

CHAPTER FIVE

SUMMARY

5.0 INTRODUCTION

One may observe from the interpretation on the unit of analysis in Chapter 4, all dovetailed into respective place on generic structure ranging from the trends or stylistics of writers on their approach in law, the recurring regularity of features between these legal writers all goes to show they share similar communicative purposes leading to the completion of a simplistic yet all inclusive overview on the Tort of law.

From the 4 introductory chapters of these 4 legal writers in particular Cooke, Harpwood, Murphy and Quinn, the researcher can fairly say there is a beginning, middle and the final part to the chapter.

However, Heuston mainly spoke of law on trespass and differentiated it from trespass of a case. This seems to agree with the notion of stylisticity of writers in devoting 1-2 chapters as introductory chapter. However, in Heuston case, the core elements of Tort law is defined in chapter 2 which goes deeper than a mere introduction i.e. it encroached into deeper level of substantive law.

5.1 ANSWERS TO RESEARCH QUESTIONS

RQ1 - What are the communicative purposes that shaped the introduction chapter on the law of Tort?

The communicative purposes of these writers derived from the way the text is written. One may discern a writer's overt intention by his insertion of words such as **"..to students"** **"..for students"** or **"...law students'** . Such was the case from Murphy and Cooke. This is supported by the construct of systemic functional approach which helps to identify the writer(s) communicative purposes by referring to the interpersonal relationship and tenor of the subject matter. Bearing that in mind, the writer(s) is wired towards fulfilling his aims when he drafted the introduction text.

RQ2 - Are there common linguistic features that indicate the existence of a genre in Tort introduction?

The commonality and regularity of topics which is inherent to the law of Tort were discussed by 4 out of 5 legal writers albeit in varied order of representations. The 7 areas of importance in Tort introductions i.e.:

a) Introduction and aim of tort	60%
b) Distinguished law of Tort with other areas of law.	80%
c) Role of policy and insurance	60%
d) No fault and strict liability principle.	80%
e) Human Rights Act 1998	80%
f) Compensation	80%
g) Summary	60%

RQ3 - What are the communicative stages of these 5 introduction chapters of the law of Tort?

The communicative stages on the formulation of these 5 introductory chapters can be redefined as :

a) Define the law of Tort and other areas of law.



b) Distinguish the law of Tort and other areas of law.



c) Describe the parameters of essential limbs of law (liability) pertinent to the law of Tort.

The preconditions to the essential limbs of Tort law are:

- a) Rylands v Fletcher rule
- b) Public Nuisance
- c) Private Nuisance
- d) Negligence
- e) No fault liability

Understanding of the grounds and liability of each areas is represented in a feature chart which was extracted from the book entitled MODERN TORT LAW by Harpwood 6th Edition on page 278 of the text. The comparison chart will be attached to the appendices section as Appendix F on page 122 of this research.

RQ4 - What are the difficulties raised by writers of Tort textbooks?

The legal writers acknowledged the difficulty in understanding the Tort concepts supported by author Cooke's suggestion to reread the introductory chapter again after completion of reading entire textbook in addition to advising readers to disregard issues which prove to be a mental block at this stage. This goes to show that even though the introductory chapter seems to broach on areas of law in passing but yet the elements itself is confusing to some. Statistic based on an aggregate of 80% have shown the issue of difficulty in embracing tort concepts. It is appropriate to say that the legal material designer such as Quinn encoded the meanings using the specialized legal register having considered his anticipated readers mental and conceptual mappings.

5.2 IMPLICATIONS AND APPLICATIONS

These legal writers not only theorize the legal doctrines and legal principles of tort law but they also tried to transcribe its pragmatic value to real world situation which Harpwood has done in her book and showed irrelevance on certain areas of Tort law. The theory of certain doctrine does not represent the actual operation of the legal system.

Power relations between text producers and text recipient i.e. if he had given consideration of who are his intended readers, the legal writer would make implications clear, devoid of ambiguity with logical sequencing and precise legal concepts coupled with many illustrations and analogies such as the writer Cooke in his book.

He assume his ideal readers belonging to the same community of practice having prior legal knowledge, hence explication of certain issues may increase readers' awareness and the readers will recognise as true.

5.3 RECOMMENDATIONS AND CONTRIBUTION TO STUDY

It is hoped that from the presentation of results, these findings will give an insight to law course designers to design an effective introduction to meet the needs of intended readers. Further, these findings will help legal authors embrace a uniform approach and improve future structure scheme for Introduction chapter of a text. At the end of this present research, one is able to identify similar thought thinking patterns which these legal authors share in drafting the Tort text bearing in mind the core legal principles which is the key characteristics to the law of Tort.

However, a gap that remains unanswered due to lack of time for research is the way the author Heuston drafted his Introduction chapter in 1993 which departed from the norms of the 4 other legal authors. This would be an equally daunting vis-à-vis interesting area to research on as a **negative case analysis**.

5.4 CONCLUSION

Most of the area of Tort law emphasised by legal writers provided the backbone to the law of Tort.. A person's grasp of knowledge is weakened or incomplete if he does not consider or have neglected the essential parts of Tort law that were described by these legal Tort authors. The parameters can be seen from the answer to RQ3 above.

In summary, the researcher has covered a lot of grounds in identifying the commonality of issues via macro and micro analysis according to Bhatia's formulation of the move-analysis method which prove effective in synthesising effect in this present study and as a result of which a detailed typification of generic structure in tort textbook which these legal authors share.

Finally, one would sum up by embracing Cookes' (1986) awareness of these analytical linguistic studies by asserting that at the end of it all, in one's attempt in deciphering structural move pattern, it is truly based on personal judgement in addition to Hyland's assertion in 2000 that these organizational sequencing are purely intuitive in addition to Guba's assertion (1987:154) that a data analysis is an arty and intuitive process. By the same accord, the researcher does not regard her research to be comprehensive but suffice to fulfill the aim of providing an outline of a generic

structure of legal introductions. Having said that, out of the ordinary linear way of reading legal language, one may gain an insight on the organisational sequencing and typifications of a legal text by slicing through the thicket with the construct of move-analysis. Legal language is not confined to the legal domain but has a place in the linguistic discourse as well. In the words of Bloom, De Man and Hartman that is *"to practice a genre, we quote a genre, repeat, stage, expose its generic law and analyse it."*