

**MOOD IN COURTROOM DISCOURSE: AN EXAMPLE OF OLU  
OLAGOKE'S 'THE INCORRUPTIBLE JUDGE'**

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**Abstract**

*When a writer writes, it is with the intention of conveying some moods to the readers and audience. Embedded in literary texts are various types of mood which conveys diverse messages to the readers and audience. This study attempts an appraisal of the mood types in the courtroom scene of Olu Olagoke's The Incorruptible Judge. The analytical tool proposed by Gibbons' (2008), forensic questioning model was adopted as analytical tool for the play. The study reveals such mood types as fear, anger, sorrow, gloom, rejection, etc. The study concludes by recommending further analyses with texts containing courtroom discourse as they are modeled after real life situations.*

**Keywords:** Incorruptible, mood, courtroom, discourse, sorrow, judge

**Introduction**

Language and mood are interwoven. One is embedded in the other. This is because language is the outlet for the expression of mood. According to Farinde (2006), there are many discourse situations such as buying things in a shop or market, interview for a job, interrogation between the accused and the police, talking formally in cases or meetings, interactions within the family and loved ones etc. These situations will have their own formulae and convention which we will follow. Mood is the decisive factor that will help us know the right words to choose under the various discourse situations. In support of this, Ojo (2006) observes that it is through language that mood must be observed and gauged and that a speaker/writer employs language in his day-day interactions and what he says/writes at a particular time is an indicator of his mood. In essence, the mood of speaker/writer determines the language he uses.

According to Olaniyi (2016), mood has been studied from different perspectives by linguistics, Pragmatics, Semantics and Phonology and so forth. Articles with literary texts as data include those of Osisanwo (2006), Akorede (2006) and Jimoh (2006) among others. Despite this, there is dearth of literatures on mood which dwells on courtroom discourse using literary text as data. This is the focus of this present study. This research investigates mood in courtroom discourse using the courtroom scene in Olu Olagoke's play '*The incorruptible Judge*' as data.

### **A brief Synopsis of Olagoke's *The Incorruptible Judge***

Olagoke has published two plays in the Evans Africa plays series which are '*The Incorruptible Judge*' and '*The Iroko man and the wood-carver*'. '*The Incorruptible Judge*' is a moralistic play which deals with the evil embedded in the act of bribery and corruption. The play contains some fundamental truth that no sinner will go unpunished as this is shown in the final scene with the arrest and trial of the unscrupulous employer James Ade Agbalowomeri.

The play opens with Ajala, a very brilliant young school-leaver who applies for vacancy at the Establishment office in the Government Development Department. The Establishment Officer, Mr Ade Agbalowomeri told the applicant that he must first bring five pounds before he could employ him. Ajala, the applicant then reported the matter to the police, Detective Sergeant Clement Agbonifo Okoro who gave him five pounds notes and followed him to the office of Mr James Ade Agbalowomeri and eventually arrested him. Despite several attempts made to influence the trial Judge, Mr Justice Faderin by Mr Eniola Durojaye, his father-in-law and his friend Chief Bobameto, an important chief, the judge remains adamant and proves incorruptible. Mr James Ade Agbalowomeri; the corrupt officer is eventually convicted and sentenced to three years' imprisonment with hard labour. All his relatives and friends were wailing and dashing themselves to the ground as the prisoner is led away from the dock by the police.

### **Courtroom Procedure**

Before going on to questions in court, it is necessary to discuss about 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. In Nigeria,

the prosecution counsel who is the lawyer representing the state asks question or examine 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 frowned upon, 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. 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 always be aiming 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 (Luchjenbroers 1997).

### **Review of 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, discorsal and graphological features. For example, Okolo's (2000) study looks at the features of language of the law in general at the discorsal level, syntactic level and lexical levels.

At the discorsal 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 phrases, 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'. 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 layman. 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.

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 peculiarities, 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.

Very few studies of language and law in Nigeria attempt the analysis of the structure of courtroom discourse. Among these is Opeibi (2001). In Opeibi (2001), there 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.

