

## CHAPTER THREE

### RESEARCH DESIGNS

#### 3.0 INTRODUCTION

For the purpose of this research, the researcher will analyse a few TORT law textbooks with emphasis on the introductory chapters. These tort text books are entitled,

1. The textbook on 'The law on TORT' by John Cooke 8th edition (2007) Lexis Nexis publication. whereby the introductory chapter consist of 27 pages and each page contain approximately 400 words which gives a corpus of 10,400 words.
2. Modern Tort law by Vivienne Harpwood Professor of Law, Cardiff University, 6th edition (1997) Cavendish Publishing Limited. The chapter on introduction comprises of 25 pages and has about 430 words which make up a corpus of 10,875 words.
3. Third corpus derived from the textbook entitled Tort law written by Catherine Elliott and Frances Quinn 6th edition (2007) Pearson education Limited with 15 pages of surface level of tort elements as the introductory chapter which comprises 435 words and make up an overall corpus of 6,450 words altogether.
4. The fourth tort introduction chapter to be analysed was from the tort textbook entitled Street On Torts written by John Murphy LLB, LLM (Reader in Law at the University of Manchester) 12th edition (2006) Oxford University Press with 20 pages as introduction and just as the previous few corpus, having approximately 300 words leading up to 6,000 words cumulatively. This book serve to be a deviation from the modern approach in writing a legal text as the author conform to the archaic stylistic way of drafting legal text with the construct of FOOTNOTES to illustrate points of law, to include additional references and caselaw analogies and insertion of statutory provisions.
5. And finally the last introduction chapter to be analysed is extracted from the textbook entitled Law of Torts by the late R.F.V HEUSTON D.C.L, F.B.A, (Honorary

Fellow of Pembroke College, Oxford, Honorary Bencher of Gray's Inn and of the King's Inn, Dublin and R.A. Buckley M.A, D.Phil , (Professor of Law, University of Reading of Lincoln's Inn, Barrister.)Twenty-first edition (1996) London Sweet and Maxwell Ltd. The introduction chapter consists of 7 pages and each page bears an approximately 392 words which make a corpus of 2,744 words.

Though the introductory chapter form each legal textbook is used as the research tool but suffice in its entirety to describe the structural patterning and organizational regularities. Therefore one may assert that a corpus of 33,725 words would inevitably be a fair amount for analysis, taking into consideration that the legal genre analysis touches on the formulaic approach that the author of the text attempt to introduce to intended learners and anticipated readers of a legal text.

### **3.1 DATA COLLECTION**

For the purpose of identification, each material will be deemed as :-

- 1) Text 1 on Appendix A by Cooke
- 2) Text 2 on Appendix B by Harpwood
- 3) Text 3 on Appendix C by Murphy
- 4) Text 4 on Appendix D by Quinn
- 5) Text 5 on Appendix E by Heuston

#### **3.1.1 Segments of Data**

1. The researcher embarks on the analysis with the text written by Professor John Cooke on Law of Tort which has 14 segments beginning from Introduction to the final segment or sub-heading on further reading.
2. The second text to analyse is from the text written by Vivienne Harpwood on Principles of Tort Law which has 12 segments starting from What is Tort? as the introduction to the summary.
3. Third text is from Catherine Elliot and Francis Quinn entitled Tort Law which has 11 segments which beginning from Tort law; An introduction right up to Reading on the Internet as the conclusion to this chapter.

4. The fourth research material to be analysed is from John Murphy's textbook which is entitled Street on Torts and has 4 segments to this introductory chapter.

5. Finally, the last text to analyse is from legal authors, R.F.V Heuston and R.A Buckley who wrote this Tort textbook entitled Law of Torts which has 2 segments to the introductory chapter.

### **3.2 WHO WRITES THESE TEXTS?**

In response to the question posed above, one would refer to the intentions and communicative purposes of these 5 legal writers in particular with their main objective that is to communicate and share with readers the "bones which clothed the flesh" of the law of Tort. In other words, introductory chapter of a text would serve the purpose of providing the framework of the textbook.

### **3.3 THESE TEXTS WERE WRITTEN FOR WHOSE BENEFITS?**

These 5 text materials were chosen because they are as popular reading choices for law students as well as researchers who aimed to work on the law of TORT. It is comprehensive but yet simplistic in its approach on this particular law of Tort. Having said that, the contents of the introduction chapter of the text may vary according to the different communicative purposes of the writers and these differences will tell us if the textbooks were meant for students or for wider readership as will be discussed at later stages of this research. Interestingly, another determining factor to ascertain who would be the likely readers depends upon the tactical choices and strategies employed by these writers in conveying their intentions via thick description of the law of Tort or by providing surface level description of the text introduction.

### **3.4 METHODOLOGY**

The choice of material central to the law students were selected as the researcher's tools of analysis according to the popularity amongst the students. The data analysis will take the form of a qualitative sequential exploratory study Creswell (2003:215-219) of the 5 texts by adopting Bhatia move-structure analysis. This will be conducted on a 2 tiered stage :

a) - by defining the cognitive moves of the texts from ground up into 2 structures i.e. at

the macro and micro level. This macro and micro level of analysis is a staged process where it is a step by step organization of the genre.

b) - by identifying the generic structure and rhetorical moves.

