(LARES) VOL 19, No. 2, Nov 2020

LARES

A publication of
Department of English,
University of Lagos, Akoka,
Lagos, Nigeria

Lagos Review of English Studies
A journal of Language and Literary Studies

A Generic Power Relations Assessment of the Linguistic Items in the Proscription Order of Boko Haram, IPOB and Shiites in Nigeria

Bibian Ugoala

Abstract

The study examines the power potential in the legalese of the ex-parte proscription order of the Boko Haram sect, Indigenous People of Biafra (IPOB) and the Shiites in Nigeria by the Federal Government of Nigeria (FGN). The argument raised in this study is that in as much as the court through its ruling in ex-parte proscription orders ensures law and order in the society, forceful linguistic items should be expunged from such documents. Three objectives guided the study: to ascertain how dominance is enacted in each text by the applicant and the court; to highlight and discuss the repeated and similar linguistic structures through which the applicant dominate the absentee respondent (AR), to find out the different dimensions of power relations encoded in the documents. To achieve these objectives, three ex-parte proscription orders were selected for the study. The documents were downloaded from the online copies of the official gazette of the Federal Government of Nigeria (FGN). The study adopts a descriptive method applying Bhatia's (2004) Genre Theory, and Fairclough's (1992) Critical Discourse Analysis. Selected excerpts were lifted from the documents and analysed. The summary of the findings is that, the applicant in each case, to get the absentee respondents (ARs) proscribed, deployed forceful verbs such as: 'declaring', 'proscribing', 'restraining', syntactic repetitions: such as 'an order', 'that an order', 'and 'terrorism and illegal', unconventional graphology: such as setting some phrases and clauses in upper cases, and long sentences not separated by commas, these unconventionalities qualify the documents to be classified as genres of legal proscription documents. The study concludes that ex-parte proscription documents are replete with authority-imbued intertextual linguistic items which serves as a model for further wishes from an applicant, and rulings by the court.

Keywords: Ex-parte proscription order, absentee respondent, constitution, Boko Haram, IPOB, Shiites

1. Introduction

Free speech and the freedom of association are allowed in a democratic government; and in Nigeria, they are enshrined in sections 39 and 40 of the 1999 constitution. These sections, guarantee the right to freedom of expression and the press. Thus, an individual or a group is free to air views that are within the ambit of the law. When the government feels that the right of freedom of expression has been violated by an individual or group, the Government comes up with measures to checkmate them. The use of ex-parte proscription order to ban activities of an individual or a group is a way through which the government, through the judiciary checkmates the activities of perceived erring individual(s) or group. The judicial arm of government in Nigeria is constitutionally recognised in section 6 of the 1999 constitution as a vital arm of government grounded on the rule of law (Gibbons, 2003). However, researchers have been concerned with the roles language play in relation to the aim of such interaction. To achieve order in the society, human activities and relationships are subject to legal regulations.

It can, therefore, be deduced that people, language, and law are inter-dependent and interrelated (Abubakar, 2004 : 28). The study looks at the language use in the proscription orders which were obtained 'ex parte' by the Federal Government of Nigeria (FGN); meaning that, the other parties—the Boko Haram sect, Indigenous people of Biafra (IPOB) and the IMN (Shiites) were neither notified nor allowed to be present before the court gave the order. The ex-parte orders investigated in this study are legal actions, taken by the court at different socio-cultural contexts in response to the perceived acts of terrorism by the proscribed groups. On the one hand, an ex-parte motion is a decision by a judge without requiring all of the parties to the dispute to be present at the hearing. On the other hand, an ex-parte proscription order is any court order that is taken when one party is not present at the hearing. Generally, an ex-parte motion or hearing is allowed in various circumstances, most notably when it is an emergency situation and the other party cannot be contacted, especially when the petitioner needs immediate relief or protection. An ex-parte order can be granted in cases where there is a possibility of immediate property destruction or extreme violence, the applicant petitions the court for an emergency protective order or restraining order, custody order, or an order preventing someone from destroying property.

The Boko Haram group or sect, is a Nigerian militant Islamist sect which seeks political and religious reform within Nigeria. Scholars, who have carried out studies in relation to Boko Haram activities in Nigeria, conclude that the sect craves for the adoption of Sharia law in all parts of Nigeria (Bagaji et al, 2012; Onuoha, 2012; Solomon, 2012; Walker, 2012). This extremist sect threatens the security, sovereignty and stability of Nigeria, particularly Northern Nigeria, by a range of high profile attacks on the military, police, schools, political figures and other infrastructure (Nicoll, 2011; Think Security Africa, 2011). This led to its proscription in 2013, by the Federal Government of Nigeria.

The indigenous people of Biafra (IPOB), led by one Nnamdi Kanu, in pursuit of its perceived mandate to champion the secession of the Igbos (an ethnic group in the Southeast) from Nigeria, embarked on massive grassroots mobilization of the Igbo in support of the Biafra dream. Following reported clashes between military personnel and IPOB members at Umuahia Abia State, the threat to secede from Nigeria contrary to the intent of Section 2(1) of the 1999 Constitution (as amended), among other alleged crimes, President Buhari issued a presidential proclamation proscribing IPOB. With the Presidential proclamation, the Honourable Attorney-General and Minister of Justice of the Federation, Abubakar Malami, (SAN), filed an ex-parte application at the Federal High Court, Abuja before Justice Kafarati who on September 20, 2017, by an order proscribed IPOB and labeled it a terrorist group.

The Islamic Movement of Nigeria (IMN), a group of Shiites believers of Islam was proscribed by an ex-parte order following their protest of the continual detention of their leader, Ibrahim El-Zakzaky and his wife, Zeenat. The couple has been detained since December 2015 after soldiers killed over 300 of El-Zakzaky's followers for allegedly blocking a road being used by the army chief, Tukur Buratai. Nigeria's solicitor general brought an ex-parte application before the court, seeking to have the group declared a terrorist organization and banned. In announcing the ban on the movement, the Presidency stated that the government had "outlawed the criminality of the group," which has engaged in terrorist activities, "including attacking soldiers, killing policemen and a youth corps member, destroying public property, consistently defying State authority." A Nigerian court ruled on July 26, 2019 that activities of the Shia Islamic Movement in Nigeria (IMN) amount to "acts of terrorism and illegality" and ordered the Government to ban the religious group. The group was then officially banned on July 28, 2019.

