



## AN ANALYSIS OF REPRESENTATIVE SPEECH ACTS IN SELECTED SUBORDINATE COURTS OF LAW IN KENYA

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**ABSTRACT:** *The court serves as a tool for enforcing the law and delivering justice to the populace. In Kenya, subordinate courts play a crucial role in the administration of justice, handling a wide range of cases that affect the lives of citizens. Speech acts encompass a diverse range of communicative functions, including assertions, requests, promises, and declarations, each of which holds unique significance within the legal framework. Hence, this paper seeks to examine the representative speech acts in selected Kenyan courts of law. This study used a total of 12 cases collected during the examination and cross-examination phases of courtroom trials. Data was analysed to show the instances of occurrence of representative speech acts and their functions in subordinate Kenyan courts of law. The study came up with three types of representative speech acts: assertives, descriptives and statements. Assertives were the most prevalent in the selected Kenyan courts of law discourse.*

**KEYWORDS:** Speech acts, representatives, courtroom discourse, subordinate courts, assertives, descriptives, statements.



## INTRODUCTION

The administration of justice in Kenya is primarily carried out through a hierarchical court system, which includes the superior courts and subordinate courts. Subordinate courts play a crucial role in the dispensation of justice by handling a significant volume of cases and providing access to justice for the majority of Kenyan citizens. Understanding the nature and patterns of communication within these courts is essential for enhancing the effectiveness and efficiency of legal proceedings.

The language of the law serves as a verbal and written medium for information exchange between/among parties involved in various legal circumstances taking place in diverse legal settings. English has a particular genre known as legal language. It is "a medium, method, and product in the various disciplines of law where legal texts, spoken or written, are formed for the purpose of regulating social conduct," according to Maley (1995). Some trends that encourage considering the language aspect of the law only in the context of verbal communication theory have emerged in recent years. Under the scope of forensic linguistics, all investigations must be understood within the verbal communication context (Kiguru, 2014) Thus, the current study endeavored to analyse the oral conversations of the courtroom participants.

## THEORETICAL FRAMEWORK

Speech act theory, pioneered by J.L. Austin and later developed by John Searle, focuses on the performative aspects of language. It asserts that utterances not only convey information but also perform actions. This concept is particularly relevant in legal discourse where speech acts, such as making a promise or issuing a command, can have legal implications (Searle, 1969). This research looked into Representative Speech Acts as classified by Searl in Levinson (1983).

Speech-Act theory is a subfield of pragmatics which is concerned with the ways in which words can be used not only to present information but also to carry out actions (Martínez-Flor & Usó-Juan 2010). The performance of specific sorts of acts, such as asking questions, giving commands, making assertions, describing, explaining, apologizing, praising, and applauding among other acts, is considered the minimum unit of human communication, according to the speech act theory (Searle, Kiefer & Bierwisch, 1980). The philosophical concept of speech acts serves as a cornerstone to understanding language. Ian (2020) asserts that the basic insight of speech act theory is not just to transmit information but to carry out actions which will change the state of affairs of the participants in a conversation. He further says that if the state of affairs of the participants are changed, we see changes in the state of their minds. This is true in the case of courtroom interactions because the fate of the accused is at stake. This is because the outcome of the cases may lead to victim acquittals or condemnation. In this regard, the current study aimed to identify the most common speech acts and their functions in Kenyan courtroom discourse.

These are speech acts that the utterances commit the speaker to the truth of the expressed proposition. The utterances are produced based on the speaker's observation of certain things, followed by stating the fact or opinion based on the observation. When someone says, "She's beautiful," the speaker can state the sentence based on the fact or just give his or her own opinion about the physical condition of a person. It also states what the speaker believes to be the case or not. Statements of fact, assertions, conclusions, and descriptions are all examples



of the speaker representing the world as he or she believes it is. For example when someone says, “The earth is flat,” it represents the speaker’s assertions about the earth. The speaker has an opinion that the earth is flat. Representatives’ speech act can be noted by some speech acts verbs, such as: remind, tell, assert, deny, correct, state, guess, predict, report, describe, inform, insist, assure, agree, claim, beliefs, conclude.