BUNTON structure (1998) ie TOPIC - ANALYSIS - DISCUSSION type of structure would be adopted to interpret the structural organizational pattern or chronological ordering typical of legal genre.

<b>THEME</b>	<b>DESCRIPTIONS</b>
Topic	Researcher's selection of 5 introductions from Tort Textbooks
Analysis	The researcher will stratify the texts according to the proposed design which will be discussed in Chapter Three
Discussion	The results derived from the research design that the researcher will adopt and the conclusion arrived at from the analysis will be discussed in Chapter Four

**Figure 3.1 : An illustration of how Bunton structure is applied to this present study**

Therefore the researcher endeavour to conduct a qualitative study by adopting Level 3 of genre analysis and identify the structural pattern on a topic-specific title i.e. the introductory chapter to the text on the law of Tort.

### **3.4.1 Macro structure**

First and foremost, at the **macro level**, the researcher looks at the overall texts and identify the constituent stages of a genre and categorise **3 major parts** as Introduction, Middle and End from the introduction chapter in general.

#### **1. INTRODUCTORY PART**

(Which introduces and establish the subject matter and under legal genre analysis falls into MOVE 1 which is the 1st MAJOR structure.

#### **2. MIDDLE PART**

(Stresses on the DETAILS AND EXPAND ON THE SUBJECT MATTER) This 2nd MAJOR stage is known as MOVE 2.

#### **3. FINAL PART**

(This final part will seek to CONCLUDE AND COMPLETE THE SUBJECT

MATTER. Accordingly this last stage is termed as MOVE 3.

### **3.4.2 Micro structure**

At the **micro level** stage, emphasis is placed on the details of each essential areas of substantive tort law impressed upon by the tort authors. And each paragraph and sentences will be interpreted and identified as **STEPS**. These steps will enable the researcher to parse and identify the elements and display the intent of the researcher to communicate a message.

### **3.5 JUSTIFICATION FOR METHODOLOGY**

The overall interpretation of the text will facilitate analysis and looks for regularity in each unit of text, categories or themes. Bhatia (1993), Halliday and Hasan (1985) and Martin (1992) regarded these features as genre. All 5 discourses will be analysed and compared simultaneously to discern commonality of issues. Once the common features or elements has been identified, a table chart will be formed and all 5 texts which consist of patterns will be categorised according to thematic features.

The patterns identified from the structural interpretation are described and termed as regularities and categorised as internal homogeneity and external homogeneity. Internal homogeneity bears the characteristics of SIMILAR GENERIC LABELS from the moves and steps which will be dovetailed into familiar categories represented as Table 1 later on. These categories bear features which are similar and they are crucial and indispensable to Tort law. Contrary to that would be the interpretation of moves and steps that do not fit into categories from these writers will be termed as unassignable and regarded as external homogeneity and will be kept aside.

### 3.5.1 Identifying the Generic Structure of the Introductions from the Tort Textbooks

1. The introduction chapter taken as research tool from these textbooks are the most comprehensive and commonly used as reference books for law students as well as legal practitioners and they consist of 350 to 691 pages of contents.
2. In attempting to identify the structural patterning of each Introduction, one may pose these few questions at the **MACRO LEVEL** by asking :

Question 1 - Which part of the chapter does the author introduce the subject matter?

Question 2 - Which part of the chapter that contains the main subject matter?

Question 3 - Which part of the chapter sum up the subject matter.

3. **At the MICRO LEVEL, the researcher must ask :-**

At the **PARAGRAPH LEVEL** :-

Question 1 - Is the author introducing the subject matter?

Question 2 - Is the author defining the subject matter?

Question 3 - Is the author explaining the subject matter?

Question 4 - Is the author expanding on the subject matter?

Question 5 - Is the author concluding the subject matter.

4. At **SENTENCE LEVEL** consider:-

Question 1 - What is the communicative purpose of the writer?

Question 2 -What are the moves and steps in realising the communicative purpose?

On the Micro level, each steps will identify the new issues raised, conflicting issues such as MOVE -(1)---STEP (2)--- of which text (MURPHY) and explain issues. From the structural interpretation at the micro level, one is able to make comparisons and identify the regularity in patterns from the 5 discourses. This seems to reflect on the regularity that indicates the existence of a genre in Tort introductions.

A hypothetical example of moves and steps is represented below to show how the structural interpretation process will be carried out later in Chapter 4 of this research.

a) **Text 1 on APPENDIX A by Cooke**

M1S1 ----- DESCRIBES -- One sentence describe the rule of law.

M1S1 (a)---- EXPLAINS -- Another sentence is deemed a subdivision of the  
ELEMENT.

M1S2 ----- EXPLAINS --- Third sentence is an analogy of the legal doctrine.

b) **Text 2 on APPENDIX B by Harpwood**

M --S-- EXPLAINS -----

M --S -- DESCRIBES -----

M-- S-- ILLUSTRATES -----

M-- S-- IDENTIFIES -----

M-- S-- OFFERS -----

### 3.6 CONCLUSION

The process of determining research instrument is daunting as consideration is given to the type of text that prove to be a popular read amongst readers from the legal domain. The book publication by Heuston (1993) was chosen to identify any difference in the way a legal author would draft the introduction chapter which dated back from 1993. To conclude, one is able to identify 3 core parts based on cognitive schemata and prior knowledge of the subject matter that being the law of Tort and through the application of the micro analysis which serve to identify the elements and consequences.