When the government takes a decision against a group of persons through official documents like ex-parte orders, because of the veto power the government has, the pronouncements in such documents become binding on the affected group. The problem with such documents is that the forceful language use in them makes them serve as a tool of domination from the government on other persons in the society, thus creating a distance between the government and the governed. The formulaic expressions which constitute legal documents can encode power differentials, being different from the normal language usage of the common man. This becomes a problem, because the affected group may feel oppressed or marginalised by the Government. Ex-parte orders are public documents which ought to be civil in the use of language, because they contain issues relating to the rights of persons in the country.

This article focuses on examining how the structured language of ex-parte proscription order overtly and covertly dominates the absentee respondent, hereafter 'AR', and on other persons in the society. To achieve this aim, three research objectives have been raised which logically gave rise to these questions: how is dominance enacted in each text by the applicant; what are the repeated and similar linguistic structures through which the applicant dominate the AR; and what are the different dimensions of power relations encoded in the documents? The argument raised in

this study is that, in as much as the court through its ruling in ex-parte proscription orders ensures law and order in the society, forceful linguistic items should be expunged from such documents.

The Federal Government is powerful, and regulates the activities of citizens through the court. The citizens are sometimes made to accept the position of the Federal Government by the constitution which invests so much power on the Federal Government. This study sees the applicants (the FGN represented by the court) as the active participants and the defendants (Boko Haram, IPOB, and Shiites) as the passive participants in the ex-parte orders analysed in this study. The paper is structured into seven parts: the introduction, the literature review, the theoretical framework, the methodology, data analysis, findings and conclusion.

2. Literature review

2.1 Power Relations

Power, according to Wang (2006), can be characterized as the ability to control and constrain others; as the capacity to achieve one's aim; as the freedom to achieve one's goals and as the competence to impose one's will on others. To Gibbons (2009), it is the ability of an individual or a group of individuals to carry out their will. Power relations, can manifest in different dimensions in a discourse. Particular to this study, is unequal power relations which arise when one of the interlocutors in a discourse because of social structures, has the upper hand, and dominates the discourse.

Fairclough (1992a) views language as having two versions of power: power in discourse and power behind discourse. The former indicates the power which appears in lexical choices and syntactical structures, e.g. directive speech acts, imperatives etc. The latter includes power behind discourse where 'the whole social order of discourse is put together and held together as a hidden effect of power. In Fairclough's approach of CDA, there are three analytical focuses in analysing any communicative event (interaction). They are text (e.g. a legal discourse), discourse practice (e.g. the process of production and consumption), and socio-cultural practice (e.g. social and cultural structures which give rise to the communicative event) (Fairclough, 1995b).

2.2 Institutional Power and Legal Discourse

Institutional power refers to authority backing an institution. Such authority is transferred to the individuals or persons working in such an institution. Institutions like the healthcare, academic, and the court have ways through which they exert authority. The court for instance, is empowered by the constitution to take and make decisions; and also to proscribe perceived erring individuals or group of persons. This means that, the court has power and authority, to bring about certain changes/actions in the society. The Judiciary as an institution is the arm of the Federal government of Nigeria (FGN), which operates in the court. The power and authority it wields is within that

allowed by the FGN. Elster describes institutions as rule enforcing mechanisms in different domains.

Stahl (2011) illustrates that an agent 'A' has institutional power, that is, power stemming from her status position in an institution, over a set of persons 'B', if and only if to the extent that the rules which constitute the institution entitle 'A' to make demands on their behaviour and 'B' are ready to accept (sanctioning) evaluations of their behaviour in regard to these rules' (355). It can be taken that a person is in a position of authority if s/he has the status of being allowed to issue legitimate demands upon others according to the rules of an institution, and thus, has institutional power to the extent that the institution is accepted. The data analysed in this study exemplifies this.

Language and power are inextricably linked. Studies on the asymmetrical relations in discourse have shown that language is a major tool for the enactment of power (Fairclough 1989; 1995; Wodak 1996a; van Dijk 1997). Power relations are relationships in which one person has social-formative power over another, and is able to get the other person to do what they wish (whether by compelling obedience or in some less compulsive and even a more subtle way. Power relationships are such social objects in which power is operative by the nature of the relationship; usually this combines a measure of authority with formative ability to have a desired effect on the other person or group.

2.3 **Linguistic features of legal discourse**

Danet (1980: 273) posits that "the study of legal discourse (LD) is concerned with the nature, functions, and consequences of language use in the negotiation of social order." Awe and Fanokun (2018) submit that 'Language is particularly significant in law because it is through it that the law finds expression. From formulation to interpretation and enforcement, law exclusively depends on language'. Language is used in communication in various disciplines and all spheres of life. This goes to mean that the language use will also differ both in form and content depending on the discipline. The concept of register succinctly captures the use of language in different domains. According to Yule (2012), one of the main characteristics of register is that it is the use of special jargons. He avers that jargon is the 'technical vocabulary associated with a special activity or group' (245).

Trosborg (1997: 13), points out that legal language is "formulaic, composed of technical terms, common terms with uncommon meaning, archaic expressions, doublets, formal items, unusual prepositional phrases". He further observes that ''long and complex sentences, technical vocabulary are peculiar to the legal register" (23). Like Trosborg, Tiersma (1999) notes that legal language is full of archaic words, unusual sentence structure, nominalizations and passives, multiple negation and impersonal constructions and redundancy also referred to as a "boilerplate". For Gibbons (2003: 9), "Legal language […] has recognizable and distinct patterns in the deployment of the linguistic resources". In relation to person, the 1st and 2nd person pronouns are

sparingly used, the 3rd person pronoun is used mostly in all types of legal documents. Also, persons are not addressed by their personal names, but by their positions in legal process. There is the prevalent use of passive constructions**.**

Onyemelukwe and Alo (2017) focus on the language of law vis-à-vis the semantic features of aptness and ambiguity. They applied the purposive sampling technique to select the verdict pronouncement on the corruption case involving Bode George and some other ex-NPA officials. One major finding of the study is that while aptness is a foregrounded semantic feature of the legal register, ambiguity is a most back-grounded element in the register, which underscores the scholarly notion that the language of law objectifies utmost clarity due to its overall magisterial nature. The pragmatic implication of the findings of the study is that nobody who comes under the magisterial umbrella of the law can make excuse of ignorance on the ground of its language.

