different from their usage in cross-examination.

In direct examination, they are used to let the witnesses know the next action to perform and to guide them to the next action. They are also used to obtain personal information from the witnesses. On the other hand, during cross-examination, they are used to coerce and control the witnesses. In some cases when the witnesses are reluctant to answer because their responses can spoil their cases, during cross-examination, the lawyers make use of commands a lots to coerce them into answering forcefully and compulsorily. They are used a lot during examination to guide the witnesses. That is why it is 17.9% in cross-examination while it represents 62.5% in direct examination. From their distribution, we can see that the

direct examination phase is a friendly phrase, while the cross-examination phase is a hostile and unfriendly phase.

Examination

9.1 ***Prosecutor:*** *Tell this honourable court your name.*
Witness: *Johnson*

9.2 ***Prosecutor:*** *Take your mind back to 13th day of May 2002 at about 10pm.*

9.3 ***Prosecutor:*** *Take a look at the accused persons.*

9.4 ***Prosecutor:*** *Tell this honourable court your job*

In examples 1-4 above, the prosecutors are giving commands to collect personal information from the witnesses. The commands are given by the prosecutors not to coerce the witnesses or force them, but to obtain some personal information from them. In (1), the prosecutor gives a command to obtain the witnesses name and in (2), the prosecutor gives a command to the witness to remember 13th day of May 2002 at about 10pm. In (3), the prosecutor gives a command to the witness telling her to look at the accused persons. In (4), the prosecutor wants to know the job of the witness. All these are quite unlike the following examples:

Cross-examination

9.5 ***Lawyer:*** *Are you living in that house independently or dependently? Answer that quickly!*

Court clerk: *Won ni se e n da gbe ni tabi e n gbe pelu eniyan?*

Witness: *Mo n gbe pelu oko mi.*

(I am living with my husband)

9.6 ***Lawyer:*** *That is the question. You are here as a witness and I am cross-examining you on certain fact which are germane to this case. Are you living independently or dependently. Don't waste the time of the court!*

Witness: *Mo n gbe pelu oko mi.*

(I am living with my husband).

9.7 ***Lawyer:*** *Hen, hen, tell the court. Tell the court, I am a divorcee and I live alone. Don't tell lies*

Witness: *I am not a divorcee. I live with my husband*

9.8 ***Lawyer:*** *Tell this court who is Michael. That is your father's name, talk, talk, talk.*

Witness: *Yes*

In examples, 5-8, the lawyer uses a command to force the witness to answer him. He is using this command to intimidate the witness to give answers that will suite his own purposes. In example 5, the lawyer is asking the witness whether she is living alone or with somebody. But without giving the witness any chance to think about it, he gives the command 'answer that quickly' with a commanding tone which can confuse the witness. In example (6), after stating the purpose of their discourse the lawyer repeats the same question again with a negative command 'don't waste the time of the court!' With the same commanding tone that the lawyer employed, the command can even confuse the witness into giving a wrong answer, which

will please the lawyer. Yet the witness maintains her ground and repeats the same answer: that she is living with her husband.

In example 8, the lawyer is commanding the witness to tell the court who Michael is, and urges her with repeated commands and an urgent and commanding tone. The witness agrees to the lawyer's explanation of Michael as her father and replies "yes", but this is contrary to her desired answer. This causes problems later on, and it enables the lawyer to catch her on a lie. From the examples above, we can see that commands are used by the lawyers during cross-examination to coerce, force and control the witnesses to their line of arguments. This acutely shows the power and control that the lawyers have over the witnesses.

9.4 Encouragement, Information, Summon, Clarification

These speech act functions are exclusively used during the direct examination stage. They are used by prosecutors to encourage, explain, clarify and summon the witness. All these speech-act functions are witness-oriented, witness-oriented in the sense that they benefit the witnesses. For example, encouragement is used by the prosecutor to encourage the witness. Information is also used to give information to the witness while summon is used to demand his/her presence. Also, clarification is used to explain some unclear points to the witnesses. This is why in direct examination the four of them are 10% respectively while in cross-examination they make up 0% respectively. Since cross-examination is a hostile stage, lawyers don't make use of such speech-Act functions in my data. For example:

9.9 ***Prosecutor:*** *Go on (Encouragement)*
Witness: *When I saw my mother....*

9.10 ***Prosecutor:*** *Aikueni Olubodun ! (Summon)*
Witness: *Yes, my lord*

9.11 ***Witness:*** *The police came to us that very night. When they arrived, they looked for this daddy but they couldn't find him that night.*
Prosecutor: *That is another police from somewhere. Who brought the two policemen here? (Information)*
Witness: *Emi.*
(I)

9.12 ***Witness:*** *It was about 4.00 am when we were about to sleep that he arrived*
Prosecutor: *On the morning of the second day (clarification)*
Witness: *Yes*

In examples 9 and 10 above, the prosecutors use speech act functions to the witnesses. In example 9, the prosecutor encourages his witness "to go on" so as to draw more information from him. During examination, there is the emphasis for the prosecutor to encourage his/her witness to provide a vivid and narrative account of all he/she knows about the case. Hence, the use of encouragements such as "go on",so that the witness will give vivid and narrative account of all he/she knows. In (10), the prosecutor is summoning the witness for examination. In courtroom proceedings, the direct examination phase comes first before the cross-examination phase hence the summoning of the witness by the prosecutor for examination. Also, in example (11), the prosecutor is providing information about the police to

the witness. The witness has no idea of who the police, are and the prosecutor is providing the information that "that is another police from somewhere". This piece of information enables the witness to put his narrative in the right perspective. Furthermore, in (12), the prosecutor clarifies a point of the witness to the court and even the witness. The witness mentions 4.00am but the prosecutor clarifies that information to be the morning of the second day. This clarification by the prosecutor puts in place that information to the narrative of the witness. This will help the witness and the court to put the pieces of the narrative of the witness together.

The prosecutors are using these four speech act functions to help the witness to narrate vividly all that happened to him/her during the day in question. On the other hand, lawyers during cross-examination do not want the witnesses to give a narrative account of what happened to them. On the contrary, they even always want to minimise witnesses' contributions during cross-examination. That is why in all these four speech act functions, the frequency is 0% respectively.

9.5 Discoursal Indicator

As defined before, discoursal indicators are occasions when the dominant speaker makes it abundantly clear in the surface structure of his/her utterances what she intends their illocutionary force to be. It has the effect of limiting the discoursal options of the defendants. Discoursal indicators are one of the metapragmatics acts that are found frequently in many occasions in my data. Since, the lawyers during cross-examination always want to dominate the discourse and to minimise the contributions of the witnesses, this metapragmatic act is an ideal tool for them to use. Although

discoursal indicators occurence are more during examination (15%) and during examination (12.6%), but the way they are used during examination is quite different from the way they are used during cross-examination. The following examples will buttress this:

Examination

9.13 ***Prosecutor:*** *Baba, nigba ti e so wipe won ti ko igi di oju ona, se awon ti won pe yen wa mo?*
(Did those invited turn up that day because you said they baricated the road with logs?)

Witness: *Won ko le wa mo. Won ti da won pada seyin wipe won ko gbodo wo inu ile*
(They cannot enter since they had been refused entrance into the town)

9.14 ***Prosecutor:*** *That is all for him*

9.15 ***Prosecutor:*** *That is all*

In example (13) above, the prosecutor is eager to find specific information about the case in question and that is the reason that he uses the discoursal indicator "that is what I want to find out". This yields the desired results, as the witness provides the answer immediately. The prosecutor is not using this discoursal indicator to minimise the contribution of the witness but to find out pertinent information.

Also, in examples (14) and (15) above, the prosecutors are using the discoursal indicators to signal the end of their examination. After collecting the information they want from the witness, they then give the discoursal indicator "That is all", "That is all for him", to let the court knows that they have finished their examination. The contrary is the case in cross-examination as the following examples show:

Cross-examination

9.16 ***Lawyer:*** *Mama, you are an old woman and by now, it is presumed that you will be speaking the whole truth. Now, I want you to answer one question, the accused person did not touch you that day. I want you to confirm that.*

Court clerk: *Mama, se odaran ti o duro yii ko fi owo kan yin rara*

Witness: *Ko fi owo kan mi.*

(He didn't touch me)

9.17 ***Lawyer:*** *That aspect is not before this honourable court. What is before this court is that you said they stole 42.000 naira.*

Witness: *Ok, and moreover sir...*

9.18 ***Lawyer:*** *I am not asking you about that. I am asking you of the present. Who told you that he threw stones?*

Witness: *Ni igba ti iyawo re n ko statement ni mo gbo lenu re.*

(I heard from his wife when she was writing her statement)

9.19 ***Lawyer:*** *The answer is very simple. Did you leave them as security guards for your home? Yes/No*

Witness: *No, they are not my security guards.*

In example (16), the lawyer is limiting the contribution of the witness to just the confirmation that the accused person did not touch her that day. Apart from that answer, the lawyer is not ready to listen and accept any other. That is why he uses premises before basing the discoursal indicator on it "You are an old woman and by now, it is presumed that you will be speaking the whole truth". After the premises, the lawyer then uses the discoursal indicator "Now, I want you to answer one question", and that question is just to confirm that the accused person did not touch her. The confirmation is just what the lawyer wants from her, which will advance his own case, and he gets it from the witness. From the use of discoursal indicators, we can see how the lawyers impose their will on the witnesses which also portrays lawyers' power over the witnesses.

Similarly, in (17) the witness is introducing another similar incidents of theft committed by the accused persons, but because the lawyer realizes that information can damage his already prepared case, he uses a discoursal indicator to cut short their contribution and focus on the present, "That aspect is not before this honourable court. What is before this honourable court is that you said they stole 42.000 naira". The use of this discoursal indicator by the lawyer effectively cuts short the witness's inclusion of another allegation which might have spoilt the lawyer's case. The witness has no other option than to swallow that allegation and replies "ok". He even wants to continue and mention another incident, but by the institutional power conferred on the lawyer, he cuts short the witness's answer and introduces another topic. This vividly reveals the power and control that the lawyers have over the witnesses. It is they that can ask questions, introduce another topic and bring the discourse to an end.

Also, in example (18), the lawyer uses a discoursal indicator to reduce the contribution of the witness by saying that "I am not asking you about that. I am asking you about the present". In other words, the lawyer is asking the witness to forget narrating about the past and to just tell him about the present, which is the only area on which the lawyer wants her to focus. With the use of a discoursal indicator, the lawyers usually impose their will on the witnesses and make clear that they want them to focus on this area, and the witnesses has no option other than to comply.

Furthermore, in example (19), the lawyer uses a discoursal indicator to guide the witness to the answer the way he wants by saying "The answer is simple, did you leave them as security guards for your home? Yes/No" and the witness has no other option than to reply "No, they are not my security guards". With the use of the discoursal indicator, the lawyers are able to control the courtroom discussion, tilt the courtroom discourse in their favour and limit the contribution of the witnesses. This is quite different from their use in the direct examination stage, as we have seen in the discussion above.

9.6 Metadiscoursal Comment

Metadiscoursal comments are another complex Speech act Function that are widely used in my data. Their usage in my data serves two major purposes: (i) to keep the defendants wandering from a previously established path; (ii) to correct the witnesses and the defendants and marshall them to the lawyer's line of thoughts.

Their usages are sharply contrasted in both examination and cross-examination. There are very few during direct examination (7.5%) while they have a high distribution during cross-examination (25.8%). They are frequent in cross-examination as they are very useful for cross-examining lawyers, since metadiscoursal comments allow the lawyers to guide the witnesses to their own line of thinking. The lawyers also use metadiscoursal comment to correct the witnesses on answers that sound unwanted and tortologous. Let us consider the following examples:

Examination

9.20 ***Witness:*** *In the evening of that day about 8pm*
Prosecutor: *No, before the evening*

9.21 ***Prosecutor:*** *How many days did it take the police to arrest the second accused person?*
Witness: *The third day*
Prosecutor: *The police had arrested both of them. What did the police do again?*

In example (20), the prosecutor uses metadiscoursal comments to reject the answer of the witness. He then asks his question again in such a way that the witness will understand what he is after. Also, in example(21), after the witness has answered the prosecutor's question, the prosecutor goes ahead to utter a comment to the effect that "The police had arrested both of them". This will prevent the witness to be talking about the same issue again. The prosecutor then introduces another topic. Although metadiscoursal comments here are used to correct the witnesses and marshall them to the

prosecutor's lines of thinking, there are very few in direct examination (7%) because of its friendly nature. It is in cross-examination that the lawyers use them to greater advantage. This is possible as cross-examination phase is an unfriendly phase. The following examples below will buttress this:

Cross-examination

9.22 Lawyer: *You have not yet answered my question. Was it you alone that came to the camp of Olabosipo, or you came in company of others?*

Court clerk: *Won ni e ti dahun ibeere ti awon bii yin. Won ni se eyin Nikam ni e wa si Olabosipo, tabi e wa pelu awon miran?*

Witness: *Ni igba ti mo gbo wipe won n mu oko nibe ni mo wa si ibe.* ***(When I heard that they have started cultivating the land, I came there, me and my brother).***

9.23 Lawyer: *I am not asking you about that. I am asking you about the present. Who told you he threw stones?*

Witness: *I heard from his wife when she was writing her own statement.*

9.24 ***Lawyer:*** *Why are you hiding facts? In another words you are telling the court that the complaint, your mother and the first accused person belonged to the same father, is that not so?*

Witness: *I said they belonged to the same father.*

9.25 Lawyer: *That is not what I am asking you. Are you aware? Who told you?*

Witness: *No, I was not aware of that. What...*

The lawyers are using metadiscoursal comments on the witnesses to keep them wondering from a previously established path, to correct them and marshall them to their own idea. Metadiscoursal comments have higher frequency in cross-examination (25.8%) than in examination (7.5%). This reason for this is that the lawyers during cross-examination always want to coerce and convince the witnesses to their own idea. Hence, they are used maximally.

In example (22), after the witness's answer has not yet satisfied the lawyer, the lawyer uses a metadiscoursal comment "You have not yet answered my question" and reframes his questions so that the witness can see his point. By using this metadiscoursal comment, the lawyer is imposing his own points and ideas on the witness. This shows the power that lawyers have over the witnesses. The same thing happens in example (23), where the lawyer rejects the witness's answer and reframes his question for the witness to give him a wanted and correct answer.

In example (24), the lawyer even uses a metadiscoursal comment to reject the witnesses' answer, and also accuses him that he is hiding facts. This is to enable the witness to reply to him with the answer that will correspond to the one he wants. Similarly, in example (25) the witness's answer is rejected by the lawyer and the lawyer repeats his question, to which the witness gives a satisfactory answer by the lawyer's standard.

So, in cross-examination, the lawyers use metadiscoursal comments a lot to enable them to receive the answers from the witnesses that will correspond to the ones that they have in mind that will help their case. Also, they use metadiscoursal comments to reject unwanted answers by the witness's. This

is another way of showing the asymmetry that exists between the lawyers and the witnesses.

9.7 Reformulation

Reformulation is another of metapragmatic Speech act Functions that is greatly used in my data. In cross-examination in my data, it has the highest distribution of all the Speech-acts Functions (26%). The reason for this is that reformulation is a coercive tool used by the cross-examining lawyers to challenge and intimidate the witnesses. Apart from the fact reformulation has the highest distribution in cross-examination, it also has the greater distribution in cross-examination (26.5%) than in direct examination (5%).

Since examination is a friendly and relaxed phase, reformulation is not favoured and they are very few in examples:

Examination

9.26 ***Prosecutor:*** *You made mention of Adio camp, when you went there again, what happened?*

Witness: *After they settled the crisis, each of us started buying our wares separately.*

9.27 ***Prosecutor:*** *You said in your evidence that you reported the matter to the police. When the police followed you, what was the action of the police?*

Witness: *When the police followed me, on getting home, they cannot find the two of them on that sport.*

In examples (26) and (27) above, the prosecutors are using reformulations to allow them to obtain more information from the witnesses. During examination, there is the focus of obtaining narrative and vivid accounts of what transpired on the day in question from the witnesses. The prosecutors always want to use Speech act Functions that will draw more narrative accounts from the witnesses. This is why the prosecutors are using the reformulations in examples (26) and (27). This is quite unlike reformulations usage in cross-examination. The purpose of reformulation in cross-examination is to intimidate and challenge the witnesses into withdrawing an unwanted answer, or for the witnesses to relapse into silence. For example:

Cross-examination

9.28	***Lawyer:***	*You said you left the accused persons at home when you were going to the shop. Your wife also said that she left them. Did you leave them as security person in the house?*
	Witness:	*It was like this...*
	Lawyer:	*The answer is very simple. Did you leave them as security Guards for your home? Yes/No?*
	Witness:	*No, they are not my security guards*
9.29	***Lawyer:***	*You and your wife are there and the accused persons and you said four people?*
	Witness:	*I mean four rooms*
9.30	***Lawyer:***	*You said he ran away for a night; Which day was that*
	Witness:	*Mi o ko sile*
		(I didn't take note of it.)

9.31	***Lawyer:***	*You are now telling the court again that it was not in Ajayi's house you were given a wrapper*
	Court clerk:	*O tun n so nisinyi wipe kii se ile baba Ajayi ni won ti fun e ni iro.*
	Witness:	*Iro kii se ile baba Ajayi ni won ti fun mi ni iro.* ***(It is not at Pa Ajayi's house that they give me wrapper)***
	Lawyer:	*So your earlier evidence that you were given a wrapper at pa Ajayi's house is a lie*

In example (26), the lawyer uses a reformulation of the witness' answer to challenge and intimidate the witness, "You said you left the accused at home when you were going to shop... Did you leave them as security persons in the house?" Because of this intimidation, the witness is cowed back into trying to find an answer "It was like this..." before the lawyer interrupts him sharply by repeating his question "The answer is simple. Did you leave them as security guards for your home Yes/ No?" Because of this challenge and intimidation, the witness then has to shift ground on his earlier statement and replies that "No, they are not my security guards". It is through the use of reformulation discussed above, that the lawyer succeeds in intimidating and challenging the witness into replying him back with an answer that suits the lawyer's purpose.