### Literature Review

Orin and Issy (2016) did a study that aimed to analyze the types of representative speech acts performed by the debaters, the opponents’ responses to representative speech acts in debate and the contribution of the representative speech acts to the development of argument in debate. This study used spoken discourse analysis, especially speech act theory proposed by Schiffrin (1994), for data analysis. The object of this study is English debate performed by the debaters. The result of this study shows that there are twelve types of representative speech acts in the debate (Searle & Vanderveken, 1985). The analysis on the opponents’ response result shows that the highest opponents respond in arguing acts than other acts. It means that the debaters try to embrace and persuade the hearers so that the hearers can comprehend and believe the speakers’ feelings. Lastly, the representative speech acts to the development of argument in debate shows that the highest frequency distribution of representative speech acts is explaining 46.1%. It is followed by exemplifying 19.4% and tie-back 18.1%. The small frequency distribution of representative speech acts in argument structure is labeling 16.3%. Thus, the speaker of the affirmative team successfully exploits the favorable contexts of their speech to persuade the hearers. This study was anchored on courtroom discourse. It classified the SA into five classes. Representative speech acts as the first class of SA was also divided into three: assertives, descriptives and statements. According to this study, assertives are the most common subtype of representative speech acts. They account for 40.95%. They involve statements that affirm or deny something about the world, such as making claims, giving information, or asserting facts. The relatively high percentage suggests that presenting arguments or evidence is a common occurrence in the studied courtroom context. In the data, in all cases, there are instances of assertive speech acts coming at the beginning of all the discourses. The witnesses’ response to the prosecutor’s questions are classified as assertives. The study revealed that assertives are used by participants 482 times, accounting for 40.95 percent.

Arsani et al. (2021) carried out a study that aimed to find out the representative speech acts used in Queen Elizabeth II’s speech entitled Queen Urges ‘Self-Discipline and Resolve’ In Corona Virus Speech. The analysis of the data used a qualitative method as the study presented descriptively according to theory of speech acts proposed by Searle (1976) to classify the representative speech acts; the informal method was applied in presenting the result of the analysis. The result of this study showed that there are 20 of 28 utterances that identified as representative speech acts used in Queen Elizabeth II’s speech which means the speaker used representative the most in her speech. Similarly, the current study was on the functions of the SA and SA strategies in courtroom discourse. It used the classes of SA by Searle in Levinson (1983). The total Representative Speech Acts (RSA) were particularly prevalent in the examination and cross-examination phases of subordinate courtroom proceedings. RSA were used 1177 times accounting for 46.23%. Directives were second in their usage according to the data presented. Directives accounted for 39.12%. The third class of the SA was expressives at 10.10% followed by declaratives at 4.05%. The SA that were least used were commissives with only 13 instances accounting for 0.51%. RSA were most prevalent because examination and



cross-examination phases primarily involve questioning witnesses to elicit factual information relevant to the case.

## RESEARCH METHODOLOGY

The paper adopted a descriptive research design and employed both quantitative and qualitative research design. Descriptive research deals ‘with describing the characteristics of a particular individual, or a group’ (Kothari, 2004). Descriptive studies are mainly used to investigate social issues, and they enable researchers to come up with solutions or recommendations on how to deal with the disparities observed (Mugenda, 2008). This study examined the frequency of RSA in SKCL courtroom interactions. This was done with the aim of describing them in terms of the most frequent speech acts and their functions in SKCL. The researcher collected data from subordinate courts in Kenya. Specifically, data was obtained from three chief magistrates’ courts namely the Chief Magistrate’s Court in Kisii, the Chief Magistrate Court in Keroka and the Chief Magistrate’s Court in Ogembo. The sample size comprised a total of twelve cases: digitally audio-recorded courtroom trial proceedings reflecting the examination and cross-examination phases of trials. This sample size is justified by the fact that courtroom speech is limited by rules, and participants are constrained by evidentiary guidelines that dictate the structure and content of their comments. Therefore, it was anticipated that the population as a whole will be rather homogeneous with regard to the variables being studied, which supported the use of a relatively small sample (Mugenda & Mugenda, 1999). Additionally, it has been noted that linguistic studies do not need big samples because tiny samples can produce data that is reflective of the bigger picture (Cheshire, 1982; Trudgill, 1974). In fact, redundancy and data processing issues are likely to arise when using large samples in linguistic investigations. Consequently, twelve cases of data were regarded as sufficient to permit the study of the research objective that the study was based on avoiding data redundancy (Miloy & Gordon 2003).