Awe and Fanokun (2018) differs in opinion from Onyemelukwe and Alo (2017) position that language of law objectifies utmost clarity due to its overall magisterial nature. Awe and Fanokun (2018) opine that legal contract is notorious for formalities and unchanging nature, especially with the use of archaic words and formulaic expressions which are important genre of legal English. They submit that although the formalities afford lawyers opportunity to achieve "precision", they constitute a serious challenge for the layman. The study examined the frequency, structure, and meaning of archaisms to argue that the elements are operational tools in legal contracts. The data for the study were derived from ten purposively sampled legal contracts of the Akure Judicial Division of Ondo State Nigeria. The study concludes that archaisms which according to lawyers, are used to lend a touch of formality and precision to legal language, should give way to modern words which can serve both lawyers' and non-lawyers' needs. Awe and Fanokun's (2018) study has some implications for the current study, that formulaic expressions which constitute legal documents can encode power differentials, since they are different from the usual words which constitute the lexicon of the common man. That is probably why Gilman (2012:119) says that the archaic language of law – its bewildering syntax and other faults of grammar, its less than forthright expression, is paralysing communication. Moore (2010: 14) also submits that when legal documents are read by non-legal practitioners, they are often difficult to comprehend or even deceptive for those without legal training.

The summary of the above reviews by scholars shows that, the features of legal language are different from normal writing in graphology, punctuation, sentence structure, technical terms, pronoun use, and italicization.

2.3 Language Use in Proscription Orders

Most of the available documented empirical studies on proscription orders are done in Western countries (Bertoa and Bourne 2016; Jarvis and Grand, 2018; Nadarajah, 2018). A few studies by Nigerian scholars, Ojimba (2011), warns against Judges granting ex-parte orders indiscriminately,

Adangor (2018), Ekwueme and Ugwuanyi (2018) studied people's reaction on the proscription of IPOB, all conclude that the Government should exercise caution in proscribing groups through the ex-parte order.

Bertoa and Bourne (2016) motivated by the under researched area of proscription orders especially party bans employed a new dataset of banned parties in Europe between 1945 and 2015, the study compares the effects of party ban regulation on party system stability in three different areas (electoral, parliamentary and governmental), and in three different countries. Using examples both at national and regional (e.g., Basque Country, Navarre, Saxony) levels, and making use of survey data, the study found that the banning of a relevant political party not only increases volatility and reduces fragmentation, but also alters the existing structure of competition at the time of government formation.

Jarvis and Grand (2018) examine the proscription of terrorist organisations around the world, and argue for greater attention to proscription powers amongst other reasons because of their implications for political life. The article discusses five themes: key moments of continuity and change within proscription regimes around the world; the significance of domestic political and legal contexts and institutions; the value of power in countering terrorism and beyond; a range of prominent criticisms of proscription, including around civil liberties; and the significance of language and other symbolic practices in the justification and extension of proscription powers.

Nadarajah (2018) critiques the means-end instrumentalism of proscription's advocates. He argues that, proscription powers are more appropriately understood as constitutive of the West's vision of a global liberal peace. Nadarajah sees the banning of Tamil groups in Western states, as a product of transformations in how liberalism and illiberalism are understood and operationalised in security policy.

In Nigeria, Ojimba (2011) notes that ex-parte order of interim injunction, is a constitutional leverage specifically given to Judges to make an order in exceptional circumstance, granting the request of an applicant in a suit in the interim without hearing from the other party. Ojimba weighing the merits and demerits of ex-parte orders says that such orders are necessary in order to maintain the status quo pending the time litigants go full blast in determining the merits and demerits of their cases. Ojimba maintains that caution must be the watchword in granting ex-parte orders as it has been proven time and time again that in certain circumstances especially in political matters, Judges tend to abuse the privilege by granting such orders at the drop of a hat. He further says that this does not augur well in the development of Nigeria's legal system.

Adangor (2018) carried out a study on the ex-parte proscription of the Indigenous People of Biafra (IPOB). He submits that the proscription of the Indigenous People of Biafra (IPOB) as a terrorist organization by the FGN following the ex-parte order granted by the Federal High Court Abuja, remains one of the most politically divisive action taken by the Buhari led government.

The paper critiques the proscription of IPOB as a terrorist entity pursuant to the provisions of the Terrorism (Prevention) Act, 2011 (as amended). He argued that IPOB is a separatist group committed to the restoration of the Biafra Republic which it is believed, will herald the political emancipation of Ndigbo. He further argued that to treat IPOB as a terrorist group is to politicise terrorism and weaken the efficacy of the Terrorism (Prevention) Act. He concludes that given the enormous powers granted to the President under the provisions of the Terrorism (Prevention) Act, 2011, the President must strive to exhibit true patriotism in exercising those powers and must resist the temptation of using the instrument of the statute for advancing ethnic, sectional, religious or political interest.

In a similar study to Adangor (2018), Ekwueme and Ugwuanyi (2018) examined people's view online about the proscription and classification of the Indigenous People of Biafra (IPOB) as a terrorist organization. The study examined divergent positions of newsmakers who are opinion molders since they greatly influence the thinking of the populace towards any particular subject. The analysis was done within the framework of the Democratic Participant Theory which posits that input of the people in public policy and decisions should matter. Using Google filters, the researcher examined a sample of the people's reactions published online to answer four research questions, yielding among other things that government's designation of IPOB as terrorist organization was not popular, especially as a much more violent group – Fulani militia – recognized abroad as terrorist organization was not so classified locally. The paper called on the authorities to be even handed when dealing with criminal groups irrespective of the part of Nigeria they come from, and advocates that government should give every segment of society a sense of belonging.

