



Original Research

Discursive Constructions of Communicative Rationality in Kenyan Presidential Election Petitions of 2022 at the Supreme Court of Kenya

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Abstract

How communicative rationality is constructed and shared among interlocutors in a court in the seeking of justice, given the background of distrust in the Kenyan Presidential Election context, gave attention to this study. The study investigated the construction of communicative rationality in the courtyard. The study assessed the types of illocutionary forces and their discursive legal practices and determined how interlocutors redeem the illocutionary logic in the courtyard. A documentary review of the written judgment of Ruto against Odinga in the presidential election of 2022 was used as the data collection method. The analytical frameworks involved Austin's (1962b) Speech Act theory and Searle and Vanderveken's (1985) illocutionary commitments. The findings showed that petitioners chose illocutionary forces to downgrade respondents' claims. The discursive nature of their legal practices was characterized by a lack of fairness, transparency, and integrity of IEBC and its Chairperson. Respondents used illocutionary forces, including denials, for face protection and repair. Their discursive legal practices were characterized by compliance, transparency, and accountability to win the Court's decision. Petitioners and respondents used much propositional content, modes of achievement, and preparatory conditions to construct their validity claims. In achieving justice, the group of Judges must consider interlocutors' presentations of credible statements of truth and acceptable normative statements of legal practices. A group of Judges needs to take precautions against the interlocutors' tricks and manipulation of the Constitution for effective decision-making.

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1. Introduction

The assumption guiding the current study was that interlocutors in their communication require the presentation of valid claims for universal understandings to occur, as in the case of the public sphere of the law. Reaching universal understandings among interlocutors in court discourses has been linked to how interlocutors use speech acts to win the court decision. For instance, the interlocutors' performance of illocutionary forces in criminal cases (Kovkina et al., 2022), prosecutors' natures of performance (Zyubina et al., 2017a); a suggestive and investigative mechanism (Katermina, 2017), violation of maxims (Khoiyi & Behnam, 2014) and in cross-cultural pragmatic legal practices (Putri et al., 2020), all have to do with the interlocutors' win of the court decision. Habermas (1989) asserts that communicative rationality is achieved when the interlocutors have universal understandings based on normative practices. Such communications are embedded in speech acts by valid claims to achieve arguments. In that case, these speech acts are the actual actions and reactions conveyed in a real situation when people say something (Austin, 1962b; Cutter et al., 2008; Searle, 1979; Ward et al., 2013). Austin (1962b) divides such actions into illocutionary and perlocutionary acts. Meanwhile, Searle (1979) classifies illocution acts into assertive, directive, declarative,

expressive, and commissive. The presentation of argumentations thus involves the representations of such speech acts with careful choices by the interlocutors to achieve validity claims, in that case, communicative rationality for universal understandings in the public sphere of the law (Searle & Vanderveken, 1985).

Reaching the ethical constructions of normative validity claims in an adversarial system has not been easy and presented challenges following unconstrained communication, which, in one way or another, weaken the agent's constructions of normative validity claims (Goffman, 1967). For instance, the nature of cross-examinations sometimes offered the counsels dominance of interactions (Johnson & Coulthard, 2010; Merton, 1972) and threatened the witness' cheerful face and credibility (Freedgood, 2002; Magenau, 2003). Unconstrained communications have also created an unequal distribution of legal resources (Keya, 2019). The council has also used powerful strategic questions to weaken the witness' validity claims (Matoesian & Coldren JR, 2002). Other empirical evidence at pragmatic and structural levels has also been reported to affect interlocutors' normative validity claims across different genres, such as law, political deliberations, ethics, political debate, and moral dilemma.

