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A COMPARATIVE ANALYSIS OF JUDGMENT WRITING UNDER ISLAMIC AND CONVENTIONAL SYSTEMS

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Abstract

The importance of judgment writing as a vehicle for the administration of justice cannot be overemphasized. It is the most secured record system that contains the courts' verdict on different adjudicated cases, which if carefully kept it lasts for centuries. The paper focuses on the comparative analysis of judgment writing under the Islamic and conventional systems. Thus, through the use of doctrinal method the paper founds that judgment writing under Islamic law and that of the conventional systems are similar even though there are some essential points where the dissimilarities are found. The fundamental difference of the two systems is that; while under Islamic law judgment writing is not obligatory except if requested by the litigants, in the conventional systems it is obligatory prior to its pronouncement. The paper recommends that; Judges should always have at the back of their minds that; judgments have a purpose to communicate to the parties and other stakeholders the decision of the court in regard to the dispute. Similarly, judgments outlive their authors; they act as precedents and should carry the message for prosperity. It shall therefore, be clear and understandable by even those who have lost the case.

.1 Introduction

Administration of justice encompasses all necessary scopes and condiments of the principles of justice delivery. It also contemplates the desired need and expectations of those who troop into the courts of law to seek for justice on daily

basis. In every society, effective justice delivery lies on the shoulder of judges and a workable legal system.

Judges, who are saddled with the constitutional responsibility of the interpretation and application of relevant laws, are always monitored and unofficially, put under the surveillance and observation by the litigants and the general public. Thus, judges' ability to administer and showcase absolute justice in all its ramifications right from the commencement of a law suit to its logical conclusion, guarantees the confidence and patronage that the court receives in return from the general public. This is because such ability is *sine qua non* to an effective system of administration of justice. Therefore, judges should endeavor to deliver a good judgment at all cost.

A good and qualitative judgment portrays an excellent image of the court in the discharge of its responsibility as the last hope of a common man. In the same vein, a qualitative judgment is expected to comprehensively document the judgment analysis, facts, and law, of all the cases it adjudicates. This will surely go a long way in indicating the intellectual capacity of the concerned judge, his vast experience and, by extension, the worthiness of the judicial system under which he operates.

Sequel to the above, it becomes imperative, not only for judges, but for other judicial officers, to learn and master the skills of judgment writing. Thus, the objective of this paper is to provide a comparative analysis of the rudiments, procedures and techniques of judgment writing under the perspectives of Islamic and conventional systems or approaches. In order to achieve the above objective, the paper provides conceptual clarifications of some key terms, brief historical antecedent of judgment writing, legal position of judgment writing significance and rationale for judgment writing, structure of judgment writing, style and techniques of judgment writing, and judgment writing format in civil and criminal cases.

1.2 Conceptual Clarifications of Key Terms

The fundamental key terms that constitute the topic of this paper which may require further clarification as they relate to the scope of this presentation are basically three; judgment, writing and Islamic law. Thus, the paper provides a brief explanation on the above three concepts as follows:

1.2.1 Judgment

Judgment is the decision of a court of law. The Black's law dictionary defines judgment as:

> The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination; the final decision of the court resolving the dispute and determining the rights and obligations of the parties; the laws last word in a judicial controversy, it being the final determination by a court upon the rights of the parties upon matters, submitted to it in an action or proceedings[1]

It is pertinent to further state that, the term judgment encompasses consequential orders; and as such it includes; award of damages, various decrees, various final orders declaratory reliefs whether in realm or in personam, and whether in consent or after contest.[2]

Similarly, in Islamic law perspective, judgment has been described thus: "Judgment is the declaration of a legal verdict that wish shall be executed and enforced". In other words; "Judgment is an intervention between the creator and His servants in order to deliver his instructions and laws through the application of *Qur'an* and *Sunnah*.[3] However, according to al-Qarafy; "Judgment is the establishment and enforcement of a legal right".[4]

Therefore, judgment is an established obligation and an adopted tradition of the Prophet {SAW}. In the famous letter of Umar bin al-Khattab to Abu Musa al-Ash'ary it reads thus: Try to understand matters before you. Statements or decisions that are not enforceable are invalid. Place the parties before you on equal right that a privileged party will not vie for your favour or take you for granted, while the less privileged will not fear your injustice. Be certain and convinced of complex issues once they are not provided for in the book or *Sunnah*.[5]