Some researchers have carried out researches on legal language, some on the complexities and the convoluted nature of legal documents. The current study differs from others; first, it is based on the theoretical and methodological apparatus proposed by Fairclough's CDA (1992) and Genre Theory by Bhatia (2004). Also, this study focuses on a generic power relations assessment of the liguictic items on the proscription orders of Boko Haram, IPOB and Shiites in Nigeria. However, none of the works reviewed has explored the power relations in the structured language use in ex-parte proscription orders to reveal how linguistic structures directly and indirectly give the applicant the higher power.

3. Theoretical Framework: Genre Theory and Critical Discourse Analysis

Insights from Genre theory by Bhatia (2004) and Criticial Discourse analysis by Fairclough (1992) guided the analysis. Genre theory as developed by Bhatia (2004) is hinged on the claim that Genres are recognizable communicative events, characterized by a set of communicative purposes identified and mutually understood by members of the professional or academic community in which they regularly occur. Bhatia (2004: 23) defines Genre as 'language use in a conventionalised

communicative setting in order to give expression to a specific set of communicative goals of a disciplinary or social institution. This definition is relevant to the present study which has as its aim the examination of discursive features of the ex-parte proscription document of Boko Haram, IPOB and Shiites in Nigeria. Ex-parte proscription documents are sub-genre of legal genre which is necessitated by the desire of the FGN in order to give expression to a specific set of communicative aims. Hodge and Kress (1988: 7) argue that 'genres only exist in so far as a social group declares and enforces the rules that constitute them'.

Bhatia explores the area of the formal and functional characteristics of qualifications in legislative writing and the applications of this to the pedagogical situation. Bhatia maintains that qualifications play a central role in the rhetorical structuring of legislation and 'form the basis of the underlying cognitive structuring ... without which it (the legislative provision) will be nothing more than a mere skeleton of very little legal significance' (Bhatia, 1983a: 26). Qualifications, especially prepositional phrases and subordinate clauses, are very syntactically mobile, and thus, are important part of the draftsman's repertoire being inserted ''at various syntactic positions to achieve, on the one hand, clarity, unambiguity and precision and on the other hand, all-inclusiveness'' (ibid: 26). Bhatia also draws attention to the tendency of legislative writers to nominalise, to use complex prepositions and binomial and multinomial expressions, and syntactic discontinuities to achieve these aims. The result is that legislative texts are frequently extremely long and syntactically complex and consequently, very difficult to read.

Genre has been defined from three different traditions of genre studies. The first definition is from the tradition of new rhetoric genre studies. Miller (1984/1994) argues for genre as rhetorical action based on recurrent situations and for an open principle of genre classification based on rhetorical practice, rather than a closed one based solely on structure, substance, or aim. Genre studies in this tradition, focus less on features of the text and more on relations between text and context often by employing ethnographic research or case study methods. The second definition of genre is proposed by Martin (1984) from the perspective of systemic functional linguistics. He describes genre as "a staged, goal-orientated, and purposeful social activity that people engage in as members of their culture" (25). The third is from English for Specific Purposes (ESP) proposed by Swales (1990). He proposes genre as a class of communicative events with some shared set of communicative purposes. This view of genre studies puts much emphasis on identifying structural elements in texts and makes statements about the patterning of these elements. The three approaches though deal with different issues have much in common in that they all relate genre to linguistic manifestation focusing and highlighting societal issues.

Bakthtin (1986: 80) describes speech genres as 'changeable, flexible, and plastic', because they have to easily fit any situation while at the same time, also need to retain certain characteristics to ensure that participants think about a specific situation in a similar way.

Genre, in the present study is employed as a descriptive analytical tool. This includes not only descriptions of the characteristics of the actual texts analysed, especially organizational structures, but also a contextualised view on genre which includes consideration of how the texts emanate (Kress & Threadgold, 1988; Threadgold, 1994; Devitt, 2004). This perspective on genre, suggests that generic meanings are construed between and across texts. Here, genre plays out as an intertextual phenomenon. In addition, the context in which a genre is produced and used is another focus in genre analysis. In other words, this perspective regards "genre as rhetorical and dynamic, integrating form and content, product and process, individual and society' (Devitt, 2004: 6), rather than as simply a classification system and formula of language structures.

Contemporary theorists (Wales 1989; O'Sullivan et al. 1994) underscore the essence of the concept of intertextuality, that is, of seeing individual texts in relation to previous ones. Wales (1989) notes that ''genre is... an intertextual concept'' (259). This way, genre in a particular field should be understood as a property of the relations between texts. Accordig to Neale (1980) postulations, repetitions and modifications abound in relation to genre analysis as we shall see shortly in the data analysed.

Fairclough (1995) points out that, the relation between language and power relations amongst others is a central concern in the field of Critical Discourse Analysis (CDA). The primary aim in this field is to describe and explain how social power abuse, dominance and inequality are enacted, reproduced and resisted in text and talk. CDA is a theory that examines and analyzes power asymmetry in discourse. It primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context (e.g. Fairclough, 1989; van Dijk, 2000; Wodak and Meyer, 2009). Wodak (2001: 2) submits that CDA is mainly concerned with analyzing people as well as transparent structural relations of dominance, discrimination, power and control as manifested in language use.

Social institutions like the police, the media, schools and the court have powers which have been imposed on them through the way the society is structured. Ugoala (2015: 65) avers that these social institutions have unique ways of communicating and manipulating ideas and desires through members of that institution. To unravel manipulatory tendencies in texts entails doing a critical analysis of the texts. Fairclough (1992) whose method of CDA is adopted in this study, conceptualised discourse as a three dimensional concept. Fairclough (1995) defines CDA as a discourse analytical procedure which aims to systematically explore often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony (135).

Fairclough (1992) concept of Intertextuality guides the analysis in this study. He sees all texts as having relationships with previous texts. Chouliaraki and Fairclough (1999: 119) see intertextuality as being central to Critical Discourse Analysis (CDA). Accordingly, they point out that intertextuality can 'conceptualise the property texts have of being full of snatches of other texts, which may be explicitly demarcated or merged in and which the text may assimilate, contradict, ironically echo, and so forth'. In other words, intertextuality provides a theory and method through which relationships of meaning created by legal texts can be traced, mapped and imagined beyond textuality itself. Intertextuality as a concept is common to the theories upon which the analysis in this study is anchored. One general view of intertextuality by the Genre theory and CDA, is that, texts have elements or traces of previous ideas in them.