Similarly, in (29), the lawyer in this case uses a reformulation to counter the witnesses' assertion that they are only four living in their house. The lawyer armed with his fact then uses this reformulation "You and your wife are there and the accused persons and you said four people?" The witness quickly retraces back and reframes his assertion that "I mean four rooms".

In example (30), after the lawyer has used a reformulation to obtain a fact from the witness, he now uses this fact to catch the witness in a lie "So your earlier evidence that you were given a wrapper at pa Ajayi's house is a lie"? With the reformulation that the lawyer uses, he is able to succeed in catching the witness in a lie. In example (30) the lawyer is eager to obtain any information from the witness which will advance his case, and he uses this reformulation "You said he ran away for a night, which day was that?" But the witness is a smart witness and he replies evasively "I didn't note that day".

From our discussion above, we can see that reformulation is an important weapon for the cross-examining lawyers to control, coerce and convince the witnesses to their side.

9.8 Speaker-oriented Metapragmatic Comment

Speaker-oriented metapragmatic comments are used to remove all ambivalence from the speaker's own utterance. S-MPC is a speech act function that is usually found in unequal discourse. It is also found in my data from an unequal encounter. Since it is always used by the superior speaker, it is only used during cross-examination (100%) and there are none during the direct examination period. There are not many during cross-examination as they only numbered 7% of all the speech act functions used during this phase. But the fact that the ones that are found in my data are all found in cross-examination emphasizes the oppressive nature of cross-examination. For example:

9.32 ***Lawyer:*** *Now, in your evidence Chief, Mrs Akinmoladun, I am in sympathy with you. Her anger was that the man in the dock was trying to block your means of livelihood.*

Court clerk: *Won ni won kedun fun e pe odaran yii fe di ona atije re*

Witness: *Bee ni.*

(Yes)

9.33 ***Lawyer:*** *I will not kill him with the words of my mouth. But I will kill his evidence before this honourable court. Baba, in your statement to the police in January, you went to the police in January, in your statement, 27/7/2003, you said you reported to Osemawe in March 2003*

Witness: *(silence)*

9.34 ***Lawyer:*** *That is the question. You are here as a witness and I am cross-examining you on certain facts which are germane to this case. Are you living independently or dependently. Don't waste the time of the court!*

Witness: *I am living with my husband*

In examples 32-34 above, the lawyers are really enjoying their superior status compared to the witnesses. They are using their superior status to oppress and suppress the witnesses. The lawyers are aware that their authority cannot be challenged, and that is why they are using metapragmatic comment so as to prevent the witnesses from complaining or challenging them. The use of this speaker-oriented metapragmatic comment during cross-examination only reveals acutely the asymmetrical nature of courtroom discourse.

9.9 Illocutionary Force Indicating Devices (IFIDs)

IFIDs are any expression whose sense determines that a literal utterance of a sentence containing a certain occurrence of that expression has a given illocutionary force. In the other words, a verb that names the illocutionary act being performed is included in the sentence. Such a verb is known as a performative verb. These are uttered by the dominant speaker to his/her inferior. This means that their use reveals the power of the dominant speaker over his/her inferior. The fact that they are also found during cross-examination (100%) in my data and not at all during the direct examination stage shows their coercive and controlling power.

Although, there are not many (8%) when compared with other speech act functions found during cross-examination, yet their presence in cross-examination shows that the cross-examination stage is an oppressive and hostile stage. For example:

9.35 ***Lawyer:*** *Mama, I put it to you that the reason why you are bitter and you want this accused person to be prosecuted at all cost is because he is watching you when madam Kate was panel beating you.*

Court clerk: *Momo, idi ti inu yin ko fi dun nipe nigba ti madam Kate n lu yin ko gbija yin rara*

Witness: *Ni igba ti eni meji ba n ja ti eni keta ko le so ko fi sile* ***(When two people are fighting and the third person cannot even separate them)***

9.36 ***Lawyer:*** *I told you that you are a blatant liar.*

Court clerk: *Won ni won so fun yin pe opuro ponbele ni yin*

Witness: *Mi o puro.*

(I am not telling lies)

9.37 ***Lawyer:*** *I am putting it to you that you are a liar*

Court clerk: *Won ni oniro ni e*

Witness: *Mi o puro.*

(I did not tell lies)

9.38 ***Lawyer:*** *When the accused persons were alleged to be assaulting your mother, you were not there. Answer that question. I repeat my question, madam, when the accused persons were alleged to be assaulting your mother you were not there!*

Witness: *Mi o si nibe.*

(I was not there)

I have already identified the use of IFIDs with declarative questions as the most powerful questions a lawyer could ask. This is because they are very challenging, combating, controlling, powerful and coercive. In examples 32-36, the cross-examining lawyers are using IFIDs to challenge, and oppress the witnesses. That is the nature of IFIDs. It shows the asymmetry of the relationship between the lawyers and the witnesses. With the use of these IFIDs, the lawyers are putting the witnesses on the defensive, they are accusing them and in most cases, the witnesses keep on excusing themselves. This shows acutely the power and control that the lawyers have over the witnesses.

9.10 Felicity Conditions

In courtroom discourse, it has been observed that the relationship between the lawyers and witnesses is asymmetrical in nature. The lawyers have

power over the witnesses. In my data, it is observed that there is appeal to felicity conditions. These are not many, but those that I found are under cross-examination. The lawyers under cross-examination successfully counter-challenge by appealing to felicity conditions. They are 100% occurence in cross-examination, and 0% under direct examination. When compared with other speech act functions that occur during cross-examination, they number just 1%. Yet their appearance in cross-examination shows their oppressive nature. For example:

9.39	***Lawyer***	*My lord, she is laughing, she is not serious. The witness is laughing*
	Witness	*And I cannot be crying*
	Lawyer	*You cannot talk to a lawyer like that. You just cannot. You have no right in the court. Right?*

In the example above, the lawyer is appealing to the felicity condition of the situation in the courtroom to intimidate and silence the witness. In other words, the lawyer is claiming that because he is a lawyer, the witness does not have a right to challenge and talk to him like that. This also shows the asymmetrical nature of courtroom discourse.

9.11 Summing up

From the above, it is obvious that lawyers have power over the defendants and witnesses. Even, apart from questions and statements, lawyers still maintain tight control over the courtroom discourse by using speech act functions such as metadiscoursal comments, discoursal indicator, felicity conditions, reformulations, and subject oriented metapragmatic comments and illocutionary force indicating devices just to maintain their grip on the

courtroom discourse. It is during cross-examination stage that cross-examining lawyers favour using these types of speech act functions. During examinations, simple speech act functions such as commands, instructions, encouragements, and summons are favoured because examination stage is a friendly stage. In the next chapter, the intricacies of courtroom interpreters will be discoursed. This is because Nigeria is using English as her second language.

Chapter Ten

Interpreting in Nigerian Courtroom

10.1 Introduction

From the discussions so far in the earlier chapters it is obvious that there is power and asymmetry in courtroom discourse, especially in Nigeria where the data used for this study was collected. There is asymmetry in courtroom discourse because statuses differ in court. Justices' status is quite different from lawyers' status and lawyers' status is also different from witnesses' and defendants' status. Justice and lawyer's status are much higher than witnesses' status. That is why it is only the judge and the lawyers that can ask questions in the courtroom discourse and the witnesses and the defendant's role is just to answer these questions. Because of this, justices, lawyers and prosecutors wield enormous power over the witnesses and defendants, and lawyers exploits the power and control to the full, as we have seen in earlier chapters.

The only resource open to lawyers that they can use to control the defendants are questions, which they always use to their maximal benefit. They maximise the use of various forms of these questions to control and coerce the witnesses. For example, we have seen how metapragmatic speech act functions have been used to control the discourse and coerce the witness to the lawyers' trend of arguments. Complex speech act functions such as reformulations (which have the effect of challenging and intimidating the witnesses thereby resulting into them retracting or mitigating a previous contribution or relapsing into silence), discoursal

indicators (which have the effect of limiting the discoursal options of the defendants), metadiscoursal comments (which have the effect of keeping the witnesses wandering from a previously established path, or onto an irrelevant path, and also the effect of correcting the witnesses) and others such as subject-oriented metapragmatic comments (which have the effect of pre-empting and effectively combating the challenge of the witnesses), illocutionary force indicating devices (IFIDs) (which have the effect of intimidating and challenging the witnesses) and appeals to felicity conditions (which also have the effect of combating and controlling the challenge of the witnesses) are maximally used by the lawyers during cross-examination to control, coerce, suppress and convince the witnesses to their trend of thoughts. Conversely, during direct examination, the simple speech act functions such as encouragement, commands, information, explanations etc, are used by the prosecutor just to pass information and instructions to the witnesses. This shows the power and control that the lawyers have over the witnesses.

Furthermore, it has been discussed how the forms of various questions can be used to the advantage of the cross-examining lawyers. For example, the WH-questions are the least powerful and possess the least control. This is because they are prone to requests for informative answers. But as my analyses have shown, we can also have various forms of it such as restricted WH-questions and non-restricted WH-questions. Non-restricted WH-questions invite highly narrative answers. It has even been argued that non-restricted WH-questions are also relative (For instance, 'what' WH-question can be used as restricted and non-restricted). The lawyers in my data use the restricted forms mainly when they want to ask for a specific name or idea. If they must use the non-restricted forms of 'what' WH-questions they use the noun type that also asks for specific points or the

name of something. By doing this they are limiting the contributions of the witnesses.

On the other hand, the non-restricted forms of WH-questions are used a lot during direct examination as shown in the previous chapters. This is because they generate maximal facts and narrative details. The prosecutors use restricted WH-questions sparingly during examination. They always use the verb type of non-restricted WH-questions so as to request for vivid facts and narrative details for their witness. This shows the hostile nature of cross-examination and the friendly nature of direct examination. Furthermore, it also shows the power and control of the lawyers over the witnesses.

Other types of questions such as yes/no questions and alternative questions are also highlighted in the previous chapters. These are powerful and controlling questions in the sense that they limit the contributions of the witnesses to choices of two or more. Though they are not as frequent in my data as WH-questions and declarative questions, yet we have seen how the lawyers make use of them to their own advantage.

Declarative questions, IFIDs or otherwise, are the most powerful and controlling in my data, as we have seen in the previous chapters. They are powerful because they contain embedded propositions that the witness is asked to confirm or refute. With the aid of intonation and pauses, I have shown in the previous chapters how these can be used by the cross-examining lawyers to turn their declarative sentences into questions that the defendant must answer. With these declarative questions, the lawyers are able to convince the witness to their line of arguments, as has been shown in the previous chapters. With the use of declarative questions the lawyers

are then able to control, coerce and convince the witnesses to their trend of arguments.

But in some of the recorded data, some of the witnesses cannot speak English, and this necessitates the use of courtroom interpreters for them. That is what I am going to discuss in this chapter. What role are they performing in the discourse that occurs between the lawyer and the witness? Are they adding to the coercive and controlling nature of the questions asked by the lawyers to the witnesses, or are they reducing it? All these are questions I will address in this chapter.

10.2 The English Language in a multilingual Nigeria

Nigeria is a heterogeneous society. And in such a society, multilingualism thrives. The history of Nigeria shows from the earliest times that Nigeria through a natural phenomenon the Niger- Benue 'Y' shaped river is divided into three major areas which are the North, the West and the East. This division tallies with the three major languages groups in Nigeria: the Hausa in the North, the Yoruba in the West and the Igbo in the East.

Beyond these three major languages groups, it is estimated that there are more than 400 indigenous languages spoken in Nigeria. It is not possible, of course, to name all the over 400 languages and the numerous ethnic groups. The multiplicity of languages is such a noted phenomenon in Nigeria that within these prominent ethnic groups, there are still differences in languages and dialects found within a linguistic group that are not mutually intelligible. That is speakers of these dialects do not understand each other, though they belong to the same linguistic group. For instance,

where it is possible for an Akoko (one of the Yoruba dialects) speaker of Yoruba to understand an Oyo (another dialect of Yoruba) speaker of Yoruba, it is apparently difficult for the latter to understand the former. Even within the Akoko dialectal group, because of different dialectal variations, speakers do not understand one another. In their situation, they resort to a common language for intelligible communication.

Despite the fact of this multilingualism in Nigeria, English is still the only language used to hear trials and to keep the court record. This is as a result of English being the official language of Nigeria. Even though, the three major languages in Nigeria, that is Hausa, Igbo and Yoruba have been given official backing as official languages (see the 1979 constitution of the federal republic of Nigeria, chapter 4 part B, section 51, and the national policy on education, 1997 as revised in 1981) what has been noted is that over the years, these three languages have not risen up to the status of being adopted and used as national languages. This can be attributed to the fact that every major ethnic group or linguistic community in Nigeria seems to have one major language and several other languages and dialects. More often than not language constitutes very serious barriers among the Nigerian citizens belonging to different linguistic backgrounds. That is why English language still continues to act as the official language and lingua franca in Nigeria.

Apart from this, English Language also performs many functions in Nigeria. It is the language that unites the country and the outside world, including the rest of Africa. As the official language of Nigeria, it is the language in which the government conducts its business. It is the language that unite the people of Nigeria and a language through which they participate in politics. Apart from sharing the English language, Nigeria

also shares English culture. Modes of dressing, life-style, consumption patterns, social attitudes and relationships are areas that can be explored for evidence of cultural diffusion (Omoniyi, 1988). But the majority of court case witnesses and accused persons are Nigerians who cannot speak English but only their indigenous Nigerian languages. Yet the cases are heard in the official language which is English. This necessitates the use of interpreters, who interpret the languages correctly.

In Nigeria, unlike western countries where the court employs the services of a court interpreter, the court clerk is always the interpreter in all courts. Before going on, it is necessary to give the definition of interpreting. Moeketsi (1999) defines interpreting as a communication activity that occurs in various situations where a message is transferred from one language to another in a setting where language and culture present themselves as barriers rendering communication impossible. Court interpreting is not just mere translation of words, phrases and sentences in one language from one language into other.

Apart from being a bilingual person, a court interpreter must have a functional knowledge of the two languages in question (Moeketsi, 1999). Moeketsi emphasises that the interpreter must master his 'A' and 'B' languages before he starts to practise. He must know them so well that he is sensitive to the differences in all their linguistic properties, including lexical terms, syntactic structures and pragmatic usages. There is no one to one correspondence between the two languages. For example, in Yoruba Language there are some onomatopoeic words that cannot have the same translation in English but a court interpreter must find the nearest equivalents to such words.

Speaking along the same vein, Rigney (1999) explains that utterance meaning has linguistic aspects (such as phonological, semantic and lexical structure) and extra linguistic aspects context. Therefore, equivalence in interpreting is not merely a linguistic and semantic issue, but also a pragmatic one. This is why court interpreters have to make a special effort to transfer the pragmatic meaning of the source text (i.e. speech acts, illocutionary force, conversational maxims, politeness elements, etc): these elements have considerable influence on the interpretation of meaning, and on the image the participants project to their interlocutors (Rigney 1999). For example, in my data, there are many discourse markers that are used by the lawyers that the interpreter omits during translation thinking that they are unimportant, such as 'ok' and 'well', etc.

In reality, it is very difficult for a court interpreter to do all these without any mistake. In my data, there are various omissions, deletions, wrong translations that are abound which follow. But before going on, it is necessary to remind us about categorisation of questions according to their power relationship because they have great effect on the role of interpreters in the courtroom discourse.

10.3 Typology of Questions along the relationship of power

10.3.1 Non-restricted WH-questions

These are questions that request an informative answer. WH questions are of two different types. These are restricted WH-questions and non restricted WH questions. Along the relationship of power, non-restricted WH-questions are the least powerful. This is because they demand highly

informative answer. In my data, they are most frequently used in direct examination by the prosecutor to elicit more facts from his witness. They are the least coercive, controlling and less powerful because of their function which is to ask for elongated information. Non-restricted WH-questions usually accept what, why and how. Although their degree of non-restricted varies according to contexts, for example they can be used as noun and verb. When they are used as verbs, they are very open. When they are used as nouns they are more close to restricted questions in that they also request specific details (see chapter 4). In my data, prosecutors make use of them maximally especially the verb ones to request for elongated information and narrative details. Consider:

1.1 After that, what happened?

1.2 What question is that?

10.3.2 Restricted WH-questions

These are more powerful than their non-restricted counterpart. The reason being that they require minimal answer. These are questions that require specific details and naming a particular person, name, place or thing. They are used both in direct examination and cross-examination. The cross-examining lawyers use them in my data to request for specific details from the witnesses. The witnesses are usually called to order by the cross-examining lawyers when they want to use this as an opportunity to resort to narrative and factual details e.g. where, when, who, whom.

10.3 *Where did the police met you on that day?*

10.3.3 Alternative Questions

These are other powerful questions because they limit the required response to a choice between two or more alternatives. The more choice of answer available, the less the power held by the questioner. They function like Yes/No questions in that they limit the possible answer by specifying choices but along the reins of power they are trailing behind yes/no questions in the sense that yes/no questions are more direct. It is either yes/no. They are more controlling than WH-questions because they are offering choice of answer which the witness must pick from. Consider:

10.4 Do you prefer English or Yoruba?

10.3.4 Yes/No questions

Along the ladder of power, Yes/No questions are only next to declarative questions. They are more powerful than WH-questions and alternative questions. As their name implies, they are questions that demand Yes/No answer. They are also called polar questions because they can only be answered by either Yes/No. Many defence lawyers in my data are acutely aware of the power of this type of questions that they will be telling the witnesses that they must either answer "yes or no" and that no differing answer is acceptable to them except those. They are very powerful questions because they effectively limit the required answer to one of the two options Yes/No

10.5 Is there any agreement between you and the accused person?

10.3.5 Declarative questions

These are questions that contain the propositions of the questioners. They are very powerful because they contain the proposition of the questioner. They are also called prosodic questions because they semantic statement uttered with a questioning intonation. They are very powerful and controlling because they are uttered with falling intonation ending and pause which makes the questions more powerful and controlling. Declarative questions are mostly use in cross-examination by the defence lawyers to drive their point's home (see chapter 4). Consider:

10.6 *You will not know if anybody was around when your wife was counting the money*

10.3.6 IFIDs declarative questions

IFID is any expression whose sense determines that a literal utterance of a sentence containing a certain occurrence of that expression has a given illocutionary force. In other words, a verb that names the illocutionary act being performed is included in the sentence. Such a verb is known as performative verb. They always occur in discourse of unequal encounter such as courtroom discourse where power and asymmetry prevails. The most powerful and coercive questions are what I will call IFIDs declarative questions. In my data on Nigerian courtroom system, they are what I view as the most powerful questions a lawyer can ask. They usually start with the performative "I put it to you" or "I am putting it to you" followed by the declarative statement. By first uttering the statement "I put it to you", the lawyer is implying that he has belief in his statement and he is challenging the witness with it. In my data, they are the most powerful, challenging,

coercive and combative questions that can be asked in the courtroom because they usually have the illocutionary force of accusations. They are always used in cross-examination by the defence lawyers.