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[1] Black's Law Dictionary, 5 edition p.55.
[2] Philiph, N, A (1990) The Art and Science of Judging: Judgement writing, Judicial Lecture Notes: Continuing Judicial Education for the Judiciary, p.45
[3] Al-Tarabulsy, A, K {2009} *Mu'een al-Hukkam fima Yataraddadu baina al-Khasmaini min al-Ahkam*, al-Quds li al-Nashr wa al-Tauzee', first edition, p. i2.
[4] Ibid
[5] Ibid at p. 28

1.2.2 Classifications of Judgment

Generally, judgments are classified into three, namely; default judgment, consent judgment and final judgment or judgment on the merits.[6]

A default judgment is one based on the contested facts, evidence and legal rights of the parties but on some mere matters of practice, procedural, technical or jurisdictional errors and omissions. For example, any judgment given as a result of failure of one of the parties to appear in court to defend the suit or to file pleadings is a default judgment. A default judgment is not a judgment on the merits and therefore, can be set aside by the very court that rendered it provided an application to that effect is timeously made backed with reasonable and convincing reasons[7]

A consent judgment is one that is based on the voluntary agreement of the parties themselves and which is subsequently submitted for adoption as a judgment of the court. Thus, where parties to an action in court have fashioned out an agreement as to how to settle their dispute out of court and apply to the court to give judgment on the terms they have so agreed, such a judgment is known as consent judgment.

On the other hand, any judgment given by the court after the conclusion of evidence and addresses by the parties to the suit qualifies as final judgment or judgment on the merits as it finally and conclusively determines or settles all the rights or claims of the parties in the subject matter of the suit based on contested facts and proper evaluation of evidence.[8]

In other words, judgment may be classified into summary and reserved. The former is the one delivered instantly upon conclusion of hearing and sometimes without giving reason for the judgment. However, where complex questions of facts or law or both are raised in the proceedings, the court ought to reserve its judgment to future date. This may be scheduled and announced at once or later after giving due notice to the parties. Thus, the court delivers a reason and reserve judgment on that date.[9]

Similarly, a judgment may be either interlocutory or final, where because of the nature of the issues that have been canvassed, the judgment merely directs a

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[6] Beredugo, A, J, (2009) Nigerian Legal System, Malt house Press Limited, Zaria, 3rd edition p. 163.

[7] The *locus classicus* on this point is the case of *Williams v. Hope Rising Voluntary Funds Society (1983) SC. 1.*

[8] Bredugo, A, J, op cit p. 163.

[9] Philph, N. A, op cit

further action or step to be taken, the court is said to have delivered an interlocutory judgment. But where the judgment is complete unto itself and, after hearing inter parties is available for immediate execution it is said that a final have been entered.[10]

1.3 A Judge

A judge is an appointed public official saddled with the responsibility of presiding over a court of justice in order to administer the law by applying it to the facts established by evidence.[11] Judges are always responsible for deciding cases, it is therefore, the duty of a judge to listen to all evidence and decide a case applying law to the facts of the case. Judges are virtually always lawyers except for *Sharia'h* or customary court judges who may or may not be.[12]

Under Islamic law, such responsibility was first vested on the Prophet {SAW}, his companions and subsequently on the qualified persons among the general *Ummah*.[13]

The classical books of Islamic jurisprudence have not bothered to define what the term judge is; rather, they are more concerned with the conditions for the validity of his appointment as a judge. However, the definition of the term may be driven from the general meaning of his function, ie the judgment. Thus, he is a person appointed by the state to specifically adjudicate on the disputes of litigants and issue a binding judgment thereof.[14] He is otherwise known as; *al-Qadhy, al-Fasil, al-Fattah* and *al-Hakim*.[15]

Jurists have unanimously agreed that, for a person to be qualified for appointment as a judge he must possess a sound knowledge of all sources of *Shari'ah* in addition to being Muslim, adult, sane, upright, capable of hearing and speaking.[16] However, other conditions, such as; being male, free, capable of seeing, etc, are subjected to juristic arguments.[17]

1.4 Writing

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[10] Ibid
[11] Maducsi, E, {2001} Introduction to Legal Literacy in Nigeria, The State Bar of California, United States of America, p. 19
[12] Ibid
[13] Al-Baraak, A. S, {1426} *A'awan al-Qaadhywa Ahkamuhum al-Fiqhiyyah*, Mu'assasat Manarat al-Ilm, Riyadh, first edition, p. 94.
[14] Al-Baraak, A. S, op cit, p. 12.
[15] Ibid
[16] Ibid
[17] Ibid