4. Methods

The three texts analysed were downloaded from Online sources (see web addresses at the reference section). They were published in the Online copies of the official gazette of the Federal Government and posted Online. Text 1 is suit No: FHC/ABJ/CS/368/2013, text 2 is suit no: FHC/ABJ/CS/871/2017, and text 3 is suit no: FHC/ABJ/CS/876/2019. Each text is in turn divided into excerpts for easy analysis. The texts all have similar layout. The venue, suit number, the names of the appplicant and the name of the absentee respondent (s), the 'order' comprises what in a lay man's language, the request from the applicant, and the judgement by the court which is a near repetition of the applicant's request.

The study adopts a descriptive method of analysis applying Bhatia (2004) Genre Theory, and Fairclough (1992) Critical Discourse Analysis (CDA). The concept of intertextuality is common to both theories, and is applied in the analysis, to show how intertextual linkage to previous ex-parte proscription orders makes it easier for the applicant to pass across the desire for the proscription of the AR. Words, and phrases were excerpted from the original document and analyzed to reveal how the applicant, as a result of the social convention, structured format of the document, and the constitution is able to successfully get the court to proscribe the AR. In all eighteen excerpts were analysed, and presented under four subheads. Two excerpts were picked from each of the three proscription documents for the first subhead, the second subhead has one excerpt taken from each of the three documents, the third subhead like the first, has two excerpts exch from the three documents. The last subhead also like the second, has one excerpt from each of the three documents. The analysis of the documents is presented following the chronological order of their occurrences in Nigeria. The Boko Haram sect was proscribed ex-parte in 2013, IPOB was proscribed in 2017, and Shiites in 2019. The excerpts from the documents are italicized, and presented in smaller font.

5. Analysis and Findings

Two levels of power assymetry are observed in the ex-parte proscription orders. On the one hand, from the applicant on the AR, and on other persons in the society; and on the other hand, from the court on the AR, and on other persons in the society.

5.1 **Dominance from the applicant on the Absentee Respondent** (**AR**)

Most obvious in the power assymetery is the applicant (Attorney General representing the Federal Gonernment) pitched against the AR. Below are examples from the three ex-parte proscription orders, of how the language structure of the intertextualized words and phrases used by the applicant, show the higher power status of the applicant over the absentee respondents (ARs):

5.1.1Text 1 (Boko Haram)

Excerpt i: *AN ORDER of this honourable court* ***declaring*** *the activities of the Respondents …*

The intertextual link to the structured format, and language of previous ex-parte proscription orders makes it easy for the applicant, to push for the proscription of the AR. The applicant is more powerful as he occupies a dual position in the exchange. One, as the one making the request, and two, the one granting the request. Setting some lexical items in capital letters is a feature of legal documents allowed by the legal profession; this way, attention is drawn to the lexical items and the meaning foregrounded. In addition, the capitalised lexical items 'AN ORDER' are foregrounded as they are placed at sentence initial position. All of these show the higher power status of the applicant.

Excertp ii: *AN ORDER* ***proscribing*** *the existence of the Respondents …*

Excerpt ii reinforces the unequal power relations in excerpt i. The use of 'order' in excerpts i and ii shows the higher status in words and position of the applicant. The use of the active verb '**proscribing'** commits the court to grant the request of the applicant. The formuliac power-imbed word 'order' in excerpts i and ii, gradually builds up the unequal power relations between the applicant and the AR. Adding to its affordance, is its association with 'force' as a military lexicon.

5.1.2 Text 2 (IPOB)

The excerpts below exemplifies also the power imbalance between the applicant (the FGN), and the AR (IPOB):

Excerpt iii: *AN ORDER of this Honourable Court* ***declaring*** *that the activities of the Respondent … in any part of Nigeria especially in the South-East and South-South Regions of Nigeria amount to acts of terrorism and illegality.*

The intertextual elements used by the applicant in this except to make the request, are similar to the ones in excerpts i and ii of the proscription order of Boko Haram, presented above. This exemplifies the generic relationship between ex-parte proscription orders. The request, beginning with 'AN ORDER' set in upper case depicts force; added to this, is the phrase occupying word

initial position. This position foregrounds it, making the force of the phrase and accompanying words more prominent. The force potential of 'AN ORDER' combines with the active verb '**declaring'** to gradually build up the higher voice of the applicant in the request. The intertextualized phrases help in reiterating that it is not just the present text that shapes interpretation, but also, previous texts which the reader(s) bring to the interpretation process.

Excerpt iv: *AN ORDER of this Honourable Court **proscribing** the existence of the Respondent (Indigenous People of Biafra) in any part of Nigeria especially in the South-East and South-South Regions of Nigeria, either in groups or as individuals by whatever names they are called.*

In excerpt iv, the applicant gradually builds up the tempo of the request through using the active verb '***declaring'*** in excerpt iii, and in excerpt iv deployed the verb '***proscribing'***. In other words, from asking that the activities of the AR be declared as 'acts of terrorism and illegality' increases the demand that the AR be proscribed. The AR is not seen or heard.

5.1.3 Text 3 (Shiites)

Excerpt v: *A DECLARATION that the activities of the Respondent (Islamic Movement in Nigeria) in any part of Nigeria amounts to acts of terrorism and illegality.*

The opening of this excerpt in the form of demnad, differs slightly from the two examples above (the opening demand of the applicant for Boko Haram and IPOB). It started with a declarative statement, demanding the banning of the activities of the AR. The absentee respondent is voiceless. Through the linguistic technique of nominalization—a process of deriving nouns from verbs, the lexical item '**Declaration'** is nominalized. The initial positioning of the nominalized word and in upper case, draws attention to the applicant's desire for the proscription of the AR.

Exerpt vi: *AN ORDER of this Honouable Court **proscribing** the existence and activities of the Respondent (Islamic Movement of Nigeria) in any part of Nigeria, under whatsoever form or guise in groups or as individuals by whatever names they are called or referred to.*

In this excerpt, the verb ***proscribing*** is deployed to ban the activities of the AR. This probably explains why major proponents of CDA has as one of the agendas of CDA, the unravelling of the power potential of linguistic items, to reveal ways through which institutions dominate the less privileged in the society. The court proscribed the ARs, who were not around to defend themselves.