The triangular approach to data collection is advisable due to the complexity of the interactions in the courtroom. This method involves gathering data using different techniques to increase their reliability because the researcher is able to view phenomena from a variety of perspectives, each of which supports the other (Gathumbi, 1995; Hewitt, 2006; Webb, Campbell, & Sechres, 1966). For the current study, the researcher gathered data for this study using audio recording and an observation schedule. The analysis of the data was conducted systematically in accordance with Creswell (2012) guidelines. The study employed thematic analysis strategies in the analysis of the study data with the aid of Nvivo 14 software. This facilitated the process of data storage, sorting, coding, analysis and preparation of representation of data. With the use of Nvivo software, the analysis process was made less difficult for the researcher especially in handling numerous different codes and identifying their various relationships.

The statistical findings on the types of RSA used by the discourse participants were presented in tables showing instances of occurrence in courtroom data. The other issue of presentation was to touch on data that was originally in a language other than English. Gumperz and Berenz (1993) recommend first transcribing the data in the original language before translating it. For presentational purposes, they recommend a three-line format, with the first line being the



original language, the second line being a literal translation, and the third line being a Standard English translation.

## DATA, PRESENTATIONS, ANALYSIS AND DISCUSSIONS

In the context of the speech acts theory, representative speech acts involve conveying information and or describing a state of affairs Searle (1962). These are speech acts that the utterances commit the speaker to the truth of the expressed proposition. The utterances are produced based on the speaker's observation of certain things, then followed by stating the fact or opinion based on the observation (Levinson, 1983).

On the basis of representation of facts, the findings revealed three types of representative speech acts used by participants during the courtroom proceedings: assertives, statements, and descriptive utterances. The data of the study also show that these kinds of illocutionary acts were employed in the attempt to either assert, proclaim, state, emphasize, stress, affirm, allege, defend, support, renounce, profess or establish their facts. The following is a discussion on the types of RSA.

The table below shows the RSA subtypes and the number of exchanges according to the data.

### A Table Showing the Instances of the Usage of Representative Speech Acts

RSA	No. of instances of occurrence	Percentages
Assertives	482	40.95
Descriptives	398	33.81
Statements	297	25.23
Total	1177	100

From the table above, assertives had the highest percentage of occurrence (40.95%) followed by descriptives at 33.81% and the least RSA were statements with 25.23%.

#### 1. Assertives

Yule (2006) says that assertive speech acts are speech acts that express the speaker's beliefs about matters of external reality. So while talking, the speaker is sure about the truth of the speech. They are constative utterances that aim to describe or state something (Searle, 1962). According to this study, Assertives are the most common subtype of representative speech acts. They accounted for 40.95%. They involve statements that affirm or deny something about the world, such as making claims, giving information, or asserting facts. The relatively high percentage suggests that presenting arguments or evidence is a common occurrence in the studied courtroom context. In the data, in all cases, there are instances of assertive speech acts coming at the beginning of all the discourses. The witnesses' response to the prosecutor's questions are classified as assertives. The study revealed that assertives are used by participants 482 times accounting for 40.95 percent. The following are extracts from the data:



**Text 1:**

1. PRO: Ambia koti majina yako kamili

*Tell the court your full names*

2. WIT1: Naitwa \_

*I'm called \_*

3. PRO: Unaishi wapi

*Where do you live?*

4. WIT1: Naishi \_\_\_

*I live at\_\_\_\_\_*

5. PRO: Unafanya kazi gani?

*What is your occupation?*

6. WIT1: Nafanya biashara ndogo ndogo

*I do small small business*

7. PRO: Tarehe saba mwezi huu saa tatu jioni ulikuwa wapi?

*On the 7<sup>th</sup> of this month around 9pm, where were you?*

8. WIT1: Ilikuwa jioni na nilikuwa naandalia familia yangu chakula cha jioni .nikasikia nduru kwa jirani yangu

*It was in the evening when I was preparing supper for my family, I heard screaming from my neighbor.*

**Text 2**

9. PRO: What do you do for a living?

10. CI: Ngasi ki ogokora??

*What do you do?*

11. WIT: Noboremi ngokora.

*I farm.*

12. CI: I am a farmer

13. PRO: Where?

14. CI: Arari??

*Where do you farm?*



15. WIT: Gari inka.  
*Just there at home.*
16. CI: At home
17. PRO: Nyumbani unapoishi ni wapi?  
*Where is your home area?*
18. CI: Ngai omenyete?  
*Where do you live?*
19. WIT: \_
20. CI: \_ village.

In the example from Text 1 and Text 2 above, the prosecutor asks the first witness questions regarding his name, place of residence and occupation in Turns 1, 3 and 5. The answers to the questions in Turns 4, 6 and 8 are all assertives. For example, the answers, 'I'm called \_,' 'I live at \_,' 'I am a farmer.' The words, 'called,' 'live' and 'am' are assertives. While speaking, the speaker in Turns 4, 6 and 8 is sure about what they are saying. Assertives also involve statements that affirm or deny something about the world such as making claims, giving information or asserting facts and as such in Text 1, Turn 7, the prosecutor then asks questions regarding the case at hand. The answers in Turn 8 to the prosecutor's questions in the excerpts given are assertives. Statements like, 'it was evening...' is an assertive phrase.

### Text 3

21. WIT2: Huo usiku nilipata simu nikiwa kwangu kwa nyumba, niliposikia nani anapiga, nikajua lazima kuna shida

*That night I got a phone call while at my place in the house; then when I heard who was calling, I knew obviously there's a problem.*

22. WIT1: Nikamuuliza ,mbona wanapigana almost kila siku. akaniambia niwachane na maisha yao nishughulike nay a kwangu, nijitafutie bwana maana sina. hapo ndipo niliamua kupigia mzee wa nyumba kumi simu.

*I asked them why they fight almost every night. She told me I should stop bothering about their life and bother about mine, that I look for a husband because I don't have one. There and then I decided to call the elder of "nyumba kumim"*

23. PRO: Huyo ambaye ni jirani yako yuko hapa?

*That your neighbour is she here?*

24. WIT1: Ndiye yule pale mheshimiwa

*She is right there, your honour.*

25. PRO: Ni hayo tu mheshimiwa



*That's all your honour.*

In text 3, the second witness (WIT2) in Turn 21 also explains where he was and how he reacted to the phone call from the neighbor who had to call him. The sentences explaining all that are classified as assertions. The words: 'got,' 'heard,' 'knew' from Turn 21 are all assertives. All the answers to the prosecutor's questions in this excerpt are assertions that specifically affirm the information given by the second witness.

From the words in Text 3, Turn 21, the witness says, 'Usiku huo nilipata simu nikiwa kwangu kwa nyumba...' (That night I got a call while at my place...), and Turn 22, nikamuuliza... (I asked him...); these are assertives confirming the evidence the witnesses are giving. Then when asked if the neighbor they are talking about is in court, in Turn 24, the witness says in affirmation, 'Ndiye yule pale mheshimiwa' (She is right there, your honour). Such responses were classified as assertive speech acts since while talking, the speaker (the witness) is sure about what he is saying and since assertives are also statements that affirm something.