Writing is the process of using symbols {letters of the alphabets, punctuations and spaces} to communicate thoughts and ideas in a readable form, writing is the fourth of the four language skills, which are; listening, speaking, reading and writing.[18] Thus, writing judgment is an art or a science of reducing judgment in an essay form of communication where a judge explains his evaluation of facts and evidence presented in a cause or matter and the position of law on the same. This communication is first to the litigants and their counsels, to the members of the legal profession and thirdly to the public at large.[19]

Writing or documentation, *al-kitabah* in Arabic connotes; statements or notes written by someone who may be in position of authority or a judge or an ordinary citizen and the writing may be made on official parchment paper and sealed or otherwise.[20] Similarly, *al-Kitabah* means book, publication, writing, inscription, letter, notes, writing on paper, or record.[21]

Thus, *al-khatt* or *al-kitabah* all of which refer to inscription or writing is defined as a statement or notes written by someone who may be in a position of authority or a judge or an ordinary citizen, it may be made on an official parchment paper and sealed or otherwise.[22]

In another definition, Anwarullah described document {writing} as: "Any matter expressed by means of letters, figures, or marks or by more than one of these means, intended to be used or which may be used, for the purpose of recording the matter, according to Islamic law, it includes any written, printed or inscribed material which gives information".[23]

1.5 Islamic Law/*Shari'ah*

Linguistically, the word *Shari'ah* means a waterhole where animals gather to drink water on daily basis, or the straight path as suggested by the Quranic verse: "Then we put thee on the {right} way of religion {straight path}. So follow thou that {way}. And follow not the desires of those who know not".[24]

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[18] www.englishclub.com, (25/June/2023

[19] Judgment writing, nji.gov.ng2021/12

[20] Othman, M. S. A, (2003) *An Introduction to Islamic Law of Evidence*, Open Press, Selangor, Dar al-Ihsan, Malaysia , 3rd edition, p. 139.

[21] Al-Qamus, - The Dictionary- Arabic- English General and Scientific Dictionary of language and terms, (nd) Dar al-Kutub al-Islamiyyah, Beirut, pp. 124-725.

[22] Al-Kafawy, M. S, (2012) *Some Principles of Islamic Law of Evidence- Murafaa't*, AMD Designs and Communications, Keffi, Nigeria, pp. 155-156.

[23] Anwarullah, (2004) Principles of Evidence in Islam, A, S, Noorddeen ,2nd edition, Kuala Lumpour, as quoted in Babaji B, (2009) Admissibility of Documentary and Electronic Evidence under Nigerian Law, PhD, Thesis, Faculty of Law ABU, Zaria, p.360-361

[24] Qur'an 45: 18

Technically, *Shari'ah* refers to the sum total of Islamic laws which were revealed to the prophet Muhammad {SAW} and which are recorded in the Holy *Qur'an* as well as the deducible ones from the prophetic traditions *{Sunnah}*.

From the foregoing definitions, the following virtues may be realized:

a) *Shari'ah* is a comprehensive body of revealed laws enshrined in the Holy book of our noble Prophet Muhammad {SAW} and his divinely guided lifestyle.
b) *Shari'ah* is fixed i.e. permanent and unchangeable. This refers to the fundamental principles of *Shari'ah*.
c) The rules of *Shari'ah* are virtually generic in nature they lay down the basic principles of the law, and *Shari'ah* is the wider circle that includes all human endeavors.

1.6 Brief Historical Antecedent of Judgment Writing

At the first instance, the Holy Prophet {SAW} shouldered the responsibility of adjudicating all cases brought to him by various litigants in the city of Madina. However, when Islam spread widely within the Arabian Peninsula and the number of Muslims increased, the Prophet {SAW} permitted some qualified companions to assist him in the discharge of such responsibility. Some of the appointed judges during that period include; Umar bin al-Khattab, Ali bin Abi Talib, Mu'adh bin Jabal, Abdullahi bin Mas'ud and others.[25]