5.2 Dominance from the applicant on other persons in the society

The power and dominance which the applicant wields on the AR extends to other persons in the society, but indirectly. The excerpts below from the documents illustrate this:

5.2.1 Text 1 (Boko Haram)

Excerpt vii*: AN ORDER **restraining** any person or group of persons from participating in any manner whatsoever in any form of activities invloving or concerning the prosecution of the collective intention or otherwise of the said groups.*

The repeated formulaic structure of previous ex-parte orders enables the applicant to extend the desire for the proscription of the AR to other persons in the society. Restricting and restraining the non-group members from associating with the banned group amounts to violation of other persons' right of freedom of association, provided the association does not in any way constitute danger to anybody. This indirect infringement on the right of association of other persons by the applicant, shows the level of power and authority which the constitution vests on the court. The court has power backed by the constitution and social convention to make binding pronouncements on the AR, and in turn on other persons in the society.

5.2.2 Text 2(IPOB)

Excerpt viii*: AN ORDER* ***restraining*** *any person or group of persons from participating in any manner whatsoever in any form of activities involving or concerning the prosecution of the collective intention or otherwise of the Respondent (Indigenous People of Biafra) under any other names or platform however called or described.*

The structured format of this excerpt like excerpt vii above, also illustrates the unequal power relations and indirect dominance from the applicant on other persons in the society. The authority of the court is seen right from the phrase 'AN ORDER' placed at sentence initial position. The use of the active verb '**restraining'** prohibits any person or group of persons from relating with the proscribed group. The applicant implicitly draws in 'other persons' in the wish for the proscription of the AR. The wish is indirectly extended to other persons. The social structure which empowers the court makes this wish binding on other persons in the society. This way, the court achieves its functions of regulating the social behaviour of persons and groups, and enhancing law and order in the society.

5.2.3 Text 3(Shiites)

Excerpt ix*: AN ORDER* ***restraining*** *any person or group of persons from participating in any matter watsoever in any form of activities involving or concerning the prosecution of the collective intention or otherwise of the Respondent (Islamic Movement in Nigeria) under any other name or platform howsoever called or described in any part of Nigeria*

This excerpt illustrates further the repetitive nature of ex-parte proscription orders. The structures of excerpts vii (Boko Haram), viii (IPOB), and this excerpt are similar. The repetitive structures carry the dominance of the applicant. The degree of offence that necessitated the proscription of each AR is different (see introduction), but the request for the proscription of each sect because of the similarity of structures used, is the same.

5.3 **Dominance** f**rom the Court on the Absentee Respondent (AR)**

Part of the authority of the court to make binding pronouncement(s) on the citizen is the social convention and constitution which vests such powers on it. The court exhibits this authority through a syntactic repetition of the request of the applicant (FGN), for the proscription of the AR.

The absentee respondent has no room to challenge the decision immediately it was taken. Examples:

5.3.1 Text 1: (Boko Haram)

Excerpt x: *THAT AN ORDER IS HEREBY GRANTED* ***declaring*** *the activities of the Respondents … in any part of this country as terrorism and illegal.*

The ruling beginning with a 'that clause' which is a subordinate clause, draws attention to the previous request of the applicant. Subordinate clauses which are separate phrases within a sentence, help to put the main part of the sentence in context. The intertextual repetition and link to previous ex-parte proscription orders underscore the authority of the court. Capitalizing the subordinate clause, and placing it at sentence initial position is not the conventional way of sentence construction. The unconventionality itself, draws attention to the structure, thereby making the dominace of the court more visible.

Excerpt xi. *THAT AN ORDER IS HEREBY GRANTED* ***declaring*** *the activities of the Respondents … in any part of this country either in groups or as individuals by whatever names they are called.*

The similarity of excerpts x and this excerpt, reiterates the points and the meanings encoded in each. The near syntactic repetition of the same structures in the applicant's request and the ruling of the court reinforces and pushes the ultimate need for the ex-parte proscription of the AR. In other words, joint voices proscribing the AR. We find near syntactic repetition of the same structures in the orders of the court, reinforcing Bhatia (2004: 23) assertion of Genres being "highly structured and conventionalised constructs, with constraints on allowable contributions not only in terms of the intentions one would like to give expression to and the shape they often take, but also in terms of the lexico-grammatical resources one can employ to give discoursal values to such formal features".

5.3.2 Text 2: (IPOB)

Excerpt xii. *THAT AN ORDER* ***declaring*** *that the activities of the Respondent (Indigenous People of Biafra) in any part of Nigeria especially in the South-East and South-South Regions of Nigeria amount to acts of terrorism and illegality.*

Conventionally, beginning a sentence with a subordinate clause is usually frowned upon. This excerpt reiterates the meanings encapsulated in the structured format of previous ex-parte proscription orders. The court, in its repetition of the linguistic structures of the applicant's wish, adds to the higher power status of the court over the AR. The subordinate clause functions to provide informational support to the main information in the excerpt.

Excerpt xiii: *THAT AN ORDER* ***proscribing*** *the existence of the Respondent (Indigenous People of Biafra) in any part of Nigeria especially in the South-East and South-South Regions either in*

groups or as individuals by whatever names they are called and publishing same in the official gazette and two (2) National Dailies is granted

The dependent clause beginning the declaration of this excerpt, illustrates the use of joint dominance from the court and the applicant on the AR. The capitalisation of the initial clausal elements calls attention to the meaning in the proceeding lines.