Unconstrained communications have posed unequal sharing of legal communicative resources among the outsiders, those who are sub-conscious of the judiciary system, and in-siders who are conscious of the judiciary system. Such unequal sharing has led to challenges in constructing communicative rationality on the court premises. For instance, outsiders have been forming opinions and giving voice to social problems. They also articulate public interests, supply solutions to the public, and sometimes apply social pressure regarding the issue before the Court or parliament. Despite all these, they do not make decisions (Habermas, 1996). In the sphere of law, those who present the public in public, such as advocates and counsel, make ordinary public communication and transform their message to acceptable legal codes so that their message is heard in a communicative rational way for effective decisions (Habermas, 1996). The strong public, such as the judiciary, decides which utterances are normative validity based on intelligible illocutionary forces. This is because they possess the ultimate power to determine right or wrong and what to take for constitutional and political responsibilities (Habermas, 1996). In that case, linguists are concerned with how interlocutors validate claims or construct communicative rationality to win court decisions despite the unequal distribution of linguistic resources on the court premises. They are also concerned with how interlocutors may choose from the right speech actions to characterize the nature of legal discourses and how their choice of different speech actions serves illocutionary logic to win their arguments against their counterparts. These interests by linguists gave a purpose to the current study to research speech acts and illocutionary reasoning using a variety of discourses in the English language.

2. Literature Review

The forensic linguistic analysis of the speeches has also been presented in criminal cases, bribery cases, prosecutors' speech genres, investigative mechanisms of suggestions, and cross-cultural pragmatic studies of judges' performances in model competitions. Such contexts have manifested the performance of illocution acts in different ways to influence court decisions. For instance, the performance of illocution of threat in criminal cases is found to be well determined in both complete and indirect statements whereby the speech intentions, subjective, model-verbalizes, personal will, emotion, and feeling determine the illocution content of threat cases (Kovkina et al., 2022); secondly, speech acts in bribe cases involve the use of linguistic semantics and pragmatics function of non-verbal in the dialogue of bribes which is closed discourses whereby no explicit speech acts by participants as in case of Russian courts (Baranov et al., 2020).

Moreover, the performance of speech acts about violation of the maxim of quantity is linked to the frequent use of declarative speech acts in incriminated cases and the use of representative speech acts in acquitted cases in the Iranian Law Court (Khoyi & Behnam, 2014). On the other hand, the performance of speech acts by prosecutors determines the prosecutor's speech genre to redeem court decisions. Such genres present logical arguments, the nature of the defendant and victim, scientific evidence, and colloquial styles to save valid argumentations (Zyubina et al., 2017b); in addition to that, the illocution performance of suggestion mechanism in legal discourses has been manifested as the means of persuasion and manipulations through the strategies of attack, defensive, suggestive psychological sequences to the construction, preparations, creation, and implementation of argumentation for justice (Katermina, 2017). Meanwhile, the cross-cultural-pragmatic study between judges regarding the American and Asian Next Top Model competition show that the assertive and declarative speech acts dominated the American Next Top Model competition with the use of apology contrary to expressive which dominated the Asian Next Top Model with no use of apology (Putri et al., 2020).

Scholars (Archer, 2019; Cerović, 2016; Keya, 2019; Komter, 1994; Skilton, 2017) presented that the use of blame imperative questions by counsels had impaired witness validity claims. They also reported the pragmatic use of witness denials of responsibilities of an action. Other scholars (Kravchenko & Blidchenko-Naiko, 2020; Skilton, 2017) presented the structural use of rhetorical questions, challenging and assertion-type questions for starting and moving the argumentations. At a pragmatic level, they used polite maxims to win the justification of others' faces. Cousineau and Lachine (2023) assessed the speech acts used by popular food vloggers in their food vlogs. This study also investigated how various modalities were used to create a perlocutionary effect on the audiences in the form of reactions. Their findings showed no use of declaration utterances since this type is uttered by persons in authority, such as the participants of this study were vloggers. Moreover, the common illocution act used was representatives due to the descriptive nature of vloggers' language.

However, there is inadequate empirical evidence that counts how interlocutors may construct and share legal discursive resources to achieve their communicative rationality in the Court, given the legal communication restrictions offered by the Court and the distrustful background of the administrations and declarations of presidential election results in Kenya contexts. Therefore, this study firstly assessed the petitioners' use of illocutionary acts and their legal discursive nature of election petitions; secondly, the study evaluated respondents' use of illocutionary acts and their legal discursive nature of election petitions, and finally, the study determined how both petitioners and respondents have been using discursive resources in the courtyard to redeem their illocutionary logic during the election petitions before the Court in a Kenyan context.