10.7 *I put it to you that you wouldn't know what happened since 8am till about 5pm after you had left*

Having considered the different types of question along the relationship of power, it is now necessary to see how the interpreter interprets them to the witnesses.

10.4 IFIDs declarative questions

In my typology of questions along the relationship of power, I view IFIDs declarative questions as the most powerful a lawyer can ask. This is because of the performative clause added at the beginning of the declarative questions, which makes them to be more powerful, challenging and coercive: 'I put it you' 'or 'I am putting it to you'. These performative clauses are also called 'confrontational utterance initiator'. For example:

10.8 ***Lawyer:*** *Momo, **I put it to you** that the reason why you are bitter and you want this accused person to be prosecuted at all cost was because he was watching you when madam Kate was panel beating you.*

Court clerk: *Momo, idi ti inu yin ko fi dun ni wipe nigbati (madam Katen lu yin, ko gbija yin rara*

INT: *Momo the reason why you are bitter and you want this accused person to be prosecuted at all cost was because he was watching*

you when madam Kate was panel beating you).

10.9 ***Lawyer:*** *Momo,* ***I am putting it to you*** *that you are not happy with the accused person because he was watching you when Kate was beating you.*

Court clerk: *Momo, inu yin ko dun si odaran yii nitoripe nigba ti Kate n lu yin, se ni o n wo yin.*

INT *(Momo you are not happy with the accused person because he was watching you when Kate was beating you).*

10.10 ***Lawyer;*** *Momo, with these,* ***I put it to you*** *that, that is why you are in court now to tell lies against the accused person*

Court clerk: *Nitori eyi ni e se wa si ile ejo lati wa puro mo odaran yii.*

INT: *(Momo, with these, that is why you are in court now to tell lies against the accused person)*

In these examples, one can see that all the IFIDs/performative clauses at the beginning of the English sentences are removed when the court clerk interprets them into Yoruba thereby removing their powerful and challenging force. The reason for their power and control is that the lawyer is implying that he has belief in his statement and he is challenging the witness with it. In all places that it appears in my data, the court clerk always removes the performative clause. 'I put it to you'', thereby rendering the statement less powerful, challenging and coercive. She imagines theses clauses to be unimportant and superfluous. But they make the declarative sentences they are added to, to be more powerful, controlling and coercive.

10.5 Declarative and Yes/No Questions

After IFIDs declarative questions, declarative question are the next most powerful. This is because declarative questions already contain embedded propositions, which the listener is encouraged to accept. Another reason for their powerful nature is that they are asking questions as if they are stating facts. They are also called leading questions because of these embedded propositions. Although, the witness has the ability to disconfirm the propositions contained in the declarative sentence, they usually do not do so because these propositions cannot be denied with the same effectiveness and success.

English differentiates formally declarative questions from Yes/No questions. The major difference between the two is that there are subject verb inversions in Yes/No questions, which do not occur in declarative questions. But in Yoruba language, there is no clear cut division between declarative questions and Yes/No questions. This is because, in Yoruba, there are no subject/ verb inversion in Yes/No questions. Therefore, there is tendency for a Yoruba interpreter to interpret declarative questions and Yes/No questions into Yes/No questions. In my data all the declarative questions were turned to Yes/No questions thereby reducing their power and coercion, for example:

10.11 ***Lawyer:*** *When the policemen came, nobody was arrested?*
Court clerk: *Ni igba ti awon olopa wa* ***se*** *ko si enikeni ti won rimu?*
INT *(When the policemen came, was anybody arrested?)*

10.12 ***Lawyer:*** *And you are aware that there is land dispute between the Ondo's and the Ijebu's?*

Court clerk: *Baba, won ni* ***se*** *e mo pe oro lori ile yii wa laarin ile oluji ati awon ondo?*

INT: *(Are you aware that there is land dispute between the Ondo's and the Ijebu's?)*

10.13 ***Lawyer:*** *It was not the clothes given to you that you were wearing at the police station. It was the torn clothes that was on you*

Court clerk: ***Se*** *aso ti o faya ni o wa ni orun re tabi eyi ti won fun e?*

INT: *(Was it the torn clothes that was on youor the one you were given?)*

In example 11 above the lawyer puts his questions in declarative forms to convince and coerce the witness, but when the court clerk is interpreting them, she converts them to Yes/No questions in Yoruba. In essence, the power and coercion embedded in them has been reduced. In the same vein, in example 13, the lawyer asks his question in the declarative form, but the court clerk translates it to alternative question in Yoruba, thereby reducing its force and power even more. To really drive the point home, I will give more examples of this:

10.14 ***Lawyer:*** *You remember that time in 1989 during the ileya festival?*

Court clerk: *Se e ranti odun 1989 ni igba odun ileya?*

INT: *(Did you remember that time in 1989 during the ileya festival?)*

10.15 ***Lawyer:*** *You remember that about fifteen years ago, the first witness had a motor- cycle accident at Iragbiji near the magistrate court?*

Court clerk: ***Se*** *e ranti wipe ni odun medogun seyin, baba yii ni ijamba alupupu ni Iragbiji ni egbe ile-ejo magistrate?*

INT: *(Did you remember that about fifteen years ago, the first witness had a motor- cycle accident at Iragbiji near the magistrate court?)*

10.16 ***Lawyer:*** *He fell into a ditch, gutter, about twelve feet deep*

Court clerk: *Won ni* ***se*** *e ranti wipe won subu sinu koto nla kan ti o jin gidi ?*

INT: (Did you remember that h*e fell into a ditch, gutter, about twelve feet deep)*

Also, in examples 14-16 above, the lawyer puts his questions in declarative forms, but the court clerk when translating into Yoruba, converts them to Yes/No questions. In essence, their power, coercion and challenging nature have been reduced. The reason for the court clerk's translation is that, she is trying to give understandable equivalents of the questions in Yoruba.

10.6 Discoursal Indicators

Discoursal indicators can be defined as occasions when the dominant speaker makes it abundantly clear in the surface structure of his/her utterances what he/she intends his/her illocutionary force to be. This is a

way in which lawyers control and dominate the discourse, especially during cross-examination. It has the effect of limiting the discoursal options of the defendants. This also reveals the power the lawyers have over the witnesses and even the witness testimony. Through this, they can dictate the tune of the testimony and also be in control of the discourse. Consider:

10.17 ***Lawyer:*** *The complaint laid by you,* ***first of all,*** *how far is your house, I mean the accused person's house because you said you were living with him, how far is your house to the pa Ajayi?*

Court clerk: *Bawo ni ile yin ti jinna si ti pa Ajayi si?*

INT. *(How far is your house to the pa Ajayi?)*

10.18 ***Lawyer:*** *The second quarrel you said you have in March,* ***even before then,*** *when eventually you laid a report at the police station against your sister-in-law, was your statement obtained?*

Court clerk: *Ni igba ti e lo si odo olopa, se won gba oro enu yin sile?*

INT: *(When you laid a report at the police station against your sister-in-law, was your statement obtained?)*

10.19 ***Lawyer*** *Now,* ***coming to my question now****, as at the time you were laying your complaint and you were writing statements to be recorded, the alledged torn clothes were not on you?*

Court clerk: *Ni igba ti won n gba oro enu yin sile ni ago olopa, se aso ti o so pe won faya yi ko si nibe?*

INT: *(As at the time you were laying your complaint and you were writing statements to be recorded, the alledged torn clothes were not on you?)*

10.20 ***Lawyer:*** ***Second world war. Now we come to the third world war which is the area I want to address now.*** *You said the man in the dock came and destroyed your goods?*

Court clerk: *O so fun ile ejo yii pe odaran yii wa lati Adio lati wa ba nkan re je?*

INT: *(You said the man in the dock came and destroyed your goods?)*

In examples 17-20 above, during translation from English to Yoruba, the court clerk omits all discoursal indicator elements in them. The court clerk feels that they are unimportant. This reduces the controlling power of the lawyer in question.

10.7 Discourse Markers

These are words that are usually placed at the beginning of sentences, which are often overlooked as insignificant but which really play a part in the overall meaning of a sentence.

Although many people over looked their functions, they can have implications in sentences as their presence or absence can affect the illocutionary force of the utterance while leaving intact the grammatical structure of the sentence and its propositional content.

My intention here is not to describe the structure of all the discourse markers but to consider those that occur frequently in my data, especially during cross-examination. Cross-examination is a hostile phrase. Because of the power and asymmetry, cross-examination usually favours the lawyers. Since almost all the discourse markers present in my data occur during cross-examination, they are used to further enhance the power, coercion and challenging nature of the lawyers. They usually start questions that are either challenging the witness, or stating disagreement.

In my data the most frequently used discourse markers are ''now'', ''so'', ''and'', and ''ok''.

10.7.1 *'Now'* in cross-examination

In my data, "*now*" is the discourse used with the highest frequency. In cross-examination, what I found in my data, is that *now* is used to preface disagreement, and it is also used to present the lawyer's version, either contrast or disagreement. This finding corroborates with the situation of cross-examination in the courtroom which is found to be confrontational, combative and coercive. In all the uses of *now* found in my data, the court clerk omitted all of them. This may be due to the fact that the court clerk considered them superfluous and irrelevant. Consider the following examples;

10.20 ***Lawyer:*** ***Now****, you must have gone back later to give them the clothes because as at the time you were given the statement the clothes were still on you?*

Court clerk: *Ni igba ti won n gba oro enu re sile ni ago olopa, se aso yen si wa lorun re nitori o pada lo fun awon olopa ni?*

INT: *(You must have gone back later to give them the clothes because as at the time you were given the statement the clothes were still on you?)*

10.21 ***Lawyer:*** ***Now****, coming to my question now, as at the time you were laying your complain and you were writing statements to be recorded, the alledged torn clothes were not on you*

Court clerk: *Ni igba ti won n gba oro enu re sile ni ago olopa, se aso ti o so pe won faya yii ko si nibe?*

INT: *(Coming to my question now, as at the time you were laying your complain and you were writing statements to be recorded, the alledged torn clothes were not on you)*

In examples 20 and 21 above, the marker '*now*' is omitted in the two examples. What is found to be consistent in my data and also in the example above is that '*now*' usually prefaced declarative questions. Since declarative questions are found to be confrontational and coercive, it then follows that these questions above are confrontational and aggressive. They are asked to express disagreements.

10.22 ***Lawyer:*** *Second world war.* ***Now*** *we come to the third world war which is the area I want to address now. You said the man in the dock came and destroy your goods?*

Court clerk: *O so fun ile ejo yii wipe odaran yii wa lati adio lati wa ba n kan re je?*

INT: *we come to the third world war which is the area I want to address now. You said the man in the dock came and destroy your goods?*

10.23 ***Lawyer:*** ***Now*** *after you had been to pa Ajayi, you came back with that wrapper and nothing more*

Court clerk: *Ni igba ti e de ile, se e tun pada si ago olopa pelu aso yen nikan?*

INT: *(After you had been to pa Ajayi, you came back with that wrapper and nothing more)*

10.24 ***Lawyer:*** *My lord, I want to take these one after the other sir.* ***Now****, you agree with me that you didn't mention any destruction of properties, tearing of clothes in your statements*

Court clerk*: Won ni ninu ejo ti e ro, o soro wipe won ba eru re je tabi wipe won won fa aso re ya.*

INT: *(You agree with me that you didn't mention any destruction of properties, tearing of clothes in your statements)*

In examples 21-24 above, all the manifestations of the marker 'now' were omitted during translation from English into Yoruba. In the above examples, the lawyer is trying to present his own version of events to the witness. He is trying to convince the witness to agree with him over the points he is raising. So, '*now'*, in the above questions, prefaced questions used by the lawyer to convince the witness to agree with his points and ideas. And that is the essence of cross-examination which is to convince the witness to agree with lawyer's opinions and ideas.

The third function of *'now'* that I can deduce from my data is that it is also used to control the flow of information, a clear indication of the speaker's desire to control the topic of conversation and regain power. For example:

10.25 ***Lawyer:*** *__Now__ listen, in your statement you made, this statement was made when the whole incident was even fresh in your memory. What transpires, your grievances, your annoyance against the man in the dock was still very fresh in your memory.*

Clerk: *Won ni ni igba ti e n ko iwe irojo yin ni ago olopa, won ni oro yen se sele ni, ti e si le mo nkan ti o sele ni igba yen.*

INT: *(In your statement you made, this statement was made when the whole incident was even fresh in your memory. You would have known anything then)*

10.26 ***Lawyer:*** *Momo, you are an old woman and by now, it is presumed that you will be speaking the whole truth. __Now__, I want you to answer one question, the accused person did not touch you that day. I want you to confirm that.*

Clerk: *Momo, se odaran ti o duro yii ko fi owo kan yin rara?*

INT: *(The accused person did not touch you that day.)*

In examples (26) and (27) above, the uses of *now* in English are omitted by the court clerk when interpreting into Yoruba. She thinks they are unimportant and irrelevant, but they perform a crucial pragmatic function. They are used by the lawyer to control the flow of information, as well as to control the conversation. This is a power indication device on the part of

the lawyer. With the use of *now* in the above questions, he is demonstrating his power and control and at the same time limiting the speaking chances of the witness.

10.7.2 *'So'* in cross-examination

'So' is another marker that is used frequently in my data. It also occurs mostly during cross-examination. As it is used in my data, I want to argue that *"so"* is used to enhance the communicative flow and narrative structure of the cross-examination. It has already been argued that during cross-examinations lawyers dominate the stage and do the talking for the witnesses. During cross-examination, lawyers always want to control and dominate the topic of the discourse. By doing this, they also want to minimise the discoursal options of the defendants and witnesses. They do this by asking leading and narrative questions, and *"so"* is a marker that enhances this. The mere fact that *"so"* occurs only in cross-examination in my data serves to buttress its usefulness in dominating and controlling the flow of discourse by the cross-examining lawyers. For example:

10.27	***Lawyer:***	***So*** *momo, immediately kate beat you, you fainted, you don't know, you are unconscious?*
	Court clerk:	*Ni igba ti Kate lu yin, se o subu lule, o daku?*
	INT:	*(Momo, immediately kate beat you, you fainted, you don't know, you are unconscious?)*
10.28	***Lawyer:***	***So****, when the police came, Kate was not at home and the police had to arrest this man, because he was the one at home*
	Court clerk:	*Ni igba ti awon olopa wa, Kate gan ko si nile,* ***se*** *nitori eyi ni olopa se mu okunrin yii nigba ti o je pe oun ni o*

wa nile?

INT: (*When the police came, Kate was not at home and the police had to arrest this man, because he was the one at home)*

In the above examples, '*so'* as a marker is omitted when the court clerk is translating the questions from English to Yoruba, thereby reducing their narrative power. One fact that can be deduced from its use in my data is that it always prefaces declarative questions. Since declarative questions are considered as powerful and controlling questions which are favoured during cross-examination, it follows that '*so'* is a marker of power and control in the courtroom discourse.

Another function of 'so' as it is used in my data in particular and in courtroom discourse in general is that it is used to make the witness agreed with lawyer's opinion which they did not believe in. Wherever 'so' is used, it always prefaces declarative questions, which invariably contain cross-examining lawyer's opinion and ideas. By prefacing with 'so', the proposition and argument embedded in declarative question become more convincing to the witness. So is functioning semantically 'as a matter of fact'' when added to declarative questions. Consider the following examples:

10.29 ***Lawyer:*** ***So****, your earlier evidence that you were given a wrapper was a lie*

Court Clerk: *Eri ti o je wipe ile baba Ajayi ni won ti fun e ni iro, se iro ni?*

INT: *(Your earlier evidence that you were given a wrapper was a lie)*

10.30	***Lawyer:***	***So,*** *in this one, your properties were not destroyed?*
	Court clerk:	*Won ni o ko so wipe won ba n kan re je tabi won fa aso re ya?*
	INT:	*(In this one, your properties were not destroyed?)*
10.31	***Lawyer:***	***So****, they come without any quarrel and started beating you up?*
	Court clerk:	*Won kan wa laise nkankan, won sibere si lu yin?*
	INT:	*(They come without any quarrel and started beating you up?)*

In examples 30-32, '*so'* is omitted by the court clerk when translating from English to Yoruba because of the fact that she considers it unimportant, superfluous and irrelevant. In doing this, she reduces its convincing force. It is worth saying here also that all these examples of '*so*' occur during cross-examination, which makes them tools for power, control and coercion.

'*So*' can also be used to control the turns in courtroom discourse. In my data I observe that '*so*' is also used when the dominating lawyer wants to give the witness some chance to agree with his/her opinion. *So* in this manner is used to summarise or rephrase his speech at the end of his/her turn. In this way '*so'* is used by the cross-examining lawyers to control and dictate the turn-taking exercise in courtroom discourse.

10.32	***Lawyer:***	***So****, by the time the police came back Kate was not around, that day?*
	Court clerk:	*Igba ti olopa wa, Kate gan ko si nibe.*

INT: *(The time the police came back Kate was not around, that day?)*

10.33 ***Lawyer:*** *My lord, we want to distinguish why we are here when I was mentioning the first world war. So, in the third world war you didnot mention that?*

Court clerk: *Won ni igba keta e ko daruko iyen*

INT: *(In the third world war you didnot mention that?)*

In the two examples above, the use of so by the lawyer is omitted by the court clerk during translation, thereby reducing its controlling nature. In the two examples above, 'so' also prefaces declarative sentences and this also leads credence to their controlling power.