Olubakin and Kalejaiye (2018) study examines the mood system displayed in the communicative event presented in the clause structure of courtroom utterances of a selected manslaughter trial in a Nigerian court. They are of the opinion that language in courtroom interrogations express mood associations in addition to the syntactic implication meaning making. This work is a detailed syntactic analysis of courtroom discourse in mood situations. However, it does not cover

the fictional aspect as it is based on real life courtroom situations. This present study is based on fictional aspect as given in Olu Olagoke's the *Incorruptible Judge*.

As maintained earlier, only very few of the studies of language and the law in Nigeria attempt the language analysis of the structure of courtroom discourse. Farinde (2016) paper attempts this. Farinde (2016) studies pragmatic markers in courtroom discourse. He is of the opinion that cross-examination is a hostile phrase and it always favours the lawyers because of their power and asymmetry over the witnesses and the accused persons. These discourse markers are always used by the lawyers during the cross-examination which also emphasize their powers over the witnesses and the accused persons. Although, Farinde's work is a detailed work on courtroom discourse, the focus is pragmatic markers to the detriment of the structure of courtroom discourse. That is the major and highly significant gap that this paper is trying to fill. This paper attempts to provide a very detailed and rigorous analysis of Nigerian courtroom discourse as given in Olu Olagoke's *The Incorruptible Judge*.

### **Theoretical Framework**

The theoretical framework for this study is supported with Gibbons' (2008) forensic questioning model. This model is especially good for the analysis of institutional dyadic discourse of unequal participants. It is essentially good for courtroom discourse because observation of the data used for this work has revealed that the greatest linguistic tool or weapon the lawyers employed in establishing their institutional authority over suspects is question. In support of this, Stygall (1994) asserts that questions are a powerful tool the lawyers and police interrogators use to control the flow of discourse, requesting particular information in a certain fashion, presenting the story in the order they impose, which does not necessarily follow the temporal succession of the actual events.

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 1994).

Gibbons (2008) postulates some questioning forms which are identified, analysed and discussed for this present study. They are (i) Declarative questions, (ii) Choice questions (iii) Wh-questions, (iv) Projected questions, and (v) Special formulas. According to Gibbons (2008), in courtroom discourse, only one party is normally expected to ask questions and the other party is only allowed to respond and normally must respond.

**Declarative Questions:** These are questions loaded or embedded with the questioners' views, positions, ideas and propositions, aimed at indicting or convincing the respondent. According to Gibbons (2008), they are very powerful questions because they contain the proposition of the questioner. As can be inferred from above discussions, declarative questions have presuppositions and all questions posed in natural language will contain words or phrases that have emotive connotations, both positive and negative. According to Watson (2003: 1791), the suggestiveness of a declarative question can have subtle effects on the respondent who is a witness. What may occur is that the suggestive terms in the question can result in the interrogator's views being incorporated into the memory of that witness.

**Choice Questions:** These are otherwise known as polar or Yes/No questions. They are questions that require the respondent to oscillate between two options of yes or no. The lawyers make use of this type of question in police-suspect discourse to limit the choice of response of suspects. Such questions are also used by the police to prevent suspects from deviating from the subject of discourse. According to Gibbons (2008), these choice questions license in the response only information provided by the lawyers and police interrogator.

**WH-questions:** These questions whether restricted or non-restricted are questions usually posed by the police for specific facts and information. They are introduced by WH-words such as where, who, when, why, how and what. This type of question is the one that is mostly employed by lawyers in the course of their interaction with accused persons.

**Projected Questions:** According to Gibbons (2008), questions in police interrogation usually contain verbal projection (reported speech). In these kinds of questions, the propositions of the police interrogator are usually embedded in them thereby placing high levels of pressure for agreement on the suspect. In a verbal projection, like 'You say that he killed the woman', there is an assumption that the speaker is committed to the truth of the core proposition (He killed the woman) rendering it very difficult to deny without branding oneself a liar.

Therefore, if the person answers 'No' this denial is primarily a denial of saying this, but does not deny that he killed the woman (although the denial may affect this core proposition if there is no other evidence for the fact). The core information (He killed the woman) is to some degree presupposed or embedded.