Text 3: (Shiites)

Excerpt xiv*: An order is made **declaring** the activities of the Respondent (Islamic Movement of Nigeria) in any part of Nigeria as acts of terrorism and illegality*

This excerpt conceals the subject seeking for the proscription of the AR through agent deletion. The use of the passive voice by the court, in passing the order, sort of conceals the higher power status of the court on the AR, but this concealment is revealed in the next excerpt:

Excerpt xv*: I make an order **proscrbing** the existence and activities of the Respondent (Islamic Movement of Nigeria) in any part of Nigeria, whatever form or guise either in groups or as individuals by whatever name they are called or referred to*

In this declaration, the court uses the active voice in the judgement, beginning with the first person pronoun. The first person pronoun in this context, is made potent because of the insitution it is representing. So, the the first person pronoun, becomes a legitimate voice and a demand for the applicant's wish to be granted. The dominance force of the pronoun 'I' activates the active verb '**proscribing'** to become meaningful in this context. Fairclough (1992), points out that institutions sometimes hide under intertextualized linguistic structures to exert dominance. The first person pronoun is reinforced with the active verb '**proscribing'**; to foreground the authority of the applicant. The use of the first person pronoun in this context, gives a human face to the court. The dominance or power of the court gradually builds up from '**declaring'** to '**proscribing'**.

5.4 Dominance from the Court on other Persons in the Society

While the ex-parte proscription order is on the AR, there is also an overt extension of the ruling of the court on other persons in the society. Banning other persons in the society, from engaging in any relationship with the proscribed group, can be seen in the linguistic structures in the excerpts below:

Text 1: **Boko Haram**

Excerpt xvi: *AN ORDER **restraining** any person or group of persons from participating in any manner whatsoever in any form of activities involving or concerning the prosecution of the collective intention or otherwise of the said groups.*

The power of the court on other persons in the society, is made explicit in the declarative statement used at the beginning of this excerpt. The order becomes binding on any person(s) because of the

social structure that empowers the judicial institution to make such rulings. The linguistic strutures of this excerpt, though obviously restraining any person(s) from associating with the proscribed group, has an undertone dominace on other persons in the soceity. The verbal power of the court is heard with no contrary voice opposing it, this is because of the social convention which vests power on the court. Ex-parte proscription orders do not allow the voice of the AR to be heard. Fairclough (1995) draws attention to the fact that in any such discourse situation, when the voice of the supposed other party in a discourse is muted, unequal power relation arises.

Text 2 (IPOB):

Excerpt xvii: *THAT AN ORDER **restraining** any person or group of persons from participating in any manner whatsoever in any form of activities involving or concerning the prosecution of the collective intention or otherwise of the Respondent (Indigenous People of Biafra) called or described is granted.*

This excerpt exemplifies how the applicant through the court, gets his wish and desire for the proscription of the AR, and indirectly on other persons in the society also. The indirect dominance is hidden in the adverbial clause of manner 'whatsoever …', the emphasis falls 'any person' or 'group of persons' who associates with the proscribed group. The use of passive voice in this ruling is a strategy meant to obscure the actor, project the impression that the law is impartial, formal and objective in its rulings.

Text 3 (Shiites):

Excerpt xviii: *AN ORDER **restraining** any person or group of persons from participating in any matter whatsoever in any form of activities involving or concerning the prosecution of the collective intention or otherwise of the Respondent (Islamic Movement in Nigeria) under any other name or platform howsoever called or described in any part of Nigeria.*

Excerpt xviii is an example of the court's use of polysyndeton syntactic discontinuity to pass judgemnet in proscription orders, that is, clauses not separated by commas. The use of this method in leagl documents is probably to allow the ruling to run freely without interruption; and also, to make it more forceful.

6. Findings

Dominance is enacted in ex-parte proscription orders by the applicant through the use of intertextualized forceful linguistic items, which gradually builds up with other similar structures as the document progresses. Also, the constitution which empowers the court makes the propositions of the documents binding on the ARs.

Ex-parte proscription orders like all other legal documents are replete with linguistic items in form of single words, phrases and clauses which encode the authority of the court. The ex-parte orders examined in this study all have similar linguistic structures of higher power from the applicant. The power relations from the applicant is multidimensional: there is direct dominance from the applicant (FGN) on the ARs, from the court on the ARs; there is indirect dominance from the applicant (FGN) on other persons, and from the court on other persons in the society too. *The applicant used active verbs in the desire to have the ARs proscribed.* The ex-parte proscription orders are replete with forceful verbs such as 'declaring', 'proscribing', and 'restraining'; syntactic repetitions: such as '*an order', 'that an order', 'terrorism and illegal',* and *'restraining any person or group of persons';* unconventional graphology: such as setting some phrases and clauses in upper cases, long sentences not separated by commas, these unconventionalities qualify the documents to be classified as genres of legal proscription documents.

In some places in the documents, single words and phrases are repeated as mentioned above. The meaning in the repeated words and phrases are further foregrounded through paraphrases in some other places. The several instances of repetition of structures in the documents all jointly and systematically reinforce the power of the court backed by the constitution; pushing the desire of the applicant (FGN) for the proscription of the ARs. This finding reinforces Neale (1980) assertion that 'genres are instances of repetition and difference'. The documents display obvious inequality in power relations, that is, it is one-sided, from the applicant (the Federal government) on the ARs whose voices are muted in all the requests of the applicant. The applicant leveraged on the constituted powers of the Federal governemnt to achieve the aim of proscribing the ARs (Boko Haram, IPOB, and Shiites).

Some of the linguistic items in the document especially the verbs, show direct power and authority from the applicant, while some have implied dominance from the applicant on the ARs and on other persons in the society. Most of the declarations in the documents are imperative sentences. There is also the use of convoluted constructions—inserting subordinate clauses in the middle of main clauses. The structure of the documents reiterate the unequivocal power of the court to carry out the ex-parte proscription as desired by the applicant. *The non-modification by the court of the desires of the applicant, in the structured documents emphasizes the function of the intertextualised linguistic items as the model of ex-parte proscription orders.*

7. Conclusion

The study concludes that ex-parte proscription documents are replete with authority-imbued intertextual linguistic items which serves as a model for further wishes from an applicant, and rulings by the court. In ex-parte proscription orders, the applicant's demand builds up gradually through a chronological chain request, one demand leading to another. Because of institutional power and the constitution, the applicant wields the most power in the document, the voice of the

ARs is silenced all through. The power and authority of ex-parte proscription, derive from the gradual building up of the applicant's demand through a chronological chain request. In other words, one demand links up with another until the final ruling is made.