## 2.Descriptives

These are speech acts that describe a state of affairs or provide information about the world, often using descriptive language (Levinson 1983). They aim to represent reality. They describe facts or observations (Searle, 1962). Descriptives take up a significant portion as well. From Table 2 given above, discourse participants used these subtypes 398 times, that is, 33.81 percent in SKCL proceedings. Almost all categories of participants found in the data used this subtype in their representation of facts. In a legal setting, descriptives may involve describing facts or providing details. This suggests that factual descriptions played a substantial role in the SKCL discourse. This is because they are used to describe the situation to the prosecution.

### Text 4

26. PRO: Unaweza kueleza tarehe saba usiku kulitokea nini kuhusu hii kesi?

*Can you tell the court what happened on the 7<sup>th</sup> at night that is related to this case?*

27. WIT2: Hio tarehe nilikuwa kazini kukawa na emergence call, Kuna mwanaumme ambaye aliletwa akiwa ameumia sana kwa kuchomeka makalio

*That day, I was at the hospital, there was an emergency call; there was a man who was brought to the hospital and was in pain having been burnt at the buttocks.*

28. PRO: Ehe?

29. WIT2: Huyo mwanaumme alikuwa amechomwa na maji moto kwa makalio, na alikuwa na bites kwa mikono na mabega.

*That man had been burnt at the buttocks by hot water and had some bites on the hands and shoulders.*

30. PRO: Ndio?

*Yes?*





31. WIT2: Ilijulikana alikuwa amechomwa sana baadaye tukajua alikuwa amechomwa na mke wake because of domestic issues.

*Later, we learnt that he had been burnt by his wife because of domestic issues.*

32. PRO: Mlijuaje

*How did you know?*

33. WIT2: Waliomleta hospitalini ndio walitueleza.

*Those who brought him to the court are the ones who explained to us.*

34. PRO: That's all, your honour.

35. MAG: Mshtakiwa una swali kwa shahidi?

*Accused, do you have a question for the witness?*

36. ACC: Ndio

*Yes*

In Text 4, the witness gives a description of the physical appearance of the victim of domestic violence at the time they heeded the call from a neighbor to go and help him. From the domestic violence in Text 4, the second witness (WIT2) is trying to explain what the man who was involved in the domestic violence was looking like. In Turn 29, he says: He had been burnt at the buttocks and had bites on the hands and shoulders. From the description, someone can easily create a picture in the mind regarding the physical appearance of the victim.

He says, 'Alikuwa amechomeka makalio,' translated, he had been burnt at the buttocks. He continues, 'Alikuwa na bites kwa mikono na mabega,' translated, he had bites on the hands and shoulders. The words: 'burnt,' 'bites' (Turn 29) are descriptives as they show the exact kind of injuries that the victim sustained.

In Text 5 below, the second witness tries to describe how the people who were rescued from being killed by members of the public were.

### **Text 5**

37. PRO: Mliweza kufanya nini baada ya kupokea simu kama hii??

*What were you able to do after receiving such a phone call?*

38. WIT: Wakati huohuo tulikimbia mbio mpaka mahali hapo. tulipofika tukapata watu wawili wamelala chini. Mmoja wao alikuwa amelala pande huu, na mwingine naye alikuwa amelala upande ule mwingine.

*We immediately rushed to that place. When we arrived there, we found two people lying down. One of them was lying on this side and the other one was also lying on the other side.*

39. MAG: Did you find both of them down?



40. WIT1: Yes, your honour. We found the two people down. We found one was unconscious and the other one was bleeding.

41. PRO: Ilikuwa ni kama mita ngapi kutoka mahali hapo huyo ambaye alikuwa amelala baada ya kupigwa na mahali huyu alikuwa anapigwa na wananchi? Unaweza jua ilikuwa ni kama mita ngapi?