Upon the demise of the Holy Prophet {SAW} and the appointment of Abubakar al-Siddeeq as the first Caliph, he concentrated on the war against the apostates and those who refused to pay the alms {*zakah*}. Thus, he appointed Umar bin al-Khattab as the exclusive judge in Madina. However, during the period of Umar bin al-Khattab, Islam recorded great developments where many cities were conquered and a great number of people converted to Islam, he appointed many judges and deployed them to adjudicate in different Islamic cities. For instance, Ka'ab bin Sur was sent to Basrah, Shuraih to Kufah, and Abu Musa al-Ash'ary in whose name the Umar's famous letter of principles of judgment was written, was also appointed to adjudicate in Basra. This trend continued based on the foundation laid by Umar during the period of Uthman bin Affan and Ali bin Abi Talib respectively. Thus, they used to select the qualified persons for appointment as judges to represent them in different cities under their caliphate.[26]

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[25] Mulhaq al-Hadharah wa al-Nudhum, Brief Encyclopedia of Islamic History, Dar al-Ilm, vol; 16, p. 83
[26] Ibid

Worthy of mentioning in these epochs, is there was no systematic documentation or writing of the judgments in such periods. However, the judgments of the Holy Prophet {SAW}, that of His companions and those who followed their footsteps, were duly documented in the books of *Hadith, Fiqh* and *Tarikh* in form of narrations.[27]

The practice continued as above until the advent of Umayyad dynasty, when judges began to reduce their judgments to writing, in order to keep the record of proceedings and ensure its execution.[28] Another factor which necessitated the documentation of judgment during this era, was the rampant problems and disputes that sprang up among the people to the extent that, the scope of Islamic jurisprudence was said to have greatly developed as a result of the multiple judicial precedents set out from various judgments in different areas of human endeavor.

Eventually, the principles used to decide such cases {*Ratio decidendi*} became legal maxims {*Qawa'id fiqhiyyah*} that were highly considered during the documentation and formulation of Islamic Jurisprudence. The first judge who reduced his judgment to writing during this period was Sulaim al-Tujaiby, the judge of Egypt during the reign of Mu'awiya bin Abi Sufyan.[29]

There is no significant change or shift from the above practice during the Abbasid's dynasty and Ottoman Empire except the change in the nomenclature of the judgment writing and the jurisdictions of the judges to embark on the documentation. The practice of judgment writing transcended virtually, to all civilizations across the world including Sub-Saharan Africa.

In Nigeria, specifically in the northern region, judgments were reduced to writing in Arabic language. However, after the arrival of the colonial masters and the subsequent changes in the judicial administration, the language used in judgment writing gradually changed from Arabic to *Ajami,* from *Ajami* to Hausa and finally from Hausa to English language. The manuscripts of this paradigm shift are found in the Sokoto State History Bureau.

1.6.1 Legal Position of Judgment Writing

Legal position of judgment writing varies from one court to another depending on the jurisdiction conferred on the various categories of courts of law in Nigeria. The 1999 Constitution of Nigeria {as amended} has provided that all courts of record must give their judgments in writing within a reasonable time. Section 294 {1}

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[27] Ibid

[28] Al-Zuhaily, W, {2006} *Al-Fiqhu al-Islamy wa Adillatuh*, Dar al-Fikr, Damascus, vol: 8, p.6290.

[29] *Mulhaq al-Hadhara*, op cit, p.6290

> Every court established under the constitution shall deliver its decision in writing not later than 90 days after the conclusion of evidence and final addresses and furnish all the parties to the cause or matter with duly authenticated copies of the decision within seven days of delivery thereof.

Thus, in compliance with the above, section 245 of the CPA provides that:

> The judge or Magistrate shall record his judgment in writing and every such judgment shall contain the point or points for determination, the decisions thereon and the reasons for the decision and shall be dated and signed by the judge or magistrate at the time of pronouncing it...

Similarly, section 268 {1} of the CPC provides:

> The judgment in every trial in a court shall be in writing and shall be pronounced, and the substance of it explained in a language understood by the accused in open court either on the day on which the hearing terminates or at some subsequent time of which due notice shall be given.

In the same vein, a magistrate in the Northern states must reduce his judgment into writing before he delivers it.[30] In the Southern States, a magistrate is permitted to deliver an oral judgment because of the provision of Section 245 of the CPA. Therefore, a magistrate in the Southern States may deliver an oral judgment and subsequently briefly record in his book his decision and, where necessary, his reasons for such decision.[31] It is also provided that a magistrate may deliver an oral judgment and record such judgment in a prescribed form.

