UNIVERSITY OF CAPE COAST

PERSUASIVE STRATEGIES IN COUNSELS' CLOSING ARGUMENTS: A CASE STUDY OF GHANA'S 2012 PRESIDENTIAL ELECTION PETITION

HELEN OMAVUAYENOR AHIALEY

2022

UNIVERSITY OF CAPE COAST

PERSUASIVE STRATEGIES IN COUNSELS' CLOSING ARGUMENTS: A CASE STUDY OF GHANA'S 2012 PRESIDENTIAL ELECTION PETITION

BY

HELEN OMAVUAYENOR AHIALEY

Thesis submitted to the Department of English, Faculty of Arts, College of Humanities and Legal Studies, University of Cape Coast in partial fulfilment for the requirements for the award of Doctor of Philosophy in English

NOVEMBER 2022

DECLARATIONS

Candidate's Declaration

I hereby declare that this thesis is the result of my own original work, and that no part of it has been presented for another degree in this university or another university.

Candidate's Signature ……..Date ……..

Name:……

Supervisors' Declaration

We hereby declare that the preparation and presentation of the thesis were supervised in accordance with the guidelines on supervision of thesis laid down by the University of Cape Coast.

Principal Supervisor's Signature…… Date.....

Name:……

Co-Supervisor's Signature……. Date……

Name:……

ABSTRACT

Studies on courtroom discourse reveal that paramount on the agenda of lawyers is their desire to win cases. They try to persuade Justices to believe their side of an argument as against that of their opponent. Mobilising the combined forces of linguistic, appraisal and rhetorical resources, Counsels at the Supreme Court Hearing of Ghana's 2012 Presidential Election Petition vehemently attempted to persuade the trial Justices to give a favourable judgement on behalf of their clients. This thesis, therefore, explored the language and appraisal resources employed by the Counsels for the Petitioners (The New Patriotic Party – NPP) and the 3rd Respondent (The National Democratic Congress – NDC) in their closing arguments, and how they utilised the Aristotelian rhetorical triad in their bid to persuade the trial Justices. Rooted in the qualitative research design, the study was anchored on Aristotle's *Three Species of Oratory* and Perelman and Olbrechts-Tyteca's *The New Rhetoric*. The method of analysis adopted for this study was Aristotelian Rhetorical Triangle, complemented by Joliffe's Rhetorical Framework and Martin and White's (2005) Appraisal Framework. The findings revealed that in an attempt to persuade the judges to give a favourable judgement on behalf of their clients, the Counsels appealed to the judges' rationality and emotions. They also tried to construct a positive identity of themselves while they created an identity of otherness and negativity for their opponents. The study also revealed that the Counsels deployed dialogic contraction of deny and counter in order to disassociate themselves from the propositions of their opponents; while they shied away from proclaim and expand resources, perhaps for fear of conceding some shortcomings. Besides contributing to academia, the findings of the research are valuable to legal education in Ghana and beyond.

KEY WORDS

Argumentation

Closing argument

Election petition

Persuasion

Rhetoric

ACKNOWLEDGEMENTS

I would like to extend my heartfelt hand of thanks to my Principal Supervisor, Professor Dora Francisca Edu-Buandoh, former Pro Vice-Chancellor, University of Cape Coast. Her positive critique and recommendations on the content and organisation of the work helped to shape the thesis. But for her, this work would not have come to fruition. Her encouragement, persistence, push and the unquantifiable time she expended on me contributed immensely to the successful completion of this work. I sincerely thank her for not giving up on me.

My profound gratitude also goes to my Co-Supervisor, Professor Eric Opoku-Mensah, Vice Rector, Ghana Institute of Journalism, for his beneficial criticism and insightful direction in shaping this work. He led me to chart the path of rhetoric, a field of study I was unfamiliar with. I shall forever be indebted to him for teaching me the art of squeezing water out of a rock. Undeniably, I found it a great honour to have been mentored by such academic giants who are resolute in insisting on the right things to be done, yet selfless, approachable, and unassuming. I deeply appreciate the discussions I had with Professor Joseph Benjamin Archibald Afful, Head of Department of English, University of Cape Coast. His insightful suggestions also contributed immensely to shaping this work. I treasure the assistance I received from Dr. Mwinlaaru and Dr. Rita Twumasi. I am grateful to Dr. Osman Imoro, Head, Electronic Resources Unit of the Sam Jonah Library of the University of Cape Coast, for the technical support he gave me. Finally, I am deeply grateful to my husband, Padmore Kofi Ahialey, for his support and understanding during those years that I immersed myself in this work.

DEDICATION

I dedicate this work to my daughter, Treasure Mawuena Ahialey.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF ACRONYMS

EC	Electoral Commission
NDC	National Democratic Congress
NPP	New Patriotic Party
PEP	Presidential Election Petition
SCJs	Supreme Court Judges
RQ	Research Question

CHAPTER ONE

INTRODUCTION

Motivation

During my frequent visits to the courts in Ghana to gather data for my M.Phil. thesis, I observed that besides the vigorousness of the cross-examination phase of the trial process, the closing argument is fully characterised by some dynamism which is not only intriguing but also puzzling. My interest was drawn to the intrigues displayed by both the prosecution and defense counsels as they tried to outwit each other in the closing arguments they presented to the trial judges or magistrates through the different linguistic resources that they employed. It appears that the closing argument presented by each counsel is a calculated attempt designed to win the trial judge to his or her side. My interest in counsels' closing arguments was rekindled when the four counsels at Ghana's 2012 Presidential Election Petition (PEP) hearing presented their closing arguments to the nine Supreme Court Judges (SCJs) who had heard the case. I thought that investigating the linguistic and rhetorical resources employed by these counsels in their closing arguments would yield very fruitful results. I, therefore, felt the compelling need to find out what persuasive and linguistic resources were used by the four counsels in their closing arguments and how they attempted to use these to win the judges to their sides.

Background to the Study

It is a truism that persuasion is one of the oldest arts in the world. It dates back to classical history beyond the days of Aristotle who helped to systematise forensic rhetoric, an approach applicable to all persuasive endeavours. The importance of persuasion in today's world has been overwhelming and, even,

extraordinary and critical. This assertion is confirmed by van Dijk (1998) who opines that due to its potentiality in swaying people, persuasive discourse ought to be examined. This shows how important persuasion is in the competition-driven, contemporary world. As one of the oldest styles of discourse studied and practised already from ancient times (Metsämäki, 2012), persuasion permeates every aspect of human endeavour. The power of persuasion in our modern world in every communicative encounter is acknowledged by scholars, politicians, and marketers. It is very useful in convincing people, whether one is presenting an argument on the floor of parliament, giving a sermon, granting an interview, running an advertisement on radio or television, or trying to convince someone to do one's biddings.

The burgeoning literature on persuasion confirms the assertion that the hallmark of all forms of communicative act is persuasion. As a result, persuasion is highly regarded in discourses such as those in religion, politics, commerce, media advertisement as well as in the courtroom (Bamford, 2007; Demirdogen, 2010; Halmari & Virtanen, 2005; Hyland, 2008; Willis, 2011).

One area where the art of persuasion is highly prized is the law court. This is because persuasion permeates the whole trial process, beginning from counsels' opening statements, to the direct examination and the cross-examination segment and to counsels' closing arguments. It is this knowledge that prompted Kritzer (2009) to conclude that the most highly prized asset that an attorney requires in court is the skill of persuasion. Persuasion is paramount in the trial process since the aim of every lawyer is to convince the judge or jury that his or her client's case has more merit than that of his or her opponent. Therefore, the entire trial is replete with persuasion. For instance, in his or her

opening address, an attorney's task is to prepare the groundwork for a favourable judgement for his or her client. Similarly, in the direct examination, an attorney's mandate is to lead his or her client to lay bare the fact of the case in a manner that will persuade the judge about the truthfulness of it.

Also, the vigorousness with which the cross-examination segment is conducted is aimed at convincing the judge or jury about a defendant's or witness's lack of integrity (Saylor & Small, 2017). The need for persuasion is even overriding in the attorney's closing arguments which usually precedes the verdict of the court. This segment is regarded as the most crucial of all the stages since attorneys are required to give a summation of the case before the court, reminding the judges or jury of all the testimonies and evidences presented by them and their opponents. At this stage, lawyers try to persuade the judges that their opponent's arguments lack merit and, thus, should be dismissed (Heffer, 2005) while they attempt to convince the judge that their own arguments are sound. Thus, it is at this point that an attorney should exhibit his adeptness in persuasion.

From the commencement of the trial when opening statements are presented by counsels for the petitioners, through the closing arguments presented by each of the counsels representing the different litigating parties, the art of persuasion is employed. However, the phase where persuasion features prominently is the closing arguments of the counsels to the trial judges (Kritzer, 2009). It is against this backdrop that the closing arguments of two of the counsels at Ghana's 2012 PEP hearing are of interest to me.

Justice Systems

Two main systems of justice are practised in the world: the adversarial and the inquisitorial (Ainsworth, 2017). These two models show the contrasting functions of judges. The adversarial system, sometimes known as "the trial of strength," demands that witnesses testify orally and that this testimony be verified by cross-examination. The judge under the adversarial system acts as an umpire or a referee, whose role it is to hold balance between the two contending parties. He does not collect any evidence but bases his decision solely on the evidence submitted by the opposing parties. This means that in the adversarial system, the lawyers and the judges play opposite roles. While the lawyers on each side are expected to be dynamic and creative, the judges, on the other hand, are required to be contemplative. Again, law suits in the adversarial system of adjudication have always been metaphorically described as "war" (Lakoff & Johnson, 1980). The metaphor, "argument is war", is borne out of the vigorous nature of court cases under this system, which relies heavily on advocacy by each party. Under this system, court cases are regarded as battles between lawyers who are to act zealously and faithfully on behalf of their clients. In other words, it is the duty of the lawyer to seek evidence beneficial to the case of his or her client while he or she seeks to obliterate all incriminating evidences against his client. While lawyers in the adversarial system pursue the good of their clients, they vigorously find ways of discrediting their opponents (Ainsworth, 2017).

In contrast to the adversarial system, a trial under the inquisitorial system is less vigorous. Investigations are carried out by a state official also called the prosecutor in order to establish the facts of a contested occurrence.

Such investigations help to assess each piece of evidence's trustworthiness and relative weight without being restricted by rigid standards. Under this system, the judge embarks on a crucial search for truth. He or she plays a very active role in the trial process while the lawyers play a very passive one. Unlike the adversarial system where the responsibility of providing evidence lies with the lawyers, the judge under the inquisitorial system vigorously takes the lead in search for evidence. It is the judge, not the lawyer, who interrogates the witnesses, both respondents and defendants. All issues, including the order in which evidence is taken and the person who evaluates whether the evidence provided is reliable and trustworthy, are determined by the judge (Ainsworth, 2017). Nonetheless, the prosecution and defence lawyers monitor closely the judge's investigation. Even though they are at liberty to request the judge to consider some specific evidence or take a particular line of action, the obligation to ensure that justice is pursued and sought is vested wholly in the judge (Ainsworth, 2017).

Justice System in Ghana

In Ghana, the justice delivery system is fashioned after the adversarial system. Thus, it is believed that the basic values of this system, which are the presumption of innocence and protection of individual's rights, affirm the mission statement of Ghana's Judicial Service: "The mission of the service is to promote the smooth and efficient administration of justice to all manner of persons without fear or favour, affection or ill-will, and thereby creating an enabling environment for good governance" (Republic of Ghana, 2010). This statement indicates that above all, the Ghana judiciary is committed to ensuring proper administration of justice for all. This, perhaps, explains why engraved in

almost all the court premises in Ghana is the 'Lady of Justice' who has dangling in her hands a pair of scale which signifies that within the courtroom, justice reigns supreme. This presupposes that the courtroom is a setting where truth must be sought, pursued, and secured. The truthfulness of this assumption is, however, debatable because in reality, as Kritzer (2009) puts it, the courtroom is a battlefield where lawyers fight to win the judge's favour. To do so effectively, lawyers are required to speak persuasively. Kritzer concludes: "The courtroom is fundamentally a world where the art of persuasion is paramount" (p.14). Kritzer underscores the fact that the law courts under the adversarial system emphasise winning cases rather than establishing the truth. Therefore, lawyers are more likely to hide the evidence that portrays their clients in an unfavourable light, irrespective of its consequences on the person on trial. Since the trial may not always be committed to protecting the innocence of people, there is, therefore, a compelling need for lawyers to sharpen their skills of persuasion in their arguments so as to secure a favourable judgement for their clients. Displaying apt persuasive skills was, especially, needed when the four counsels presented their closing arguments to the trial Justices at the Supreme Court Hearing of Ghana's 2012 PEP.

The Trial Process

In *The Criminal Bench Book of the Judiciary of Ghana,* the Judicial Service of Ghana (2011) outlines four stages in the trial process preceding the judgement phase: the opening statement, the direct-examination, the cross-examination, and the closing argument.

Before the main trial commences, counsels for each side are expected to outline the proof to be presented to the judge during the trial by presenting an

opening statement to the court. The opening statement is a statement made by the counsels for each side at the beginning of a trial. Through this speech, the counsels provide a synopsis of the case to the judge and to intimate to the court about anticipated proofs that will be presented during the trial. It provides the counsels for each side the opportunity to introduce the parties involved in the case. The statement, according to Johnson, (2011), is the first uninterrupted chance to engage the jury in persuasive communication. The main purpose of an opening statement is to explain the crucial issues concerning the case and to help the judges or jury to understand the issues in question by summarising the evidence that the party intends to offer during the trial. It is intended to intimate to the court what to expect by offering it information on the nature of the case. This is to better equip the judges to grasp the full meaning of the evidence that will be presented to the court (Supardi, 2015). Above all, opening statements institute the facts of the case, launch legal theories, and provide explanations for why the counsels' client should prevail against his opponent. Once this introductory statement is given, the next phase, the direct examination or examination-in-chief, begins.

The presentation of a case's evidence occurs during the direct examination. In this section, attorneys advise their clients and witnesses on how to testify in the appropriate detail, testifying on their behalf so that their clients do not implicate themselves. In this stage, the attorney questions either their own client or a witness who is testifying on their behalf. Both direct and circumstantial evidence may be obtained through direct examination. Witnesses may give a testimony on facts and, in certain cases, their views. They could also be asked to name specific records, images, or other materials needed as a proof.

In this situation, the contact between the counsel and the witness is often cooperative and non-coercive; the witness is given the chance to tell their tale with a fair amount of freedom. According to *Maurer School of Law Guideline* (2002), counsels are urged to let the witness dominate the direct examination, and they should be unobtrusive as much as possible.

Conversations between attorneys and witnesses during cross-examination are typically harsh, uncompromising, and unkind (Luchjenbroers, 1997). The finest art form the human race has ever created is cross-examination (Lipson, 2008). It is a dance of motion, verbal gymnastics, and hand-and-eye movement, according to Lipson. It involves having the capacity to look an adversary litigant in the eye while knowing that you will have an influence over his thoughts and speech. According to Heffer (2005), cross-examination is primarily concerned with assessing the witness. As a result, it is a great location for examining more nuanced interpretations of judgement, and questions are employed as tactical tools for dominance and testimony management. The "leading question," which includes "tag questions," "Yes-or-no" inquiries, and "argumentative questions," is one of the most often used cross-examination questions. In the US, a lawyer figuratively referred to direct examination as "dancing with your partner" and cross-examination as "fencing" (Heffer, 2005, p. 15). A lawyer's time to address the judge or jury on the law and the facts is limited; therefore, the closing argument serves as their last chance. Levin (2007) argues:

> The closing argument is the time when the attorney should point to and lead the judge or jury to a place where they can naturally, logically, instinctively, judgementally, and emotionally conclude that the

> intelligent, fair, just, politically correct, legally correct, and morally correct thing to do is to fight for the attorney's client (p. 1).

According to Levin (2007), the major goal of an attorney's closing argument should be to convince the judges or jurors who are on his or her side to be more firmly devoted to him or her and to arm them with arguments and evidence to support him or her in the jury chamber. He succinctly summarises it, therefore, that the major goal of one's closing argument should be to persuade supporters of one's cause to become staunch upholders of their principles and active leaders in promoting it. Showing the importance of closing arguments in the entire trial process, Kennedy (2007) argues that the ultimate concern of lawyers at this stage is to be able to influence judges to give their clients a favourable verdict.

Statement of the Problem

Going back to antiquity, when the ability to convince others signified enormous social status in the ancient Greek society, Aristotle established persuasion as a talent that could be learnt. This topic has been researched by many disciplines, including religion (Juarez, 2007; Willis, 2011), politics (Demirdogen, 2010), and advertisement (Bamford, 2007; Hyland, 2008; Patpong, 2009; Torto, 2020; Virtanen, 2005). Also, following Aristotle's recognition of the influence that persuasion could have on the outcome of a case as expounded in his book *Rhetoric* where he identifies forensic rhetoric as one of the three species of oratory, there has been a growing number of scholars who have researched into various areas of courtroom discourse. Scholars such as Gyasi (1997), Salmi-Tolonen (2005), Kritzer (2009), Cowles (2011), and Mazzocco and Green (2011) are but a few of those who have taken interest in

judicial discourse. It is also heart-warming that there exists a growing body of literature on counsels' closing addresses which provides useful insights into how persuasive strategies are employed by counsels to gain the judges' favour.

However, in Ghana, no vigorous intellectual investigation has been carried out in counsels' closing addresses, necessitating that many more scholars consider this aspect of courtroom discourse. According to Cotterill (2003), research into the link between language usage by professionals and the legal social sector has found success in the study of closing arguments. She contends that they make up a genre that is purely reactionary. In the light of this, different agenda which include the theoretical and methodological perspectives of closing arguments have been examined. Cotterill (2003) and Hobbs (2003) inquired into the conceptual scene-setting metaphor of closing arguments while Rosulek (2007) examined ways that lawyers create a multi-dimensional lawyer persona that resonates with the jurors on multiple levels.

Although the genre of counsels' closing arguments, has received some attention from scholars (Carranza, 2008; Cotteril, 2003; Hobb, 2003; Rosulek, 2007), given the environment, time, and nature of the case, there is no comparable body of scholarly examinations of linguistic and persuasive strategies employed by the two counsels in their closing arguments addressed to the SCJs at Ghana's 2012 PEP hearing. Also, persuasive strategies in closing arguments have been studied from the perspective of structure. In particular, scholars such as Sprague and Stuart (2000) and Waicukauski et al. (2001) have focused on steps, categorisation, formats, formulas, methods, and techniques involved in counsels' closing arguments rather than their linguistic elements. Moreover, most of these studies are dated, requiring that new ones be conducted

to find out how the genre can change overtime. Also, the works of Geiger (2003), and Spiecker and Worthington (2003) are rooted in ethnography while Carranza's (2008) is rooted in metapragmatics. To add a new dimension to these existing works, there is the need to examine persuasive strategies in counsels' closing arguments, using the rhetorical analysis approach.

Additionally, the fact that even those existing studies in closing arguments are based primarily on Western societies, giving little or no attention to the Ghanaian society, demands that people from Africa, especially Ghanaians, be included in this type of study, as the picture may shift in diverse contexts (Brennan, 2006). Considering the number of gaps identified above, it is obvious that a huge gulf needs to be bridged. This study, therefore, seeks to investigate how the language resources employed by counsels who represented The Petitioners and the 3rd Respondent at Ghana's 2012 PEP were used to try to persuade the judges.

Research Questions

The following research questions provide direction and focus for the present study:

1. What language resources are employed in the counsels' closing arguments at Ghana's 2012 PEP?
2. What appraisal resources are employed by counsels at Ghana's 2012 PEP and what communicative purpose do these resources perform?
3. How do counsels employ the Aristotelian triad to try to persuade the trial justices to give judgement in favour of their clients during the Ghana's 2012 PEP?

Objectives of the Study

The overall research goal of this study is to investigate the language resources that are employed by two of the four counsels in their closing arguments to the judges at the Supreme Court Hearing of Ghana's 2012 PEP. The study further seeks to examine how the language resources were employed by the counsels in order to win the favour of the judges at the Supreme Court Hearing.

Delimitation

This study is built around three parameters. The first parameter for this study concerns the kind of court where the data for the study are obtained. Due to the high profile nature of national election petition cases, only the highest court of the land, The Supreme Court, has the mandate to hear the case. This is significant in the sense that many commentators noted that it was a landmark case, the first of its kind in Ghana.

Secondly, the main medium of discourse for the study is the transcript of counsels' closing arguments obtained electronically from the internet. The data comprise 152,520 words. The choice of this medium is borne out of the fact that standard language, according to Bloomfield (cited in Hymes, 1964), is most definite and is best observed in its written format.

Lastly, this study focused on the persuasive strategies found in the closing arguments that were employed by two of the four counsels at the Supreme Court Hearing of Ghana's 2012 PEP. The two counsels are those who represented the Petitioners (The New Patriotic Party) and the 3rd Respondent (The National Democratic Congress). Other areas of courtroom genre such as attorneys' opening statements, examination-in-chief, cross-examination, and

other legal genres which include police interview, wills, attestation, documentation, rights and obligations, marriage ordinance, disclaimers and swearing of oaths are outside the scope of this study.

Significance of the Study

The study is significant for a number of reasons. First, the study will bolster up Aristotelian rhetoric as a compelling normative model in the art of persuasion, which is paramount in courtroom discourse, especially, in counsels' closing arguments.

Second, the research will position the present study as one of the precursors of rhetorical studies to stimulate further scholarly investigation into the ways persuasion is used as a tool in the hands of lawyers. This study has implications for scholarship and human rights advocacy.

The study will contribute to the scholarship on persuasive language and strategies in courtroom discourse. This is because a major concern in academia, especially in Africa, is the dearth of research (Preece & Biao, 2010). Therefore, it is the goal of this researcher to advance the area of forensic linguistics in Africa and broaden our understanding of courtroom conversations. Researchers who might be interested in conducting more research on courtroom speech would benefit from the study.

Finally, this study provides further evidence that interdisciplinary research should be encouraged, as it will allow for amalgamation of ideas from many disciplines and project a holistic approach to problem solving, especially, problems which evade a study from a single epistemological point of view (Holley, 2009).

Organisation of the Thesis

The thesis is divided into seven chapters. Chapter One provides an introduction comprising the background to the study and a brief description of the justice delivery system in Ghana. The chapter also includes statement of the problem, research questions, main objectives, significance, and delimitations of the study. Chapter Two focuses on the literature review where the conceptual and the theoretical frameworks are discussed. In this chapter, I review previous studies on persuasion across institutional contexts, closing arguments in courtroom discourse and election petition. This is to enable me to determine the gap in the literature that this research seeks to fill. In Chapter Three, I discuss the research methodology including data selection, mode of analysis, and background to the case for the study. Chapters Four, Five, and Six are devoted to the findings and discussions in line with the research questions (RQs). Specifically, Chapter Four addresses RQ1, which concerns itself with the language resources employed by the counsels while Chapter Five focuses on RQ2, which seeks to examine the appraisal resources employed by the counsels and their communicative functions. Chapter Six investigates the three rhetorical proofs employed by the counsels to persuade the trial Justices at the Supreme Court Hearing of Ghana's 2012 PEP. The final chapter, Chapter Seven, presents a summary of the findings of the study, implications of the findings, and recommendations for further research.

Chapter Summary

This chapter sets the tone and direction of the thesis by, first, giving the background to the study and contextualising the subject of the study, counsels closing arguments, within the judicial system of Ghana. The research problem

and research questions were stated and followed by significance of the study. The boundaries of the study and how the thesis is structured were also given. The next chapter discusses the conceptual and theoretical frameworks upon which the study is anchored.

CHAPTER TWO

LITERATURE REVIEW

Introduction

This chapter discusses the conceptual and theoretical frameworks that foreground the study, emphasising their usefulness. Providing an overarching theoretical framework for this study are the Aristotelian Three Branches of Oratory and Perelman and Olbrechts-Tyteca's (1969) *The New Rhetoric*. Also, this chapter gives an explication of related concepts, such as "persuasion", "argumentation", "manipulation", "propaganda", and most especially, "counsels' closing arguments". Finally, a review of related studies on persuasion and rhetoric, closing arguments in courtroom discourse, and election petition is presented to demonstrate how the present study is both similar to and different from them.

Theoretical Framework

An all-encompassing theoretical framework is presented in this chapter. This overarching theoretical framework is made up of two parts – the main theories on which the study hinges and the analytical frameworks which forms the basis for the analysis of data for the study. In the first part, two rhetorical theories, the second tripartite division of Aristotle's classical, *On Rhetoric* and Perelman and Olbrechts-Tyteca's (1969) *The New Rhetoric,* which form the basis on which the entire study is underpropped are discussed. In the second part, the first tripartite division of Aristotle's *On Rhetoric*, Jolliffe's (2010) Rhetorical Framework, and Martin and White's (2005) Appraisal Theory are also presented.

Part One

The second tripartite division of *On Rhetoric*, Aristotle's timeless model of persuasion, which concerns the three species of public speech namely forensic, deliberative and epideictic, is the principal theory which provides fortification for this study. To complement it is Perelman and Olbrechts-Tyteca's (1969) *The New Rhetoric.*

Aristotle's Three Species of Oratory

Two main divisions emerge from Aristotle's structuring of his book *On Rhetoric*. The three means of persuasion (i.e., ethos, pathos, and logos) and the three species or branches of rhetoric (i.e., forensic, epideictic, and deliberative speeches) constitute the first part of the theoretical framework discussed in this chapter. Rhetoric, according to Aristotle, is a way to observe and comprehend how people persuade one another through formal, ceremonial, and legal language. He demonstrates this through his three species of oratory: forensic, epideictic, and deliberative. These three branches of rhetoric refer to three different periods, and it is this division that provides the theoretical anchorage for this study. Forensic refers to the past, epideictic to the present, and deliberative to the future, as shown in Table 1.

Table 1: Branches of Oratory

Branches of Oratory	Time	Purpose	Special Topics of Invention
Forensic	Past	Accuse or defend	Justice/injustice
Deliberative	Future	Exhort or dissuade	Good/unworthy Advantageous/ Disadvantageous
Epideictic	Present	Praise or blame	Virtue/vice

Source: Adopted from Silva Rhetoricae

Forensic oratory

Aristotle's introduction of the judicial branch of oratory must have been because Ancient Grecians engaged in several contentious issues (Kennedy, 2007). Judicial rhetoric is founded on a principle that was prevalent in ancient Greece—the principle that human beings were bound to have enemies who were certain to wrong them and they, in turn, were certain to retaliate by taking vengeance, thus, giving rise to cases in the law court (Kennedy, 2007). This kind of speech deals with past events. The audience (judge or jury) has to determine whether a past event was just or unjust. Forensic oratory requires focusing on arguments that tap into the psyches of judges that make them try to determine why certain people commit a crime or act in certain ways as to breach the law. Since the aim of judicial rhetoric is to ensure justice, a fundamental issue that is addressed by the judges, according to Aristotle, is seeking to establish the guilt or innocence of an accused person. Guilt is established if a wrongdoing is proved and Aristotle defines a wrongdoing as "doing harm willingly in contravention of the law" (Kennedy, 2007, p. 84). A proof of

wrongdoing is achieved through evidentiary support such as sworn oaths, witnesses' testimonies and the canon of the law. Two species of the law existed in Aristotle's time: written and unwritten laws. Written laws include a contract from which an orator can read while the unwritten laws may be based on principles of the law that pertains to virtue. In Aristotle's day, judicial speakers directed their presentation to courtroom judges and this may require that the speaker makes him/herself likeable to the judge; for Aristotle recommends that getting the hearer on one's side is of utmost importance. There is, however, a pitfall in trying to do so. He posits that it is possible that such a provision could be abused, giving rise to a judge becoming partial and less objective. Judicial rhetoric, in most cases, indicates that the present behaviour of a person is frequently indicative of his or her past action, and this could have implications for the future.

Epideictic oratory

Moving from the past, Aristotle (1984) shifts his attention to the present where epideictic rhetoric is most required. This branch of oratory, according to him, is one of the three principal kinds of classical public speech. It is employed when addressing or describing people who deserve to be eulogised and accolades and honour showered on them as a result of upholding societal ideals. It is also used when there is a need to blame or to dishonour and shame those who fail to live up to these ideals. The end of epideictic rhetoric is to praise or blame the target figure. This kind of speech is mostly employed by national leaders during the commencement of national events, at funerals when sermons are given and, in the courtroom, when counsels present their closing addresses.

To the epideictic orator, the most important time frame is the present. However, since the aim of this kind of speech is either to honour or dishonour someone, the past actions of the person concerned play a crucial role in how his deeds and actions are perceived by the orator, which will determine whether he is deserving of praise or shame. Therefore, if applied to the law courts, especially in a counsel's closing argument, the past behaviour of an opponent may inform what will be said about him. The orator limits himself to the present by showering praises or blame on his target object, depending on the prevailing conditions at the time (Kennedy, 2007).

However, from classical times, epideictic oratory has been presented as an ornamental speech of an aesthetic type. It is this function that Perelman and Olbrechts-Tyteca (1969) disagree with. To them, epideictic speech goes beyond this function of merely showering praises or accolades. It is a form of speech which enables a speaker to gain the assent of the audience. This agreement with the audience is of paramount importance to me because it is by means of it that a consensus in the minds of the judges about the values that are celebrated in the speech is reached.

Deliberative oratory

Deliberative oratory is also one of the three kinds of classical public speeches. Deliberative speech is political and legislative. The primary concern of deliberative speech is to move people toward a future action and it applies to different areas within the society, especially, law and politics which in Aristotle's days were deemed crucial areas that could affect the future of the society. Thus, the main objective of deliberative rhetoric is seeking the best interest of the larger society. Deliberative oratory is argumentation for or against

a future action. However, some references are made to the past and some guesses are made into the future by the orator. When a speaker intends to persuade his or her listeners, he or she employs deliberative rhetoric.

A consideration of the three species of rhetoric shows that each of them addresses a different period. For example, judicial rhetoric addresses past, epideictic the present and deliberative the future. However, there is an overlap in the target of these three speeches. While an epideictic orator may be concerned with showering praise or blame, his or her decision may have a bearing on the past deeds of the target object. Likewise, the deliberative speaker may be unable to arrive at a just decision if he or she fails to take into consideration the past and the present. A parallel could be drawn between the application of Aristotle's three branches of rhetoric and what obtains during the closing arguments segment of a trial case where counsels could flaunt the past deeds of an opponent to influence the decisions of the judges.

Applicability of the Theory to the Present Study

For a very formidable argument on persuasive strategies employed by the counsels representing the litigants at the 2012 PEP, the present study leans on Aristotle's Three Branches of Oratory. Forensic rhetoric is crucial to this study since it seeks to identify and analyse persuasive strategies pertaining to courtroom discourse which are crucial in establishing the guilt or innocence of a person based on past events. The parties in the case at law are concerned with the past where one accuses the other of a wrongdoing and the other defends himself or herself with regard to things already done. As it was in Aristotle's day, forensic speakers today direct their arguments to courtroom judges. In trying to convince a judge or jury that his or her client is innocent, counsels refer

to the past deeds of the other parties to heap blame on them by punching holes in their arguments (Edu-Buandoh & Ahialey, 2012).

Similarly, the choice of epideictic rhetoric in this study is borne out of the fact that epideictic rhetoric has to do with praising or blaming someone. Leaders are praised and honoured or blamed and shamed during ceremonial events. During Aristotle's time, this second specie of oratory, epideictic, which is also called 'ceremonial speaking', was given in the public arenas to praise, honour, blame, or shame. In their remarks, epideictic rhetors refer to specific individuals, occasions, groups, institutions, or countries. Because people are interested in the present and the future, according to Aristotle (1984), these speeches typically concentrate on social concerns. Even though epideictic rhetoric pertains to speeches given in the public arena, its application to courtroom discourse is instructive and relevant since its main goal is praising or blaming. This can be applied to the closing segments of a trial where lawyers give their closing addresses.

Since the aim of each lawyer is to win the judge or jury to their side, attempting to persuade the bench at this point requires displaying their persuasive skills which sometimes could involve blaming or shaming their opponents and pouring accolades on the judge(s). Aristotle believed that to understand the need to praise or blame, epideictic speakers should realise the importance of being a trustworthy character. In other words, Aristotle thinks that a message is a lot more convincing when the source is credible. Credibility, in most cases, could be as a result of the knowledge that the source possesses.

The study of virtues or values, a concept that Aristotle inherited from Plato, is a major influence on epideictic speech. The epideictic speaker needs to be able to connect the benefits of the subject to a wide range of listeners.

In other words, the speaker has to make what he or she says sound convincing to a wide variety of people. The information can be positive or negative, and can be in favour of a person or against him or her. Counsels could be considered good epideictic speakers if they sum up their arguments by making the judges believe that their learned friend's arguments have not been very convincing. On the other hand, counsels could also choose to shower accolades on a judge to placate him or her so as to win him or her to their side.

The applicability of this branch of oratory to my work is borne out of the fact that the counsels that represented the litigating parties at the 2012 PEP hearing needed to draw the attention of the bench to the anomalies, discrepancies, and illogicality in the arguments advanced by their counterparts who were representing the other parties. At the same time, some of the counsels needed to highlight the strength of other counsels perceived to be on the side of their clients by emphasising the logical arguments and sound evidence that these must have provided in the earlier phases of the trial.

In deliberative rhetoric, an argument is made in order to determine future outcomes of an event, which ultimately may influence an audience's course of action. This type of rhetoric, which is concerned with sequels of a past deed, deserves the attention of this researcher. This is because it has the greatest ability to inspire an audience to change. Therefore, deliberative speaking calls for the speaker to have a keen understanding of how his or her ideas align with those of the audience. Chambers (2009) argues that the deliberative speaker

should appeal to what one already believes to be true. This, he said, will give politicians, talk show hosts, and political journalists more credibility when they try to influence people's choices or beliefs. The thoughtful speaker, he continued, should be ready to think about topics that are pertinent to the audience and to which they can personally connect. This, according to him, betters their chances of controlling their listeners' opinion. Knowing the aspects of human nature that impact deliberation is one talent that the deliberative rhetorician has to master (Kennedy, 2007).

Considering the fact that the deliberative orator needs to effect a change of attitude in his or her listeners, the choice of this theory becomes an ideal one for this study. This is because, in his or her closing argument, a counsel tries to figure out what a judge believes and then appeals to that belief to convince him or her and to get his support. As Kennedy (2007) opines, lawyers are to see themselves as salespersons whose task is to convince people to patronise their merchandise. Similarly, the counsels at the 2012 PEP had the herculean task of convincing the trial justice headed by Atugugba that their arguments and evidence put before the court are weightier and more convincing than those advanced by the opposing counsels. They do this by appealing to what the judges already believe to be true by showcasing their (counsels') credibility and those of their clients as well as highlighting their opponent's weaknesses and fallibility.

Usefulness of Aristotle's Theory

Even though there may be some critics of Aristotle, most contemporary rhetoricians are not able to completely depart from his tradition. Scholars such as van Eemeren and Houtlosser (2002), Grootendorst (2004), and Waton et al.

(2008) still assign priority to Aristotle's conception. Zmavc (2008) asserts that scholars like Leff (2003) and Tindale (1999, 2004) draw features of the rhetorical tradition and combine them with some contemporary views. He argues that Aristotle's triad of ethos, pathos, and logos form essential part of any argument. Despite the criticism against this influential work, Leff (2009) opines that Aristotle's rhetoric has helped modern scholars shape their views and served as a starting point in their understanding of the relationship between dialectic and rhetoric.

Perelman and Olbrechts-Tyteca (1969), for example, pay close attention to Aristotle. By offering a helpful description of Aristotle's distinction between dialectic and rhetoric, they showcase themselves as scholars who are continuing the philosophy of Aristotle. Mootz (2010) describes Perelman as someone who "Recovered ancient wisdom" (p. 383). The dual ideas of universal and specific audiences are particularly important to Perelman and Olbrechts-Tyteca's (1969) theory of argumentation. They expounded the epideictic strand of the three species of oratory and placed a high premium on it. They, therefore, contend that "epideictic oratory has relevance for reasoning because it enhances the inclination toward action by enhancing allegiance to the values it lauds" (p. 50).

Also, Tindale's (1999) rhetorical model of argumentation is fashioned after Aristotle and Perelman's rhetoric. According to Mitelut (2012), Tindale's ideas of rhetoric add a lot of subtlety to those of Aristotle and Perelman. According to Tindale (1999), a pluralistic kind of "rationality" that "takes multiple shapes depending on circumstances; according to culture, religion, race, class, education, and sex/gender" (p. 207) is supported by the rhetorical

method of arguing. Likewise, Tindale (1999, 2004) incorporates certain modern ideas with elements of the rhetorical tradition.

Filling the Gap

Even though Perelman and Olbrechts-Tyteca's (1969) rhetoric is an off-shoot of Aristotle's, they identify several gaps in Aristotle's rhetoric that require filling, especially, with regard to the epideictic strand of the branches of oratory. Aristotle's treatment of the epideictic strand, according to them, reduces it to a mere literary art with aesthetic value only, and this has divorced it from a positioned argument, a shift which they attribute to the later disintegration of rhetoric and shifting of its orientation. The poor treatment given this strand, according to them, has impoverished it, leading to their rejection of it. Their interpretation rejects the purely aesthetic understanding of epideictic speech by emphasising first and foremost its social function. The writers emphasise the epideictic's public nature and the norms or principles it upholds, describing the goal of epideictic as the audience's strengthened allegiance to communal ideals. The writers emphasise the epideictic's public nature and the norms or principles it upholds, describing the goal of epideictic as the audience's strengthened allegiance to communal ideals. They also incorporate into their framework the concepts of value-judgement and variable intensity of adherence. These concepts, they claim, are lacking in the classical presentations of rhetoric. According to Mitelut (2012), Perelman and Olbrechts-Tyteca's analysis of value and understanding of epideictic rhetoric distinguishes their methodology from that of the ancients, particularly Aristotle. Mitelut opines that Perelman and Olbrechts-Tyteca's treatment of value and their view of epideictic rhetoric set their approach apart from that of the ancients and Aristotle, in particular.

Mitelut further argues that these scholars' theory of rhetoric rests as much on a sociological as well as a logical-dialectical base.

Also, setting their theory apart from Aristotle's is Perelman and Olbrechts-Tyteca's concept of the adherence of an audience. Later, Perelman (1982) argues that due to the audiences' varied levels of adherence, the status of elements in the arguments is not fixed. Perelman says that in order to be effective, the orator or writer must base his or her argument on "presumptions the orator has learned the audience will accept" (p. 160).

The New Rhetoric

In a project aimed at giving back to rhetoric its deserved place in the study of argumentation, philosophers Perelman and Olbrechts-Tyteca in 1958 propounded a theory which they called the New Rhetoric. This was translated into English as *The New Rhetoric*: *A Treatise on Argumentation*, by Perelman and Olbrechts-Tyteca (1969). *The New Rhetoric* is founded on the idea that the audience's participation is paramount to the success of any argument. That is why the authors posit that argumentation is entirely dependent on the audience that it is intended to persuade since it seeks to win over its audience's allegiance.

Just like Aristotle, Perelman and Olbrechts-Tyteca (1969) subscribe to the notion of an audience. They contend that while every argument is made with a particular person or group in mind, the speaker chooses the facts and strategies that will be most effective with their target audience. Perelman (2001) argues that God, all rational and capable individuals, the one deliberating, or an elite are some examples of this ideal audience. This audience, according to Perelman and Olbrechts-Tyteca (1969), is of two kinds: universal and particular. Universal audiences, they argue, consist of all rational beings, and persuasive

discourse addressed to these thematises facts and truths. Particular audiences, they hypothesise, consist of one segment or another of humanity; discourse addressed to these thematises values. Both the universal and the specific audiences, according to Perelman and his colleague, are never set or absolute and instead rely on the speaker, the thesis's objectives, and the audience to which the argument is being made. These factors identify the material that qualifies as "facts" and "reasonableness," which in turn helps to identify the target audience and the orator's style.

The New Rhetoric accentuates the power of the audience in the persuasion process. Perelman and Olbrechts-Tyteca (1969) argue that the audience plays an important role in the successful delivery of the speaker's message and subsequent persuasion and that the audience is not just a passive listener and recipients of new ideas, but an active partner in the delivery process. Therefore, Perelman and Olbrechts-Tyteca's rhetoric seeks the agreement of an audience with the speaker. They contend that the role of the audience, to which the speaker must adapt, determines how all reasoning develops. In their opinion, the audience is not just a recipient of the information; rather, the rhetor registers in the audience's consciousness and vice versa. He argues that rather than merely analyse the audience, the rhetor becomes the audience since he or she is also analysed by the audience so that the two (speaker and audience) merge, become one, and the union results in action. Perelman and Olbrechts-Tyteca's *New Rhetoric* highlights certain fundamental principles that promote persuasion and these include inertia, presence, communion, and association.

Perelman and Olbrechts-Tyteca (1969) bring in some freshness into the theory of argumentation, employing the concept of "inertia". They describe

"inertia" as both resistance to change within the audiences' mind, and as cultural resistance to change within the society. Perelman (1979) argues that "inertia" provides the basis for the initial engagement in rational argumentation; hence, his argument that "inertia" is "the basis for the stability of our … social life" (p. 131) and, therefore, functions via a socio-cultural mechanism giving "tradition" significant psychological and social 'weight' in rhetorical practices. This initial engagement in rational argumentation gives rise to the principle of presence which, according to Perelman and Olbrechts-Tyteca (1969), fosters speaker-addressee bonding. These authors posit:

> One of a speaker's concerns is to use verbal magic to bring something that is truly missing but that he thinks is crucial to his argument into existence, or to make something more present in order to increase the importance of something that has already been made conscious (p.117).

By this, the authors believe that a speaker should linguistically create a presence to which the audience adheres to. This is something that is achieved if, first, the speaker seeks to establish a rapport between himself and the audience. They also realise that to secure the attention of an audience, the speaker needs to highlight certain facts and ideas over others. The authors believe that presence is created through the rheto's analysis of his audience. The rhetor then creates a presence with the audience, using the information derived from the analysis. Once a rhetor has created presenc, then, he can proceed to create communion through the use of his language.

Another fundamental principle that promotes persuasion, as stated by Perelman and Olbrechts-Tyteca (1969), is communion, a concept of an audience

that differentiates it from Aristotle's rhetoric. In *The New Rhetoric*, communion is used to describe a form of discourse that fosters comradeship among the members of the audience who share a common value. Communion, according to Graff and Winn (2006), is the fostering of a sense of solidarity or communal spirit among the members of the audience who share the rhetor's values. Therefore, the rhetor must find objects of agreement in order to commune with his or her audience. According to Perelman and Olbrechts-Tyteca (1969), the links between the rhetor and the audience are enhanced by appealing to shared characteristics or beliefs. The rhetor then employs this goodwill to guide the audience to the conclusions that are most helpful to his or her case.

For Perelman and Olbrechts-Tyteca, argumentation must not be haphazardly done. The starting points for arguments, according to Perelman and Olbrechts-Tyteca, is agreement. These authors opine that for audience adherence to be secured and sustained through to a conclusion, the rhetor (speaker) must start the argument in total agreement with the audience. To secure audience adherence, speakers start with points of agreement. Certain starting points such as facts (discrete ideas that have universal acceptability), truths (principles that are upheld universally), and presumptions (variables founded on faith) are relevant to the nature of the real, while other starting points, such as values, hierarchies, and loci of the preferred concern the nature of the preferable. A rhetor, then, attempts to transfer the agreement accorded these starting points to a thesis that may be contingent or controversial.

The kernel of Perelman and Olbrechts-Tyteca's (1969) theory is that before persuasion can be achieved, there is a need for both the speaker and the audience to reach an agreement of some sort. This agreement, according to

them, creates a bond or liaison, which is achieved through a variety of techniques, among which are quasi-logical arguments, arguments based on the structure of reality, and arguments that establish the structure of reality. Other arguments are established by the process of dissociation. Argumentation by the process of dissociation occurs when one idea is divided into two so that the speaker can avoid presenting a conclusion that is incompatible with the thesis. Through dissociation, the rhetor can address opposing points of view and associate them with undesirable factors, or distance the favoured point of view from undesirable factors.

The tenet of *The New Rhetoric* which is vested in the audience has much relevance to this study since the audience (the judges, other counsels, and the general public) are the target of the counsels' persuasive acts. Since *The New Rhetoric* is founded on the idea that argumentation aims at securing the adherence of those to whom it is addressed (Perelman & Olbrechts-Tyteca, 1969), the counsels do all within their power to try to influence their audience (the judges). By basing their analogies on the facts and truths pertaining to the past, each counsel tries to influence the judges' actions through the different techniques identified by Perelman and Olbrechts-Tyteca (1969) such as liaison and dissociation. By dissociation, the rhetor can address opposing points of view and associate them with undesirable factors, or distance the favoured point of view from undesirable factors. This theory will, therefore, be most useful in analysing the counsels' arguments in relation to their audience (i.e., the trial judges and other interested parties).

Part Two

Part two of the theoretical framework comprises the Aristotelian rhetorical triangle (i.e., ethos, pathos and logos), together with Jolliffe's (2010) rhetorical framework, and Martin and White's (2005) appraisal theory, which together provide the analytical platform on which the data for this study are analysed.

Aristotelian Rhetorical Triangle

One of the many approaches to doing a rhetorical analysis is Aristotelian Rhetorical Triangle. Contrary to the assertion by some scholars that Aristotle did not provide a method for doing a rhetorical analysis (Rood, 2013), Aristotle, in his work, *On Rhetoric*, provides a comprehensive framework for undertaking a rhetorical analysis. The framework is based on the three means of persuasion, ethos, pathos, and logos, as shown in Figure 1 below.

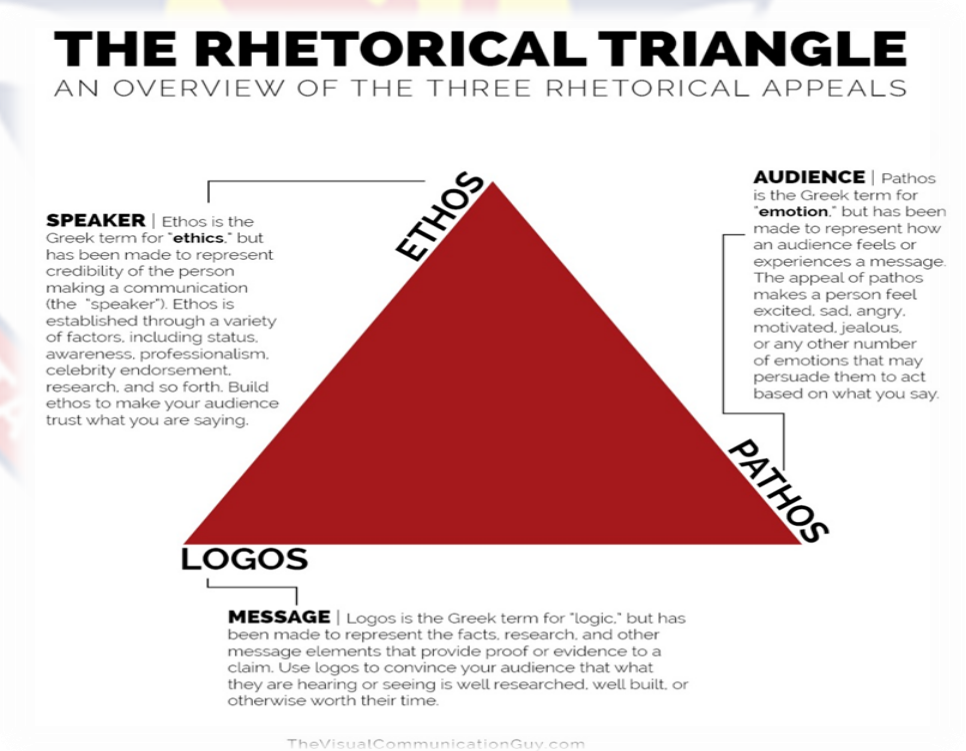


Figure 1: Aristotelian Rhetorical Triangle

Source: Internet, the visual communication guy

Ethos refers to the integrity and trustworthiness of the speaker in a communication encounter. Aristotle acknowledges the fact that it is not always that the message alone yields a positive result, that of persuading; he stresses the point that the character and personality of the speaker can also be of great importance in reaching the heart of the audience:

> Every time a speech is delivered in a way that makes the speaker credible, there is persuasion via character. This is because we trust fair-minded individuals more readily than we do others, both in general and when there is room for doubt rather than specific information (as cited in Kennedy, 2007, p. 38).

Aristotle posits that besides crafting a good argument, it is imperative on the part of the speaker to construct a positive identity of himself or herself, so as to put the judge in the best frame of mind. According to Aristotle, the way the audience perceive the speaker, either positively or negatively, is of paramount importance to the success of the message he (the speaker) bears. He argues that the speaker must establish rapport with his/her audience in order for his/her message to be accepted. In Aristotle's word,

> For it makes much difference in regard to persuasion…that the speaker seem to be a certain kind of person and that his hearers suppose him to be disposed toward them in a certain way and in addition if they, too, happen to be disposed in a certain way [favorably or unfavorably to him] (Kennedy, 2007, p.112).

In effect, Aristotle argues that the audience must relate to the speaker in certain ways, especially if he presents himself in a likeable manner. He categorises likeable and unlikeable characters in terms of age, birth, wealth, and fortune.

Aristotle outlines an explication of how a speaker can make himself/herself likeable and be credible. He posits that the speaker must display practical intelligence, virtuous character, and goodwill. He, however, states that failure on the part of the speaker to exhibit any of these three qualities can result in the audience doubting his or her intentions and his or her ability to offer the best suggestion. However, if he or she displays all of them, Aristotle concludes, it cannot rationally be doubted that his/her suggestions are credible. Furthermore, the speaker should establish rapport with the audience by being friendly and showing that he shares common interest and values with them. For instance, Aristotle avers that the audience will feel friendly towards a speaker who is more pleasant and good-tempered than someone who is hostile:

> Because people don't perceive things in the same way when they are friendly or hostile, furious or calm, but rather differently overall or in terms of importance: To a friendly person, the subject of his judgement appears to have done nothing wrong or merely a minor transgression; to a hostile person, the reverse is true (Kennedy, 2007, p.112).