*It was like how many meters from where the one who was lying after being beaten and the place this one was being beaten by members of the public? Do you know how many metres it is?*

Text 5 is an extract from the conversation after the witness was asked to explain what they did after receiving a distress call. The words in Turn 38, ‘...tukapata watu wawili wamelala chini, mmoja wao alikuwa amelala upande huu na mwingine naye alikuwa amelala upande ule mwingine,’ translated, (...we found two people lying down; one of them was lying on this side and the other one was also lying on that other side) gives a description of the state the two victims were in at the time the first witness arrived at the scene of the crime. The witness goes ahead to say in Turn 40, ‘We found the two people down. We found one was unconscious and the other one was bleeding.’ The words ‘unconscious’ and ‘bleeding’ are descriptives describing the state of the victim at the time the witness arrived at the scene.

In Text 6, the second witness also gives a description of how the victim had been injured and his appearance at the time of the rescue.

### 3. Statements

A statement is a kind of illocutionary act where the speaker asserts or describes something (Searle, 1962). In the context of courtroom discourse, a statement as an illocutionary act is identified as one of the unique kinds of SA used in representation of facts during examination and cross-examination phases of courtroom interactions. Statements are a fundamental type of representative speech act used to convey information, express beliefs, and make factual claims about the world. They are characterized by their objective tone (expressing a proposition without incorporating personal emotions, feelings and biases), propositional content (the information conveyed by a sentence), and truth-value (whether a sentence or proposition is true or false) (Searle, 1962). Understanding statements as speech acts is essential for analyzing how language is used to communicate facts and shape our understanding of the world (Searle, 1962). Of the three subtypes of RSA, statements are the least used. They were used 297 times, that is, 25.23 percent in the 12 cases. In the SKCL, the participants used statements to state facts about the cases, to admit, deny claims made by the other participants, as shown in the texts below:

#### Text 6

42. ACC: So wewe hukuniona nikikuibia?

*So you didn't see me stealing from you?*

43. WIT3: Hapana.

No, but I can remember the day before tulikuwa na wewe kwa gari\_

*No, but I can remember the day before we were with you in the vehicle.*



44. ACC: So, mimi unanijua?

*So you know me?*

WIT1: Yes, from that day.

45. ACC: Na nikisema hata hapo kwa gari ni kunifananisha tu?

*And if I say even about being in the vehicle you are just likening me?*

46. WIT3: Nakukumbuka.

*I remember you.*

47. ACC: Unadanganya.

*You are lying.*

48. MAG: Una swali linguine?

*Do you have any other question?*

49. WIT3: (Shook his head).

In Text 6 above, the accused tells the witness that he may be likening him to another person. The third witness in the case in Turn 46 states, 'I remember you.' The word 'remember,' which is an assertive word, makes the words 'I remember you' a statement.

The accused in Text 6, Turn 47 issues a statement saying 'unadanganya,' meaning, 'you are lying'. These statements ('I remember you' and 'you are lying'), whose truth value can be established by the prosecutor and the magistrate, were examples of statements.

In the other example from Text 7, Turn 55, 'sikuwa namjua,' translated, 'I did not know him,' is a statement of fact. It shows the prosecution that the witness states in affirmation that he did not know the accused before the incident at hand.

### **Text 7**

50. PRO: Kwa nini mlirudisha police station baada ya kumtoa hospitali?

*Why did you return him to the police station after taking him away from the hospital?*

51. WIT1: Kwa sababu tukimuokoa kulikuwa na maneno kwamba yeye ndiye amemshambulia mwenzake sasa tulikuwa tunataka kumshtaki kwa kumjeruhi mwenzake.

*Because when we rescued him, there was talk that he was the one who had attacked his colleague; now we wanted to charge him for hurting his colleague.*

52. PRO: Aliweza kushtakiwa?

*Was he charged?*

53. WIT1: Sasa wakati ilikuwa tunamshtaki na hiyo kumjeruhi mwenzake, tukamrudisha station ndio tukapata inspekta naye baada ya kumpeleka huyo mwingine hospitali akarudi na



habari kuwa huyo mwingine alikuwa amekufa. Sasa ilibidi huyu tumshtaki na mauaji.