**Special Formulas:** One characteristics of police interrogation is that there are occasions when police interrogators specifically mark the fact that the information is their version of events, not that of suspect, then challenge the suspect to agree. This is done by the use of legal formulas, the most common of which is "I put it to you that." This phrase is not exclusively part of police domain and may be more frequently and more effectively used in courtroom discourse (e. g. cross examination). It is nonetheless a phrase which is unlikely to turn up in general conversation but which does appear with some frequency in police interrogation (Gibbons 2008).

## Data

The data for this study were selected from Olu Olagoke's *The Incorruptible Judge*. Precisely, this research investigates mood in courtroom discourse using the courtroom scene in Olu Olagoke's play '*The incorruptible Judge*' as data. The courtroom proceedings in the text were studied painstakingly with focus on question and answer adjacency pairs presented by the prosecuting lawyer, the defence lawyer, accused and the witnesses and rigorously analyzed. We have selected this text because it contains detailed and almost real life proceedings of courtroom discourse. It also contains elements of mood and being a drama piece it portrays direct characters in action.

## Analysis

### Extract 1

*Lawanson* : What is your name?

*Okoro* : Clement Agbonifo Okoro.

*Lawanson*: Did anybody make a report to you on the 18<sup>th</sup> day of March, 1962?

*Okoro* : Yes.

*Lawanson* : Who was that?

*Okoro* : Ajala Oni.

*Lawanson : What did he say?*

*Okoro : He said when he took his application to the Establishment office in the Government Development, he demanded a bribe of five pounds from him before he could appoint him.*

*Lawanson : What did you do when he told you this?*

*Okoro : I marked five pounds notes, carefully recorded their numbers, and gave them to the complainant to give to the accused in his office. I followed him and stood outside the applicant coughed and came out.*

*Lawanson : Do you know why he coughed?*

*Okoro : Yes, I asked him to cough after the accused got the money from him.*

*Lawanson : What did you do after that?*

*Okoro : I went to him immediately. When the accused denied receiving any money from the applicant. I searched him and found thirty pounds in his pocket. When I checked them, I saw four of my marked notes in them. I was looking for the fifth note when the accused suddenly grabbed the notes and put them in his mouth. I held his throat until he spat out and then I charged him to court.*

In extract 1 above, the prosecuting lawyer, Lawanson is asking questions from the Detective-Sergeant Clement Okoro who is the police officer in charge of the case. Since the prosecuting lawyer is the counsel for the prosecution, and Sergeant Okoro is the officer in charge of the case, this is under direct examination. It is direct examination because the prosecuting lawyer is on the side of officer in -charge of the case. The glaring fact to be noted about extract 1 is the preponderance of both restricted and non-restricted WH-questions. 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 prosecuting lawyer uses WH-questions to elicit maximal response and more facts from the officer in charge of the case in this extract. Since he is acting on behalf of this witness he is sympathetic towards him. Many of the WH-questions that he uses are non-restricted ones that enabled him to get the real information about the witness' version of reality from the witness. The objective of this is to put this witness in a

relaxed mood so that he will be in a frame of mind to tell what actually happened. Such non-restricted WH-questions are:

1. *What did he say?*
2. *What did you do when he told you this?*
3. *What did you do after that?*

Even when the prosecuting lawyers uses restricted WH-questions such as ‘Who was that?’, it is to ask for specific name. We can observe in this extract that Sergeant Okoro here is in a relaxed mood and he freely gives narrative answers about what really happened.

### **Extract 2**

*Arogunmatidi : Who saw you marked those notes?*

*Okoro : Nobody.*

*Arogunmatidi : So there was nobody to see and confirm that the notes were actually marked?*

*Okoro : Yes.*

*Arogunmatidi : I put it to you that you did not actually marked the notes, that after searching such an eminent gentleman without finding anything incriminating on him you realized that you might be taken to court for wrongful and malicious accusation or even defamation of character with the possibility of having to pay a heavy fine. Then you suddenly invented that you saw your marked notes in the money he brought from home. After all nobody saw you mark those notes.*

In extract 2 above, the defence lawyer, Arogunmatidi is asking questions from sergeant Okoro who is the officer-in-charge of the case. This is the cross-examination stage. Here, the defence lawyer uses WH-questions sparingly. Even, the one he uses is the restricted WH-question which is to ask for specific name such as ‘Who saw you mark those notes?’ and Sergeant Okoro replied ‘Nobody’. He makes sure that he uses this restricted question that requires only naming a specific person. This reveals the power that lawyers have over the witnesses. Furthermore, the defence lawyer also makes use of choice question thereby restricting the witness to either affirming or denying such as ‘so there was nobody to see and confirm that the notes were actually marked’ and sergeant Okoro replied in the affirmative ‘Yes’. This is hardly surprising

however, since the aim of the defence lawyer is to limit the choice of Okoro's reply to either 'Yes' or 'No' thereby conforming to his own side of the story.