2.1 Political Parties' Landscape and 2022 Kenyan Presidential Election

Kenya has been experiencing political instability since it became a sovereign multiparty democratic state in 1991. Its political instability is attributed to multipart alliances, ethnic community mobilization, and founders' ideologies (Makomelo, 2022). Since the genesis of multiparty, its election processes have been highly contexted, and its validity has been questioned. This is to say, most of the election cycles have faced a background of distrust regarding the election processes, administration, and the declarations of presidential results. Such distrust created riots and even killings among Kenyans (Koome, 2022 ; Roznai & Munabi, 2022). To respond to such distrust, the government vested the Supreme Court with the jurisdiction to determine questions regarding the validity of the Presidential Election under Article 140 of the Constitution. The Presidential General Elections of August 9, 2022, and its declarations of the results on August 15, 2022, lost the public confidence and trust in the internal management of the elections by the Independent Electoral and Boundaries Commission (IEBC). It should be known that on August 15, 2022, six days after the election, the IEBC chairperson announced the presidential-elect William Ruto by 50.49 % over 48.85% of Raila Odinga. The announcement of William Samoei Ruto by IEBC's Chairperson as the presidential-elect of the United Democratic Alliance Party led to the presentation of nine (9) Presidential election petitions to the Supreme Court of Kenya. That is to say, the IEBC processes, administrations, and declaration of the presidential results became matters of democratic concern. Following the claims of election processes, administrations and declarations' distrust, and the submission of the claims before the court premises for legal discussions. The interest of this study was to assess how the language was used to construct communication validity by choosing the right speech actions to win the court decisions.

2.2 Kenya's Supreme Court Vindication Processes of 2022 Presidential Elections

Following the presentations of nine presidential election petitions and twenty-four interlocutors' applications, the Court consolidated the petitions into one petition because of their similarities. It designated them as 'Presidential Election Petition No. E005 of 2022'. After carefully investigating the petitions and petitioners, the Court accepted the seven petitioners, led by the first petitioner Raila Odinga and the eleven respondents, led by the first respondent William Ruto, to come before the Court. The Supreme Court of Kenya crystalized the consolidated petition with nine issues of determinations which characterized the nature of legal discourses, including the uncertainty of IEBC deployed technology; ii) interference with the uploading and transmission of Forms 34A from the polling stations to the (IEBC et al.; iii) difference between Form34A uploaded on the IEBC Public Portal and the Forms 34A received at the National Tallying Centre, and the Forms34A issued to the agents at the polling stations; iv) Postponement of Gubernatorial elections in constituencies, counties and wards to be the result of voter suppression; and v) irregularities and illegalities of such magnitude as to affect the final results of the presidential elections.

The Supreme Court of Kenya executed the judgment against the two sides: petitioners and respondents led by Raila and William Ruto, respectively, and the second respondent of IEBC and its chairperson. The judicial system, judges, advocates, and jury, who are the insiders because of their familiarity with discursive legal practices (Merton, 1972), were among the interlocutors. Political party representatives like Azimio la Umoja and the United Democratic Alliance Party, also known as outsiders, were among the interlocutors of discursive legal practices based on how they used the language in the court.

Therefore, the construction of validity claims before the legal premises while it requires interlocutors to choose from the right actions to redeem illocutionary logic to reach a universal understanding, the available unequal distribution of linguistic resources among the centers and peripherals which constraints the communicative rationality and legal decisions are all matter of concerns in English language research. There was, therefore, a need to investigate how communicative rationality is constructed and shared among interlocutors in Kenyan courtyards seeking justice, given the long-time distrust of how presidential elections, administrations and declarations are handled in Kenya.