*Now when charging him for injuring his colleague, we took him back to the station; that was when we found the inspector. After taking the other one to the hospital and coming back with the news that the other one had died; now it necessitated that we charge him with murder.*

54. PRO: Ulikuwa unaaamjua huyu kabla ya siku hiyo?

*Did you know him before that date?*

55. WIT1: Sikuwa namjua.

*I did not know him.*

The first witness explains in detail how the events followed each other in the case at the court. On further examination, the prosecutor asks him if he knew the accused before the incident that led them to the courtroom; he gives a statement in the negative: 'I did not know him,' in Text 7, Turn 55.

Text 8 is an extract from a case involving a person who erroneously sent money meant for some business to a number different from the one he was supposed to send it to. He had to borrow money from somewhere and pay for the purchases the same day. The DC asks him in Turn 56 if he had any documentary evidence that he ever sent the six thousand to anybody and he replies in Turn 57, '...I don't have.'

### **Text 8**

56. DC: Listen to me. Do you have any documentary evidence to show that you sent any money, the six thousand one hundred, to anybody?

57. WIT: As for now, I don't have.

58. DC: You don't have. Do you have any evidence, documentary, at this point that you ever received the six thousand from anybody?

59. WIT: I have the SMS.

In Text 8, still the DC asks the witness if at that point in time he had any evidence that he ever received the six thousand and the witness says in Turn 59, 'I have the SMS.' Thus, the statement, 'I have the SMS' is a statement expressing the evidence or fact.

Text 9 is a case of a person who was injured at the marketplace and the police rescued him from mob justice. Since he had minor injuries, they took him to a nearby hospital and later to the police station to write a statement.

### **Text 9**

60. WIT1: Huyo tuliwacha aki attendiwa nawale walikuwa pale. Wakiwa wanamshughulikia. Sisi tukatoa huyu mwingine.

*That one, we left him being attended to by the people who were there. They were attending to*



*him. For us, we took away this other one.*

61. PRO: Nini ilifanyia baada ya kumpeleka hospitali?

*What happened after you took him to hospital?*

62. WIT1: Tulimpeleka hospitali akatibiwa, akashonwa kisha madaktari wa \_ wakasema hana shida kubwa hawezi kuwa admitted. Tukarudi nayeye mwendo wa saa kumi na mbili katika kituo cha\_Police Station.

*We took him to hospital, he was treated, he was stitched and then the doctors at \_\_\_said he did not have a serious problem so he could not be admitted. We went back with him at around six o'clock to\_Police Station.*

In Text 9 above, Turn 62, the witness uses the verbs ‘took,’ ‘treated,’ and ‘stitched’ which indicate the statement of facts. They give the information in statement form. The witness mostly used the statements as they were responding to the questions from the prosecutor. This is because the speaker—in this case the witness—describes exactly what they did to the victim after he was taken to the hospital. This would later shape the courtroom participants’ understanding of the case at hand.

Statements as RSA are also given in Text 10. In this text, the first witness is explaining how the events followed one another after taking the accused to the hospital. The prosecutor in Turn 65 asks if the witness was now able to recognize the accused, and in Turn 73, the witness says: ‘Let me say I never saw him properly, but I can see he is this one.’