Another thing that is peculiar to this extract is the use of special legal formula which is attached to declarative question that is used with the intention of forcing the defence lawyer's prepositions on the officer-in-charge of the case. The aim of the defence lawyer, Arogunmatidi is to impose his proposition and his own version of reality on sergeant Okoro. His objective is to put the witness, Okoro in a mood of fear thereby limiting his response to barely acknowledgement of the defence lawyer's, propositions. 'I put it to you that you... The defence lawyer even uses a negative choice question to make the officer-in-charge agree with his own side of the story 'Is that not so?' After all nobody saw you mark those notes. That negative question is used during this cross-examination stage reveals the powerful nature of negative questions and the oppressive nature of cross-examination stage. But sergeant Okoro is too experienced to fall for this and he replied in the negative also. 'No sir. Not only did...

### Extract 3

*Arogunmatidi :* *At what time did you consult the accused?*

*Ajala :* *At about 12.30pm.*

*Arogunmatidi :* *He promised to help?*

*Ajala :* *Yes.*

*Arogunmatidi :* *He insisted on taking money?*

*Ajala :* *Yes*

*Arogunmatidi :* *Do I understand you to mean that he took the money not as a gift but*  
*as a tip?*

*Ajala :* *Yes*

*Arogunmatidi :* *But anyone could show gratitude by a present!*

*Ajala :* *Yes... but... eh...*

In extract 3 above, the defence lawyer is asking questions from the young applicant Ajala. Because of the fact that Arogunmatidi is the defence lawyer who is on the side of the accused Agbalowomeri and Ajala is the second prosecuting witness, this extract is under cross-examination. In this regard, the WH-question used is just to ask for a specific time 'At what time did you consult the accused?' And Ajala replied precisely 'at about 12.30pm'. He also makes use of choice questions to restrict the witness to either affirming or denying his propositions. It is very difficult for the witness to deny such propositions and that is why Ajala confirm these propositions despite the fact that this is not helping his own case:

*Arogunmatidi* : *He promised to help?*

*Ajala* : *Yes*

*Arogunmatidi* : *He insisted on taking money?*

*Ajala* : *Yes.*

We can see here that during cross-examination, the lawyers are all powerful. It is they that control the discourse between them and the witnesses' contributions. That is why at the end of this cross-examination, the defence lawyer puts a declarative question to Ajala which caught him off-guard and makes him start stuttering:

*Arogunmatidi* : *But anyone could show gratitude by a present?*

*Ajala* : *Yes: but...eh...*

Declarative questions are usually favoured by lawyers during cross-examination because they are very powerful, leading and coercive. The declarative questions asked during cross-examination are not asking for answers that lawyers do not know already. Rather, they are asking for witness corroboration and agreement of the propositions embedded in them.

#### **Extract 4**

*Arogunmatidi* : *What is your name?*

*Agbalowomeri* : *James Ade Agbalowomeri*

*Arogunmatidi* : *Age?*

*Agbalowomeri* : *Forty-four*

*Arogunmatidi* : *What is your occupation?*

- Agbalowomeri* : *Establishment officer in the Government Development Department.*
- Arogunmatidi* : *How long have you been working in the civil service?*
- Agbalowomeri* : *Twenty years.*
- Arogunmatidi* : *Have you ever been involved in any case of bribery or corruption, misappropriation or maladministration?*
- Agbalowomeri* : *No*
- Arogunmatidi* : *When will you retire from the civil service?*
- Agbalowomeri* : *Next year*
- Arogunmatidi* : *Will you be entitled to a substantial gratuity and pension for life?*
- Agbalowomeri* : *Yes*
- Arogunmatidi* : *Are you married with wife?*
- Agbalowomeri* : *Yes, five children*
- Arogunmatidi* : *What is your own version of the story?*
- Agbalowomeri* : *When the prosecution witness brought his application to me, I told him that he was quite qualified and gave him a note to report for duty the following day. He said he was grateful and that he would pay me back for my help. I didn't know what he meant. The next thing I know was the police, searching me. I did not destroy any notes.*
- Arogunmatidi* : *In the light of that statement, you deny any knowledge of receiving anything?*
- Agbalowomeri* : *Yes, he only ... the fact is that... I thought he...*