2.3 Theoretical Framework of the Study

This study employed Austin's (1962) Speech Act Theory to assess the types of illocutionary forces and their legal discursive practices. Likewise, the study used (Searle et al., 1985) Illocutionary Logic in constructing communicative rationality. Searle et al. (1985) outlined seven illocutionary logics, namely: i) appropriate content conditions, ii) mode of achievements, iii) preparatory conditions, iv) illocutionary point, v) degree of illocutionary point; vi) sincerity condition and vii) degree of strength of sincerity condition. The theory is widely used in legal discourse (Cerović, 2016; Skilton, 2017; Keya, 2019) and other genres like political deliberations, ethics, political debate, and moral dilemma (Hautli-Janisz et al., 2022; Kravchenko & Blidchenko-Naiko, 2020). The theory is, therefore, suitable in the current study because it reveals the rationality constructions based on the validity of claims in the public sphere of the law. It gives insights into illocutionary commitments and or intelligible validity claims of the illocutionary about the current study. Therefore, both Austin's (1962) Speech Act Theory and Searle et al. (1985) Illocutionary Commitments Theory guided this study in assessing the types of illocutionary acts and their discursive nature in legal practices as used by both petitioners and respondents and determining how the above interlocutors achieved the illocutionary logics in their interruptions before the Court.

3. Method

The research adopted a cross-sectional design, whereby data were collected and analyzed once at a time. Similarly, an exploratory approach was employed to answer the what and how questions of the research objectives. The data collection involved the documentary reviews of the judgment case of Ruto against Odinga by the Supreme Court of Kenya, which were collected from the Supreme Court public website soon after the Supreme Court judgment was done. The documentary review was written in English; hence, no translation was done. This documentary review was used as the data source because it included the responses from 18 interlocutors, whereby seven petitioners in support of Raila Odinga and 11 respondents in support of William Ruto were identified. The Court purposively selected such interlocutors for cross-examination as they met the constitutional threshold upon their submitted issues for determination.

In that case, documentary reviews involved four main issues forming the nature of cross-examination among interlocutors. Such issues of determination involved the following: uncertainty of IEBC deployed technology; interference with uploading and transmission of different forms from polling stations to IEBC Public Portal; the differences between forms uploaded by IEBC Public Portal and those received and issued by both National Tallying Centre (NTC) and agents as well as the postponement of gubernatorial elections in constituencies, counties, and wards. However, only four issues of determination were selected in the current study based on the scope and complexity of the data.

The study used analytical frameworks by both Searle et al. (1985) analytical frameworks of illocutionary logics and Austin (1962) illocutionary acts for data analysis. These theories guided the researchers in extracting themes from the raw data. The first stage involved coding the raw data. The researchers identified the main themes, known as global themes, using latent themes (theory) (Tables 1, 2, and 3). The issues underdetermination by the Court were used to extract the basic themes shown in Tables 1, 2, and 3 in the second column. In identifying these themes, three analytical questions were used:

- 1) What were the literal and implied actions used by the petitioners against respondents?
- 2) What were the literal and implied actions used by respondents against the petitioners?
- 3) How did interlocutors redeem the illocutionary logic using the mode of achievements, content conditions, preparatory conditions, and sincerity conditions?

The second stage of the analysis involved refining the themes from which similar themes were combined, different themes were separated, and irrelevant themes were discarded. The third stage involved describing the thematic networks from basic to organized themes to global themes using supported original raw data. Finally, the results were interpreted based on theory, argumentations, and past findings.

The trustworthiness of the findings was achieved through the interconnectedness of the themes through network mapping. Additionally, trustworthiness was achieved by refining the themes, reclassifying, and ignoring the redundant themes. We also did inter-coding practices from which consensus was reached on the adopted themes. Lastly, the analysis reflected the employed theoretical frameworks and the interpretations of the findings with other empirical findings.

4. Results

The findings of this study are presented into three major categories to reflect the petitioners' use of illocutionary forces and their discursive legal practices, the respondents' use of illocutionary forces and their legal discursive practices, and both petitioners and respondents' redeeming of illocutionary logic. The findings are presented in each of the sub-sections below.

4.1 Petitioner's Use of Illocutionary Forces and their Discursive Legal Practices

The results are presented into six main illocutionary forces. The organized themes include pleading, argumentations, allegations, contends, assertions, and beliefs. The results also found the three main global themes of legal discursive practices extracted from the raw data: the lack of transparency, integrity, and fairness and responsibilities among IEBCs and its chairperson, as presented in Table 1.