### **Text 10**

63. CI: Hao watu wawili walikuwa wemeketi

*Those two people were seated*

64. PRO: Were you able to recognize them?

65. CI: Nkwanyarete kobanyanya buya buya nga mbarabi??

*Were you able to see who they were properly?*

66. WIT: Ee!

*Yes!*

67. CI: Niliweza kuwaona vizuri.

*I was able to see them well.*

68. PRO: Was it not at night?

69. CI: Nyarengé botuko?

*It was not at night?*

70. WIT: Hapo nikakimbizana na yeye na akashikiwa nyumbani kwa bwana wa huyu.



*There I chased after him and he was caught at the home of this man here.*

71. PRO: Now, the person who was caught, can you see him in the court?

72. CI: Omonto oyuo obwatetwe nomoroche ase ekoti eye ime?

*Can you see the person who was arrested in court?*

73. WIT: Tiga ntebe namoroche buya lakini bono nimoroche buya nere.

*Let me say I never saw him properly, but I can see he is this one.*

74. CI: Sikumuona vizuri lakini naona ni huyu.

*I didn't see him properly but I see it is this one.*

75. PRO: Since he was caught, why do you say you never saw him?

76. CI: Ekeru abwatetwe nkwamoroche?

*When he was caught you didn't see him?*

77. WIT: Namoroche.

*I saw him.*

In this case from Text 10, the witness is questioned whether he knows the accused in person or if he knew him before the incident that led to him being in court. He tells the court that, initially, he did not know him, and even during the saga he did not see him clearly—in Turn 74, (I didn't see him properly...)—but later came to know him and, in affirmation, he says in Text 10, Turn 77, 'I saw him.'

This paper came up with three types of RSA namely: assertives, descriptives and statements. Out of the three RSA, the instances of the usage of RSA, assertives had the highest usage at 40.95%, followed by descriptives at 33.81%, and then statements at 25.23%.

Orin and Issy (2016) did a study that showed that there are twelve types of representative speech acts in a debate, using Searle and Vanderveken's (1985) theory. According to their study, the representative speech acts had the highest frequency distribution representative speech acts for explaining at 46.1%. Similarly, the current study, which was anchored on courtroom discourse, classified the SA (according to Searle in Levinson, 1983) into five classes. Representative speech acts as the first class of the SA was also divided into three: assertives, descriptives and statements. According to this study, Assertives were the most common subtype of representative speech acts. They accounted for 40.95%. They involved statements that affirm or deny something about the world, such as making claims, giving information, or asserting facts. The witnesses' response to the prosecutor's questions were classified as assertives. The study revealed that assertives were used more by participants, that is, 482 times, accounting for 40.95%.

Arsani et al. (2021) carried out a study that was presented descriptively, according to the theory of speech acts proposed by Searle (1976), to classify the speech acts. The result of this study showed that the utterances classified as representative speech acts were used the most.



Similarly, the current study carried out a study on the functions of the SA and SA strategies in courtroom discourse. It used the classes of SA by Searle in Levinson (1983). The Representative Speech Acts (RSA) were particularly prevalent in the examination and cross-examination phases of subordinate courtroom proceedings. RSA were used 1,177 times, accounting for 46.23%. RSA were most prevalent because examination and cross-examination phases primarily involve questioning witnesses to elicit factual information relevant to the case.

According to Shi (2011), among Searle's (1965) five-part classification of speech acts, representative and directive speech acts are most frequently used in Chinese courtroom interactions. The current study also found out that RSA, followed by DSA, are the most frequently used from Searle in Levinson (1983) classification of speech acts. The relatively high percentage of RSA suggests that presenting arguments or evidence is a common occurrence in the courtroom context. In the data, in all the cases, there were instances of assertive speech acts coming at the beginning of all the discourses.

## CONCLUSION

This study shows that the primary focus of communication within the courtroom is on presenting facts, conveying information, and making claims about the case at hand. Representative speech acts involve statements that aim to accurately represent the state of affairs or assert a particular belief or proposition. In a courtroom setting, these speech acts commonly include testimonies, evidence presentations, legal arguments, and witness statements. The prevalence of representative speech acts also shows that the primary goal of courtroom discourse is to establish and evaluate the truth or falsity of claims, establish a coherent narrative, and support legal arguments. The participants, such as DCs, prosecutors, witnesses, and judges engage in a dialogue that revolves around presenting evidence and making reasoned arguments to persuade the court and reach a just resolution. This underscores the importance of evidence, credibility, and logical reasoning in the pursuit of justice and the resolution of legal conflicts.

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