Aristotle shows that someone who is friendly is likely to be liked by others and his/her propositions are more likely to be accepted by them. Additionally, Aristotle extols virtuousness. He emphasises the fact that a virtuous person will desist from flaunting other people's faults; he is one who has a good sense of humour, someone who rather than criticise others eulogises them, someone who is not slanderous, one who is serious-minded, and someone who is neat in appearance.

Aristotle also identifies pathos as another means through which persuasion is achieved; that is, the highlighting of the emotions and psychology of the audience. Kennedy (2007) defines pathos as the emotional effect created by the speaker and text on the audience or reader. Aristotle, cited in Kennedy (2007), argues that good rhetoricians appeal to the emotions of their audience in order to put "hearers … in the right frame of mind" (p. 113). He avers that all of the sentiments that impact men's judgement and are accompanied by either pleasure or suffering are referred to as emotions. Here, Aristotle indicates that knowledge of the subject matter and argument based on sound reasoning alone does not always yield persuasion; rather, stirring of the emotions may be an effective tool for persuasion. He further argues that even an elite audience is not always persuaded through logical reasoning, but may sometimes be distracted by factors that do not pertain to the subject, even flattery. Aristotle posits that the goal of each speech is to persuade the audience. Therefore, it is necessary to put the audience in the appropriate emotional state.

Aristotle notes that it is important that each speaker knows which emotions exist and under which circumstances they can be elicited. In Aristotle's opinion, discerning why people get angry, who they get furious at, why they become furious, and with whom they are upset are all part of understanding the feelings of anger. He further posits that a public speaker has several possibilities to stir emotions in the audience that can becloud his/her judgement and reduce his/her ability to be critical. He states that high emotional topics bother on value and belief systems and these, according to him, are often manifested in opposites such as anger or calmness, friendliness or hostility, fear or confidence, and shame rightfully felt or shamelessness (Kennedy, 2007).

Aristotle advocates storytelling, which people absorb faster than lectures, and figures of speech such as metaphor and simile which, according to Kennedy (2007), are notorious for reducing the audience's ability to judge. He claims that these may be employed to obscure certain arguments and substance. According to him, this enables the speaker to improve the impact of his speech by either highlighting the great points or downplaying the bad ones.

Logos is the Greek term for 'logic', the message itself. Aristotle recognises the fact that there are different categories of audiences. Those that are less sophisticated and can be easily swayed using the appeals – ethos and pathos. However, he also appreciates the fact that another type of audience that can only be persuaded through the power of reason exists, and this category of audience, he believes, can be persuaded through, logos – persuading an audience through argument. This means of persuasion, Aristotle believes, is superior to the rest, and that all arguments should be won or lost on reason alone.

Although Aristotle may not have formulated a systematic approach to doing rhetorical analysis (Rood, 2013), he indicated how rhetorical analysis can be done. He gave clues as to what constitute logos, pathos, and ethos. For instance, Aristotle, cited in *Stanford Enclyclopedia of Philosophy* (2002), emphasises the fact that logos is realised through arguments which are accomplished through inductive (argument by examples) and deductive reasoning (argument by enthymeme). Aristotle, in Roberts (1984), argues that the argument by example makes use of inductive reasoning, which is the "foundation of reasoning" (p. 25). For Aristotle, inductive logical reasoning means proceeding from particulars to universal. This form of reasoning, according to him, involves making inferences, encompasses maxims or

proverbs, makes reference to past facts and invention of ideas (perhaps argument by analogy), and appeals to fables which are suitable for addressing popular assemblies.

Enthymeme, on the other hand, is a form of deductive logical reasoning which is drawn from general (universal) to particulars (Kennedy, 2007), and is used by appealing to well-understood facts which aim at proof or demonstration of a proposition. Among the many examples of good enthymemes, according to Aristotle in Robert (1984), is understanding the differences between causality and correlation, proof by contradiction, probability arguments, induction and knowing how to rely on the precedent of the wise, all which are examples of deductive logical reasoning. Deductive logical reason, usually, comes in the form of formal syllogisms which are a powerful rhetorical tool.

Syllogisms are arguments of a very specific form. They are logical, indeed, the only form of formal system of logic for millennia, according to Tessler (2014). According to Kumova and Cakir (2010), syllogism, also known as a rule of inference, is a formal logical scheme used to draw a conclusion from a set of premises. They opine that in categorical syllogisms, every premise and conclusion is given in the form of quantified relationship between two objects. Syllogism is an inductive or deductive scheme of a formal argument consisting of a major and a minor premise and a conclusion. Syllogism bridges the gap between human reasoning and truth. It requires, according to Tessler (2014), an agent to be posited at the other end of the line so as to make the conclusion meaningful and the argument convincing. Syllogisms are means to persuade an audience. Tessler's (2014) assertion resonates with the explanation of *Stanford*

Encyclopedia of Philosophy (2002) that deductive arguments are a set of sentences in which some sentences are premises and one is the conclusion. These are typically realised in a conditional 'if'-clause or a causal 'since'- or 'for'-clause. To help identify arguments in text and talk, Copi et al. (2011) provided a list of words and phrases that are considered premise and conclusion indicators, as follows:

Premise indicators: since, because, for, follows from, as shown by, the reason is that, may be deduced from, and in view of the fact that.

Conclusion indicators: therefore, hence, so, accordingly, consequently, thus, proves that, it follows that, and we may infer that.

To complement Aristotelian Rhetorical Triangle is another approach, the Jolliffe's Rhetorical Framework, a model created by Jolliffe (2010), a former Chief Reader Giddings. This framework has a three-step approach which includes the rhetorical situation, appeals, and organisation, as presented in the next section.

Jolliffe's Rhetorical Framework

Jolliffe's (2010) Rhetorical Framework has a three-step approach for the analysis of data. They include the rhetorical situation, appeals and organisation, as shown in Figure 2.

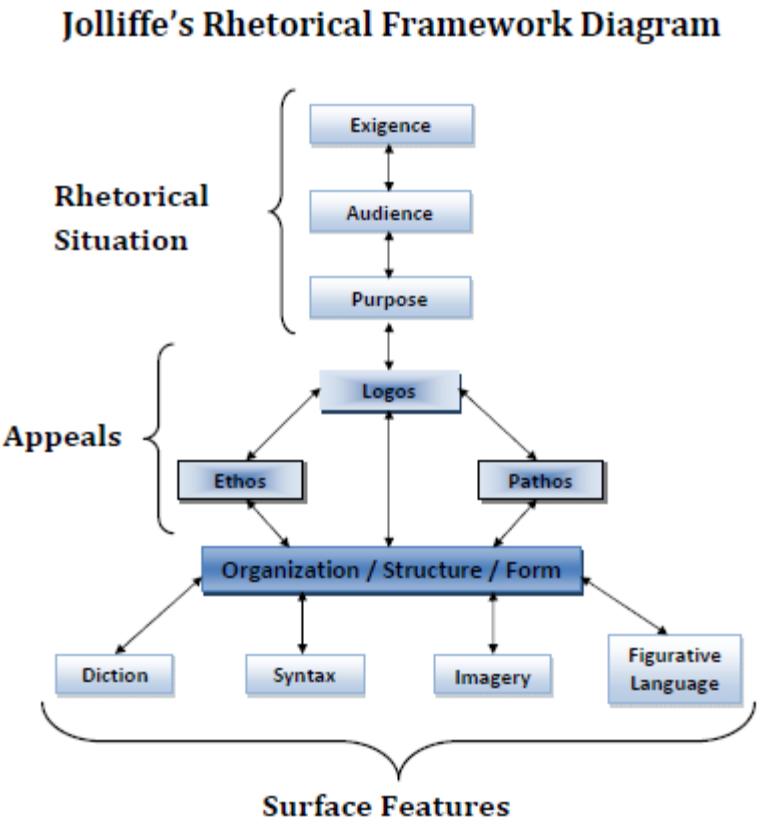


Figure 2: Jolliffe's Rhetorical Framework

Source: Internet https://www.pinterest.com/pin/72128031510804207/

Rhetorical Situation

According to Jolliffe (2010), the rhetorical situation - exigence, audience, and purpose – commences a rhetorical analysis. It elucidates the position of the speaker and the central claim of the text. It corresponds to Selzer's (2004) contextual analysis. Exigence provides a contextual background on which the entire analysis of a text or speech is done. It involves stating the reason why the message has to be shared at this time. Exigence in this regard is the law suit filed by the Petitioners, the NPP, calling for the annulment of the election result which declared Mr. John Dramani Mahama, winner of the 2012 Presidential Election in Ghana. Also, the rhetorical situation requires that the audience, who is the recipient of a rhetorical encounter, is duly identified. With

regard to this study, the SCJs who heard the petition filed by the Petitioners, the NPP, together with the counsels who represented the litigants constitute the audience. Also, the rhetorical situation, according to Jolliffe, includes the purpose for the study. In this regard, the purpose for analysing the addresses submitted by the counsels for the Petitioners and the 3rd Respondent is to find out the linguistic devices and rhetorical strategies that were adopted by their counsels and how they (the counsels) used these in a bid to persuade the judges to give their clients a favourable judgement.

Appeals

The second step in the rhetorical analysis process, according to Jolliffe (2010), is the consideration of the three means of appeals systematised by Aristotle: ethos, which refers to the credibility of the speaker; pathos, which has to do with the emotions evoked by the speaker; and logos, the message itself, which include data, facts, logic and logical reasoning. In fact, no rhetorical analysis is complete without these appeals which have already been explained.

Organisation

Embedded in the framework is the third step of doing a rhetorical analysis. This third step in the analysis process encompasses examining the style of the writer or speaker. This step is further divided into three phases. The first phase involves looking at the structural arrangement of the text under consideration. Here, the researcher is expected to examine the organisation and structure of the text. This may include looking at the structure of a text being analysed in terms of its introduction, body and conclusion. It also involves fathoming the significance of the structural arrangement of the text and, if possible, providing a justification for the arrangement style adopted by the

writer or speaker. It is of utmost importance to note that even though Jolliffe's framework which is adopted for this study prescribes a consideration of the structural arrangement of a text, I did not consider the framework a strait jacket that must be applied religiously. Limitations due to space and time did not allow me to inquire into the structure of the counsels' closing addresses. Moreover, since the study did not set out to investigate structure-related issues, I thought it would be wise if that aspect of the data is considered in another study.

The next phase of Jolliffe's (2010) framework has to do with a full linguistic analysis of the text. This phase of analysis involves examining the writer or speaker's style of presentation of his message. This is done by investigating the surface features which include diction, syntax, imagery, and figurative language. This means that attention has to be paid to the writer or speaker's choice of words that he/she uses to convey his/her message. This involves giving attention to both the denotative and connotative meanings of these words.

Besides paying attention to diction and syntax, Jolliffe (2010) also avers that other textual elements such as those involved in arousing the emotions like imagery and figurative language may also be considered. Jolliffe recommends that other filters such as the modes of discourse needed to be looked at. This may involve analysing the text to find out whether it has divisions or classifications, comparison or contrast and whether key ideas are defined, or whether the argument is based on cause and effect. Attention may also be given to how transitional devices and discourse markers are employed. In fact, this step involves giving a full description of the language resources utilised by the speaker or writer. On the basis of this, I explored the linguistic and rhetorical

resources that the counsels utilised and how these resources are used to illuminate the rhetorical situation, by focusing on how the Aristotelian triad is used to achieve persuasion.

Jolliffe's (2010) Rhetorical Framework bears semblance to the classical one proffered by Aristotle. It is, therefore, used to complement Aristotle's approach which is focused mainly on Aristotle's three means of persuasion. Both Aristotle's classical rhetoric and the more contemporary one of Jolliffe take account of texts and contexts since obtaining a full understanding of rhetoric's full complexity means studying both texts and contexts. Indeed, the indispensability of context in qualitative research is emphasised by Braun and Clarke (2013) who argue that the context of data generation must not be divorced from knowledge. Context for this study, most especially, that which is connected to the data, was based on the following assumptions: (a) that the litigating parties to this case are the two main political parties in Ghana: the New Patriotic Party (NPP) and the National Democratic Congress (NDC). These two parties have introduced dynamism to bear on the political landscape of Ghana; showcasing stiff political rivalry and acrimony, (b) that the adversarial system of justice which Ghana adopts is likened to warfare and, therefore, exhibits a lot of vigorousness and vehemence, (c) that the courtroom is guided by conventions and traditions which include upholding the truth, (d) that the complainant or prosecutor is expected to discharge the burden of proof, (e) that the judges are highly intelligent and rational beings who believe in argument based on logical reasoning, (f) that judges are also human beings who can be swayed by emotional appeals and the credentials of the speaker. Against

the backdrop of these assumptions, a textual analysis of the counsels' closing arguments was carried out.

The Appraisal Framework

I used Appraisal Framework developed by Martin and White (2005) which provides a systematic account of language resources for expressing emotions and attitudes, and to uncover how people position themselves in relation to certain discourses or communities. This framework, according to Martin and White (2005), is the representation through language of favourable and unfavourable attitudes towards specific subjects. The Appraisal model is highly relevant in this research, given that attitudinal meanings are etched in counsels' closing arguments. Its main function is to describe the interpersonal meaning making at the level of discourse semantics. Thus, Appraisal as an interpersonal model deals with the negotiation of social relationships and, as discourse semantics, meaning derived from a text beyond the clause. Hence, the Appraisal system involves the kind of meaning that is developed from a text above the clausal level, which is with the evaluation of the various forms of attitudes that are negotiated in a text, the strength of the feeling involved, and the ways in which values are sourced and readers aligned (Prasetyanti, 2011).

According to Martin and White (2005), the Appraisal framework has a ramified structure that enables it to discern even minute manifestations of attitude. The framework's three key resources are graduation, attitude, and engagement. See Figure 3:

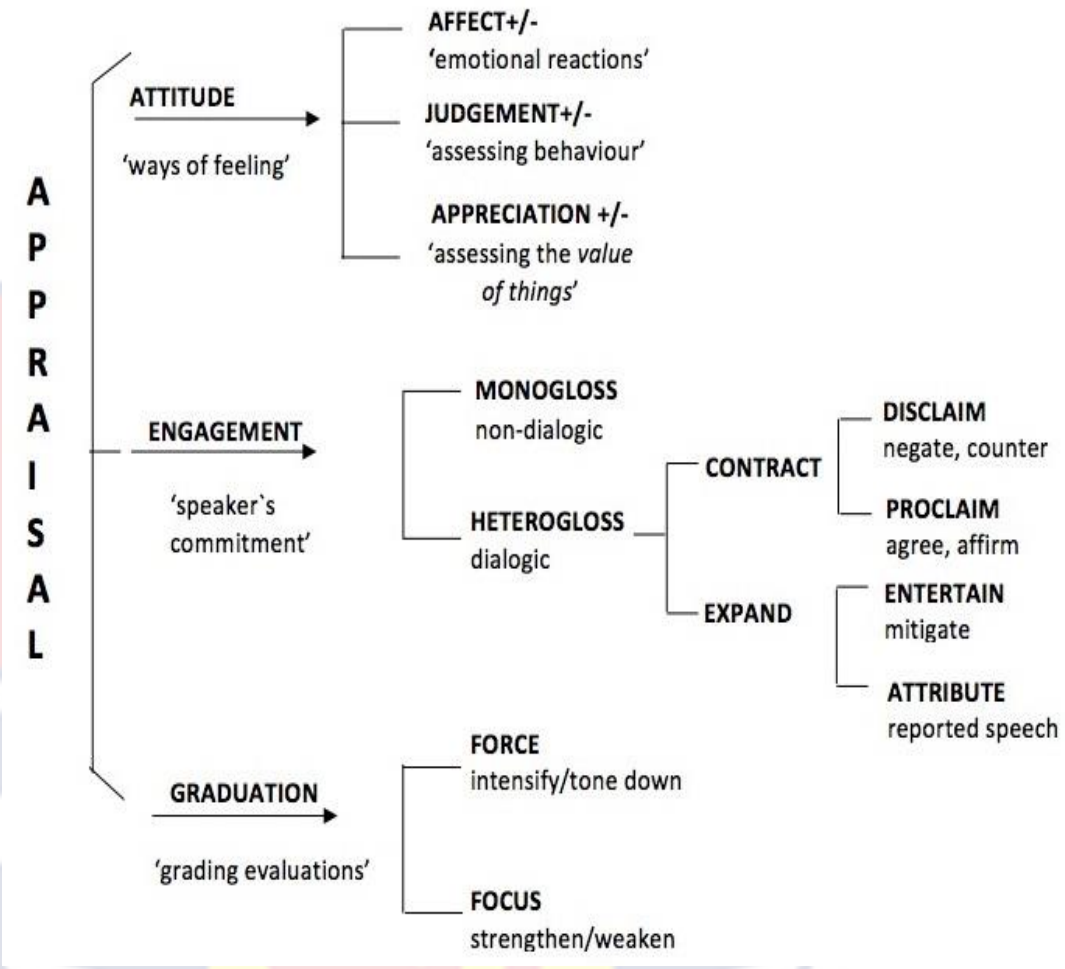


Figure 3: Appraisal Framework

Source: Adopted from Drasovean and Tagg (2015, p. 2)

As shown in Figure 3 above, the Appraisal Framework is fashioned along three axes of meaning: attitude, engagement and graduation.

Engagement represents the axis of commitment. It aims to "establish the specific dialogic posture associated with specified meanings and to describe what is at risk when one meaning is utilised instead of another" (Martin & White, 2005, p. 97). It consists of two distinct resources: monoglossia non-dialogic and heteroglossaia. Monoglossia, according to Martin and White (2005), are non-dialogic; that is, they do not contain statements which do not relate to other statements and which are usually taken for granted. Notable examples of monogloss statements are universal truth such as *the sky is blue* and

the Earth goes round. Heteroglossia, on the other hand, is dialogic. This means that references are made to acknowledging other viewpoints either for solidarity or for discord. The authors contend that people engage with ideas or affirmations through heterogloss by widening the dialogic field; that is, one can either entertain a proposition by acknowledging one's own subjectivity or one can attribute it to another, both of which have the same result of acknowledging different points of view. They might also "limit the dialogic space" by "proclaming (strongly affirming) or disclaiming (negating or opposing) other ideas" (Martin & White, 2005, p. 95).

The attitude resource, according to Martin and White (2005), is "concerned with feelings" (p. 35) and is generally realised adjectivally. It can convey emotions (affect) or express evaluations of either people (judgement) or ideas and things (appreciation). It is highly prized for its social and interpersonal functions which enables one to express either one's emotions (affect), one's commitment to certain rules or moral principles (judgement), or one's preferences (appreciation) (Martin, 2004). The good and bad aspects of every attitude subcategory may be leveraged by authors to connect with their audience.

The last resource of the Appraisal Framework is graduation. It deals with "grading phenomena whereby feelings are amplified and categories blurred" (Martin & White, 2005, p. 35). It has two subcategories, force (which increases or decreases the intensity of an evaluation) and focus which elaborates on the "typicality" of an evaluation, by either sharpening or strengthening it. As noted by Drasovean and Tagg (2015), graduation plays a largely rhetorical role since it has the power to influence how strongly people feel and see things. They

contend that it also serves as a sign of dialogism by enabling people to declare their allegiance to particular viewpoints.

The framework's orientation, according to Martin and White (2005), is towards meanings in context and towards rhetorical effects, rather than towards grammatical forms, priceless features which make it a better choice for this study. This is the case because, as Martin and White (2005) contend, it unites a lexically and grammatically diverse selection of locutions on the grounds that they are all used to situate the author or speaker in relation to the value positions being referenced in the text and in relation to, in Bakhtin's terms, the backdrop of competing opinions, points of view, and value judgements against which all texts operate. The words in this collection fall under the categories of modality, polarity, evidentiality, intensification, attribution, concession, and consequentiality. They also said that the framework categorises any expressions that allow the authorial voice to situate itself in relation to, and so engage with, other voices and alternative viewpoints seen as being in play in the current communicative situation under the title of "engagement".

Related Concepts

In this part of the literature review, I examine some concepts that have a bearing on the present study. The concepts of persuasion and its importance in the courtroom as well as argumentation, manipulation, propaganda, and legal discourse are explained.

Persuasion

According to Lakoff (1982), "Persuasion is the nonreciprocal attempt or intention of one party to change the behaviour, feelings, intentions, or viewpoint of another by communicative means" (p. 95). In light of this,

Vaughan (2010) believes that every individual naturally uses persuasion techniques in one way or another, at some point in their lives, beginning from a very young age. Persuasion is not simply an art that has been studied and written about for millennia. Going by the definition of these scholars, it presupposes that persuasion is an action or process that signifies that the art of persuading someone involves efforts; this requires that the persuader makes some moves that would enable him to strategise. These moves could be in the form of presenting an argument based on logical reasoning, sound premise, and presupposition. It could also be through appealing to the senses through the stirring of emotions. Persuasion is, therefore, defined as the effective transmission of a message from one person to another, with the end goal of gaining the reader's or listener's agreement. This agrees with Perloff's (2003) definition of persuasion as the art of communication in which the communicator seeks to receive the desired result. In addition, Halmari and Virtanen (2005), who have linguistics backgrounds, assert that "any verbal behavior that aims at either altering the thinking or behavior of an audience or to enhance the perhaps previously held ideas can be termed persuasion" (p. 3). Persuasion is, therefore, crucial to change in opinions, feelings, and intentions, and it is a strong force behind attitudinal and behavioural changes. However, in this study, persuasion may be interpreted as an intentional or unintentional attempt by one person to change the opinions of another person or a group of people by utilising oral or written means in order to influence their ideas, values, feelings, attitudes, intention, and motivation. Closely related and often associated with persuasion are three concepts: argumentation, propaganda, and manipulation.

Argumentation

Inextricably linked to persuasion is argumentation. Voss and van Dyke (2001) show the close association between persuasion and argumentation when they describe argumentation as the use of crystal clear thinking—logic—and evidence to convince a person to adopt a particular opinion. Also, van Eemeren, Grootendorst, and Snoeck Henkemans (as cited in Voss & van Dyke, 2001) state:

> Argumentation is a verbal and social activity of reason aimed at increasing (or decreasing) the acceptability of a controversial standpoint for the listener or reader, by putting forward a constellation of propositions intended to justify (or refute) the standpoint before a 'rational judge' (p. 5).

These definitions indicate that a healthy relationship exists between persuasion and argumentation. Nonetheless, some scholars have vilified persuasion, accusing it of treachery (Parkard, as cited in Voss & van Dyke, 2001), especially, when it is achieved through emotional appeal (An, 2011). These criticisms notwithstanding, argumentation is paramount in the realisation of persuasion. Accordingly, many scholars have endorsed logos, one of the three means of persuasion, systematised by Aristotle, and whose tenet is rooted in argumentation, as the foremost means of achieving persuasion (Demirdogen, 2010; Popkin, 1991).

In Demirdogen's (2010) opinion, logos, which entails rational argument, comprises three components: claim, evidence that supports the claim, and a warrant (a propositional statement) that provides a logical connection between data and the claim. He, therefore, reasons that when people use logos,

they assume that recipients of these appeals behave as rational human beings. In a similar vein, Popkin (1991) argues that political persuasion has always been pinned down to manipulation, but he is of the view that in order to persuade the electorate, the astute politician needs to appeal to their power of reason, rather than their emotions as has always been the case, saying that the electorate is not as gullible as some may think. This reverberates with Voss and van Dyke (2001) who argue that argumentation is the use of crystal clear thinking —logic—and evidence to convince a person to adopt a particular opinion. Undoubtedly, these properties that argumentation possesses, logic and evidence, aimed at convincing a person, properties also shared by persuasion, differentiates it from manipulation and propaganda.

Voss and van Dyke (2001) identify two goals of argumentation. The first is the seeking of truth, one that is sought through justification. They argue that argumentation involves making an assertion, and by providing evidence. According to them, argumentation also involves providing a flipside of justification, in order to undermine an opponent's argument. However, they opine that the truth-seeking goal of argumentation is encumbered with risk, that any stated argument is open to examination and possible attacks, which may result in a colossal damage to it. The second function of argumentation, according to Voss and van Dyke (2001), is pragmatic. This function, they explain, has direct bearing to persuasion, as it is related to the goal that the arguer wants to achieve. This pragmatic function of argumentation, they claim, is exemplified by Aristotle's three means of persuasion: ethos, pathos, and logos.

Voss and van Dyke's (2001) perspective on argumentation bears semblance to Toulmin's (1958) explication of argumentation. Toulmin presents six forms of argumentation strategies: argument from principle, argument from authority, argument based on analogy, argument based on generalisation, rebuttal and causal arguments. Toulmin introduced a method of argumentation that breaks arguments into six component parts: data, claim, warrant, qualifiers, rebuttal, and backing. In this form of argumentation, each argument begins with three basic parts, that is, the claim, the grounds, and the warrant.

Thus, following the lead of Aristotle, Toulmin (1958), Tindale (1992) and Demirdogen (2010) and a host of others agree that the basic structure of an argument consists of a claim supported by data or reason, or a conclusion supported by a premise.

Manipulation

Over the years, persuasion has had to endure an unwholesome association with manipulation. Given the negative connotation that is always associated with manipulation (van Dyke, 2006), persuasion has also been caught in this same web of negativity, with some scholars, such as An (2011) reducing its influence to the use of mere emotional language and dramatic appeal, and Packard, cited in Nettel and Roque (2011) devalues and accuses it of using insidious means to achieve influence.

Notwithstanding these negative views about persuasion, scholars such as van Dijk (2006) argue that there is a great difference between persuasion and manipulation. While van Dijk refers to persuasion as a legitimate mind control, he describes manipulation as an illegitimate mind control. One fundamental ingredient of persuasion is that the persuadee is at liberty to be persuaded and

as O'Keefe (1990) notes, "Persuasion cannot happen if the persuadee has no freedom, no free will" (p. 15). In the same vein, Nettel and Roque (2011) argue that persuasion is contingent upon the persuadee's acceptance of the reasons proffered by the persuader.

On the other hand, manipulation, especially manipulation that is intended as a communicative and interactional practice, is accused of exercising control over other people, usually against their will or against their best interests. Van Dijk (2006) maintains that manipulation is bad. He avers, "In everyday usage, the concept of manipulation has negative associations – manipulation is *bad* – because such a practice violates social norms" (p. 360). Van Dijk (2006) illustrates in three ways how manipulation is different from persuasion (a form of legitimate mind control). Firstly, he depicts manipulation as a form of social power abuse, describing it as an illegitimate domination, leading to a social inequality. Secondly, he describes manipulation cognitively as an illegitimate mind control, a practice, which he explains, involves the interference with processes of understanding, leading to the formation of biased mental models and social representations. Thirdly, van Dijk (2006) links manipulation to ideological discourse which promotes in-group and out-group dichotomy, a dichotomy which involves emphasising our good things, and emphasising their bad things; and which aggravates the plight of dominated groups.

Also, Nettle and Roque (2011) argue that one of the main features of manipulation is that it is eminently intentional: "There is no manipulation without the intention to manipulate (p. 58). They argue that one fundamental criterion of manipulation is that the manipulator also hides his or her intention

to manipulate. They, thus, claim, "The intention to manipulate must remain hidden" (p. 58). Van Dijk (2006) opines that manipulation may not be entirely as bad as it is often portrayed. He argues that without the negativity surrounding it, manipulation could be a form of legitimate persuasion, He explains that whereas persuasion thrives on allowing the interlocutor the freedom to choose what to believe, depending on his or her understanding and acceptance of a discourse, recipients of manipulation are, rather, assigned a passive role, which makes them victims. This situation occurs because, in most cases, the intentions of the manipulator are hidden, and the entire fact of the matter may not be made known to the recipient of the manipulation. Therefore, considering the fact that persuasion has always been associated with reasonableness, makes it a superior form of practice.

Propaganda

Another concept that is intertwined with persuasion, and even manipulation, is propaganda. The entanglement of propaganda and persuasion may have arisen, perhaps, due to the fact that both concepts are involved in the act of trying to influence the minds, attitude, and behaviour of people. This seeming similarity notwithstanding, propaganda has gained an alarming notoriety for assuming a negative connotation. In the words of Jowett and O'Donnel (2012), "Propaganda is the deliberate, systematic attempt to shape perception, manipulate cognition, and direct behaviour to achieve a response that furthers the desired intent of the propagandist" (p. 30).

From the above definition, one could see clearly that propaganda uses treacherous means at making people behave in a certain manner that suits the propagandist. Pratkanis and Aronson (2001) say it is coercive. Sasaki (2008)

states that propaganda assumed this negative connotation after the Second World War when the Nazis and the Soviet engage in massive propagation of their ideologies. Despite the negativity that propaganda is shrouded in, some scholars such as Sasaki (2008) aver that there is both positive and negative sides to propaganda. The positive aspect is what he refers to as "good" propaganda while the negative aspect of propaganda he calls "bad". The latter has always gained prominence over the good one, so that to most people like Shabo (2008) there is hardly anything good to say about propaganda. Some techniques of propaganda, according to Shabo (2008), include name calling, a form of propaganda where the speaker uses deleterious words with the intention of vilifying an opposing viewpoint. This technique, according to Shabo (2008), is used to appeal to the audiences' emotions, rather than their intellect. Another technique used by propagandists, according to him, is glittering generalities, a method which involves the use of colourful but vague terms that are stated out of context, and are meant to appeal to the audience. The use of assertion has also been identified as a technique for propaganda. This involves stating a debatable idea as a fact, which depends on the premise that people like to believe what they are told.

Although persuasion has sometimes been vilified alongside propaganda and manipulation, its practice appeals to reasonableness in attaining influence (Nettel & Roque, 2012). This is made possible because persuasion has a closer tie with argumentation than with manipulation and propaganda in the sense that the persuader makes a claim and provides evidence in support of the claim. This resonates with Aristotle, Perelman and Olbrechts (1969), and Toulmin (1958), who agree that argumentation requires the advancement of logical reasoning

which aims at proof or demonstration of a proposition, such as using deductive arguments involving a set of sentences in which some sentences are premises and one is the conclusion, whereas propaganda and manipulation make use of deliberate attempts to shape perception and manipulate cognition. This is attested to by Nettel and Roque (2011) who gave a clear distinction between persuasion, on one hand, and manipulation and propaganda, on the other hand. They noted that persuasion bears a lot of semblance with argumentation, a concept whose aims "give reasons in support of a standpoint and its domain is that of knowledge" (Nettel & Roque, 2011, p, 59). Linking persuasion to argumentation, these authors assert that persuasion is the acceptance of a position intended to engender a disposition to act; its domain is that of seeking an action.

To further distance persuasion from propaganda, Moscovici and Marková (2000) expound that propaganda is institution-specific whereas persuasion is not. They argue that propaganda is one of the tools often used by institutions to achieve their goals and that propaganda is not just a form of communication whose goal is to change people's mind, but it is part of the whole structure and process of institutions with broader aims that go beyond changing people's minds.

The Importance of Persuasion in the Courtroom

In the courtroom, persuasion is vital to the determination of a case. Persuasion can operate within a community or communities. Kritzer (2009) identified three communities in the United States courtroom where persuasion is mostly needed. They are the group of legal specialists, which includes judges and attorneys, the group of technical and scientific experts, and the group of

ordinary persons who make up the jury and are chosen to determine a given case.

Kritzer (2009) observes that the trial judge or jury may be in a dilemma in the face of the overwhelming evidence presented before the court, thus, opening up a leeway for lawyers to tailor their presentation of evidence and argument to persuade the trial judge or jury. It is because of this that Kennedy (2007) urges lawyers to employ dexterity in the art of argumentation and unleash all persuasive tactics within their reach. He added that to persuade the judge or jury to give judgement in favour of their clients, lawyers need to be armed with different persuasive strategies.

Legal Discourse

A specialised type of conversation that differs from other types of discourse is legal discourse. Legal discourse is one of the three categories of discourses that classical rhetoric identified (Fumaroli, 1980). Additionally, Crystal and Davy (1969) assert that even specialists find it difficult to create legal English's complexity since it differs so greatly from everyday language. As it encompasses a wide range of activities, including interactions and language use in courtrooms, legal discourse comes in a variety of forms.

The spoken, written, and even nonverbal communication that occurs in a courtroom during a trial between judges, attorneys, defendants, witnesses, and interpreters is referred to as "courtroom discourse." The defendants' and witnesses' testimony, the argumentative and persuasive lawyer talk, the question and answer session, and the declarative and imperative mode of sentences contained in judges' rulings, instructions to juries, and judgements are just a few examples of how language is used in courtroom discourse. Closing

arguments or summaries, which are typically delivered by attorneys before trial judges or a jury, stand out among various types of speech.

Empirical Studies

Since the aim of this study is to explore language resources and how they are used by some counsels who represented the litigating parties at Ghana's 2012 PEP hearing, I deemed it fit to review related studies on persuasion and persuasive strategies, closing arguments in courtroom discourse, and election petition.

Studies on Persuasive Discourse

Obeng (1997) studied communication strategies, persuasion and politeness in Akan judicial discourse. He identified six persuasive strategies used in the traditional judicial setting of the Akans, a major ethnic group in Ghana. Among the strategies he identified are storytelling, apologetic expressions, proverbs, riddles, and hedges. His study also found that the use of deferential titles, such as "Nana", followed by flattery (appellation) is an effective way of influencing the jurors to give a favourable verdict. The similarity between Obeng's (1997) study and the present one is quite high in that both have a set of African background, and more particularly, both studies are carried out in Ghana. Also, both studies are set to investigate persuasive strategies in the courtroom. However, the area of divergence between the two studies is the type of court studied. While Obeng (1997) investigated persuasive strategies used in Akan judicial courts, the present study examines the use of persuasive strategies in the western-based formalised judicial system of Ghana.

According to Agyekum (2004), persuasion is a strategy used to persuade someone to alter their behaviour or to become resistant to change. He asserts

that persuasion is a strategy for mental change in which the persuader imbues certain meanings and connotations in order to get the target to adopt the persuader's viewpoints. In a communication situation, it is also a harmonic linguistic approach intended to prevent disagreements among participants. His study examines the various functions of persuasion and identifies some of the communicative contexts under which persuasion is employed in Ghana, and these include palace language and arbitration among others. He identifies honorifics, deference, address terms, apologetic devices, and proverbs as persuasive devices used in the palace. Agyekum's study bears semblance to mine in that both studies are interested in uncovering how persuasion is achieved. While mine concentrated on the closing arguments delivered by counsels at the 2012 Election Petition Hearing, Agyekum's work looked at several communicative contexts: (a) palace language and arbitration; b) religious worship and the supplication to God and the deities; c) consoling the worried and the depressed; (d) persuasion in borrowing; and (e) political, propaganda, co-opting and advertising. However, of these communicative contexts, language and arbitration is the one that has a direct bearing on my study. This is because both studies are interested in unearthing how persuasion takes place within the judicial context. Although his data are derived from the Akan traditional court system, mine is based on the western court system inherited from the colonial master. The focus is the same, as both studies look out for persuasive strategies. However, a point of departure is in the phase of the courtroom trial. While my study is based on the closing argument of the trial, Agyekum's study deals with the actual trial which corresponds to the direct and cross-examination phases of the formalised western system of arbitration.

His study does not show the stratification that exists in the formalised western court system where the division is discernable. Next, I look at studies in persuasion from other regions of the globe.

Studies on Persuasive Strategies

Over the years, different persuasive strategies have been employed by many. In the sphere of legal discourse, Makela (2011) identifies the use of metaphor, rhetorical questions, and analogies as powerful tools for persuasion in counsels' closing arguments. A metaphor is a figure of speech in which a name or descriptive phrase is used to an item that is distinct from but comparable to the one to which it is properly applied (Makela, 2011). According to Makela, a word is transferred from the item it identifies to another object that it designates through similarity or comparison in accordance with the accepted definition of metaphor. Aristotle give a clear description of metaphor when he asserts that it is a way of comparing two things without the use of a simile "like" or "as". In stating the importance of metaphor to discourse, Makela, unlike Aristotle who describes metaphor as ornamental, asserts that metaphors are important methodological tools in both the construction and critique of legal theory. He points out that attorneys use this linguistic device to discharge the persuasive burden in legal discourse, especially, in their closing arguments before the court's final verdict is given.

Johnstone (1989) investigated the linguistic strategies and cultural styles for persuasive discourse. She adopted Perelman and Olbrechts-Tyteca's (1969) three persuasive strategies: quasilogic, presentation, and analogy. She explained that the quasilogical argumentation is informal, non-demonstrative reasoning that takes its effectiveness from its similarity to formal demonstrative logic. She

contends that by utilising the terminology and structure of formal logic, quasilogical persuaders provide the rhetorical impression that their arguments are indisputable from a logical standpoint. The goal of quasilogical persuasion, according to her, is to convince, to make it seem impossible for an audience using its power of rationality not to accept the arguer's conclusion. She argues that to achieve this kind of persuasion, the use of logical connectives such as "thus", "hence," and "therefore" is paramount. Another persuasive strategy presented by Johnstone is what Perelman calls "presentational persuasion". This strategy involves the use of figures of speech such as metaphor and parallelism. Johnstone points out that the aim of this strategy is characterised by what she calls "rhythmic paratactic flow", a device which provides a rhythmic effect on judges and which is capable of influencing them to take sides with a lawyer. She argues that the strategy of presentational persuasion is characterised by a rhythmic paratactic flow which is often realised in discourse in the form of "rhetorical deixis" of here, now, and this. She also opines that visual metaphors, parataxis, involvement, and parallelism are devices used to achieve persuasion.

Johnstone (1989) highlights the advantage of the strategy of presentational persuasion when she states that visual metaphor helps to make the persuader's claim come alive as if the claim were actually in the audiences' vision, thus promoting involvement between the persuader and the persuadee. By using parallelism, the persuadee is swept along by parallel clauses, connected inordinate series. The strategy of analogical presentation works by calling to mind explicitly or implicitly traditional wisdom often in the form of parables or folktale-like stories. Johnstone argues that when a speaker uses analogical rhetoric, he or she attempts to persuade by teaching and reminding

his or her audience of time-tested values by the indirect mode of storytelling. She states that analogical arguers persuade by having their audience make late deductive leaps between past events and current issues. She contends that the language of analogical presentation is the language of folktales with their formulaic openings and closings and the timeless, placeless quality signalled by expressions such as: "once upon a time". She further maintains that stories used in analogical presentation involve the use of chronological markers.

On his part, Nesson (2007) identified the use of analogies, rhetorical questions, logical reasoning, and emotive language as some of the best strategies to use by lawyers in their closing arguments. According to him, analogies are a powerful form of argument that can be very effective in persuading a jury. He explained that leading a jury or judge to recognise the truthfulness of something through comparison of that thing to something that a judge or jury can relate to from their personal experiences is a very powerful way to win them over. He also advocates the proper use of rhetorical questions, arguing that they can be an effective tool if used properly. Nesson urges lawyers to use a rhetorical question only if they are sure that the question has only one answer, and the answer is immediately clear to every juror or the judge.

Mazzocco and Green (2011) sets out to investigate the persuasive strategies that are employed by witnesses in the courtroom. Their study provides theoretical insight into the mechanism behind persuasion and its potential impact on trial cases. The study identifies narrative persuasion to be a potent tool in the hands of witnesses. While Mazzocco and Green's interest lies in investigating narration as a persuasive tool in the hand of witnesses, the present study's focus is on the use of persuasive strategies by lawyers in their closing

arguments. In her study, Geiger (2004) investigates the correlation between persuasive strategy, opposing counsel, and verdict outcomes. She achieves this through an examination of transcripts from high-profile, criminal jury trials. Her findings suggest that persuasive strategies are more successful at persuading judges. She also found that lawyers combine strategies rather than utilise a simple one. The area of commonality between Geiger's study and the present study lies in the fact that both studies explore the persuasive strategies employed by counsels in their closing arguments. However, the point of departure of Geiger's study from this study is that while she investigated the relationship between persuasive strategies and verdict, this present study does not. Examining the correlation between persuasive strategies and verdict is outside the scope of this study.

Rhetorical Studies

Globally, rhetoric as a discipline has been researched in multi-dimensional ways: legal, religion, business, medicine, and politics. Even in Africa, there are myriads of studies in rhetoric. Interestingly though, it appears that political discourse seems to dominate rhetorical studies. For example, Sarfo-Adu (2018) investigated how former President John Agyekum Kuffour of Ghana won a previous presidential election as a challenger and again as an incumbent. Sarfo-Adu's study is a comparison of the pragma-rhetorical strategies employed by Mr. J.A. Kuffour in the presidential election of 2000 and 2004 respectively to persuade voters. The findings of his study revealed that as a challenger, J. A. Kuffour employed several rhetorical strategies among which are marketing himself as an agent of change and promoting himself as a personality that has the answers to Ghana's problems. Also, as an incumbent,

J.A. Kuffour launched a continuity campaign through the use of temperate language and the showcasing of his achievements.

In a similar study, Opoku-Mensah (2005) explores the rhetorical strategies and tools employed by Kwame Nkrumah in six of his major political speeches. The study is grounded on Aristotle's rhetorical proofs and the Rhetorical Regimes of Perelman and Olbrechts-Tyteca (1969) on argument as well as Bitzer (1968) on situation. A notable finding of Opoku-Mensah's study is that Kwame Nkrumah employed the argument of inclusion of the part in the whole to engender African unity. Also, while he used a positive association to boost a positive image of himself, he used a negative association to portray a negative image of his adversaries.

Although these two studies conducted in Africa are similar to mine in terms of their theoretical framework and their task of uncovering the rhetorical strategies employed by J. A. Kuffour and Kwame Nkrumah respectively, they have a different focus from mine in that both of them are anchored on political discourse while my study investigates rhetorical strategies employed by counsels in their closing arguments.

Using the genre rhetorical approach, Afful (2005) analysed examination essays in three disciplines (English, Sociology, and Zoology) of Ghanaian undergraduate students. The focus of his study was to research into the use of two key rhetorical features, introduction and conclusions. His findings indicated that there are variations in the rhetorical features identified. Although Afful's contribution to rhetorical studies is significant, his study has implications for studies in disciplinary discourse, writing pedagogy, and future research in disciplinary rhetoric while my study focuses on how persuasion is achieved

through rhetoric. Like Opoku-Mensah (2005) and Sarfo-Adu (2018), other scholars in Africa have researched into rhetoric. However, most African scholars have not investigated rhetorical strategies in courtroom discourse, specifically, in counsels' closing arguments.

Set in the Western world, Suddaby and Greenwood (2005) examined the role of rhetoric in legitimising profound institutional change. They analysed the discursive struggle that ensued between proponents of a new organisational reform. They found that the rhetorical strategies that propelled the new organisational reform contain two elements – institutional vocabularies and theorisations of change by which actors contest a proposed innovation against broad templates or scenarios of change. They identified five such theorsations of change (teleological, historical, cosmological, ontological, and value-based) and described their characteristics.

Also, Rood (2015) explored organisational rhetoric used in the field of Mass Communication. She examined how communicative acts structure and shape the construction of identity in settings beyond formal workplaces. The author based her analysis of the social sorority by-laws of Kappa Alpha Theta and the rhetorical situations those by-laws address. According to this study, social sororities successfully convince their members to take an active role in the organisation by using organisational rhetoric. The research concluded that social sororities use rhetoric to change the agency and identities of their members in ways that are typical of effective organisational rhetorical strategies.

Just a few scholars have studied rhetorical moves in counsels' closing arguments. Among such scholars are Miller and Bernstein (2005) who explored

religious appeal by both prosecutors and defense counsels in the closing argument of cases involving the death penalty. They asserted that in their roles as advocates, lawyers raise arguments they believe will be most persuasive to the jury. In doing so, they employ emotionally-charged tactics to win the sympathy of the jury. These researchers found that many advocates appeal to emotionally-compelling religious beliefs of their jury in their closing arguments.

Studies on Counsels' Closing Arguments

On their part, Spiecker and Worthington (2003) found that presentation efficacy in a mock civil trial is influenced by the organisational method employed to frame opening statements and closing arguments. They manipulated two organisational structures, a narrative and a legal-expository, formed to produce a two (plaintiff organisational strategy) by three (defence organisational strategy) experimental design. The results indicate that a mixed organisational strategy of narrative opening plus legal-expository closing is more effective for the plaintiff and a strict narrative strategy for the defence. However, their findings also suggest that a tight legal-expository organisational plan is more successful for the defense than a rigid narrative strategy. The work of Spiecker and Worthington (2003) no doubt provided an insightful direction for this present study, as it examines persuasive strategies that are most effective for both the defence's and prosecutor's opening statements and closing arguments. The area of variance between their study and mine lies in the fact that while the present study concentrates on the persuasive strategies used in the closing arguments of counsels, theirs dwells on persuasive strategies in both opening statements of counsels and their closing arguments. Also, while

Spiecker and Worthington (2003) use simulated civil trial, the present study relies on naturally-occurring data.

Carranza (2008) embarks on a metapragmatic study that describes a wide range of reflexive elements in closing arguments of criminal trials based on their habitual use by trial law. Her goal was to find out the general underlying function of these reflexive elements. Carranza identifies and analyses five kinds of metapragmatic indexes from the maximally explicit to the implicit in their interactional, situational, and societal contexts of performatives, formulations, descriptions of aspects of the sociocultural practice, strategic descriptions of contextual conditions, and style. The analysis reveals that these metapragmatic features contextualise communication as expressing a specific social capital, and at the same time, they contribute to defining what does not count as a legitimate practice. The study also reveals that apart from the specific effects of individual types of indexes, in closing arguments, metapragmatic indexes function signalling that the social actor and the practice they are engaged in rightfully belong to the social field of the law.

Similarly, Chaemsaithong (2018) investigates audience orientation in courtroom communication of the closing argument. Chaemsaithong did a quantitative and qualitative analysis of five high-profile American trials. In the analysis of her data, she identifies the traces and degree of the jury's presence through pronominal choices, questions, directives, references, and shared knowledge. Such relational practice, she argues, not only helps to "grease the gears" of courtroom communication, but also plays a crucial role in how meaning is created during this stage of the trial. The results demonstrate the significance of relational labour for achieving transactional objectives in

institutional discourses. This study bears semblance to mine in that it is set in the closing argument phase of the trial process. However, it differs from mine in terms of data, methodology, and focus of the study. This indicates that there is a need for more researchers to investigate persuasive strategies in counsels' closing arguments.

Studies on the 2012 PEP

Since Ghana's 2012 PEP was the first of its kind in the country, a lot of interest was generated by it in and outside Ghana. In Ghana, the interest of politicians, the citizenry, the media, political and social commentators, members of the diplomatic community, researchers and scholars were stirred. Outside Ghana, members of the international community, such as political observers, donors, and the regional blocks – Economic Community of West African State (ECOWAS), the African Union (AU) – also showed keen interest in the hearing of the petition. To this end, some researchers have used portions of the trial in various studies. Some of these studies are reviewed below.

While some lauded the initiative, process, and outcome of the petition, others saw it as a test case for democracy and the judiciary in Ghana. Owusu-Mensah and Frempong (2015) fall within the category of people who think that the petition was a test case for the judiciary in Ghana. In a case study on the Judiciary and 2012 PEP, these authors investigated the ability of the judiciary in Ghana to carry out impartially and independently its constitutionally-mandated responsibility of upholding and defending the Constitution and Acts of Parliament, in the democratisation process of the country. The data for their study were the judgement by the panel of SCJs and they adopted the content analysis technique in analysing their data. Their findings revealed that in Ghana,

seeking redress in court over election issues was a forgone conclusion and that the resolution of future electoral disputes and challenges was to take place at the respective polling stations.

My interest in this study was intense because both the authors and I are interested in the same subject matter, Ghana's 2012 PEP. Moreover, like mine, their study was a case study of the qualitative type. However, the point of departure of my study from theirs lies in both the methodology and the aspect of the data used by them. While Owusu-Mensah and Frempong wanted to know whether Ghana's judiciary was capable of upholding the tenets of the Constitution in the face of political pressure, my interest was in investigating the rhetorical processes adopted by the counsels who represented the litigating parties in achieving persuasion in their closing arguments to the panel of judges. Thus, while their data were the judgement delivered by the judges, mine were the closing addresses presented by the counsels.

Henaku (2018) investigates the intersections between rhetoric and power during Ghana's 2012 election petition. Using rhetorical discourse analysis, Henaku demonstrates how power is constructed between representatives of two political parties during cross-examination. By means of micro- and macro-discursive analysis of data, she argues that the discursive construction of power during cross-examinations is complicated by the fusion of legal and political power which impact the production of the three modes of proof (ethos, pathos, and logos). This posture, she maintains, determines the outcome of the case. The study faults Ghana's adversarial court system and questions its competence in resolving complications arising from the fusion between legal and political power because its adversarial nature has the

tendency to deepen the extreme adversariness that promotes political showmanship. This situation, she argues, does not afford the litigating parties the opportunities to deliberate the lapses within the electoral process. Henaku's study affirms the enhancement of Ghana's democracy by the rhetoric-power dynamic in the courtroom. Undoubtedly, Henaku's study provides an insight that this present study can draw from. However, there are areas of variance between the two. Henaku's was interested in finding out whether rhetoric-power play during cross-examination at Ghana's 2012 election petition enhanced Ghana's democracy. This study, on the other hand, is interested in investigating what language resources were employed by the counsels representing the litigating parties during their closing arguments at Ghana's 2012 election petition, and how these resources were used to try to persuade the trial judges to give favourable judgement on behalf of their clients.