Table 1. Petitioners' Use of Illocutionary Forces and their Discursive Legal Practices

Basic Themes	Organising Themes	Global Themes
Petitioners fell-short of constitutional and statutory standards, committed itself, publicly availed	Pleading on the IEBCs technology standards	
Serious gaps and risks include changes to voting stations, 14 user accounts, unrelated voter registrations, unauthorized system users, and changes to particulars.	Argumentations on the IEBC's technology standards	Lack of transparency
Delegating the design to a foreign company, IEBC abdicated and surrendered; IEBC vigorously fought any attempt	Allegations on the IEBC's technology standards	
Deliberate manipulation, tempering with Form34A, deducted from 1 st petitioner, added to the first respondent,	Content regarding differences between Form 34A	
The simplicity of the technology, the KIEMS kit failed; not easily usable	Content on the IEBC's technology standards	Lack of integrity

Expand 120) days before,	Assertions on the IEBC's technology standards	
Postponement undermined the conduct of a free, fair, and credible election, depriving the voters of an opportunity to vote, postponement of the election, and suppressing voter turnover	Content on the postponement of Gubernatorial elections	
Deliberate postponement handled benefits to the first respondents,	Believe in the deliberate postponement of elections	Lack of fairness and responsibilities
Intercepted, determined or stored Form 34A, manipulate IEBCs dumped over 11,000 Form 34A between 1101-1109 hours	Allegation on the Interference in uploading and transmission of Form 34A	

Regarding the petitioners' claim for the lack of accountability and transparency of their discursive practices, they argued that the voting stations were changed, causing risks and gaps. They also claimed that IEBC's technology lacked constitutional and statutory standards and was not publicly available. For instance, they alleged that IEBC has abducted and surrendered IEBC technology to foreign companies. Different illocutionary forces, including content and assertions on the deployed IEBC technology, justified the petitioners' claim of the lack of integrity among IEBC respondents. For instance, they asserted and contended the failure of IEBC's technology. For them, IEBC technology was not simple for public use and needed expert knowledge. The petitioners claimed the lack of fair elections and lack of responsibility acts among IEBC respondents. Such a claim was justified using different illocutionary forces such as beliefs, contends, and allegations. Furthermore, petitioners believed in the deliberate postponement of elections and that some IEBC practices handed benefits to the first respondent. Regarding form 34A, they alleged interference in the uploading and transmitting form 34A through an attempt to detain and store form 34A. Moreover, they contended that the postponement of gubernatorial elections undermined free, fair, and credible elections and deprived voters' opportunity to vote.

4.2 Respondents' Use of Illocutionary Forces and their Discursive Legal Practices

On the side of respondents, the results showed six main illocutionary forces. They are organized as argumentations, contends, assertions, denials, declarations, and admission to mistakes. The results also found the two main global themes of legal discursive practices extracted from the raw data: the availability of compliance and integrity and the availability of transparency and accountability among IEBC and its chairperson, as presented in Table 2.

Table 2. Respondents' Use of Illocutionary Forces against Petitioners

Basic Themes	Organising Themes	Global Themes
The constitutional threshold, security feature	Declaration on the IEBC's technology standards	
Relied on affidavit, protect the data,	Assertions on the IEBC's technology standards	
not interfered with or manipulated, identical to form 34A, National Tallying Centre (Bomas),	Argumentation on the difference between Forms 34A	Compliance and Integrity
Failure of the technology did not vitiate the results	Argumentation on the IEBC's technology standards	

Original physical form 34A: To tally, verify and declare Presidential election results	Content on differences of Form 34A	
Staging and unauthorized intrusion of the RTS opened on the eve of the election, distributed to the polling station,	Denial of the Interference on uploading and transmission of Form34A	
Uploaded immediately, transmitted result form	Argumentation on the interference of Form 34A	Transparency and Accountability
Admitted, experience confusion with the printed ballot papers, discovered the mix-up,	Admit to mistakes regarding the postponement of Gubernatorial elections	

The findings showed that the respondents' legal discursive practices were characterized by compliance and integrity justified by different illocutionary forces, namely declarations, argumentations, assertions, and contentions. For instance, respondents argued that there were interferences or manipulations on Form 34A. Based on these claims, the respondents believed that similar forms were delivered to the National Tallying Centre (NTC).