10.7.3 *'And'* in cross-examination

And is another discourse marker that is used frequently during cross-examination by the lawyers. It is used by the lawyers to dominate the stage and also to control the flow of information.

In courtroom discourse and in my data it is used during cross-examination to control, dominate and maintain the floor. With the use of *'and'*-prefaced questions, the lawyers can prolong their turns and minimise the turns of the witnesses. With this they will be able to convince and orientate the witnesses to their opinions and ideas.

10.34 ***Lawyer:*** ***And*** *it was on basis of this that your statement were taken?*

Court clerk: *Se nitori eleyi ni won se gba ohun re sile?*

INT: *it was on basis of this that your statement were taken?*

10.35 ***Lawyer:*** ***And*** *that he will kill you if you come there?*
Court clerk: *Ti iwo ba wa sibe, oun maa pa e?*
INT: *(He will kill you if you come there?)*

10.36 ***Lawyer:*** ***And****, you are aware that there is land dispute between the Ondo and Ile-Oluji's?*
Court clerk: *Baba, won ni se e mo pe oro ija lori ile wa laarin ile-oluji ati Ondo?*
INT: (*Are you aware that there is land dispute between the Ondo and Ile-Oluji's?)*

In examples 34-36 above, the court clerk also omits '*and'*, thereby making the questions lack continuity and dominance. Another notable factor about '*and*' in my data is that it is also always prefaced declarative questions which also lends credence to its dominant and controlling nature.

10.7.4 *'Ok'* in examination

Another discourse marker that emphasizes that power and control lies with the lawyers and prosecutors and not with the witnesses and defendants is '*ok'*. It is a discourse marker that is used both in examination and cross-examination. The way it is used in my data, is very evaluative. It serves as an evaluative comment from the lawyer/prosecutor to the witnesses and defendants. It is a person occupying a higher role that can utter an evaluative comment. Let us consider the following examples:

10.37 ***Prosecutor:*** ***Ok****. Who is baba Akanrinjoye?*
Court clerk*: Tani baba Akinrinjoye?*
INT: *(Who is baba Akanrinjoye?)*

10.38 ***Prosecutor****:* ***Ok****. When this happen, how did you report to the police?*
Court clerk: *Bawo ni e se lo si odo awon olopa lati lo fi ejo sun*
INT: *(When this happen, how did you report to the police?)*

In examples (37) and (38) above the relationship between the prosecutor and the witness is asymmetrical. The use of '*ok'* in the two examples shows the asymmetrical relationship between the two interlocutors. The prosecutor is more powerful, dominating and in control of the discourse. That is why he is in a position to use the evaluative marker '*ok*'. This also relates to the power and control that the lawyers and prosecutors have over the defendants and the witnesses. It is of note that the court clerk also omits them during interpreting from English to Yoruba, considering them unimportant and irrelevant.

10.8 Summing up

The intricacies of courtroom interpreter discussed above reveal the power of the lawyer over the witness. The omission of discoursal indicator, illocutionary force indicating devices, discourse markers such as so, and, and now by the lawyers shows the power of the lawyers. It is during cross-examination that they are greatly favoured which indicates that cross-examination stage is an unfriendly and hostile phase.

Chapter Eleven

Discussion

11.1Introduction

This research investigates how power and asymmetry are reflected in the Nigerian courtroom system. In chapter two, the concept of power and how it is negotiated across contexts was portrayed. It is the stand of this study that power permeates our everyday life, although the degree of power manifested in different contexts varies according to each context.

Power is seen to be contestable in casual conversation such as radio talk, family discourse and gendered discourse. For example in radio talk, the second slot which is a symbol of power is contested between the host and the caller. The second slot is the symbol of power because it affords the owner the opportunity of contesting the first speaker's idea by picking at its weaknesses. Another example is the family discourse, where power is contested between husband and wife or between father and mother. The husband may be powerful at work while the wife may also be powerful in the house. Men may be contented and allow the wife to make decision at home.

However, medical discourse is slightly different because the power is seen to be on the side of the doctor. This is because of his/her knowledge, which the patient wants to use to their advantage. It is the doctor who initiates the topics, who asks questions and who dictates the turns in the medical discourse.

But, when compared to police-suspect interrogations, the power of the doctor seems to be mild. This is because, in police-suspect interrogation, there is no contesting of power between the police and the suspect. The power is definitely on the side of police. The reason for this is because of their knowledge, and also because of the institutional rules and regulations which vest power in them. So, it is the police who must ask questions while the role of the suspect is to answer them.

Furthermore, the police officer also dictates the topic to be discussed, and also dictates the turns in their discussion. Some of their methods include:

I. the easiest way out: This involves wearing the respondent down and then informing him that "if you just or give us the information, then your problems are over;
II. the only way out: This is used when conditions became unbearable for the respondent. This involves humiliation and even maltreatment. For example, Wagenaar et al. (1993:109-110) cite the case of a man interrogated by the police, who made him undress and ridiculed him during a long and intense interrogation in which they threatened to turn him over to neighborhood. His treatment was found not to be in violation of any law but was such that he found it intolerable to continue;
III. authority: This is the way of police using their power and status to secure a confession from the witness. The most powerful element being used here is the questioning technique especially leading question;
IV. hypnosis: This is used by the police as a way to improve memory of distant events. For example Wagenaar et al. 1993:110) also give examples of long sessions of interrogation can be conducted in a

bare room with strong lighting which can make the respondent tired and suggestible, creating a state of sensory deprivation that has a hypnotic effect;

V. catching off guard: Another name for this is friendly/unfriendly act. One interrogator can be hostile and aggressive, while another interrogator appears to be friendly and sympathetic just to obtain confession from the witness;

VI. deceit: Wagenaar et al (1993) cites the case of a police officer who disguised as a prisoner in the suspect's cell, who elicited a self-incriminating statement from the cellmate. The suspect does not realize that he is being officially interrogated;

VII. misrepresenting the law: Here, the police may tell the respondent that silence will be taken as confession or that confession will lead to a lesser sentence or that a confederate has already confessed;

VIII. distortion of the seriousness of the offence: Here, the interrogators try to reduce the subject's guilt feeling by minimizing the moral seriousness of the offence;

IX. we already know everything: Using questions that presume that the guilt of the respondent has been established;

X. use of threat: This is the use of mild or indirect threat; and

XI. sympathizing with the respondent: This is by sympathizing and telling the suspect that anyone else under the same conditions might have done the same thing (see pp 27-29),(Walton, 2002:1784-1786).

But, arguably, the most powerful institution is the courtroom discourse which is the focus of this study. Power lies with the judge, magistrate, lawyers, and prosecutor. The witnesses and the defendant are powerless in court. They cannot ask questions, and they must answer any question posed to them by any of the legal representatives. The legal representatives'

power stems from (i) the institutional rules and regulations that vest power in them. (ii) their knowledge of the law, which places them above the defendants and witnesses who usually have no knowledge of the law; and (iii) the power of questions which afford them the opportunity to control the defendants and the witnesses. They exploit the various forms of questions to their advantage. Power in the courtroom is displayed through control of testimony, and this is achieved by:

A. Insistence on role integrity: If witnesses try to exceed the limits imposed on their roles, and ask questions or refuse to answer them, or even speak more than required, the justices and lawyers make them aware of their violations, and remind them that they are there to answer questions and not to ask them. However, some writers have argued that there are variations in the degree of this control, and that serious offenders who receive more severe penalties will be more controlled right from the opening of the trial all the way to the closing phase, while the minor offence defendants' trials will be more relaxed and they will be treated in a more conversation like manner (see Harris, 1984, Cicourel, 1985, Adelsward et al., 1987;1988; Walker, 1987 Luchjenbroers, 1993).

B. Topic control: The legal institutional representatives, especially the judges and occasionally the lawyers determine the topics to be introduced in the court according to the convention. They will make sure that the trial is conducted according to the law, and that any irrelevant topics are not allowed. In this regard, it is the legal professionals that control and dominate the topic distribution and witnesses and defendants have no say in it. (Harris 1984, Walker 1987, Adelsward et al., 1987, Luchjenbroers 1993, 1997).

C. Structured questions: This is the way in which question types restrict the choice and size of answers. Agar (1985) asserts that the prototypical pattern of speech acts in court is the question/answer sequence, which is indeed common to much institutional discourse. A considerable number of writers have asserted that questions in court are used by judges, magistrates and lawyers as a mode of control, thereby making it difficult for defendants and witnesses to put forward propositions of their own (Danet, 1984; Harris, 1984; 1989;1995; Philips, 1984; Adelsward et al., 1987; Luchjenbroers 1993; 1997; Rigney ,1999; Seligson, 1999).

11.2 Forensic Linguistics/Language & the law

In chapter three, a number of works in forensic linguistics/language and the law were presented. These encompasses: the police caution, power, legal interpreting and child witnesses, which are very relevant to this study.

It was discovered that the language of caution posed to the suspect in police-suspect interrogations is very complex and obscure to the suspects. This further extends the power of the police over the suspect. It has already been stated (see chapter two) that the police have power over the suspect in police-suspect interrogations but the complexity and obscureness of the language of caution compounds the power of the police.

Still talking about power, it is also stated (see chapter two) that arguably courtroom discourse is the most powerful. This is because power resides with the judges, magistrates, lawyers and prosecutors. Harris (2002) also believes that courtroom discourse is asymmetrical in the sense that the judge, magistrate, lawyer and prosecutor have power over the defendant

and the witnesses. But despite that, these courtroom professionals also make use of mitigating forms and politeness strategies to avoid face threatening acts in the process of countering request tokens constructed by less powerful interactants.

Furthermore, because of the power that lawyers have over the witnesses and the defendants, they normally switch from various lexical choices such as formal/technical, biblical, lexical colouring to manipulate defendants and witnesses. They also switch their phonological tempo, pitch, rhythm and intonation in order to convince the jury. More important is their switching between different questioning styles such as WH-questions, Yes/No questions and declarative questions (Fuller, 1994). All the various switching of the lawyers through phonological, questions and style are also observed throughout the data in this study.

Much of the literature reviewed on legal interpreting has focussed on the interpreting omitting and reducing the pragmatic force and coercive structure of questions asked by the lawyer. For example, Berk-Seligson, (1999), and Hale, (1999) believes that interpreters frequently ignore the discourse markers such as 'well', 'now' and 'see', which can adversely affect the illocutionary force of the utterance, despite the fact that the grammatical structure of the sentence and its propositional content are still intact. These markers are used as assertive, contradictive and confrontational devices by lawyers and barristers (see chapter three). Apart from the fact that this study is carried out in a second language environment, where the concept of the interpreters is very relevant (see chapter ten), the categorization of questions by these scholars (Rigney 1999, Berk-Seligson 1999) is also very relevant for this study. Discourse markers were also discussed fully in chapter ten.

Categorization of questions according to their coerciveness is also the focus of attention for scholars writing about the treatment of child witnesses. This is because these scholars (Walker, 1993; Brennan, 1994) are of the opinion that justice is not really served in the questioning of child witnesses (see chapter three). For example Walker frowns at leading questions such as declarative questions, yes/no questions and tag questions. The categorization of these scholars were not only relevant for child questioning in court only, but was also useful in this study.

11.3 Powerful/Leading Questions

Questions in court are a source of power. The power that lawyers have over the witnesses stems from the forms of questions they ask. Most of the questions in court are powerful and coercive because they are leading and conducive. Leading questions enable barristers to assert their own versions of reality, which adds to their control of witnesses, and also illustrates the extent to which lawyers know and demand a presumably expected answer (Danet,1980;520; Luchjenbroers, 1997:482). The following functions of leading question have been given by Hobbs (2003:486), which summarises all the points noted above about leading/conducive questions: (i) they are hearable as implied statements, in that they signal their expected answer is correct(i.e. will be confirmed by the witness); (ii) they allow the lawyer to stimulate a monologue and to control the trajectory of the talk; (iii)they ask such questions which ask the witness to agree or disagree with their propositional content, effectively limiting the scope of the witnesses answer to 'yes/no', thus allowing the lawyer to obtain a relatively risk-free corroboration of his or her preferred facts; and (iv) the lawyer retains the floor, reducing the witness to a listener status (Hobbs, 2003:486).

Questions that were categorised under this are declarative questions, yes/no questions and alternative questions.

11.4 Non-powerful question

These are restricted WH-questions and non-restricted WH-questions. Restricted WH-questions are more powerful than their counterparts because they require the listener to mention something or points. (see chapter four). Non-restricted, WH-questions were seen from two perspectives; (i) Noun non-restricted WH-questions and verb non-restricted WH-question. Noun WH-questions are more restrictive than their counterparts because they also require the listener to mention something or points. Examples are 'what' and 'how'.

11.1	***Prosecutor:***	*How many police* ***were*** *given to you-* ***Noun***
	Witness:	*Two policemen*
11.2	***Lawyer:***	*What day was that-****Noun***
	Witness:	*On the eve of the meeting*

Verb non-restricted WH-questions on the other hand are open and non-restricted. They afford the witnesses an opportunity to launch into narratives and highly informative facts.

11.3	***Prosecutor:***	*When you got to the house, based on the complaint laid by your wife, how did you assess the house then? –****Verb***
	Witness:	*When I got home, I first looked through the entries... the entrance to the main room. My*

room is room two to the right and their own is room three to the right. I observe that they passed through the ceiling in my room.

11.5 Courtroom answers

Courtroom discourse comprises of questions and answers. Questions in court are impossible to ignore no matter how insulting or degrading they can be and witnesses can be charged with contempt of court, if they refused to answer questions posed to them.

Questions in court usually contain (as is the nature of declarative questions, yes/no question and alternative questions) propositions of the lawyers, especially during cross-examination, and this influences the type of answer given. Loftus (1975; 1977 in Luchjenbroers, 1993) revealed in her studies of simulated court proceedings, that the manipulations of semantic presupposition of questions can:(i) significantly alter the truth value of the answers to those questions; (ii) affect the content of the following questions; and (iii) affect the verdict. Loftus identified the following phenomena as having an effect on witness testimonies:

a) the severity of question verbs affects answers
b) the choice of a definite or indefinite article can alter the response
c) implicating false information in a question can lead a witness to report it as a fact.
d) When subjects are exposed to delayed, misleading information, they are less confident of their correct responses than of their incorrect ones.

e) When people are asked questions in an aggressive, aggravating and active manner, they will report an incident they have witnessed as being noisier and more violent than those asked in a more neutral manner.
f) Substantively leading questions encourage (simulated) jurors to give a guilty verdict, more so than neutral questions.
g) When a witness has seen a number of people committing different acts, leading questions make him/her more likely to identify the wrong person as being responsible for a given act.

(Luchjenbroers 1993:152)

The works reviewed by various scholars on how questions relates to power were very relevant to the study.

11.6 Research questions

11.6.1 Question Analysis

This first analysis was conducted to extract the nature of lawyers' questions and witnesses' answers, as well as the extent to which lawyers' questions build onto witnesses responses. More importantly, the objective of this analysis was to establish the power of the legal representatives over the witnesses through the questioning and answering format of both parties.

A number of factors that suggests that power is on the part of lawyers are evident from their first analysis. Of all the declaratives used in the data, (197), 36% occurs during cross-examination and only 1% occurs during direct examination. This means that during cross-examination, the lawyers

coerce, control and intimidate the witnesses because declarative question are used to do this.

Furthermore, although WH-questions have the highest distribution in the data for this study (217), out of these 62% are asked during direct examination, while only 18.3% form cross-examination WH-questions. When viewed in terms of power relations these findings show that examination is a friendly stage and cross-examination is a hostile stage. This still reflects the power of the lawyer over the witnesses, as these lawyers can refrain from using WH-questions during cross-examination, and instead prefer to use power-ladden questions such as declarative questions.

Moreover, there is the little use of negative questions in the data. Even those few found in the data, they still reflects power on the side of the lawyer, as they represent 3% in cross-examination while in direct examination, they number just 0.5%.

The proportion of speech act functions also reveals the power that is prevalent in the courtroom. In cross-examination, speech act function, accounted for 28% utterances, in contrast to 20% in examination. Some of the speech act functions used during cross-examination are the complex ones that coerce and control the witnesses, while the ones used during direct examination are the simple ones like instructions, information etc.

The responses of the witnesses also show the power prevalent in the courtroom. Out of all the responses given in the data 68% represents background and minimal responses (background=28%, while minimal responses=40.2%). That means only 25% (minus CTR-X ELAB)

represents the witnesses' responses that give informative answers. This indicates that lawyers dominate and control the talk during courtroom discourse and this reveals the power they have over the witnesses.

Furthermore, there is a high proportion of elaborate responses in direct examination (44%) and a low proposition of same in cross-examination (16%). (omitting CTR-ELAB, evasive responses). This validates the findings of a high proportion of WH-questions in the questioning data. More importantly, it reveals the power of the lawyers over the witnesses, as their questioning methods limit the responses of witnesses during cross-examination.

Also, evident is that there are few negative responses, which also coincide with few negative questions found in the data. The little negation in the study also contrast sharply, numbering 15% during cross-examination and 1% during direct examination

The findings of this study even suggest that power is more prevalent in the Nigerian courtroom than the Australian courtroom as portrayed by Luchjenbroers (1993). For example, positive declarative questions are higher in cross-examination than in direct examination in both countries. In the Nigerian data, it represents 2% in examination while it is 36.2% in cross-examination. In the Australian data, it is 26.6% in examination and 46.4% in cross-examination. (see chapter six). The number difference in the Nigerian data is greater (34%) than in the Australian data, where it is 19%. What this suggests to us is that cross-examination in Nigeria is more hostile and uncooperative than her Australian counterpart. This finding buttresses the fact that power and asymmetry are more pronounced in the Nigerian court than in Australian court.

11.7 WH-questions

The results of chapter six led to other interesting outcomes, which formed the focus of subsequent chapters. WH-questions have the highest distribution in the data, which necessitated a deeper study in chapter seven.