Asante and Asare (2016) explored a theoretical perspective on the analysis of the 2012 PEP. They sought to find out whether Ghana's democracy has been strengthened by the PEP or not. In their conclusion, these authors argue that the election petition has consolidated democratic gains in Ghana. Thus, Owusu-Mensah and Frempong (2015) and Asante and Asare agreed that the presidential election has implication for Ghana's democracy. While Owusu-Mensah and partner contend that it has exposed lapses in state institutions that are expected to ensure that post-electoral issues are handled constitutionally, Asante and Asare argue that the election petition has shown that Ghana's democracy has grown. In all, both studies are mounted on a political platform, a complete departure from this current study which is linguistically based.

Adding to the number of researchers who have shown interest in examining Ghana's 2012 PEP is Thompson (2021). She charts a new path in the studies relating to the 2012 Election Petition by investigating how the media framed the proceedings of the election petition. Going the explorative way, Thompson depends on the content analysis approach of the quantitative research design to show how the stories obtained from a commercial digital platform of an elite radio station throws enlightenment on Ghana's political and judicial process. Like the three other studies on Ghana's 2012 PEP already reviewed, Thompson's study falls outside the scope of this present one. While Thompson's study focuses on giving an appraisal of how the Ghanaian media fared in relation to their reportage of the Election Petition, the current study deals with explication of the linguisto-rhetorical issues pertaining to the closing arguments of counsels at the 2012 PEP held in Ghana. In sum, while there have been some attempts to interrogate the 2012 PEP, the issues addressed fall outside the scope of this study. Therefore, there is a need for a study like mine to complement the others.

Chapter Summary

In this chapter, I have discussed the theoretical and conceptual frameworks upon which this work hinges. I have shown how the theories – Aristotle's Three Species of Rhetoric and Perelman and Olbrechts-Tyteca's the New Rhetoric – benefit this study. I also gave an explication of the analytical frameworks (Aristotle's three means of persuasion, Jolliffe's Rhetorical Framework, and Martin and White's Appraisal Theory) used for this study. Also, I have discussed the concepts of persuasion, argumentation, manipulation,

propaganda, persuasion in the courtroom, and legal discourse. Additionally, I have reviewed some studies related to the present one.

CHAPTER THREE

METHODOLOGY

Introduction

In this chapter, I present the methodology for this study, which comprises the choice of research design, the data used for the study, data collection procedure and background information on it. Also, the method of analysis, which includes the coding procedure and the use of a software, has been explicated in this chapter. Additionally, the analytical frameworks that provide direction and focus for the analysis of data are also discussed.

Research Design

Employed wholly for this study is the qualitative research design. Nonetheless, there are a few tables containing some frequencies and, in some rare cases, percentages meant to illustrate some points. The qualitative research design is a vast and exciting method of doing research (Braun & Clarke, 2013). According to Leedy and Ormrod (2005), the methodology focuses on events that take place in natural contexts. It requires an examination of those occurrences in all of their complexity. In contrast to quantitative research which uses numbers as data and analyses them using statistical techniques, Braun and Clarke (2013) describe qualitative research design as a flexible method of collecting and analysing data. Naturalistic, descriptive, interpretive, and exploratory are characteristics of the qualitative design. Samples used in qualitative research are often small, non-random, and utilise observations and interviews rather than inanimate instruments like scales, exams, and surveys. Finding patterns that appear after attentive observation, meticulous documentation, and deliberate interpretation of the findings is the aim of

qualitative research. Qualitative research reveals contextual findings rather than broad generalisations (Cresswell, 1994). Altheide (1996) asserts that the goal of qualitative research is to comprehend the nature and processes of social life and to arrive at meaning through the kinds, traits, and organisational features of the documents as social products in and of themselves. This means that qualitative research design provides an insightful lead into the reason why certain things happen.

Different kinds of qualitative research abound, and they include ethnography, case study, phenomenology, biography, grounded theory, content analysis, and conversational analysis (Cresswell, 1994). However, more recent kinds of qualitative research have emerged: discourse analysis, critical discourse analysis, and rhetorical analysis. Although different kinds of qualitative research design abound, two of them (rhetorical analysis approach, and content analysis) are given prominence due to their relevance to this study.

Content analysis is a research technique for making replicable and valid inferences from data to their context. Content analysis, according to Stemler (2001), is useful in investigating trends and patterns in a document. Content analysis can be done in a variety of things such as a text. It is useful in helping researchers sift through large data which may seem daunting to analyse.

Rhetorical analysis approach shows how language is used to persuade others (Selzer, 2004). It is, therefore, well suited for this study because one of its major concerns is to investigate how the counsels used language to persuade the Justices who heard the 2012 PEP.

Data

Data for this study are the written addresses submitted by the counsels for the Petitioners, The National Patriotic Party (NPP), and those of the 3rd Respondent, The National Democratic Congress (NDC), to the SCJs at Ghana 2012 PEP hearing in June 2013. The counsels for the NPP presented a 174-page document consisting of 37,944 words while the lawyers of the NDC submitted a 69-page address comprising 21,671 words.

Data Collection

Data for this study were obtained from the Supreme Court of Ghana and from the internet. Soon after the counsels presented their closing addresses to the judges, they were obtainable on the internet. I immediately searched the internet for copies. I obtained copies from different websites such as those from *Modern Ghana, Ghanaweb, AllAfrica Global Media* and *Data Blog of Peace FM Online*. I thereafter scrutinised the documents to find out whether the addresses obtained from one website corresponded to the ones obtained from the other websites for authenticity of the documents. I realised that those from the *Data Blog of Peace FM Online* were the full addresses presented by the counsels whereas those from *Modern Ghana (Ghanaian Chronicle)* and *Ghanaweb* were not the complete addresses presented by the counsels. The addresses on Ghanaweb were not chosen because they could not be authenticated due to the publisher's disclaimer, which meant that the content of the documents may not be reliable.

I finally selected the ones I retrieved from the *Data Blog of Peace FM Online*, a member of the Despite Media, a reputable media group located in Ghana. *The Peace FM Online Data Blog* was launched in 2013 by the Despite

Group of Companies, headed by Dr. Osei Kwame Despite. *Peace FM* together with its counterparts, *Okay Radio* and *United Television (UTV),* is a member of the Despite Media Group. *Peace FM Online* is one of Ghana's leading FM stations, which was adjudged the Radio Station of the Year (Akan) at the 25th Ghana Journalist Association held on 24th October, 2020. *Peace FM Online* offers its listeners with a comprehensive online source for up-to-the-minute news about politics, business, entertainment, and other issues affecting the African continent.

In order to authenticate the transcript I obtained from the Data Blog of *Peace FM Online*, I visited the Supreme Court to find out whether I could obtain the original copies of the counsels' addresses which, in my estimation, could be more authentic. I obtained a letter of introduction from the Department of English, University of Cape Coast, which I took to the Supreme Court (see Appendix A). At the court, I was directed to the Supreme Court Library, where I met the Chief Librarian, who also directed me to the Court's Registry, where I met the Registrar. At the registry, I was asked to apply to the Judicial Secretary for the document which I obliged (see Appendix B) . I had to wait unduly before I could receive the addresses from the Supreme Court.

When I did, I compared them with the ones I got from the internet and I discovered that they were the same. The only difference was that while the ones from the internet were digitalised, the ones from the Supreme Court were hardcopies. To be very sure that the documents were the same, and for the purpose of validity and reliability, I solicited the assistance of one of the resource persons at the Electronic Division of the Sam Jonah's Library, University of Cape Coast, in Ghana to confirm whether the two sets of

documents were the same. His report indicated that the written addresses of the counsels which I had obtained from the internet were the same as those I had obtained from the Supreme Court.

Although I had the addresses from the Supreme Court, I still decided to use the ones I obtained from the Peace FM Online. The reason was that those obtained from the internet were in digitalised form whereas the ones I obtained from the Supreme Court are hardcopies. If I decided to use the hardcopies I obtained from the Supreme Court, it meant that I would have to scan them in order to convert them to soft or electronic form and these usually would appear as images which would be difficult to work with. Although there were software that could convert images to word document, I found that cumbersome and waste of time since I already had the same document in electronic format. The original file I obtained from *Peace FM Online Data Blog* was in the web format, and I converted it first into portable document format (PDF) and then to word document for accessibility. This process, thus, enabled me to work on the data with ease. For example, it facilitated the analysis process in that I was able to have quick access to the data for patterns and themes identification, and colour coding. Additionally, it made it easier for me to obtain excerpts from the data to support my arguments in discussing and interpreting my data. It made it easier to for me to convert the web file into a text file so I could use TextStart, a software for analysing data.

Background to the 2012 Election Petition Case

On the 7th day of December, 2012, Ghanaians went to the polls to elect a new president. Following the acrimony that arose from the election, a court case was instituted by the New Patriotic Party (NPP) against President John

Dramani Mahama as first Respondent and the Electoral Commission (EC) as the 2nd Respondent. The 3rd Respondent, The National Democratic Congress (NDC), joined the suit on its own volition. A nine-member panel of SCJs presided over by Mr. Justice William Atuguba sat on the case. Other members of the panel were Mr. Justice Julius Ansah, Mrs. Justice Sophia Adinyira, Ms. Justice Rose Constance Owusu, Mr. Justice Jones Dotse, Mr. Justice Anin Yeboah, Mr. Justice Paul Baffoe-Bonnie, Mr. Justice N. Sule Gbadegbe and Mrs. Justice Vida Akoto-Bamfo as members sat on the case.

The Petitioner's case was that their investigation had revealed that about four (4) million votes were rendered invalid by the combined effect of the irregularities and violations and that Mahama had been credited with 2,622,551 of invalid votes which gave him advantage over the other contestants, especially, Nana Addo Danquah Akuffo-Addo. They argued that President Mahama's invalid votes were 2,952,212, representing 41.79% of the votes cast in 2012 Presidential Election. They, therefore, prayed the court to declare the 1st Petitioner as winner of the election since he obtained 4,015,712 votes, representing 56.85% of the valid votes cast, after an annulment of 1,233,186 invalid votes from the figure of 5,248,898 declared for him by the 2nd Respondent, the EC.

Four groups of lawyers represented the litigating parties in court. Their lead counsels were Messrs Philip Addison for the Petitioners, Tony Lithur for President Mahama, James Quashie-Idun for the EC, and Tsatsu Tsikata for the National Democratic Congress (NDC). These counsels faced the nine-member Supreme Court panel hearing the PEP to answer questions and clarify issues that arose from their evidence and addresses. To climax the hearing, the

counsels presented their closing arguments to the panel of judges. The closing addresses were meant to expound some of the issues the counsels had raised on behalf of their clients during the hearing of the petition which had lasted for four months. Happenings in the closing argument phase of the trial process is the focus of this study. The objective of the study is to investigate the persuasive strategies that the counsels employed in their closing arguments to the judges and find out how these strategies were used by the counsels to achieve persuasion.

Four groups of counsels faced the panel of judges and presented their closing arguments to the court. Nonetheless, only two of these, those of the Petitioners (NPP) and 3rd Respondent (NDC), were used in this study. The reason for choosing to analyse the closing arguments of the counsels for the Petitioners and those of the 3rd Respondent was due to the fact that these are the two main political parties in Ghana. Currently, the NPP forms the ruling government while the NDC is the major opposition party in Ghana. The relationship between the two main political parties has been characterised by stiff and fierce rivalry that has resulted in a tensed political climate in Ghana. Considering the volatile political climate and the acrimonious political atmosphere that prevailed before and after the 2012 Presidential and Parliamentary Elections, it was important to find out whether the intemperate contention between these two political parties could be reflected in the choice of language resources that their lawyers employed in their closing arguments.

Sampling Method

Purposive sampling is ideally used in qualitative research because, according to Patton (2002), it aims to engender "insight and in-depth

understanding" (p. 230) of a research phenomenon. I chose to use the purposive sampling strategy in selecting my population to ensure that only the relevant documents, the written addresses submitted by the counsels for the Petitioners and those of the 3rd Respondents, were obtained. The purpose was to ensure that only the transcripts that will yield the most information relevant to the study are selected. This procedure is in line with Leedy and Omrod (2005), who state that qualitative researchers often engage in purposeful sampling, which involves that they "select only those individuals or objects that will yield the most information" (p. 145). Thus, the addresses tendered by the counsels for the 1st and 2nd Respondents were not selected. Also, I did not choose to use transcripts from the other segments of the trial process such as the counsels' opening statements as well as transcripts of the proceedings of direct examination and cross-examination. I also did not consider using the judgement delivered by the judges.

Method of Analysis

I adopted Braun and Clarke's (2006) thematic analysis method in my data analysis. Maguire and Delahunt (2017) define thematic analysis' as the process of identifying patterns or themes within qualitative data. The goal of thematic analysis, according to them, is to identify themes that are important to address the research. Braun and Clarke (2013) argue that this method can be used to analyse almost any kind of qualitative data such as interviews, focus groups, and qualitative surveys, using larger or smaller datasets.

Thematic data analysis presents invaluable benefits to the researcher and the society at large. This is because, as Braun and Clarke (2013) contend, by employing this method, a researcher can capture complex, messy, and

contradictory relationships that prevail in the real world. Although thematic analysis can be exciting and enriching, some scholars claim that it is also challenging (Braun & Clarke, 2013). Braun and Clarke opine that a good thematic analysis does not only go beyond summarising the data but also involves interpreting and making sense of it.

Braun and Clarke (2006) prescribe a six-step method for doing a thematic analysis. The first step is for the researcher to familiarise himself or herself with the data. This, they suggest, must be done by reading the transcripts (data) several times to be truly immersed in them, so as to identify points of interests. To be familiar with the data, the researcher needs to consciously and actively think about what the data really means. The second step, according to them, is for the researcher to generate initial codes; this involves identifying a code as a word or a brief phrase that captures the essence of some useful data. The third step involves searching for themes while the fourth one requires that the themes identified are reviewed. The fifth step entails defining the themes and the reason for doing so is to "identify the 'essence' of what each theme is about" (Braun & Clarke, 2006, p.92). It also involves clarifying what the theme is saying. This means clarifying the themes and whatever message they are conveying. The sixth and final step, according to the authors, is writing the report.

To generate the initial codes, I immersed myself in the data, trying to understand what arguments the counsels were trying to advance. I familiarised myself with the data by reading and re-reading them several times, making mental notes of key and interesting points, consciously and actively thinking about the meaning that the data intended to give. By familiarising myself with

the data, I was able to identify points of interest, recognise patterns, obtain an understanding of denotative and connotative meanings of the data, and above all, search for themes, identify, and define them.

Three thematic patterns emerged from my initial study of the data. They are resources employed by the counsels and their usage. From these initial thematic patterns that I identified, I further searched for themes and relationships vis-à-vis my RQs. The data yielded more themes and relationships. For example, in connection with RQ1, further probes into my data revealed that the language resources utilised by the counsels yielded a number of major themes, which were further broken down into sub-themes. The same was done for RQs2 and 3 respectively. After defining and refining the initial themes and categories identified, I found substantive themes which I present in Chapters Four, Five, and Six. For the confirmation of these substantive themes and categories, I sought the assistance of two colleagues, who checked the categories against the data and confirmed that they were accurate and representative of the data. These two colleagues have a Master of Philosophy Degree in English Language and have done research in language and linguistics.

Coding

Coding is the process of examining the raw qualitative data in the transcripts, extracting sections of text or units (words, phrases, clauses/sentences or paragraphs) and assigning different codes or labels so that they can easily be retrieved at a later stage for further comparison and analysis, and the identification of any patterns. After the general themes and sub-themes have been identified, I adopted Strauss and Corbin's (1988) grounded theory and colour-coded the data, using different colours to distinguish one category

from the other, and from one sub-category to the other bearing in mind my RQs (see Appendix C).

TextSTAT Software

After the coding was completed, I used TextSTAT to count each sub-category and the categories in order to find their frequencies. These were represented in tables for analysis of data in the pilot analysis done. TextSTAT is a software meant for the Humanities disciplines and designed by Matthias Huning (2002-2013). It is a quick start guide to text analysis. It is a concordance programme which was designed to be user-friendly and provide simple internet functionality. Texts can be combined to form corpora (which can also be stored). The programme analyses these text corpora and displays word frequency lists, concordances, and keywords in context (KWIC) according to search terms. With TextSTAT, one can search large amounts of text and learn how often a certain word occurs.

Owing to the large nature of the corpus that formed the data for this study, an attempt to manually count lexico-grammatical items will not only take time, but will also be difficult. TextSTAT aided me to know the frequency of lexical items as well as ensure a quick identification of patterns which would have been a herculean task. It also helped me to facilitate the identification of keywords and investigate distinctive patterns of co-occurrence and collocation between keywords (see Appendix D).

Analytical Framework

This study provides an understanding of the rhetorical resources that the counsels at the 2012 Election Petition Hearing utilised in their closing

arguments presented to the SCJs. Therefore, a rhetorical analysis based on the Aristotelian Rhetorical Triangle and complemented by Jolliffe's (2010) Rhetorical Framework are used in analysing the data. Also, I relied on Martin and White (2005) Appraisal Framework to provide social meaning to the linguistic resources employed by the counsels. A detailed discussion of these concepts have already been done in Chapter Two of this thesis.

Rhetorical Analysis

The goal of a rhetorical analysis is to articulate how the author writes rather than what they actually wrote. Selzer (2004) refers to rhetorical analysis as "an effort to understand how people within specific social situations attempt to influence others through language" (p. 281). It involves recognising rhetorical moves seeking to persuade one's audience. It is, therefore, "the study of language" and "the study of how to use it" (Selzer, 2004, p. 280). Rhetorical analysis is a broad methodology that can include many approaches. As argued by Selzer, it can be part of an open-ended conversation that enhances a community's way of learning and teaching.

Rood (2013) describes it as an exciting research methodology despite its limitations. She opines that researchers can open the door and enter a rhetorical situation several times and come through the other side each time with deeper and extended insights. Consequently, Rood (2013) states that rhetorical analysis requires a careful examination of texts and contexts that can be understood and appreciated as both productive and interpretative. Rhetorical analysis, then, allowed me to examine language within a rhetorical context and interpret how textual elements are utilised to achieve persuasion. One of such many

approaches is the Aristotelian Rhetorical Triangle shown in Figure 1 in Chapter Two.

Chapter Summary

The purpose of Chapter Three was to present the methodology adopted for this study. Since qualitative research is to generate "insight and in-depth understanding" (Patton, 2002, p. 230) of the research phenomenon, I deemed it the most appropriate methodological design to uncover how persuasive strategies were employed by the counsels at the Ghana 2012 Election Petition Hearing. The data collection process, sampling method, method of treatment which included coding procedure were delineated, and issues relating to validity and reliability of the data and methods of analysis were discussed. Most importantly, the analytical frameworks upon which the analysis of the data was anchored were also discussed.

CHAPTER FOUR

LANGUAGE RESOURCES EMPLOYED BY COUNSELS

Introduction

In this chapter, I present and discuss the results of the analysis of the data for this study. A description of the language resources that were employed by Counsels for both the Petitioners and the 3rd Respondent are discussed to highlight the language resources used in the closing addresses of the Counsels. Four forms of language resources were identified: lexical items, syntactic and semantics structures as well as persuasive strategies.

Language Resources Employed by the Counsels

Lexical items

The Counsels for both the Petitioners and the 3rd Respondent strategically utilised adjectives, adverbs, factual verbs, and negation markers as illustrated in Table 2.

Table 2: Lexical Resources Employed by Counsels

Linguistic items	Lexical examples	Contextual examples
Negation markers	not, no, never	"There was **no** evidence that any voter in the election" (3rd Respondent, P. 3).
Adjectives		
-Evaluative	clear, confused	… showing a **clear** disparity of 127,097
-Cumulative/ coordinating	Numerous, constitutional and statutory	These significant actions and… for the occurrence of ***numerous constitutional*** and ***statutory*** violations…(Petitioners. P.5)
-Limiter	certain	A Petition was filed with certain numbers (3rd Respondent, p. 11)
Adverbs		
-Conjunct	However, then	***However***, his admission that in… (3rd Respondent, p. 61).
-Disjunct	surprisingly, simply	***Surprisingly***, it came to the… (Petitioners. P. 6).
-Adjunct	completely, clearly	The KPMG Report ***completely*** *exposes* all…(3rdRespondent. P19).
Factual Verbs	claimed, alleged	"The 2nd Respondent **claimed** that the pink …"(Petitioners. P14)

Source: Field Work (2020)

Table 2 shows the description of the lexical items employed by the Counsels in their closing arguments to the trial judges at Ghana's 2012 PEP.

Adjectives

Adjectives belong to the open class system. Martin and White (2005) recognise adjectives as resources that are rich in evaluation. Therefore, their framework has a **ramified** system of resources oriented towards lexico-

grammatical meaning. Four main types of adjectives are identified in the closing arguments presented by the two counsels representing the Petitioners (NPP) and the 3rd Respondent (NDC), and these are evaluative, cumulative, coordinate, and limiter adjectives.

Evaluative Adjectives

Evaluative adjectives are found to operate in the domain of evaluative language. "Evaluation" is defined by Thompson and Hunston (2000) as a means of expressing the speaker or writer's attitude and feelings toward the language they produce. Marza (2011) opines that there are many linguistic features that can make a sentence evaluative; however, adjectives are the most frequently used and are important tools for evaluating sentences. In another study on evaluative language, Wiebe et al. (2001) found that the type of subjectivity associated with evaluation is more evident in adjectives than in modals and adverbs. For decades, scholars such as Quirk et al. (1985), Vendler (1968), and Bolinger (1960) have recognised evaluative adjectives like *stupid*, *smart*, *silly*, and *rude* to have a coherent syntactic and semantic class. It is against this backdrop that Hewings (2004) groups evaluative adjectives into eight categories: interest, suitability, comprehensibility, accuracy, importance, sufficiency, praiseworthiness, and perceptiveness. Perhaps armed with this knowledge, the Counsels representing the Petitioners and the 3rd Respondent utilised these resources effectively. In their arsenal are evaluative adjectives, which are presented in Table 3, according to Hewings' (2004) classification.

Table 3: Classification of Evaluative Adjectives

Categories	Examples	Petitioners (frequency)	3rd Respondent (frequency)
Interest	Interesting	3	-
	Intriguing	1	-
Suitability	Odd situation	-	-
	Inordinate	4	-
Comprehensibility	Clear	8	6
	Confused	-	2
Accuracy	True	9	1
	Wrong	6	7
Importance	meaningless	-	-
	Fundamental	9	2
Sufficiency	sufficient	10	7
	Small	2	3
Praiseworthiness	respectful	14	1
Perceptiveness	widespread	8	-

Source: Adapted from Hewings (2004)

Table 3 indicates that the Petitioners' Counsels utilised more evaluative adjectives than those of the 3rd Respondent. While evaluative adjectives such as ***interesting, intriguing, inordinate and widespread*** occurred in the Petitioners' addresses, these were missing from those of the 3rd Respondent. Even though the adjective ***confused*** is found in the addresses of the 3rd Respondent, but missing in those of the Petitioners, there are indications of higher occurrences of adjectives such as ***respectful, sufficient, clear, fundamental***, and ***true*** in the addresses of the Petitioners' Counsels than found in those of the 3rd Respondent's Counsels. For example, while under **"importance"** the adjective ***fundamental*** occurred nine times in the Petitioners' data, it occurred only twice in the those of the 3rd Respondent. Again, under **"praiseworthy"**, the adjective

respectful was used fourteen times by the Petitioners, but occurred in the 3rd Respondent's addresses only once. As noted by Thompson and Hunston (2000), evaluative adjectives are used for expressing the speaker or writer's attitude and feelings toward the language they produce.

The use of evaluative adjectives by the Counsels for the Petitioners and those of the 3rd Respondent as shown in Table 2 are demonstrated in Excerpts 1 and 2:

Excerpt 1

"Furthermore, on the same date, 2nd Respondent posted on its website the total number of registered voters as 14,031,793, showing a ***clear*** *disparity of 127,097"* (Petitioners, p. 6).

In Excerpt 1, the Counsels for the Petitioners tried to buttress their argument that there were incidents of over-voting in some polling stations by calling the court's attention to some disparities in the figures that the 2nd Respondent, the EC, posted on its websites. In doing so, they used the evaluative adjective ***clear*** to describe the noun ***disparity***. They must have decided to qualify the noun "disparity" with the adjective ***clear*** in order to show the degree of differences that exists in the numbers displayed by the EC at different times. Similarly, the Counsels for the 3rd Respondent also used evaluative adjectives to describe the state of the materials tendered by the Petitioners before the court as in a confused state, as exemplified in Excerpt 2:

Excerpt 2

"In this case the Petitioners have not even crossed the threshold of discharging the evidential burden. As a result of their inability to produce material that they claimed they were supplying as

*evidence and because of the **confused** state of the material they supplied, a value of 0 is the necessary outcome for the Petitioners"* (3rd Respondent, p. 66).

It is evident here that to convince the court that the Petitioners have not discharged the evidential burden, the 3rd Respondent described the evidence tendered by the Petitioners as "confused state of the material". Thus, they described the materials tendered by the Petitioners to discharge their evidential burden as being in a confused state. It is clear that the Counsels for the 3rd Respondent were determined to call the judges' attention to the lack of clarity and coherence in the arrangement of the evidences presented by the Petitioners. Thus, they used an evaluative adjective, "confused", to describe the state of the materials.

Cumulative/coordinate adjectives

The Counsels also utilised cumulative/coordinate adjectives in their closing arguments presented to the trial judges at the Supreme Court Hearing of the 2012 Election Petition. This is evident in Excerpts 3 and 4. Cumulative adjectives are two or more adjectives that **build on** one another and together modify a noun. They are consecutive and are called "unit modifiers" because they work together as a unit and are not independent descriptions of the noun. On the other hand, coordinate adjectives are those which can be joined by the coordinating conjunction and whose order can be changed and can modify a noun separately. These are shown in Excerpt 3:

Excerpt 3

*"Having received reports of the commission of **flagrant constitutional and statutory violations** as well as malpractices*

> *and irregularities in the conduct of the election, the 1st petitioner, together with his vice presidential candidate, 2nd Petitioner and the 3rd petitioner, the National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the 1st and 2nd Respondents herein"* (Petitioners, p.4)

Also, the Counsels for the 3rd Respondent must be saying that the Petitioners' claims of over-voting and voting without biometric verification should not be taken seriously as they seem to portray in Excerpt 4:

> Excerpt 4
>
> *"The **constantly changing figures** of the Petitioners, from the original Petition to the last day but one of trial, portray the **uncertain speculative and indefinite** nature of the case of the Petitioners"* (3rd Respondent, p. 12).

In Excerpts 3 and 4, there is a fusion of both the cumulative and coordinate adjectives, as used by the Counsels for both the Petitioners and those of the 3rd Respondent. In Excerpt 3, the Petitioners' Counsels tried to highlight certain violations and malpractices that they claimed had taken place during the election. Perhaps, to show the magnitude of these violations and malpractices, they described these with cumulative adjectives ***flagrant, constitutional, statutory***. In a similar vein, the Counsels for the 3rd Respondent also depicted the nature of the Petitioners' case as not only ***uncertain*** but equally ***speculative*** and ***indefinite***.

Limiter adjectives

The data revealed that the counsels also utilised some moderate amount of limiter adjectives, as shown in Excerpt 5:

Excerpt 5

> *"A Petition was filed with* ***certain*** *numbers. It was amended and new numbers were provided in the Amended Petition. Those numbers were changed again when it came to providing evidence in the affidavit that was filed in support of the case of the Petitioners"* (3rd Respondent, p. 11).

The Counsels for the 3rd Respondent seem to be irked with the numbers that the Petitioners provided as those of people who over-voted and those who voted without biometric verification. In their submission to the judges, they described the numbers with a limiter adjective **'certain'**. Although this adjective **'certain'** in some cases could be an intensifier, it is in this context a limiter since it tends to particularise the reference numbers. The adjective is perhaps used by the Counsels for the 3rd Respondent in order to downplay the accuracy of the numbers presented in the Petitioners' exhibits.

Adverbs

Grammatically, three major types of adverbs used alone or with modification as adverbials are distinguishable. They are Conjuncts, Disjuncts, and Adjuncts.

Conjuncts

Conjuncts are adverbs that may relate to the sentence as a whole; therefore, they are called 'sentence adverbials' or 'conjunctive adverbs'. According to Greenbaum (1996), conjuncts are logical connectors that generally provide a link to a preceding sentence. Greenbaum provided a list of conjuncts, listed semantically among which are "first" and "consequently". Conjuncts are

replete in the closing arguments presented by the counsels for both the petitioners and the 3rd Respondent, as shown in Table 4.

Table 4: Conjuncts Used by the Counsels

Petitioners	Frequency	3rd Respondent	Frequency
Therefore	34	Therefore	13
Then	26	Then	13
Thus	19	Thus	5
However	17	However	3
Another	16	Another	7
Otherwise	5	Otherwise	-
Furthermore	3	Furthermore	1
Firstly	2	Firstly	-
Secondly	2	Secondly	-
Moreover	1	Moreover	1
According to	1	According to	1

Source: Field Work (2020)

Table 4 displays some conjunctive adverbs used by the two groups of Counsels. As shown in the table, there seems to be some disproportionate distribution of the conjuncts utilised by the Counsels. For instance, while the adverb ***therefore*** occurred 34 times in the Petitioner's Counsels' closing arguments, it was utilised by the Counsels for the 3rd Respondent only 13 times. Similarly, the adverb ***then*** occurred 26 times in the Petitioners' document whereas it appeared only 13 times in the 3rd Respondent's addresses. The contextualised usage of these conjuncts are demonstrated in the extracts below.

The Counsels used conjuncts for different purposes some of which are for reinforcing an earlier point made, enumerating, establishing cause and effect and showing concession, among others. Excerpts 6 and 7 exemplify some of these uses:

Excerpt 6

"The refusal of 2nd Petitioner to acknowledge the responsibilities of polling agents is evidently because of his realization of the damage that the certification of the polling agents of the results and the conduct of the elections does to the case of Petitioners. ***However****, his admission that in order to determine whether or not certain entries made in C3 were correct, one had to resort to the polling station register, is a crucial admission of the fact that "the face of the pink sheet" does not tell the whole story of an election"* (3rd Respondent, p. 61).

In Excerpt 6, the Counsels for the 3rd Respondent used the adverb ***however*** to join two antithetic constructions. The first sentence shows that the 2nd Petitioner refused to recognise the duties of polling agents, but was willing to rely on the polling station register. In order to join these two contrastive sentences, the concessive adverb, ***however*** has to be used by the 3rd Respondent. Similarly, the Counsels for the Petitioners deemed it necessary to use conjunctive adverbs as exemplified in Excerpt 7:

Excerpt 7

"There was, ***thus****, no reason for the printing of a second set of pink sheets. The question which rings out and cries for a convincing answer,* ***therefore****, is: the rationale for the 2nd Respondent's printing of a second set of pink sheets, with exactly the same candidates and same serial numbers.* ***Furthermore****, having printed this excess set, it is yet to be convincingly explained why 2nd*

Respondent decide to use them and indeed used them when there was no need to" (Petitioners, p. 49).

In marshalling their argument against the 2nd Respondent's printing of a second set of pink sheets, the conjuncts***, thus*** and ***therefore,*** were employed by the Counsels for the Petitioners to enable them to draw conclusions that the printing of a new set of pink sheets was unnecessary. Also, they used the additive conjunct ***furthermore*** in order to add a new point to the ones they had raised earlier.

Adjuncts

Adjuncts are more integrated into a sentence or clause structure. Four major subclasses of adverbs as adjuncts are distinguished: space, time, process, and focus. Space and time adjuncts relate to the circumstances of the situation whereas those under process involves the process denoted by the verb and its complements. Lastly, adjunct of focus consists of adverbs that focus on a particular unit (Greenbaum, 1996). While space adjuncts include position and direction, process adjuncts relate to the process conveyed by the verb and its complements. Adverbs functioning as process adjuncts are mainly manner adverbs, which convey the manner in which actions are performed. Some examples of manner adjunct found in the counsels' closing arguments are found in Table 5.

Table 5: Counsels' Use of Adjunct

Petitioners	**Frequency**	**3rd Respondent**	**Frequency**
Respectfully	61	Respectfully	7
Constitutionally	13	Constitutionally	2
Woefully	-	Woefully	10
Simply	9	Simply	8
Substantially	8	Substantially	-
Overwhelmingly	-	Overwhelmingly	7
Stoutly	1	Lawfully	3
Eminently	4	retroactively	2
Classically	3	indisputably	5
Uniquely	5	Wholly	3
Entirely	4	Entirely	4
Completely	-	completely	3

Source: Field Work (2020)

With regard to the use of adjunct, the two groups of Counsels had their preferences as is indicated in the uneven distribution of some of the adverbs that occurred in both addresses. The adverb ***respectfully*** was well utilised by the Petitioners' Counsels as its frequency of usage was 61, certainly an outlier, when it is compared to the seven times it occurred in the closing address of the Counsels for the 3rd Respondent.The demonstration of how the Counsels used this linguistic resource is exemplified in Excerpts 8 and 9:

Excerpt 8

"The KPMG Report ***completely*** *exposes all these claims of the 2nd Petitioner as false. In paragraph 2.3 of the Report, (Exhibit 1), Table 1 (at pages 7-8), which lists the exhibits filed by the Petitioners, based on information supplied by the Registrar, indicates gaps in the exhibits as shown even from the labelling of those in the P series"* (3rd Respondent, p. 9).

The Counsels for the 3rd Respondent showed in Excerpt 8 that all the claims made by the 2nd Petitioner were entirely false. The adjunctive adverb ***completely*** seems to have been deliberately used by the Counsels for the 3rd Respondent not only to modify the verb ***exposes***, but also to show the extent to which the 2nd Petitioner's claims are proved false. The use of the adverb ***completely*** in this context exhibits a semantic property of intensification of the verb 'exposes'. This modifier must have been used to amplify the speakers' intention to indicate that the 2nd Petitioner's claims are false and should not be relied upon.

In a similar vein, the Petitioners used an adjunctive adverb in their determination to convince the judges to overturn the election result, as exhibited in Excerpt 9:

Excerpt 9

"This inordinate delay in furnishing the NPP with the final voters' register prevented the NPP from scrutinizing the said register and, thereby, contributed ***substantially*** *in undermining the transparency, fairness and integrity of the December 2012 elections*" (Petitioners, p.7).

The Counsels for the Petitioners seem resolute to have the judges believe that the elections were not transparent and fair enough because the EC delayed in furnishing them with the final voters register. The adverb **"substantially"** has a heightening effect on the verb **"contributed"**; it shows the degree to which the delay must have affected the outcome of the election.

Disjuncts

Disjuncts provide comments on the unit in which they appear. Two major types of Disjuncts are distinguished: style Disjuncts and content

Disjuncts. In Table 6, there is a display of some of the Disjuncts found in the data.

Table 6: Distribution of Disjuncts in Counsels' Arguments

Petitioners	Frequency	3rd Respondent	Frequency
Clearly	26	Clearly	13
Strangely	4	Significantly	4
Surprisingly	4	Surprisingly	3
Absolutely	3	Absolutely	3
Essentially	3	Essentially	1
Presumably	2	Certainly	1
Ostensibly	2	Obviously	1
Inexplicably	2	Understandably	1
Curiously	1	Essentially	1

Source: Field Work (2020)

Table 6 shows the description of some of the Disjuncts that were utilised by the Counsels of both the Petitioners and those of the 3rd Respondent. These are basically attitudinal Disjuncts. These types of Disjuncts, according to Quirk and Greenbaum (1975), convey the speakers' attitude on the content of what he or she is saying. The adverb ***clearly*** was the most frequently used by both groups of Counsels as it occurred 26 times in the address of the Petitioners' Counsels and 13 times in the address of the Counsels for the 3rd Respondent. The Disjuncts ***clearly*** is basically used by the Counsels to express their conviction against the proposition of their opponents. Likewise, all the other Disjuncts which were employed by both the Petitioner's Counsels and those of the 3rd Respondent as displayed on Table 5 were used by them to convey their negative attitude towards their opponents' proposition with an implication of adverse judgement against them. Excerpts 10 and 11 demonstrate how the Counsels

attempted to affect the attitude and emotions of the judges by means of Disjuncts.

Excerpt 10

"The petitioners further say that the total number of registered voters, that 2nd Respondent furnished petitioners' party, the NPP, was fourteen million and thirty-one thousand, six hundred and eighty (14,031,680). ***Surprisingly****, it came to the notice of the Petitioners that 2nd Respondent had on Sunday, 9th December, 2012, declared the total number of registered voters as 14,158,890"* (Petitioners, p. 6).

In Excerpt 10, the Petitioners' Counsels are very contentious over the disparity in the figures that the 2nd Respondent sent to their client, the NPP, and those that they later declared on Sunday, 9th December, 2012. While advancing their argument before the SCJs, the Petitioners' Counsels expressed their view on the matter before the court through the use of adverb ***surprisingly***. This display of emotion by the counsels cloud the judgement of the judges.

Likewise, Counsels for the 3rd Respondent expressed their viewpoint on the matter they put before the court through the use of the disjunctive adverb 'significantly' as represented in Excerpt 11:

Excerpt 11

"1st Petitioner at each of the polling stations throughout the country. Their testimony was in the form of their certification of the results declaration form on the pink sheet. The specific legal significance of this admission of regularity of the election is addressed below. ***Significantly****, it is the results declaration part of*

> *the pink sheet that involves not merely the Presiding Officer but also the candidates themselves, acting through their agents"* (3rd Respondent, p. 29).

By using the adverb ***significantly***, Counsels for the 3rd Respondent seem to be averring that, above all, the aspect pertaining the result declaration of the pink sheet shows that the polling agents could act on behalf of both the presiding officer and the candidates.

Factual Verbs

Another key linguistic resource that was utilised by the Counsels is the verb. Verbs are lexical items that belong to the open-class system. A classification of verbs relating to the function of items in the verb phrase shows a distinction between lexical verbs and the closed system of auxiliary verbs (Quirk & Greenbaum, 1975). Some of the semantic subclasses of verbs which include factual verbs are found in the closing arguments presented to the judges at the Ghana 2012 Election Petition Hearing. Some factual verbs are used to convey various forms of reported speech such as an indirect speech and indirect question. Some examples of factual verbs, according to Quirk and Greenbaum (1975), include *admit, agree, say, answer, believe, deny, expect, hope, insist, know, report, say, see, suggest, suppose, think* and *understand.* Factual verbs that are commonly followed by whether/if include *ask, discuss, doubt, find out, forget, (not) know, (not) notice, (not) say,* and *wonder*. Some factual verbs were utilised by the counsels on both sides of the divide, as typified in Table 7.

Table 7: Distribution of Factual Verbs Employed by the Counsels

Petitioners	Frequency	3rd Respondent	Frequency
Stated	47	stated	32
Claim	44	Claim	25
Say/said	43	say/said	34
Allege	22	allege	28
Rejected	20	rejected	4
Admitted	11	admitted	24
Denied	15	denied	2
Suggest	7	suggest	17
Answered	3	answered	7
Insist	-	Insist	6
Expect	3	expect	6
Asserted	5	asserted	2
Understand	4	understand	3
Believe	2	believe	1

Source: Field Work (2020)

Table 7 shows that heavy doses of factual (reporting) verbs were seen in the closing arguments of the Counsels on both sides of the divide. As shown on the table, almost all the verbs employed by these Counsels are strong verbs. For example, the verbs, *claim, admit, allege, denied, reject,* and *insist* may be an indication that the Counsels may have taken a strong aversion to their opponent's argument. The verbs *claim,* which occurred 44 times in the Petitioners' Counsels argument and 24 times in the argument of the Counsels for the 3rd Respondent; and the verb *allege* which occurred 22 and 28 times in the addresses of the Petitioners and the 3rd Respondent respectively may have been used to sow seeds of doubt in the minds of the judges. Some examples of factual verbs which are used to indicate indirect speech are demonstrated in Excerpts 12 and 13:

Excerpt 12

"In certain cases also 2nd Petitioner ***admitted****, upon calculating figures on the pink sheet himself, that there was actually no over-voting though arithmetically wrong entries had been made"* (3rd Respondent, p. 53).

In Excerpt 12, the Counsels for the 3rd Respondent present the view of the 2nd Petitioner by means of reported speech. The admission made by the 2nd Petitioner that not all errors in calculation meant that there was over-voting was reported via the use of the factual verb, *admitted*.

In a similar vein, the Counsels for the Petitioners reported the reaction of the 1st Respondent when confronted with the issue of over-voting. The counsels described the response of the 1st Respondent to the accusation of claims of over-voting as that of denial. They reported this denial, using the factual verb *denied,* as demonstrated in Excerpt 13:

Excerpt 13

"1st Respondent ***denied*** *claims of over-voting by the petitioners and demanded particulars of the polling stations where the irregularities occurred and the amount of votes affected"* (Petitioners, p.12).

In Excerpt 13, the Petitioners' Counsels gave a report of the 1st Respondent's denial that over-voting took place in some polling stations.

Negation markers

Negation markers are elements that are inserted into a positive sentence to make them negative. Such negation of a simple sentence is achieved by the insertion of *not, n't* between the operator and the predication (Quirk &

Greenbaum, 1973). Other elements that can cause the negation of a simple sentence are: *never* and *no.*

Negation markers seem to be one of the linguistic resources employed by the Counsels for both the Petitioners and the 3rd Respondent in their closing arguments, as exemplified in Excerpts 14 and 15:

Excerpt 14

> *"Although a common register was to have been compiled for both the presidential and parliamentary elections, it turned out from the results declared by the 2nd Respondent that the total number of registered voters in respect of the presidential election exceeded that of the registered voters for the parliamentary elections by one hundred and twenty-seven thousand, two hundred and ten (127,210) voters. The petitioners respectfully contend that there* ***cannot*** *lawfully be different totals of registered voters for the presidential and parliamentary elections"* (Petitioners, p.7).

In Excerpt 14, the Petitioner's Counsels drew attention to some discrepancies in the results declared by the 2nd Respondent in respect of the total number of registered voters for the Presidential Election as against those of the Parliamentary, even though a common register was to have been compiled for both elections. By means of the negation marker, *not*, the Petitioners' Counsels question the legality of such a difference and by implication, reject the result. Likewise, the Counsels for the 3rd Respondent also used negation markers in their submission, as shown in Excerpt 15:

Excerpt 15

"The claims of the Petitioners about serial numbers being security features on pink sheets were ***not*** *substantiated in any way either in the affidavit of the 2nd Petitioner or in his oral testimony. They were also* ***not*** *originally a significant part of the case of the Petitioners as, according to the evidence of 2nd Petitioner, it was when they resorted to electronic labelling of their exhibits that this claim gained more significance"* (3rd Respondent, p. 35).

In Excerpt 15, the Counsels for the 3rd Respondent by means of the negation marker *not* show that the Petitioners could not substantiate their claims about serial numbers being security features on the pink sheets. Also, they used *not* to highlight their argument that the Petitioners' claim that the serial numbers constitute security features on the pink sheet was a late addition to their (Petitioners') list of exhibits.

Syntactic Structures

Besides lexical items, the Counsels also strategically used syntactic structures such as direct and reported speeches, the nominalised reporting verbs, and the causal *since-clause.*

Direct speech

Another linguistic item employed by the Counsels on both sides of the divide is direct speech. These are the speaker's direct words which are incorporated in a writing and indicated with quotation marks. In their arguments, the Counsels quoted the exact speech made by the witnesses and the counsels who did the cross examination, as shown in Excerpts 16 and 17:

Excerpt 16

"Q: Now take a look at Exhibit MBP004890, the code number is K030206 and the name is Gudayiri Primary. Doc., is that presidential results?

A. No, this is for the office of the Member of Parliament. This is a parliamentary result.

Q. And what is it doing among your exhibits in support of presidential results?

A. I think we had seen this in reference to your response. I am not sure how it got in there. It is a parliamentary results; it should not be among the exhibits" (3rd Respondent, p. 12).

In Excerpt 16, we see how in their bid to convince the judges that the figures and exhibits tendered by the Petitioners were fraught with confusion and errors, the Counsels for the 3rd Respondent engaged in a cross-examination session where the 2nd Petitioner admitted that there were major problems and errors.

Correspondingly, the Counsels for the Petitioners also presented an extract of the cross-examination of the Chairman of the 2nd Respondent, Dr. Afari-Gyan, over alleged printing of another set of pink sheets, as shown in Excerpt 17:

Excerpt 17

"Q. Now apart from this set of pink sheets, you printed another set.

A. Well, my lords it translates to that.

Q. And the second set you printed was the same as the first set in all material particular.

A. My lords, yes because the second set was supposed to be a continuation of the first.

Q. So was the second set, in fact, a continuation?

A. No.

Q. Now Dr. Afari Gyan, if you had not printed this second set, the first set distributed to all the polling stations could have remained unique to each particular polling station?

A. My lords, yes, I would agree with you" (Petitioners, p. 51).

Excerpt 17 is proof tendered by the Petitioners' Counsels, showing that the Chairman of the 2nd Respondent admitted printing another set of pink sheets, which resulted in the lack of uniqueness of a serial number on the pink sheet for each polling station.

Indirect speech

Unlike direct speech where the exact words of a speaker is incorporated into a text, indirect or reported speech subordinates the words of the speaker in a *that*-clause within the reporting sentence (Quirk & Greenbaum, 1973). This kind of speech is well utilised by the two groups of Counsels who represented both the Petitioners and the 3rd Respondent, as shown in Excerpts 18 and 19 respectively:

Excerpt 18

*"The 1st Respondent **stated** that he considered as irrelevant the various matters raised by the petitioners. According to him, what was relevant was the actual votes cast by registered voters in favour of each candidate"* (Petitioners, p. 11).

In Excerpt 18, the Counsels for the Petitioners reported the speech of the 1st Respondent who indicated that, "he considered irrelevant the various issues that were raised by the Petitioners".

Excerpt 19

"2nd Petitioner, by his submission of lists of deleted exhibits, ***admitted*** *that many exhibits filed did not in fact support the case the Petitioners put forward and had to be discarded"* (3rd Respondent, p. 13).

In Excerpt 19, by means of the reporting verb, *admitted,* the Counsels for the 3rd Respondent gave an indirect speech of the 2nd Petitioner's admission that many of the exhibits that they (the Petitioners) filed did not support their case and, therefore, should be discarded. In both cases, the reported speeches of the Counsels for both the Petitioners and the 3rd Respondent are subordinated in *that*-clauses, ***"that he considered as irrelevant the various matters raised by the petitioners*** **and** ***that many exhibits filed did not in fact support the case the Petitioners put forward and had to be discarded".***

Nominalised reporting verbs

Also, the Counsels on both sides of the divide utilised a less complex structure of the noun phrase (NP) that is the nominalised forms of the reporting verbs – *the claim, the assertion, the argument, the statement, and the allegation*. Quirk and Greenbaum (1973) argue that the NP can be an indeterminately long complex structure with a noun as head, preceded by other words such as an article, an adjective, or another noun, and followed by a prepositional phrase or by a relative clause. The nominalised reporting verb has the structure of Determiner + Noun. This is shown in Excerpts 20 and 21:

Excerpt 20

"On ***the claim*** *of people having voted without undergoing biometric verification, the 1st Respondent had interesting answers. He initially*

denied ***the claim*** *of voting having gone on without biometric verification in some polling stations and required particulars of polling stations, where such occurrences were registered and the number of persons who allegedly voted without biometric fingerprint verification. The 1st Respondent stated categorically that only voters who had undergone fingerprint verification were permitted to vote in the December 2012 elections"* (Petitioners, p. 11).

In Excerpt 20, the Counsels for the Petitioners seem determined to put the 1st Respondent on the spot by highlighting his initial denial that people voted without undergoing biometric verification. They did this by emphasizing the 1st Respondent's denial through the use of the NP, *the claim.*

Also, the Counsels for the 3rd Respondent used the nominalised form of the reporting verb, as shown in Excerpt 21:

Excerpt 21

"In the course of cross-examination by Counsel for the 2nd Respondent, the 2nd Petitioner admitted that ***certain allegations*** *that had been made in the Petition could not be sustained, specifically,* ***the allegations*** *in paragraph 24, of votes of the 1st Petitioner being "unlawfully reduced" while those of the 1st Respondent were "illegally padded".* ***The allegation*** *had been made at large in paragraph 24 of the 2nd Amended Petition"* (3rd Respondent, p. 64).

In Excerpt 21, the Counsels for the 3rd Respondent also tried to stress the admission of the 2nd Petitioner that certain allegations which the Petitioners made concerning illegal vote padding for Mahama, the 1st Respondent, and unlawful reduction of votes for the 1st Petitioner (Akuffo-Addo) could not be

substantiated. Through the use of the NPs, *certain allegations* and *the allegations*, the 3rd Respondent's Counsels tried to minimise the gravity of the claims made by the Petitioners that the 2012 Presidential Election was fraught with irregularities.

Causal since-clause

Another linguistic resource employed by the Counsels for both the Petitioners and the 3rd Respondent in their closing arguments is the causal *since-clause*. The *since-clause* is usually introduced by the subordinating conjunction *since*. The casual *since-clause*, according to Quirk and Greenbaum (1973), functions as clauses of reason or cause and they often act as disjuncts. *The Stanford Encyclopedia of Philosophy* (2002) argues that the causal *since-clause* usually embodies deductive arguments, a set of sentences in which some sentences are premises and one is the conclusion. As illustrated in Excerpts 22 and 23, this resource was well utilised by the Counsels:

Excerpt 22

"You *and I were not there!" This oft-repeated statement of 2nd Petitioner actually undermines the value of his evidence completely* ***since*** *he is admitting his lack of personal knowledge and, therefore, his lack of qualification to be a witness as to the facts in issue"* (3rd Respondent, p. 15).

In Excerpt 22, the Counsels for the 3rd Respondent called the judges' attention to the 2nd Petitioner's admission of lack of personal knowledge of what had happened at the polling station. By means of the causal since-clause, introduced by the subordinating conjunction, *since*, the Counsels argued that since the 2nd Petitioner admitted to a lack of personal knowledge of happenings

at the polling stations where the Petitioners claimed electoral malpractices had taken place because he was not personally present, therefore, he did not qualify to be a true witness.