While the petitioners claimed that the used technology did not meet the standards, the respondents believed that the used technology met the constitutional threshold and had all necessary security features. They also asserted reliance on the affidavit of different participants and their effort to protect the data by following the Data Protection Act that demands IEBC authority to protect the data of Kenyan voters.

Furthermore, regarding the claims on the failure of the technology, IEBC's respondents argued that the technology disruptions did not affect the election results. Moreover, the interruption did not compromise compliance or integrity. On the issue of transparency and accountability, the respondents denied interference in uploading the forms, and every stage was demonstrated by transparency and accountability. For instance, they claimed that the forms were uploaded on time and immediately transmitted to the destinations. Similarly, the respondents denied the staging and authorized intrusions. They also denied the interference of the uploading and transmission of Form 34A since the opening of forms was done on the eve of the election. Nevertheless, IEBC respondents admitted their mistake in postponing gubernatorial elections after discovering the mix-up and confusion with printed ballot papers on the eve of the election.

4.3 Redeeming of Illocutionary Logic by both Petitioners and Respondents before the Court

The results found three main illocutionary logic used among petitioners and respondents to win the court decisions, including mode of achievements, content conditions, and preparatory conditions, as presented in Table 3.

Table 3. Themes Showing Illocutionary Logics

Basic Themes	Organising Themes	Global Themes
No credible evidence meeting the requisite standard of proof, an unauthorized person	IEBC's technology standards	
No credible evidence, similarly not proved, evidence of consistency attributes, 11,000 Forms 34A	Interference of Form 34A	Mode of achievements
No credible evidence, the purported evidence, evidence threshold, no more than incredible and hearsay evidence,	Different Forms 34A	

It has not been shown, absence of any empirical data or evidence on records, some 30 years ago, IEBC illustrated, Calum was undoubtedly	Postponement of gubernatorial elections	
The scrutiny report, the registrar of this Court did not reveal any security breach, successfully deployed a Biometric Voter Register (BRV) System, unique features of voters' facial image, figure prints, and civil data	IEBC's technology standards	
No probative values, the same as those on the public portal, outright forgeries,	Interference of Form 34A	Content conditions
The Court confirmed the authenticity of the original forms, No significant differences, forgeries, fraudulently, unadvertised manufacturer error,	Different Forms 34A	
Not permitted to swear affidavit on behalf of the client, swearing to falsehoods, trust of Judges	Different Forms 34A	Preparatory condition
Power to postpone the election,	Postponement of gubernatorial elections	

Findings that showed the mode of achievements that relied on credible linguistic evidence to justify an action found the following: for example, they argued whether the IEBC respondents refuted the employed IEBC's technology that did not meet the standards upon the presentations of no credible evidence, and the disapproval of the allegations that unauthorized persons accessed IEBC technology; the claims on the interferences of uploading and transmission of Form 34A and the inconsistency of the forms by petitioners were disapproved with no credible evidence of consistency attributes and evidence of confirmations from the registrar report.

Moreover, the petitioner's presentations of the affidavit did not meet the evidence threshold as they contained hearsay evidence. Other linguistic evidence regarding the petitioners' claims of deliberate postponement of the gubernatorial election was presented by their failure to show credible evidence as to whether the IEBC acted in bad faith or was a genuine mistake. The absence of any empirical evidence as to whether the postponement of gubernatorial elections affected voter turnout was another claim that this study reports. Further, failures of petitioners to redeem their validity claims were also explained by the IEBC illustrations that led to the Supreme Court's satisfaction with the lack of vote turnover.