The rationale for allowing magistrates in the Southern States to deliver oral judgments was stated in *Okoruwa v. The State*, by Elias CJN as follows:

It is therefore clear that a magistrate, but not a judge, may give an oral judgment and record his conclusions briefly. This is because of the large number of cases which the magistrate has to handle, often by summary procedure; a judge has no similar excuse.[32]

The above authorities and many others have clearly spelt out that judgments must be reduced to writing before being pronounced. Failure to do so may render

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[30] CPC 268 {1}

[31] This has been repealed and, presently, all judgements must be reduced to writing before pronouncement.

[32] Okoruwa v. The State {i975}, 5, SC 23 at 26.

the judgment null and void especially upon appeal. Except in the case of magistrate courts in the Southern States of Nigeria, where the rule is relaxed.

Under the *Shari'ah*, jurists have unanimously agreed on the permissibility of judgments to be reduced to writing. However, according to Ibnu Asim; judgment writing is obligatory if either of the parties requested for it to be written, but if there is no such request, it is permissible for him to document it. The provision of *Tufah* reads thus:[33]

Wa indama yunfadhu hukmun wa tulib *Tasjiluhu fa innahu amrun yajib*
Wama ala al-Qadhy junahun la wa la *Min harajin inibtida'an fa'ala*

Meaning that; when judgment is passed and either of the parties request for it to be written, it becomes obligatory upon the judge to do so. However, there is no harm for a judge to document his judgment without such request *ab initio*.

Similarly, Abdulkarim al-Zaidany, in his book; Administration of Justice states thus:

> The judge or his court scribe taking the order from him {the judge} to record, shall put down in writing {the judgment} with full details of the complaint, causes, claims and evidence in support of the litigants and how they occupied it in this document that jurists referred to as '*Al-Mihdhar*'[34]. He shall record all the facts, submissions for and against; he shall also record his decisions in terms of orders, rulings and sanctions {judgment}. He shall thereafter produce copies for himself, the litigants and the court registry. This document must contain detailed information of the parties with address, dates and suit number.[35]

The above practice, regarding the legal position of judgment writing, may not be different from what is obtained in the lower courts, except for the use of language. For instance, Order 29 {2} of the *Shari'ah* Courts {Civil Procedure} Rules of Zamfara State {2018} provides that: "All proceedings of a court,

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[33] Al-Maliky, M, A, M {2000} *Sharh Mayyaratul Faasy ala Tuhfatil Hukkami fi Nukatil Uqudi wa al-Ahkam*, Dar al-Kutub al-Ilmiyyah, Beruit, vol; 1, p.78

[34] Document containing facts of the case, statements and evidence of the litigants

[35] Al-Zaidany, A, {nd}, Administration of Justice, as Quoted by Haroon, A, I, {2013} Principles of Judgment Writing in Sharia Court of Appeal, Delivered at the Refresher Course for Judicial Officers at the NJI, Abuja.

including final and interlocutory orders, orders of adjournment and notes of evidence shall be written in the appropriate record book in Hausa."

Similarly, the same Order 29, {4} further states that: "A copy of any proceedings in any cause or matter shall upon application and payment of the prescribed fee be supplied within thirty {30} days by the court:

a. To a party to person concerned in any such cause or matter.
b. To a member of the immediate family of such party or person.
c. To any administrative officer applying on behalf of such party or person; and
d. With the consent of the court, to any other person.

Similarly, Order 27 {2} of the *Shari'ah* Court Civil Procedure Rules {2010}, Kaduna State, provides that: "All proceedings of a court, including final and interlocutory orders, orders of adjournment and notes of evidence may be in English or in vernacular".

1.6.2 Significance and Rationale of Judgment Writing

Significance and rationale of judgment writing may be summarized in the following points:[36]

a. To certify the legal requirements and comply with the provisions thereof.
b. To determine the guilt or innocence of an accused or the rightful owner of the subject matter of a claim. This is because only truth prevails and is always repeated, but falsehood varies from one time to another.
c. To keep record for the court "*Ma kutiba Qarra wama hufiza farra*", and assist in the settlement of matters in controversy.
d. To communicate reasons to the parties for the decision and provide the needed document for the public and appellate courts.
e. To provide accountability by judicial officers and to put at rest, the mind of the party in whose favour the judgment was given.
f. To serve as a judicial precedent and thereafter, develop the classical or Islamic jurisprudence.
g. To promote checks and balances under the rule of law.
h. To demonstrate fairness and correctness of the decision and to ensure that justice is not only done but also seen to be done.