Similarly, by means of the causal since-clause introduced by the subordinating conjunction, *since***,** the Petitioners' Counsels raised an argument, as exemplified in Excerpt 23:

Excerpt 23

"It is therefore submitted that ***since*** *the affidavit of the 2nd petitioner to which the pink sheets were annexed was duly executed and sworn to, the unavoidable errors of the annexures being without any correct or accurate designation of pink sheet exhibits, where the authenticity is not disputed by the respondents, ought to be treated and waived as mere irregularity, so that the said pink sheets exhibited which are already"* (Petitioners, p. 88).

The Petitioners' Counsels put up an argument that is realised in the causal since-clause introduced by the conjunction, *since*. They argued that since the affidavit of the 2nd Petitioner in connection with some pink sheets were duly sworn to and executed, certain errors which were tagged "unavoidable errors" should be treated and waived as mere irregularities.

Semantic Structures

Semantic structures constitute a complex network of resources encompassing syntax and the psychological inclination of the author of an utterance. Its complexity, according to Feist (2016), enables it to make provision for the emotive and imaginative dimensions of language, and for shifts of standard meanings in context, and the "rules" that control them. This is true of

lexical semantics whose function is to deconstruct lexical items and syntactic formations like phrases and clauses within a text so as to reveal their meanings within a given context. One-way lexical semantics can be realised is through modality. Boldea and Buda (2016) define modality as a semantic domain which is "closely related to elements of meaning that languages express" (p. 104). They opine that it is expressed in a variety of ways: morphological, lexical, syntactic, and intonational. Linguistically, modalities are meaning-driven devices that embrace situations such as probability, certainty, obligation, and permission. They show the degree to which these situations are probable, possible or even prohibited. There are different types of modality in English, one of which is epistemic modality.

The use of epistemic modality

Epistemic modality deals with knowledge and is realised when a speaker expresses an opinion about a statement. Suhadi (2018) describes it as the use of a modality, depending on the speaker's assessment and judgement of the level of knowledge and assurance around the statement. In order to perform speech duties, it assesses and comments on a reality interpretation. Besides modal adjuncts, modal attributes and some others, lexical realization of modality is conveyed through modal auxiliaries such as *may, might, can, could, shall, should, must, ought(to)* (Martin and White, 2005).

Counsels for both the Petitioners and the 3rd Respondent utilised the resource of modality, especially epistemic modality, through modal auxiliaries as exemplified in Excerpts 24 and 25:

Excerpt 24

*"It **ought to** be respectfully noted that the requirement for presiding officers to sign pink sheets, is not onerous. In reality, every presiding officer at any polling station fills only one declaration form and is required to sign that one declaration form, in order to show that it is the act or deed of that presiding officer. It is not as if the presiding officers are supposed to fill a number of declaration forms at one polling station. It is, therefore, unfathomable how the presiding officers appointed by the 2nd Respondent **could** not proceed to sign the pink sheets after taking the pain and time to fill the pink sheets in question, with information relating to ballot accounting and results"* (Petitioners, p. 39)

In Excerpt 24, the Petitioners' Counsels by means of the modal auxiliaries, ***ought to*** and ***could***, expressed a strong opinion about the failure of the Presiding Officers appointed by the 2nd Respondent (EC) to sign some pink sheets before declaring the results. By means of ***ought to***, the Petitioners' Counsels may be saying that it was obligatory for the Presiding Officers to sign the pink sheets which they filled. So, by means of the modal, ***could***, they wondered why the Presiding Officers failed to sign the pink sheet when they knew that they ought to have done so. More so, they did not give a cogent reason for their failure to sign the documents.

In a similar vein, the Counsels for the 3rd Respondent gave their opinion on the irregularities relating to the exhibits tendered by the Petitioners, as seen in Excerpt 25:

Excerpt 25

"There were repetitions of exhibits, including repetitions of the same exhibit in different categories. He admitted numerous instances of irregularities in the exhibits, such as the lack of an exhibit number in the stamp of the Commissioner of Oaths before whom the affidavit was sworn, difficulties in identifying the number of the exhibit, illegible exhibits, the same polling station appearing in different exhibits. Many times, he talked of "mislabelling" even though he ***could*** *not say what the right label* ***should*** *have been on the exhibits which he claimed were mislabelled"* (3rd Respondent, pp. 12-13).

By means of the modals, *could* and *should*, the Counsels for the 3rd Respondent comment on the numerous instances of irregularities pertaining to the exhibits that the Petitioners submitted to the court as evidence of electoral malpractices, upon which they (the Petitioners) called for the annulment of the Presidential Election Results. Through the use of the modal, *could*, reinforced by the negation marker *not*, the Counsels for the 3rd Respondent drew attention to the 2nd Petitioner's frequently used word, "mislabelling" and his inability to categorically state what the right label should have been. Also, the modal auxiliary, ***should***, used by the Counsels for the 3rd Respondent serves to remind the 2nd Petitioner that it was obligatory for him to say what the right label was.

Persuasive Strategies Employed by Counsels

Besides the linguistic devices used by the counsels in the closing arguments, they also employed the following persuasive strategies namely: paradigmatic mode, the narrative mode, evaluative language, emotive language, and figure of speech, as presented in Table 8.

Table 8: Persuasive Strategies Employed by Counsels in their Closing Arguments

Persuasive Strategies	Linguistic Indicators/Examples
Paradigmatic Mode	**Thus since** the filing of the affidavit of the 2nd petitioner… (3rd Resp. p. 8)
Narrative Mode	On or about 26th September, 2012, that is some forty-two (42) days before the presidential election scheduled for 7th December, 2012, the 2nd Respondent, acting through its Chairman, officially (Pet. p.6)
Figures of Speech	
Metaphor	It is impossible to derive…from this **jumbled heap** (Resp. p. 23)
Parallelism	**Widespread instances of**… (Pet. p. 9)
Emotive Language	Another **bizarre** contention… (Pet. p. 35)
Evaluative Language	Petitioners also **claim** that in certain instances…(3rd Resp. p. 5)

Source: Field Work, (2020)

Table 8 above is a description and identification of the persuasive strategies employed by Counsels for both the Petitioners and the 3rd Respondent. They include: the paradigmatic mode, narrative mode, figures f speech, emotive, and evaluative language.

The Paradigmatic Mode

The paradigmatic mode is a logically sound technique of argument based on detached analysis. It derives from the ability to record and "fix" in time what could previously only be described and referred to as experience, allowing for the viewing of materials according to a timeless logic and within the bounds of universal laws and principles. According to Heffer (2005), the paradigmatic mode functions through a de-contextualization and explains ideas, things, and

facts in terms of universal categories and principles, whereas the narrative mode entails contextualizing the concepts, objects, or facts portrayed. So, the paradigmatic mode focuses on objectivity, aims towards monologic truth, follows constraints set by logical or legal canons and it appeals to definition, logical sequencing, and logical deduction. As indicated by Copi et al (2011), arguments are often signalled by both premise and conclusion indicators such as *if, since, because,* among others for premise; *therefore, hence, so, thus, consequently,* and many more for conclusion.

Analysis of the data reveals that the counsels representing both the Petitioners and the 3rd Respondent put up arguments in their bid to persuade the trial judges as presented in Excerpts 26 and 27:

Excerpt 26

"The absence of the signature of the Presiding Officer on the pink sheets does not justify annulment of votes that were cast lawfully in the exercise of the constitutional rights of citizens. While failure to sign constitutes a breach of the duty imposed on that election official by the Constitution, nowhere does the Constitution require or justify the annulment of votes cast and, ***hence****, the results announced at the relevant polling station because of such a breach. The Presiding Officers can be compelled to perform their duty to sign, by order of mandamus. Annulment of votes in these situations would not only be an unconstitutional deprivation of the right to vote of the citizen but would also amount to punishing" (3rd Respondent p. 3).*

In Excerpt 26, the 3rd Respondent builds a premise around the claim that votes that were legitimately cast in the exercise of people' fundamental rights cannot be thrown out because the presiding officer did not sign the pink sheets. Here, the Counsels adopt the normative strategy by appealing to the constraints of legal canon (the constitution). He does so by providing evidence, citing the constitution as the authority that directs the adjudication process and, therefore, referring to its constitutional provisions, which stipulate that failure for an election officer to sign constitutes a breach of duty.

However, the Counsels present a rebuttal that shows that even though failure to sign constitutes a breach, the constitution does not justify the annulment of votes cast on the basis of that. It is obvious that they were advancing an argument, showing why it was both unconstitutional and irrational to annul the votes cast because of the failure of some polling agents to sign the pink sheets. Through the argument indicator, *hence*, we see how the second clause, *the results announced at the relevant polling station because of such a breach*, is linked to the argument in the first clause, *nowhere does the constitution require or justify the annulment of votes cast*. This argument is certainly meant to appeal to the judges' rationality (logos). Furthermore, the judges' reasoning faculty may have been roused as the counsels refer to the position of the constitution on the failure to sign the pink sheet.

Similarly, the Counsels for the Petitioners explored this resource of the in presenting their argument before the SCJs, as demonstrated in Excerpt 27:

Excerpt 27

"It is respectfully submitted that it is the obligation of the 2nd *Respondent to protect the due exercise of the right to vote, an*

> *essential element of which is that each voter's vote counts only once.* ***It follows necessarily, therefore,*** *that any practice suggestive of over-voting must be outlawed.* ***If*** *there is the occurrence of over-voting,* ***it goes without saying that*** *the franchise constitutionally given to the voter at a polling station has been abused. The result of the election at the polling station in question must be annulled"* (Petitioners, p. 20).

In Excerpt 27, the Counsels for the Petitioners tried to build an argument around the proposition that there were incidences of over-voting in some polling stations. They advanced their argument by alluding to the requirements laid down in the constitution, reminding the judges of the obligation of the 2nd Respondent to ensure that each voter casts only one vote. Then, by means of the conclusion indicator, *it follows necessarily, therefore,* they tried to draw the judges' attention to the fact that acts of over-voting must be strongly condemned. Also, by means of the "if" clause, *If there is the occurrence of over-voting,* the Petitioners' Counsels seem to be blowing alarm about the integrity of the polls. With the introduction of the phrase, *it goes without saying*. the counsels concluded that if indeed there were incidences of over-voting, then the electioneering process would have been flawed and the election result compromised. Thus, they argued that the franchise granted the Ghanaian voter was abused. By drawing this conclusion, it is obvious that the Petitioners' Counsels determinated to accuse the 2nd Respondent (EC) that by its carelessness and lack of due diligence, the voters' register was compromised. Therefore, votes cast by each voter have been debased and the weight diluted, making the votes cast unconstitutional.

The Narrative Mode

The importance of narration as a persuasive strategy in judicial discourse is attested to by Fludernik (as cited in Olson, 2014), who opines that narration plays a central role in legal discourse as by means of it law is communicated. According to Heffer (2005), narratives are context dependent, subjective, normative, and evaluative. In addition, the author argues that narrative strategies focus on humans and the dynamics of the events. It also situates events in time and place, and it appeals to folk psychology and shared experiences, among others. Cammiss (2006) recommends five structural features for narratives: orientation that is the setting; complication (what happened); evaluation (opinion of the narrator) resolution that is the outcome of event and Coda (returning to the present time). The author opines that narratives should be ordered chronologically. However, as noted by Picornell (2013), not all the structures may be contained by a narrative. Narratives formed part of the strategies that counsels at the election petition hearing adopted, as demonstrated in Excerpts 28 and 29:

Excerpt 28

"On 9th December, 2012, the Chairman of the 2nd Respondent, the body constitutionally and statutorily mandated to conduct and supervise public elections and referenda in the Republic and to declare the results thereof, declared the 1st Respondent, candidate of the 3rd Respondent, as the winner of the presidential contest with 5,574,761 votes (50.70%) and, thus, as having been validly elected as President of the Republic. Thereafter, on 10th December, 2012, the Declaration of President-Elect Instrument, 2012 (C. I. 80) was

> *published under the hand of Dr. Kwadwo Afari-Gyan, the Chairman of the 2nd Respondent. Having received reports of the commission of flagrant constitutional and statutory violations as well as malpractices and irregularities in the conduct of the election, the 1st petitioner, together with his vice presidential candidate, 2nd petitioner and the 3rd petitioner, the National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the 1st and 2nd Respondents herein. The 3rd Respondent, upon its own application, was joined pursuant to an order of this Honourable Court dated 22nd January, 2013*" (Petitioners, p. 4).

In Excerpt 28, the Counsels for the Petitioners began their argument with a narration. In the narration, we find an orientation *on 9th December, 2012, the Chairman of the 2nd Respondent*… This orientation sets the tone for the rest of the narration as it serves to refresh the judges' mind about the genesis of the case before the court. The complication of the story is manifested when the audience is intimated about what happened "*…declared the 1st Respondent, candidate of the 3rd Respondent, as winner of the presidential contest…"* an evaluation of the story was done when the counsels for the Petitioners include their subjective perspectives. Having *received reports of the commission of flagrant constitutional and statutory violations*…" filed the instant petition… against the 1st and the 2nd Respondent… Besides, the narration is laid out in chronological order as evident in the presentation of the dates that are mentioned in the story.

In like manner, the Counsels for the 3rd Respondent also utilised this rhetorical logos resource to bolster their argument, as presented in Excerpt 29:

Excerpt 29

"The report of the referee, KPMG, concerning the pink sheets, was tendered in evidence and admitted without objection as Exhibits 1, 1A,1B, 1C. The representative of the firm, Nii Amanor Dodoo, who tendered the Report, was subjected to cross-examination by Counsel for all the parties. In his evidence, the representative gave the total number of polling station codes that were identified in the exhibits filed by the Petitioners and in the custody of the registrar as 8675. This was a far cry from the 11,842 alleged in the affidavit of 2nd Petitioner and maintained by him in oral evidence at one point as filed. At another point under cross-examination, he claimed to have filed exhibits relating to 11,221 polling stations…" (3rd Respondent, p. 18).

As shown in Excerpt 29, the story provides an orientation where the **referee** one of the witnesses whose testimony was crucial to the determination of the case and whose role was to authenticate the exhibits presented by the Petitioners was introduced to the judges. We see that the story was told in episodes, another characteristics of a narration. In one of the episodes, we saw that the Counsels now tried to reproduce the past as they intimated the judges of the discrepancies found in the exhibits filed by the Petitioners and those authenticated by the referee, KPMG. Also apparent is the evaluation, *this was a far cry from….* No doubt, the use of this clause brings to the fore Aristotle's pathos, one means by which persuasion is sought through the highlighting of the emotions and psychology of the audience.

Emotive Language

One way the counsels try to persuade the judges to take sides with the appeal to their emotions is by using emotive language. These are emotionally charged words deliberately used to state the facts and to manipulate at the same time. They are negatively charged words which, according to Macagno and Walton (2012), have an extremely powerful effect on the interlocutor's decision-making. They argue that a speaker may use them in order to influence his/her listeners to accept certain feelings or to act in a certain manner. They do this by using different linguistic devices such as descriptive adjectives, descriptive nouns, verbs, adverbs, and modal plus lexical verbs.

The use of emotive language (in the form of descriptive adjectives and adverbs) is most prominent in the closing argument of the counsels for the petitioners. Descriptive adjectives such as *fruitful opportunity, inordinate delay, substantial increase, widespread instances, bizarre contention, abysmal effort, oral testimony, bare assertions, sweeping invocation*, just to mention only a few, are rife in the closing argument presented by the counsels for the petitioners.

To further stir up the emotions of the judges, emotive words in the form of adverbs such as *patently, stoutly*, and *curiously* were used. These words are employed in order to convey the emotions of distrust, disaffection, and anger. Some of these adjectives and adverbs used in context are shown in Excerpts 30 and 31:

Excerpt 30

*"One **disturbing** decision by the 2nd Respondent was the registration of voters without assigning them to any polling station. An*

> ***intriguing*** *development was the announcement to Parliament on 15th June, 2012, by the Chairman of 2nd Respondent that, 2nd Respondent had registered some one million (1, 000,000) voters who had not been assigned to any polling station"* (Petitioners, p.6).

Excerpt 30 shows that the Counsels for the Petitioners tried to use words to elicit value judgement so that words that hitherto could have been harmless now take on added meaning. For example, the adjectives *disturbing* used to describe the decision taken by the 2nd Respondent, and *intriguing* used to describe the noun development have the potential to poison the judges' minds and elicit unfavourable judgement from them for the 1st and 2nd Respondents.

Also, it appears that the Counsels for the 3rd Respondents attempted to stir the judges' emotions through the use of descriptive adjective shown in Excerpt 31:

> Excerpt 31
>
> *"In the absence of substitutes being provided for the discarded polling stations, the case of the Petitioners falls. Petitioners appear to believe that their* ***ever-changing*** *presentation of their Petition is not subject to rules concerning pleadings"* (3rd Respondent, p. 13).

In Excerpt 31, there appears to be an attempt by the counsels of the 3rd Respondent to ask the judges to pay particular attention to the exhibits and presentation of the petitioners which they described as *ever-changing*. As the Petitioners' Counsels did, by describing the presentation of the petitioners as ever-changing, the 3rd Respondent's Counsels might have also wanted to cause the judges to be prejudiced against the case of the Petitioners.

Figures of Speech

Figures of speech is another important strategy used by both Counsels for the Petitioners and the 3rd Respondent. Figures of speech is viewed as a deviation from everyday language; that is, it goes beyond expressing an idea, thought, or image with words which carry meanings beyond their literal ones. They give extra dimension to language by stimulating the imagination and evoking visual and sensual images; such language paints a mental picture in words. Corbett (2004) sums this up when he describes figure of speech as artful deviations from the ordinary mode of speaking or writing. Some figures of speech identified in the arguments presented by the petitioners' and the 3rd Respondent's Counsels include metaphor and parallelism.

Metaphor

Lakoff and Johnson's (1980) seminal work gives an illuminating perspective to the understanding of metaphor as against those held by the ancient world and some contemporary scholars. Contrary to the belief that metaphor was just a speech ornament, Lakoff and Johnson describe it as a cognitive property, not a mere ornament. They argue that it is an inevitable process of human thought and reasoning. The arguments presented by the counsels for both parties contain this highly persuasive element as shown in Excerpts 32 and 33:

Excerpt 32

*"The **constantly changing** figures of the Petitioners, from the original Petition to the last day but one of trial, portray the uncertain, speculative and indefinite nature of the case of the Petitioners. This is also what is reflected in the fact that though 2nd*

Petitioner confidently insisted that exhibits in respect of 11,842 had been filed, the report of the referee, KPMG, shows that this is far from the case as we elaborate further below. The confusion about the exhibits that we shall also elaborate is an apt characterization of the whole case of the Petitioners" (3rd Respondent, p. 12)

In Excerpt 32, the Counsels for the Respondents describe the figures of the Petitioners as "constantly changing". This expression is used metaphorically to depict the uncertain nature of the Petitioners' case. In effect, the Counsels seem to be comparing the **constantly changing nature** of the Petitioners' case to a chameleon which has no definite colour. It means that judges cannot base the annulment of the election on such a case of indefinite nature.

Similarly, the counsels for the Petitioners tried to persuade the judges by means of metaphors as shown in Excerpt 33.

Excerpt 33

"This unwarranted increase in the number of ballot papers issued to these polling stations can be verified by comparing the aggregate of the total number of registered voters as set out in B1 of the pink sheets to the aggregate of the figures in A1 (total number of ballots issued to the polling stations) on those pink sheets. This created room and ***a fruitful opportunity*** *for electoral malpractices, such as over-voting and voting without biometric verification"* (Petitioners, p. 9).

In Excerpt 33, the Petitioners' Counsels accused the 2nd Respondent of making room for electoral malpractices by increasing the number of ballot papers issued to some polling stations. This, they said, provided the chance for

the election to be rigged. The expression ***fruitful opportunity*** is used metaphorically to indicate the kind of opportunity that the unwarranted increase provides. The expression ***fruitful*** does not only evoke an image of bumper harvest but also shows a comparison between the kind of opportunity there was for election malpractice and a bumper harvest.

Parallelism

According to Corbett and Connor (1999), parallelism is a rhetorical strategy that combines words or phrases with similar meanings to produce a clear pattern. Also, Watling (2015) defines parallel structure as expressing in a similar way, ideas that are similar in content or function. The counsels for the Petitioners employed parallelism, as seen in Excerpt 34:

> Excerpt 34
>
> *"**Widespread instances** of over-voting, i.e. where votes cast exceeded (a) the total number of ballot papers issued to voters on election day…*
>
> ***Widespread instances** of people voting at polling stations without prior biometric verification in violation of the law governing the elections of December 2012...*
>
> ***Widespread instances** of polling stations where alleged results appearing on the pink sheet were not authenticated"* (Petitioners, pp. 9 and 10).

In Excerpt 34, the Counsels for the Petitioners prefaced the cataloguing of each clause that states the constitutional and statutory violation of the electoral process, which formed the basis for their seeking legal redress in court, with the noun phrase, *widespread instances*. They undoubtedly used parallel

constructions strategically to persuade the trial judges to align with their client, the Petitioners. By presenting these parallel structures, the Petitioners' counsels guided the judges elegantly through their story, demonstrating the truthfulness of Watling's (2015) claims that a parallel structure not only strengthens sentences "but breathes life into paragraphs" (p. 330). They tried to make the judges see the connection between the several instances of election malpractices, which they claimed existed. By so doing, the Counsels for the Petitioners tried to magnify the guilt of the 2nd Respondent whose omission or commission must have led to these alleged electoral malpractices.

Moreover, Counsels for the 3rd Respondent also employed parallelism to foreground their argument that the claims made by the Petitioners lacked merit and were, therefore, baseless as shown in Excerpt 35:

Excerpt 35

*"**The Claims about** unknown polling stations were also baseless and Petitioners who deployed agents on behalf of the 1st Petitioner cannot in good faith make these claims. **Claims about** different results being given for the same polling station are also not warranted.*

***The claims about** vote padding in favour of 1st Respondent and reduction of votes of 1st Petitioner (except in one instance of an error in transposition affecting 80 votes), as well as allegations about improper receipt and transmission of results at the offices Technologies Limited ("STL"), were withdrawn and were also not borne out by the evidence"* (3rd Respondent, p. 4).

Like the Counsels for the Petitioners, the Counsels for the 3rd Respondent used parallel structures to also foreground their argument. By presenting these parallel structures, the counsels for the 3rd Respondent were trying to create presence, a strategy which, according to Perelman and Olbrechts-Tyteca (1969), acts directly on the sensibility rather than the rationality of the audience. They did this by attempting to sow doubt about the claims of the petitioner that election malpractices marred the 2012 Presidential Election.

Evaluative Language

The use of evaluative language as a persuasive strategy, according to Rosulek (2007), involves a speaker including personal or social stances toward the referential information being presented in the discourse. She points out that evaluation involves a construction that comments on the consequences or meaning of the actions being presented; some markers of evaluation include: negatives, comparatives, and modals. Martin and White (2005) under their engagement resource identified a number of linguistic resources that are indications of evaluation in language. They indicated that lexical items such as: the negatives – *deny, no, not* and *failed* are used by writers or speakers to show disclaim whereas lexical and phrases such as *naturally* and *one of course* indicate that the speakers confirm what has been said. Other resources include the following words: *convincingly* as an indication of endorsement, *contend* shows pronouncement while *but, even* and *amazingly* indicate counter argument. They also argue that lexical items like *claim, allege,* and *argue* indicate that the speaker has distanced him/herself from the discourse whereas *said* and *heard* show acknowledgement. In the light of these instances, some

evaluative language that are dialogic and employed by the counsels are shown in Table 9.

Table 9: The Use of Evaluative Language

Categories	Examples
Disclaim	The 1st Respondent ***denied*** claims of over-voting by… (Pet. p.12)
Distance	The ***claim*** by 2ndPetitioner in cross-examination…(3rd Resp.p. 13)
Confirm	Under cross-examination, 2nd Petitioner ***admitted***…(3rd Resp. p.6)
Acknowledge	**According to** the evidence, the number of votes… (Pet. p. 43)
Pronounce	2nd Respondent also further ***stated*** that… (Pet. p. 14)

Source: Field Work, (2020)

Table 9 shows a description of the evaluative language employed by the Counsels. From the examples, under disclaim, the Counsels for the Petitioners tried to draw the judges' attention to the fact that the 1st Respondent denied claim of over-voting. The Petitioner here makes a disclaimer and tries to portray the 1st Respondent's denial of the claim as untruth. Under distance, the 1st Respondent places himself in opposition to the Petitioner's stance. By using the noun, *claim*, with regard to the Petitioner's stance, the 1st Respondent misaligns and distances himself from the Petitioner's Counsel. The noun, *claim,* further used to describe the petitioner's stance is an indication of negative attribution, an example of dialogic contraction which acts to challenge or fend off; an indication that the Counsel for the 1st Respondent tries to disassociate himself from the Counsels for the Petitioners. Thus, in consonance with Aristotle's epideictic oratory; there is an attempt by one party to shame the other.

Chapter Summary

This chapter has thrown light on the resources that were employed by the counsels for both the Petitioners and the 3rd Respondent. It was found out that there were four main types of linguistic forms: lexical items such as adjectives, adverbs, factual verbs, and negation markers; syntactic forms like the nominalised reporting speech, direct and indirect speech, and causal since-clause as well as semantic structures. The result also showed that they used some persuasive strategies such as the paradigmatic mode, the narrative mode, emotive language, evaluative language, and figures of speech.

CHAPTER FIVE

APPRAISAL RESOURCES IN CLOSING ARGUMENTS OF COUNSELS

Introduction

Using Martin and White's (2005) Appraisal Framework, I discuss the communicative functions of the linguistic resources employed by the Counsels for the Petitioners and the 3rd Respondent. Appraisal Framework as illustrated in the methodology section of this study is meant to present a holistic picture of the framework in all its ramification. However, as Martin and White (2005) state, the model is not tailor-made to fit every situation and circumstance. Thus, there is need to adapt it to suit one's peculiar circumstance.

A close scrutiny of the data for this study revealed that it is dialogic in nature, and so presents differing and conflicting voices. It was also discovered that the arguments by the Counsels have some tinges of attitude. In the light of these discoveries, I adopted the Engagement and Attitude Resources of the Appraisal Framework, and narrowed my choice down to their subcategories of heteroglossia and judgement respectively. To synchronise these divergent voices, I adopted the Engagement Resource of the Appraisal Framework (Martin & White, 2005) for the analysis of the data. The reason for this is that the framework has an inbuilt **ramified** system of resources which cater for these divergent and conflicting views found in the data.

The Engagement Resource, according to Martin and White (2005), is well positioned to cater for the lexico-grammatical and semantic elements of a text. Also, according to Drasovean and Tagg (2015), the engagement resource, "emphasises the social meanings of linguistic patterns and, more specifically, it

regards emotions and evaluations as relation building resources" (p.2). Thus, it lends itself to capturing nuances of divergence on any proposition as well as recognizing that it is one among an array of propositions available in the current communicative context. Furthermore, it foregrounds the intersubjective stance of each speaker bringing out their distinctive voices, making them stand out and audible.

With regard to the data for this study, it is worthy to note that the main recipient of the message from the Counsels' addresses are the nine-member empanelled Justices of the Supreme Court. Quite characteristic of the adversarial system of justice, these judges were reflectve audience observing the acting that took place on the stage by the two main actors – the Counsels for the Petitioners and the 3rd Respondent. In their formulations, these main actors recognise the subjective views and stance of the other actors, the 1st, 2nd and 3rd Respondents as well as the 1st, 2nd and 3rd Petitioners. In order to make meaning of the contributions of these actors to the argument and to understand their relative positioning within a defined social context, the engagement resource offers a systematic approach to how such positioning is linguistically realised. Two subcategories emerge from the engagement resource, that is, dialogic (heterogloss) and nondialogic (monogloss). The subcategory of monogloss contains statements which state facts or beliefs, and are referred to as "taken-for-granted" (Drasovean & Tagg, 2015, p. 2) and so falls outside the realm of my data. On the other hand, the subcategory of heterogloss is useful in identifying the relationship among people who are engaged in some sort of dialogic debate or argument. Thus, heterogloss, according to Martin and White (2005), brings to light the dialogic character of a text or statement. They posit

that through heterogloss, people engage with ideas or affirmations by expanding the dialogic space. This indicates that in order to acknowledge other points of view, one may either consider a statement by recognizing one's own subjectivity or one can assign it to another. Alternatives include speakers or authors disclaiming (negating or refuting) or proclaiming in order to constrict the dialogic space and reject opposing ideas (making a strong affirmation). Heterogloss, according to Martin and White (2005), is particularly relevant when examining how people subscribe or not to a "community of shared value and belief" (p. 95). It is against this backdrop that I chose to analyse the linguistic devices employed by the counsels in their closing arguments using this subcategory of the Engagement Resource. Examples of usage by the counsels are represented in Table 10.

Table 10: Engagement Resources Employed by Counsels

Major Category	Sub-category	Linguistic Resources	Petitioners (Frequencies)	3rd Respondent (Frequencies)
CONTRACT				
Disclaim	• Deny	No	229	302
		not	823	829
		never	24	16
		nothing	16	19
	• Counter	yet	14	17
		however	40	36
		but	47	46
		even though	25	19
Proclaim	• Pronounce	I contend	11	-
		The fact is...	54	5
	• Endorse	Demonstrate	28	9
		Show	82	51
	• Esteem/concur	Of course		
	▯ Affirm	Admittedly	-	6
	▯ Concede		-	-
EXPAND	• Entertain	Perhaps	-	-
		Apparently	1	1
	• Attribute			
	▯ Acknowledge			
	▯ Distance	Argue	3	1
		Believe	10	8
		Reporting Verbs	50	52
		▪ Claimed	110	95
		▪ Declared	76	75
		▪ Said	73	66
		▪ Alleged	12	10
		▪ Maintains	33	30
		▪ States	12	13
		▪ Reports		

Source: Field Work, (2020) adapted from Martin

In Table 10 above, the identification of the engagement resources of the appraisal theory employed by both the Counsels for the Petitioners and those of the 3rd Respondent are displayed. The table reveals that under the engagement resource, the Counsels on both sides of the divide favoured engaging in the dialogic discourse of Contract more than Expand. To illustrate the Counsels utilised the negation markers ***no, not,*** and ***never*** to contract hereoglossic space

with ***no*** recording Frequency of 229 for the Petitioners and 302 for the 3rd Respondent. ***Not*** has 823 hits for the Petitioners and 829 for the 3rd Respondent. These figures certainly are outliers when they are compared to the figures for ***apparently*** under entertain of the Proclaim discourse which are 1 for the Petitioners and 1 for the 3rd Respondent. These figures show that the Counsels representing the feuding parties both engaged in the proposition of deny, where they denied the proposition of their opponents, and disassociated themselves with their presupposition. Conversely, they shied away from proclaim, where they failed to entertain the proposition of their opponents.

Under the resource of engagement, Martin and White (2005) aver that people engage with ideas or affirmations by either contracting or expanding the dialogic space. Through dialogic contractions, the range of alternative viewpoints and expressions that either disclaim or proclaim the position of others is challenged. According to Martin and White, disclaim covers constructions that induce an alternative point of view in order to reject **it**. They opine that the textual voice positions itself as at odds with, or rejecting a contrary position. This is done in two ways: through deny and counter.

Deny

Deny occurs when a writer explicitly rejects another's viewpoint through negation. When this happens, the author acknowledges an alternative point of view, but rejects it; totally misaligning himself or herself from the opponent's discourse. It is realised through negative markers such as ***no, never***, *and* ***not***. Negation implies the introduction of another voice into a dialogue. Martin and White (2005) explain, "the negative is not the simple logical opposite of the positive, since the negative carries with it the positive, while the positive does not reciprocally carry the negative" (p.3). The authors contend

that with deny, negation shuts the heteroglossic space; it closes down or rejects other potential voices.

As indicated in Table 10, both Counsels for the Petitioners and the 3rd Respondent utilized the resource of disclaim very well. For example, the linguistic item ***no*** was used by the counsels for the Petitioners 229 times whereas counsels for the 3rd Respondent utilised it 302 times. Counsels for both the Petitioners and the 3rd Respondents also used the negation indicator ***not*** 823 and 829 times respectively. Other negative words such as *never* also occurred 24 times in the address of the counsels for the Petitioners while it occurred 16 times in the argument presented by the 3rd Respondent's counsels. This is amply demonstrated in Excerpts 36 and 37.

Excerpt 36:

"This Honourable Court is respectfully invited to advert its mind to the very important fact that, in an election at a polling station shown to have been affected by over-voting, it is ***not*** *possible to determine which of the votes cast constitutes the invalid votes and, therefore, which votes cast count as the lawful votes"* (Petitioners, p. 20).

According to Excerpt 36, the Petitioners' Counsels rejected the EC's position of allowing all the votes cast at the particular polling station where there was an allegation of over-voting. The Petitioners' Counsels, thereby, misaligned themselves from the EC's position on the ground that it was not possible to differentiate between the lawful and invalid votes cast

Excerpt 37:

*"The Petitioners again have **not** called a single one of the polling agents that represented them and signed the pink sheets in order to enable the court to have the benefit of a person with personal knowledge of the elections at these locations"* (3rd Respondent, p. 64).

Just like the Counsels for the Petitioners, the 3rd Respondent's Counsels disassociated themselves from the submission of the Petitioners that the court should annul the result which declared the 1st Respondent, Mr. John Dramani Mahama, as the winner of the presidential election on the basis of electoral malpractice. Here, by using the negation indicator, ***not***, Counsels for the 3rd Respondent reject the Petitioner's proposition for want of adequate evidence. In both instances, counsels for the two parties have failed to acknowledge each other's position on the issue of annulment of votes on numerous grounds. On the other hand, in line with Perelman and Olbrechts-Tyteca's (1969) proposition, both Counsels for the Petitioners and those of the 3rd Respondent are seeking communion with the judges; recognizing the enormous power at their disposal.

Counter

A further resource to close down heteroglossia in a text is known as 'counter expectancy'. This kind of dialogic disclaim is used to track and adjust the audience's expectation and it is well utilised by the counsels for both the Petitioners and the 3rd Respondent. It is a situation where the author responds to a presupposition with a contrary statement. This is often conveyed through concessive conjunctions: ***yet, but, however, although, even though***, and many

more. It can also be realised through adverbials that act as mark of counter expectation (Surprisingly, for instance). This is exemplified in Excerpts 38 and 39.

In Excerpt 38, the Petitioners showed their aversion to the argument of the 3rd Respondents and his Co-respondents that annulling the election result would amount to an infringement on the fundamental human rights of Ghanaians.

Excerpt 38

"the 1992 Constitution, ***even though*** *has very progressive and strong provisions which guarantee and protect the fundamental human rights, liberties and other freedoms enjoyable by citizens of Ghana, has provisions which also regulate and control the enjoyment of those rights, freedoms and liberties by operation of articles12 (2), 14(1)(a) -(g), (21(2) and (4)(a) -(d) and 24(4) just to mention a few.* ***However****, we must always guard against a sweeping invocation of fundamental human rights as a catch-all defence of the rights of defendants"* (Petitioners, p. 32).

In Excerpt 38, the Counsels for the Petitioners responded to their opponent's presupposition with a contrary statement signalled on two occasions by the conjuncts, ***even though*** and ***however.*** By so doing, the Petitioners' counsels try to connect a point of agreement to a more highly contended conclusion when they said, "*However, we must always guard against a sweeping invocation of fundamental human rights as a catch-all defence of the rights of defendants".* In the first part of their argument, the Petitioners acknowledged the strength of the 1992 constitution as containing provisions that protect the fundamental

human rights of the citizens of Ghana, but paradoxically they tend to distance this positive aspect of the constitution from the later undesirable aspect through the connective, ***however***. One way to achieve dissociation, according to them, is to split one idea into two to avoid incompatibility. Thus, by dividing the ideas into two terms, the speaker avoids presenting a conclusion that is incompatible with the thesis. The counsels for the Petitioners split the two ideas by first acknowledging the strength of the constitution in protecting the fundamental human rights of Ghanaians and the other half where they sounded a word of caution through the use of the adverbial, ***however***.

Again, the Petitioners' Counsels present a negative viewpoint towards the conflicting figures that were submitted by the 2nd Respondent, as exemplified in Excerpt 39:

> Excerpt 39
>
> *"It is the case of petitioners that, after 2nd Respondent had conducted its biometric registration exercise, it announced to the general public that the provisional number of voters registered was a little less than thirteen million (13,000,000) and that, after cleaning the provisional register and verifying same, it would publish the final number of registered voters.* ***Surprisingly*** *and contrary to legitimate expectations, when 2nd Respondent posted the final total number of registered voters on its website, the number had inexplicably increased by over one million (1,000,000)"* (Petitioners, p. 6).

This excerpt shows the Petitioners' Counsels' total rejection of the seeming discrepancy in the 2nd Respondent's submission on the number of eligible

voters. The Petitioners here tried to counter the 2nd Respondent's submission, as indicated by the disjunctive adverb, *surprisingly*, which signals an introduction of the interlocutor's viewpoint. By their use of the Disjuncts ***surprisingly***, the Petitioner's Counsels appear to be giving a narrative of distrust, one that is capable of altering the judges' attitude towards the case of the Respondents.

The Petitioners were not the only ones who tried to close down heteroglossia. The Counsels for the 3rd Respondent did likewise, as shown in Excerpt 40:

Excerpt 40

*"In paragraph 43 of the affidavit of the 2nd Petitioner, it is stated that "the constitutional and statutory violations, irregularities and malpractices which constitute the basis of this petition have been classified into twenty-four (24) distinct and mutually exclusive categories in which no polling station can belong to more than one category, thereby avoiding double counting." (Emphasis the Petitioners'). **Yet** it is clear from the KPMG Report that there are numerous instances of the same polling station being used in different categories"* (3rd Respondent, pp. 26 -27).

In Excerpt 40, the Counsels for the 3rd Respondent tried to involve a contrary position to the stance of the Petitioners who claimed that they had classified all the instances of electoral malfeasance into 24 exclusive categories, so that the incidences of double counting would be eliminated. The Counsels for the 3rd Respondents attempted to counter the Petitioners' claims by presenting a proposition introduced by the conjunction, ***yet***. In their formulations, the

Counsels for the 3rd Respondent rejected the Petitioners' claim that the possibility of double counting of entries has been eliminated as false by drawing the judges' attention to the KPMG Report that stated otherwise. Thus, the Counsels for the 3rd Respondents, no doubt, want the judges to dismiss the petitioners' claims.

Proclaim

When an author declares, he/she wants to restrict the range of alternatives for answers from other writers in a continuing heteroglossic discourse rather than dismissing any opposing viewpoint. Proclamation often acts to interpolate the authorial voice in three ways: pronounce, endorse, and concur or esteem (Martin & White, 2005).

Pronounce

Proclamation of pronounce type involves formulations that encode authorial emphases or explicit authorial interventions or interpolations which indicate an author's position. They are realised in ***I contend, the fact is, the truth is, we can conclude, indeed you must agree that*** and clausal intensifiers such as ***really*** and ***indeed***. The following examples demonstrate this:

Excerpt 41:

"*It is submitted that* ***the facts*** *underpinning this Petition are largely grounded on a combination of grounds (a) and (b) as set out in the foregoing paragraphs"* (Petitioners, p. 17).

In Excerpt 41, for instance, the Counsels for the Petitioners decided to engage their authorial position by referring to the facts that underpinned the court case. Earlier in their submissions, they had indicated that their reason for coming to court was to have overturned the EC's decision of declaring Mr. John Dramani Mahama, winner of the 2012 Presidential Election, following claims of statutory

violations, malpractices, and irregularities. With the use of the noun phrase, ***the fact,*** it is clear that the Petitioners' Counsels want to draw the judges' attention to the truthfulness of their submission by emphasizing the possible wrongdoing of the 2nd Respondent (EC) for declaring the 1st Respondent (Mahama) winner in the face of alleged malpractices in the election. Here, in line with Aristotle's forensic oratory, the Counsels seem to draw the judges' attention to past events which may have marred the integrity of the election. By so doing, they evoke ethos, one of Aristotle's three means of persuasion, which deals with speaker credibility. They called the judges' attention to themselves as people with integrity whereas they portray their opponents, especially, the 2nd Respondent as a body lacking integrity and competence. In this instance, we see the Counsels for the Petitioners make an attempt to portray themselves as presenting only the facts whereas their opponents do the opposite.

Also, the Counsels for the 3rd Respondent decide to interpolate their position on the failure of the Petitioners to discharge their evidential burden, as seen in Excerpt 42:

Excerpt 42

"These admissions, documented in their own exhibits, mean that far from discharging their evidential burden, the Petitioners rather provide valuable testimony in support of the case of the Respondents. Going "on the face of the pink sheet", these admissions of the agents of the 1st Petitioner stand uncontested. Nor have the Petitioners attempted to have any of their agents who certified the results provide testimony that can justify overriding the legal effect of their admissions. Further, ***the fact***

> ***that***, *on the other hand, there is also before this Court affidavit evidence from agents of the 1st Petitioners at various polling stations who confirm the absence of any irregularities, violations etc in the conduct of the election, evidence consistent with their own certification at the polling station as well as the certification of the agents of the 1st Petitioner, makes the testimony of* 2nd *Petitioner (who has no personal knowledge of the matters in issue, according to his own confession) on the pink sheet a wholly unreliable basis for annulling the votes of citizens of Ghana who exercised their constitutional right to vote in the 2012 Presidential elections"* (3rd Respondent, p. 33).

In Excerpt 42, the 3rd Respondent's Counsels drew the judges' attention to an unstated fact that had the potential to overturn the Petitioners' earlier arguments on widespread violations and irregularities of the electoral process during the 2012 Presidential Election. By means of the noun phrase, ***the fact***, the 3rd Respondent's Counsels intervened to stop what they implied to be misleading information about the Petitioners' claims of widespread irregularities. They did this by explicitly emphasising that both the agents of the 1st Respondent and those of the 1st Petitioners confirmed the absence of any irregularties and violations at the polling stations.

Concur

Concur is another kind of formulation which, rather than directly rejecting a contrary proposition, overtly agrees with it. Typically, this dialogic partner, according to Martin and White (2005), is the text's putative addressee. This relationship of concurrence is conveyed via such locutions as ***of course***,

naturally, not surprisingly, admittedly, **and** ***certainly***. However, it appears that the data for this study do not support the narrative of concur where counsels were expected to either align with their opponents or concede to some shortcomings.

Endorse

Parties in a dialogic relationship do not always disagree with each other or one another. There were times when an authorial voice was heard validating a proposition from an external source, authenticating it as correct and undeniable. Such a situation is described by Martin and White (2005) as 'endorse'. The employment of verbal processes (or their nominalised equivalents), they said, which represent specific acts of semiosis as constituting the reasons for the speaker or writer to infer this warrantability, is how this construal is performed indirectly. The aforementioned verbs include ***demonstrate, exhibit, prove, locate,*** and ***point out.***

Like concur, there are no significant parts of the counsels' narrative that seem to incorporate this resource. It would have been surprising if there were. This is because the vigorousness of this phase of the trial process cannot make room for fault admission; neither does it have a place for the acknowledgement of opponent's strength. This finding resonates with White (2003) who contends that when authors use endorse, they align themselves with a voice which is construed as "correct, authoritative or otherwise argumentatively compelling" (p.3).

So, the Counsels for both the Petitioners and the 3rd Respondent would have embarked on a suicide mission if they had aligned themselves with their opponent's propositions affirming them as correct and authoritative.

Expand

In contrast to the sub-resource of contract which features the range of alternative viewpoints and expressions that either disclaim or proclaim the position of others unfavourably, Martin and White (2005) assert that dialogue can also be expanded by means of either 'entertain' or 'attribute'.

Entertain

Entertain is one of those dialogically expansive resources of engagement which project authorial voice as stating that it is only one conceivable perspective among many others creates dialogic room for various options, to varying degrees. By using evidentiary language, such as ***seems, apparently,*** and ***suggests,*** the authorial voice entertains such dialogic options. Other expressions like ***it is likely...that, in my view***, and ***I suggest*** are also used. Such locutions, according to Martin and White (2005) are often integrated as markers of author confidence. Martin and White contend that when these terms are employed dialogically, they also imply a heteroglossic setting where the author is aware of alternatives that exist in the current social context.

It is worthy of note that like the proclaim resource of concur and endorse, the data for this study do not support this stance since it is likely to be counterproductive. This affirms Martin and White's (2005) stance that while propelling a proposition, a writer or speaker should also be prepared to recognise that others may not share this value position. They also noted that in some contexts, of course, such formulations can convey a sense of uncertainty or lack of commitment to truth value on the part of the speaker or writer. It is against this backdrop that it may be reckless for any of the counsels representing the feuding parties to use language in such a way as to suggest uncertainty or

lack of commitment to the course they are pursuing – to seek favourable judgement for their clients.

However, it is interesting to note that while the Counsels for both the Petitioners and the 3rd Respondent fail to entertain one another's viewpoints, recognizing these as carrying truth value, they project an authorial voice outside theirs in which they appear to have confidence. This authorial voice which entertains other dialogic alternatives is made evident through modality such as: ***may, might, can, could, will, would, shall, should, must*** and ***ought to*** as is evident in Excerpts 43 and 44 respectively:

Excerpt 43

"It is strange and striking that the 1st and 3rd Respondents who, at the material time of the passage of C.I. 75, were the President of the Republic and the ruling majority party in Parliament, respectively, were, together with 2nd Respondent, principally responsible for the enactment of C.I. 75, ***should*** *now, through a species of weak constitutional argument, attempt to undermine the constitutional validity of C.I. 75 by seeking to legitimize illegal conduct to justify the questionable declaration of 9th December, 2012 by the 2nd Respondent"* (Petitioners, p. 36).

By means of the modal auxiliary, ***should,*** the Petitioners' Counsels entertained an authorial voice outside those of its opponents, the Respondents. They acknowledged the voice of the C1.75, an authoritative document produced by the 2nd Respondent (EC) and empowered by the 1992 Constitution, which was meant to guide the conduct of the election. It is a document whose tenets are binding on all the parties involved in the election. Owing to the use of the

putative, ***should***, the Petitioners' Counsels expressed strong emotions concerning what they implied as a complete disregard of the 1st and 3rd Respondents for the C1.75, a document which they (the 1st and 3rd Respondents) co-enacted with the 2nd Respondent. In Excerpt 43, the putative, ***should,*** occurs in the *that-clause* after the expression of surprise by the Counsels for the Petitioners, ***It is strange and striking.*** The Petitioners' Counsels expressed shock at the attempt of the 1st and 3rd Respondents to challenge the legality of the C1.75 document. By so doing, the Counsels strategically entertain this alternative voice with a view to calling the judges' attention to the seemingly double standard of the 3rd Respondents, which should earn it some disparagement. By means of the modal, ***should***, the Petitioners' Counsels were in effect saying that it is logical for the 1st and 3rd Respondent to accord respect to the tenets of the C1.75 since they were part of its coming into existence.

The Petitioners' Counsels were not the only ones who entertained alternative voices outside those of their opponent. The Counsels for the 3rd Respondent did likewise, as exemplified in Excerpt 44:

Excerpt 44

"...It is submitted that based on the uncontested evidence of the referee, KPMG, the Petitioners have failed to make available the pink sheets claimed to be made available in the affidavit of 2nd Petitioner and, for this reason alone, their petition ***must*** *be dismissed"* (3rd Respondent, p. 14).

The Counsels for the 3rd Respondent also employed epistemic modality through the application of the modal auxiliary, ***must.*** This modal carries the property of

obligation which the 3rd Respondent's Counsels seem determined to see applied on the Petitioners. Just as the Petitioners' Counsels did, these Counsels entertained a dialogic alternative voice outside those of their opponents and this time, the alternative voice is that of the KPMG's Report.

The report which was submitted by the independent referee contracted by the court to authenticate the exhibits submitted by the Petitioners as proof of electoral malfeasance is deemed an authoritative voice that ought to guide the court in ascertaining the reliability of the exhibits. So, based on the KPMG's Report which indicates the Petitioners' failure to provide the pink sheets claimed to be available in the affidavit sworn by the 2nd Petitioner, the Counsels for the 3rd Respondent pray the court that as a matter of necessity the petition should be discarded. In fact, the modal auxiliary, ***must***, makes it obligatory that the petition should be dismissed by the court.

In sum, by means of the semantic form, epistemic modality, a type of modality that has to do with knowledge and belief, both groups of counsels are determined to forge friendship with the judges by appealing to their (the judges) value system, which include upholding epistemic truth. Through the use of the modal auxiliaries ***should*** and ***must***, the Counsels for both the Petitioners and the 3rd Respondent evoke the canonical powers of the C1.75 and the KPMG Report. Thus, by entertaining the dialogic authorial voices in these documents, the Counsels demonstrated their resolve to persuade the panel of judges to take sides with their clients. So, even though the Counsels on both sides of the divide failed to acknowledge one another's formulations as having truth value, they entertained the undisputed authority vested in the C1.75 and KPMG Report, which seemed to provide evidence for their arguments.

Attribute

Martin and White (2005) opine that attribute is one of the linguistic resources used to introduce an external voice into a text. It performs the task of multiplying the voices in the text and, thereby, establishing each voice as representing one of a number of possible heteroglossic positions. It is also used to dissociate propositions from the author and assign them to others. Attribute is manifested in text in two ways – acknowledge and distance.