Out of all WH-questions such as 'what', 'how', 'where', 'when', 'which', 'who', 'whom' and 'why', 'what' has the highest distribution. Its use in the data suggests the power of lawyers during the courtroom proceedings. Viewed it in terms of legal procedures, it represents 60.5% in examination and 28.6% during cross-examination. These contrastive findings show that lawyers use WH-questions scarcely during cross-examination and concentrates more on powerful questions.

WH-questions are viewed from two perspectives; (i) noun non- restricted 'what' WH-question and verb non-restricted 'what' WH-questions. Because of the fact that noun non-restricted what WH-question generates minimal responses, lawyers prefers to use them during cross-examination (see chapter seven). Although 'how' can also be used as a non-restricted WH-question, it is not as non-restrictive as its 'what' counterpart. It is more prone to be restrictive. That is why 'how' numbered 26.5% during cross-examination and it is 9.2% during direct examination. This finding still buttresses the hypothesis of this study which reinstates the fact that lawyers have power over the witness and that throughout the trials they always maintain tight control over the court proceedings.

'When', 'which'and 'who/whom' are restricted WH-questions. They are restricted in the sense that they generate highly minimal answers. They total 32.5% during cross-examination while they numbered 19.2% during

direct examination. Because they require for minimal answers, cross-examining lawyers prefer to use them during cross-examination so as to limit the response of the witness. This also shows their power over the witnesses. (see chapter seven)

11.8 Declarative questions

Apart from the fact that declarative (both positive and negative) questions are greater in cross-examination (36.3%) than in examination (1.6%) (see chapters 6&8) which vividly shows the power of lawyer over the witnesses, there are more glaring findings about declarative questions that reveal this power acutely.

Declarative questions during examination are vividly marked as questions as they are always uttered with rising intonation and an average pause length of .5 seconds. What this suggests is that when declarative questions are uttered with rising intonation they signal questions just like their use in everyday speech. This means that they are not as powerful and leading as their counterparts during cross-examination.

On the other hand, declarative questions are uttered with falling intonation which makes them sound like statements. Yet when they are uttered during cross-examination, they are more powerful and coercive than their counterparts during direct examination. The average pause length after declarative questions during cross-examination is 3.0 seconds.

Declarative questions during cross-examination cannot be compared with their everyday use in other contexts. In other contexts, they are always

uttered with rising intonation, but during cross-examination, they end with falling intonation, which suggests the power that is prevalent in the courtroom.

11.9 Speech-Act functions

Speech act functions are viewed from two main perspectives: simple and complex. Simple speech act functions are used to give commands, instructions, encouragement, summons, and clarification to the witnesses. Of these, commands have the highest distribution (52). Of these, 62.5% are used during direct examination while 17.9% are used during cross-examination. Their use during examination is to guide the witnesses to the next thing to do, but during cross-examination they are used to force, coerce and control the witnesses e.g.:

Examination

11.4 ***Prosecutor:*** *Tell this honourable court your name?*
Witness: *Johnson*

11.5 ***Prosecutor:*** *Take your mind back to 13th day of May 2002 at about 10pm*

. **Cross-examination**

11.6 ***Lawyer:*** *Are you living in that house independently or dependently? Answer that quickly*
Court clerk: *Won ni se e n da gbe ni tabi e n gbe pelu eniyan?*
Witness: *Mo n gbe pelu oko mi.*
(I am living with my husband)

11.7 ***Lawyer:*** *That is the question. You are here as a witness and I am cross-examining you on certain fact which are germane to this case. Are you living independently or dependently. Don't waste the time of the court!*

Witness: *Mo n gbe pelu oko mi.*
(I am living with my husband).

Other speech-act functions that are also witness-oriented are encouragement, information, summon, and clarification and they make up 10% during examination and nil during cross-examination. Since cross-examination is a hostile stage, lawyers don't make use of such speech act functions (which will be positive to the witnesses) e.g.

The complex speech-act functions on the other hand are used by the lawyers to control and coerce the witness to their own line of argument. For example, metadiscoursal comments occur more frequently in cross-examination (25.8%) than in examination (7.5%) (see chapter nine). They are more frequent in cross-examination as they are very useful for lawyers to guide the witnesses to their own line of argument and to request for the answer they wanted e.g.:

11.8 ***Lawyer:*** *I am not asking you about that. I am asking you about the present. Who told you he threw stones?*

Witness: *I heard from his wife when she was writing her own statement*

11.9 ***Lawyer:*** *Why are you hiding facts? In another words you are telling the court that the complainant, your mother and the first accused person belonged to the same father, is that not so?*

Witness: *I said they belonged to the same father.*

This finding buttresses the assertion of power in the courtroom.

Reformulations are also sharply contrastive between cross-examination (26.5%) and direct examination (5%). Reformulation is a coerce tool used by the cross-examining lawyers to challenge and intimidate the witnesses, e.g.

11.10 Lawyer: *You said you left the accused persons at home when you were going to the shop. Your wife also said that she left them. Did you leave them as security guards in the house?*

Witness: *It was like this*

Lawyer: *The answer is very simple. Did you leave them as security guards for your home? Yes/No?*

Witness: *No, they are not my security guards*

11.11 Lawyer: *You and your wife are there and the accused persons and you said four people?*

Witness: *I mean four rooms*

Other complex speech act functions that are used by lawyers during cross-examination include subject-oriented metadiscoursal comments, illocutionary force indicating devices and felicity conditions. These are so powerful and coercive that they are only found in cross-examination and not at all in direct examination. The use of these complex speech-act functions shows accurately the asymmetrical nature of courtroom discourse (see chapter nine).

In chapter ten, the intricacies of courtroom interpreters in Nigerian courtroom discourse are raised and discussed. This is because in Nigeria, English is a second language. Nigeria has three major languages which are Yoruba, Igbo, and Hausa. The witnesses are allowed to use any of the three major languages, if they cannot understand English, but the courtroom clerk always acts as courtroom interpreter.

It is revealed here that such powerful indicators used by the cross-examining lawyers such as confrontational utterance initiator 'I put it to you', dscourse indicators, discourse markers such as 'well', 'now', and 'see' are normally omitted by the interpreter during the interpreting process.

11.10 Need for Forensic Linguistic/Language and Law Body in Nigeria.

It was discussed in chapter three of the need for such a body as Forensic Linguistics/Language and the law. Nigeria patterns her law system to that of law system of Britain. In the Western countries such as United Kingdom, United States, Australia and Canada, there is a body called Forensic Linguistics/Language and the law. According to French and Coulthard (1994) among others, the body's duties include:

- Forensic speaker identification undertaking from audio recordings by phoneticians: methodologies, reliability, practice in different countries;
- Reliability of speaker recognition evidence provided by witnesses;
- Organization of speaker identification parades and voice live-ups for lay witnesses;
- Uses of auditory phonetic and acoustic analysis in determining the content of noisy and difficult audio recordings;

- Speaker profiling: uses of Phonetic, Sociolinguistic and Dialectical data in determining e.g. regional and social background of unknown speakers in criminal recordings;
- Forensic comparison of handwritten samples
- Uses of lexico-grammatical analysis in resolving authorship of disputed texts;
- Lexico-grammatical and semantic methodologies for the determination of bias in judicial summaries; and
- Semantic analysis and the use of data from psycholinguistics studies in the resolution of copyright and patenting disputes over brand names, slogans and advertising texts. (see chapter 3).

In this regard, there is the need for the formation of the body, Forensic Linguistics/Language and the law that will be addressing all the issues that her counterparts in the United Kingdom and the United State of America have been addressing. In Nigeria today, the system of interrogation between police and suspects is entirely different from that of the Western Countries. There is force, coercion, torture and threats in Nigerian police interrogation. Some people are being killed without trial. But if there were such a body like Forensic Linguistic/Language and the Law, the specialists in Linguistics, Laws, and Philosophy will be writing to address this.

The language of caution in Nigeria is also posing problems for both the police and the suspects. This problem also occurs in the United Kingdom and United States of America where English is used as native language. With the formation of this body many scholars in Linguistics and Law will be writing to address this.

In addition, the Linguistic situation in the Nigerian courtroom also needs to be addressed. There is the empowerment of English language over the three major Nigerian languages: Hausa, Igbo and Yoruba in Nigerian courts. The law of the country is coded in English language. In this regard, there is the alienation of the language of the law from the population. The formation of Forensic Linguistic/ Language and the Law will be able to address this by specialists writing on this critical issue.

As said above, experts in linguistics offer experts opinions on some knotty language problems in the western courts. These are native speakers' countries. Nigeria using English as her official language needs services like this in the Nigerian courts from linguistics experts. Many innocent people are being convicted in Nigeria because of English language confusion. The formation of Forensic Linguistics and Language and the law will be able to solve this problem through specialists in English Language helping to unravel knotty problems of English Language.

There are several injustices within the legal system of the country. Some group of people have power and can influence the decision of the court. Many people are been detained for several years and many died in detention without proper trial. It is high time masses became aware of their rights within the law. The formation of Forensic Linguistics/Language of the law will raise this awareness.

11.11 Summing up

From the above discussion, the focus of this thesis is glaring. Right from power across context where power is seen from diverse context, to the review of relevant literatures in the field of Forensic Linguistic/Language and the Law, including treating questions in details through the analysis of these questions and answers and finally to the analysis of those expressions that are not questions nor statements (which precede the bit that witnesses are to respond to), power is seen to be on the side of the lawyers to the detriment of the defendants/witnesses. The lawyers maintain tight control of courtroom discourse through all the tools of analysis discussed above. The need for the Forensic Linguistics/Language and Law is also stressed.

Chapter Twelve

Conclusions

12.1 Conclusion

The main concern of this thesis has been to study how power and asymmetry are reflected in examinations and cross-examinations in the Nigerian courtroom system. Power and asymmetry are very obvious in courtroom discourse because there are rules and procedures guiding the overall courtroom discourse. All these rules and regulations privilege the judge, lawyers and the prosecutors. The defendants and witnesses are at the receiving end of these rules and procedures which, suppress and oppress them. For example, only the judges, lawyers and prosecutors can be the questioner and put questions to the defendants and witnesses (see chapter one). Also, it is they that can introduce the topic and dictate the turns in the courtroom discourse. Their power is so pervasive that they dictate the length of talk of the witnesses and defendants and even control their responses. In this regard, the defendants and the witnesses are constrained in giving narrative details about the case in question. In other words, the witnesses and defendants are restrained from telling their own story in their own way. They have been denied the opportunity to tell the court exactly what actually happened (Phillips, 1989; Luchjenbroers, 1997).

My investigations have steadfastly been based on the assumption that power is on the side of the lawyers and prosecutors. The study portrays the formation of various questions forms that are used by the lawyers which form the basis of their power. The thesis has shown how the propositions and conduciveness of alternative questions, yes/no questions and

declarative questions have been used by the lawyers to control, coerce, and convince the witnesses to their line of argument, and also to limit the responses of the witnesses.

Furthermore, WH-questions are also manipulated by lawyers and prosecutors to draw highly informative and narrative facts from the witnesses.

The study further showed that WH-questions in their various forms are still being exploited by the lawyers and prosecutors which also reveal their power over the defendants and witnesses. For example, non-restricted WH-question such as 'what' are used maximally during examination stages to draw more facts from the witnesses, while restricted WH-questions are favoured by lawyers during cross-examination to limit the responses of the witnesses. This is the focus of analysis B.

The study also revealed that various forms of declarative questions are also further exploited by the lawyers in order to retain power over the witnesses. For example, during examination stages, declaratives are uttered as questions with final rising intonation, and are followed by an average of .5 second pause. But during cross-examination, declaratives are uttered as statements with falling intonation ending, and an average of 3 seconds pause.

In this regard, they are like statements, but when uttered during cross-examination, they are questions that are very powerful, coercive and leading. This connotes knowledge, authority, power and control on the part of the cross-examining layers. The declarative questions asked during cross-examination with falling intonation by the lawyers are not seeking

answers that lawyers did not know already. Rather, they are asking of the witnesses corroboration and agreement of the propositions embedded in them. Falling intonation ending has been associated with knowledge, power and dominance while rising intonation ending is associated with lack of knowledge (Tence 1996: 88).

Apart from courtroom questions, the thesis has also shown that some expressions are still being used by the lawyers to further control and coerce the witnesses, which are the speech act functions. Speech act functions are expressions other that questions and statements, that do not contribute to the on-going crime narrative and which precede the part that the witnesses are expected to respond to. During examination the simple ones that are witnesses-oriented such as commands, encouragement, information, summons and clarification are favoured. During cross-examinations, the complex one such as discoursal indicators, metadiscoursal comments, reformulation, subject-oriented metapragmatic comments, illocutionary force indicating devices and felicity conditions that coerce, control, intimidate, challenge and convince the witnesses are used by cross-examining lawyers which buttresses the power of the lawyers over the witnesses.

12.2 Avenues for Future Research

The main focus of the data analysis presented in this dissertation is on lawyers' and witnesses' contributions, which reveal the power of the lawyers and over the witnesses. I have not been able to do an analysis of the judge/magistrate contributions in this research because of the time

limitation of the study. An avenue for future research will be to focus on judges' and magistrates' contributions.

In the courtroom, the judge or magistrate occupies the apex position. In this dissertation, the powers of the lawyers have been shown through the analysis of theirs and witnesses, contributions. Yet the judge/magistrate in the courtroom is the most powerful. It will be interesting to perform an analysis of the judges'/magistrates' contributions as this will yield interesting results on power. Future research might investigate judges'/magistrates' contributions, his/her orientation towards the lawyers in the courtroom, and his/her orientation towards the defendants and the witnesses as manifested in his/her utterances.

APPENDIX I

Malicious Damage Case

APPENDIX 1

Trial Extract

Malicious Damage Case

Court clerk *M.O.D 222/003 police versus Shuaibu Olabosipo and one other.*

Prosecutor *Sergeant Yinusa Shuaibu, appear for the prosecution. This case is to be heard today and I have six witnesses to call. Tiamiyu, Afolabi Ramota, Oyedeji popoola. It remains only three who are not in court: the two witnesses and police officer. Subject to the convenience of the court, we are ready to go on.*

Court clerk *E bura ni Oruko olorun wipe gbogbo ejo ti e maa ro ni ile ejo yii yoo je otito, ko ni si iro nibe. Ki Olorun ran yin lowo.*

Witness *Emi Tiamiyu bura ni Oruko Olorun wipe gbogbo ejo ti mo maa ro ni ile ejo yii yoo je otito ati wipe ko ni si iro nibe, ki Olorun ran mi lowo. (I swear by the name of God that all the evidence I will be given in this court shall be the truth and nothing but the truth. Oh, help me God.*

Examination

Prosecutor *What are your names? (Oruko yin)*

Witness *Tiamiyu*

Prosecutor *Tiamiyu what? (Tiamiyu kinni)*

Witness *Tiamiyu Oke*

Prosecutor	*Where are you living?*
Court clerk	*Nibo ni e n gbe?*
Witness	*Gbagia*
Prosecutor	*What is your job? (kinni ise yin)*
Witness	*Ise agbe (farming)*
Prosecutor	*Look at these two accused persons, do you know them?*
Court clerk	*E wo awon odaran mejeeji yii, se e mo won?*
Witness	*Mo mo won (I know them)*
Prosecutor	*Baba, take your mind back to on the 21st day of May 2003 at about 8.30pm?*
Court clerk	*Baba, e ranti ojo kokanlelogun osu karun ni aago mejo abo, kinni o sele ni ojo naa?*
Witness	*Ohun ti o sele ni ojo naa, mo ro wipe ni aaro ojo naa, o fe gba ipade, o sipe mi sibe. (What happened was that on that morning, the chief is hosting a meeting and he invited me there)*
Prosecutor	*What type of meeting?*

Court clerk *Iru ipade wo ni?*

Witness *Ipade gbogbo lojaloja (The meetings of the head of villages)*

Prosecutor *Who are the people that blocked with woods?*

Court clerk *Baba, awon wo ni o ko igi di oju ona?*

Witness *Awon mejeeji yi ni*

Prosecutor *Baba, what happened thereafter?*

Court clerk *Ki lo wa sele lehin igba naa?*

Witness *Nigba ti o di irole ni nkan bi aago mejo... (in the evening of that day about 8pm...)*

Prosecutor *No, before the evening*

Court clerk *ki o to di irole*

Witness *Awon alejo wonyen o wa mo. Won ko je ki won wole. (The visitors did not come. They were not allowed to enter)*

Prosecutor *Do the meeting hold that day again?*

Court clerk *Baba, se won se ipade yen ni ojo yen?*

Witness *Won se ipade sugbon awon ti won pe ko le wole, won da won pada (They hold the meeting, but the invities were not*

allowed to enter. They were turned back)

Prosecutor *Baba, since those invited were not allowed to gain entrance to that meeting, did the meeting hold again? That is what I want to find out.*

Court clerk *Baba, nigba ti e so wipe won ti ko igi di oju ona, se awon ti won pe yen wa wa?*

Witness 1 *Won ko le wa mo. Won ti da won pada seyin wipe won ko gbodo wo inu ile. (They cannot enter since they have been refuse entrance into the town)*

Prosecutor *In the evening time, what happened? (twice) since the meeting could not hold again*

Court clerk *Nigba ti o di irole, ki lo sele nigbati ipade naa ko le waye mo*

Witness 1 *Nigba ti o di irole, ni iyawo baba yii ranni simi pe ki n wa (in the evening, the wife of Baba asked me to come)*

Prosecutor *When you went there, what do they invite you for?*

Court clerk *Kinni won pe yin fun?*

Witness *Won ni won ko jeun lati aaro. Won ni ki n wo ounje ti won toju sile ti awon alejo ko le je. (They said they haven't eaten since morning and that I should look at all the food prepared for the visitors which were left uneaten)*

Prosecutor *What do they do with it?*

Court clerk *Kinni won se pelu ounje naa?*

Witness *Ni igba ti mo be won tan, ti won fe maa jeun ni won ba ko igi de, awon Alhaji ati opolopo eniyan. (When I beg them, they wanted to start eating when Alhaji and some people arrived with sticks and cudgels)*