Also, the content conditions found that the petitioners' claims about whether the IEBC technology deployed by IEBC did not meet standards were refuted. They were denied by the presentation of the appropriate scrutiny report of the registrar and successful deployment of the Biometric Voter Register (BVR) that captured civil data fingerprints and facial images. The petitioners' inappropriate affidavits refuted the petitioners' claims for the IEBC interference, which found no probative value upon ICT scrutiny. The petitioners' claims regarding the differences between the original Forms 34A used and those that the Court had confirmed. Other inappropriate conditions were the petitioners' affidavit forms that contained forgery features, leading to the dismissal of their claim. Lastly, the preparatory conditions as the linguistic evidence that are linked to the credible social status of the interlocutors found that the petitioner's claim on the difference between Forms 34A was misfired following the swearing falsehood by the petitioners' representative counsel and the loss of trust among judges. Moreover, the petitioners' claims on the IEBC's

lack of credible status to postpone the gubernatorial elections misfired following the declaration of the Supreme Court of Kenya that the third respondent had the power to postpone the gubernatorial election in the counties and wards.

5. Discussion

5.1 The Petitioners' Use of Illocutionary Acts

The study investigated the construction of communicative rationality between the petitioners and respondents and how interlocutors redeem the illocutionary logic in the courtyard. The petitioners' use of illocutionary forces in election petitions reflected challenging questions to their opponents. They reflected a lack of constitutional and statutory standards of IEBC technology, among others. These illocutionary forces also implied the move and development of argumentations, offer of an assertion, and presentations of evidence for argumentations justifications. The findings are coherent with past studies (Hautli-Janisz et al., 2022; Kravchenko & Blidchenko-Naiko, 2020), who asserted that different kinds of questions, be it rhetorical, pure, challenging and assertion type in legal discourse, may intend to build the start point of the move, shape and sometimes develop the dialogue.

Either Skilton (2017) calls such challenging questions evading, which may also be used to give directives, offers, and assertions. Moreover, the petitioners' use of argumentations implied sets of reasoning and inferred the doubt regarding the normative procedures used by IEBC respondents. Habermas (1982) clarifies that what claims to be normative validity should confirm acceptance of the norms of discursive practices within the value sphere. Further, the petitioners' use of allegations also implies the respondents' multi-practices regarding election practices. Meanwhile, their assertions suggested coherence to election procedures and manipulation of description evidence to justify their claims. Such observations are also reported by Hautli-Janisz et al. (2022) in justifying the role of assertion in the court discourse. Austin (1962) explains that assertions usually describe things in terms of their truth value, as in the case of the petitioners whose descriptions aimed to communicate the illegal practices of the conduct, administration, and declaration of the presidential election in Kenya. Furthermore, the use of contents among petitioners had to infer warning reading the election processes and weakness of its implementations as in the case of complexity of the IEBC technology to ordinary public use. The past studies make clear that warning as a speech act is a directive illocution act (Searle & Searle, 1969; TieRasma, 2010) which, when used, demands a world-to-world relationship, i.e., the institution, in that case, IEBC to act for public advantages.

More important is an observation of the discursive nature of legal practices used by the petitioners above. These discursive natures of legal practices may have different implications: Firstly, the petitioners may have intended to communicate the failure beyond normative procedures regarding the Presidential General Election of 2022. Habermas (1982) posits that a normative validity claim should confirm the normative acceptance of the practices, in that case, legal procedures, under what he called the Principle of Discourse. Secondly, the petitioners may have intended to damage the positive face-want of the respondents (IEBC and its chairperson) to win the claims (Goffman, 1967); thirdly, the petitioners may have desired to sound more communicative rationale to win for effective courts' decisions (Habermas, 1996); lastly, it may have been the desire of the petitioners to get the IEBC and its chairperson involved in multi-practices (Komter, 1994; Kone, 2020) thus, repeat for the general election.

5.2 The Respondents' Use of Illocutionary Acts

Similarly, the choice of illocutionary forces by the respondents (IEBC and its chairperson) above may have different implications regarding the general election processes in Kenya. For instance, the agent's use of denial may have implied their deliberate refusal of personal responsibilities and downgrading the claims on both the interferences of the election processes and the side effects of an election as the result of failure in employed IEBC technology. The findings concur with past studies that used denial for personal responsibilities by turning concrete actions into abstract ones (Komter, 1994) and sometimes downgrading the accusations to win the claim (Goffman, 1967). Moreover, when the respondents admitted the mistakes regarding the actions in hand, i.e., postponement of constituent elections, this could imply fairness of actions with no side effect, authority good- faith, and authority credibility. The use of assertions by the respondents indicated both the description of truth regarding the constitutional threshold of the election processes and the true values regarding the consistency of an action, i.e., identical and consistent Form 34A to agents, NTC, and IEBC portal.