Acknowledge

'Acknowledge', according to Martin and White (2005), is a formulation which endorses authorial voices. They are used to refer to moves that explicitly name the source of an idea or assertion. Attribution of the acknowledge type is realised through factive verbs such as ***say, tell, state, declare, believe, announce*** and their nominalised equivalent such as ***the claim, the declaration, the allegation*** as well as some adverbial adjuncts like ***according to,*** as demonstrated in Excerpt 45:

Excerpt 45

"As earlier pointed out, based on the opening sentence of paragraph 37 of the affidavit of the 2nd Petitioner, and ***according to his evidence,*** *under cross-examination by Counsel for the 3rd Respondent, that figure of 320 should have been 310, even though the exhibits listed in Appendix A.2.1 of the KPMG Report (as also pointed out earlier) are 318. Some of those exhibits would, therefore, be out of the range of the affidavit"* (3rd Respondent, pp. 40-41)

Here, the Counsels for the 3rd Respondent drew the trial judges' attention to the discrepancies in the number of polling stations where the Petitioners claimed

over-voting may have taken place. The Counsels utilised one of the resources available to attribution by referring to an earlier evidence given by the 2nd Petitioner when he said ***according to his evidence...*** By using this phrase, the Counsels for the 3rd Respondent want to explicitly acknowledge the 2nd Petitioner as the source of the information. By so doing, the counsels perhaps intended to make a vast distinction between the submissions of the 2nd Petitioner which contained discrepancies in figures tendered by the Petitioners and the report of the referee which include the authenticated figures. By so doing, the Counsels come into, what Perelman and Olbrechts (1969) refer to as, 'communion' with the judges. This they tried to do by prompting them (the judges) that the case of the Petitioners lacked merit since they (Petitioners) seem to be untruthful with regards to the number of evidence they tendered before the court, an act which goes contrary to the convention of the court where the truth and nothing but the truth must be told. This convention is what Perelman and Olbrechts (1969) allude to as 'systems of preference' which they said can be based on values. In this case, the Counsels for the 3rd Respondent used attribution to disassociate themselves from the claims of the 2nd Petitioner.

Excerpt 46

"...It is impossible to derive legally acceptable support for the allegations of the Petitioners and the reliefs they seek from this jumbled heap in which (i) the identities and numbers of the polling stations where Petitioners seek to have all votes annulled are in such disarray; and (ii) ***according to the authoritative count of the Referee,*** *affirmed by all the parties, a significantly lower number*

of polling station pink sheets than what Petitioners claimed they had filed are in evidence" (3rd Respondent, p. 23).

In Excerpt 46, the Counsels for the 3rd Respondent also attempt to employ the resources of attribution through acknowledgement. Unlike the negative attribution which the Counsels for the 3rd Respondent made towards the Petitioners, in Excerpt 45, they made a positive attribution in the case of the referee who was engaged to undertake an authoritative count of all the evidences tendered in court. With the use of the expression, *according to the authoritative count of the referee*, the counsels for the 3rd Respondent openly acknowledged their approval of the referee's propositions. Thus, unlike the acknowledgement of the 2nd Petitioner's testimony which portends misalignment and distance, the acknowledgement with regards to the referee signified alignment with the findings of their report. The counsels, thereby, show that they recognise and endorse the referee's submission as authentic and authoritative whereas that of the 2nd Petitioner is incredible and unreliable. They are in effect saying that the judges can depend on the result of the count produced by the referee as reliable and dependable. In this instance, the Counsels for the 3rd Respondent tried to establish communion with the judges through the creation of presence (Perelman & Olbrecht's, 1969). He does so by appealing to a common trait and belief of dependability, truthfulness which the judges find valuable. The Counsels attempt to use this goodwill to direct the judges through the conclusion which is most beneficial to their argument.

Distance

Martin and White (2005) assert that when authors engage in dialogue, the tendency for an author to distance him or herself from the proposition of the

other party is probable. It is against this backdrop that the counsels for the 3rd Respondent opposed the Petitioners' stance, as exemplified in Excerpt 47:

Excerpt 47

*"**The claim** by the Petitioners that unique serial numbers were provided to polling station pink sheets was baseless and there was no irregularity involved in the same serial number appearing on more than one such pink sheet"* (3rd Respondent, p. 4).

By using the noun phrase, ***The claim***, with regard to the Petitioner's stance, the 3rd Respondent's Counsels seek to expand the discourse of the Petitioners by misaligning and distancing themselves from the Petitioners'. The noun phrase, ***the claim***, further used to describe the Petitioners' stance is an indication of negative attribution, an example of dialogic contraction which acts to challenge or fend off; a sign that the Counsels for the 3rd Respondent try to disassociate themselves from the conjecture of the Counsels for the Petitioners' claims of wrongdoing in relation to the allegation that more than one serial number appeared on the pink sheets

In a similar vein, the Counsels for the Petitioners also disasociated themselves from the proposition presented by the Counsels for the 1st Respondent, as shown in Excerpt 48:

Excerpt 48

*"The 1st Respondent **claimed** that the result of the election was the product of painstaking and public counting, and was based on the exercise of the fundamental rights of Ghanaian eligible voters under article 42 of the Constitution"* (Petitioners, p. 12).

From the foregoing, it is clear that the Counsels for Petitioners prefer to overtly distance themselves from the proposition of the 1st Respondent (Mahama) whom they believe to be an ally of the 3rd Respondent (NDC). By means of the factual verb, ***claimed,*** the Petitioner's Counsels failed to show any conviction towards the 1st Respondent's position that it had conducted a free and fair election, which ensured that all eligible voters exercised their constitutional rights. Not only did the Petitioners' Counsels distanced themselves from this argument, but they also explicitly denied any responsibility towards it. In both instances, it is clear that the two groups of Counsels are determined to highlight the negative things about their opponents (van Dijk, 2006) thus, in consonance with Aristotle's epideictic oratory; there is an attempt by one party to shame the other.

In sum, dialogic disclaim constituted the most preferred orientation to the heterogloss variety of engagement; within this choice, deny was the most frequently applied. This result indicates that these counsels opted to close the dialogic space, representing the proposition as one of a range of possible positions intended to fend off or denounce their opponent's voice. Deny was realised through negative markers – ***no, not, never, and anything***. In the case of the Petitioners, 1092 times while the 3rd Respondents utilised 1166 times. This is an indication that the counsels for both parties dismissed each other's propositions and misaligned themselves from them. With the other type of contractive disclamation counter, the counsels decided to introduce other voices to challenge them in order to reinforce their positions. Two hundred and seventy-two (272) instances of counter were identified and these were realised through conjunctives of concession and contrast – ***however, yet, but, even***

though, although, **and** ***furthermore*** and an adversative ('but'). Within expand, the counsels preferred distance, an option which fosters disassociation, thereby, distancing themselves from the propositions of their opponents. Conversely, they failed to engage in the dialogic expansion of entertain in order to acknowledge their opponent's proposition as factual. They entertained authoritative documents as having truth value which they used to further disparage their opponents.

The Appraisal Resource of Attitude

Attitude is one of the semantic domains of appraisal and it is "concerned with feelings" (Martin & White, 2005, p. 3). It entails values by which speakers pass judgements and associate emotional responses with participants and processes. Martin and White (2005) explain that attitude has three semantic areas: affect which deals with emotions through expression of positive and negative feelings; judgement, which is concerned with attitudes toward behaviour involving either admiration or criticism, praise or condemnation, and appreciation which is mainly aesthetics involving evaluations of semiotic and natural phenomena. The data for this study revealed that the counsels on both sides of the divide employed the resource of judgement, a subcategory of attitude. Judgement, according to Martin and White, falls under two major groups: Social Esteem and Social Sanction.

Social Esteem encompasses admiration and criticism, whereas Social Sanction involves praise and condemnation. Attitude is most realised adjectivally and through some adverbs (Martin & White, 2005; Marza, 2011). So, by means of adjectives mainly of the intensifying, coordinate and cumulative types as well as through certain adverbs, Martin and White show

how both counsels engage in a discourse of discord, criticism and condemnation of each other. Table 11 shows some adjectives used by both the Petitioners and the 3rd Respondent.

Table 11: Distribution of Adjectives used by Petitioners and 3rd Respondent

Petitioners		3rd Respondent	
Adjective	**Attribute**	**Adjectives**	**Attribute**
Severe damage	negative	*total* confusion	negative
Flagrant violation	negative	*constantly* changing	negative
Interesting answer	negative	*severe* damage	negative
Intriguing development	negative	*cogent* case	positive
Inordinate delay	negative	*unknown* polling...	negative
Unwarranted increase	negative	*valuable* testimony	positive
Painstaking inv.	positive	*uncontested* evidence	positive
Fruitful opportunity	negative	*great*...significance	positive
Widespread instances	negative	*uncertain* speculative	negative
True report	positive	*indefinite* nature	negative
Accurate report	positive	*meaningless* number	negative
Faithful count	positive	*respectful* submission	positive

Source: Field Work, (2020)

From Table 11, it is evident that one means of persuasion that Counsels for both the Petitioners and the 3rd Respondent tried to adopt is what Aristotle calls 'pathos'; that is, appeal to the emotional state of the hearer (trial judges) and to highlight the "other-ness" of the opponent (Bakhtin, 1986). This is demonstrated by the choice of adjectives that they employed in their closing arguments.

From the linguistic repertoire of the Petitioners, we see adjectives such as ***interesting*** and ***intriguing***. The adjective, ***interesting,*** ordinarily connotes positivity. It can collocate with other adjectives such as ***attractive, motivating, appealing, exciting, and fascinating***. However, its usage in the text denotes negativity. It is used ironically to denote something ridiculous, absurd, and ludicrous. Also, the adjective, ***intriguing***, used by the Petitioners' Counsels connotes something that is fascinating, interesting, exciting captivating all indicate positivity. Nonetheless, looking at the context in which the word is used by the Counsels for the Petitioners, it certainly meant negativity. This is exemplified in Excerpts 49 and 50:

Excerpt 49

"On the claim of people having voted without undergoing biometric verification, the 1st Respondent had ***interesting*** *answers"* (Petitioners, p. 11).

Excerpt 50:

"An ***intriguing*** *development was the announcement to Parliament on 15th June, 2012, by the Chairman of 2nd Respondent that, 2nd Respondent had registered some one million (1, 000,000) voters who had not been assigned to any polling station"* (Petitioners, p. 6).

Excerpts 49 and 50 were points made by the Petitioners' Counsels to draw the trial judges' attention to the 1st Respondent's initial denial that voting had not taken place in some polling stations without biometric verification. They see the 1st Respondent's denial as absurd, ludicrous, and unreliable. The adjectives, *interesting* and *intriguing*, are used by the Petitioners' Counsels from their

repertoire of linguistic and communicative resources in order to convince the judges that their opponent's arguments should be dismissed as an incredible tale. This shows the Petitioner's alignment towards a negative attitude towards the 1st Respondent and the other parties that are aligned to him. Also, an indication which demonstrates a negative attitude towards the case of the Respondents is the use of the adjectives ***fruitful, far-reaching*** and ***widespread*** which the Counsels for the Petitioners used metaphorically to affirm their disassociation from the case of the Respondents.

To illustrate, the Petitioners used the adjective, ***fruitful***, as a metaphor to describe the kind of wholesale prospects for electoral malpractices emanating from the bloated ballot boxes in some of the polling stations. Here, *fruitful* is compared to someone who is fertile. Thus, they imply that this increase in the number of ballot papers provides fertile grounds for the 1st Respondent to gain undue advantage over the 1st Petitioner in the 2012 Presidential Election. Similarly, the adjectives, ***far-reaching*** and ***widespread***, indicate the kind of endemic nature that this alleged electoral malpractice may have assumed. An endemic disease is one that has reached an epidemic proportion that calls for worry and intervention. Therefore, the Petitioners claim that the electoral misconduct on the part of the Respondents should be sanctioned by the judges by annulling the votes cast. They in effect imply that the Respondents should be blamed and shamed in line with Aristotle's epideictic branch of oratory which prescribes that a public officer who misconduct himself or herself be blamed and shamed whereas those who engaged in noble acts should be commended.

To also show the negative attitude of the Petitioners toward the case of the Respondents is their use of both the coordinate and cumulative adjectives. Coordinate adjectives are those which can be joined by the coordinating conjunction and whose order can be changed and can modify a noun separately. On the other hand, adjectives are cumulative if each build upon the other rather than each modifying the noun independently. Excerpt 51 illustrates these:

Excerpt 51

"In setting out the essential facts giving rise to the institution of this action, it is necessary to comment on some key actions and decisions taken by the 2nd Respondent in the run-up to the December 2012 elections which had ***far-reaching*** *implications for the conduct of the 7th and 8th December, 2012 presidential elections. These* ***significant*** *actions and decisions by 2nd Respondent, it is respectfully submitted, provided in a* ***large*** *measure the context and environment for the occurrence of* ***numerous constitutional and statutory*** *violations, malpractices and irregularities that characterised the conduct of the elections, as was amply shown at the trial"* (Petitioners, p. 5).

Here, the Petitioners' Counsels' determination to distance themselves from the case of the Respondents is evident from the cumulative adjective which are used to build upon each other. The adjectives, ***far-reaching, significant, large*** **and** ***numerous constitutional and statutory*** are used to emphasise the gravity of the consequences resulting from the omission or commission of the 2nd Respondent which necessitated the Petitioners seeking legal redress.

Also, the Counsels for the Petitioners' use of the adjectives, *inordinate,* to qualify the nouns delay emphasise their condemnation of the processes of

the election leading to the declaration of Mahama as the winner of the presidential election. It also shows their determination in their pursuit to have the judges annul the votes that led to declaring Mr. John Dramani Mahama winner of the presidential election, as illustrated in Excerpt 52:

Excerpt 52

"The 2nd Respondent furnished the petitioners' party, NPP, with a copy of the final voters register only a few days before the conduct of the general elections i.e. from 19th November to 2nd December, 2012. This ***inordinate*** *delay in furnishing the NPP with the final voters register prevented the NPP from scrutinizing the said register and, thereby, contributed substantially in undermining the transparency, fairness and integrity of the December 2012 elections"* (Petitioners, p.7).

By using the adjective, ***inordinate***, to qualify the noun, *delay*, the Petitioners' Counsels wish to put the audience (judges) into a certain frame of mind when they argued that the delay of the 2nd Respondent to provide them (NPP) a copy of the final voters' register is responsible for the flawed election, a situation which they opined was unwarranted, unreasonable and excessive, a means through which they hoped to tap into the emotions of the judges. This is in line with Aristotle's second mode of persuasion which works by evoking the emotions of the audience.

In the same vein, the adjective *flagrant* which denotes something brazen, blatant, and deliberate is used to modify the noun violation, as indicated in Excerpt 53:

Excerpt 53

"Having received reports of the commission of ***flagrant constitutional and statutory*** *violations as well as malpractices and irregularities in the conduct of the election, the 1st petitioner, together with his vice-presidential candidate, 2nd petitioner and the 3rd petitioner, the National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the 1st and 2nd Respondents herein"* (Petitioners, p. 4).

By using the adjective ***flagrant***, the Counsels for the Petitioners prompt the judges that the so-called violations are not just minor errors caused by omissions that could be excused as insignificant, but that they are deliberate and of dire consequences. To emphasise this point, they do not only use the adjective flagrant to drive home this point, but they use the coordinate adjective ***flagrant, constitutional and statutory*** to qualify the noun ***violations.***

It is, therefore, significant to note that the Counsels for the Petitioners stylistically re-create the information obtained from the submission of the 1st and 2nd Respondents to create a presence with the audience; in this case, the judges, by attempting to fill their (judges') consciousness with their (Petitioners) argument and presence. This act, according to Perelman and Olbrechts, (1969) then leads the addressee (Petitioners' Counsel) to enter into communion with the audience and consequently leading to a close association with them.

While the Counsels for the Petitioners go all out to portray their opponents and the actions taken by them in a negative light, imploring the judges to give adverse judgement, they strategically used some adjectives such

as *coherent* and *painstaking* to paint a positive image of themselves before the trial judges, as exemplified in Excerpt 54:

Excerpt 54

"To ensure a ***coherent*** *presentation of the petitioners' case and to assist in a determination of their claims, this Address will be presented in the following order"* (Petitioners, p. 4).

Excerpt 55

"Painstaking *investigations, conducted by the petitioners after the polls, revealed that the 2nd Respondent inexplicably issued an inordinate amount of ballots to polling stations relative to the number of registered voters at the polling stations"* (Petitioners, p. 9).

In Excerpt 54, the Counsels for the Petitioners present a positive image of themselves. Through the use of the adjective, ***coherent***, they portray themselves as meticulous so that their presentation of the Petitioners' case will be done in a logical, rational, lucid and sound manner. Similarly, by describing the investigation undertaken by the Petitioners after the polls as *painstaking*, the Counsels try to engage the rationality of the judges by making them believe that the case presented by the Petitioners is trustworthy as it was meticulously done. Thus, as Bakhtin (1986) noted, they highlight "our-own-ness". This is a way of communing with the judges and trying to alter their thinking. This is in line with Perelman's thinking when he posits that in the face of all persuasive discourse, the audience alters the character of the audience as the discourse progresses (Perelman & Olbrechts, 1969).

In a similar way, the Counsels for the 3rd Respondent also try to attack the veracity of the Petitioners' claims of widespread violations of the electoral process. They also use certain adjectives foremost of which are the evaluative types, as exemplified in Excerpts 56 and 57 respectively.

Excerpt 56

*"...There is **total** confusion in the exhibits and thousands of them must be wholly discounted as not usable or being incapable of providing evidence"* (3rd Respondent p. 5).

Excerpt 57

"...As we argue further below, it is impossible to make a cogent *case out of this exhibit mess which Petitioners should have cleared up by now, but have failed to do. That failure is now **irredeemable"*** (3rd Respondent, p. 5).

In Excerpt 56, we hear the voice of the appraiser, Counsels for the 3rd Respondent, speaking in a tone that suggests condemnation of the Petitioners and their case as he describes the confusion surrounding the exhibits tendered in court by the Petitioners as the basis for seeking legal redress as total confusion. This adjective suggests that the Petitioners' confusion is not just minimal, but also to the superlative degree, indicating that the Petitioners do not have sufficient proof to call for the annulment of the election result. On the basis of this alleged confusion, the 3rd Respondent's Counsels call on the judges to disregard the petition of the Petitioners, claiming that they are unable "to make a case out of the exhibit mess", which has led to the Petitioners' failure to clear up. This failure was described as ***irredeemable***. The adjective, *irredeemable* (Excerpt 57), used to describe the failure of the Petitioners to provide evidential

proof in court, according to the 3rd Respondent, is likened to a sinner who has sunk so low to the bottom of an abyss that his/her sins are beyond redemption.

Furthermore, the data revealed that the Counsels for the 3rd Respondent passed judgement of social sanction against the Petitioners whose evidence they claimed could not be substantiated by describing the figures the Petitioners had provided as evidence of over-voting as constantly changing and the case of the Petitioners as uncertain and speculative. It is against this backdrop that the 3rd Respondent's Counsels employ coordinate and evaluative adjectives to drive home their point, as exemplified in Excerpt 58:

Excerpt 58

*"The **constantly changing** figures of the Petitioners, from the original Petition to the last day but one of trial, portray **the uncertain, speculative and indefinite** nature of the case of the Petitioner"* (3rd Respondent p. 12).

The adjective ***constantly changing*** are metaphorically used by the Counsels for the 3rd Respondent to denote unreliability, capriciousness and untrustworthiness. They seem to be saying that the frequent altering of the figures the Petitioners put out as their evidence of over-voting can be compared to a chameleon which changes its colours so frequently that no one can say for sure what the true colour of a chameleon is. In effect, the Counsels for the 3rd Respondent ask the trial judges not to rely on the evidence of the Petitioners as enough proof to annul the election result. Also, the Counsels for the 3rd Respondent call the trial judges' attention to the fact that if the figures of the Petitioners keep changing, then all their evidences are mere speculation; they are uncertain, indefinite, and meaningless, and that they lack merit. The 3rd

Respondent's Counsels, therefore, pray the court not to accept the case of the Petitioners as it fails to meet with the convention of the court as a place where only truthful evidences are welcomed. Praying the court to render a judgement of social sanction against the Petitioners by throwing their case out of court, they seem to be saying that the Petitioners did not do their homework well before filing their suit. Therefore, the issues of integrity, trustworthiness, and reliability come to the fore.

By portraying the evidences of the Petitioners as undependable and capricious, the Counsels for the 3rd Respondent invariably ascribe to their clients good credentials of reliability and trustworthiness, which should endear them to the trial judges. They use one of Aristotle's modes of persuasion, pathos, which highlights persuader ability to evoke emotions in his audience. In this case, they invariably portray the Petitioners in a negative light as people who should not be taken seriously as they are incapable of producing credible evidence before the court. This is, therefore, in line with Aristotle's epideictic category wherein public officers could receive commendation and praise for living a worthy life or be blamed or face disgrace for pursuing an unworthy course.

Like the Petitioners, the Counsels for 3rd Respondent also used adjectives to promote a judgement of social esteem and solidarity between themselves and (KPMG), the referee, which was engaged by the Supreme Court to count the evidences tendered to it by the Petitioners, as shown in Excerpt 59:

Excerpt 59

"...It is submitted that based on the ***uncontested evidence of the referee, KPMG,*** *the Petitioners have failed to make available the pink sheets claimed to be made available in the affidavit of* 2nd *Petitioner and, for this reason alone, their petition must be dismissed"* (3rd Respondent, p. 14).

The use of the adjective, ***uncontested***, used in connection with the evidence provided by KPMG reveals the confidence that the Counsels for the 3rd Respondent have in the report of the referee. They must invariably be saying that the referee is unbiased and neutral with respect to the case before the court. They also imply that since the Petitioners did not contest the count that was done by the referee, the result of which reveals a bloated figure of evidences tendered by them, the court must not consider those evidences as a basis for the annulment of the election result.

From the fore-going, it is clear that the Petitioners have relied heavily on the use of adjectives to strategically position their opponents, 1st, 2nd and 3rd Respondents, especially, the 2nd Respondent, which had the mandate to conduct the 2012 Presidential Election in a negative light. By so doing, they tacitly condemn them. It appears that the main target of the Petitioners' castigation was the 2nd Respondent whom they tried to portray as incompetent, ineffectual, and careless. They suggest that the 2nd Respondent did a shoddy job. Also, they implied that the Chair of the EC was inept and that he was in alliance with the 1st Respondent in order to favour him.

On the other hand, the Counsels for the 3rd Respondent sparingly used adjectives to depict the Petitioners as merely crying wolf. They also utilised

other resources such as abstract nouns, adverbs, and factual verbs to try to discredit the case of the Petitioners as one lacking merit; claiming that there was insufficient evidence from the camp of the Petitioners to warrant the annulment of the election result.

In all, the analysis of the data revealed that the Counsels for the Petitioners used more adjectives in their closing arguments to the trial judges than did the Counsels for the 3rd Respondent. Also, it was found that the Counsels for the 3rd Respondent employed the nominalised reporting verbs and factual verbs more than the Petitioners. Additionally, the data revealed that both the Petitioners and the 3rd Respondent effectively used adverbs in distancing themselves from each other.

Chapter Summary

In this chapter, I have demonstrated that the linguistic devices employed by the Counsels representing the litigating parties were carefully chosen. They were used in order to disadvanteously position their opponents by projecting their negativities. This they did by means of adjectives, adverbs, factual verbs and the nominalised reporting verbs.

CHAPTER SIX

PERSUASIVE STRATEGIES IN CLOSING ARGUMENTS OF COUNSELS

Introduction

Using the combined rhetorical analytical frameworks of Aristotle and Jolliffe as the main basis for my analysis and discussion, I devote this chapter to showing how the Counsels for both the Petitioners and those of the 3rd Respondent attempted to persuade the trial judges that their clients' cases were more plausible than those of their opponents by appealing to the judges' rationality (logos), their emotions (pathos), and their credibility (ethos). Table 12 summarises the usage of these three means of persuasion by the Counsels for the Petitioners and the 3rd Respondent in this work:

Table 12: Analysis Framework Based on Aristotle's Means of Persuasion

Rhetorical appeal	Definition of rhetorical appeal	Persuasion techniques
Ethos	use of persuasive reasons and examples coming from the trustworthiness and credibility of the writer as the authority	positive self-identity-defence, identification consistency; otherness identity-
Pathos	Use of persuasion reasons and examples from counsels' closing arguments	figures of speech emotional examples, vivid descriptions, narratives, evaluative language
Logos	Use of reasons and example emerging from intellectual reasoning based on facts and rational evidence	Argumentation, logic warrants/justifications, claims, data, evidence quotations, citations from expert and authorities informed opinions

Source: Adapted from Higgins, Walker and Uysal (2012).

Table 12 shows the rhetorical appeals and their characteristic features as outlined by Higgins and Walker (2012). It also displays the corresponding persuasive techniques employed by the two groups of Counsels in their closing arguments.

Appeal to the Judges' Rationality (Logos)

One communicative purpose that the persuasive strategies employed by the counsels seek to serve is to appeal to the judges' rationality. As a result of the counsels' recognition of the dispassionate stance of judges in the

adjudication process, they tried to appeal to their sense of reasoning (Kennedy, 2007). Rationality is linked to logos, one of the three means of persuasion suggested by Aristotle. Logos is highly prized in legal setting; no wonder, it is referred to by Aristotle cited in Kennedy (2007) as "naturally the star in the legal setting, particularly when overseen by a judge looking for rationality rather than rhetorical tactics" (p.15). Logos, according to Aristotle, is the argument the speaker advances in order to convince his or her listeners. It is the part of his message that is meant to appeal to the intellect or reasoning faculty of his or her listener or audience. Therefore, in utilizing logos as a persuasive tool, there is the need for the speaker to recognise that his or her audience has the ability to process information in logical ways so as to appeal to their sense of reasoning. Appealing to one's rationality can be achieved in several ways. A notable way to advance argument is through logical reasoning (Aristotle, 2007; Heffer, 2005). Other ways include backing and warrant (Toulmin, 1958). The data revealed that counsels for both parties employed these strategies. They did so through presenting logical reasoning, adducing demonstrative evidence, quoting witnesses' testimonies, citing authoritative sources, and providing statistical data.

The Use of Logical Reasoning

Some modern theorists such as Browncarrie, Williamson, and Coyle (2006) have argued vehemently in favour of strict logically and rationally based verdicts. They argue that logical reasoning is superior to pathos and ethos. Logical reasoning is one key way that the counsels tried to appeal to the judges' rationality. They did this in two ways: syllogism and analogy.

The use of syllogism

Syllogism is an argument of a very specific form. It is logical, indeed the only form of formal system of logic for millennia (Tessler, Tenebaum & Goodman, 2014). According to Kumova and Cakir (2010), syllogism, also known as a rule of inference, is a formal logical scheme used to draw a conclusion from a set of premises. They opine that in a categorical syllogism, every premise and conclusion is given in form of quantified relationship between two objects. So, syllogism is an inductive or deductive scheme of a formal argument consisting of a major and a minor premise and a conclusion. Syllogism bridges the gap between human reasoning and truth. It requires an agent to be posited at the other end of the line so that a conclusion makes sense and an argument convincing. Generally, syllogisms are means to persuade an audience.

The data revealed that Counsels for the Petitioners adopted this form of argument when they argued that the 2nd Respondent allowed people to vote without biometric verification, as is demonstrated in Excerpt 60:

Excerpt 60

" It is respectfully submitted that in addition to advocating the taking of an unlawful and unconstitutional decision by the 2nd Respondent, exhibit "EC2" clearly is evidence of the fact that the situation as the "Omanhene" cited by Dr. Afari-Gyan in his testimony before the Court, is more than hypothetical. It is a pointer to the fact that, indeed, on election day, the 2nd Respondent exercised its discretion in permitting people to vote without biometric verification, in subversion of the provisions in C.I. 75. It is ***therefore****, further*

> *submitted that it is in anticipation of the fact that certain people might be permitted to vote without prior biometric verification that the column in C3 on the pink sheet was put there. 2nd Respondent cannot turn round and say that C3 was filled in "error", when on its own evidence, its officials had been trained to use their discretion to permit certain persons to vote without biometric verification"* (Petitioners, p. 34).

In Excerpt 60, the Counsels for the Petitioners used syllogism to argue that in so far as the officials of the EC exercised their discretion in allowing the **Omanhene** to vote without biometric verification, it is implied that they must have allowed other people to vote without biometric verification, as can be seen in the analysis below:

Major Premise: Document C3 stipulates that every eligible voter must pass through biometric verification.

Minor Premise: Omanhene voted without biometric verification

Conclusion: Therefore, certain other people voted without biometric Verification.

From the above stated argument, the Petitioners' Counsels engaged in deductive reasoning by stating their major premise emanating from a bigger picture of what the law stipulates pertaining those who qualified to vote. They showed the stance of the C3 Document which states that every eligible voter must pass through biometric verification. They stated the second premise, arguing that the 2nd Respondent took an unlawful and unconstitutional decision by allowing the **Omanhene** to vote without biometric verification. They then concluded by using the conclusion indicator, ***therefore***, that the gesture of

allowing the **Omanhene** to vote with prior biometric verification was extended to other people who also voted even though they could not be verified biometrically. This argument which they advanced was to buttress the point that the presidential election was flawed as unqualified people took part in voting.

Similarly, the Counsels for the 3rd Respondent also employed syllogism to strengthen their arguments, as seen in Excerpt 61:

Excerpt 61

"…Section 60 (1) of the Evidence Decree states: "A witness may not testify to a matter unless sufficient evidence is introduced to support a finding ***that he has personal knowledge of the matter****. As illustrated by his evidence set out below, 2nd Petitioner explicitly disavowed any personal knowledge,* ***thus*** *disqualifying himself as a witness of the matters in issue"* (3rd Respondent, p. 17).

In Excerpt 61, the Counsels for the 3rd Respondent also advanced their arguments by making inferences. They stated two premises, a major and a minor one as well as a conclusion:

Major Premise: A true witness must have personal knowledge of a matter.

Minor Premise: The 2nd Petitioner lacks personal knowledge of the facts in issue.

Conclusion: Therefore, the 2nd Petitioner is not a true witness.

It is clear from the arguments of the Counsels for the 3rd Respondents that they recognise Ray's (2002) assertion that deductive logic plays a central role in legal reasoning. In the Excerpt 61, we see how they develop their argument by painting a bigger picture of what the Evidence Decree says concerning who qualifies to be a witness; thus, giving rise to their first premise

that a witness may not testify to a matter unless sufficient evidence is adduced to support a finding that he or she has personal knowledge of the matter. The second premise was developed from the first, stating that the witness had confessed to not having personal knowledge of the matter. They then concluded by using ***thus*** to argue that the 2nd Petitioner is not a true witness. This argument, no doubt lays credence to Aldisert, Clowney, and Peterson's (2007) claim that the goal of legal reasoning is to persuade people of how the law should be implemented and understood, not to convince them that a statement of fact is true. So, the Counsels for the 3rd Respondent appeal to the judges' rationality; and they invite the judges to see why the 2nd Petitioner cannot be trusted as a true witness as the constitution requires that a witness must have personal knowledge about a matter before he or she can testify before the court – knowledge that the 2nd Petitioner confessed he lacks.

Yet, another example of deductive reasoning is demonstrated by the Counsels for the 3rd Respondent, as shown in Excerpt 62:

Excerpt 62

"…The figure of 8675 polling stations given by the referee has to be reduced by reference to the exhibits that are out of the number ranges referred to in paragraphs 44 to 67 of the affidavit of the 2nd Petitioner. ***Since,*** *for instance, in paragraph 56 of the affidavit, the exhibits relied on are stated as MB-P, MB-P 1 –P 6822, every exhibit in the P-series listed in the KPMG Report beyond MB-P 6822 must be discounted. Appendix E.4 of the KPMG Report shows that in the P–series alone, there are 339 exhibits out of the range of the relevant paragraph of the affidavit. In respect of other*

> *paragraphs also, there are 13 out of range exhibits in the MB-K series as listed in Appendix A.2.8 on pages 81-82 of the KPMG Report. In the MB- H series (Appendix A.2.6 in KPMG Report Volume 1 at pages 47 to 69), there are 12 exhibits outside the range stated in paragraph 49 of the affidavit of 2nd Petitioner"* (3rd Respondent, p. 25).

As seen in Excerpt 62, the Counsels for the 3rd Respondent called for a reduction in the figure of 8675 submitted by the referee on the basis that the exhibits were out of the range of numbers referred to in paragraphs 44 to 67 of the 2nd Petitioner's affidavit. By means of the causal since-clause introduced by the subordinating conjunction, ***since***, the Counsels argue that given that the affidavit sworn to by the 2nd Petitioner has in it listed exhibits tagged MB-P, MB-P1 – P6822, all exhibits in the P – series listed in KPMG Report exceeding MB-P 6822 ought to be reduced. So, it is clear that the Counsels for the 3rd Respondent by means of logos engage the judges' intellect by appealing to their reasoning faculties. The causal *since-clause* helps them to conclude in consonance with the judges. So, by means of argumentation, these Counsels attempt to forestall what they (Counsels for 3rd Respondent) may consider an unlawful addition.

The use of analogy

Besides appealing to the rationality of the judges using of syllogism, the Counsels also utilised analogy. Macagno, Sartor and Walton (2012) argue that analogies in closing arguments constitute the greatest weapon in persuasion. Analogies according to them, range from the story to the simple comparison to a familiar subject. They contend that an appropriate contrast to what the jurors

already know from personal experience to be true can move them more persuasively than anything else. Rosulek (2010) added mythopoetic stories and folktales as forms of stories often utitlised by Counsels in their closing arguments. Johnstone (1989) also argues that analogical presentation is the language of folktales with their formulaic opening and closing often signalled by expressions such as, *once upon a time*.

However, contrary to these assertions, data for this study yielded a uniquely different result. Rather than draw analogies from folktales and other types of simple stories which are non-existent in the data, Counsels for both the Petitioners and the 3rd Respondent drew analogy between their cases and others that bore some semblance to theirs. For example, the Petitioners cited numerous cases that had similarities with their case – cases where the petitioners sought to have votes of their opponents overturned. An example of such cases is outlined in Excerpt 63:

Excerpt 63

"This presidential election petition before this highest court of the land is calling for a substantial number of total votes cast to be annulled because they have been stricken by the cancer of invalidity, namely, constitutional and statutory violations, malpractices and irregularities.

The Nigerian Court of Appeal case of INEC v Oshiomole in 2008 (Otite and Umukoro, 2010). CLR 11(a) (SC) is of particular interest, considering the fact that the Federal Republic of Nigeria has a fairly developed jurisprudence in election petitions. The case was about the gubernatorial election in Edo State, taking place on 14th April,

2007, like all the others across Nigeria. In Edo State, the People's Democratic Party (PDP) and Action Congress (AC) fielded Senator Prof. Oserheimen Osunbor and Comrade Adams Aliyu Oshiomole as their respective candidates, and the Independent National Electoral Commission (INEC) returned PDP's candidate, Senator Prof. Oserheimen Osunbor as the winner of the election. Dissatisfied with the results declared by INEC, Comrade Adams Oshiomole and Action Congress filed a petition at the Edo State National Assembly, Governorship and Legislative Houses Election Petition Tribunal.

The tribunal concluded by cancelling election results in 14 out of 18 Local Governments in Edo State and overturning the results. The Court of Appeal dismissed the appeal upholding the petitioner as the validly elected Governor, "being the candidate who scored the highest number of valid votes cast", after most of the results were annulled for substantial non-compliance with the law.

The legitimacy and in fact, constitutionality of a presidency is derived from the validity of the votes that went into the declaration of the presidential election results. It is on the strength of this that the 2nd Respondent at every election rejects certain votes and, actually, annuls results from some polling stations plagued by infractions.

The practice in jurisdictions analogous to Ghana's will be referred to, in order to demonstrate that the courts have always had the power to declare a person the winner of an election based only on valid votes

> *cast. It is respectfully submitted that it is this same power vested in an "election court or tribunal" to determine the validity of votes cast"* (Petitioners, pp. 67 and 68).

In Excerpt 63, the Counsels for the Petitioners lead the judges to see a similarity between their case wherein they seek the annulment of votes in some polling stations; where they claimed there were infractions which gave rise to invalid votes to a parallel case in the Nigerian Court of Appeal. The case which involved INEC v Oshiomole arose from the dissatisfaction over the outcome of a Gubernatorial Election when the Independent Nigerian EC declared People's Democratic Party's candidate, Senator Prof. Oserheimen Osunbor as having won the election. Comrade Adams Oshiomole and Action Congress then went to the court to contest the result of the election. The action of the Tribunal in annulling votes from 14 out of the 18 local governments led to the reversal of the election result which now saw Comrade Adams Oshiomole become the winner of the election, based on only the valid votes cast. The Petitioners' Counsels decided to draw an analogy from this case perhaps because they wanted to demonstrate to the SCJs that courts in other jurisdictions have seen the need to declare a person winner of an election based only on valid votes cast. Therefore, they, the judges, could also exercise the same power vested in the Supreme Court to nullify invalid votes cast during the 2012 Presidential Election in Ghana.

In like manner, the Counsels for the 3rd Respondent also compared their case to the one in Kenya, where dissatisfied with a presidential election verdict, the petitioner decided to go to court to seek the annulment of the entire result, as seen in Excerpt 64:

Excerpt 64

*"Finally, the Kenyan Supreme Court Case of Raila Odinga v. Uhuru Kenyatta [2013] at paragraphs 303, 304, 306 and 307 of its Judgement: '*303+... by no means can the conduct of this election be said to have been perfect... [304] Did the Petitioner clearly and decisively show that the conduct of the election to have been so devoid of merits, and so distorted, as not to reflect the expression of the people's electoral intent? It is this broad test that should guide us in this kind of case, in deciding whether we should disturb the outcome of the Presidential election.*306+ ... In summary, the evidence, in our opinion, does not disclose any profound irregularity in the management of the electoral process, nor does it gravely impeach the mode of participation in the electoral process by any of the candidates who offered himself or herself before the voting public. It is not evident, on the facts of this case, that the candidate declared as the President-elect had not obtained the basic vote-threshold justifying his being declared as such. [307] We will, therefore, disallow the Petition, and uphold the Presidential election results as declared by IEBC on 9th March, 2013. (Willy Mutunga C.J)*

Our case is a fortiori the above cases as there is, here, no evidence of transgressions of the law by any voter, but simply some administrative errors in entries in the filling of forms. No credible evidence of violations of substantive rules regarding the conduct of voting has been provided to Your Lordships. We respectfully ask this Honourable Court to dismiss the Petition and uphold the declaration

made by the Chairman of the Electoral Commission on 9th December 2012" (3rd Respondent, pp. 68 and 69).

From the fore-going in Excerpt 64, the Counsels for the 3rd Respondent decided to compare the Ghana Supreme Court's Case involving the NPP Presidential Candidate, Nana Addo-Dankwa Akuffo Addo, and others v the NDC Presidential Candidate, Mr John Dramani Mahama, and the EC to the Kenyan Supreme Court's Case of Raila Odinga v. Uhuru, where the Kenyan Supreme Court had dismissed the Petitioner, Raila Odinga's case petitioning the court to overturn the election result which declared his rival, Uhuru, the winner of the election. The Kenyan apex court dismissed the case on the basis of the petitioner's failure to provide enough evidence that the election was flawed with numerous irregularities, as claimed by the petitioner. Similarly, the Counsels for the 3rd Respondent (NDC) urged the Ghana's Supreme Court to dismiss the Petitioners' plea of overturning the election result which declared Mr. John Dramani Mahama the winner of the 2012 Presidential Election. In drawing an analogy between the Kenyan case, the Counsels for the 3rd Respondent argued that the Petitioners 'have not crossed the threshold of discharging the evidential burden'. A comparison of this kind, no doubt, was intended by the Counsels to help the judges reason through the problem; thereby, arriving at the conclusion on their own. This confirms Jeremy (2010), who opines that nothing can move the jurors more convincingly than an apt comparison to something they know from their own experience as true.

Adducing Demonstrative Evidence

To give weight to their arguments, Counsels are required to provide evidence. Such evidence in court comes in different categories. One of such is

what Haack (2004) refers to as "objects of sensory evidence" (p. 48). Objects of sensory evidence, among others, include oral and documentary evidence. While oral evidence according to *Stanford Dictionary of Philosophy* is the testimony given in court by witnesses, documentary evidences are documents produced for inspection by the court. Documentary evidence, also known as demonstrative evidence, is a piece of materials whose evidence demonstrates a fact. Examples of demonstrative evidence include: objects, documents, photographs, video, audio recordings, charts, and articles (Boylan, Browning, Burton, DeVries & Kurtz, 2018).

Demonstrative evidence is a useful tool in the hands of Counsels since its purpose is to establish factual claims in court so as to establish proof. Even the Petitioners attested to the fact that documentary evidence is superior to oral evidence which can be distorted or denied. Thus, they tendered some documentary evidence to buttress their arguments, as seen in Excerpt 65:

Excerpt 65

"The law recognises the supremacy of documentary evidence and considers same as the yardstick by which the veracity of oral testimony is tested. The best evidence is documentary evidence. It is more reliable and authentic than words from the vocal cords of man because they are neither transient nor subject to distortion and misinterpretation.

It is on the strength of this that the courts of Ghana have on a number of occasions held that whenever there was in existence a written document and conflicting oral evidence, the practice of the court is

> *to lean favourably towards the documentary evidence, especially if it was authentic and the oral evidence conflicting.*
>
> ***Please see** the decisions in Agyei Osae & Others v. Adjeifio & Others [2007-2008] 1SCGLR 499, per Brobbey JSC, and Yorkwa v. Duah [1992-93] GBR 278, CA and Fosua & Anor v. Dufie (Decd) 2009 SCGLR 310, wherein Atuguba JSC stated at page 318 that:*
>
> ***Please see:** the English case of Henessey v. Keating (1908) 421 L. T. R. 169. Also: the English case of Payton & Co. v. Snelling Lampard & Co (1901) AC 308"* (Petitioners, p. 76).

In Excerpt 65, the importance of adducing documentary evidence was amply demonstrated by the Counsels for the Petitioners. Not only did they tender some of the documentary evidences, but also justified their usage in advancing their argument. They claimed that documentary evidences are more reliable and authentic than the word of mouth. This is in consonance with Walton's (2018) assertion that the ability to pay attention to detail, support each conclusion with facts, and use imagination are all necessary components of competent legal reasoning. Documentary evidences are a means of establishing factual claims in court so as to establish proof.

Providing Statistical Data

To further boost their arguments, the Counsels quoted statistics as proof that their claims were not mere contrivances, rather, they are based on facts. The importance of statistical data in argumentation is highlighted by Barnard (2017) who argues that data reflect facts, thus using statistics in a persuasive speech may be a powerful method to give the argument more context and credibility.

He argues in incorporating statistics, one's argument could result in greater believability of one's proposition. This is shown in Excerpts 66 and 67:

Excerpt 66

"The 11,916 was not only reduced to 11,842 polling stations in the affidavit of 2nd Petitioner but further reduced to 11,221 in his testimony before the Court. He stated" (3rd Respondent, p.8).

Excerpt 67

"...that had been improperly added to the register, the register reduced to 14,031,793. Petitioners requested further and better particulars on the 241,524 registrations 2nd Respondent claimed to have conducted of Ghanaians abroad and returning peacekeeping personnel. It is significant that the 2nd Respondent was only able to provide 2,883 particulars, leaving a staggering 238,641 entries without particulars and, thus, unaccounted for in the register" (Petitioners, p. 89).

In Excerpt 66, Counsels for the 3rd Respondent quoted figures to substantiate the claim that the Petitioners had inflated the figures relating to the number of polling stations where over-voting took place. This is an attempt to persuade the judges that the Petitioners' case lacked merit. By buoying up their argument with figures, the Petitioners in Excerpt 67 tried to draw the judges' attention to the discrepancies between the number of Ghanaians abroad and returning peacekeeping personnel whom the 2nd Respondent claimed to have registered and the actual figures that were declared by the 2nd Respondent. By so doing, the Petitioners' aim was to persuade the judges that the 2nd Respondent might have engaged in suspicious business. So, Counsels for both the Petitioners and

the 3rd Respondent saw the need to appeal to the reasoning faculty of the judges by providing statistics to buttress their arguments. In line with Aristotle's argument that persuasion based on logos appeal to the audience's intellect, the Counsels believed that facts and figures were bound to have a profound effect on the judges rather than mere flowery words aimed at flattery.

Quoting Witnesses

In their determination to prove that their clients' cases were plausible, the Counsels for both sides of the divide further tried to appeal to the rationality of the judges through the use of direct speech. They did this by providing the excerpts of witnesses' submissions during evidence-in-chief and cross-examination, as evidenced in Excerpts 68 and 69 respectively:

Excerpt 68

"It is noteworthy that Dr. Afari-Gyan eventually conceded in cross-examination by Counsel for Petitioners on 10th June, 2013 (at pages 68-69 of the record of proceedings for that day) that if one set of pink sheets had been printed and used in the December 2012 election, a serial number on the pink sheet would have been unique to each polling station. The following transpired between Counsel and the witness.

Q. Now apart from this set of pink sheets, you printed another set.

A. Well, my lords it translates to that.

Q. And the second set you printed was the same as the first set in all material particular.

A. My lords, yes because the second set was supposed to be a continuation of the first.

Q. So was the second set, in fact, a continuation?

A. No.

Q. Now Dr. Afari Gyan, if you had not printed this second set, the first set distributed to all the polling stations could have remained unique to each particular polling station?

A. My lords, yes, I would agree with you" (Petitioners, p. 51).

In Excerpt 68 the Counsels for the Petitioners employed the direct speech. They produced an extract from the dialogue that ensued between the Chairperson of the EC (The 2nd Respondent) and a Counsel for the Petitioners to support their argument that there were inconsistencies in the submissions made by the Chair of the 2nd Respondent. It must have also been intended to serve as further evidence in support of their argument that the numbers on the pink sheets were quite significant to the determination of a true election result; contrary to the claim made by Dr. Afari-Gyan, the Chairperson of the EC (The 2nd Respondent), that, "the numbers embossed on the pink sheets were only meant to provide a count of the number of pink sheets printed". Obviously, the display of the transcript by the Counsels for the Petitioners would certainly appeal to the rationality of the judges as this will get them thinking.

Similarly, in a bid to appeal to the reasoning faculty of the judges, the Counsels for the 3rd Respondent drew the attention of the judges to the confusion which they claimed characterised the exhibits tendered by the Petitioners in seeking the annulment of the 2012 Presidential Election. To highlight the Petitioners' confusion, the Counsels for the 3rd Respondent tendered excerpts of

the 2nd Petitioner's testimony during the cross-examination, as seen in Excerpt 69:

Excerpt 69

"Q: Now take a look at Exhibit MBP004890, the code number is K030206 and the name is Gudayiri Primary. Doc., is that presidential results?

A. No, this is for the office of the Member of Parliament. This is a parliamentary result.

Q. And what is it doing among your exhibits in support of presidential results?

A. I think we had seen this in reference to your response. I am not sure how it got in there. It is a parliamentary results; it should not be among the exhibits (see page 40 of transcripts of proceedings of 22nd April 2013)."

"Q. Look at this MBE 164 and then MBP 005038?

A. Yes my lord, it is the same situation of mislabelling of the pink sheet. In the analyses this pink sheet was used only once. (At page 32 of the transcripts of the proceedings of 30th April 2013; see also pages 29 to 33 of transcripts of the same date" (3rd Respondent, pp.12-13).

By means of direct speech, the Counsels for the 3rd Respondent tried to call the judges' attention to the confusion that typified the exhibits tendered in court by the Petitioners and the fact that the 2nd Petitioner admitted during the cross-examination that numerous instances of irregularities in the exhibits existed. They argued that the exhibits were fraught with major errors such as the

inclusion of exhibit for parliamentary election among those of the presidential election. Other categories of errors which the 2nd Petitioner confessed to include: "mislabelling of the pink sheets, repetitions of the same exhibit in different categories, and the lack of an exhibit number in the stamp of the Commissioner of Oaths before whom the affidavit was sworn". Other irregularities, according to the Counsels, include: "difficulties in identifying the number of the exhibit, illegible exhibits, and the same polling station appearing in different exhibits". Indeed! One can conclude that the Counsels for the 3rd Respondent did not want the judges to gloss over such confession, which might have been crucial to their argument, that the exhibit tendered in court by the Petitioners seeking the annulments of votes in some polling stations and overturning the entire election result were unreliable and untenable.

Citing Authoritative Sources

To further reinforce their argument that the results of the 2012 Presidential Election were authentic, the Counsels for the 3rd Respondent cited several documents among which are the KPMG Report, Evidence Decree and the 1992 Constitution of Ghana which made provision for the appointment of polling agents, as evident in Excerpt 70:

Excerpt 70

"Article 49 of the Constitution clearly articulates the constitutional roles of polling agents alongside presiding officers at public elections. "49.

(1) At any public election or referendum, voting shall be by secret ballot.

(2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or their representatives and their

polling agents as are present, proceed to count, at that polling station, the ballot papers of that station and record the votes cast in favour of each candidate or question.

(3) The presiding officer, the candidates or their representatives and ... the polling agents, if any, shall then sign a declaration stating -

(a) the polling station; and

(b) the number of votes cast in favour of each candidate or question: and the presiding officer shall, there and then, announce the result of the voting at the polling station before communicating them to the returning officer" (3rd Respondent, pp. 29 and 30).

Excerpt 70 shows that the appointment of polling station agents was a constitutional requirement and for that reason, the Counsels argued that 'these polling station agents were not mere observers, neither were they exalted observers as claimed by the 2nd Petitioner in the examination-in-chief' and cross-examination respectively. Rather, they were representatives of the candidates seeking to be elected into office. Therefore, the Counsels contended that these polling agents were people who played a crucial role in ensuring that the election results were reliable because they were personally present at the polling stations and, therefore, had personal knowledge of what transpired at the polling stations, and they had the backing of the constitution to certify the election results.