In extract 4 above, the defence lawyer Arogunmatidi is asking questions from the accused person James Agbalowomeri. The accused is already in a pensive mood but since the defence lawyer is defending the accused, and is on his side, during this examination, he is asking questions that will put him in a relaxed mood. That is why most of the questions asked are WH-questions that will showcase his good qualities and his good past records and reputation. Even, when the defence lawyer makes use of choice questions, it is also to showcase his good qualities and his past meritorious service. For example:

*Arogunmatidi* : *Have you even been involved in any case of bribery or corruption,*

*misappropriate or maladministration?*

*Agbalowomeri* : No.

*Arogunmatidi* : *Will you be entitled to a substantial gratuity and pension for life?*

*Agbalowomeri* : Yes.

*Arogunmatidi* : *Are you married with wife?*

*Agbalowomeri* : Yes.

The last choice question about his wife and children are also asked by the defence lawyer so that the judge can have pity on him and consider his marital status and responsibilities. But the judge is not impressed by this and he cuts him sharply:

*The Judge* : *Speak the truth and precisely*

*Agbalowomeri* : *My lord, I did not receive anything. God is my witness.*

Here, the mood of anger and indignation is portrayed by Justice Faderin who always stands by the side of truth and cannot tolerate deceit and lies.

#### **Extract 5**

*Agbalowomeri* : *God is my witness that I never got a penny from anybody. Please take pity*

*on my condition, your lordship, and be lenient with me. Consider my age, my length of service, my family and my children. Don't send me to prison.*

*The Judge...* *There is also the necessity of deterring others from following you bad*

*example. This is a very serious offence and the one that has been rampant. This country must be protected against unscrupulous officers of your type who abuse their position of trust and responsibility, betray the confidence*

*reposed in them by their employers and make things difficult for the honest...*

*Agbalowomeri* : *I have a family of six, your lordship. Have mercy  
on me. The quality of mercy is not strained. It droppeth...*

*The Judge:* *Enough of that hackneyed quotation from Shakespeare. I cannot be too  
drastic in an offence of this nature and I should be failing in my duty to  
the public if I gave you the option of fine. So I find you guilty of  
extortion and you are therefore sentenced to three years' imprisonment  
with hard labour.*

In extract 5 above, the judge is giving his judgement on the case. He is an incorruptible judge and all the antics of both the prosecuting lawyer and the defence lawyers do not make him derail from his line of duty. He makes use of performative verb in the delivering of his judgement. Performative verbs 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, 'So, I find you guilty of extortion and you are hereby sentenced to three years' imprisonment with hard labour. All the appeals for his mercy and sympathy by the defence lawyer and the accused do not move him in the least. He therefore sentenced the accused to three years' imprisonment. The mood of sorrow, anguish, and gloom are shown by the accused as tears started rolling down his cheeks and his relatives and friends started wailing and dashing themselves to the ground.

## **Conclusion**

From the analysis above, we have seen how the analysis of courtroom discourse has help in the projection of various mood types such as sorrow, gloom dejection relaxation, annoyance and indignation etc. We have used the tool of analysis in Forensic Linguistics as it covers the domain of courtroom discourse. Courtroom discourse analysis of Olu Olagoke's *The Incorruptible Judge* has thus demonstrated that in situations with uncertainty, human judgments often exploits rule of thumb which fundamentally contradicts human propositions but Justice Faderin remains incorruptible and was able to convict the unscrupulous employer at the end. It has thus been shown that using texts containing courtroom discourse for Forensic Linguistic analysis has been a rewarding and fruitful exercise and we therefore recommend further analyses with texts containing courtroom discourse as they are modeled after real life situations.

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