[36] These points are extracted from the write-up of Akinsinde, P.O, (2023) Judgment Writing-Perspective from the Customary/Area/Sharia Court, a paper presented at the Refresher Course for Judges of Lower Courts, NJI, Abuja.

1.6.3 Structure of Judgment Writing

Depending on the nature of the case ie the issues in question in the matter before a judge and depending on whether the case is original or appellate, the concept and procedure for judgment writing are virtually the same. Thus, the standard structures that constitute the required aspects of judgment writing which should be adopted in such documentation are as follows:[37]

a. Heading; this include provision of some basic information such as; title, court, parties, case number and the judge.
b. Introduction; it is expected to contain; facts, issues or ingredients of the case at hand.
c. Body structure; which comprises, the analysis or evaluation of evidence, application of the law, resolution of issues or elements {determination of *ratio decidendi*}.
d. Conclusion; it states the decisions of the judgment.

Similarly, in the earlier quotation of al-Zayyany the following may be extracted as basic guidance and fundamental aspects for the judge to consider in discharging the duty of documenting judgment thus:[38]

a. Highlights of the facts;
b. Evidence;
c. Statements of issues formulated from the facts;
d. Determination of issues by applying the appropriate law to the facts;
e. Decision and disposition of the case;
f. Date of the decision, signature of the judge and stamp of the court.

It is pertinent to note that, the above immediate listed aspects of judgment writing are not arranged in a pecking order; however, they are extracted in accordance with their placement in the quotation. Thus, judges should to pay attention to that when embarking on the task.

1.6.4 Style and Techniques of Judgment Writing

Just as human beings are not naturally equal in the way they express their minds in order to manifest their thoughts, judges are also not the same in terms of their natural gifts, talents and skills to read, comprehend and reduce to writing the arguments of litigants. Therefore, there is no hard and fast rule style or technique

[37] Ibid
[38] Al-Zaidany op cit, p.22

which must be followed in writing judgment. However, there are some variable that must be taken into consideration before a judgment qualifies to be in good or bad style. A good judgment must be written in a very clear and straight forward language; it must be legible, concise and gorgeous.

One fundamental thing that assists the judge in writing a good judgment is his mastery of the language he uses in writing the judgment. Therefore, judges need to have a reasonable appreciation of the language of the court, it is very vital; both in the general conduct of the proceedings and its documentation as well.[39]

Under the *Shari'ah*, a judge must understand the claim very clearly; he must comprehend all the facts and the adduced evidence before sourcing for the law and its application which will lead to his decision. Islamic jurists in their wisdom are unanimous that before a claim can be said to be valid, according to Khalifah Umar bin al-Khattab, such claim must be definite, specific, certain and unambiguous.[40]

However, every judge is at liberty to express his thought in his own style and structure. Thus, according to Abdulkarim al-Zaidany:

"It is not a condition that good judgment must follow a restrictive structure, style or expression. But it should be constructed in a plain, clear, apt and decisive language. It must be coherent, comprehensive, determining and firm, precise, final and binding free of ambiguity and vague".[41]

It is therefore; clear that under the *Shari'ah* law there is no strict technique or style that must be followed. The requirement here is that the judgment must be clear, precise plain, firm and in unambiguous language. Every judge is at liberty to express his thought in his own style.[42]

Under the Maliki School of law, certain terminologies were created for the judges' verdicts or decisions. Abdul Nasir Musa Abu al-Basal[43] mentioned some of these terminologies as follows:[44]

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[39] Ibid
[40] Usman, A, M {2016} Judgment Writing: Style and Techniques {Sharia'h Court of Appeal Perspective}, A Paper Presented at, NJI, Abuja, p. 13
[41] Al-Zaidany, A, op cit, p. 17
[42] Usman, A. M, op cit p.14
[43] Garba v. Yahaya {2007} All FWLR {375 862 at 882
[44] Usman, A. M, op cit, p. 18

> The basic formula according to the Maliki School is that, courts' decisions, verdicts or pronouncements do not end in "I rule, decide, etc" rather, it extends to expressions such as "I hereby decide or rule, I impose or I order; I transfer the title of his property to so and so or I award it to him; I annul this marriage or sale; I confirm or it is established before me that this property belongs to so and so.

Although there is no hard and fast rule or method as to the style in which judgment is written. But it is also right to say that some ways are better than others. Hon. Sir Justice, Udo Udoma {of blessed memory} identified two types of judgments based particularly on style, they are; the smooth or narrative style and the 'straccato' style.[45]

The former, according to him involves the assimilation of the facts of a case and the narration of the account as an eye witness reporting an event and setting out of the real issues in controversy deserving determination between the parties.