Correspondingly, Counsels for the Petitioners also cited the 1992 Constitution of Ghana and the CI 75 mandating the use of biometric verification. They quoted from the constitution in attempting to justify their action of seeking

the assistance of the court to annul the 2012 Presidential Election, as shown in Excerpt 71:

Excerpt 71

"It is respectively submitted however, that, upon a careful construction of articles 62, 63 and 64 of the Constitution, the election of a candidate for the office of President would be rendered invalid upon proof of any facts before this Honourable Court showing that:

(a) the candidate declared elected as President of Ghana at the presidential election did not, in fact, obtain more than fifty percent (50%) of the total number of valid votes cast at the election;

(b) there has been non-compliance with or violations of the Constitution, the Regulations or any other law relating to the conduct of the election and that the non-compliance/violations affected the result of the election.

(c) the election was tainted by the perpetration of a corrupt, or other criminal act, misconduct or circumstances which reasonably could have affected the outcome of the election;

(d) the candidate declared elected as President of Ghana was at the time of the election not qualified or disqualified for election as President of Ghana in terms of article 62 of the Constitution.

It is submitted that the facts underpinning this Petition are largely grounded on a combination of grounds (a) and (b) as set out in the foregoing paragraphs. In the presentation of this Petition, the various violations, malpractices and irregularities at the heart of the Petition have been put in different categories" (Petitioners, p. 17).

To reinforce their argument that election results can be overturned, the Petitioners' Counsels quoted "articles 62, 63 and 64 of the Constitution which states that the election of a candidate for the office of President would be rendered invalid upon proof of any facts before the Honourable Court". By quoting from the constitution, the Counsels provided backing for their proposition that the 2012 Presidential Election was fraught with malpractices, which renders the result invalid, and, therefore, prayed the court to annul the decision of the EC, declaring Mr. John Dramani Mahama, the winner of the election.

Yet, another example from the Counsels for the 3rd Respondent showed how much premium was placed on citing authoritative sources in an argument, as demonstrated in Excerpt 72:

Excerpt 72

"The absence of the signature of the Presiding Officer on the pink sheets does not justify annulment of votes that were cast lawfully in the exercise of the constitutional rights of citizens. While failure to sign constitutes a breach of the duty imposed on that election official by the Constitution, nowhere does the Constitution require or justify the annulment of votes cast and, hence, the results announced at the relevant polling station because of such a breach. The Presiding Officers can be compelled to perform their duty to sign, by order of mandamus. Annulment of votes in these situations would not only be an unconstitutional deprivation of the right to vote of the citizen but would also amount to punishing" (3rd Respondent, p. 3).

From the previous excerpt, Counsels for the 3rd Respondent are seen to be building a premise around the claim that votes that were legitimately cast in the exercise of people' fundamental rights cannot be thrown out because the presiding officer didn't sign the pink sheets. Here, we see that the Counsels adopted the normative strategy by appealing to the constraints of legal canon (the constitution). They did so by providing evidence (data), citing the constitution as the authority that directs the adjudication process and, therefore, referring to its constitutional provisions, which stipulate that failure for an election officer to sign constitutes a breach of duty. They, however, presented a rebuttal that showed that even though failure to sign constituted a breach, nowhere did the constitution justify the annulment of votes cast. It is obvious that the Counsels for the 3rd Respondent advances an argument, showing why it is both unconstitutional and irrational to annul the votes cast because of the failure of some polling agents to sign the pink sheets. Through the argument indicator, ***hence***, we see how the second clause "the results announced at the relevant polling station because if such a breach" is linked to the argument in the first clause "nowhere does the constitution require or justify the annulment of votes cast". This argument is certainly meant to appeal to the judges' rationality (logos).

From the foregoing discourse, we see that the Counsels for both sides tried to develop their argument by appealing to logos. They marshalled all their points to persuade the judges that their clients' cases were plausible. They did this by means of logical argument, using syllogism and analogy. They also cited related cases, authoritative sources, and witnesses' testimonies. We see that the Counsels made a special effort to present premises presumed to be agreeable to

the judges' perception of what is acceptable in legal discourse. This enables them to create a presence to which the audience, the judges, adhere. The Counsels know very well that the judges are predisposed to upholding those values that promote objectivity and the rule of law. Therefore, one key way they persuaded the judges to give their clients a favourable judgement was to appeal to logical reasoning.

Appealing to the Judges' Emotions (Pathos)

Aristotle avers that persuasion does not only take place based on an exact proof based on science even if the speaker had the most exact knowledge of the subject matter. He argues that even an elite audience is not always persuaded through an exact proof based on science that is, through logical reasoning, but may sometimes be distracted by factors that do not pertain to the subject, even flattery. One means of persuasion that Aristotle subscribed to is pathos (Aristotle, 1991). Pathos includes the audience's emotional response. Each speech aims to convince the audience. As a result, it's crucial to elicit the proper emotions from the viewers. According to Aristotle, it's critical that each speaker understands the types of emotions that exist and the situations in which they might be evoked. In Aristotle's view:

All of the sentiments that impact men's judgement and are accompanied by either pleasure or suffering are referred to as emotions. Such are the opposites of sympathy, fear, rage, and similar emotions. The emotions of anger according to him involves discovering what the state of mind of angry people is, who the people are with whom they usually get angry, and on what grounds they get angry with them (Aristotle, 1991).

Aristotle explains that the public speaker has several possibilities to elicit emotion in the audience, but it is important that he (the speaker) has a basic knowledge of the audience. He states that typical high emotional topics are value and belief systems. These and other techniques or styles create or enhance emotions, which reduces the ability of the audience to be critical. Among these techniques, he argues, is storytelling, which people absorb faster than lectures. Another technique is figures of speech, which is notorious for reducing the audience's ability to judge. He claims that these numbers may be employed to obscure certain arguments and substance. According to him, this enables the speaker to emphasise the good points or downplay the poor ones, so improving the efficacy of his speech.

Results yielded by the data show that Counsels for both the Petitioners and the 3rd Respondent tried to sway the judges to their sides by appealing to their emotions. They did this using the narrative mode, emotive and evaluative language as well as figures of speech.

The use of Narratives

The power of storytelling aimed at stirring the emotions of the trial judges was well attested to by the Counsels on both sides of the divide; the Counsels for the Petitioners and those for the 3rd Respondents employed narratives as a means to evoke the emotions of the judges. For example, in the main narrative presented by the Counsels for the 3rd Respondent concerning the KPMG Report, they tried to reproduce the past by the discrepancies in the figures tendered by the petitioners in connection with the exhibits and those presented in the KPMG report as revealed in Excerpt 73:

Excerpt 73

"The report of the referee, KPMG, concerning the pink sheets, was tendered in evidence and admitted without objection as Exhibits 1, 1A,1B, 1C. The representative of the firm, Nii Amanor Dodoo, who tendered the Report, was subjected to cross-examination by Counsel for all the parties. In his evidence, the representative gave the total number of polling station codes that were identified in the exhibits filed by the Petitioners and in the custody of the registrar as 8675. ***This was a far cry from the 11,842*** *alleged in the affidavit of 2nd Petitioner and maintained by him in oral evidence at one point as filed. At another point under cross-examination he claimed to have filed exhibits relag to 11,221 polling stations:*

As part of their bid to boost up the 8675 number of polling stations determined by the independent referee, the Petitioners applied to the Court to have a further determination by the referee, from extraneous information, of data on the unclear aspects of the list of 1545 referred to above. *The application was dismissed, though the Court allowed Counsel for the Petitioners to cross-examine the 2nd Respondent's witness, Dr. Afari-Gyan, Chairman of the Electoral Commission, on the identity of the polling stations using the polling station codes. Dr. Afari-Gyan indicated in this cross-examination that 1234 of those polling stations had been identified by their polling station code (see Exhibits BB and BB1. admitted in evidence during the cross-examination of Dr. Afari-Gyan), even more than the figure of 1219*

which the Petitioners had identified (see Exhibit AA admitted in evidence during the cross-examination of Dr. Afari-Gyan). Counsel for the Petitioners has sought to add to the 8675 count the number of polling stations now identified in an attempt to get closer to the 11,842 figure of exhibits. ***This is, however, not proper****. Identifying polling stations which are in the list of 1545 is one thing, but the use of an identified polling station in support of a particular claim of a violation requires the pink sheet from that identified polling station to be an exhibit in one of the categories specified in paragraphs 44 to 67 of the 2nd Petitioner's affidavit. It is clear from the KPMG Report that, in that list of 1545, there are missing or unclear exhibit numbers in respect of many of the identified polling stations (Volume 5 of the KPMG Report, Appendix E.5, at page 203, column for Exhibit numbers).*

33. There are, in some cases, numbers on the exhibit but no letter to show in what category of alleged irregularities, violations etc the exhibit is to be placed. Thirty-eight times in Appendix E.5 there is an Exhibit MB-C-, an incomplete and meaningless number as far as paragraph 44, dealing with the C category, is concerned. There can be only one Exhibit MB-C, MB-C being the first of the expected 320 exhibits in the C series according to the scheme of numbering in paragraph 44 of the 2nd Petitioner's affidavit. Clearly also, each numbered exhibit must correspond to one and only one polling station. It is, respectfully, not for the Court to assign exhibit numbers to clarify a party's case, nor is it the

> *responsibility of the Court to determine which of many polling stations bearing the same exhibit number is what Petitioners really intended. This situation, again entirely the making of the Petitioners, should also not open the way for them to disregard orders of the Court regarding the provision of further and better particulars to enable the Respondents to know what exactly is the case that they are required to answer"* (3rd Respondent, pp. 18 - 21).

In the first episode of the story, the Counsels for the 3rd Respondent introduced the judges to the referee, one of the witnesses whose testimony was crucial to the determination of the case and whose role was to authenticate the exhibits presented by the Petitioners as evidence of a bloated register and over-voting.

In Episode 2, the story develops complication.

Episode 2

> *"In his evidence, the representative gave the total number of polling station codes that were identified in the exhibits filed by the petitioners and were in the custody of the registrar as 8675.* ***This was a far cry from the*** *11,872 alleged in the affidavit of the 2nd petitioner and maintained by him in oral evidence at one point as filed. At another point under cross-examination, he claimed to have filed exhibits relating to11,221 polling stations".*

In this episode, the figures produced by the Petitioners were criticised. The 3rd Respondent's Counsels seem determined to highlight the wrongdoing of the Petitioners with the introduction of the emotionally charged narrative clause, ***this was a far cry from….*** By evaluating the Petitioner's actions, the Counsels

attempt to arouse the sentiments of the judges by spotlighting the incongruity in the two sets of figures presented by the Petitioners and the referee. In refreshing the judges' memory on this episode, the Counsels tried to tap into the judges' psyche through the creation of exaggeration signifying a gargantuan difference in the figures tendered by the Petitioners and the ones authenticated by the referee. This supports Burns' (2009) view that the advocate can point out the implausibility of the competing account (Burns, 2009, pp. 25 and 26). No doubt, the use of this narrative by the Counsels for the 3rd Respondent highlights one of the means prescribed by Aristotle through which persuasion is sought, pathos- a means through which the emotions and psychology of the audience are excited (Aristotle, 1984).

By reproducing this past revelation of the discrepancy in the figures declared by the Petitioners and the ones authenticated by the referee, the Counsels for the 3rd Respondent is in sync with Aristotle's forensic branch of oratory whose intent it is to establish guilt or innocence by either accusing somebody or defending oneself or someone else. So, it is obvious that the Counsels for the 3rd Respondent wanted to establish the creation of guilt against the Petitioners before the judges. They did this by highlighting the negative things about the Petitioners – the lack of due diligence in the counting of the number of exhibits they (the Petitioners) tendered and the number they claimed to have tendered.

In furtherance of their determination to evoke the displeasure of the judges, they attempted to highlight the shortcomings of the Petitioners, as presented in the 3rd episode.

Episode 3

"As part of their bid to boost up the 8675 number *of polling stations determined by the independent referee, the Petitioners applied to the Court to have a further determination by the referee, from extraneous information, of data on the unclear aspects of the list of 1545 referred to above…* ***this is however, not proper…"***

In this episode, the Counsels for the 3rd Respondent seem to be calling on the judges to take note of the Petitioners' efforts to make up for the shortage in the figures they originally presented and which have been subsequently reduced by the referee. They highlighted the Petitioners' request to the court, asking the referee to recount the exhibit probably with the possibility of the figures changing from 8675 and moving closer to their original figure. This move by the Petitioners could have been interpreted by the Counsels for the 3rd Respondent as dishonesty on the part of the Petitioners. That is why they used the expression: "*As part of their bid to boost up the 8675 number…this is however, not proper."*

As we can see, the Counsels for the 3rd Respondent in the third episode of their story sought to refresh the judges' memory by recounting the Petitioners' attempt to bolster the **8675 number of polling stations** ascertained by the independent referee by applying to the court to have the referee take a second look at the exhibits for a further determination of their (referee) stance. The Counsels for the 3rd Respondent explained, "The Petitioners had sought to add to the 8675 count the number of polling stations now identified in an attempt to get closer to the 11,842 figures of exhibits". By relating this episode, the Counsels for the 3rd Respondent, no doubt, wanted to help the judges recall some

of the evidential lapses presented by the Petitioners during the trial process. It was also aimed at refreshing the trial judges' memory of the fact that the court dismissed the Petitioners' application to have a further determination by the referee from extraneous information of data on the unclear aspects of the list of 1545 affidavits. Besides these, we see a kind of authorial comment, a negative evaluation of the Petitioners' conduct by the Counsels for the 3rd Respondent who averred that this act of the Petitioners was inappropriate. In their words: ***This is, however, not proper***. This comment indicates that the Counsels for the 3rd Respondent wanted to draw the judges' attention to the impropriety of the conduct of the Petitioners.

In all, the narration is intended to help facilitate the comprehension of the judges of this phase of the trial process which appears to be crucial in the determination of the truth regarding the alleged bloated voters' registers and incidences of over-voting. They also sought to alert the judges on the lack of due diligence on the part of the Petitioners for their failure to clearly assign exhibit numbers to correspond with a particular polling station. Undoubtedly, the story narrated by the Counsels for the 3rd Respondent is an attempt to help the judges organise events in a meaningful and plausible manner which allows for causal reasoning that is likely to help them identify goals, plans and actions (Bower, Black & Turner, 1979).

In like manner, the Counsels for the Petitioners also attempted to use storytelling to arouse the judges' emotions by highlighting the disparities in the total number of registered voters as announced by the Chair of the 2nd representative and the figures the 2nd representative announced three days after the election, as seen in Excerpt 74:

Excerpt 74

"On or about 26th September, 2012, that is some forty-two (42) days before the presidential election scheduled for 7th December, 2012, the 2nd Respondent, acting through its Chairman, officially announced the total number of polling stations to be employed in conducting both the presidential and parliamentary elections in December 2012 as twenty-six thousand and two (26,002). This was ostensibly to ensure transparency, fairness and integrity of the December 2012 presidential and parliamentary elections. It was also to comply with Regulation 16(4) of the Public Elections Regulations, 2012 (C.I.75), which prohibited the establishment of new polling stations within forty-two (42) days of an election. In order to ensure the integrity of results emanating therefrom, polling stations were to be identified by a combination of both their names and unique codes assigned to each of them.

The petitioners further say that the total number of registered voters, that 2nd Respondent furnished petitioners' party, the NPP, was fourteen million and thirty-one thousand, six hundred and eighty (14,031,680). Surprisingly, it came to the notice of the petitioners that 2nd Respondent had on Sunday, 9th December, 2012, declared the total number of registered voters as 14,158,890. Furthermore, on the same date, 2nd Respondent posted on its website the total number of registered voters as 14,031,793, showing a clear disparity of 127,097" (Petitioners, p. 6).

In Excerpt 74, the Counsels for the Petitioners provided the judges with an orientation. In order for the judges to have a better understanding of the Petitioners' argument, they were intimated about events that happened 42 days before the election on 7th December. The Petitioners' Counsels recast the trial story by focusing on the dynamics of events before and during the election. They tried to underscore the incoherencies and the inconsistencies of the 2nd Respondent's story. By so doing, they stimulated the emotions of the judges so that they (the judges) might examine the issue from an emotional point of view. They narrated the story from a personal perspective, showing their disappointment in the 2nd Respondent and their Chairperson so that evaluative elements such as the emotive laden expressions ***surprisingly*** and ***clear disparity*** were used by them in the narrative.

From the above discussion, it is certain that both the Counsels for the 2nd Respondent and those of the Petitioners tried to lay the ground work for the arbitrate acts before the court to be justified. By presenting past events, they strove to link the past (forensic) with the future (deliberative). Recognizing the fact that the verdict cannot be given without the judges considering past events, their recounting of the events prior to the Presidential Election and by reproducing the trial stories in their closing arguments, they attempted to not only help the judges recall the trial proceedings, but also try to help them synthesise information and interpret the evidence in a manner consistent with the advocate's case (Spiecker & Worthington, 2003).

In both cases, Counsels on both sides appealed to pathos, a means of persuasion which encompasses the emotional influence on the audience. The goal of this speech, according to Aristotle, is to persuade by putting the audience

in the appropriate emotional state. He explained that the emotions are all those feelings that so change men as to affect their judgements, and that are attended by pain or pleasure such as anger, pity, fear and the like, with their opposites. So, the Petitioners tried to evoke the emotions of anger in the judges against the 2nd Respondent and their Chairperson for publishing conflicting figures on the number of registered voters. By virtue of the privileged position of being arbiters of the law, the judges were aware of the implications that the action and inactions of the EC could have on the nation's democracy. Similarly, the Counsels for the 3rd Respondent tried to stir the judges' emotions by sowing seeds of doubt about the credibility of the figures presented by the Petitioners.

Emotive Language

Another potent strategy used to appeal to the judges' emotion is emotive language. Macagno and Walton (2014) argues that the power of emotive words has been recognised and acknowledged in various discourse contexts, including legal texts. The effect of emotive language on judges was acknowledged by Macagno and Walton (2014) when they revealed that appellate judges themselves use it. The power of emotive language to control the decisions of an audience was also affirmed by Macagno and Walton (2012) who described it as instruments of manipulation.

Thus, in recognition of the usefulness of emotive language, Counsels for both parties employed it in their closing arguments. They did this by means of descriptive adjectives and adverbs, as can be seen in Excerpts 75, 76, and 77:

Excerpt 75

"Having received reports of the commission of ***flagrant*** *constitutional and statutory violations as well as malpractices and*

irregularities in the conduct of the election, the 1st petitioner, together with his vice presidential candidate, 2nd petitioner and the 3rd petitioner, the

National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the 1st and 2nd Respondents herein" (Petitioners, p. 4).

In Excerpt 75, we observed that the Counsels for the Petitioners tried to appeal to the emotions of the trial judges, using emotive words such as the descriptive adjectives ***flagrant, constitutional,*** **and** ***statutory*** to qualify the noun 'violations', the Counsels for the Petitioners, no doubt wanted to evoke the wrath of the judges by whipping up their sentiments. They may have decided to use these emotionally charged words; knowing very well that as custodian of the constitution, the judges hold the constitution in high esteem and, therefore, will not take kindly to anyone who will either by commission or omission attempt to deride it. The adjective ***flagrant*** suggests that the 2nd Respondent showed no regard for the constitution, but brazenly, blatantly and deliberately violated it. So, they seem to be prompting the judges that the violations were not mere abrasions relating to minor electoral offences; rather, they were constitutional and statutory, such as having the potential to derail the electoral process and produce undesirable consequences for the nation's body politics. By so doing, the Petitioners' Counsels, therefore, painted a picture of doom for the country's fledgling democracy. Again, they emphasised the seriousness of the violations because these were committed by no other than those entrusted with the responsibility of conducting the election. With such a picture of gloom painted about the nation's democracy, the Counsels must have intended to have

the passions of the judges excited so that they could render adverse judgement against the Respondents by going ahead to annul the election result. They in effect imply that the 2nd Respondents should be blamed and shamed in line with Aristotle's epideictic oratory which prescribes that a public officer who misconducts himself or herself be blamed and shamed whereas those who engage in noble acts be commended (Kennedy, 2007).

Excerpt 76

*"Another **bizarre** contention by the 2nd Respondent was the claim that the pink sheets for the December 2012 elections were designed and printed before the decision to compel voters to be verified biometrically before voting was taken* (Petitioners, p. 35).

Again, in Excerpt 76, the Counsels for the Petitioners described the argument advanced by the 2nd Respondent as 'bizarre'. By describing the contention of the 2nd Respondent as such, the Petitioners' Counsels must have intended to stir up negative emotions about them before the judges so as to trigger contempt for them. It is obvious that the emotive word, ***bizarre***, plays a crucial role in trying to tear the argument of the 2nd Respondent into shreds. They argued: "the pink sheets for the December 2012 elections had already been designed and printed before the decision to compel voters to be verified biometrically before voting was taken". The Petitioners' Counsels' portrayal of the 2nd Respondent's contention as ***bizarre*** is a means to depict the 2nd Respondent as an incompetent body, not qualified to conduct a presidential election. The adjective *bizarre* connotes something weird, strange, odd and chaotic. By attaching such negative descriptions to the argument of the 2nd Respondent, it is crystal clear that the Petitioners' Counsels wanted the judges to see the 2nd Respondent as an

unskilled body incapable of conducting a credible election. They also tried to play on the emotions of the judges by advancing the argument that based on the assumption that the 2nd Respondent possessed better knowledge on how to conduct free and fair elections, it ought to have put up a better argument, not the weak and chaotic one it had advanced. Therefore, in line with Aristotle's strands of epideictic and deliberative species of oratory, the 2nd Respondent is being given a bashing and blamed for all the contentions surrounding the election; thus, the will of the Petitioners was for the entire election result to be overturned.

The Counsels for the 3rd Respondent also attempted to evoke the emotions of the judges through emotionally charged words, as exemplified in Excerpt 77:

Excerpt 77

"Indeed, even adding the total number of polling stations identified to the 8675 polling stations indicated by the referee, less the 2120 unusable polling stations in the P-series, (Appendix 1 attached hereto), and the exhibits with only one set supplied to the court (Appendix 1A attached hereto) still leaves a huge shortfall in polling stations. The extent of the difference in numbers of polling stations from what the Petitioners claimed they were presenting to this Court is ***serious****, especially when it is recalled that the original Petition filed on 28th December 2012 had put forward a case based on 4709 polling stations. Petitioners subsequently obtained leave from Your Lordships to amend their case to increase the number of polling stations to 11,916. Yet they have failed to produce the evidence to*

> *support anything close to the number of polling stations that they obtained leave to put across in their 2nd Amended Petition.*
>
> *There is also **severe** damage to the credibility of the 2nd Petitioner from the above issues relating to the exhibits and the number of polling stations. He insisted, under cross-examination, that 11,842 polling stations were reflected in the exhibits filed by the Petitioners and claimed to have been present when the Commissioner of Oaths was going through the process of stamping the exhibits accompanying his affidavit"* (3rd Respondent, pp. 23-24).

In Excerpt (77), the Counsels for the 3rd Respondent tried to reduce the claims of the Petitioners of alleged incidences of irregularities to mere exaggeration. By claiming that the credibility of the 2nd Petitioner had been damaged, they questioned the dependability of the Petitioners' exhibits as a source reliable evidence upon which the court should base its judgement. From the excerpt, we deduced that the Counsels for the 3rd Respondent adduced two kinds of meaning. By referring to a tabulation of figures tendered by the Petitioners at different times, and per their statement, ***"the extent of the difference in numbers of polling stations from what the Petitioners claimed they were presenting to this Court is serious,"*** the Counsels for the 3rd Respondent launched a blistering attack on the accuracy of the figures of the Petitioners. They also unleashed an attack on the credibility of the 2nd Petitioner when they used the adjective ***severe*** to describe the kind of damage done to his credibility.

The use of these emotionally charged words, ***serious*** and ***severe,*** could become a weapon aimed at evoking the judges' emotions; perhaps they were meant to put the judges in a certain frame of mind so as to enable them to see

that the figures were hurriedly put together, without due diligence on the part of the Petitioners. This agrees with Groarke's (2015) assertion that the use of emotive words becomes a crucial tactic for triggering contempt against the alleged sufferer. The constant changes in the figures presented by the Petitioner could even damage the credibility of their argument.

Figures of Speech

Another way the Counsels elicited the emotions of the trial justices was to employ figures of speech, a technique which Kennedy (2007) describes as notorious for reducing the audience's ability to judge. He states that these figures can be used to either foreground or background to put certain content and arguments. This, he opines, allows the speaker to increase the effectiveness of his delivery, by either underscoring the strong parts or minimizing the weak parts. Two kinds of figures of speech were identified in the data; metaphor and parallelism.

The use of metaphor

Contrary to the traditional classical notion that metaphor is a mere literary embellishment, metaphor has been recognised to be an intellectual tool for cognitive activity (Kovecses, 2010; Lakoff & Johnson, 1980). These authors opine that metaphor enables one to conceptualise ideas and make meaning of abstract concepts. The Counsels for both the Petitioners and the 3rd Respondent saw metaphor as a powerful weapon to awaken the emotions of the judges, as demonstrated in Excerpts 78 and 79:

Excerpt 78

"…It is impossible to derive legally acceptable support for the allegations of the Petitioners and the reliefs they seek from this

> ***jumbled heap*** *in which (i) the identities and numbers of the polling stations where Petitioners seek to have all votes annulled are in such disarray; and (ii) according to the authoritative count of the Referee, affirmed by all the parties, a significantly lower number of polling station pink sheets than what Petitioners claimed they had filed are in evidence"* (3rd Respondent, p. 23).

In Excerpt 78, the Counsels for the 3rd Respondent foregrounded their argument through the use of hyperbolic metaphor, ***jumbled heap*** and ***disarray***. They compared the exhibits and affidavit presented by the petitioners to support their allegations of over-voting and voting without biometric verification to a 'jumbled' heap' which is in 'disarray'. This figure of speech might have been meant to diminish the importance of the Petitioners' argument, reducing their exhibits to mere rubbles. By making such an implicit comparison, they invariably claimed that the Petitioners' exhibits were fraught with confusion. Thus, the judges were being helped to visualise a jumbled heap of garbage as high as a tall mountain. The judges were being helped to visualise exhibits in disarray, a sight which no doubt was capable of altering their perception of the Petitioners as people who were disorganised and who should not be taken seriously. At the same time, the Counsels for the 3rd Respondent must have also intended to use this visual image to promote amity between them and the judges; influencing them to look at the Petitioners' case with disfavour.

Similarly, the Counsels for the Petitioners tried to persuade the judges by appealing to their senses through the use of numerous metaphors, as shown in Excerpt 79:

Excerpt 79

"However, we must always guard against a ***sweeping invocation*** *of fundamental human rights as a catch-all defence of the rights of defendants…"* (Petitioners, p.33).

The Counsels for the Petitioners endeavoured to stir the emotions of the judges through the use of the adjective, ***sweeping***. In Excerpt 79, the Petitioners' Counsels described the quest for fundamental human rights for all to a sweeping invocation which they said must be guarded against. Both the adjective, ***sweeping***, and the noun, ***invocation***, are metaphorically used to evoke the emotions of the trial judges; urging them to see that the call for fundamental human rights by the Respondents is unjustified in this case. They, no doubt, were determined to weaken the 3rd Respondent's earlier argument that annulling the votes cast would amount to an infringement on the people's fundamental human rights by comparing it to mere incantation or chants. Moreover, the adjective, ***sweeping***, evokes the image of a possessed fetish priest running amok doing the bidding of a deity. As noted by Aristotle, the Petitioners' Counsels unquestionably want to push the significance of the 3rd Respondent's argument on the consequences of annulling votes to the background. This absolutely was intended to diminish the judges' ability to judge properly.

The use of parallel construction

The Counsels for the Petitioners used parallel construction, the repetition of a word or phrase at the beginning of successive lines of writing. This can be seen in Excerpt 80:

Excerpt 80

*"**Widespread instance**s of over-voting, i.e. where votes cast exceeded (a) the total number of ballot papers issued to voters on Election Day…*

***Widespread instances of** people voting at polling stations without prior biometric verification in violation of the law governing the elections of December 2012...*

***Widespread instances of** polling stations where alleged results appearing on the pink sheet were not authenticated...*

***Widespread instances** where voting took place in certain locations which could not be identified...*

***Widespread instances of** polling stations where different results were strangely recorded on pink sheets bearing the same polling station codes...*

***Widespread instances** where different results were declared on pink sheets bearing the same serial numbers..."* (Petitioners, p.10)

From Excerpt 80, we see how the Counsels for the Petitioners used the noun phrase, ***widespread instance of…*** to preface the cataloguing of each clause that states the constitutional and statutory violation of the electoral process, which formed the basis for their seeking legal redress in court. No doubt, the Counsels for the Petitioners used these phrases strategically to persuade the trial judges to align with their client, the Petitioners. By presenting these parallel structures, the Counsels for the Petitioners tried to create presence, a strategy which according to Perelman and Olbrechts-Tyteca (1969) acts directly on the sensibility rather than the rationality of the audience. They did this by

attempting to magnify the guilt of the 2nd Respondent whose omission or commission must have led to these alleged electoral malpractices.

Moreover, Counsels for the 3rd Respondent also explored parallel construction to foreground their argument that the claims made by the Petitioners lacked merit and were, therefore, baseless, as shown in Excerpt 81:

Excerpt 81

*"iv) **The claim** by the Petitioners that unique serial numbers were provided to polling station pink sheets was baseless and there was no irregularity involved in the same serial number appearing on more than one such pink sheet. The attempt to nullify votes on this ground is absurd and to do so would also unconstitutionally deprive millions of citizens of their right to vote. Serial numbers are not, and have never been, security features on pink sheets, unlike ballot papers. Petitioners have provided no legal basis for this category of their claim.*

*(v) **The Claims** about unknown polling stations were also baseless and Petitioners who deployed agents on behalf of the 1st Petitioner cannot in good faith make these claims. **Claims** about different results being given for the same polling station are also not warranted.*

*(vi) **The claims** about vote padding in favour of 1st Respondent and reduction of votes of 1st Petitioner (except in one instance of an error in transposition affecting 80 votes), as well as allegations about improper receipt and transmission of results at the offices*

> *Technologies Limited("STL"), were withdrawn and were also not borne out by the evidence"* (3rd Respondent, p. 4).

We see that the repetition of the phrase, ***the claim***, is used to establish a marked rhythm in the sequence of clauses; this scheme is usually reserved for those passages where the author wants to produce a strong emotional effect (Corbett, 2004). They must have been intended to magnify the opponent's guilt. In all, the figures of speech identified in the data were meant to stimulate the imagination of the judges by evoking visual and sensual imagery. This lends credence to Landau's (1988) view that the main purpose of figurative language is to express the desired message in a perceptible pictorial manner, that will be processed by the listeners in a more emotional rather than rational way. Thus, the importance of figures is succinctly summarised by Corbett (2004) when he opines:

> Because figures can render our thoughts vividly concrete, they help us to communicate with our audience clearly and effectively; because they stir emotional responses, they can carry truth, in Wordsworth's phrase, "alive into the heart by pass"on"; and because they elicit admiration for the eloquence of the speaker or writer, they can exert a powerful ethical appeal (p. 142).

From Corbett's (2004) quote, it is clear that the Counsels saw the utility in this persuasive resource; they used it to strike a balance between the obvious and the obscure so that they could stir emotional responses in their audience (the judges) and let their arguments penetrate the hearts of the judges by passion.

Credibility Construction (Ethos)

Aristotle recognises the role a Counsels' credibility and reputation can have on his ability to persuade the judges or juries. Every time a speech is delivered in a way that makes the speaker credible, there is persuasion via character because, in general, we trust fair-minded individuals more readily than we do others, especially when there is room for doubt but not perfect information (Kennedy, 2007).

This shows that a Counsel's believability does not always depend on his or her ability to engage in logical arguments, nor does it always depend on, his or her ability to stir emotions. Rather, his character and credibility also count. Aristotle agrees that a speaker's character may be his most powerful tool for persuasion, in contrast to legal thinkers who have highlighted the value and supremacy of logic and rationality in a trial context. The data for this study revealed that Counsels for both the Petitioners and the 3rd Respondent realised the truth inherent in Aristotle's statement. They appealed to ethos in their arguments; they did this through identity construction.

The notion of identity is not a straightforward one as it has multiple embedded meanings. That accounts for why Castelló, McAlpine, Sala-Bubaré, Inouye and Skakni (2021) argues that it is impossible to provide a single, overarching definition of identity. However, for the purpose of this study, I adopt Leary and Tangney's (2012) definition of identity: "Identities are traits and characteristics, social relations, roles, and social group memberships that define who one is…" (p. 69). Also, as Bruter (2005) indicates, "Identity can be viewed as a process of classification and self-categorization involving boundaries of inclusion and exclusion" (p. 8). This means that identity is

understood as a perception of self in relation to the others. So, from these perspectives, we deduce that different kinds of identities exist. There are in-group and out-group dichotomies from which identities of Us (Self) versus Them (Otherness) evolve. According to Staszak (2008), while the in-group is one that embodies the norm and whose identity is valued, otherness is defined by its faults, devalued and susceptible to discrimination.

Contrary to the notion that dichotomies will always breed power inequalities (Hall, 1997), the result of this study debunks this assertion in that an in-depth analysis of the data reveals that power inequality is absent in the closing argument presented to the judges at the Supreme Court Hearing of Ghana 2012 Election Petition. This could be due to the fact that the Counsels who represented the Petitioners and the Respondents operated on an equal pedestal as learned gentlemen; they stand as equals and tall as accomplished lawyers in their endeavours. So, rather than creating dichotomies for the purpose of suppressing one group over the other as would be the case in other segments of the courtroom process where power imbalance is discernible between a Counsel and a witness, dichotomies are created by these Counsels in order to denigrate, malign, defame, and degrade the other party as a way of persuading the trial judges to look at the other party with disfavour and adverse judgement handed over to its client. In order to do so, they appeal to ethos, one of Aristotle's means of persuasion where the speaker's credibility is brought to the fore. The two parties in this study- the Counsels for the Petitioners and those of the 3rd Respondent- here created two identities, the Us (Self) versus the Them (Others) (Staszak, 2008; van Dijk, 2007) as and when it suits them. In this case,

no party has monopoly over the in-group identity. Either party can be in the in-group or out-group depending on who makes submission.

However, results from the data for this study indicate that while the Counsels for the Petitioners attempted to forge an in-group identity with the judges and the same time construct an out-group where their opponents are positioned, the Counsels for the 3rd Respondent rather concentrated in constructing the out-group dichotomy by which means they highlighted the negative things about their opponent. So, in this study, these dichotomies are created in two ways – through positive self-identity and identity of otherness.

Positive Self-identity

While the Counsels for the Petitioners go all out to portray their opponents and the actions taken by them in a negative light, imploring the judges to give adverse judgement, they presented themselves in a positive light. They did this by highlighting their good qualities, putting up defences, mitigating their negative things, and, through identification.

Highlighting their good qualities

The Petitioners' Counsels highlighted their good qualities through the use of adjectives namely: ***candour, coherent,*** and ***painstaking*** to paint a positive image of themselves before the trial judges, as exemplified in the Excerpts 82, 83, and 84 below:

Excerpt 82

"…Upon a careful examination of the affidavit and exhibits attached therewith, the petitioner in ***characteristic candour, conceded some of the defects*** *with the manner in which attached to his affidavit were annexed…"* (Petitioners, p. 87).

Excerpt 83

"To ensure a ***coherent*** *presentation of the petitioners' case and to assist in a determination of their claims, this Address will be presented in the following order"* (Petitioners, p. 4).

Excerpt 84

"Painstaking *investigations, conducted by the petitioners after the polls, revealed that the 2nd Respondent inexplicably issued an inordinate amount of ballots to polling stations relative to the number of registered voters at the polling stations"* (Petitioners, p. 9).

In Excerpts 82, 83, and 84, the Counsels for the Petitioners presented a positive image of themselves and those of their clients by means of the following adjectives and noun: ***coherent*** and ***painstaking*** as well as ***condour***. In admitting that there were some errors in the exhibits the Petitioners presented to the court, the Petitioners' Counsels attributed to their clients, especially, the 2nd Petitioner, the quality of ***candour***, which meant that he was honest and frank to have admitted those errors. They did not end it there, but alerted the judges that this good quality that their client had displayed by conceding some defects was not just an incidental act of virtuousness, but it was evidence of his honesty. This means that it was typical of him (the 2nd Petitioner) to display this quality at all times not just for the purpose of conceding some defects; it was a habit he had cultivated, irrespective of the circumstances he had found himself in. Similarly, through the use of the adjective, ***coherent***, they described the presentation of their case as well thought-through, lucid, and clear; thereby, projecting themselves as meticulous, logical, and diligent, a credential that

would certainly appeal to the judges. Again, by describing the investigation undertaken by the Petitioners after the polls as ***painstaking***, the Counsels were trying to evoke the rationality of the judges by making them believe that the case presented by the Petitioners was trustworthy as it had been meticulously done.

Thus, as van Dijk (2007) and Bakhtin (1986) noted, the Petitioners' Counsels emphasised the positive things about themselves and highlighted "our-own-ness" respectively. In this way, they praised themselves while they blamed their opponents; thus, finding a way to commune with the judges and trying to alter their thinking. This is in line with Perelman and Olbrechts-Tyteca's thinking when he posits that in the face of all persuasive discourse, the rhetor alters the character of the audience as the discourse progresses (Perelman & Olbrechts-Tyteca 1969). So, by outlining their credentials and those of their client, the Petitioners' Counsels indeed wanted the judges to relate to them and their client as people who deserve to be considered honourable as they the judges are. Thus, the Counsels seek to set themselves apart to give themselves an identity different from that of their opponent.

Putting up defence for their shortcomings

One other way that the Counsels tried to construct a positive identity of themselves and that of their client was to put up defence by minimising their shortcomings and to making excuses for their errors. This is well illustrated in Excerpts 85 and 86:

Excerpt 85

"Upon a careful examination of the affidavit and exhibits attached therewith, the petitioner in characteristic candour, ***conceded some***

> ***of the defects*** *with the manner in which attached to his affidavit were annexed, but explained the challenging circumstances within which the affidavit, as which have been captured above.* ***It is important to note that the affidavit itself was properly executed by the deponent thereto. The defects were only in relation to some of the attachments to the affidavit****"* (Petitioners, p. 87).

In Excerpt 85, the Counsels for the Petitioners tried to minimise the gravity of the errors they committed with respect to the exhibits and affidavit they tendered to the court; seeking annulment of the 2012 Presidential Election. They explained the error away as some insignificant defects which should be ignored, and not be taken seriously. To further minimise the seriousness of their errors, they explained: ***the defects were only in relation to some of the attachments to the affidavit, not with the affidavit itself***. To further diminish the magnitude of their mistake, they euphemistically alluded to having committed an error by using the verb, ***conceded***, which no doubt, gives the idea of someone giving in to something or compromising on some standard. So here, the Petitioners gave the idea of having compromised on the standard which they are used to always uphold. Therefore, what indeed appeared to be an error was not an error, but a momentary slip. Moreover, the Counsels continue to uphold a positive identity of themselves which they tried to project from the onset when they noted that the acknowledgement of the errors shows their honesty, truthfulness, forthrightness and sincerity which they are noted for. This is evident in the expression: ***the petitioner in characteristic candour, conceded some of the defects.*** Also, in order to show to the court that the errors (in respect of the exhibits and affidavit tendered to the court) should not be regarded as a serious

flaw that should mar their case, they tried to justify why these errors were inevitable, as demonstrated in Excerpt 86:

Excerpt 86

"Respectfully, as stated already in this address, ***the sheer magnitude of the task of filing hundreds of thousands of exhibits within the very limited time of 5 days set by this Honourable Court at the application for directions stage resulted in some mistakes relating to the labelling of same.*** *The challenge of categorisation of the exhibits is explained by* ***the enormity of the task*** *in first assembling the material upon which the petition is founded, to wit, the pink sheets from across the whole country, and then proceeding to analyse them for the purpose of checking and cross-checking the violations of electoral laws, malpractices and irregularities complained of throughout the country, in order to assess the legal basis for a petition to be filed. All this had to be done within the twenty-one (21) day constitutional deadline. Following the direction of the Court on the mode of trial and the specific order for the petitioners to file their affidavit evidence first within five (5) days of the Order, a new challenge of putting together thousands of pink sheets and labelling them with exhibit numbers arose.* ***In such an enterprise which was strictly time-bound, some margin of error in categorisation and labelling of exhibits was simply unavoidable...*** *in the process of making relevant number of copies for service on the members of the panel and the parties hereto, errors were made in the labelling of some of the exhibits. So that in certain cases for*

instance an exhibit labelled as "MD L…" may later on be found as properly belonging to the "MB Q" series" (Petitioners, p. 85).

As seen in Excerpt 86, the Counsels for the Petitioners tried to justify the errors made in the entry of their exhibits. They tried to do this by blaming the errors on ***the enormity*** of the task of having to file their papers within a limited space of time. They described the tasks of filing papers, labelling them, and categorizing them as enormous. They also called the judges' attention to the fact that all these tasks were to be accomplished within a certain time-frame. They, therefore, concluded that given the sheer size of data they were working with, and the limited time available to complete the exercise, some margin of error was, according to them, unavoidable. By this argument, they tried to commune with the judges (Perelman & Olbrechts-Tyteca, 1969) imploring them not to allow these unavoidable errors to nullify the merit of the case they had brought before the court. They realised the truthfulness of Aristotle's words when he argues that persuasion cannot always be achieved by appealing to reason or intellect of the audience alone, but could sometimes be accomplished through ethos. Thus, the Petitioners' Counsels utilised this resource by de-emphasising their weaknesses; thereby, showcasing their strength. In effect, the Petitioners' Counsels intend to not only deconstruct an identity of negativity but also project a positive identity of themselves.

Their argument must have been that even though there were a few blemishes in their submissions, these should in no way rob them of a positive identity that they had built, that of honest, candid, and careful people. So, in order for the Petitioners' Counsels to safeguard their self-esteem in the face of this error that threatened to diminish it, they protected their self-worth by

employing the defensive strategy of self-handicapping, a strategy that Maltese et al. (2012) described as aiming at creating obstacles to performance by reducing responsibility for failure and increasing credit for success. So, admitting outright that they did not give due diligence to the compilation of the exhibits they had tendered before the court, seeking annulment of the result of the 2012 Presidential Election, the Counsels for the Petitioners rejected taking responsibility for their failure to do so.

Mitigating negative comments about themselves

Furthermore, the Counsels for the Petitioners sought to project a positive identity by de-emphasising negative comments about themselves. In the Report of KPMG, the referee, contracted to verify the exhibits and affidavits tendered by the Petitioners, it was discovered that the total number of exhibits tendered by the Petitioners fell short of the actual number authenticated by the referee and placed in the custody of the Court Registrar. Also, the report revealed that the number of polling station pink sheets fell short of what the Petitioners claimed they had filed in evidence. However, a close look at the data revealed that in all their arguments, the Petitioners appeared to be silent on the revelation about the inconsistencies in the number of exhibits they claimed to have filed and what was stated in the referee's report. This is by no means an evidence of subtle ideological push in line with van Dijk's (2007) tenet of an in-group which seeks to de-emphasise the negative things about themselves whereas they tend to emphasise the negative things about their opponents. De-emphasising the negative things about themselves could be a way that the Petitioners' Counsels tried to manage what could have been a damaged identity.

The use of identification

Another way the Counsels for the Petitioners appealed to ethos was through identification. Identification which emanates from what McCormack (2014) refers to as source-relational attributes is a way that Counsels try to create a bond between the persuader and the audience. According to her, these source-relational attributes would enhance the audience's acceptance of or identification with the source, or the material presented by the source; consequently, leading to an enhancement of persuasion. Although this kind of ethos appeal is most suited during the opening statement segment of the trial process, the Petitioners' Counsels saw it fit to utilise it in introducing their closing argument to the trial judges as exemplified in Excerpt 87:

Excerpt 87

"On the 7th and 8th days of December, 2012, Ghana held its presidential and parliamentary elections. The presidential election was contested by seven (7) candidates who were sponsored by political parties and one (1) other who contested as an independent candidate. The 1st petitioner was the candidate of the New Patriotic Party (NPP). The elections were originally fixed for 7th December, 2012. Polls in certain polling stations were adjourned to 8th December, 2012, owing to the alleged failure of the biometric verification devices (BVD). In view of the requirement of the law regulating the conduct of the December 2012 elections for voting to take place only after prospective voters had successfully undergone biometric verification, the polls continued on the following day in the polling stations in which

biometric verification devices had allegedly broken down. Thus, for the first time in the history of the Fourth Republic, a presidential election was held over two days, underscoring the importance of the requirement for biometric verification.

On 9th December, 2012, the Chairman of the 2nd Respondent, the body constitutionally and statutorily mandated to conduct and supervise public elections and referenda in the Republic and to declare the results thereof, declared the 1st Respondent, candidate of the 3rd Respondent, as the winner of the presidential contest with 5,574,761 votes (50.70%) and, thus, as having been validly elected as President

of the Republic. Thereafter, on 10th December, 2012, the Declaration of President-Elect Instrument, 2012 (C. I. 80) was published under the hand of Dr. Kwadwo Afari-Gyan, the Chairman of the 2nd Respondent.

Having received reports of the commission of flagrant constitutional and statutory violations as well as malpractices and irregularities in the conduct of the election, the 1st petitioner, together with his vice presidential candidate, 2nd petitioner and the 3rd petitioner, the National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the

1st and 2nd Respondents herein. The 3rd Respondent, upon its own application, was joined pursuant to an order of this Honourable Court dated 22nd January, 2013.

To ensure a coherent presentation of the petitioners' case and to assist in a determination of their claims, this Address will be presented in the following order:-

a. facts underpinning the Petition b. reliefs sought by Petition

c. summary of Answers filed by Respondents

d. issues for trial

e. explanation of the grounds for the reliefs claimed in petition, i.e. the various violations, malpractices and irregularities

f. burden and standard of proof

g. the legal effect of the violations, malpractices and irregularities stated by petitioners

h. the primary evidence of the violations, malpractices and irregularities stated in petition

i. categorisation/re-categorisation of the exhibits j. evaluation of the evidence led at the trial

k. statistical analysis of the impact of votes affected by infractions and

l. conclusion" (Petitioners, pp. 4 and 5).

From Excerpt 87, we deduce that the Counsels tried to promote identification of themselves and their client before the judges. They demonstrated passion for their clients, the 1st, 2nd, and 3rd Petitioners by introducing them through an introductory narrative. In their narrative, they provided the genesis of the case before the court; presenting their clients' situation as precarious, as those whose mandates were being stolen. By so doing, not only do the Counsels intend to increase the likelihood of identification via an emotional connection with their

clients, but must have been a deliberate strategy intended to make the judges more sympathetic towards their clients by taking into account their peculiar situations. McCormack (2014) avers that a speaker can increase identification with his or her audience if they convince their audience that they are well prepared for their delivery (McCormack, 2014).

As shown in Excerpt 87, the Counsels highlighted the mode of the presentation of their delivery. They outlined what they would prove about their clients' situation with the specific evidence that they have gathered when they said: *"This Address will be presented in the following order"*. This statement certainly will convince the judges that the Counsels are prepared to cover all their bases and this may trigger attraction and likeness for them as the judges may begin to see the Counsels as credible and will show appreciation for the work they are doing for their clients. This resonates with Aristotle when he noted, "advocates can use the introduction to make the audience receptive."

In all, the Petitioners' Counsels try to construct a positive, likeable identity of themselves and their clients by demonstrating to the judges that they possess practical intelligence (phronesis) a quality which according to Aristotle shows that a speaker is worthy of credence. They exhibit this quality by highlighting their strengths, mitigating their flaws and de-emphasising their weaknesses. They also show that they possess a virtuous character and goodwill by admitting to their clients' omissions which they described as mere defects in connection with the attachment to the affidavits that were presented to the court. They display some goodwill by showing that they uphold values such as honesty and sincerity. These qualities, Aristotle hypothesises, are needed if persuasion is to be accomplished.

Identity of Otherness

The Counsels both for the Petitioners and the 3rd Respondent attempted to construct an identity of otherness, also known as 'othering'. Othering, according to Pandey (2004), is used to describe the manner in which social group dichotomies are represented via language. These social group dichotomies are often encoded through linguistic choices and semantic stance, leading to stereotyping which accordingly perpetuates social and symbolic order and establishes the frontier of "we" and "Other" (Hall, 1997, p. 243)

The "We" and the "Other" and the "Us" versus "Them" (van Dijk, 2007) dichotomies are prominent in the data as the Counsels for both parties engaged in negative identity construction of otherness so as to persuade the judges. They accomplished this by casting doubts on their opponents' competence and diligence, attacking the veracity of their opponent's testimonies, accusing their opponents of not adhering to constitutional requirements, and emphasising the negative things about their opponents.

Casting doubts on their opponent's competence and diligence

The Counsels for both the Petitioners and the 3rd Respondents tried to lead the judges to see some shortcomings of their opponents by casting doubt on their competence and diligence as is shown in Excerpt 88 and 89 below:

Excerpt 88

"The 1st Respondent claimed that the result of the election was the product of ***painstaking and public counting****, and was based on the exercise of the fundamental rights of Ghanaian eligible voters under article 42 of the Constitution* (Petitioners, p.12).

Excerpt 89

Though the 2nd Respondent's Chairman admitted that, in certain situations, his officials were allowed to permit "prominent persons" to vote, they ***curiously denied*** *that any person voted without verification. The 2nd Respondent claimed that, upon being served with the further and better particulars of the 11,915 polling stations (originally relied upon by petitioners), it carried out an analysis of the pink sheets in question and its analysis confirmed that no voters were allowed to vote without verification at any polling station.*

This statement of the 2nd Respondent, in the humble view of the petitioners, was patently false because, as the evidence led at the trial showed, the incidence of people voting without biometric verification was evident on the face of the pink sheets. If the 2nd Respondent, indeed, analysed the pink sheets after being served with the further and better particulars by the petitioners, it is curious that it did not observe the fact of people having voted without prior biometric verification. This averment, it is submitted, exposes the falsehood with which most of the answers of the 2nd Respondent was laced" (Petitioners, p 35).