Magistrate *Only these two people or are they among?*

Court clerk *Se awon meji yii ni abi awon pupo?*

Witness 1 *Won po (They were many)*

Magistrate *These accused person, were they among?*

Court clerk *Se awon odaran mejeeji yii wa nibe?*

Witness 1 *Awon gan ni oga won ti won ni ki won ko igi kalo. (They are the ring leaders of them that encouraged their followers to bring stick and cudgels.)*

Prosecutor *When they brought woods, cudgels and other weapons, what do they do with it?*

Court clerk *Nigba ti won ko igi wa pelu awon n kan ija yooku, ki ni won se?*

Witness *Baba sa jade, o gba ona ehinkule lo. Emi naa sa jade. Mo gba*

ojule. Won gba tiwa. Won sib ere si nil u gbogbo awon ti won le lu. (His father ran out through the back door and I did the same through the front door. They started pursuing us. Then they started beating people they caught)

Prosecutor *When they came you and Bade flew away. Was Baale attacked?*

Court clerk *Nigbati won de o sa, Bade sa, se won lu Baale?*

Witness *Won sa teele baale . Emi si gba oju ile lo ni temi. (They ran after Baale, but I went to my own house after I escaped)*

Prosecutor *How did you manage to go to the police station?*

Court clerk *Bawo ni e se wa de ago olopa?*

Witness *Bi a se fon mo ago olopa ni Orisunmibare ni mo wipe nkan ti de o. (That is how we went to the police station at orisunmibare saying trouble has started)*

Magistrate *Who went to the police station?*

Court clerk *Ta lo lo si ago olopa?*

Witness *Emi nikan ni mo lo si ohun. (I went there alone)*

Prosecutor *What did you do at the police station then?*

Court clerk *Kinni e wa se?*

Witness *Awon olopa gbe oko won jana, won wa si odo wa. (The policemen came to our place in their car.)*

Prosecutor *How many police was given to you?*

Court clerk *Awon olopa melo no won fun yin?*

Witness1 *Awon olopa meji. (Two policemen)*

Prosecutor *When you get to the town, what is the name of that very town*

Court clerk *Kinni Oruko ilu naa?*

Witness *Olabosipo.*

Prosecutor *When you get there with the police, what do you met there?*

Court clerk *Ni igba ti e de ibe pelu awon olopa, kinni e ba nibe?*

Witness *Awon olopa wa si odo wa ni ale ojo yen. Nigba ti won si de odo wa, won wa baba yii, won ko ri lale ojo naa. (The police came to us that very night. When they arrived, they looked for this daddy but they couldn't find him that night*

Prosecutor *That is another police from somewhere. Who brought the two police men there?*

Court clerk *Ta lo mu awon olopa meji wa si ibe?*

Witness *Emi (I)*

Prosecutor *When they did not see the complainant in this issue, what did you do?*

Court clerk *Ni igba ti won ko rii baba yii, kinni eyin wa se?*

Witness *Igba ti awon iyawo won naa o rii, ti awon olopa naa ko rii, ni onikaluku ba gba ile lo. A kole sun nitori eru n bawa. (Whenever nobody sees him, including his wife and the police, everbody then went to his house. We couldn't sleep because we were afraid)*

Prosecutor *On that day that you brought the police there, do police effect any arrest?*

Court clerk *Ni ojo ti e mu awon olopa de ibe, se awon olopa ri enikankan mu?*

Witness *Won ko ri enikankan mu. (They couldn't arrest anybody)*

Prosecutor *What was your next line of action that day when Baale (king) the pw1 was not seen*

Court clerk *Kinni nkan ti e tun wa se ni igba ti e ko ri Baale*

Witness *Onikaluku wa lo sun ni. (Everybody went to sleep)*

Prosecutor *How do Baale surface?*

Court clerk *Bawo ni Baale se wa pada wa?*

Witness *Ni igba ti o di dede ago merin ti a fe maa sun ni o de. (It was about 4.00am when we were about to sleep that he arrived.*

Prosecutor *On the morning of the second day*

Court clerk *Ni aaro ojo keji?*

Witness *Bee ni. (Yes)*

Prosecutor *What happened afterwards?*

Court clerk *Ki lo wa sele leyin igba yen?*

Witness *Lo ba kan ilekun lo ba wole. (He knocked on the door and entered)*

Prosecutor *When Baale surfaced, how did he narrate his ordeal on the first of May*

Court clerk *Ni igba ti Baale pada wa....]*

Lawyer *With due respect sir, we are not here to hear any other thing except what he knows that he should tell the court*

Magistrate *Whom did you see?*

Court clerk *Kinni e warii?*

Witness *Ni bo ma ni ki awon omo ba mi help re lo si odo olopa. Bi a ti se ri ni mo ki won maa gbe lo si odo olopa. (I then asked the*

children to help him to the police station . Immediately I saw him, I ordered them to take him to the police station)

Prosecutor *Ever before you even go to the police station, what are your observations on Baale himself?*

Court clerk *Ki e to lo si ago olopa, kinni e ri ni ara Baale funrare?*

Witness *Ni igba ti mo ri ni mo ni ki won ba mi gbe lo si ago olopa. Awon olopa naa, ni igba ti won ti ri apa re, won gbe , o di odo sheu ni owena(Immediately, I saw him, I took him to the police station. The police too seeing his arm took him to police station at owena.*

Magistrate *What happened to the arm?*

Court clerk *Ki lo sele si ni apa?*

Witness *Won naa ni igi nibe. (They injured him with sticks and cudgels on the arm)*

Prosecutor *How do you see the spot?*

Court clerk *Bawo ni e se ri ibe sii?*

Witness *Emi o le wo nigbati owo naa se roboto. Ko le fi gba nkankan mu gan. (I couldn't bear to look at the arm because it was so swolen I just stood at his back)*

Prosecutor *Baba what happened thereafter?*

Court clerk *Baba ki lo sele lehin igba yen?*

Witness *Won gbe lo si ago olopa ni owena. (They took him to the police station at owena)*

Prosecutor *Which hospital do they take the Baale pw1 to?*

Court clerk *Kinni ile iwosan ti won gbe Baale lo?*

Witness *Emi ti pada wa so fun awon eniyan re wipe ati rii o. o si ti bo si Owena. (I have returned back to inform his people that we have seen him and that he is now at owena)*

Prosecutor *Thereafter, where was the complaint treated which station was the complaint treated?*

Court clerk *Ago olopa wo ni e koko lo ki o to di wipe e wa si ile ejo yii.*
Witness *Akure. Lodo olopa ni Akure. (At the police station in Akure)*

Prosecutor *At that Akure, was your statement obtained?*

Court clerk *Ni Akure ibi ti e n so yii se won gba oro enu yin sile*

Witness *Won gba oro enu mi sile o. (They took my statement down)*

Prosecutor *Whom did you know as the Baale (king) of Olabosipo)*

Court clerk *Tani e mo gege bi Baale Olabosipo?*

Witness *Amuda Afolabi*

Prosecutor *Who installs him as the Baale?*

Court clerk *Ta lo fi won je Baale?*

Witness *Osemawe of ondo. (The king of Ondo)*

Prosecutor *Ever before that date, that 21st of May 2003 was any tent made by the Baale?*

Court clerk *Ki o to di ojo kokanlelogun odun 2003, se Baale se atibaba kankan?*

Witness *O se atibaba. (Yes, he made a tent)*

Prosecutor *What happened to that tent?*

Court clerk *Ki lo wa sele si Atibaba naa?*

Witness *Nigba ti mo de ibe ni aaro ojo keji, mi o ba atibaba nibe mo. (By the time I got there the following day, I couldn't see any tent there again)*

Magistrate *How did you know that there was tent?*

Court clerk *Bawo ni e se mo pe atibaba wa nibe?*

Witness *Ni igba ti o je wipe ojojumo ni mo n de be, ni mo ni. (since I go there everyday, I saw it)*

Prosecutor *What caused the destruction of the tent that was made by Baale?*

Court clerk *Kinni o ba atibaba ti Baale se ?*

Witness *Emi naa o mo. (I didn't know)*

Prosecutor *That is all for him.*

Cross-examination.

Defence lawyer *Baba, how long ago have you been living at Aba Olabosipo?*

Court clerk *O ti to odun melo ti e ti n gbe ni Aba Olabosipo?*

Witness *O le ni ogoji odun. (It is more that forty years now)*

Defence lawyer *You are a native of where?*

Court clerk *omo ilu bo niyin?*

Witness *Omo Iragbiji. (I am a native of Iragbiji)*

Defence lawyer *You know Yesufu Olabosipo?*

Court clerk *Baba se e mo Yesufu Olabosipo?*

Witness *Mo mo (I know him)*

Defence lawyer *How do you know him?*

Court clerk *Bawo ni e se mo?*

Witness *A ti mora tipe. Mo mo teletele . (I have known him for long)*

Defence lawyer *You can't remember exact date when you first settled at Olabosipo?*

Court clerk *Se e mo igba ti e de aba Olabosipo?*

Witness *Mi o ko si ile (I didn't record the date)*

Defence lawyer *Among which party did you came to Olabosipo?*

Court clerk *Eyin ati awon wo ni e jo wa si olabosipo?*

Witness *A po. A baa won baba loko ati Baba Amuda. (We were many. We met Daddy and Amuda's father there)*

Defence lawyer *Yesufu Olabosipo and father of first PW, apart from Oke, is there any other name there*

Court clerk *Leyin oke talo tun ku?*

Witness *Baba mi ni o nje oke. Emi ti a jo lo ni o n je Tiamiyu.*

Defendant lawyer *Tiamiyu what?*

Witness *Tiamiyu Oke*

Defendant lawyer *You have not yet answered my question. Was it you alone that came to the camp of Olabosipo, or you came in company of others?*

Court clerk *Won ni e tii dahun ibeere ti awon bi yin. Won ni se eyin nikan ni e wa si Olabosipo, tabi e wa pelu awon miran?*

Witness *Ni igba ti mo gbo wipe won mu oko nibe ni mo wa si ibe. (When I heard that they have cultivated the land, I came there me and my brother.*

Magistrate *What is the name of your brother?*

Court clerk *Kinni Oruko buroda re naa*

Witness *Alhaji Tiamiyu*

Defence lawyer *Who told you that there was farm to take at Olabosipo?*

Court clerk *Ta ni o so fun yin pe oko wa ni Olabosipo?*

Witness *Nigba ti gbogbo eniyan n lo si ibe wipe oko kan yoju nibe. (Because people were going there saying there was a new land there)*

Defence lawyer *Who told you, that was what am asking*

Witness *Alhaji Laniyi, o si ti ku (Alhaji Laniyi, and he had died since)*

Defence lawyer *You could have just told us that instead of telling us another story*

Defendant lawyer *Who gave you land there*

Witness *Ni igba ti a de ibe... (When we got there...)*

Defendant lawyer *Who gave you land there!!!*

Court clerk *Ta lo fun yin nile?*

Witness *Baba Onileola ati baba Olabosipo (Daddy Onileola and Daddy Olabosipo)*

Defence lawyer *Is it the father of the accused person*

Witness *Baba re ati baba yii. Awon ti awa ba ni ibe niyen. (Yes, this father and the father of this father those are the ones we met there)*

Defence lawyer *Who actually measured the land for you*

Witness *Mi o mo. A sa ba eniyan nibe. Eniyan sipo ti won lo siibe. (I don't know. But we met many people there)*

Defence lawyer *Any document giving to you on the land?*

Court clerk *Se won fun yin ni iwe kankan lori ile ti e n so yii*

Witness *Won ko fun wa ni iwe kankan (We were not given any document)*

Defence lawyer *When did the killing of ijesha people stopped?*

Court clerk *Baba, igba wo ni won dawo pipa awon ijesa duro.*

Witness *Igba ti awon Owu de. (When the Owu people came)*

Defence lawyer *Can you remember the incidents or did they come with guns, ammunitions and amulets?*

Court clerk *se e le ranti ohun ti o sele ni ojo yen? Se gbetugbetu ni won mu wa ni tabi ibon lati le awon ijesha kuro.*

Witness *Ni igba ti map de, awon ondo ni ile awon ni.*

Defence lawyer *Map wo, talo ya? (Which map? Who draws it?)*

Witness *Emi o mo (I don't know)*

Defence lawyer *O ri map naa (You saw the map)*

Witness *Ni igba ti mi o mo iwe, won se le fi han mi. (Since I am not literate they will not show it to me)*

Witness *Ni ojo naa, awon ondo ni ile awon ni ki awon ijesa jade. Bi won se bere ija nipa yen. (That day the ondo's claims that the land belongs to them and ijesa people should move out. That was how the fight started)*

Defence lawyer *As at that time where were your people report to?*

Court clerk *Nibo ni awon eniyan yin ti lo fi ejo sun?*

Witness *Ondo.*

Defence lawyer *Whom did you report to*

Court clerk *Ta ni e fi ejo sun?*

Witness *Akinduoye.*

Defence lawyer *When was that? I put it to you that you were reporting at Ore*

Court clerk *Baba won ni won so fun yin pe ore ni e ti fi ejo sun*

Witness *Rara o. (No)*

Defence lawyer *The time you are saying was 1976 just after the creation of ondo state*

Court clerk *Odun 1976 ni e n so yii.Ni igba ti won sese pin ipinle ondo*

Witness *Bee ni. Sugbon awon ni a wa maa n ba. (Yes. But we usually came to them)*

Defence lawyer *You said you saw a tent at the front of the first PW's house*

Court clerk *Won ni e so pe e ri atibaba ni iwaju ile odaran kinni*

Witness *Mo rii. (I saw it)*

Defence lawyer *What day was that?*

Court clerk *Ni ojo wo?*

Witness *Inawo ku ola ni won pa atibaba. (On the eve of the meeting)*

Defence lawyer *With what was the tent made?*

Court clerk *Kinni won fi se atibaba naa?*

Witness *imo (Palm fronds)*

Defence lawyer *You said the tent was at the frontage of PW1's house. How many rooms, are the PW1's house?*

Court clerk *Won ni e so pe iwaju ile PW1 ni won pa atibaba si. Won ni ojule melo ni ile naa*

Witness *Ojule mejo ni ile naa. (Eight rooms). Ita re ni won pa atibaba si. (They made it at the front of his house)*

Magistrate *How far?*

Court clerk *Bawo ni o se jinna si?*

Witness *Ko jinna rara (it is not far)*

Defence lawyer *The atibaba you are saying, is it as big as this room?*

Court clerk *Won ni se atibaba naa to inu ile yii?*

Witness *O to inu ile yii. (yes it is as big as this room)*

Defence lawyer *With due respect sir,he said it is as big as this house.*

Defence lawyer *Now, how far away is your own house to pw1's house*

Court clerk *Baba, bawo ni ile yin se jinna si ile Baale*

Witness *O jinna, sugbon ko to maili meta. (it is far but not up to three miles)*

Defence lawyer *It will be its half*

Court clerk *Won ni se o to ilaji re*

Witness *Mi o ka sugbon a to ile mewa si. (I didn't count it but it will be ten houses far from it)*

Defence lawyer *Tiamiyu oke, a house as far as ten houses within, if they shout from one end, they would hear at the other hand*

Court clerk *Baba, won ni gegebi oun ti e so, ti e ba kigbe ni ile yin, se won a gbo nibe?*

Witness *Ti kii ba se ale ti gbogbo nkan dake eniyan ko le gbo. (if not at night when everywhere is quite, one cannot hear the shout)*

Defence lawyer *Baba, giving the court the impression that there is always noise like mechanics, like engine...*

Lawyer ***Baba**, ko si ki won ma gbo nigba ti kii se wipe won n pariwo nibe. Eni afi oganjo oru ni aba yin. (Daddy, there is no way they wouldn't heard when they are not always making noise there. You said unless late into the night)*

Witness *Ibiti aba ibe po de, ti kii ba se pe...(As big as the place is, if not...)*

Lawyer *PW1 house to yours is what we are talking about and you said it is ten houses away from yours. I said if they shout they would hear at your place but you said unless midnight. (Ile Baale si ti yin ni a n soro re, e si ni ko juile kewa si tiyin lo. Mo so wipe ti won ba pariwo nibe e maa gbo e wa sope ayafi oganjo oru.*

Witness *Ti kii ba se wipe eniyan ba jade sita eniyan ko le gbo. (unless one comes out, one cannot hear anything)*

Lawyer *You are living underground?*

Witness *Aja ile ko o. Olorun ma je ki a gbe aja ile. (I am not living underground. God forbid my living there) (Court laughs)*

Lawyer *You are talking about wives of PW1, how many wives has he got?*

Court clerk *E so oro awon iyawo pw1, iyawo melo ni o ni?*

Witness *Iyawo marun ni o ni. (He is having five wives)*

Lawyer *Now, you know the first PW very well*

Court clerk *E mo baba yii daradara*

Witness *Mo mo. (yes, I know him)*

Lawyer *Mention his name*

Court clerk *E daruko baba naa*

Witness *Amunda Afolabi*

Lawyer *You remember that time 1989 during the Ileya festival?*

Court clerk *Se e ranti odun 1989 ni igba odun ileya?*

Lawyer *Did you remember?*

Witness *Se odun ileya ni nkan bi odun medoogun seyin, mo mo pe a se ileya ni igba naa. (You mean the ileya festival about fifteen years ago? I know we did ileya festival then)*

Lawyer *You remember about fifteen years ago, the first PW has a motor cycle accident at Iragbiji near the magistrate court*

Court clerk *Se e ranti wipe ni odun medogun seyin, baba yii ni ijamba alupupu ni Iragbiji ni egbe ile ejo magistrate ?*

Witness *Ko ni ijamba o. (He was not involve in any accident)*

Lawyer *He fell into a ditch, gutter, about twelve feet deep.*

Court clerk *Won ni s e ranti wipe won subu sinu koto n la kan ti o si jin gidi*

Witness *Ko han si emi rara. (I was not aware)*

Lawyer *By then, his left hand was broken and he was brought to the hospital*

Court clerk *Ni igba yen, o fi apa da won si gbe lo si ile iwosan*

Witness *Ko han si mi o. (I was not aware up till now, after the operation, he is using an engine inside his arm. Without engine, he cannot even walk*

Court clerk *Lehin igba yen, ni won ti n lo engine lati fi rin ati wipe ti ko ba si engine yen, ko ni le rin mo*