The three documents analysed show a distinct structure/feature of ex-parte proscription orders; which can easily be classified as subgenre of the legal discourse. The structures of a certain genre impose certain conventions and rules: 'some elements of a genre are obligatory, some are optional, and some recur and are therefore iterative' (Hasan 1985 quoted in Gibbons 2003: 11). The formulaic nature of the documents provides the reader with a mental script of what proscription documents embody. There is no obvious departure from theme, structure and semantics of the documents.

No matter how technical, convoluted and intricate legal language appears, the fact that the terms used are made up of grammatical terms which can be subjected to analysis still remains. This kind of analysis makes it possible to see how the institutionalized use of strategic language has implications: some of these emerge from the legal genre itself while others derive from situation-specific choices as can be seen in the slight modification of language in the second document analysed (IPOB). In can be deduced that ex-parte documents should not be treated as just any texts, but understood as powerful tools through which specific objectives, values and ideologies are promoted and legitimated in the society. The study recommends that though the court through its ruling, tries to ensure law and order in the society, forceful linguistic items should be expunged from legal documents.

References

Abubakar, M. S. (2004). 'Language, law and the people'. In T. Bamisaye (*ed.), An integrated study in language and society* (13-34). Lagos: Mojab Publishers.

Adangor, Z. (2018). 'Proscription of the Indigenous People of Biafra IPOB and the Politics of Terrorism in Nigeria'. *The Journal of Jurisprudence and Contemporary Issues. 10* (1)101.

Awe, B.I. & Patrick, S. F. (2018). 'Archaisms In Legal Contracts-A Corpus-Based Analysis'. *European Journal of English Language and Literature Studies. 6 (4), 5-20.*

Bakhtin, M. M. (1986). 'The Problem of Speech Genres'. In C. Emerson & M. Holquist (Eds.), Speech genres and other late essays (60-102). Austin: University of Texas Press.

Bhatia V. K. (1983a). 'Simplification v. easification: the case of legal texts'. *Applied Linguistics.* 4(1), 42-54.

Bhatia, V.K. (2004). Worlds of Written Discourse – A Genre-based View. London & New York: Continuum.

Bertoa F. C. and Bourne A. (2016). Prescribing Democracy? Party proscription and party system stability in Germany, Spain and Turkey. https://doi.org/10.1111/1475-6765.12179

Chouliaraki, L. & Fairclough, N. (1999). *Discourse in Late Modernity: Rethinking Critical Discourse Analysis*. Edinburgh, Edinburgh University Press.

Danet, B. (1980). 'Language in the courtroom'. In H. Giles, P. Smith, and P. Robinsons (eds.), *Social psychology and language*. Oxford: Pergamon.

Devitt, Amy J. (2004). 'A Theory of Genre.' In *Writing Genres.* Carbondale: Southern Illinois University Press. 1-32.

Ekwueme, A. C., & Ugwuanyi, S. U. (2018). 'Analysis of Online Reactions to the Proscription of IPOB as Terrorist Organization'. *Global Journal of Human-Social Science*: 18 (2)

Fairclough, N. (1992a). *Discourse and Social Change*. Cambridge, UK: Polity Press.

Fairclough, N. (1992b). 'Discourse and Text: Linguistics and Intertextual Analysis within Discourse Analysis'. *Discourse and Society*, 3(2): 193-217.

Fairclough, N. (1995a). *Critical Discourse Analysis: The critical study of language*. London, UK: Longman.

Gibbons, J. (2003). *Forensic Linguistics: An Introduction to Language in the Justice System. Malden, Mass*. Blackwell.

Hodge, Robert & Gunther Kress (1988). *Social Semiotics.* Cambridge: Polity

Nadarajah, Suthaharan (2018) 'The Tamil Proscriptions: Identities, Legitimacies and Situated Practices.' *Terrorism and Political Violence*, 30 (2), 278-297.

Ojimba C. (2011) 'The Granting of Exparte Orders of Injunction Seems to Run Counter to the Principles of Fair Hearing. How True Is It? *Knowledge Review,* 23 (4).

Jarvis, L. & Tim, L. (2018). 'The Proscription or Listing of Terrorist Organisations: Understanding, Assessment, and International Comparisons'. *In Terrorism and Political Violence*, 30 (2), 199-215. https://doi.org/10.1080/09546553.2018.1432199

Miller, C. R. (1984/1994). 'Genre as social action', *Quarterly Journal of Speech* 70: 151-67; reprinted in Freedman & Medway (1994a, op. cit.), 23-42.

Neale, S. (1990, 1995). 'Questions of genre.' In Oliver Boyd-Barrett & Chris Newbold (eds.) *Approaches to Media*: A Reader. London: Arnold, (460-72).

Onyemelukwe, H. N. & Moses. A. A. (2017). 'Aptness and Ambiguity in the Language of Law' *Scientific & Academic Publishing, American Journal of Linguistics,* doi:10.5923/j.linguistics.20170503.02

Stahl, T. (2011). ''Institutional Power, Collective Acceptance, and Recognition'. Ikäheimo, H.,Laitinen, A., (eds.), *Recognition and Social Ontology*, Leiden: Brill.

Swales, J. M. (1990). *Genre Analysis*. Cambridge: Cambridge University Press.

Tiersma, P.M. 1999. *Legal Language*. Chicago: The University of Chicago Press.

Trosborg, A. (1997). *Rhetorical Strategies in Legal Language. Discourse Analysis of Statutes and contracts.* Tubingen: Narr.

Ugoala, B. (2015). 'Language and Power Relations in Television News Reportage in Nigeria', Unpublished Ph.D. Thesis, University of Lagos.

Wales, K. (1989). *A Dictionary of Stylistics*. London: Longman.

Wang. J. (2006). 'Questions and the Exercise of Power'. *Discourse & Society.* 17 (4), 529-548.

Yule, G. (2012). *The study of Language*. Cambridge: Cambridge University Press.

DOI: https://doi.org/10.1017/CBO9780511819742

https://www.glogconsult.com/uploads/8/6/1/5/8615560/terrorism_proscription.pdf

http://saharareporters.com/2017/09/20/nigerian-court-proscribes-ipob-declares-it-terrorist-organization

https://punchng.com/court-declares-shiites-movement-terrorist-group/