In Excerpt 88, the Counsels for the Petitioners attempt to win the favour of the judges by casting doubt on the submissions of the 1st and 2nd Respondents. The Petitioners' Counsels reduced the testimony of the 1st Respondent who said, "the result of the election was a product of the ***painstaking and public counting*** and was based on the fundamental human rights of the citizenry of Ghana" (p. 12) to a mere claim. Their intention was to sow the seed of doubt in the minds

of judges; so that they (the judges) would disregard the testimony of the 1st Respondent.

Also, in Excerpt 89, the Petitioners' Counsels attempted to cast doubt on the submissions made by the 2nd Respondent whom they alleged **curiously denied** that nobody voted without biometric verification. The Counsels further pointed out to the judges that the 2nd Respondent claimed to have carried out an analysis of the pink sheets of the 'further and better particulars' of the 11,915 polling stations which they (Petitioners) originally filed and its analysis confirmed that no voters were allowed to vote without verification at any polling station. The Petitioners' Counsels argued that if, indeed, the 2nd Respondent analysed the pink sheets, then it was ***curious*** that he did not notice that people voted without prior biometric verification. This reference by the Petitioners' Counsels must have been meant to create doubt in the minds of the judges about the competence of the 2nd Respondent to take charge of such a weighty responsibility as organizing a presidential election. By this reference, they imply that the 2nd Respondent did not pay attention to details, and so exhibited no due diligence, which affected the final results that it declared; thus, their call for the annulment of the result. In this way, they heap blame on the 2nd Respondent for a flawed election.

In like manner, the 3rd Respondent tried to question the conscientiousness of the Petitioners' legal team who perhaps put together the documents they took to court by flaunting their carelessness, as exemplified in Excerpt 90:

Excerpt 90

*"The **constantly changing figures** of the Petitioners, from the original Petition to the last day but one of trial, portray the uncertain, speculative and indefinite nature of the case of the Petitioners. This is also what is reflected in the fact that though 2nd Petitioner confidently insisted that exhibits in respect of 11,842 had been filed, the report of the referee, KPMG, shows that this is far from the case as we elaborate further below. The confusion about the exhibits that we shall also elaborate is an apt characterization of the whole case of the Petitioners.*

2nd Petitioner admitted, under cross-examination, major problems and errors in regard to their exhibits. In one case, for instance, an exhibit from a Parliamentary election was among their exhibits:

"Q: Now take a look at Exhibit MBP004890, the code number is K030206 and the name is Gudayiri Primary. Doc., is that presidential results?

A. No, this is for the office of the Member of Parliament. This is a parliamentary result.

Q. And what is it doing among your exhibits in support of presidential results?

A. I think we had seen this in reference to your response. I am not sure how it got in there. It is a parliamentary results; it should not be among the exhibits. (see page 40 of transcripts of proceedings of 22nd April 2013)" (3rd Respondent, p 12).

From Extract 90, it is certain that the Counsels for the 3rd Respondent seek to create doubt in the minds of the judges. They described the figures put across by the Petitioners in their original petition to the last amended one as ***constantly changing, uncertain, speculative and indefinite***. They also referred to the KPMG Report which indicated that the number of exhibits filed by the Petitioners fell short of the authenticated figure by the referee, KPMG. By emphasising the faults of the Petitioners, Counsels for the 3rd Respondent showed their determination to portray a negative identity of the Petitioners by highlighting the negative things about them - the confusion surrounding their exhibit and the inaccurate figures they kept presenting. To also cast doubt on the correctness of the number of exhibits declared by the Petitioners, the Counsels for the 3rd Respondent drew the judges' attention to the inclusion of an exhibit from the parliamentary election as part of the exhibits for which the Petitioners were calling for the annulment of the presidential election. Besides, the 3rd Respondent's Counsels argued that if indeed, the Referee's Report revealed that the evidence that the Petitioners swore to was inaccurate, then the Petitioners had no case.

From the submission of these Counsels, it is obvious that the objective of the Counsels for the 3rd Respondent emphasising the flaws of the Petitioners was to make the judges view with skepticism the Petitioner's claims of over-voting and vote padding, among others. Like the Petitioners, the intention of these Counsels was to ascribe blame on the Petitioners for wasting the court's time because according to the counsels for the 3rd respondent, the Petitioners' case lacked merit.

Attacking the veracity of their opponent's testimonies

Another way that the Counsels endeavoured to persuade the judges to agree with them was to attack the integrity and veracity of their opponent's testimony. This is attested to in Extract 91:

Excerpt 91

"The claim *by the Petitioners that unique serial numbers were provided to polling station pink sheets was baseless and there was no irregularity involved in the same serial number appearing on more than one such pink sheet. The attempt to nullify votes on this ground is absurd and to do so would also unconstitutionally deprive millions of citizens of their right to vote. Serial numbers are not, and have never been, security features on pink sheets, unlike ballot papers. Petitioners have provided no legal basis for this category of their claim*

(v) ***Claims*** *about unknown polling stations were also baseless and Petitioners who deployed agents on behalf of the 1st Petitioner cannot in good faith make these claims. Claims about different results being given for the same polling station are also not warranted..."*

"Having admitted that certain polling stations were used more than once, 2nd Petitioner simply resorts to "used only once in the analysis" as a deflection that exposes his lack of truthfulness. For his claim about "used only once in the analysis" to be credible, he needed to explain, for instance, how a polling station repeated in various categories was only counted in the totals of one particular

paragraph only but not in other paragraphs where the same polling station is used" (3rd Respondent, p.4)

As seen in Excerpt 91, the Counsels for the 3rd Respondent endeavoured to label the Petitioners' concerns as mere claims. By so doing, they attacked the veracity of the Petitioners' assertions. This means that the Petitioners' allegations that there were vote padding, unknown polling stations, 'and that unique serial numbers were provided to polling station pink sheets' were all false. The 3rd Respondent's Counsel wanted the judges to view the Petitioners in a negative light and to consider the 2nd Petitioners testimonies as nothing, but a sham by emphasising a negative thing about them (van Dijk, 1993) using repetition of the noun phrase, *The claim.* Therefore, they invariably suggest that the testimonies of the 2nd Petitioner should not be taken seriously.

Furthermore, the Counsels for the 3rd Respondent emphasised the inconsistency in the response of the 2nd Petitioner when being cross-examined. The Counsels showed that the 2nd Petitioner confessed that the figure in paragraph 44, concerning 320 polling stations that he alleged exclusive instances of where over-voting had taken place, was wrong. The Counsels of the 3rd Respondent further noted that although the 2nd Petitioner admitted to the error, he still maintained that the number of affected votes was the same, irrespective of changes in the number of polling stations in a category. By using the adverbial, ***quite strangely***, to describe the 2nd Petitioner's inconsistent submission, the Counsels for the 3rd Respondent alert the judges about this incongruity and describe it as weird. This certainly was an attack on the 2nd Petitioner's personality as a dependable witness. Through this attack, the Counsels sowed seeds of doubt and uncertainty about the testimony of the 2nd

Petitioner; thereby, portraying him as a witness lacking a virtuous character, one of the qualities a person must possess to qualify as a credible witness.

The Counsels for the Petitioners also attacked the integrity of the testimonies of the 1st and 2nd Respondents, referring to them as untruth, as shown in Excerpt 92:

Excerpt 92

*"The 2nd Respondent, by its 2nd Amended Answer filed on 3rd April, 2013, generally denied the petitioners' claims. The thrust of the Answer filed by the 2nd Respondent was to defend...**Though the 2nd Respondent's Chairman admitted that, in certain situations, his officials were allowed to permit "prominent persons" to vote, they curiously denied that any person voted without verification.** The 2nd Respondent claimed that, upon being served with the further and better particulars of the 11,915 polling stations (originally relied upon by petitioners), it carried out an analysis of the pink sheets in question and its analysis confirmed that no voters were allowed to vote without verification at any polling station.*

***This statement of the 2nd Respondent, in the humble view of the petitioners, was patently false** because, as the evidence led at the trial showed, the incidence of people voting without biometric verification was evident on the face of the pink sheets"* (Petitioners, pp. 12 and 13)

From the foregoing, it is clear that the Petitioners are resolute to paint a negative image of the 2nd Respondent and to damage their credibility. This they tried to do by attacking the veracity of the 2nd Respondent's testimonies, describing

them as *false*. Because the Petitioners' Counsels were determined to portray the 2nd Respondent in a negative light, they said that the 2nd Respondent ***curiously denied*** that nobody voted without biometric verification. Thus, these Counsels did not only belittle the testimony of the 2nd Respondent, a body which has been credited with conducting credible elections in the past, but also reduce it to an organization that perpetrate falsehood.

To further emphasise the negativity about their opponents, the 2nd Respondent was not only accused of denying that people voted without biometric verification, but the denial had been coloured with the adverbial ***curiously,*** which means that the denial is both weird and strange. It means that the denials of the 2nd Respondent are in bad taste because the Chairperson of the 2nd Respondent had earlier on conceded that, in some situations, his officials had the mandate to permit "prominent persons" to vote without verification. So, the Petitioners' Counsels must have found the denial that no one voted without biometric verification strange. By so doing, not only did the Petitioners distance themselves from the 2nd Respondent's submissions, but they also implied that the 2nd Respondent lacked "goodwill" and, therefore, its Chairperson failed the criteria set out by Aristotle upon which a speaker can persuade his/her listener through his/her character. Instead of receiving praise for the work done, the 2nd Respondent is shamed.

Accusing their opponents of not adhering to constitutional requirements

Another way the Counsels tried to negatively portray their opponents and construct an identity of otherness was to accuse them of unconstitutionalities, as demonstrated in Excerpts 93 and 94 respectively:

Excerpt 93

"It is the respectful view of the petitioners that, in situations where the 2nd Respondent as admitted by its Chairman, Dr. Afari-Gyan, would have permitted certain persons like the Omanhene to cast votes without biometric verification, the 2nd Respondent rather would have been acting unlawfully and unconstitutionally. *This is because such cases would promote the uneven application of the law on biometric verification.* ***The 2nd Respondent, by turning others who could not be verified away and permitting others who were well-known in the community, but who could also not be verified biometrically to vote, could be said to be valuing the vote of one person over the other.*** *It is an uneven application of the law. It implies that the main guarantee of one's right to vote, after having registered, is whether one is well-known in one's community. If one is not and one's biometric details cannot be captured, one will be turned away even though, in another instance, an Omanhene or a prominent person will be allowed to vote even though he has not been verified biometrically.*

Quite remarkably, contrary to the clear dictates of Regulation 30(2) of C.I. 75, the 2nd Respondent in its training manual, exhibit "EC2", granted unto its officials, particularly, presiding officials at the polling stations, some amount of discretion in permitting persons"

(Petitioners, pp. 33)

Excerpt 94

"The Petitioners have failed to comply with basic legal and practical requirements of providing evidence to the Court in a

> *coherent and usable manner to prove their case. No legally permissible evidence is available to this Court on the basis of which the evidential burden on the Petitioners can be said to have been discharged* "(3rd Respondent, p. 16).

In Excerpts 93 and 94, both Counsels for the Petitioners and the 3rd Respondent called the judges' attention to their opponent's breach of constitutionality and courtroom conventions. For instance, in Excerpt 93, the Counsels for the Petitioners accused the 2nd Respondent of breaching the tenets of Regulation 30(2) of C.I. 75, a constitutionally backed document that the EC produced to govern the conduct of the 2012 Election. They accused the 2nd Respondent of favouritism in applying the dictates of the regulation by allowing certain known figures to vote without prior biometric verification, whereas some common people whose biometric verification could not be done were turned away and prevented from voting. The Petitioners' Counsels accused the 2nd Respondent of acting unlawfully and unconstitutionally by allowing some people such as the **Omanhene** to cast their votes even though they could not be verified biometrically. This, they said could foster discrimination in the application of the law pertaining to the use of biometric verification. No doubt, one can see that the Petitioners define the 2nd Respondent's faults from the perspective of they the Petitioner's being "Us" and the 2nd Respondent as the "Other". They portrayed it as an organization lacking credibility and incapable of conducting a free and fair election. By so doing, the Petitioner's Counsels portrayed the 2nd Respondent in a bad light, an act that would certainly be detrimental to their" (2nd Respondent) case.

In a similar vein, the Counsels for the 3rd Respondent tried to deepen the dichotomy of "Us" versus "Them" by drawing the judges' attention to the Petitioners' breaches of constitutional and legal requirements, which mandatorily require that testimony to the court must be presented in a logical and utilizable way. In both instances, the Counsels draw the judges' attention to infractions committed by their opponents in connection with constitutional requirements. They knew that such subjects were dear to the hearts of the judges, who were supposed to be the custodian of the constitution and who certainly would not take kindly to a breach of legal procedures. We see the Counsels for the 3rd Respondent simultaneously constructing a negative identity of the Petitioners and building a positive image of themselves and their clients. Whereas the Counsels accuse the Petitioners of being law-breakers, they imply that they (the Counsels for the 3rd Respondent and their client) are law abiding citizens of the land. In effect, both groups of Counsels portrayed their opponents as "others" whose activities should be viewed with suspicion.

By contracting dialogic space

The Counsels for both sides constructed the identity of otherness of their opponents by contracting dialogic space through the rejection of alternative viewpoints. They did this by using Martin and White's (2005) engagement resource of disclaim to either negate or counter their opponent's propositions. By means of the sub resource of deny, the Counsels explicitly denounce each other's viewpoint, as exemplified in Excerpts 95 and 96:

Excerpt 95

"…it is ***not*** *possible to determine which of the votes cast constitutes the invalid votes and, therefore, which votes cast count as the lawful votes"* (Petitioners, p.20).

Excerpt 96

"The Petitioners again have ***not*** called a single one of the polling agents that represented them…" (3rd Respondent, p. 64)

In Excerpts 95 and 96, the Counsels explicitly denied and rejected their opponent's viewpoint; thus, they misaligned and disassociated themselves from each other's formulations. The Counsels also distanced themselves from the propositions of their opponents. Through these resources, Counsels for both the Petitioners and the 3rd Respondent positioned each other in a negative light. By so doing, they showed that their opponents lacked goodwill; therefore, they could not be credible speakers.

From the preceding argument, we have seen how the Counsels for both the Petitioners and the 3rd Respondent tried to utilise ethos in order to persuade the trial judges to grant their clients favourable judgement. It is worthy of note here that while the Petitioners' Counsels aggressively try to construct a positive self-identity of themselves and their clients, the Counsels for the 3rd Respondent only did that tacitly by engaging in the construction of otherness identity of their opponent. In addition to the positive self-projection that the Petitioners' Counsels explicitly displayed, like their counterpart, they also implicitly showcased themselves as being trustworthy while they engaged in identity construction of otherness of their opponents. The principle is that while they

portrayed their opponents in a negative light, they were invariably implying that they were better than them.

Although the Counsels utilised the three Aristotelian modes of persuasion, the prevalence of each mode found in the Counsels' closing arguments varies from one group of Counsels to the other, as exemplified in Tables 13 and 14.

Table 13: Occurrence of Three Modes of Persuasion in Counsels' (3rd Respondent) Closing Arguments

Type of appeal	Frequency	Percentage
Logos	5,002	50.45
Pathos	4,412	44.50
Ethos	500	5.04
Total	9,914	99.99

Source: Field Work (2020)

As can be seen from Table 13, the most prevalent mode of persuasion found in the closing argument presented by the Counsels for the 3rd Respondent is logos, which constitutes 50.45 percent. Whereas pathos accounts for 44.50 percent, ethos is just 05 percent.

Conversely, in Table 14, there is a shift in the prevalence of the use of the logos appeal as compared to pathos. Whereas pathos took 47.73 percent, logos accounted for 44.98, and ethos 7.28.

Table 14: Occurrence of Three Modes of Persuasion in Counsels' (Petitioners) Closing Arguments

Type of appeal	Frequency	Percentage
Logos	5,560	44.98
Pathos	5,900	47.73
Ethos	900	7.28
Total	12,360	99.99

Source: Field Work (2020)

From the discussion provided so far, the Counsels for both the Petitioners and the 3rd Respondent realised that within their own context, appealing to the Aristotelian three modes of persuasion would be very beneficial to their course of persuading the judges. Both groups of Counsels' application of logos is far-reaching, considering the fact that it accounts for 50.45 percent of the 3rd Respondent's Counsels' arguments and 44.98 percent in those of the Petitioners. This is evident in the quality of preparedness and researched topics that they displayed in their delivery. We have seen that the Counsels on both sides marshalled logical arguments in their delivery. They also bolstered their arguments with warrant, data and proofs by providing statistical data, quoting authoritative sources, drawing analogy from related cases and providing evidentiary documents among others.

It is also realised that the Counsels on both sides also placed high premium on pathos as a potent strategy to persuade the judges. In this regard, the Counsels, especially, those for the Petitioners, proved wrong those who assert that there is no place for emotions in the courtroom (Pettys, 2007). In the Petitioners' Counsels' arguments pathos accounted for 47.75 percent of the strategies used. They too recognise the truthfulness of Aristotle's argument that

persuasion may come through the hearers, when the speech stirs their emotions.So, the Counsels sought to evoke the passions of the judges through the use of narratives, tropes and scheme, emotive and evaluative language.

Lastly, the Counsels for the Petitioners and the 3rd Respondent also tried to present a credible character, both explicitly and implicitly. Tables 12 and 13 reveal that the Counsels for the 3rd Respondent utilised 05 percent of ethos whereas it accounted for 7.28 percent of the Petitioners' Counsels' argument. While the 3rd Respondent's Counsels, perhaps guided by modesty, only implicitly portrayed a positive image of themselves, the Petitioners' Counsels projected a positive self-identity of themselves and their clients both explicitly and implicitly. They achieved this by highlighting their good deeds, putting up defences for their mistakes, mitigating their negative deeds and identifying with their clients.

However, both groups tried to portray their goodwill and character implicitly by constructing an identity of otherness for their opponents. This they did by casting doubt on their opponents' competence and diligence; attacking the veracity of their opponent's testimonies; accusing their opponents of unconstitutionalities, and contracting dialogic space. Since the ultimate goal of the Counsels was to persuade the judges to hand down favourable judgement on behalf of their clients, it was only reasonable that an intersection of the three modes of Aristotelian persuasion be applied by them. This is because it is only by blending the three modes of proof that a positive force in the pursuit of justice can be attained.

Chapter Summary

In Chapter six, I have attempted to show how the two groups of Counsels who represented the Petitioners (NPP) and the 3rd Respondent (NDC) used verbal resources to persuade the trial judges that their clients' cases were plausible and, therefore, deserved favourable judgement. They did this by appealing to the judges' rationality (logos), emotion (pathos), and credibility (ethos).

CHAPTER SEVEN

SUMMARY, CONCLUSIONS, IMPLICATIONS, AND RECOMMENDATIONS

Introduction

This chapter concludes the study. The chapter, first, provides a summary of the entire research. Second, it highlights the findings of the study. Based on the findings, conclusions are drawn. In addition, implications of the study are discussed. Finally, the chapter highlights areas for further research.

Summary of the Study

This study has been an attempt to investigate the persuasive strategies that were employed by the Counsels representing the Petitioners and those of the 3rd Respondent at Ghana's 2012 PEP. In the light of this, I investigated the language and appraisal resources that were employed by the Counsels for the Petitioners and those of the 3rd Respondent in their closing arguments. I also investigated how the judges utilised these resources in their bid to persuade the judges to give a favourable judgement on behalf of their clients. This problem led the researcher to formulate three basic questions, which provided direction and focus for the present study.

1. What language resources are employed in the counsels' closing arguments at Ghana's 2012 PEP?
2. What appraisal resources are employed by counsels at Ghana's 2012 PEP and what communicative purpose do these resources perform?

3. How do counsels employ the Aristotelian triad to try to persuade the trial justices to give judgement in favour of their clients during Ghana's 2012 PEP?

The overall research goals of this study were to investigate the persuasive strategies that were employed by the four Counsels in their closing arguments to the judges at the Supreme Court Hearing of Ghana's 2012 Election Petition and to explore their use by the Counsels in order to persuade the Judges.

In view of the afore-mentioned research questions, the research adopted a qualitative research design that was complemented by some simple frequencies and a few percentages. On the theoretical level, the feasibility of employing the notion of rhetoric by Aristotle and Perelman and Olbrechts (1969) was considered. Aristotle; and Perelman and Olbrechts-Tyteca (1969) regard rhetoric as a means of persuasion. In brief, Aristotle's argument is that rhetoric manifests itself in the rhetorical appeals of ethos (speaker credibility), pathos (speaker's ability to evoke the emotions of the audience) and logos (speaker's reason capacity). Perelman and his partner, on the other hand, regard it as the process by which communication results in influencing people to take a course of action. In addition to the theoretical framework, the literature review provided explanation of key concepts around which this work was crafted. Also, related studies on persuasion and rhetoric, closing arguments in courtroom discourse, and Ghana's 2012 Election Petition were reviewed. The closing arguments delivered by the Counsels for both the Petitioners and the 3rd Respondent were analysed, investigating the type of linguistic and procedure resources these employed in their pursuit for justice. A synopsis of the findings is presented below.

Findings

Based on the analysis and discussion of the data, the following key findings are made with specific reference to the three research questions, starting with the first research question stated below:

What language resources are employed in the counsels' closing arguments at Ghana's 2012 PEP hearing?

The first research question yielded the following findings:

The language resources yielded several sub-categories. The study showed that the Counsels used lexical items, syntactic, semantic structures, and persuasive strategies. Lexical items utilised by them included: adjectives, adverbs, factual verbs, and negation markers. In connection with adjectives, the Counsels utilised evaluative, cumulative, coordinating, and limiter adjectives. The result also showed that the Counsels for the Petitioners used more adjectives than did the Counsels for the 3rd Respondent. With regard to adverbs, Counsels for both sides used conjuncts, adjunct and Disjuncts. Conjuncts were used by the Counsels to develop their arguments as these serve as connectors. They often used the adjunctive form of adverbs indicating manner, also identified by Quirk and Greenbaum (1996) as 'intensifiers'. Thus, they were useful in the hands of the Counsels, especially, those for the 3rd Respondent who employed them to arouse the emotions of the judges. Disjuncts were also used evaluatively by the Counsels as these provided opportunity for them to foreground their arguments with their opinions. Negation markers were employed by the counsels to disasociate themselves from their opponents' discourse while factual verbs were used mainly to create distance.

Syntactic structures employed by the Counsels included, direct and indirect speech, nominalised reporting verbs, and causal *since-clause*. Direct speech and causal *since-clause* were used by the Counsels as argument boosters while the indirect speech as well as the nominalised reporting verbs were used by the Counsels to close heteroglossic, and to disassociate themselves from the narratives of their opponents.

Concerning semantic structure, epistemic modality was utilised by the Counsels for both the Petitioners and the 3rd Respondent.

The following were observed with regard to the second research question:

What appraisal resources are employed by Counsels at Ghana's 2012 PEP and what communicative purpose do these resources perform?

Findings revealed that the appraisal resources employed by the two groups of Counsels were used to perform three main functions: to contract, proclaim, and expand dialogic space. By means of dialogic contraction, both groups of Counsels resorted to denial and countering of their opponents' proposition. Through the use of negation markers such as *no, not, never* and concessive conjunctions such as *however, although,* and *yet*. Counsels closed the heteroglossic space and disassociated themselves from the discourse of their opponents. In an attempt to project their opponent's propositions as fallible, the Counsels, thus, engaged in dialogic contraction, an act which, according to Martin and White (2005), is intended to challenge or fend off.

However, the data for the study did not support the narrative of proclaim which enables the Counsels to align with their opponents by acknowledging their viewpoints. Instances of concur and endorse were rare in the data,

indicating that the Counsels on both sides of the divide were not willing to affirm their opponents' propositions as correct and authoritative. Also, like proclaim, the Counsels also failed to expand the dialogic space through their failure to entertain opposing viewpoints. Rather, they chose to distance themselves from their opponents' propositions. Thus, through the resources of engagement and attitude, the Counsels for both the Petitioners and the 3rd Respondent engaged in dialogic discourse of discord, criticism, social sanction, and condemnation.

The third research question is represented below:

How do Counsels employ the Aristotelian triad to try to persuade the trial justices to give judgement in favour of their clients during Ghana's 2012 PEP?

The study revealed that the Counsels for both parties tried to persuade the trial Justices to give a favourable judgement to their clients in three main ways namely: by appealing to the rationality and emotions of the judges, and through identity construction. In trying to appeal to the rationality of the judges, the study found out that the Counsels for both parties strategically used the logos appeal, which is considered to be superior of the three means of persuasion. In order to realise this, they attempted to reach the judges' mind by employing syllogism, analogy, adducing demonstrative evidence, quoting witnesses' testimonies, citing authoritative sources, and providing statistical data.

The study also revealed that apart from using the logos appeal, the Counsels tried to stir the passions of the judges through the use of narratives, descriptive adjectives, and some adverbs. Also, by means of figures of speech, the Counsels for both parties appealed to the judges' emotions.

The Counsels further persuaded the judges through ethos appeal which they crafted through identity construction. The Counsels constructed positive self-identity of themselves and an identity of otherness for their opponents. With regard to positive self-identity, the study revealed that the Counsels for the Petitioners utilised this tool more than those of the 3rd Respondent. The study showed that while the Counsels for the Petitioners engaged in damage control, those for the 3rd Respondent did not. However, Counsels for both sides utilised the otherness identity construction to try to weaken the case of their opponents. They did this in several ways: casting doubts on their opponents' competence and diligence, attacking the veracity of their opponent's testimonies, accusing their opponents of unconstitutionalities and emphasizing the negative things about their opponents.

Key Findings

A major finding of this study is that the three means of persuasion systematised by Aristotle (ethos, pathos and logos) are still very relevant to studies of courtroom discourse. This study found out that contrary to the notion that strictly logical appeals are favoured in the courtroom, the Counsels for both parties utilised a more comprehensive form of argument in which pathos (emotions), ethos (the inclination of the judge to trust the advocate), and logos, (the tendency for the judge to be swayed by the message) were employed.

Another key finding showed that the Counsels for the Petitioners used more adjectives in their closing arguments to the trial judges than the Counsels for the 3rd Respondent. This must have accounted for the heavy presence of pathos appeal which constituted 47.78 percent in the Petitioners' argument. Also, the Counsels for the 3rd Respondent employed abstract nouns and factual

verbs more than the Petitioners. Again, the data revealed that the Counsels for both the Petitioners and the 3rd Respondent made effective use of disjuncts, adjunct, and conjunct in distancing themselves from each other.

The study further revealed that Counsels for both parties deployed dialogic contraction of deny and counter in order to disassociate themselves from the propositions of their opponents; while they shied away from proclaim and expand resources perhaps, for fear of supporting the narratives of their opponents as authoritatively true, or conceding to some shortcomings which could have been very damaging to their clients' cases.

Furthermore, while the Counsels failed to entertain alternative dialogic views emanating from their opponents' presuppositions, the data revealed that they entertained an alternative dialogic canonised voice of authoritative documents. By means of epistemic modality, the Counsels made reference to authoritative documents, thereby drawing the judges' attention to the seeming misdeeds of their opponents.

Also, a key finding is that while the 3rd Respondent's Counsels only tacitly portrayed a positive image of themselves, the Petitioners' Counsels aggressively projected a positive self-identity both explicitly and implicitly. They did this by highlighting their virtues, by making excuses for their shortcomings, by mitigating negative things about themselves, and by showcasing their clients' identity.

Another key finding revealed that neither the Counsels for the Petitioners nor those of the 3rd Respondent used folktale and personal stories as a form of narratives. This could be due to the vigorous nature of this phase of

the trial process which was crucial to the determination of the verdict, a phase that Liao (2019) described as a "tug of war" (p.57).

Unexpected Findings

One unexpected finding that this study has revealed is that the Counsels for both the Petitioners and 3rd Respondent did not utilise rhetorical question. This is contrary to Nesson's (2007) contention that rhetorical questions are a powerful tool that are used by lawyers in their closing arguments. The lack of use of rhetorical questions by these Counsels could be due to the unique nature of the 2012 PEP and the dynamism that characterised it.

Another unexpected finding of this study is that analogical presentations made by the Counsels for both parties were devoid of folktales. Rather, analogies drawn by the Counsels were based on comparison between their case and other related cases. Data for this study disproved the claim by Johnstone (1989) that the language of analogical presentation is the language of folktales with their formulaic openings and closings, signalled by timeless, placeless quality expressions such as: "once upon a time".

Another unexpected finding is that although this study is not grounded on any theory of ideology, it shows that subtle ideology is also embedded in Counsels' closing arguments, where mental models are also at work and where the in-group and out-group factions are clearly discernable. Although none of the groups can be tagged in-group or out-group outright, anyone of the parties could take on any of the tags, depending on who is speaking. So, while the Petitioners viewed the Respondents as 'others' belonging to an out-group, the Respondents also viewed the Petitioners as 'others' belonging to an out-group. Thus, ideological war in the courtroom among the Counsels can be described as

"war of equals" where wits and intellectual prowess are employed by each group to outwit the other. From the analysis and discussion of the data, we see how Counsels for both parties, Petitioners and the 3rd Respondents marshal every arsenal within their reach to emphasise the negative things about their opponents and de-emphasise their own shortcomings. They did these, using modifiers such as adjectives and adverbs. They also employed factual verbs, nominalised reporting verbs, and some surface structures such as parallelism and hyperbole. The study revealed that they utilised a semantic figure like metaphor which, according to van Dijk (1993), could be a function of ideological control.

Contrary to *Stanford's Encyclopedia of Philosophy's* (2002) claim that deductive reasoning is usually realised in a conditional *if-clause*, data for this study does not support this assertion. Since the Counsels' closing addresses are themselves arguments, one would have expected that the claim of *Stanford's Encyclopedia of Philosophy* claim is upheld. Interestingly, the *if-clause* is rarely used by both groups of Counsels. Surprisingly, though it is prevalent in the witnesses' responses provided during cross-examination, as quoted by the Counsels. Although it is not very clear why this is so, the *if-clause* introduced by the word *if* may have been used by the witnesses for both the Petitioners and the 2nd Respondent for two reasons. It may, first have been used as a tool for equivocation and, secondly, as a sign of subordination (Ahialey, 2012).

Conclusions

I have presented a descriptive and interpretative analysis of the persuasive phenomena in the data as detailed as possible in terms of the linguistic features and the rhetorical strategies that were employed by the

Counsels representing the Petitioners and the 3rd Respondent at the Ghana 2012 Election Petition Hearing. By pitching the linguistic items against Martin and White (2005) Appraisal Framework, I have discussed the communicative purpose of the linguistic resources utilised by the Counsels. Furthermore, I have also given a detailed presentation of how the Counsels achieved their main objective of being in court; that is, to persuade the judges that their clients' cases were more plausible than those of their opponent, and, therefore, merit a more favourable judgement than their opponent.

Several conclusions can be drawn from the findings of this study. The findings add to our knowledge and understanding of the rhetoric-linguistic resources that were employed by the Counsels for both the Petitioners and the 3rd Respondent in their closing arguments to the trial Justices at the Ghana 2012 Election Petition Hearing. The study revealed that the Counsels depended heavily on modifiers such as adjectives and adverbs, factual verbs and negation markers to formulate a discourse of disclaim, disassociation, criticism and condemnation of each other's case.

Also, the study revealed that the Counsels for both parties employed several persuasive strategies aimed at winning the judges to their sides. First, they recognised emotive language as a potent tool for persuasion; hence, through the use of adjectives and adverbs, the Counsels tried to provoke the emotions of the judges with the intent of influencing their verdict. This affirms Macagno and Walton (2014) assertion that emotive language has the power to influence the decisions of an audience and it serves as an instrument of manipulation.

Again, the Counsels saw the need to help the judges refresh their memory in the face of the daunting evidences that had been presented to them during the trial process by adopting the narrative mode as a persuasive strategy. They reconstructed the trial story, so as to help the judges synthesise information and reorder the events and evidences in a logical sequence. This confirms Spiecker and Worthington's (2003) view that narratives are crucial to advocates' effort to help the judge recall, synthesise, and reorder information. Additionally, both groups of Counsels infused vehemence and passion into their arguments by means of tropes and schemes which they generously used to convey complex thought patterns, especially those that excite the emotions. This also confirms Corbett's (2004) affirmation that figure of speech can stir emotional responses and elicit admiration for the eloquence of the speaker or writer.

This study further helps us to the see the different ways that the Counsels for both litigating parties employed linguistic and persuasive resources to establish their credibility and identity. They did this in two ways – through positive self-presentation of themselves and through the construction of otherness identity of their opponents. Counsels for both parties constructed the otherness identity of their opponents in order to win the judges to their sides by casting doubt on their opponents' competence and diligence; attacking the veracity of their opponent's testimonies, accusing their opponents of unconstitutionalities, and emphasizing the negative things about their opponents. On the other hand, the study revealed that the Counsels tried to project a positive image of themselves and their clients.

Implications of the Study

Based on the findings of the present study, the next section discusses two main sets of implications; scholarship and professional practice.

This study contributes to scholarship in two ways. It adds to the growth of Forensic Linguistics as it broadly contributes to the structure of legal language. Forensic Linguistics, under which the present study falls, is a relatively new field of study which is making waves across the academic arena. This study, therefore, contributes significantly to the existing literature in Forensic Literature especially, in Africa where the dearth of research is high and worrying, a fact that was painfully revealed at the Conference of Rectors and Vice Chancellors and Presidents of African Universities (COREVIP held in Stellensbosch, South Africa from May 30th-June 3rd, 2010).

This study has also contributed to scholarship in that it has added to the growth of rhetorical studies and has affirmed the timelessness of the Aristotalian triad (ethos, pathos, and logos). It has also shown the inextricable link between linguistics and the legal community.

The study provides a platform on which the legal community can collaborate with academia. While academia does research and provide data, statistics and give recommendation, the legal community can benefit from the findings of the study. Evidently, then, this study can prove to be beneficial to Counsels as it provides useful persuasive strategies on which they can rely.

The study has also proved to be a melting pot for a conglomerate of theories and frameworks (Aristotle's *On Rhetoric*, Perelman and Olbrechts-Tyteca New *Rhetoric*, and frameworks, Martin and White's (2005) Appraisal Framework and Jolliffe's Rhetorical Framework. The study showed how

linguistics and rhetoric are used complementarily by the Counsels in their attempt to influence the judges.

By means of the Appraisal Framework of Martin and White (2005), the linguistic elements employed by the Counsels were teased out and given meaning. The study revealed the dynamism in the discourse that Counsels for both sides engaged in. This study provides insight into how evaluative language contributes to this dynamism that characterised the closing argument segment of the trial process. By means of the Appraisal Theory, we see how the Counsels engage in discourse of discord and distrust.

Lastly, this study has contributed to scholarship in linguistics as it may have invaluable benefits for upcoming scholars who wish to venture into this field of study.

Suggestions for Further Research

It will be interesting to conduct a comparative study of the types of linguistic and persuasive resources employed by the Counsels who represented all four litigating parties namely: The Petitioners, 1st, 2nd, and 3rd Respondents. This will provide a complete picture of the strategies that are favoured by each of the Counsels.

It will also be interesting to find out the extent to which the persuasive strategies employed by the Counsels at the Ghana 2012 PEP hearing affected the judges' verdict. Since the ultimate goal of Counsels' closing arguments is to convince the judges that their clients' cases are plausible, while their opponents are wrong, all the strategies that they employed were geared towards seeking a favourable judgement for their clients. The question that arises is to what extent are judges' verdicts influenced by counsels' persuasive strategies? Due to

constraints of time and space, this study was unable to delve into this issue. This, in my view, could constitute an area of study for other interested researchers.

The abilities of Counsels to influence judges' verdict in favour of their clients have been linked to the schematic structure of their closing arguments (Spiecker & Worthington, 2003). They argue that the schematic structure of Counsels' closing arguments helps the judges synthesise information. Thus, it is important that Counsels structure their arguments properly. It is against this backdrop that investigation into the schematic structures of Counsels' closing arguments at the Ghana 2012 Election Petition Hearing can be undertaken. It will be useful to find out if there is any link between the schematic structure of the Counsels' closing arguments and the judges' verdict.

REFERENCES

Adjei-Fobi, C. K. (2011). *A rhetorical analysis of political discourse: A comparative study of the use of metaphor in the speeches of Nkrumah and Rawlings.* Unpublished doctoral thesis, University of Ghana, Legon.

Afful, J. B. A. (2005). *A rhetorical analysis of examination essays in three disciplines: The case of Ghanaian undergraduate students*. Unpublished doctoral thesis, National University of Singapore, Singapore.

Agyekum, K. (2004). The socio-cultural concept of face in Akan communication. *Pragmatics & Cognition, 12*(1), 71-92.

Ahialey, H. O. (2012). *Elicitation and response strategies in courtroom cross-examination: A critical discourse analysis*. Unpublished master's thesis, University of Cape Coast, Cape Coast.

Ainsworth, J. (2017). Legal discourse and legal narratives. *Language and Law, 2*(1), 1-11.

Aldisert, R. J., Clowney, S. & Peterson, J. D. (2007). Logic for law students: How to think like a lawyer. *Law Education Digest, 15*(2), 100-121.

Altheide, D. L. (1996). *Qualitative media analysis*. New Delhi: Sage.

Aristotle. (2007). *On rhetoric* (2nd ed.). New York: Oxford University Press.

Aristotle. (1984). Rhetoric. In J. Barnes (Ed.), *The complete works of Aristotle* (pp. 2153-2269). Princeton, New Jersey: Princeton University Press.

Asante, W & Asare, E. B. (2016). Ghana's 2012 election petition and its outcome: A giant leap towards democratic consolidation. In B. E. Asare & A. K. D. Frempong (Eds.), *Selected issues in Ghana's democracy* (pp. 107-124). Tema: Digibooks.

Bakhtin, M. M. (1986). *Speech genres and other late essays*. Austin: University of Texas Press.

Bamford, J. (2007). Accentuating the positive: Evaluation and persuasive discourse in business presentations. In J. Bamford & R. Salvi (Eds.), *Business discourse: Language at work* (pp. 135-155). Rome: Aracne Editrice.

Bolinger, D. (1969). Syntactic blends and other matters. *Language, 37*(3), 366-382.

Bower, G. H., Black, J. B. & Turner, T. J. (1979). Scripts in memory for text. *Cognitive Philosophy, 11*, 177-220.

Boylan, K., Browning, E., Burton, K. DeVries, K. & Kurtz, J. (2018). *Let's get writing*. Roanoke: Virginia Western Educational Foundation, Inc.

Braun, V. & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3*, 77-101.

Braun, V. & Clarke, V. (2013). *Successful qualitative research: A practical guide for beginners*. London, England: Sage.

Brennan, M. (2006). *Using socio-cultural approaches for educational research* (Research and policy series no. 5). Wellington: The Institute for Early Childhood Studies.

Brockriede, W. E. (1966). Toward a contemporary Aristotelian theory of rhetoric. *Quarterly Journal of Speech, 52*(1), 33-40.

Bruter, M. (2005). Citizens of Europe? *The emergence of a mass European identity*. London: Palgrave Macmillan.

Burns, R. P. (2009). The task of a philosophy of law. In F. J. Mootz (Ed.), *On philosophy in American law* (pp. 232-238). Cambridge: Cambridge University Press.

Cammiss, S. (2006). "He goes off and I think he took the child": Narrative (re)production in the courtroom. *King's Law Journal, 17*, 71-95.

Carranza, I. E. (2008). Metapragmatics in a courtroom genre. *Pragmatics, 18*(2), 169-188.

Castelló, M., McAlpine, L., Sala-Bubaré, A., Inouye, K. & Skakni, I. (2021). What perspectives underlie 'researcher identity'? A review of two decades of empirical studies. *Higher Education, 81*(3), 567-590.

Chaemsaithong, K. (2018). Investigating audience orientation in courtroom communication: The case of the closing argument. *Pragmatics and Society, 9*(4), 545-570.

Chambers, S. (2009). Rhetoric and the public sphere: Has deliberative democracy abandoned mass democracy? *Political Theory, 37*(3), 323-350.

Copi, I. M., Cohen, C. & McMahon, K. (2016). *Introduction to logic*. New York: Routledge.

Corbett, E. P. J. (2004). *Classical rhetoric.* In Rivikin, J. & Ryan, M. (Ed) *Literary Theory: An Anthology* (pp.142-161). Australia: Blackwell Publishing.

Corbett, E. P. J. & Connors, R. J. (1999). *Classical rhetoric for the modern student*. London: Oxford University Press.

Cotterill, J. (2001). Presenting reality in court: Power and persuasion in trial discourse, as exemplified in The People v. Orenthal James Simpson. *International Journal of Speech, Language & the Law, 8*(1), 161-163.

Cotterill, J. (2003). *Language and power in court: A linguistic analysis of the O.J. Simpson Trial*. Basingstoke: Palgrave Macmillan.

Cowles, K. M. (2011). *Communication in the courtroom*. Unpublished bachelor's thesis, Coastal Carolina University, Conway, South Carolina.

Cresswell, J. W. (1994). *Research design: Qualitative and quantitative approaches*. London: Sage.

Crystal, D. & Davy, D. (1969). *Investigating English style*. New York: Longman.

Demirdogen, U. D. (2010). The roots of research in (politics) persuasion: Ethos, pathos, logos and the Yale studies of persuasive communications. *International Journal of Social Inquiry, 3*(1), 189-201.

Drasovean, A. & Tagg, C. (2015). Evaluative language and its solidarity-building role on TED.com: An appraisal and corpus analysis. *Language@Internet, 12*(1), 1-14.

Edo-Marzá, N. (2011). A comprehensive corpus-based study of the use of evaluative adjectives in promotional hotel websites. *Odisea, 12*, 97-123.

Edu-Buandoh, D. F. & Ahialey, H. O. (2012). Exploring the ideological implications of questions in elicitation in courtroom cross-examination discourse in Ghana. *Language, Discourse and Society, 1*(2), 11-30.

Eemeren, F. H. V. & Houtlosser, P. (2002). Strategic maneuvering. In F. H. Van Eemeren & P. Houtlosser (Eds.), *Dialectic and rhetoric: The warp and woof of argumentation analysis* (pp. 131-159). Dordrecht: Springer.

Feist, J. (2016). *Semantic structure in English*. London: John Benjamins

Fludernik, M. (2014). A narratology of the law? Narration in legal discourse. *Critical Analysis of Law, 1*(1), 87-109.

Fludernik, M. (2010). Erzählung aus narratologischer Sicht. B. Engler (Ed.), *Er zählen in den wissenschaf ten: Positionen, pr obleme, per spektiven* (pp. 5–22). Fribourg: Fribourg Academic Press.

Fumaroli, M. (1980). *Courtroom interaction, legal discourse: Pragmatics and legal culture, a general framework.* London: Sage.

Gedzi, S. K. (2015). Context and erection of legal system in Ghana. *Advances in Social Sciences Research Journal, 2*(2), 116-121.

Geiger, G. J. (2003). *Persuasive strategies and closing argument in a trial setting: A pilot study.* Unpublished master's thesis, University of Hawai, Hawai.

Geiger, R. L. (2004). *Knowledge and money: Research universities and the paradox of the marketplace.* Redwood City: Stanford University Press.

Ghanaian Chronicle. (2013, August 4th). Ghana: Election petition-written address of Counsel for petitioners. Retrieved from Allafrica.com/stories /201308200269.html, 19 August.

Graff, R. & Winn, W. (2006). Presenting "communion" in Chaïm Perelman's new rhetoric. *Philosophy and Rhetoric, 39*(1), 45-71.

Greenbaum, S. (1996). *A student's grammar of the English language.* Harlow: Longman.

Greenbaum, S. (1996). *English grammar*. London: Oxford University.

Grimaldi, W. M. A. (1980). *Aristotle, rhetoric I: A commentary*. New York: Fordham University Press.

Groarke, L. (2015). Going multimodal: What is a mode of arguing and why does it matter? *Argumentation, 29*, 133-155.

Grootendorst, R. & Van Eemeren, F. H. (2004). *A systematic theory of argumentation: The pragma-dialectical approach*. Cambridge University Press.

Gyasi, O. S. (1997). Communication strategies: Persuasion and politeness in Akan judicial discourse. *Walter de Gruyter, 17*(1), 25-51.

Haack, S. (2004). Epistemology legalised: Or, truth, justice and the American way. *American Journal of Jurisprudence, 49*, 43-61.

Hall, S. (1997). *Representation: Cultural representation and signifying practices.* London: Sage.

Halmari, H. & Virtanen, T. (2005). *Persuasion across genres: A linguistic approach.* Houston: John Benjamins.

Heffer, C. (2005). *The language of jury trial: A corpus-aided analysis of legal discourse.* Basingstoke: Palgrave Macmillan.

Hewings, M. (2004). An important contribution or tiresome reading? A study of evaluation in peer reviews of journal article submissions. *Journal of Applied Linguistics, 1*, 247-274.

Heyman, S. J. (1991). Aristotle on political justice. *Iowa Law Review, 77,* 851-871.

Higgins, C. & Walker, R. (2012). Ethos, logos, pathos: Strategies of persuasion in social/environmental reports. *Accounting Forum, 36,* 194-208.

Hobbs, P. (2003). Is that what we're here about? A lawyer's use of impression management in a closing argument at trial. *Discourse & Society, 14,* 273-290.

Hobbs, P. (2007). Humour. *Walter de Gruyter, 20*(2), 123-156.

Holley, K. (2009). The challenge of interdisciplinary curriculum: A cultural analysis of a doctoral degree program. *Higher Education, 58,* 241-255.

Huning, M. (2007). *TextSTAT* (version 2.7) [Simple text analysis software].

Hyland, K. (1988). Persuasion and context: The pragmatics of academic metadiscourse. *Journal of Pragmatics, 30,* 437-455.

Hyland, K. (2008). Persuasion, interaction and the construction of knowledge: Representing self and others in research writing. *International journal of English studies, 8*(2), 1-23.

Hymes, D. (1964). *Language in culture and society: A reader in linguistics and anthropology.* New York: Harper & Row.

Indiana University. (2002). *Maurer school of law guidelines*. Bloomington: Indiana University Press.

Javadi, M. & Zarea, K. (2016). Understanding thematic analysis and its pitfall. *Journal of Client Care, 1*(1), 34-40.

Johnson, J. A. (2011). Persuasion in opening statement: Generating interest in a convincing manner. *Michigan Bar Journal, 90*(1), 42-45.

Johnstone, B. (1989). *Linguistic strategies, cultural style in persuasive discourse*. Texas: Sage.

Jolliffe, W. (2010). *The implementation of cooperative learning: A case study of cooperative learning in a networked learning community*. Unpublished doctoral thesis, University of Hull, Kingston.

Juarez, V. C. (2007). *Give until it hurts: The speeches and letters of Mother Teresa.* Unpublished master's thesis, Texas Tech University, Texas, USA.

Kennedy, C. K. (2007). Closing argument: Through the eyes of a trial advocate. *American Journal of Trial Advocacy, 30*, 593-608.

Kovecses, Z. (2010). *Metaphor: A practical introduction.* New York: Oxford University Press.

Krebs, R. R. & Jackson, P. T. (2007). Twisting tongues and twisting arms: The power of political rhetoric. *European Journal of International Relations, 13*(1), 35-66.

Kritzer, H. M. (2009). The art of persuasion in science and law: Conflicting norms in the courtroom. *Law and Contemporary Problems*, *72*(41), 41-61.

Kumova, B. I. & Cakir, H. (2010). The fuzzy syllogistic system. *Advances in Soft Computing*, 418-427.

Labov, W. & Waletsky, J. (1967). Narrative analysis. In J. Helm (Ed.), *Essays on the verbal and visual arts* (pp. 2-15). Seattle: University of Washington Press.

Lakoff, G. & Johnson, M. (1980). *Metaphors we live by*. Chicago: The University of Chicago Press.

Lakoff, G. (1980). What ever happened to deep structure? *Behavioral and Brain Sciences, 3*(1), 22-23.

Lakoff, R. T. (1982). Persuasive discourse and ordinary conversation, with examples from advertising. In D. Tannem (Ed.), *Analyzing discourse: Text and talk* (pp. 25-42). Washington, D.C.: Georgetown University.

Landau, N. (1988). The laws of settlement and the surveillance of immigration in eighteenth-century Kent. *Continuity and Change, 3*(3), 391-420.

Landau, S. F. (1988). Violent crime and its relation to subjective social stress indicators: The case of Israel. *Aggressive Behavior, 14*(5), 337-362.

Leary, M. R. & Tangney, J. P. (Eds.). (2012). *Handbook of self identity* (2nd ed.). Washington: The Guilford Press.

Leedy, P. D. & Ormrod, J. E. (2005). *Practical research: Planning and design* (8th ed.). Upper Saddle River: Pearson Education, Inco.

Leff, M. (2003). Rhetoric and dialectic in Martin Luther King's 'Letter from Birmingham Jail'. In F. H. Eemeren, J. A. Blair, C. A. Willard & A. F. S. Henkemans (Eds.), Anyone who has a view: *Theoretical contributions to the study of argumentation* (pp. 255-268). Dordrecht: Kluwer Academic.

Leff, M. (2009). Perelman, ad Hominem argument, and rhetorical ethos. *Argumentation 23*, 301-311.

Levin, B. (2007). Sustainable, large-scale education renewal. *Journal of Educational Change, 8*(4), 323-336.

Liao, M. (2019). Politeness in the courtroom discourse. *Forensic Research & Criminology International Journal, 7*(2), 45-61.

Lipson, J. (2008). *The art of cross-examination*. London: Trans Media Productions Inc.

Lorenz, K. (1966). *On aggression.* New York: Harcourt, Brace & World.

Luchjenbroers, J. (1997). "In your own words...": Questions and answers in a supreme court trial. *Journal of Pragmatics, 27*, 477-503.

Macagno, F. & Walton, D. (2010). What we hide in words: Emotive words and persuasive definition. *Journal of Pragmatics, 42*(7), 1997-2013.