Whereas, in the latter style argument canvassed by the parties is reproduced by way of summary, one after the other and the judgment usually ends by the judge or court believing one side of the parties. The summary of the argument of each party is more often than not repetitive.[46]

1.6.5 Judgment Writing Format in Civil and Criminal Cases

The above segment has vividly explained that under Islamic law, judgment writing has no specific style which must be adhered to or which is mandatory for judges to exclusively follow in reducing their judgments to writing. However, the following format may serve as an excellent guide for judges to possibly adopt in the course of writing a meaningful judgment. The format has taken into consideration the slight differences between judgment writing in civil and criminal cases and they are to be followed sequentially. The series of the format are:[47]

a. At the top of the page comes the name of the court in which suit is being tried and in bracket name of the presiding judge is written.

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[45] Ibid
[46] Ibid
[47] www,writinglaw.com, accessed on the 27/07/2023

b. Then after it, on the left side, civil suit number is written and the year it started. In a criminal case, you write the charges under which a person is charged.
c. Then leaving a space of a line, on the left side, you write plaintiff details such as name, residence, and occupation. In a criminal case, you write the state of STUVWXYZ as the state is prosecutor in a criminal case.
d. Then below it putting abbreviation of versus {vs} in between, corners the details of the defendant such as name, residence, and occupation. In criminal cases come the details of the defendant.
e. After writing details, in the centre, you write in bold the word **'JUDGMENT'** and in bracket dates of judgment. Same in a criminal case.
f. Then comes the body of the judgment. The first paragraph should contain the nature of the suit.
g. The subsequent paragraph should contain the facts admitted by parties and in a criminal case if the accused has given any statement or confession, if any.
h. Then, in brief, the case of the plaintiff and defendant should be written concisely.
i. After it, the issues and findings, points of determination have to be written. The issues can be written {listed} like issue I, issue 2 and likewise.
j. The description of pieces of evidence taken, findings reasons of findings, and their significance for the case, everything must be stated.
k. If it is a property suit, then it should contain a description of the property as well. In criminal case, the description of weapons is to be written, if any, discovered or seized.
l. The judgment should be specific and must not contain any ambiguity.
m. Every page of judgment is to be signed by the judge. It should contain the seal of the court and designation of the judge.

It is important to state that, judgment writing in civil case differs slightly from that of criminal case. But the format mentioned above clearly gives you a description as how to write the best judgment.

Notably, some of the changes are that, in place of civil suit number, in criminal case charges are written and at the end of the judgment, liability and punishment

are imposed on accused. Whereas in civil suits; fine, specific performance, damages are imposed on the defendant or judgment debtor.[48]

1.7 Conclusion

Judges' goal in writing judgment is to put reason onto paper. The common law system of precedent that is virtually adopted and practice in the heterogeneous and pluralistic legal system of Nigeria, depends on honest, reasoned and well written judgment. Judgment writing is challenging, but writing clearly with an effective structure style is highly commendable for its contribution to the effective justice delivery.

Basically, judgment writing under Islamic law and that of the conventional systems are similar even though there are some essential points where the dissimilarities are found. The fundamental difference of the two systems is that; while under Islamic law judgment writing is not obligatory except if requested by the litigants, in the conventional systems it is obligatory prior to its pronouncement.

Judges should always have at the back of their minds that, judgments have a purpose to communicate to the parties and other stakeholders the decision of the court in regard to the dispute. Similarly, judgments outlive their authors; they act as precedents and should carry the message for prosperity. It shall therefore, be clear and understandable by even those who have lost the case.

The technological development in ICT poses a great challenge to judges' who reluctantly refuse to reduce their judgments to writing properly, accurately and in good time. This is because a judge may not know when his court proceedings and final pronouncements are electronically recorded. It may affect the integrity of the judge if he thereafter, documents it and it does not tally with the initial proceedings.

Judges should always remember that he, other judges of the appellate courts up to the justices of the Supreme Court who receive and finalize cases on appeal as the apex court of the land, are not the ultimate judges, but the ultimate judge is Almighty Allah, the one and only.

"Say our Lord will gather us together and will in the end decide the matter between us {and you} in truth and justice and He is the one to decide the one who knows all" Qur'an 34: 26

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[48] Ibid