Witness *Emi o tile gbo si rara. Mi o mo. (I didn't know at all and I was not aware)*

Lawyer *You know as a fact that if anybody should just hold the arm, it would just be shaking, it wont be able to withstand anything*

Court clerk *E mo wipe ti eni kankan ba di owo won mu, se ni o maa n mi ti ko ni le duro*

Witness *E mi o mo. (I didn't know)*

Lawyer *You know as a fact*

Witness *Ni igba ti a kii se omo ile kanna. Bawo ni mo se le mo,nigba ti mi o di lapa mu. (since we didn't come from the same family, how would I know since I didn't hold his arm*

Lawyer *You said you know him very well.*

Court clerk *Won ni sebi e so pe e mo won tiletile.*

Witness *yes, I know him very well*

Lawyer *Hen hen, and you didn't hear since 15 years ago. As a result of the accident, he was away from the village of Olabosipo for about eight years. He couldn't come to the farm.*

Court clerk *Nitori ijamba yii ni won se kuro ni aba Olabosipo fun odidi odun mejo ti won ko le lo si oko*

Witness *Nibo ni won wa n gbe? Ti o ba lo si ibi kan ko le lo ju ojo mewa lo ti won a fi pada de. Eni ti o ba so iyen, iro patapata ni. (Where is he living then? If he travels to somewhere, it can't be more than 10 days before he will return to the village of Olabosipo.*

Lawyer *Immediately he had the accident in 1989, he left the place and he couldn't come back until 1996 or so.*

Court clerk *Ati igba ti won ti ni ijamba alupupu yii ni 1989 ni won ti kuro won ko si pada titi di odun 1996*

Witness *Ti o ba lo ko le ju ogbon ojo lo. (If he travels, he can't spend*

more than a month)

Magistrate *That is not what he was asking. He said when he had the accident, he was away for eight good years. Tell him that*

Court clerk *Baba, won ni igba ti ijamba yen sele, won lo fun n kan bi odun mejo won ko si pada sibe nigbogbo igba yen. (Baba, they said after the accident he left for about eight years without coming back?)*

Witness *Ko rii be. (It is not so) Kii ju ogbon ojo lo ti a ba lo si ile odun. (He cant spend more than thirty days, even when we go to our town for festival)*

Lawyer *We are talking of 1989. Now, you said he was treated at the hospital. You said when he came back, he knocked at the door and you open it for him. You said about 4.30 the following morning, you came back. Now can you tell the court, you said the accident took place on the 21st in the evening, when did he come back?*

Court clerk *Baba, e so pe won sa ni irole ojo yen,o si pada . Ni ojo wo ni won pada?*

Witness *Awon olopa ni won gbe won lo.*

Lawyer *You said he ran away for a night which day was that?*

Court clerk *E so pe won salo fun odidi ojo kan,e ko si ri won. Ojo wo niyen?*

Witness *Mi o ko ojo naa sile. (I didn't note the day)*

Lawyer *Somebody who is your king ran away from town. Is the day Thursday, Friday or what?*

Court clerk *Won ni nigba ti won kuro ni ile yen won ni se ojo alamisi ni abi jimoh?*

Witness *Mi o ko sile. (I didn't note it)*

Prosecutor *I've said it a number of times that this man is an illiterate. So he doesn't know the date and time. He doesn't even go to school. (court laugh)*

Magistrate *Continue*

Lawyer *As your worship pleases. You said the road was barricaded with sticks*

Court clerk *Baba, wn ni e so pe won ko igi di oju ona.*

Witness *Se bi awon olopa wa wo. (Even the police came to inspect it)*

Lawyer *It is you that is giving evidence not the police. Do you know or you don't know?*

Court clerk *Baba, won ni eyin ni awon n bawi kii se olopa.*

Witness *Ani olopa ti o wa wo...[. (I said the police that...[*

Lawyer *You said they barricaded the road with stick. Did you see it?*

Court clerk *Won ni se e rii ni?*

Witness *Emi gan re wo (I went there myself to see it)*

Lawyer *Which side of your camp was barricaded?*

Court clerk *Oju- ona wo ni won ko igi sii?*

Witness *Ti eniyan ba maa wo ile...[(if one wants to get in ...) [*

Lawyer *Oju ona wo? (which side)*

Witness *Oju ona lipanu ti o ja si ago wa. (the side of lipanu which leads to our camp.*

Lawyer *Now, apart from this two people, and you said you have been living at the camp of Olabosipo for over forty years*

Court clerk *Won ni e so wipe e ti n gbe ni aba Olabosipo lati bii ogoji odun.*

Witness *O tun le ni ogoji odun (it is even more than forty years)*

Lawyer *O.K by the time you saw this barricade, were the people manning. It's standind by it?*

Court clerk *Nigbati e so pe e ri oju ona ti won ko igi di, se awon ti o ko igi dii duro tii?*

Witness *Won duro tii (They stood by it)*

Lawyer *Good. Around what time did you go to see it like that?*

Court clerk *Asiko wo ni e lo si ibe ti e ni won ko igi di oju ona?*

Witness *Ni deede ago mesan.*

Lawyer *Tell us the distance of that road block to your camp?*

Court clerk *Won ni ki e so ibi ti won ko igi di yen bi o se jinna si aba yin to?*

Witness *O jinna (it is far)*

Lawyer *Bawo ni o se jinna to? (How far)*

Witness *O to agbala kootu yen si ibi yii. (It is like the entrance of the court to this place)*

Lawyer *That is how far?*

Witness *Yes*

Lawyer *You went on foot or on bike?*

Court clerk *Se e rin lo si ibe ni, abi e gun alupupu?*

Witness *Mo fi ese rin lo si ibe (I went on foot)*

Lawyer *Immediately you saw that barricade did you report to the*

police?

Court clerk *Ni igba ti e ri se e lo so fun olopa?*

Witness *Bee ni (Yes)*

Lawyer *And the people still there*

Court clerk *Se awon eniyan yen wa ni ibe?*

Witness *Won wa nibe. (Yes, they were there)*

Lawyer *Those people, were they up to 40, 30, or 15*

Witness *Won po. Sugbon won to meedogun. (They were many. They will be up to 15)*

Lawyer *When the policeman came nobody was arrested*

Court clerk *Ni igba ti awon olopa de, se ko si eni kankan ti won ri mu?*

Witness *Ni igba ti awon olopa de, won ni pelu ohun ti won ko lowo awon ko le je ki won pa awon. (When the policeman came they said they are not willing to fight them because of their weapons of fight)*

Lawyer *You mean the police?*

Court clerk *Iyen awon olopa*

Witness *Bee ni. Won ko mu enikankan lo. (Yes, they made no arrest)*

Lawyer *I put it to you that you did not report anything to the police*

Court clerk *Won ni won so fun yin bayi wipe e ko lo fi ejo sun ni ago olopa*

Lawyer *A single policeman will know how to organise and get them arrested*

Court clerk *Bi o tile je enikan soso, ninu olopa a mo bi o se maa fi ogbon olopa see nitoripe won ti gba eko le lori*

Witness *Ni ojo naa, iru imukumu ti won n mu ko je ki awon olopa le fi doku ko won (That day, because of dangerous drugs they were peddling, no policeman can face them)*

Lawyer *No, you remember, the information heard and passed on to the police was that Amusa Afolabi was to be installed the king this year. Thainformation and this was immediately relate to the police station at ile-oluji*

Clerk *N je e mo wipe oun ti Baale Olabosipo gbo ni wipe Amusa Afolabi ni won fe fi joye Baale, ti o si lo so fun awon olopa ni ile- oluji.*

Witness *Ko si nkan ti o kan mi nipa iyen*

Court clerk *Won ni awon olopa meje ni won wa mu Amusa Afolabi*

Witness *Emi o mo (I didn't know)*

Lawyer *And you are aware that there is land dispute between the ondos and the ile-olujis*

Court clerk *Baba,won ni e mo pe oro ija lori ile wa laarin ile- oluji ati awon ondo.*

Witness *Emi o gbo rii. (I have never heard that before)*

Lawyer *O o gbo rii, o.k. (You've never heard that o.k)*

Lawyer *sorry sir, I will be speaking in Yoruba so that it will save time. O sa ti gbo ri wipe ipinle osun ati ipinle ondo, won n ja lori ile? (But you have heard that osun state people and ondo state people are fighting on land?)*

Witness *Bee ni (yes)*

Lawyer *Won de lo se ni igbo olodumare. (And they went and did it at olodumare camp). Won lo ro ejo yen, awon igbimo ti ijoba gbe sile lati ye oro ija wo ni June 1967 (That they went and discoursed it, I mean the panel that the government formed on this matter)*

Witness *Se laarin osun ati ondo (You mean between ondo and osun?)*

Lawyer *Yes*

Witness *Mo gbo se. Ani awon ondo ni won le awon ijesha lo. (Yes, I heard. I said before that the ondos drove the ijesha away)*

Lawyer *Do you know that it was only the ile-oluji's that defended that case at igbo olodumare. Neither the ijeshas and theOndo's submitted any memo before that committee.*

Court clerk *N je e mo wipe awon ile-oluji ni kan ni o yoju si ejo yen. Titi di isinsinyi ko si enikankan ti o yoju laarin Ondo ati ijesha*

Witness *E see. Se ni kootu ti e n so yen emi ko ba won de be. Eniyan yoju o, eniyan o yoju o, ko si eyi ti o kan mi nibe. (Thank you. The court you were talking about, I didn't follow them there. So I don't know anything about it. (court laughs)*

Lawyer *se o gbo ni.Ako so wipe se o lo sibe. (Did you hear of it not that you follow them there)*

Witness *Nigba ti mi o ba won sejo, mi o gbo. (since I was not concerned, I didn't hear anything.*

Lawyer *Se o gbo ri wipe ija yii ti o wa laarin ondo ati osun,wipe o ti beere pelu omo ile oluji kan ti won lo ja ni oke-afa ni 1909. November 1909,igbayen nija osun ati ondo bere. (Have you heard that the fight between the ondo's and osun's started off with a native of ile oluji when he fought in oke afa in 1909)*

Witness *Ko si eyi ti o kan mi nibe (I am not concerned.*

Lawyer *We are asking that have you heard about it (se e ti gbo ri ni a beere)*

Witness *Bi mo ba tile gbo ri ko si eyi ti o kan mi nibe(Even, if I have of it, I am not concerned). This is not my fathers land. I just came to farm) (court laughs)*

Lawyer *sugbon o n je o si n mu nibe(Yet you are feeding on it)*

Witness *Ki se ile baba mi. (it is not my fathers farm) (court laughs)*

Lawyer *That is enough for him sir*

Magistrate *Court adjourned to...*

APPENDIX II

Battery and Assault Case

APPENDIX 11

Trial Extract

Battery and Assault Case

Clerk *M.O.D 114/2004 Police versus Sunday Akindele, I appear for the accused*

Prosecutor *Humbly your worship, Yinusa Shuaibu, I appear for the prosecution. The case was adjourned to today for hearing. I have three witnesses to call. Alice idijo, subject to the convenience of this court, we are ready to go on.*

Magistrate *(To the lawyer) Are you ready?*

Lawyer *We are ready*

Examination

Prosecutor *Tell this honourable court your names (Oruko wo ni oun je?)*

Witness *Alice*

Court clerk *Alice ni Oruko oko e? (Alice is your married name*

Witness *Idijo*

Prosecutor *Where are you living?*

Court clerk *Ni bo ni e n gbe?*

Witness *No 17 Yaba*

Prosecutor *What are you doing for a living?*

Court clerk *Ise wo ni e n se?*

Witness *Agbe (farming)*

Prosecutor *Take a look at this accused person, do you know him?*

Witness *Mo mo (I know him)*

Prosecutor *Take your mind back to 14th day of January 2004 at about 9.00 am and explain to the court, what has happened that day*

Court clerk *se o ranti ojo kerinla, osu kinni, odun 2004, ki lo sele lojo yen?*

Witness *Ni agogo mesan ojo yii, okunrin yii wa renti ile lowo mi o si mu obinrin kan lowo. (About 9.0 clock that day, this man came to rent a house for a woman)*

Magistrate *is the woman living in the house?*

Prosecutor *He is the one that brought the woman to come and rent the house. So the woman is not his wife but just a co-tenant.*

Magistrate *(To witness) Answer, is the woman a co-tenant or is she* ***is*** *wife?*

Court clerk *ki se aya re, o kan renti ile ni*

Witness *She is not his wife but just a tenant*

Magistrate *This has introduced another trend*

Prosecutor *Yes, another trend*

Prosecutor *What is the name of that woman?*

Witness *Oni oun kate (she said she is bearing kate) Alias iya Dammy*

Magistrate *Do you have any other witness to go on*

Prosecutor *It is the only I.P.O and the I.P.O is not around.*

Prosecutor *What role did iya Dammy played?*

Court clerk *(kinni iya Dammy se nibe?)*

Witness *Igba meta ni mo ti so fun won ki won kuro nile ti won o gbo. Mo fi olopa mu won gan sugbon won ko papa gbo. (I told them trice to quit my place they refused. I even told the police they still refused)*

Prosecutor *For how many years did this iya Dammy lives with you?*

Court clerk *Odun melo ni iya Dammy ti n gbe pelu e?*

Witness *ko tile ni odun. Osu mejo ni awon mejeeji lo nibe. (it is not a matter of years. They just spent eight months)*

Prosecutor *On that fateful day, of 14th of January 2004, who remove your bucket that day*

Witness *Ni owuro ojo yii, mo gbe peeli si enu ero mi mo sibere si ni ponmi. Mo gbe tiwon kuro nigba ti o kun. Nigba ti o si de o bere si nilu mi. (On that morning, I was fetchingwater from my tap after I had removed their already full bucket. When she arrived, she started beating me saying why should I did so)*

Prosecutor *Who beat you because that is the genesis of this case*

Witness *Only the woman*

Magistrate *She claims she was fetching water?*

Witness *Bee ni (yes). And she started beating me until the man joined her before I was rescued from them*

Prosecutor *What role does this man play, the accused person?*

Court clerk *kinni okunrin naa se nigba ti oun lu e?*

Witness *Ko si. Nigba ti o de, o ri wipe ko si n kan ti mo le se, o je ki o farabale lu mi ki o to wa si ilekun ita ti won jade. Mo si wa nibe fun wakati meji ki n to dide. (Nothing. He allowed her to beat me to her satisfaction before he opened the outer door and they went out. It was up to two hours before I can get up.*

Magistrate *Is the tap inside your house?*

Witness *Inui le mi ni owa. Ni ehin ilemi. Sugbon ona kan wa nibe ti o jade si ojude (it is inside my house at the back. But there is another outlet there to go out)*

Prosecutor *During the time kate was beating you, on what did you fell on.*

Court clerk *Momo, nigba ti o lu yin...[*

Lawyer *I think that is the most irrelevant kate is not before the honourable court. It is the accused person who is..[*

Prosecutor *] I am coming !!!*

Lawyer *That is too forward now!*

Witness *Nigba ti o bere sini nami, mo subu mo si fi ori nale. (When she started beating me, I fell on the floor and hit my head on the floor.*

Prosecutor *Which part of your body did you sustain injury with?*

Court clerk *Momo, nijo ti won n luyin, ibo ni e fi pa.*

Witness *Gbogbo ara mi ni o bo . (I was injured all over my body. All my body was affected)*

Prosecutor *That iya Dammy, I mean Kate, who assisted her to run away?*

Court clerk *Iya Dammy ti o lu yin yii, tani o ran lowo lati salo*

Witness *Ko si. Igba ti o lu mi tan funrare ni o salo. Igba ti o salo tan ni won to lo ranse pe omo mi. (Nobody. After she had finished beating me, she then ran away. It was when she left that they sent for my daughter*

Magistrate *Who went and call your daughter?*

Witness *Igba to o lu mi tan ti oun lo ni o lo pe omo mi. (It was after finishing beating me that she went and call my daughter.*

Lawyer *It is the one that beat mama that went and call daughter.*

Prosecutor *Mama, I want you to tell this court, what role did the accused person played during the time Kate was beating you.*

Lawyer *She has said it. She said the man was standing and looking*

Prosecutor *Who are the people that came to your rescue*

Magistrate *Explain to her*

Court clerk *Kinni ipa ti odaran yii ko nigba ti oun lu yin*

Witness *O tilekun, o si salo. (He locked the door and ran away)*

Court clerk *Nigba ti o lu yin, eni ti o duro ti o n wo yin. (When she was beating you, somebody that was standing and looking*

Witness *Bee ni, o duro o n wo. (Yes, he was standing and looking)*

Magistrate *He did not do anything. He was just standing there watching and looking?*

Witness *Bee ni. (Yes)*

Prosecutor *O.k, who is baba Akinrinjoye*

Court clerk *Momo, tani baba Akinrinjoye?*

Witness *oun gbe inu ile mi*

Prosecutor *What role did baba Akinrinjoye played that day?*

Court clerk *Kinni ipa ti baba Akinrinjoye ko ni ojo yen?*

Witness *Oun ni o ranni lo pea won omo mi lehin igba ti Kate lo si ibe tan*

Prosecutor *O.k. When this happen, how did you report to the police?*

Court clerk *Bawo ni e se lo si odo awon olopa lati lo fi ejo sun?*

Witness *Ibi ti mo wa, mi ko tile le dide ki won to gbe mi lo hosipita. Awon omo mi ni o lo pe olopa. (Where I was, I couldn't even get up before I was rushed to the hospital. It was my children that went to report to the police)*

Prosecutor *When you were being taken to the hospital, which of the hospital?*

Court clerk *Hosipita wo ni won gbe yin lo si?*

Witness *General Hospital*

Court clerk *Se won da yin duro si hospital? (Were you detained at the hospital?*

Witness *Won da mi duro. (yes, I was detained)*

Prosecutor *When they discharge you from the hospital, do they give you any paper*

Court clerk *Nigba ti won da yin sile, se won fun yin ni iwe kankan?*

Witness *Won fun mi ni iwe kan. (They gave me one paper)*

Prosecutor *The medical report and other relevant document concerned with her treatment are with the I.P.O.*

Prosecutor *I suppose to tender it as an ID. But the i.p.o is not around. He is on special duty now.*

Magistrate *So what now?*

Prosecutor *I shall be applying for an adjournment to enable me tender the documents as ID.*

Lawyer *With due respect, if he is to tender medical report, and because of that he is asking for adjournment, I will like to cross-examine her so that on that day of adjournment, he will just tender that medical report.*

Cross-examination

Lawyer *Momo how many rooms are there in that your house?*

Court clerk *Yara melo ni o wa ni ile yin?*

Witness *Ojule mewa. (Ten rooms)*

Lawyer *Beside Kate and the accused person, how many tenants are in your house?*

Witness *Awon meji (There are other two tenants there)*

Lawyer *Momo, you are an oldwoman and by now, it is presumed that* ***you*** *will be speaking the whole truth. Now I want you to answer one question. the accused person did not touch you that day. I want you to confirm that.*

Court clerk *Momo, odaran ti o duro yii ko fi owo kan yin rara.*

Witness *Ko fowo kanmi (He didn't touch me).*

Lawyer *So momo, immediately madam Kate beat you, you fainted, you don't know, you are unconscious.*

Court clerk *Nigba ti Kate lu yin, o subu lule o daku*

Witness *Bee ni, mi o mo nkankan mo . (Yes, I fainted and didn't know what was going on)*

Lawyer *How did you know that the accused person lock the door then?*

Court clerk *Momo, bawo ni o se mo wipe odaran naa ti ilekun?*

Lawyer *Eni ti o ba daku ko le gboran tabi ki o mo nkan ti o n sele . (A*

person that fainted stayed deaf and dumb and cannot know what was going on.