Macagno. F. & Walton, D. (2012). Character attacks: Complex strategies of legal argumentation. *International Journal of Law, Language and Discourse*, *2*(3), 59-117.

Macagno. F. & Walton, D. (2014). *Emotive language in argumentation.* Cambridge: Cambridge University Press.

Maguire, M. & Delahunt, B. (2017). Doing a thematic analysis: A practical, step-by-step guide for leaning and teaching scholars. *All Ireland Journal of Teaching and Learning in Higher Education*, *8*(3), 3351-33513.

Makela, F. (2011). Metaphors and models in legal theory. *Les Cahiers de Droit, 52*(3-4), 397-415.

Maley, Y. (1994). The language of the law. In J. Gibbons (Ed.), *Language and the law* (pp. 11-31). London: Longman.

Maltese, A., Alesi, M. & Alu, A. G. M. (2012). Self-esteem, defensive strategies and social intelligence in the adolescence. *Social and Behavioral Sciences, 69*, 2054-2060.

Martin, J. R. & White, P. R. R. (2005). *The language of evaluation: Appraisal in English*. New York: Palgrave Macmillan.

Martin, J. R. (2000). Beyond exchange: Appraisal systems in English. In S. Hunston & G. Thompson (Eds.), *Evaluation in text* (pp.142-175). Oxford: Oxford University Press.

Marza, L. E. (2011). A comprehensive corpus-based study of the use of evaluative adjectives in promotional hotel websites. *Odisea, 12*, 97-123.

Mazzocco, P. & Green, M. C. (2011). Narrative persuasion in legal settings: What's the story. *The July Expert, 27*, 3-14.

McCormack, K. C. (2014). Ethos, pathos, and logos: The benefits of Aristotelian rhetoric in the courtroom. *Washington University Jurisprudence Review, 7*(1), 131-155.

Metsämäki, N. (2012). Persuasive discourse in EFL debate. *Theory and Practice in Language Studies, 2*(2), 205-213.

Miller, M. K. & Bornstein, B. H. (2012). Religious appeals in closing arguments: Impermissible input or benign banter? *Law and Psychology Review, 29*, 29-61.

Mitchell, M. & Egudo, F. (2003). *A review of narrative methodology.* Edinburgh: DSTO Systems Sciences Laboratory.

Mitelut, C. C. (2012). *Scientific explanation and the philosophy of persuasion: Understanding rhetoric through scientific principles and mechanisms.* Unpublished master's thesis, University of Windsor, Windsor.

Mootz III, F. J. (2010). Perelman's theory of argumentation and natural law. *Philosophy & Rhetoric, 43*(4), 383-402.

Nettel, A. L. & Roque, G. (2012). Persuasive argumentation versus manipulation. *Argumentation, 26*(1), 55-69.

O'Keefe, D. J. (1990). *Persuasion: Theory and practice.* Newbury Park: Sage.

Obeng, S. G. (1997). Language and politics: Indirectness in political discourse. *Discourse and Society, 8*(1), 49-83.

Olson, G. (2010). De-Americanizing law and literature narratives: Opening up the story. *Law & Literature, 22,* 338-364.

Olson, G. (2014). Towards a comparative and localized study of Brazilian law and literature. In S. Arnold & M. Korfmann (Eds.), *Law and literature at the turn of the millennium* (pp. 15-38). Porto Alegre: Editora Dublinense.

Opoku-Mensah, E. (2005). *The rhetoric of Kwame Nkrumah: An analysis of his political speeches.* Unpublished doctoral thesis, University of Cape Town, Cape Town.

Oteiza, T. (2017). The appraisal framework and discourse analysis. In T. Bartlett & G. O'Grady (Eds.), *The Routledge handbook of systemic functional linguistics* (pp. 457-472). London: Routledge.

Otite, A. & Umukoro, N. (2010). Money politics, political culture of godfatherism and the future of democracy in Nigeria: Lessons from the 2007 gubernatorial election in Edo State. *Africana, 4*(2), 65-79.

Owusu-Mensah, I. & Frempong, A. K. D. (2015). The judiciary and Ghana's 2012 elections: Analysis of 2012 presidential elections petition and its ramifications for democratic development in Ghana. *Developing Country Studies, 5*(20), 20-33.

Packard, V. (1958). *The hidden persuaders*. New York: Pocket Book.

Pandey, A. (2004). Constructing otherness: A linguistic analysis of the politics of representation and exclusion in freshmen writing. *Applied Linguistics, 4*(2), 153-184.

Parvin, F. & Poshti, A. A. R.. (2013). A comparative approach to the law governing the contracts. *The Judiciary Law Journal, 77*(82), 39-63.

Paton, G. E. C. (1998). The comedian as portrayer of social morality. In C. Powell & G. E. C. Paton (Eds.), *Humour in society: Resistance and control* (pp. 206-233). London: Macmillan.

Patpong, P. (2009). Thai persuasive discourse: A systemic functional approach to an analysis of amulet advertisements. *Revista Alicantina de Estudios Ingleses, 22*, 195-217.

Patton, M. Q. (2002). *Qualitative research & evaluation methods* (3rd ed.). London: Sage.

Perelman, C. & Olbrechts-Tyteca, L. (1969). *The new rhetoric: A treatise on argumentation.* Notre Dame: University of Notre Dame Press,

Perelman, C. (1979). The new rhetoric: A theory of practical reasoning. In C. Perelman (Ed.), *The new rhetoric and the humanities* (pp. 1-42). Dordrecht: Springer.

Perelman, C. (1982). *The realm of rhetoric* (W. Kluback, Trans.). Notre Dame: University of Notre Dame Press.

Perelman, M. (2001). The secret history of primitive accumulation and classical political economy. *The Commoner*, 1-21.

Perloff, R. M. (2003). *The dynamics of persuasion: Communication and attitudes in the 21st century* (2nd ed.). New Jersey: Lawrence Erlbaum Associates.

Pettys, I. E. (2007). The emotional juror. *Fordham Law Review*, *76*, 1609-1640.

Schofield, P. (2010). Jeremy Bentham and HLA Hart's 'utilitarian tradition in jurisprudence'. *Jurisprudence*, *1*(2), 147-167.

Picornell, I. (2013). *Cues to deception in a textual narrative context: Lying in written witness statements*. Unpublished doctoral thesis, Aston University, Birmingham, England.

Prasetyanti, D. C. (2011). *Appraisal devices used to realise attitude in Soekarno's speech.* Unpublished master's thesis, Universitas Myhammadiya Semarang, Indonesia.

Preece, J. & Biao, I. (2010). *Community service as open learning: Case of ITMUA (implementing the third mission of universities in Africa).* Paper presented at the Conference of Rectors, Vice Chancellors and Presidents of African Universities (COREVIP), Stellenbosch, South Africa May 30–June 3 2011.

Quirk, R. & Greenbaum, S. (1975). *A university grammar of English.* London: Essex.

Quirk, R. & Greenbaum, S. (1973*). A university grammar of English*. Essex: Longman.

Quirk, R. Greenbaum, S., Leech, G. & Svartvik, J. (1985). *A comprehensive grammar of the English language*. London: Longman.

Ray, B. (2015). "It's beautiful": Language difference as a new norm in college writing instruction. *College Composition and Communication, 67*(1), 87-103.

Republic of Ghana. (1992). *The 1992 constitution*. Retrieved from http://www.ghanaweb.com.Ghana/Home/Page/republic/constitution.php?id=Gconst.html.

Republic of Ghana. (2010). *Judicial service annual report, 2009/10*. Accra: Judicial Service.

Roberts, S. (1984). Introduction: Some notes on "African customary law". *Journal of African Law, 28*(1-2), 1-5.

Rood, L. (2013). Should you specialise? Practice note. *De Rebus, 537*, 1-13.

Rood, P. (2015). *From sisters to CEO's: Defining organizational rhetoric in a case study of social sorority bylaws.* Unpublished master's thesis, University of Central Florida, Orange County, Florida.

Rosulek, L. F. (2007). Dual identities: Lawyers' construction of self in the closing arguments of criminal trials. *Texas Linguistic Forum 51*,154-164.

Rosulek, L. F. (2010). Prosecution and defense closing speeches: The creation of contrastive closing arguments. In A. Johnson (Ed.), *The Routledge handbook of forensic linguistics* (pp. 246-258). London: Routledge.

Rosulek, L. F. (2014). *Dueling discourses: The construction of reality in closing arguments*. London: Oxford University Press.

Sarfo-Adu, K. (2018). *On the road to the presidency: A pragma-rhetorical analysis of the campaign speeches of John Agyekum Kufuor*. Unpublished doctoral thesis, University of Cape Coast, Cape Coast.

Sasaki, K. I. (2008). A silent rhetoric: The mechanism of propaganda as persuasion. *Contemporary Aesthetics, 6*(1), 1-19.

Saylor, D. & Small, D. (2017). *Elicit facts, don't argue in cross examination*. Boston: Massachusetts Lawyers Weekly.

Schneider, J., Groza, T. & Passant, A. (2013). A review of argumentation for the social semantic web. *Semantic Web*, 159-218.

Sezler, J. (2004). Rhetorical analysis: Understanding how text persuade readers. In C. Bazerman & P. Prior (Eds.), W*hat writing does and how it does it: An introduction to analyzing text and textual practices* (pp. 279-307). London: Routledge.

Spiecker, S. C. & Worthington, D. L. (2003). The influence of opening statement/closing argument: Organizational strategy on juror verdict and damage awards. *Law and Human Behavior, 27*(4), 437-456.

Sprague, I. & Stuart, D. (2000). *The speaker's handbook* (5th ed.). Fort Worth: Harcourt College.

Staszak, J. (2008). *Other/otherness: International encyclopaedia of human geography.* London: Elsevier.

Strauss, A. & Corbin, J. (1988). *Basics of qualitative research: Techniques and procedures for developing grounded theory* (2nd ed.). Newbury Park: Sage.

Suddaby, R. & Greenwood, R. (2005). Rhetorical strategies of legitimacy. *Administrative Science Quarterly, 50*(1), 35-67.

Suhadi, J. (2018). The adequacy of grammatical metaphor to account for world languages. *KnE Social Sciences*, 1-14.

Supardi, (2015). Language power in courtroom: The use of persuasive features in opening statements. *Indonesian Journal of Applied Linguistics, 6*(1), 70-78.

Tessler, M., Tenebaum, J. B. & Goodman, N. D. (2014). Logic, probability and pragmatics in syllogistic reasoning. *Topics in Cognitive Science, 14*, 574-601.

Tessler, N. (2014). Experimental techniques and the underlying device physics. *Journal of Polymer Science, 52*(17), 1119-1152.

The Judicial Service of Ghana. (2011). *The criminal bench book*. Accra: Judiciary of Ghana and Judicial Training Unit.

Thompson, E. E. (2021). Botched Ebola vaccine trials in Ghana: An analysis of discourses in the media. *Vaccines, 9*(2), 1-14.

Thompson, G. & Hunston. S. (2000). Evaluation: An introduction. In S. Hunston & G. Thompson (Eds.), *Evaluation in text* (pp. 1-27). Oxford: Oxford University Press.

Tindale, C. W. (2004). *Rhetorical argumentation: Principles of theory and Practice*. London: Sage.

Salmi-Tolonen, T. (2005). Persuasion in judicial argumentation: The opinions of the advocates general at the European court of justice. In H. Halmari & T. Virtanen (Eds.), *Persuasion across genres: A linguistic approach* (pp. 59-1010. Amsterdam: John Benjamins.

Torto, R. T. (2020). Aristotelian rhetorical theory as a framework for analysing advertising texts in the print media in Ghana. *Theory and Practice in Language Studies, 10*(3), 269-283.

Toulmin, S. E. (1958). *The uses of argument*. New York: Cambridge University Press.

van Dijk, T. A. (1993). Principles of critical discourse analysis. *Discourse & Society, 4*(2), 249-283.

van Dijk, T. A. (1998). *Ideology: A multidisciplinary approach*. London: Sage.

van Dijk, T. A. (2006). Discourse and manipulation. *Discourse and Society, 17*, 359-383.

van Dijk, T. A. (2009). *Discourse and society: How social contexts influence text and talk*. Cambridge: Cambridge University Press.

van Dijk, T. A. (Ed.). (2007). *Discourse studies* (5 vols.). London: Sage.

van Eemeren, F. H. & Grootendorst, R. (2004). *A systemic theory of argumentation: The pragma-dialectical approach*. Cambridge: University Press Cambridge.

van Eemeren, F. H. & Houtlosser, P. (2002). Strategic maneuvering in argumentative discourse: A delicate balance. In F. H. van Eemeren & P. Houtlosser (Eds.), *Dialectic and rhetoric: The warp and woof of argumentation analysis* (pp. 131-159). Dordrecht: Kluwer Academic.

Vaughan, S. A. (2010). Persuasion is an art... but it is also an invaluable tool in advocacy. *Baylor Law Review, 61*(2), 437-682.

Vendler, Z. (1968). *Adjectives and nominalizations.* The Hague: Mouton and Co.

Virtanen, T. (2005). Polls and surveys show public opinion as a persuasive device in editorial discourse. In Halmari, H. & Virtanen, T. (Eds.), *Persuasion across genres: A linguistic approach* (pp.153-180). Amsterdam: John Benjamins.

Voss, J. F. & Van Dyke, J. A. (2001). Argumentation in psychology: Background comments. *Discourse Processes, 32*(2-3), 89-111.

Waicukauski, R., Sandler, P. M. & Epps, J. (2001). *The winning argument*. Chicago, IL: American Bar Association.

Walton, D. (2018). *Legal reasoning and argumentation*. Berlin: Springer.

Walton, D., Reed, C. & Macagno, F. (2008). *Argumentation schemes*. Cambridge: Cambridge University Press.

Watling, C. (2015). The power of parallel structure. *Perspectives on Medical Education, 4*(6), 329-330.

Webster, N. (1971). *Webster's third new international dictionary of the English language*. Massachusetts: G & C. Merriam Co.

White, H. (2000). A reality check for data snooping. *Econometrica, 68*(5), 1097-1126.

White, L. (2003). *Second language acquisition and universal grammar*. Cambridge: Cambridge University Press.

Wiebe, J., Bruce, R., Bell, M., Martin, M. & Wilson, T. (2001). A corpus study of evaluative and speculative language. In *Proceedings of the Second SIGdial Workshop on Discourse and Dialogue*, 186-195.

Williams, M. A. (2003). Arguing with style: How persuasion and the enthymeme work together in on invention book 3. *Southern Communication Journal, 68*(2), 136-151.

Williamson, G., Stevenson, G., Neely, S., Coyle, L. & Nixon, P. (2006, November). *Scalable information dissemination for pervasive systems: Implementation and evaluation*. Paper presented at the 4th International Workshop on Middleware for Pervasive and Ad-Hoc Computing, Melbourne, Australia.

Willis, J. (2011). *Rhetorical motives in advertising: A theory of advertising genre as religious discourse*. Unpublished doctoral thesis, University of Saskatchewan Saskatoon, Saskatoon.

Wohl, P., Waicukauski, J. A. & Williams, T. W. (2001, November). Design of compactors for signature-analyzers in built-in self-test. In *Proceedings International Test Conference 2001* (Cat. No. 01CH37260) (pp. 54-63). New York: Institute of Electrical and Electronic Engineering.

Žmavc, J. (2008). Rhetoric: A tool of intercultural communication between ancient Greeks and Romans. *School Field*, *1*9(3/4), 15-33.

APPENDICES

Attached are three appendices: A, B and C.

A: Introductory Letter
B: Extracts of the Closing Addresses Presented by the Petitioners and the 3rd Respondent's Counsels
C: Tracking Key Words in Context (KWIC) Using TextStart Software

APPENDIX A

INTRODUCTORY LETTER

UNIVERSITY OF CAPE COAST
COLLEGE OF HUMANITIES AND LEGAL STUDIES
FACULTY OF ARTS
DEPARTMENT OF ENGLISH

TELEPHONE: 050-3180544/03320-92195

Email: english@ucc.edu.gh
englishdepartment53@gmail.com

University of Cape Coast
Cape Coast. Ghana

OUR REF: ED/S/7/75
YOUR REF:

5th November, 2020

Dear Sir/ Madam,

INTRODUCTION- HELEN O. AHIALEY (AR/DEN/13/0001)

We write to acknowledge that Ms. Helen O. Ahialey is a final year PhD student of this Department and she is currently writing her thesis titled; 'Persuasive Strategies in Counsels' Closing Arguments: A Case Study of Ghana 2012 Election Petition Hearing'.

Kindly accord her any assistance she may need.

Thank you for your anticipated support.

Yours faithfully,

Prof. J. B. A. Afful (PhD)
Head of Department

APPENDIX B
LETTER REQUESTING FOR COUNSELS' CLOSING ADDRESSES

DEPARTMENT OF ENGLISH
UNIVERSITY OF CAPE COAST
CAPE COAST

10TH NOVEMBER, 2020

THE JUDICIAL SECRETARY
JUDICIAL SERVICE OF GHANA
ACCRA

Dear Sir/Madam,

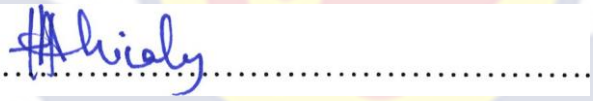
REQUEST FOR COUNSELS' CLOSING ADDRESSES FOR 2012 ELECTION PETITION HEARING

I should be very grateful if I were provided with the closing addresses of the four Counsels who represented the litigating parties namely: the Petitioners, 1st, 2nd and 3rd Respondents respectively at the 2012 Election Petition Hearing.

The addresses formed part of my data for a doctoral thesis that I am currently writing.

Thank you very much for your usual co-operation.

Yours faithfully,



HELEN AHIALEY (MRS.)

APPENDIX C
EXTRACTS OF THE CLOSING ADDRESES PRESENTED BY THE COUNSELS FOR THE PETITIONERS

"IN THE SUPERIOR COURT OF JUDICATURE IN THE SUPREME COURT ACCRA – A. D. 2013

PETITION NO.J1/6/2013

PRESIDENTIAL ELECTION PETITION

IN THE MATTER OF A PETITION CHALLENGING THE VALIDITY OF THE ELECTION OF JOHN DRAMANI MAHAMA AS PRESIDENT OF THE REPUBLIC OF GHANA PURSUANT TO THE PRESIDENTIAL ELECTION HELD ON 7TH AND 8TH DECEMBER 2012:

Article 64 of the Constitution, 1992; Section 5 of the Presidential Election Act, 1992 (PNDCL 285); and Rules 68 & 68 A of the Supreme Court (Amendment) Rules 2012, C. I. 74

B E T W E EN:

1. NANA ADDO DANKWA AKUFO-ADDO
   House No. 2, Onyaa Crescent, Nima, Accra
2. DR. MAHAMUDU BAWUMIA House No. 10, 6th Estate Road Kanda Estates, Accra
3. JAKE OTANKA OBETSEBI-LAMPTEY

24, 4th Circular Road, Cantonments, Accra … Petitioners

A N D

1. JOHN DRAMANI MAHAMA
   Castle, Castle Road, Osu, Accra
2. THE ELECTORAL COMMISSION
   National Headquarters of the Electoral Commission

6th Avenue, Ridge, Accra

3. NATIONAL DEMOCRATIC CONGRESS (NDC)

Party Headquarters, Kokomlemle, Accra. …

Respondents

WRITTEN ADDRESS OF COUNSEL FOR PETITIONERS

A. Table of Contents

B. Introduction

On the 7th and 8th days of December, 2012, Ghana held its presidential and parliamentary elections. The presidential election was contested by seven (7) candidates who were sponsored by political parties and one (1) other who contested as an independent candidate. The 1st petitioner was the candidate of the New Patriotic Party (NPP). The elections were originally fixed for 7th December, 2012. Polls in certain polling stations were adjourned to 8th December, 2012, owing to the alleged failure of the biometric verification devices (BVD). In view of the requirement of the law regulating the conduct of the December 2012 elections for voting to take place only after prospective voters had successfully undergone biometric verification, the polls continued on the following day in the polling stations in which biometric verification devices had allegedly broken down. Thus, for the first time in the history of the Fourth Republic, a presidential election was held over two days, underscoring the importance of the requirement for biometric verification.

On 9th December, 2012, the Chairman of the 2nd Respondent, the body constitutionally and statutorily mandated to conduct and supervise public elections and referenda in the Republic and to declare the results thereof, declared the 1st Respondent, candidate of the 3rd Respondent, as the winner of the presidential contest with 5,574,761 votes (50.70%) and, thus, as having been validly elected as President of the Republic. Thereafter, on 10th December, 2012, the Declaration of President-Elect Instrument, 2012 (C. I. 80) was published under the hand of Dr. Kwadwo Afari-Gyan, the Chairman of the 2nd Respondent.

Having received reports of the commission of flagrant constitutional and statutory violations as well as malpractices and irregularities in the conduct of the election, the 1st petitioner, together with his vice-presidential candidate, 2nd petitioner and the 3rd petitioner, the National Chairman of the NPP, filed the instant petition on 28th December, 2012 against the

1st and 2nd Respondents herein. The 3rd Respondent, upon its own application, was joined pursuant to an order of this Honourable Court dated 22nd January, 2013.

To ensure a coherent presentation of the petitioners' case and to assist in a determination of their claims, this Address will be presented in the following order:-

a. facts underpinning the Petition

b. reliefs sought by Petition

c. summary of Answers filed by Respondents

d. issues for trial

e. explanation of the grounds for the reliefs claimed in petition, i.e. the various violations, malpractices and irregularities

f. burden and standard of proof

g. the legal effect of the violations, malpractices and irregularities stated by petitioners

h. the primary evidence of the violations, malpractices and irregularities stated in petition

i. categorisation/re-categorisation of the exhibits j. evaluation of the evidence led at the trial

k. statistical analysis of the impact of votes affected by infractions and l. conclusion

Where necessary, in order to aid further a better appreciation of this Address, sub-topics may be introduced under the foregoing heads of submissions. The Address will be presented in two volumes. Volume 1 will generally contain legal arguments, whereas Volume 2A and 2B will contain tables referred to in Volume 1, which sets out the polling stations in evidence.

C. FACTS UNDERPINNING PETITION.

In setting out the essential facts giving rise to the institution of this action, it is necessary to comment on some key actions and decisions taken by the 2nd Respondent in the run-up to the December 2012 elections which had far-reaching implications for the conduct of the 7th and 8th December, 2012 presidential elections. These significant actions and decisions by 2nd Respondent, it is respectfully submitted, provided in a large measure the context and environment for the occurrence of numerous constitutional and statutory violations, malpractices and irregularities that characterised the conduct of the elections, as was amply shown at the trial (Petitioners, p. 5)

Upon the close of nominations for the December 2012 presidential election, eight (8) nominations pronounced to be valid by the 2nd Respondent had been received. Following the conduct of the ballot to determine the placement of each candidate on the ballot paper to be used for the elections, the eight (8) candidates for the election were placed in the following order:

(1)	John Dramani Mahama	NDC
(2)	Dr. Henry Herbert Lartey	GCPP

(3)	Nana Addo Dankwa Akufo-Addo	NPP
(4)	Dr. Papa Kwesi Nduom	PPP
(5)	Akwasi Addai Odike	UFP
(6)	Hassan Ayariga	PNC
(7)	Dr. Michael Abu Sakara Forster	CPP
(8)	Jacob Osei Yeboah.	Independent

One disturbing decision by the 2nd Respondent was the registration of voters without assigning them to any polling station. An intriguing development was the announcement to Parliament on 15th June, 2012, by the Chairman of 2nd Respondent that, 2nd Respondent had registered some one million (1, 000,000) voters who had not been assigned to any polling station. This was contrary to Regulation 2 of the Public Elections (Registration of Voters) Regulations 2012, (C. I. 72), which required that registration of voters be carried out in designated polling stations, known for that purpose as registration centres.

It is the case of petitioners that, after 2nd Respondent had conducted its biometric registration exercise, it announced to the general public that the provisional number of voters registered was a little less than thirteen million (13,000,000) and that, after cleaning the provisional register and verifying same, it would publish the final number of registered voters. Surprisingly and contrary to legitimate expectations, when 2nd Respondent posted the final total number of registered voters on its website, the number had inexplicably increased by over one million (1,000,000).

On or about 26th September, 2012, that is some forty-two (42) days before the presidential election scheduled for 7th December, 2012, the 2nd Respondent,

acting through its Chairman, officially announced the total number of polling stations to be employed in conducting both the presidential and parliamentary elections in December 2012 as twenty-six thousand and two (26,002). This was ostensibly to ensure transparency, fairness and integrity of the December 2012 presidential and parliamentary elections. It was also to comply with Regulation 16(4) of the Public Elections Regulations, 2012 (C.I.75), which prohibited the establishment of new polling stations within forty-two (42) days of an election. In order to ensure the integrity of results emanating therefrom, polling stations were to be identified by a combination of both their names and unique codes assigned to each of them.

The petitioners further say that the total number of registered voters, that 2nd Respondent furnished petitioners' party, the NPP, was fourteen million and thirty-one thousand, six hundred and eighty (14,031,680). Surprisingly, it came to the notice of the petitioners that 2nd Respondent had on Sunday, 9th December, 2012, declared the total number of registered voters as 14,158,890. Furthermore, on the same date, 2nd Respondent posted on its website the total number of registered voters as 14,031,793, showing a clear disparity of 127,097. The figure of 14,031,793 was also different from that of 14,031,680, which was declared as the total number of registered voters in the case of the parliamentary elections, and which had also earlier on been furnished the NPP as the total number of registered voters.

Contrary to Regulation 21 (2) of the Public Elections (Registration of Voters) Regulations 2012 (C. I. 72), 2nd Respondent failed to provide the NPP with a provisional register of voters for each polling station, thereby disabling

petitioners and their party from effectively verifying the names on the list to ascertain their authenticity.

The 2nd Respondent furnished the petitioners' party, NPP, with a copy of the final voters register only a few days before the conduct of the general elections i.e. from 19th November to 2nd December, 2012. This inordinate delay in furnishing the NPP with the final voters register prevented the NPP from scrutinizing the said register and, thereby, contributed substantially in undermining the transparency, fairness and integrity of the December 2012 elections. Pet p.7

Although a common register was to have been compiled for both the presidential and parliamentary elections, it turned out from the results declared by the 2nd Respondent that the total number of registered voters in respect of the presidential election exceeded that of the registered voters for the parliamentary elections by one hundred and twenty-seven thousand, two hundred and ten (127,210) voters. The petitioners respectfully contend that there cannot lawfully be different totals of registered voters for the presidential and parliamentary elections.

The significance of the foregoing would become more relevant at the trial, where it came to light that the 2nd Respondent had no explanation for the initial increase in the total number of registered voters from 13, 917, 366 to 14, 158, 890 (as contended in paragraph 6 of the 2nd Respondent's 2nd Amended Answer, filed on 3rd April, 2013). The relevance of the unpredictable nature of the register of voters used in the December 2012 elections is again emphasised by the many instances of multiple registrations, voting without biometric verification and over-voting witnessed in the elections.

Following the completion of the presidential election on 8th December, 2012, the Chairman of the 2nd Respondent, pursuant to Regulation 5(5) of C. I. 75, declared the results of the presidential election to the general public via radio and television in the evening of 9th December 2012 as follows:

(i) the total number of registered voters was fourteen million one hundred and fifty-eight thousand eight hundred and ninety (14,158, 890). This number of registered voters so declared was, however, in excess of the official total number of registered voters of fourteen million and thirty-one thousand six hundred and eighty (14,031,680) which the 2nd Respondent had furnished the NPP between 19th November, 2012 and 2nd December, 2012 by as much as one hundred and twenty-seven thousand, two hundred and ten (127,210) votes.

(ii) total votes declared as cast in favour of the contesting presidential candidates were as follows:

(1) John Dramani Mahama	--	5,574,761	50.70%
(2) Dr. Henry Herbert Lartey	--	38,223	0.35%
(3) Nana Addo Dankwa Akufo-Addo	--	5,248,898	47.74%
(4) Dr. Papa Kwesi Nduom	--	64,362	0.59%
(5) Akwasi Addai Odike	--	8,877	0.08%
(6) Hassan Ayariga	--	24,617	0.22%
(7) Dr. Michael Abu Sakara Forster	--	20,323	0.18%
(8) Jacob Osei Yeboah	--	15,201	0.14%
		10,995,262	100%

The difference in votes between the 1st petitioner and the 1st Respondent, as declared by the 2nd Respondent, was 325,863.

In fact, prior to the declaration of the results by the 2nd Respondent, the NPP, in the afternoon of 9th December, 2012, met with the Chairman of the 2nd Respondent to put forward its concerns about the election results and requested that the declaration of the results by the 2nd Respondent be delayed, in order that these concerns be addressed. The Chairman of the 2nd Respondent failed to heed the call of the NPP for a suspension of the declaration of the results on the ground that insufficient information had been made available to him. He refused to probe the results and, particularly, referred to the fact that the number of Statements of Poll and Declaration of Results of Election for the Office of President ("pink sheets"), which constituted the primary basis on which results were faxed to the offices of the 2nd Respondent for him subsequently to declare the presidential election result, was inadequate for him to stop the declaration based on same. The 2nd Respondent's Chairman, thus, went ahead and declared the result of the presidential election.

The anomalies in various actions and decisions of the 2nd Respondent in the run-up to the December 2012 elections, together with the receipt by the petitioners of numerous complaints relating to constitutional and statutory violations, malpractices and irregularities detected across the country in the conduct of the election, suggested that the declaration by the 2nd Respondent did not accurately reflect the will of Ghanaians. This led the NPP to put together a task force headed by the 2nd petitioner to investigate the results, as declared by the 2nd Respondent.

Painstaking investigations, conducted by the petitioners after the polls, revealed that the 2nd Respondent inexplicably issued an inordinate amount of ballots to polling stations relative to the number of registered voters at the polling stations.

Whereas the declared policy of the 2nd Respondent for the 2012 elections was to issue each polling station with ballots of some 5-10% higher than the number of registered voters at that polling station, the evidence shows that in 10,097 polling stations, which excludes the 22 unknown polling stations (relied upon by petitioners), 2nd Respondent's voters register (14,031,680 version) indicated total registered voters of 5,198,554, but the ballots issued to the 10,097 polling stations amounted to 10,245,680, which is about one hundred percent (100%) more than the registered voters at these polling stations. This unwarranted increase in the number of ballot papers issued to these polling stations can be verified by comparing the aggregate of the total number of registered voters as set out in B1 of the pink sheets to the aggregate of the figures in A1 (total number of ballots issued to the polling stations) on those pink sheets. This created room and a fruitful opportunity for electoral malpractices, such as over-voting and voting without biometric verification.

Further investigations, conducted by the NPP within the constitutionally stipulated period of twenty-one (21) days for the presentation of a presidential election petition, disclosed a number of constitutional and statutory violations, malpractices and irregularities in the conduct of the election. These investigations involved an examination of some 24,000 out of the 26,002 pink sheets, which, as stated above, served as the primary record on which results are declared at all the 26,002 polling stations and on the basis of which the final national results were subsequently declared by the 2nd Respondent. The main categories of constitutional and statutory violations, malpractices and irregularities are as follows:

i. widespread instances of over-voting, i.e. where votes cast exceeded (a) the total number of ballot papers issued to voters on election day or (b) where votes cast at various polling stations exceeded the total number of registered voters in violation of article 42 of the Constitution, the universally-acknowledged principle of "one man, one vote" and Regulation 24(1) of C. I. 75;

ii. widespread instances of people voting at polling stations without prior biometric verification in violation of the law governing the elections of December 2012, particularly, Regulation 30(2) of C. I. 75;

iii. widespread instances of polling stations where alleged results appearing on the pink sheets were not authenticated by the signatures of presiding officers or their assistants in violation of article 49(3) of the Constitution and Regulation 36(2) of C. I. 75;

iv. widespread instances where voting took place in certain locations which could not be identified as part of the official list of 26,002 polling stations created by the 2nd Respondent for the conduct of the December 2012 presidential elections;

v. widespread instances of polling stations where different results were strangely recorded on pink sheets bearing the same polling station codes, contrary to the expressed and accepted policy of 2nd Respondent for each polling station to be assigned a unique code in order to guarantee the integrity of the results and to avoid confusing one polling station with another;

vi. widespread instances where different results were declared on pink sheets bearing the same serial numbers, contrary to the established procedure of 2nd Respondent. These serial numbers were for the purpose of uniquely identifying each pink sheet."

APPENDIX D
EXTRACTS OF CLOSING ADDRESS FOR THE 3RD RESPONDENT'S COUNSELS

"IN THE SUPERIOR COURT OF JUDICATURE IN THE SUPREME COURT ACCRA

WRIT NO. J1/6/2013

PRESIDENTIAL ELECTION PETITION

IN THE MATTER OF A PETITION CHALLENGING THE VALIDITY OF THE ELECTION OF JOHN DRAMANI MAHAMA AS PRESIDENT OF THE REPUBLIC OF GHANA PURSUANT TO THE PRESIDENTIAL ELECTION HELD ON 7TH AND 8TH DECEMBER, 2012

Article 64 of the Constitution, 1992; Section 5 of the Presidential Election Act, 1992 (PNDCL 285); and Rule 68 and 68A of the Supreme Court (Amendment) Rules 2012, C. I. 74

BETWEEN

1. NANA ADDO DANKWA AKUFO-ADDO)
2. DR. MAHAMADU BAWUMIA)
3. JAKE OBETSEBI LAMPTEY)

- PETITIONERS

AND

1. JOHN DRAMANI MAHAMA)
2. THE ELECTORAL)
3. NATIONAL DEMOCRATIC CONGRESS)

- RESPONDENTS

WRITTEN SUBMISSIONS FILED ON BEHALF OF 3RD RESPONDENT

A. INTRODUCTION

1. The petition in this case was originally filed on 28th December, 2012 and amended twice pursuant to leave granted by the Court. The 2nd Amended Petition filed on 8th February, 2013, seeks the following reliefs: "..... that the Supreme Court declares:

(1) That John Dramani Mahama, the 2nd Respondent herein was not validly elected President of the Republic of Ghana.

(2) That Nana Addo Dankwa Akufo-Addo, the 1st Petitioner herein, rather was validly elected President of the Republic of Ghana.

(3) Consequential orders as to this Court may seem meet." (see paragraph 30 of the 2nd Amended Petition).

The Court, on 2nd April 2013, set down the following issues arising from the pleadings for determination in this suit..

"(i) whether or not there were violations, omissions, malpractices and Irregularities in the conduct of the presidential election held on 7th and 8th December2012; and

(ii) whether or not such violations, omissions, malpractices and irregularities, if any, affected the outcome of the said election."

B. SUMMARY OF WHY PETITION FAILS

2. It is our submission that the Petitioners have woefully failed to establish the alleged "irregularities, violations "etc, nor have they proved that the alleged "irregularities, violations" etc affected the outcome of the 2012

Presidential election. We will make it abundantly clear to this Honourable Court that the case presented by the Petitioners comes nowhere close to discharging the burden of proof that lies on them to establish their allegations and warrant the reliefs they seek from this Honourable Court. On the contrary, the documentary evidence provided by them and the oral testimony of their witness, the 2nd Petitioner, contains admissions about the results declared which fundamentally undermine the case of the Petitioners and confirm the position of the Respondents that the elections were conducted freely and fairly and that the results declared by the Chairman of 2nd Respondent, namely that 1st Respondent was the winner of the 2012 Presidential election, reflected the sovereign will of the people of Ghana and were lawful. It is our respectful submission that, on a correct interpretation of constitutional provisions and other laws governing the election and having regard to the evidence before this Court, the following conclusions regarding the main allegations of the Petitioners emerge clearly.

(i) There was no evidence that any voter in the election voted more than once or that any person not entitled to vote was allowed to vote. Indeed, the evidence proffered by Petitioners themselves showed overwhelmingly that the candidate's agents of the 1st Petitioner, as well as other candidates' agents,

signed the declaration of results in the various polling stations after votes were counted in full public view. No complaint by the agents of the candidates at polling stations or constituency centres regarding over-voting was recorded anywhere. The claims of over voting of the Petitioners were, in large part, admitted not to hold and were abandoned by 2nd Petitioner under cross-examination. Claims still pressed by Petitioners are also untenable on a proper interpretation of information provided on the pink sheets and available evidence and must all be rejected.

(ii) The challenges of the country using biometric verification devices for the first time in elections in Ghana were successfully overcome and no one voted without going through the biometric verification process. The testimony provided by the Chairman of the 2nd Respondent, about the C3 column on the Statement of Poll and Declaration of Results for the office of the President forms ("the pink sheets") , was unchallenged and explained the problems the Presiding Officers had in filling that part of the pink sheet.

(iii) The absence of the signature of the Presiding Officer on the pink sheets does not justify annulment of votes that were cast lawfully in the exercise of the constitutional rights of citizens. While failure to sign constitutes a breach of the duty imposed on that election official by the Constitution, nowhere does the Constitution require or justify the annulment of votes cast and, hence, the results announced at the relevant polling station because of such a breach. The Presiding Officers can be compelled to perform their duty to sign, by order of mandamus. Annulment of votes in these situations would not only be an unconstitutional deprivation of the right to vote of the citizen but would also amount to punishing

innocent voters retroactively for the omission of the Presiding Officer.

(iv) The claim by the Petitioners that unique serial numbers were provided to polling station pink sheets was baseless and there was no irregularity involved in the same serial number appearing on more than one such pink sheet. The attempt to nullify votes on this ground is absurd and to do so would also unconstitutionally deprive millions of citizens of their right to vote. Serial numbers are not, and have never been, security features on pink sheets, unlike ballot papers. Petitioners have provided no legal basis for this category of their claim.

(v) Claims about unknown polling stations were also baseless and Petitioners who deployed agents on behalf of the 1st Petitioner cannot in good faith make these claims. Claims about different results being given for the same polling station are also not warranted.

(vi) The claims about vote padding in favour of 1st Respondent and reduction of votes of 1st Petitioner (except in one instance of an error in transposition affecting 80 votes), as well as allegations about improper receipt and transmission of results at the offices of Superlock Technologies Limited("STL"), were withdrawn and were also not borne out by the evidence.

1. Even before elaborating on the evidence and submissions of law that lead to the above conclusions, however, there is an even more basic reason why the claims of the Petitioners must fail in limine. The claim in the 2nd Amended

Petition the verifying affidavit of 1st Petitioner that results in 11,916 polling stations were being put in issue, and the subsequent claim in the affidavit of the 2nd Petitioner to have filed

11,842 exhibits in 24 (twenty-four) mutuallyexclusive categories numberingand representing 11,842 different polling station results which are being sought to be annulled, have been shown to be untrue. The referee, KPMG,found the number of polling stations that were uniquely identified to be 8675.

4. In the 8675 polling stations figure given by the KPMG representative,

339 of this number listed as Appendix E.4 in Volume 5 of the Report (pages 193 to 201)must be immediately taken out as they appear in Exhibits that are indisputably out of the range indicated in the relevant paragraph (paragraph 56) of the affidavit of the 2nd Petitioner. ***There are also*** 93 of these 8675 polling stations that were not within the polling stations that were disclosed by Petitioners as part of their case ***when the Court ordered*** further and better particulars of the 11,916 polling stations. Worse still, ***as further elaborated below*** in the section of these submissions on the evidential burden not being discharged, the exhibits of the Petitioners are often contradictory, with the same polling station sometimes featuring under different exhibit numbers, or one exhibit number being used for two different polling stations. There is total confusion in the exhibits and thousands of them must be wholly discounted as not usable or being incapable of providing evidence. As we argue further below, it is impossible to make a cogent case out of this exhibit mess which

Petitioners should have cleared up by now, but have failed to do.

That failure is now irredeemable.

C. THE CASE OF THE PETITIONERS

5. In paragraph 23 of the 2nd Amended Petition, the Petitioners allege the following main irregularities, violations, etc in the conduct of the Presidential election: Over-voting, voting without biometric verification, absence of signature of Presiding Officer on "pink sheet", and the same serial number on "pink sheets" for different polling stations. On account of these claims Petitioners seek to have votes annulled. They also claimed in paragraph 24 that there were cases of illegal padding of votes of the 1st Respondent, on the one hand, and reduction of votes of the 1st Petitioner, on the other hand. It is also the contention of the Petitioners that there were "unknown polling stations" where voting took place and votes at these places should also not count. Petitioners also claim that in certain instances, there were different results given for the same polling station.

6. The total number of polling stations affected by the allegations of the Petitioners was given in the 2nd Amended Petition and the verify affidavit sworn to by the 1st Petitioner as 11,916. The Petitioners claim that the votes at these polling stations should be annulled and gave the total number of these votes as 4,670,504 (four million, six hundred and seventy thousand, five hundred and four), a figure which is also in the verifying

affidavit of the 1st Petitioner attached to the 2nd Amended Petition. In the affidavit filed on behalf of the Petitioners by 2nd Petitioner, the figure of votes to be annulled is 4,637,305 (four million, six hundred and thirty-seven thousand, three hundred and five). **It is noteworthy that** the number of votes sought to be annulled is almost half of votes cast in the election and almost a third of the registered voters for the election.

7. The Petitioners, in the 2nd Amended Petition, created 26 categories into which they put various combinations of their allegations (by the time of the affidavit of 2nd Petitioner, these were down to 24) and claimed that each of these categories was exclusive of the others. In each category, they indicated the number of votes they seek to have annulled (see paragraph 27 of 2nd Amended Petition and paragraphs 44 to 67 of the affidavit of 2nd Petitioner). The category accounting for most of the votes Petitioners seek to annul is the duplicate serial number category in paragraph 56 of the 2nd Petitioner's affidavit. The number of votes to be annulled in this category exclusively, according to the 2nd Amended Petition, verified by the affidavit of the 1st Petitioner, is 2,583,633 (two million five hundred and eighty-three thousand, six hundred and thirty- three), and according to the affidavit of 2nd Petitioner is (2,614,556)two million six hundred and fourteen thousand, five hundred and fifty-six. The Petitioners claimed that with all the votes in the 11,916 polling stations being annulled, the 1st Petitioner would be the winner of the election and should be so declared by the Court. The 11,916 was purportedly reduced to 11,842 polling stations in the affidavit of 2nd Petitioner and has been

further reduced again a number of times during the oral testimony of 2nd Petitioner.

8. Under cross-examination, 2nd Petitioner admitted that the figure in paragraph 44 of 320 polling stations where he alleged exclusive instances of over-voting took place was wrong having regard to the statement in paragraph 37 of his affidavit that: "..... while overvoting occurred in 2065 polling stations, in 1755 of these… overvoting took place along with NBV, DS,NS and DP." The figure of 320 should have been 310. 44, the number of exhibits alleged to have been filed was 320 and, in the KPMG Report, 318 exhibits are recorded in this category (see Appendix A.2.1 at pages 11 to 18 of Volume 1 of the Report). Even while admitting the error, 2nd Petitioner asserted that the number of affected votes was the same, suggesting quite strangely that, irrespective of changes in the number of polling stations in a category, the number of affected votes is the same!

9. **Again, in paragraphs 38 and 52 the figure of 379 given for polling stations where exclusive instances of voting without biometric registration should have been 388 if, as suggested in the first sentence of paragraph 38, there is meant to be a subtraction of the figure 1,891from 2279. On the other hand, Appendix A.2.9 in the KPMG Report (pages 87 to 97, Volume 1) lists 382 sheets counted, two pairs of which share an exhibit number (MB-L 374 and MB-L 147) but with different polling situations in the two exhibits. In paragraph 38 also, the first sentence contains another error: "That while voting without biometric verification occurred in 2,279 polling stations, in 1891 of these stations,**

.., overvoting [sic] took place along with DS, NS and DP." "Over-voting" in the second half of the paragraph may have been intended to be "voting without biometric verification". It would have been expected that Petitioners would make the needed corrections to these errors, after the matter arose in cross-examination. Paragraph 39 of the affidavit also has an apparently erroneous figure of 306 as the number of exclusive instances of absence of signature of presiding officers. In the corresponding paragraph 58, the correct figure of 310 for the category is given.

10. In paragraph 71 of his affidavit, 2nd Petitioner goes on to state the main thrust of the case of the Petitioners: "That upon the annulment of the votes in the **eleven thousand eight hundred and forty two (11,842)**(Emphasis 2nd Petitioner's) polling stations, the affected number of votes which were originally credited to each candidate in the presidential election and which ought to be deducted from the respective votes declared in favour of each candidate are as follows.....". He proceeds to give the figures against the respective candidates. That total figure of 11,842 polling stations was reduced by 2nd Petitioner under cross-examination, initially by 83 and then by 704. No explanation was provided as to how, with these reductions in polling stations, the same number of votes to be annulled, as stated in the affidavit of 2nd Petitioner, could be achieved.

11. The 11,916 was not only reduced to 11,842 polling stations in the affidavit of 2nd Petitioner but further reduced to 11,221 in his testimony before the Court. He stated:

"My lords, as you recall in my affidavit, I stated that we were going to lead

evidence or deal with 11,842 polling stations. In our submission of the evidence we actually ended up submitting 11,221 polling stations. And then subsequently after further quality review we have deleted 83 polling stations. So this brings us to a total of 11,138 and these polling stations that we have deleted I am happy I have a copy of them to make copies available to everybody and all my analysis yesterday was based on 11,138 polling stations." (See pages 13, 14, and 28 of the transcripts of the proceedings of 18th April 2013)

12. **Thus since the filing of the affidavit of the 2nd Petitioner, the Petitioners claimed to have deleted in total 704 polling stations from the figure of** 11,842 stated in the 2nd Petitioner's affidavit. (See also page 80 of the transcripts of the Proceedings of 6th May 2013). In the result as shown below, the Petitioners moved away from their original claim of having about 4.63 million votes annulled to a new claim of having 4,381,415 votes annulled.

"Q. Now can you tell the court, the total number of votes that will be reduced as a result of this update in terms of the difference between the original number of votes you were seeking to have annulled and the total number of votes that you are seeking to have annulled now?

A. My lords, the difference between the original number of votes that we were seeking to have annulled, this is about 4.63 million and what we are seeking to have annulled now is 4.38 million is about 251,000 votes.

ADINYIRA: How many votes do you want to have annulled now?

WITNESS: The total number of votes we are seeking to have annulled

now is 4,381,415 my lord." (See page 14 of transcripts of proceedings of 18th April 2013)

13. During his cross-examination by Counsel for the 3rd Respondent, he maintained that they supplied 11,842 polling station results)

"Q. We are in the process of doing exactly that and that is why I am putting it to you that in your Exhibit MB-P category, that is where you massed up your heap of papers, duplicated, triplicated, quadruplicated, it is in exhibit P that we find that happening most?

A. My lord we are totally rejecting that proposition. We have pink sheets for every one of the 11,842 polling stations."

(See page 43 of the transcripts of proceedings of 9th May 2013)

On the last day but one of the trial, in cross-examination of Dr. Afari- Gyan, Counsel for the Petitioners, in a final throw of the dice, yet again put new figures - both as regards polling stations and as regards votes to be annulled – to the witness as representing the case of the Petitioners:

"Q. Out of the total of 10,081 polling stations, total over votes amounted to 742,492?

A. My lord unless I know the specific polling stations it will be difficult to say yes or no…

Q. The total of all the violations and irregularities affects 3,916,385 votes. Of that 2,612,788 are votes attributed to the 1st Respondent and 1,228,229 are votes attributed to the 1st Petitioner?

A. My lords I have no basis for knowing that."

Q. You will see from the figures we have been looking that the major beneficiary of these violations is the 1st Respondent?

A. My lords that is not correct…" (See pages 48 and 49 of the transcripts of the proceedings of 16th July 2013).

14. The answer that Dr. Afari-Gyan gave to Counsel for the Petitioners in response to these new figures is the response that we respectfully commend to this Honourable Court as the response to the whole Petition brought before you: "

"Q. So I am asking you do you have any other figures apart from the ones I have just quoted to you?

A: And I am saying that I have no basis to change the results as announced."

(See pages 49 of the transcripts of the Proceedings of 16th July 2013)

The figures put to Dr. Afari-Gyan in cross-examination by Counsel for the Petitioners as to the number of votes to be annulled basically rolled up, for instance, all the allegations of over-voting in the different categories, no matter whether the over-voting allegation occurs in a particular…"

KEY

Narrative	oooo
Modality	oooo
Figure of	oooo
Adjectives	oooo
Adverb	oooo
Factual Verbs	oooo
Nominalized reporting verbs	oooo
Negation Markers	oooo
Indirect speech	oooo

APPENDIX E
TRACKING KEY WORDS IN CONTEXT (KWIC) USING TEXTSTART SOFTWARE
"THEREFORE" USED IN CONTEXT

" Station had been provided to the political parties and was **therefore** known"

"Allegation of voting without prior biometric verification is **therefore** the ..."

"…on the application, that is, the facts averred and **therefore** the facts in"

"matters should apply. Generally, the burden of proof is **therefore** on the…"

"Thus" Used in Context

"2nd Petitioner explicitly disavowed any personal knowledge, **thus** …"

'… the Respondents to supply further and better particulars, **thus** …"

"the presidential contest with 5,574,761 votes (50.70%) and, **thus**…"

at Paragraph 20 Ground 2 (e) of the 2nd Amended Petition **thus**:"

"Claimed" Used in Context

"the Petitioners seek to have votes annulled. They also **claimed** in"

"the affidavit of 2nd Petitioner, these were down to 24) and **claimed** that"

"…teen thousand, five hundred and fifty-six. The Petitioners **claimed** that"

"…ing of the affidavit of the 2nd Petitioner, the Petitioners claimed to "

"the right label should have been on the exhibits which he **claimed** were … "

"Alleged" Used in Context

" in paragraph 44 of 320 polling stations where he **alleged** exclusive…"

" 320 should have been 310. 44, the number of exhibits a**lleged** to …"

" the occurs in a particular polling station with other **alleged…** "

" in respect of which irregularities, violations etc are **alleged** change."