Furthermore, respondents' use of argumentation also implied the justifications of the validity claim regarding the immediacy of an action for public advantage. The discursive nature of illocutionary speech acts in the above legal practices suggested face protections, face repair, and claims against the petitioners. These observations are also coherent with past studies on the interlocutors' protection of negative face and sometimes influencing of the effective decision by a group of judges (Kiyama et al., 2012; Cerović, 2016; Habermas, 1982; Kravchenko & Blidchenko-Naiko, 2020).

5.3 Redeeming of Illocutionary Logic by both Petitioners and Respondents

In the same line, the observation from illocutionary logic used by interlocutors implies different messages regarding the nature of legal interactions and redeem of illocutionary logic. Firstly, the constructions of rational validity may be done by counteracting the inappropriate propositions presented against the other side's sufficient and credible appropriate conditions. Secondly, in legal interactions, valid claims are judged based on relevant propositional content and credible presentations of evidence. Thirdly, what is considered a valid claim may be disapproved by other strong propositional content and credible evidence of the other part?

However, scholars assume that winning or losing the validity claims may be achieved at structural and pragmatic levels (Archer, 2019; Cerović, 2016; Keya, 2019; Skilton, 2017). However, Habermas (1989) believes that competent speakers can reach an ethical standpoint through rational choices of credible evidence, propositional content, and good use of language. Other observations regarding illocutionary logic in legal interactions deduce that the claims of an authorized person do make the interaction valid. This is in the case of the postponements of gubernatorial elections in Kenya, which the judges found valid when they came from the authorized person. This claim is supported by past studies emphasizing the social actors' role and practices' norms in constructing validity claims (Habermas, 1982; Hesse, 1982).

Further, the nature of legal interactions may also be affected by interlocutors' trickery, such as using an unauthorized body of evidence, and multi-practices of conduct, such as falsehood, to win the validity of claims. In that case, both Habermas's (1982) precautions on the normative of legal practices and Merton's (1972) precautions on the tricky and manipulation of conduct by what is called the insiders (Merton, 1972), i.e., familiar advocates on legal practices. More importantly, the insiders (judges) need to be well-skilled and knowledgeable of the normative practices of the law to preserve its normative procedures that characterize the legal discursive practices and redeem illocutionary logic. Other vital observations are the interlocutors downgrading of other claims to protect their face in legal discursive practices to win the illocutionary logics, a similar observation by (Gardiner, 1991; Gilks, 2010; Goffman, 1967; Hirschkop, 1999; Komter, 1994).

6. Conclusion

Generally, the findings of this study revealed that petitioners used a range of illocutionary forces, such as assertions, criticisms, allegations, beliefs, and argumentation, to downgrade the illocutionary details from the respondents. Their nature of discursive legal practices involved the lack of integrity, transparency, accountability, and fairness among IEBCs and its chairperson. The findings also conclude that respondents used a range of illocution forces to maintain and repair their faces, including presentations of argumentations, contentions, assertions, denials, declarations, and admission to mistakes upon administration and declaration of the national election. Contrarily to petitioners, the respondents' discursive legal practices claimed the availability of transparency, accountability, compliance, and integrity during national elections to win the court decision. Based on these findings, it is recommended that in achieving legal justice, a group of judges must consider the interlocutors' presentations of credible statements of truth and acceptable normative statements of legal practices. The judges also need to take precautions against the interlocutors' trick and manipulation of the constitutions for effective decision-making.

Further studies could consider the construction of rationality to interlocutors' sincerity condition. The findings imply that achieving a valid claim in the public sphere of the law requires evidence threshold, content authenticity and credible social status to claim the right involvement in social practices or actions. It also implies that parts of the public law sphere interact with other parts' actions based on the appropriate content of evidence to win court decisions.

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