Witness *Emi o mo. (I didn't know)*

Court clerk *Momo, e gbodo da lohun ni nitoripe kootu ni e wa. (momo, you must answer him politely because you are in court.)*

Lawyer *Momo, which one did you want to add to the debate now. Is it that you were fainted or you were still conscious then?*

Court clerk *Momo, ki ni e fe ki a gbagbo bayi, se e daku ni tabi e ko daku?*

Witness *Mo daku (I fainted)*

Lawyer *Momo, in that your house,there are two entrance in that house*

Court clerk *Momo, ona meji ni a le gba wonu ile yin*

Lawyer *A n gba okan jade si kitchen, okan ke ni iwaju ile. (one lead to the kitchen and the other entrance at the front of the house)*

Witness *Bee ni (Yes)*

Lawyer *Which one did the accused person locked?*

Court clerk *Ona wo ninu mejeeji ni odaran yii gbe ti?*

Witness *Ti ehinkule ti o ja si kitchen. (The back one that leads to the kitchen)*

Lawyer *Momo, immediately madam Kate beat you, he went out?*

Court clerk *Momo, se kiakia ti madam Kate lu yin ni o jade*

Witness *O jade lo (she went out)*

Lawyer *So, by the time the police came back kate was not around, that day?*

Court clerk *Igba ti olopa wa, Kate gan ko si nibe*

Witness *Bee ni. (yes)*

Lawyer *So when the police came kate was not at home and the police had to arrest this man, because he was the one at home*

Lawyer *Momo, I put it to you that the reason why you are bitter and you want this accused person to be prosecuted at all cost is because he is watching you when madam kate was panel beating you.*

Court clerk *Momo, idi ti inu yin ko fi dun ni wipe nigba ti madam kate n lu yin ko gbija yin rara*

Witness *Nigba ti eni meji ba n ja ti eni keta ko le so pe ko fi sile (When two people are fighting and the third person cannot even separate them)*

Lawyer *Momo, I am also putting it to you that you are not happy with the accused person because he is watching you when kate is beating you*

Court clerk *Momo, inu yin ko dun si odaran yii nitoripe nigba ti kate n lu yin, se ni o n wo yin*

Witness *O n wo mi. inu mi ko dun. Inu mi se le dun. (yes, I am not happy. Why should I be happy)*

Lawyer *Momo, with these I put it to you that, that is why you are in court now to tell lies against the accused person.*

Court clerk *Nitori eyi ni e se wa si ile ejo, wa puro mo odaran yii*

Witness *Bee ni (Yes) (court laugh)*

Lawyer *Momo, and then Kate is owing you some money and the accused person also on rent (won je owo ile)*

Witness *Won je owo ile (yes, they are owing money on rents)*

Lawyer *And that is the more reason why you are more bitter?*

Witness *Okunrin je owo ile odun kan. Obinrin je owo odun kan abo. (The man is owing a year's rent while the woman is owing one and the half years rent.*

Lawyer *En hen, that is why you are bitter*

Magistrate *How about the accused?*

Witness *Ten thousand ni mo fi owo ina won si. (The money they owe on electricity alone is running up to ten thousand naira)*

Lawyer *Momo, that is why you are bitter and that is why you are in court, not that they actually offended you*

Lawyer *The accused person, because he is owing you some money, that is why you want to prosecute this case to a logical conclusion. If he pays your money now, you will withdraw the case?*

Court clerk *Nitori owo ti o je yin ni e se gbe wa kootu. Se ti o ba san owo naa, e gbe ejo kuro ni kootu?*

Court clerk *Momo, e dahun (Momo, speak up)*

Lawyer *Se ti o ba san owo naa, e ni se ejo mo. (if he pays your money, you are not going to continue with the case?)*

Witness *En hen, teletele mo ti so pe ki o san owo mi ki n dariji. (kootu n rerin) Ejo olorun lo ju. Agbalagba si ni mi. (En hen, I have told him before to pay my money and I will forgive him. (court laughs). God's judgement is the most powerful. And I am already an old woman)*

Lawyer *I have even told him before to pay the money and I will intervene*

Magistrate *This is not the right way of collecting rent money and not the right of the court. Tell her*

Lawyer *Momo, ki se ona ti eniyan n gba gbe eniyan lo si ile ejo lori owo ile niyi. Rent tribunal w anile. (momo, this is not the right way of collecting rent money. There is rent tribunal)*

Magistrate *You can't recover the money here*

Lawyer *she can't. That is all for her sir*

Court clerk *Momo, se ti o ba san owo naa e ko niba se ejo mo?*

Lawyer *If she pays you the money, you will withdraw the case*

Witness *Ti o ba san owo mi, mo gba, mi o si ni se ejo mo. (if he pays, I agree, and I will withdraw the case*

Lawyer *En hen, that is what I am saying*

Witness *Sugbon ti ko ba san fun mi , ejo tun sese bere niyen (kootu rerin) (But if he refuse to pay, the case will continue) (court laughs). (After that the man pays half of the money)*

Magistrate *Accepts what he is giving you today. And if he refuses to pay the balance later, you can recharge him to court.*

Court clerk *Momo, won ni ki e gba eyi ti o ba fun yin naa loni. Ti ko ba wa san eyi ti o ku lojo iwaju, ki e tun gbe wa si kootu.*

Accused person *I will instruct my lawyer to pay her three thousand naira more*

Magistrate *Why don't you pay her the balance? It is better for her to owe you than you owing her. (To the lawyer) Tell him to pay the money quickly.*

Lawyer *I will intervene so that they will settle the matter out of the court.*

Magistrate *He must pay it before the end of the month*

Court *As your lordship pleases.*

APPENDIX III

Burglary and Stealing Case

APPENDIX 111

Trial Extract

Burglary and Stealing Case

Court clerk	*M.O.D/256/2003 Police versus Keneneth Akinduro*
Lawyer 14	*With utmost respect my lord, Chief A.O Ogunwale; I appear for the accused person*
Prosecutor	*This case is a continuation; I have three witnesses in this case. The PW1 has given her own evidence remaining PW2 and 3 and subject to the convenience of this court. We are ready to go on with the PW2. Though the I.P.O is not in court, he is on special duty.*
Magistrate	*Call the one that is ready*
Prosecutor	*Aikueni, Olubodun*
Witness 2	*Yes, my lord*
Clerk	*Say after me, I swear that the evidence I shall give in this court shall be the whole truth and nothing but the truth*
Witness 2	*(repeating after him)*
	Examination
Prosecutor	*Tell this honourable court, your names*
Witness 2	*My name is Aikueni Olubodum*

Prosecutor *Where do you live?*

Witness 2 *I live at Bolorunduro, in okitipupa*

Prosecutor *No address?*

Witness 2 *No 27*

Prosecutor *Tell this honourable court your job*

Witness 2 *I am a fashion designer*

Prosecutor *Where is your shop?*

Witness 2 *Near central market, in okitipupa*

Prosecutor *Take your mind back on the tenth day of march 2003, at about 5.30pm, tell this honourable court, what happened on that day*

Witness 2 *On that very day, I went to shop then my wife came to call me and I asked her what is the matter, and she said, they have stolen her money 42,500 naira. Then I went down to the police station to complain.*

Prosecutor *Before you got to the police station and lodge complain, have you been to your house?*

Witness 2 *Yes,I have been to my house because when I got home...[*

Prosecutor *when you got to your house based on the complain laid by wife, how did you assess the house then?*

Witness 2 *When I got home, I first look through the entries*

Prosecutor *You mean the main entrance?*

Witness 2 *The passage to the rooms. And my room is no 2 to the right and their own is no 3 to the right. I observed that they passed through the ceiling because they cut the ceiling in my room.*

Prosecutor *is the door got broken or tempered?*

Witness 2 *No*

Prosecutor *When you enter your room, what is the type of your asbestors?*

Witness 2 *The mats type*

Prosecutor *She told you that she kept the money inside room inside sack*

Magistrate *You mean bag?*

Witness 2 *Natural/local bag*

Prosecutor *Did you conduct searching there?*

Witness 2 *I don't understand you*

Prosecutor *Did you search the area when you got home?*

Witness 2 *When we got there, everything had been torn already.*

Prosecutor *When your wife was counting the money in the morning, who did she said she saw her*

Witness 2 *She told me that when she was counting the money in the morning, Kenneth and the second guy were around*

Prosecutor *Who is the second guy?*

Witness 2 *Kenneth and Yakubu*

Prosecutor *The acussed persons no 1 and no 2 minus no 3*

Witness *They were the only one in the house that day, walking around*

Prosecutor *In that compound, where you live, who has been stealing in that house?*

Witness 2 *It is Kenneth and the second accused persons.]*

Lawyer to the accused persons *With due respect sir, my lord, I am sorry, the prosecutor himself knows that, that is not a good question to be asked in court*

Magistrate *I wouldn't allow that*

Lawyer *Thank you very much sir.*

Prosecutor *I am sorry sir.*

Prosecutor *You said in your evidence, that you reported the matter to the police. When the police followed you, what is the action of the police?*

Witness 2 *When the police followed me, on getting home, they cannot find the two of them on that spot.*

Prosecutor *When police got to your house, what did the police do?*

Witness 2 *On getting there, they can't find the two of them*

Prosecutor *When the police followed you there and they couldn't see the accused persons, what did police do there?*

Witness 2 *They first looked through the entries of the house, they looked at the door, there is no damage, and they saw that they have damaged the ceiling*

Prosecutor	*What did the police do with the native bag?*
Witness 2	*The police took it along as evidence*
Prosecutor	*To where?*
Witness 2	*To the station*
Prosecutor	*When you reported this matter, what did the police do again?*
Witness 2	*They wrote all our complaints about what happened on that day*
Prosecutor	*After that your statement, what did police do bagain?*
Witness	*After that, they went to arrest the accused persons*
Prosecutor	*Where?*
Witness	*At their brother's house*
Magistrate	*Both of them?*
Witness	*Yes, both of them*

Prosecutor *When police brought them to the station, what did police do with them?*

Witness *The police asked them what happened on that very day. The police asked them where they are they.....[*

Lawyer *]With due respect sir. We don't need to be wasting the time of the court. He is not the one to say what the police asked. He is not the one to tell us. The I.PO will be coming and he will tell us what they asked and not this one will be telling the court what did police asked. The police was there and police asked questions. The police will come and relate what they asked to the court. It is like wasting the time of the court*

Prosecutor *Hen, en, he is my prosecution witness. I have every right to find out what perspired on that day*

Lawyer *Alright, go on then*

Prosecutor *When it comes to cross-examination, you can also asked any questions*

Lawyer *No, it can not be allowed to just be asking any questions. He is giving hear say evidence that will not be recorded at all*

Prosecutor *No, not hear say.*

Lawyer *He is telling us what the police said. It is hear say]*

Magistrate *Just go ahead, I know what to do. He is not a lawyer and he doesn't know the difference between*

hear say and real evidence. Go ahead

Prosecutor *What did the police do, thereafter?*

Witness *They took us to the house again and look at the entries of their own rooms.*

Magistrate *Who and who?*

Witness *Both of us*

Prosecutor *Then after what did the police do again*

Witness 2 *They looked towards their own rooms and discovered that their own room is not having any ceiling.*

Prosecutor *That is all I have for the witness, my lord.*

Cross-examination

Lawyer *You have told this court that you are a fashion designer, otherwise you are a tailor*

Witness 2 *Yes*

Lawyer *You have told this court that you left home around 8.0 clock and the matter was brought to your notice around five. That is the period of about... nine hours. When you were at the shop, you didn't know what*

was happening at home . I want to put it to you that you wouldn't know what happened since 8.o clock till about five o clock after you had left. About nine hours, you wouldn't know what was happening in that house

Witness 2 *Yes, I didn't know*

Lawyer *Your wife sell what actually, (trice). What does she sell? (Repeatedly)*

Witness 2 *she sells cooler*

Lawyer *she has a shop?*

Witness *Yes*

Lawyer *she sells both at home and at shop. So even if the customers come here, they can buy*

Witness *Not like that.....]*

Lawyer *Yes or no*

Witness 2 *No*

Lawyer *she doesn't sell at home*

Witness 2 *she doesn't*

Lawyer *Won't you be surprised to hear that somebody came*

home that day to pay your wife money at home on her wares

Witness 2 *I am not aware*

Lawyer *On that morning of the incident, have you heard about one Thomas?*

Witness 2 *No*

Lawyer *Your wife has told this honourable court that Thomas came to pay her 2000 naira that morning, are you not surprised?*

Witness 2 *I am not aware*

Lawyer *Were you there when your wife was counting the money?*

Witness 2 *No*

Lawyer *You will not know if anybody was around when your wife was counting her money because you were not around when she was counting.*

Witness 2 *Yes I was not around when she was counting.*

Lawyer *So you wouldn't know whether the accused person is even around, you wouldn't know*

Witness 2 *No*

Lawyer *You said you left the accused person at home when you were going to the shop. Your wife also said, she left them, did you leave them as security person in the house?*

Witness 2 *t was like this....[*

Lawyer *The answer is very simple. Did you leave them as security guards for your home? Yes or no*

Witness 2 *No, they are not my security guards*

Lawyer *You know the accused persons have their jobs?*

Witness 2 *Yes, they have their jobs*

Lawyer *That as you go to your own job, they too have their own right to go to their own jobs, yes or no?*

Witness *Yes, they have the right. But that very day, they told me that they are not going to their work. Their master was not around on that very day.*

Lawyer *Listen, remember you have told the court what happened, that you left the house around 8.0 clock in the morning and came back around 5pm in the evening. Then what brought about the interview that they were telling you that they will not be going to work?*

Witness *They told me around 7 am that their master is not around is not around that very day and they are not going to work. We were conversing together that morning.*

Lawyer *What is the relationship between you and the accused persons that they are telling you this?*

Witness *So many times, I have helped them by giving them money and food. Yet they will still be stealing my food. So many times, I have told their brother not even once. So many times, I have been reporting them. There was a day the policeman caught them. They were looking at television, in my own room, I kept my store outside at the passage and Kenneth went there and stole the yam which we are cooking.*

Lawyer *Was the matter reported to the police?*

Witness *No, but I reported to the brother*

Lawyer *That is alright (trice) you did not report to the police. So there is no record of that.*

Witness 2 *Why we didn't report to the police was that, the police who caught them, we are the same neighbour.*

Lawyer *That aspect is not before this honourable court. What is before this honourable court is that you said they stole 42,000*

naira

Witness 2 *And moreover sir....]*

Lawyer *[did you see them climbing the ceiling to take the money?*

Witness 2 *No sir*

Lawyer *So many people are living in that your house, how many people?*

Witness 2 *We are only four*

Lawyer *Only four*

Witness 2 *Yes*

Lawyer *Mention those who are living there*

Witness 2 *The first person there is the police*

Lawyer *You and your wife are there and the accused persons and you said four people*

Witness *I mean four rooms*

Lawyer *How many people?*

Witness 2 *We are seven*

Lawyer *You know the movement of other people that day?*

Witness 2 *Yes*

Lawyer *You know the movement of everybody?*

Witness 2 *Yes*

Lawyer *Ok. Tell the court.*

Witness 2 *The first person is the police and he went down to the station to report for duty. Both of my kids went to school that very day.....]*

Lawyer *what is the location of that your house, how far is it to the road*

Witness 2 *It is by the road side*

Lawyer *By the side of the road?*

Witness 2 *Yes*

Lawyer *People normally pass through the road ?*

Witness 2 *No*

Lawyer *You can't say no. it is a road and people must be passing through it.*

Prosecutor *Is it a federal, state or local road, that is the point*

Lawyer *Since the house is beside the road, anybody passing will pass near your house.*

Witness 2 *They can pass through the main road. But not beside our house*

Lawyer *Now, the other people that left the house and the people passing by, you wouldn't know if any of them came back to the house since you were not around?*

Witness 2 *Even the...]*

Lawyer *You wouldn't know, answer yes or no!*

Witness 2 *When everybody left the house, the last person is going to lock the door*

Lawyer *Whatever you say again is not for me!*

Lawyer *You have said all of you left the house. You wouldn't know whether any of them or other people came into that house since you were not around.*

Witness 2 *None of them came back*

Lawyer *You wouldn't know*

Witness *Yes, I wouldn't know*

Lawyer *En hen ok*

Lawyer *You have properties, you buried your head in the shop for nine hours, how would you know whether somebody came to the house or not. The house is also beside the road, anybody can come there, so you can't know (trice)*

Lawyer *That is all for me sir.*

Magistrate *Case adjourned to 2/7/2004*

Court *As your lordship pleases.*

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